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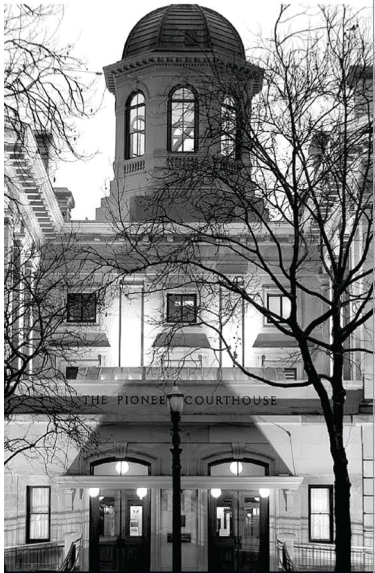
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TRANSCRIPT OF PROCEEDINGS  
CHILD SUPPORT GUIDELINES REVIEW COMMISSION  
CHILD SUPPORT ENFORCEMENT DIVISION  
HUMAN SERVICES DEPARTMENT  
1474 RODEO ROAD  
SANTA FE, NEW MEXICO 87505  
FRIDAY, SEPTEMBER 28, 2018

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**GUIDELINES REVIEW COMMISSION MEMBERS IN ATTENDANCE**

Mr. Stephen Klump

Judge James Martin (Via Video Teleconference)

Judge Matthew Wilson

Ms. Sarah Batzli

Ms. Betina McCracken

Mr. Michael Nelson

**TRANSCRIPT OF PROCEEDINGS****CHILD SUPPORT GUIDELINES REVIEW COMMISSION****CHILD SUPPORT ENFORCEMENT DIVISION****HUMAN SERVICES DEPARTMENT****FRIDAY, SEPTEMBER 28, 2018****10:02 A.M.**

**MR. NELSON:** Let's go ahead and convene the meeting. This meeting will come to order. And the time is 10:01.

**MS. MCCracken:** Can the video sites please mute their microphones, please.

**MR. NELSON:** Thank you. And we are going to do, first, a roll call of the members, and then we'll do introductions of all the other folks.

So, Melinda, can you do a roll call?

**MS. PINEDA:** Representative David Gallegos.

Mr. Steven Klump.

**MR. KLUMP:** Here.

**MS. PINEDA:** Judge Gerard Lavelle.

Is it just because it's muted?

**MS. MCCracken:** No. Albuquerque -- he would be -- no. Right?

**MS. BATZLI:** He's not here.

1 MS. PINEDA: Judge James Martin.

2 JUDGE MARTIN: Present.

3 MS. PINEDA: Judge Matthew Wilson.

4 JUDGE WILSON: Present.

5 MS. PINEDA: Sarah Batzli.

6 MS. BATZLI: Present.

7 MS. PINEDA: Betina McCracken.

8 MS. MCCRACKEN: Here.

9 MS. PINEDA: Michael Nelson.

10 MR. NELSON: Here.

11 MS. BATZLI: I think you missed Mr. Klump.

12 MS. MCCRACKEN: She got him.

13 MR. NELSON: Very good. I believe we have  
14 a quorum. We should take a minute, I think, to go  
15 around and introduce ourselves really quickly and  
16 talk about our roles. I'll go first.

17 My name's Mike Nelson, and I am deputy  
18 cabinet secretary with the Human Services  
19 Department. I'm serving as the acting director of  
20 Child Support Enforcement and the chairperson of  
21 this meeting.

22 And let's go ahead with Judge Wilson, if  
23 you'd like.

24 JUDGE WILSON: Judge Matthew Wilson, First  
25 Judicial District Court. I preside over family law.

1 We have one hearing officer who handles our child  
2 support cases. So we review her work, and if  
3 there's a conflict, we deal with her cases that deal  
4 with child support.

5 **MS. BATZLI:** Sarah Batzli. I work for the  
6 New Mexico Human Services Department in the Child  
7 Support Enforcement Division, and I am the deputy  
8 director for Legal Services.

9 **MR. NELSON:** The reporter joining us?

10 **THE REPORTER:** Stephanie Slone with Bean &  
11 Associates.

12 **MR. NELSON:** Thank you.

13 **MS. JIRON:** Becky Jiron. I'm with Child  
14 Support, an attorney with Child Support.

15 **MR. TOULOUSE:** Jeremy Toulouse. I'm one  
16 of the regional managers for Child Support  
17 Enforcement Division.

18 **DR. VENOHR:** I'm Dr. Jane Venohr. I'm  
19 with Center for Policy Research. I'm the economist  
20 consulting on guidelines relief.

21 **MR. KLUMP:** Stephen Klump. I'm a hearing  
22 officer at the Second Judicial District Court for  
23 child support and family law cases. And prior to  
24 that I was acting director of the Child Support  
25 Division.

1           **MS. MCCRACKEN:** Good morning. I'm Betina  
2 McCracken. I'm deputy director of the Child Support  
3 Enforcement Division, overseeing the field  
4 operations.

5           **MR. NELSON:** Melinda.

6           **MS. PINEDA:** Melinda Pineda, policy  
7 manager for Child Support.

8           **MR. WEBB:** Tony Webb, deputy director for  
9 Child Support, Central Operations.

10          **MR. NELSON:** Johnna.

11          **MS. PADILLA:** Johnna Padilla, program  
12 support bureau chief for Child Support.

13          **MS. BIRD:** Lila Bird, managing attorney,  
14 Child Support Enforcement Division.

15          **MR. NELSON:** Thank you, Lila.

16               Let's go to the folks at our Child Support  
17 offices in the field. If you-all would introduce  
18 yourselves.

19          **MR. TOULOUSE:** Start with Hobbs up in the  
20 corner?

21          **MR. NELSON:** What's that?

22          **MS. MCCRACKEN:** Hobbs. Let's start with  
23 Hobbs.

24          **MR. NELSON:** Start with Hobbs.

25          **MS. MCCRACKEN:** Unmute.

1           **MS. WILLIAMS:** Linda Williams, Child  
2 Support Enforcement, county director, Hobbs.

3           **MR. CHAVEZ:** Kirk Chavez, attorney in  
4 Hobbs.

5           **MS. OCANO:** Rocio Ocano, attorney.

6           **THE REPORTER:** I'm sorry. I didn't hear  
7 her.

8           **MR. NELSON:** One more time.

9           **MS. OCANO:** Rocio Ocano, attorney.

10          **THE REPORTER:** Thank you.

11          **MS. ROMERO:** And Jessenia Romero, CSLA.

12          **MS. MCCRACKEN:** Farmington next.

13          **MS. ALSHOUSE:** Carol Alshouse, county  
14 director of Farmington in Gallup, San Juan, and  
15 McKinley Counties.

16          **MS. MCCRACKEN:** Thank you.  
17 How about Albuquerque North?

18          **MS. OWEN-DEMARTINO:** Hi. Reina Owen-  
19 DeMartino. I'm an attorney for CSED.

20          **MR. VILLANUEVA:** Vlas Villanueva. I'm  
21 also an attorney for CSED here in Albuquerque.

22          **MS. MCCRACKEN:** Thank you.  
23 Las Cruces.

24          **JUDGE MARTIN:** Good morning. I'm James  
25 Martin. I'm the chief judge here in the Third

1 Judicial District. I've been a judge for about 12  
2 years, and I've done child support cases, domestic  
3 cases, criminal cases. I'm currently presiding over  
4 a civil docket. This is my second tour as a  
5 commissioner. I was on the Commission ten years  
6 ago, and I'm glad that Dr. Venohr is back as our  
7 economist. I always found her presentations  
8 insightful. So thank you for inviting me back as a  
9 commissioner.

10 **MR. HEYECK:** Larry Heyeck, attorney for  
11 Child Support.

12 **MR. BURK:** Bill Burke, Region 3, ops  
13 manager.

14 **THE REPORTER:** I didn't hear that.

15 **MS. MCCracken:** Bill Burke, region  
16 operations manager.

17 **THE REPORTER:** Thank you.

18 **MS. MCCracken:** That's it in Las Cruces?

19 **JUDGE MARTIN:** Yes, ma'am.

20 **MS. MCCracken:** Anyone in Silver City?  
21 Okay. How about Roswell?

22 **MS. AVENT:** Good morning. Leona Avent,  
23 county director for Chaves and Eddy Counties in  
24 Roswell for Child Support.

25 **MS. MCCracken:** Okay.



1           **MR. NELSON:** Thanks.

2           Just a reminder for the folks who are in  
3 our field office and joining via video, when you  
4 would like to participate, please remind us of your  
5 name, and we'll remind you to do that as we go along  
6 as well.

7           Great. I think that covers our  
8 introductions section of the agenda. Let's move to  
9 the next item, which is approval of the agenda. When  
10 we put this together, we kind of had, I think, three  
11 major -- in my mind, three major objectives of this  
12 meeting and wanted to, of course, spend a  
13 significant amount of time reviewing Dr. Venohr's  
14 report and discussing that, answering questions.

15           I'd like to also spend a big chunk of the  
16 meeting, you know, having discussion on the  
17 guidelines, on what are the implications of making  
18 changes to the Child Support guidelines and closing  
19 the meeting with hopefully coming to a decision on  
20 what changes, if any, we'll make to the guidelines.

21           So those are kind of the things I'd like  
22 to keep in mind. You've probably seen the agenda  
23 already, and also I think there's one provided when  
24 you walked in. One of our formal tasks we need to  
25 do is review and approve that. So if there is a

1 motion to do that, I would definitely be listening  
2 for that.

3 **MS. MCCracken:** Motion to approve agenda.

4 **MR. NELSON:** Thank you, Belinda.

5 **MR. KLUMP:** I'll second.

6 **MR. NELSON:** Second?

7 **MR. KLUMP:** I'll second.

8 **MR. NELSON:** Hearing Officer Klump.

9 Okay. Is there any discussion on the  
10 agenda?

11 Hearing none, all in favor of approving  
12 this agenda, please say "aye."

13 **(Simultaneous replies of "aye.")**

14 **MR. NELSON:** Opposed?

15 Okay. We have a passage of the agenda.

16 And that kind of takes us to our next  
17 agenda item, which is the presentation by Jane, by  
18 Dr. Venohr, of the report. I'd like to have Dr.  
19 Venohr do a presentation. She's got some Power  
20 Point slides that she's going to share, and we can  
21 also have discussion about asking her questions and  
22 clarifications on that report before we move to our  
23 next agenda item. So we've got some time blocked  
24 for that.

25 With that, I give you Dr. Venohr.

1 DR. VENOHR: Thank you.

2 I'm going to walk through the report just  
3 to make sure that we're all on the same page, and  
4 the slides, the Power Points, are just to guide us  
5 as to what page number. So I hope everybody in the  
6 field has a copy of the report in front of them.

7 I think that there's a lot to go over,  
8 particularly since there are new federal rules. And  
9 the main objective with hiring my agency, or my  
10 organization -- we're a nonprofit -- was to meet  
11 those federal requirements, and there are some  
12 things that New Mexico will have to do as far as get  
13 legislation through to meet the new federal  
14 requirements.

15 So the Power Point is more to guide you as  
16 we go through this. And I'm okay if you're  
17 shuffling pages because, you know, the Commission  
18 here is going to have to make recommendations. Those  
19 recommendations go in front of the legislature. I  
20 mean, it's a long process, but this is important for  
21 the agency as far as the funding streams for, you  
22 know, New Mexico to be compliant with these new  
23 rules.

24 So this first page is just the title page.  
25 So you have my contact information that you're

1 always welcome to contact me or look up more  
2 information about my organization to see what we do.

3           Regarding the table of contents, there's  
4 five sections. And the first section is -- I'm  
5 going to focus on the purpose and the background and  
6 briefly talk about the federal and state regulations  
7 that mandate that states review their guidelines and  
8 report at least every four years.

9           The second section is the cost of raising  
10 children, which is one of the federal requirements  
11 is that states must review economic data and the  
12 cost of raising children with the intent of, you  
13 know, "Does the schedule need to be updated?"

14           The third section is findings from the  
15 analysis and case file data. In the past -- and  
16 it's still a continued requirement. States are  
17 required to look at case file data to see how often  
18 the guidelines are being deviated from. Those  
19 requirements for data analysis have greatly expanded  
20 since the federal government imposed new rules that  
21 began December 2016, and there's more data  
22 requirements. So I'm going to go over that.

23           And then Section 4 is meeting those other  
24 federal requirements, and by that I mean that -- you  
25 know, we've already -- so far the sections have

1 talked about the economic data, which is a federal  
2 requirement; doing the case file data; all the other  
3 data, which is a requirement. And this is where it  
4 becomes -- the other requirements is where there  
5 needs to be movement.

6 One is to deal with the income imputation  
7 provisions. You know, essentially, the federal  
8 regulation now is that states have to have a little  
9 bit more umph in their income imputation policies.  
10 So, you know, we're going to have to look at that.

11 Another thing is income imputation  
12 policies with regard to incarcerated. I did a poor  
13 job paraphrasing it, but that's okay.

14 And the third is to explicitly have a low-  
15 income adjustment. They name it as "self-support  
16 reserve." And so that is why you see the supplement  
17 is that's one of the most challenging with how to do  
18 the self-support reserve, and it's one that's  
19 obviously near and dear to the agency's heart  
20 because, you know, the agency has an inordinate  
21 number of low-income cases.

22 So we had talked about this in advance,  
23 and there are some policy options there. That's not  
24 just pure economics. When a state reviews its  
25 guidelines, it's part policy, it's part economic

1 data. And so, you know, if you start flipping  
2 through, there's some policy issues here, and I will  
3 tell you that there's three options that we came up  
4 with in the low-income adjustment, and there's  
5 probably more. So, you know, if you get fidgety,  
6 Appendix A, Appendix E -- those are two options, and  
7 the supplement has another option. So, you know, as  
8 Commission members, feel free as I'm talking -- I'm  
9 hoping to be done in 30 minutes, but, you know,  
10 sometimes you go into more detail, and sometimes I  
11 don't go into more detail.

12 So that's Section 4.

13 There is Section 5, which I also  
14 highlight, is that on page 49 of Section 5 there's  
15 our conclusions that are recommended considerations  
16 for the Commission to consider when, you know,  
17 making recommendations. We have 13 detailed little  
18 things. Of course, you can come up with your own.  
19 You know, we're not -- this is just to help move  
20 you, you know. So everybody here -- their time is  
21 valuable. So that's all we're trying to do. We're  
22 not trying to force, you know, what needs to be  
23 done. You know, I'm not forcing the Commission's  
24 decisions.

25 So, anyway, that's the outline.

1 We're going to plunge into Section 1. And  
2 the main thing with Section 1 is that most of the  
3 people here are aware that Exhibit 1, where that's  
4 an excerpt of the schedule -- they know how to use  
5 that. They know that that is based on economic data  
6 and how much it costs to raise children.  
7 Specifically that data -- it was a compromise. I  
8 mean, I'm glad that Lila is here. She's aware of  
9 that. She was instrumental in helping this get  
10 through to the legislature. When New Mexico  
11 reviewed the guidelines in 2007, I was the economist  
12 on that project back then.

13 And you were around? Not that it matters.

14 **MR. KLUMP:** Yes. This is my third  
15 Commission.

16 **DR. VENOHR:** So yeah. So what I did was  
17 develop a schedule based on what was the best  
18 economic data for 2007 because that was the year.  
19 The schedule that was in place at that time was  
20 developed in 1994. So it was based on economic data  
21 in 1994.

22 From 1994 to 2007 it was a big jump. I  
23 mean, you know, prices change over that time, and it  
24 was, for lack of a better word, a price sticker  
25 shock. So the compromise that was established was

1 to do kind of in between, not halfway between, but  
2 if the 1994 schedule showed \$100 and that schedule  
3 that I had developed on the 2007 data showed \$200,  
4 make a quarter of the change. So instead of being  
5 100 or 200, it was 125 on the schedule.

6 So the short of it is that schedule that  
7 still exists today is a hodgepodge of 1994 and 2007  
8 data. And though it incorporates a self-support  
9 reserve it's not explicit, and it's also a  
10 compromise between the federal poverty level for one  
11 person in 1994 and the federal poverty level for a  
12 person in 2007 for one person. So what it is -- you  
13 know, could I say it's 125 percent of the  
14 difference? You know, it's a little murky. And to  
15 meet that federal requirement, that new one that was  
16 imposed by the Moderation Rule of December 2016, New  
17 Mexico has to have an explicit self-support reserve  
18 or an explicit low-income adjustment. So that's an  
19 important thing to understand what exists to make a  
20 recommendation now.

21 So I'm jumping to page 3 that talks about  
22 the Commission. The Commission has met several  
23 times. Many of you have been on it before as  
24 pointed out. And the last recommendation was to  
25 expand the lowest combined adjusted income in the



1 schedule to cover zero to 800. That wasn't clear  
2 what to do with incomes below 800. Another thing  
3 was to clarify that the highest amounts in the  
4 schedule aren't intended to be a cap.

5 And there's a couple other recommendations  
6 that I'm going to skip over.

7 Page 4 provides the federal requirements.  
8 These are the federal requirements that have existed  
9 since states were required to review their  
10 guidelines since 1988. One is that they must have  
11 one set of state guidelines. There can't be one for  
12 each region. They must consider all income and  
13 earnings of the noncustodial care parent. They must  
14 provide for the healthcare coverage, and they must  
15 be reviewed at least once every four years.

16 New Mexico has always done its due  
17 diligence in meeting those federal requirements.  
18 There hasn't been major changes in the guidelines  
19 since that 2007 review, and a part -- you know, we  
20 were hit with an economic recession, and I would  
21 agree with the economic analysis that has been done  
22 in New Mexico that New Mexico probably got hit  
23 harder. And, you know, in addition, there's been  
24 some other issues with the oil industry, and the  
25 economic recession has -- I heard this last time we

1 were on a call -- has lingered longer in New Mexico,  
2 and I would agree with that.

3 So moving on, if you look at that text box  
4 on page 4, that gives you the precise federal  
5 requirements, and I paraphrase them on page 6. And  
6 the first set of bullets on page 6, right underneath  
7 the text box, it says that a state's guidelines must  
8 take into consideration the basic subsistence needs.  
9 That's the self-support reserve I'm talking about.

10 And then the second bullet is the income  
11 imputation, that it must take into consideration the  
12 specific circumstances of the noncustodial parents.  
13 And if you read the rule, they list 14 factors that  
14 must be considered. And what this is aimed at --  
15 and this is a problem in the nation. It's not just  
16 unique to some jurisdictions in New Mexico is that  
17 there's income imputation at full-time minimum wage.

18 What the Federal Office of Child Support  
19 was concerned about was that that was what was being  
20 gone to right away without really considering all  
21 the circumstances of the noncustodial parent, you  
22 know, whether he or she was homeless, whether he or  
23 she had substance abuse problems, whether he or she  
24 was recently released from prison. That imputing at  
25 full-time minimum wage earnings just does not work

1 for everybody. And it's not just the wages, you  
2 know. It's not just the hours. You know, the  
3 service sector jobs are, you know, about 34, 35  
4 hours a week. You know, if somebody works at Target  
5 even, you don't get a full-time schedule at 40 hours  
6 a week.

7 But another issue is that, you know, some  
8 of the population that these rules were aimed at --  
9 they're in and out of the workforce. Sometimes it's  
10 voluntary. Sometimes their car broke down.  
11 Sometimes they have a substance abuse problem.  
12 Sometimes they're -- you know, I also teach in a  
13 prison. I'll say that they're the last to be hired  
14 when they get out and the first to be fired. You  
15 know, and sometimes it's deserving. Sometimes it's  
16 not. You know, so that full-time minimum wage isn't  
17 a reality for everybody is the point.

18 Then they have a provision in there -- "A  
19 state's guideline may not treat incarceration as  
20 voluntary unemployment in establishing modified  
21 orders." So those are the three big things that,  
22 you know, for the funding in the 4D program that  
23 have to be met. And the wording, if you look at the  
24 beginning of Exhibit 2, is that a state must meet  
25 that year after their next guidelines review and how

1 to interpret that. You know, there's some question,  
2 but it does mean it should be addressed -- this  
3 review.

4 Also on that page 6 there's a whole bunch  
5 of things on what a state must consider in their  
6 guidelines review. And this labor market data,  
7 payment data, policies on income imputation, and so  
8 forth. So when we get to that section, we'll go  
9 over that, and we have met that here.

10 So I'm going to pause for a second before  
11 I go on to Section 2 to give an opportunity for the  
12 Commission members, both in the room and on the  
13 phone, to ask questions.

14 Any clarifying questions on Section 1?

15 Judge Martin -- he's the only Commission  
16 member on the phone; right?

17 **JUDGE MARTIN:** Yeah, I'm here. I don't  
18 have any specific questions at this point. Thank  
19 you.

20 **DR. VENOHR:** Thank you.

21 Any other?

22 Okay. Moving on to Section 2 -- and this  
23 is to fill the requirement looking at economic data  
24 and the cost of raising children. We at my  
25 organization developed an updated schedule. It's

1 based on the income shares model. 40 states use the  
2 income shares model. It's based on measurements of  
3 child-rearing expenditures prepared by David Betson,  
4 who's an economist at University of Notre Dame,  
5 using the Rothbarth methodology. Those measurements  
6 were updated to 2018 price levels, and they consider  
7 New Mexico price levels, which are .936 percent, or  
8 93.6 percent of the U.S. average. In other words,  
9 for every dollar spent in the nation as a whole, in  
10 New Mexico it costs 93.6 percent; and, obviously,  
11 there's some regional disparities there, but, again,  
12 it's one set of guidelines.

13           It reflects child-rearing expenditures  
14 from ages zero through 17. It does not include  
15 child care expenses. Those expenses are adjusted on  
16 a case-by-case basis in the worksheet as well as  
17 most of the child medical costs except for 250 per  
18 child per year, which is different than that \$100  
19 per child per year, and the difference is because  
20 that's what the average out-of-pocket expenses are  
21 today is 250 per year per child, and that's the  
22 reason we updated that to a change.

23           We already have that table up. So I'm  
24 going to flip to that table, which the page numbers  
25 appear on the Power Point, and this is on page 14.

1 Economists do not agree which measurement of child-  
2 rearing expenditures best reflects actual data,  
3 actual expenditures. So economists developed  
4 different methodologies. That update using BR4,  
5 which is where Professor Betson at Notre Dame --  
6 he's one of my collaborators -- he uses the  
7 Rothbarth methodology. This is his forth study. So  
8 that's why I abbreviate it as "BR4."

9           The current New Mexico guidelines -- the  
10 1994 -- was based on Betson's first study. The 2007  
11 proposed schedule was based on his second study of  
12 child-rearing costs. So this is updating with the  
13 least amount of change in the assumptions. It's  
14 just using more data. These are national data.  
15 These are from the consumer expenditure survey,  
16 which is conducted by the Bureau of Labor  
17 statistics, and it would be impossible for a state  
18 to replicate that study. It surveys about 6,000  
19 households a year. It's a rotating survey on  
20 hundreds of items. It would take several years and  
21 who knows how many dollars for a state to replicate  
22 it. So what we do is we take that national data  
23 and, again, we adjust it for New Mexico prices.

24           So the solid line is the existing  
25 schedule. The dotted line -- the smallest dots is

1 the updated using the BR4. There's a couple other  
2 studies out there. There's one done by the U.S.  
3 Department of Agriculture, and they estimate that  
4 child-rearing expenditures are more than what the  
5 Rothbarth methodology finds. And the difference is  
6 the Rothbarth methodology looks at households. It  
7 looks at two types of households -- those with  
8 children, those without children -- and looks then  
9 at who are equally well off. And the difference  
10 between those expenditures, between those  
11 households, is deemed to be child-rearing  
12 expenditures. And that's called the "marginal cost  
13 approach."

14           And there's about 30 states that use the  
15 Rothbarth methodology. It's considered to be a  
16 lower bound. I can bore you with the economic  
17 theories and the second order calculus derivatives  
18 that suggest that the Rothbarth methodology  
19 understates actual child-rearing expenditures, and  
20 the reason being is that when we say that these  
21 households -- one with children, one without  
22 children -- are equally well off, we're using  
23 expenditures on adult goods to say equally well off.  
24 Adult goods means clothing, means tobacco and  
25 alcohol for some measurements, but for Betson he

1 only uses the adult clothing.

2           The other marginal cost approach is Engel,  
3 and it uses food shares, and that's known to  
4 overstate it. And the reason we know this as  
5 economists is our second order derivatives tell us  
6 that there's some substitution of facts when -- for  
7 the Engel methodology, the one that uses food  
8 shares, we know that children are food heavy. And  
9 so as when we have children or as our children leave  
10 the nest, we're spending less on food. And then for  
11 the Rothbarth, because we use clothing -- you know,  
12 the way I paraphrase it -- and economists hate it  
13 when I do this -- is we might be clothing hounds  
14 before we have kids, and then we spend less on  
15 clothing when we have kids.

16           The USDA tries to take each category of  
17 expenditures -- housing, food, so forth -- as an  
18 easy-to-read report, and it's referenced here in the  
19 footnote, and they're known to overstate actual  
20 child-rearing expenditures. Partially, it's the way  
21 that they do housing expenses, and housing price is  
22 about 40 percent -- 30 to 40 percent a child-rearing  
23 expenditure. So that's why it's considered  
24 overstated.

25           With that said, the reason that I have all



1 these other studies here is that there's another  
2 report. It's done by Lewin. It was commissioned by  
3 the Federal Office of Department of Health and Human  
4 Service, Assistant Secretary Planning Evaluation,  
5 that says any amount between the highest of the  
6 credible bound and the lowest of the credible bound  
7 is appropriate for state guidelines. So that's why  
8 I have all these lines here is to show you that, in  
9 general for most incomes, New Mexico is in between.  
10 So it is within the credible bound.

11 And what I'm using as a lower bound is a  
12 new study that was released by Dr. Mark Rodgers.  
13 He's a professor of economics at Rutgers University,  
14 and he uses the Rothbarth methodology also. The key  
15 differences between his estimates and Betson's is he  
16 uses a larger time period. He uses from 2000 to  
17 2015. I think that's arguable. My preference as an  
18 economist is to use the most current years  
19 available.

20 Also, he just released this study in 2018.  
21 So it hasn't been extensively vetted. No state uses  
22 it. Again, there's 30 states that use the Betson  
23 Rothbarth. So that's the one I'm most comfortable.  
24 In Rodgers's earlier work, he includes single-parent  
25 families. An inordinate percentage of single-parent

1 families are impoverished 30 to 40 percent,  
2 depending on which state and jurisdiction. And I'm  
3 still digging the details to see if he has that in  
4 his newest estimates.

5           So with that said, again, the existing as  
6 a solid line is generally in between except for when  
7 we get to higher incomes. The reason that happens  
8 with the higher incomes was back in 1994 when that  
9 schedule was developed -- the 1994 schedule -- there  
10 was only enough economic data to take that schedule  
11 up to 8,000 a month in combined incomes. So  
12 everything above that was an extrapolation.

13           Extrapolations mean that we guess or  
14 estimate. I shouldn't say "guess." It's actually  
15 we estimate based on the expenditures at lower  
16 incomes. And it was obviously not an extrapolation  
17 that was correct. So that's why you see the  
18 existing amounts for the very high incomes being  
19 higher with the existing schedule than what's  
20 estimated or measured with the other measurements.

21           With that said, I just want to remind  
22 everybody in the room or on the call to get a  
23 modification, the threshold's 20 percent. So there  
24 has to be a 20 percent change, and there has to be a  
25 change in circumstance. And with these higher

1 incomes, chances are that there's more than salary  
2 income. So it might be good to review some of these  
3 cases if New Mexico were to adopt a schedule that  
4 had some different amounts at higher incomes. And  
5 these are a very small percent of the caseload just  
6 because -- and they're probably some of the cases  
7 that end up in court just because there's much more  
8 at stake in those cases. So I'll be really  
9 interested in hearing your discussion when we talk  
10 about that.

11 So the rest of the section, I think -- oh,  
12 I want to pause on page 17 with the self-support  
13 reserve. Again, this is one of the most important  
14 things is that there are several ways to incorporate  
15 a self-support reserve. You can do it in the  
16 worksheet, you can do it in the schedule, and you  
17 can do both. Then another policy decision is the  
18 amount of the self-support reserve. And most states  
19 set it at the federal poverty guidelines for one  
20 person, which is currently \$1,012 a month. And  
21 that's the amount used in Schedule A.

22 If you're to look at Schedule A, you want  
23 to flip to it, if you want to flip to the bottom  
24 line in advance, that's page 52. There's another  
25 schedule in page 105. Option B, which is in the

1 supplement -- it has a schedule on page 12 -- that  
2 takes the self-support reserve of that 1,012, the  
3 federal poverty level, and it reduces it by New  
4 Mexico's price parity, so 93.6 percent, which makes  
5 sense because it's consistent with what was proposed  
6 in the rest of the schedule.

7           So, again, there's, one, how to do that  
8 low-income adjustment is one factor. The amount of  
9 the self-support reserve is another factor. A  
10 minimum order is a third factor to consider.

11           Right now New Mexico has a minimum order  
12 of 100, essentially, and 150. What most states use  
13 is \$50. I've been arguing for \$60 based on evidence  
14 that families will -- there's evidence that low-  
15 income families will voluntarily or low income --  
16 low-income obligated parents will pay \$60  
17 voluntarily in in-kind support. So the logic is, if  
18 they can do that in kind, that it can be done  
19 officially.

20           We are also arguing lately to go with  
21 zero. This is more popular in -- this is popular in  
22 several states, including North Dakota, where they  
23 have a zero order amount for their first line of  
24 their schedule. It's zero for incomes below 700,  
25 and the logic is that the maximum Supplemental

1 Security Income benefit for a single person is 650  
2 per month. And, you know, like New Mexico, that's  
3 considered -- SSI is considered a means-tested  
4 program. So it's not considered income. So for  
5 them in North Dakota they're saying is that anybody  
6 with an income of SSI or less. So it hits  
7 incarcerated population as an order of zero.

8 Now, there's other states that they do  
9 order support among SSI and they do order support  
10 among those that are incarcerated, and it might be  
11 50, 100. It might be 240. You know, it just  
12 depends on the state. We can talk more about that.  
13 I just want to throw that out there because it's an  
14 important issue. So I want to get that out there  
15 right now so you have time to digest it.

16 And then the final issue with regard to  
17 the low-income adjustment is the phase-in and phase-  
18 out because we want to take -- we want to eventually  
19 get to how much it actually costs to raise a kid,  
20 and when we have that low-income adjustment, we're  
21 doing a lower amount than how much it costs to raise  
22 a child. So we have to have some sort of phase-in  
23 of the expenditures on children and a phase-out of  
24 the self-support reserve.

25 So I'm going to stop and pause there for a

1 second and ask if there's any clarifying questions  
2 on Section 2 before I plunge into Section 3.

3 **MR. KLUMP:** I do have a question, Dr.  
4 Venohr, if I may. You were talking about the zero  
5 support orders for North Dakota on incomes below 600  
6 or 800. Do they use an income shares model?  
7 Because in New Mexico you could have a noncustodial  
8 parent who only earns \$300 a month, but then the  
9 custodial parent earns 1,500, and you skew that.  
10 You blow it out of the water. So do they use the  
11 income share model.

12 **DR. VENOHR:** No, they don't. But there  
13 are some states like Pennsylvania that does have  
14 zero. And, you know, you're right. That's one of  
15 the reasons that -- do you put the adjustment in the  
16 worksheet? Do you put it in the schedule? Do you  
17 put it in both?

18 **MR. KLUMP:** Thank you.

19 **DR. VENOHR:** I mean, I hope we talk about  
20 that more. So thank you for asking that.

21 How about -- Judge Martin, are you good  
22 there, or do you have questions? Las Cruces?

23 **JUDGE MARTIN:** Yeah. I'm thinking about  
24 it because I really want to delve into this notion  
25 of incarcerated and the imputation of a minimum

1 amount to an incarcerated individual and then how  
2 that plays with a minimum order amount because I've  
3 seen cases where, you know, we impute minimum wage  
4 to a person who's incarcerated, and when they come  
5 out, they're facing these huge debt loads that --  
6 you know, basically they're never going to get out  
7 of that hole. At the same time the custodial parent  
8 is still bearing the burden of paying these, you  
9 know, ongoing amounts.

10 And so we've got to -- I've got to  
11 rationalize in my mind how to meet the competing  
12 needs of the incarcerated or the unemployed versus  
13 the ongoing needs of the custodial parent to meet  
14 their obligation to feed a child, and that may be  
15 where the minimum order amount will affect it. So  
16 I'm just -- I'm still digesting it.

17 **DR. VENOHR:** No. I think you bring up an  
18 excellent point. And I'm going to rush these next  
19 two sections because I like your train of thought,  
20 and I think Mike would agree that this is where we  
21 need to have some discussion. So I'm going to hurry  
22 up so we can start discussing this because this is  
23 exactly, you know, what needs to be done.

24 In Section 3 is all that analysis of case  
25 file data. Some of the most important things is to

1 keep in mind that based on our analysis -- this data  
2 came from the 4D automated system, and I want to  
3 thank everybody involved with this. This is a  
4 heroic effort to get this data very quickly, and I  
5 need to put acknowledges when we do revise this  
6 report. There are a lot of people involved with  
7 this, and there are some typos that we will fix, and  
8 we'll put some acknowledgments there.

9 With that said, we don't have data with  
10 the non-4D population. So that is something that  
11 just can't be done. And, you know, I don't -- I'm  
12 not going to sidetrack at this point because we have  
13 bigger issues to -- but the thing we learned was  
14 that 62 percent of the cases have one child. They  
15 might have multiple families. They might have, you  
16 know, two or three cases, but 62 percent of the  
17 orders have one child, and 27 percent are two  
18 children. So when you think about case scenarios  
19 I'm going to encourage you to think about the  
20 majority. I mean, you know, you can always deviate,  
21 as the judges are aware.

22 The other thing I want to underscore is on  
23 page 24. The federal requirement says do some  
24 analysis of the payment of minimum orders in cases  
25 with low-income adjustment. We analyzed about 5,200



1 cases. There were only 126 orders that were set at  
2 the minimum order of \$100 to \$150. So that's not  
3 being used that often.

4 With regard to payment in those cases,  
5 when we look at the caseload that we looked at in  
6 general, the average compliance rate -- and we're  
7 talking about those that pay -- was 63.8 percent,  
8 and if we were to include those that were not paying  
9 as well, it would be lower. And then when we  
10 analyze those 126 orders, it was only 52.9 percent.  
11 So what I'm suggesting is that there's some merit in  
12 those federal rules, you know, to take those low  
13 income -- what to do in those low-income cases,  
14 seriously, as Judge Martin sort of said, to  
15 paraphrase in his comment there.

16 So the other important thing is on page  
17 26. In New Mexico they have a policy of income  
18 imputation, and that would occur to both parents,  
19 but obviously if the child's less than age 6, it's  
20 going to result in a different order amount, and  
21 that's something to consider, you know, when we're  
22 using that schedule and how to do it.

23 Another thing that I want to point out is  
24 page 27 that has the deviation rate. It's not --  
25 pretty much unchanged. So there's no concerns

1 there. The federal requirement is met.

2 I forgot to point out on page 26 there --  
3 we were able -- we didn't have -- most states do not  
4 have it on their automated system which cases have  
5 income imputation and which have default. So what  
6 we did was we did a simulation, you know, looked at  
7 -- we calculated what the order amount would be with  
8 40 hours minimum wage, and we estimated that there  
9 is -- 16 percent of the new orders had income  
10 imputed at full-time minimum wage; and in 12 percent  
11 of the modified orders, there could have been an  
12 income imputation for something else, you know, like  
13 30 hours a week, or it could have been \$10 an hour.  
14 You know, we wouldn't have caught that. It's as  
15 best as we could with the data that we had to meet  
16 the federal requirement. And some of those might  
17 actually be those with low income or full-time  
18 minimum wage earnings.

19 So I'm flipping to page 29, which gets  
20 back into some of the analysis of labor market data.  
21 I want to highlight that in South Dakota they have a  
22 presumption of minimum income of 40-hour workweek at  
23 minimum wage. It's rebuttable presumptive, and they  
24 changed it to 35 hours per week based on data from  
25 their Department of Labor that shows that service

1 sector jobs usually have lower hours. So there's  
2 some average hours work in New Mexico on that page.

3 Another thing this section tells you is  
4 just, you know, some statistics that unemployment is  
5 varied in New Mexico, you know, that there's still  
6 subsistence farming going on in New Mexico, that  
7 there's -- some of the incomes are lower for people  
8 of color, and that's certainly a higher percent of  
9 the 4D caseload. So these low-income issues are  
10 very important to the 4D caseload.

11 The other thing I want to point out is --  
12 did I get to Exhibit -- oh, that showed that the  
13 payment is lower on the income imputed cases. And  
14 it also shows that -- on page 24 there's some  
15 statistics that New Mexico, which is the lowest  
16 income of these three states -- 4 percent of their  
17 orders are set at \$100 or less. If you look at  
18 Arizona it's 10 percent. In Nevada it's a third of  
19 the cases that are set at 100. I didn't have the  
20 data to break it down to 150. You know, just --  
21 that's what I had at hand.

22 Okay. I caught the major points on that  
23 slide.

24 So the case scenarios, page 33. And this  
25 shows that -- again, this is looking at the five

1 cases are medium incomes based on educational  
2 attainment. And it's less than high school, those  
3 are high school graduates. We compare the USDA, the  
4 updated New Mexico. We compare Arizona before their  
5 time-sharing. Arizona has a time-sharing for close  
6 to 80 or 90 percent of those cases that it's  
7 applied, and it starts at something like four  
8 overnights per year. So it's used a lot. And then  
9 Colorado does not have that. Texas does not have  
10 that. So it shows that New Mexico's in midstream.

11 There's a typo on Exhibit 11 in the report  
12 that I will correct. It's corrected on the slide.  
13 And we can get that to you as soon as possible. And  
14 it shows that New Mexico is pretty mainstream.

15 With regard to Exhibit 14, this is a case  
16 where the obligated parent's income is 1,300 per  
17 month. So that's full-time minimum wage for New  
18 Mexico. And the custodial parent income is zero.  
19 And you'll see that New Mexico's higher than most of  
20 the neighboring states or the existing proposed in  
21 this -- proposed is from Appendix A, and we also  
22 have Appendix E, and which also have Option B.

23 Arizona -- their low-income adjustment is  
24 -- it doesn't have to be -- it's advisory. It's not  
25 presumptive. It's not a presumptive adjustment.

1 They would apply a zero order. They have a very --  
2 their self-support reserve is based on 80 percent of  
3 their poverty level. And so it's something like  
4 1,500 a month -- not poverty level. Their minimum  
5 wage. They have a -- 10.50 is their minimum wage --  
6 \$10.50 an hour. It's the highest self-support  
7 reserve in the nation.

8 Colorado -- their Commission is meeting  
9 right now. This is undoubtedly going to come down  
10 in Colorado. They're just debating that right now.

11 Texas allegedly has developed a self-  
12 support reserve. I haven't been able to find it,  
13 and I need to talk to my contact. I don't think  
14 it's legislated yet. It's not in their -- I  
15 couldn't find it on Lexis. So that just gives you  
16 an update of the requirements.

17 Any questions on Section 3? I'm probably  
18 about five minutes from being done before I can open  
19 this. So any clarifying -- okay.

20 I'm going to jump to Section 4. I think  
21 everybody gets that the three major things is self-  
22 support reserve, the income imputation, and the  
23 incarcerated.

24 And what states are doing with the income  
25 imputation and the incarcerated language -- most

1 states are just plopping that language into their  
2 guidelines, and you can look at Exhibit 15. This  
3 has language from several jurisdictions. Also,  
4 there's some more language in the supplement in the  
5 big table here from examples of -- you know, like  
6 North Dakota took it a little step further. Rhode  
7 Island just took that language from the federal rule  
8 and plopped it into their legislation. So that's  
9 one option. North Dakota, Georgia are states that  
10 took that incarcerated, income imputation language  
11 and tweaked it. That's another option. You know,  
12 of course, you can craft your own.

13 So those are two issues that you need to  
14 address. The third is that self-support reserve. I  
15 like the North Dakota method, which is on page 39.  
16 That includes the adjustment in the worksheet and in  
17 the schedule. It shades that area of the schedule  
18 with the idea that if -- to use it on page 37, using  
19 the New Mexico schedule, if we had two parents that  
20 their income was 700 -- so if we had one child, it  
21 would suggest that the basic obligation's 282. If  
22 we half that, because each parent's prorated share  
23 is 50 percent, it would be an order of 141, and we  
24 probably should use 100. It's assuming that zero  
25 was -- I'm sorry I picked that example with

1 hindsight, but if that first line was zero to 800,  
2 we probably would use -- we should use only the  
3 obligated parent's income. That's how the North  
4 Dakota adjustment works.

5 Now, my understanding is there's some  
6 constraints with the system here, with the  
7 worksheet, in making some modifications, but we can  
8 talk about that in the discussion. So the North  
9 Dakota -- I mean, the North Carolina option might  
10 not be that feasible immediately. Everything can be  
11 changed with time.

12 The other thing with North Carolina is  
13 they do that shaded area, take the lower of those  
14 two calculations, and then they also have an  
15 adjustment at the end, another check. So if there's  
16 add-ons for child care, extraordinary medical, that  
17 self-support reserve is preserved.

18 So let's see. The other thing I want to  
19 highlight is Exhibit 16, that the federal option  
20 says that we can apply that self-support reserve to  
21 both parents. This shows how that can be done in  
22 the worksheet, and technically it doesn't make any  
23 difference in the outcome, but it does show equality  
24 in the treatment.

25 Let's see what other things I need to

1 highlight. I think I can -- the other final thing I  
2 need to highlight is on page 48, 47. It talks about  
3 public healthcare coverage. There is a provision in  
4 that modernization rule that affects the agency  
5 where it now considers healthcare coverage to  
6 include public coverage such as Medicaid and CHIP,  
7 and some states are also putting that in their  
8 guidelines to make it clear and to ease that federal  
9 requirement for how they pursue medical support in  
10 4D cases.

11 So I'm jumping to page 49 just to get us  
12 moving on the conversation here.

13 I have 13 recommendations for the  
14 Commission to consider. One is does the entire  
15 schedule need to be updated? 2 through 8,  
16 essentially, are talking about the low-income  
17 adjustment. And to kind of help you -- because  
18 there's so many moving pieces to that to put it  
19 together. One, of course, is if the minimum order  
20 should be zero. 8 is very important, making that  
21 self-support reserve explicit. No matter what you  
22 do to meet the federal requirement, you know, that  
23 needs to be done. 9 is how to fulfill the new income  
24 imputation requirements. Again, one option is just  
25 to take that language from the federal reg. Another



1 one is to tweak, to make it New Mexico specific.  
2 Whether New Mexico should change -- accommodate the  
3 definition of "healthcare" with regard to the  
4 incarcerated and limiting the income imputation to  
5 incarcerated -- I wrapped that into Recommendation  
6 No. 9.

7           There's also -- I skipped over 11. There's  
8 other process changes, if any process changes need  
9 to be happening in addition. One of the federal  
10 requirements -- and New Mexico already does this --  
11 is publish a report. Publish it online. Make sure  
12 that all the Commission members are listed. List  
13 the dates of the next committee meeting or  
14 Commission meeting and so forth and get public  
15 input. You know, Melinda has been really making  
16 sure that -- you know, she's the staff person that's  
17 connecting me with the Commission and making sure  
18 all these requirements are taken care of, and she's  
19 been doing an excellent job to make sure that New  
20 Mexico does do what it needs to do to meet the  
21 federal requirements.

22           And, you know, of course, do we have any  
23 recommendations for data in the future?

24           And, finally, does the Commission have  
25 other recommendations?

1 I don't -- you know, this is just a report  
2 to help you make decisions, but ultimately it's the  
3 Commission that makes recommendations to -- and the  
4 legislature is the one that has the final say.

5 So thank you for letting me talk that  
6 long, and I think it's more important to hear what  
7 the Commission thinks.

8 **MR. NELSON:** Thanks, Dr. Venohr. I would  
9 like to have another final opportunity for everyone  
10 to ask questions on what you presented. A lot of  
11 incredible information. We've been looking at the  
12 report for three weeks now and learned a lot and had  
13 really good discussions internally on the report.

14 **DR. VENOHR:** That's good.

15 **MR. NELSON:** That was a great overview,  
16 but it is a lot of stuff and a lot of complex things  
17 you covered. So I certainly want to make sure  
18 there's an opportunity, before we move on to kind of  
19 the general discussion of the guidelines, for anyone  
20 to ask any questions.

21 Okay. Hearing none, I would kind of like  
22 to move us along. I forgot a housekeeping step that  
23 I should have mentioned at beginning of our meeting,  
24 but I'll do that now.

25 We have bottled water in the back. Help

1 yourself. This housekeeping stuff really applies to  
2 the folks here in the room. So sorry to folks out  
3 in field offices. We are going to try to take a  
4 break in a little while. We'll take a 15-minute  
5 break, and there will be some Subway sandwiches that  
6 we can all grab when we come back from that break.  
7 If anybody would like to do that, help yourself, and  
8 we can eat and keep working because the next section  
9 of this meeting, I think, will be spent -- the next  
10 couple hours -- talking about the topics that Jane  
11 introduced -- the real guts of the meeting. What do  
12 we do with the guidelines? What are some of the  
13 implications of the federal regulation changes.

14 And another important housekeeping item,  
15 restrooms are down the hall. If you go out this  
16 back door, take a right and go about halfway down  
17 the hall. There's restrooms on the right there as  
18 well.

19 Am I missing any of the other housekeeping  
20 items for the meeting?

21 Okay. I'd like to move to our next agenda  
22 item, which is the discussion of the guidelines  
23 reviews. The part that Jane kind of closed -- Dr.  
24 Venohr closed her report with was the sections on  
25 pages 49 through 51. And there's a number of key

1 findings in that section and in the 13  
2 recommendations and questions. And, in my mind,  
3 several of the key findings from page 49 -- it was  
4 the third, fourth, and fifth bullets particularly --  
5 kept resonating as we reviewed and discussed the  
6 report internally in terms of what we have to  
7 accomplish, what we're hoping to accomplish today.  
8 These are the things that really kept ringing in the  
9 back of my head.

10 The third bullet, a notable exception to  
11 the finding that New Mexico's guidelines are within  
12 a credible range is that, at low-incomes where self-  
13 support reserve or minimum order amount applies,  
14 that is where the New Mexico guidelines yield  
15 amounts significantly more than the guidelines of  
16 most bordering states. That was something that  
17 really stuck with me.

18 The fourth bullet on that page is  
19 "Schedule updated to reflect more current economic  
20 data would differ from the current schedule,  
21 particularly at high and low incomes."

22 And the fifth bullet, "New Mexico's  
23 current minimum order amounts," \$100 for one child  
24 and \$150 for two or more children, "are high  
25 relative to those of other states and other

1 evidence."

2           So I thought those made such an impression  
3 on me I wanted to say those out loud before we moved  
4 on with this part of the discussion. As I said at  
5 the beginning of the meeting, when we put the agenda  
6 together our major objectives for today were to  
7 review the report, which we've accomplished, have  
8 some really good discussion and get great input on  
9 the implications of changing the guidelines, and  
10 then move to wrapping up the meeting with hopefully  
11 coming to a decision on next steps -- what changes  
12 if any are we going to make to the guidelines?

13           So I wanted to say that at the beginning  
14 of this section of our discussion and our meeting  
15 today as kind of an orienting piece, setting a  
16 little bit of context. But really for the next  
17 couple hours, I don't have a specific agenda. I  
18 don't have a structured set of discussion points,  
19 areas to cover. I want to make sure it's open  
20 discussion and that the folks we've invited to  
21 participate on the Commission have a really good  
22 chance to bring their input and have that open  
23 discussion.

24           So I'd like to do that for a little bit,  
25 and then we'll take that break and grab some lunch

1 and then get back to it and keep moving until we  
2 pull the meeting to the next agenda item, which will  
3 be kind of the wrap-up.

4 So anybody that would like to go first?  
5 Anybody like to introduce a topic to spend some time  
6 discussing?

7 **JUDGE MARTIN:** Sure. I'll start.

8 This is Jim Martin down in Las Cruces.

9 I'd like to go back to my point earlier.  
10 You know, on page 25 of the report, Dr. Venohr  
11 points out that these large arrears judgments that  
12 come about as a result of some sort of a minimum  
13 wage imputation discourages noncustodial parents'  
14 payment. You know, if you're looking at a \$30,000  
15 arrears judgment, you're more likely to stick your  
16 head in the sand and avoid it; but the flip side of  
17 that coin, as pointed out in her report, you know,  
18 some minimum amount does encourage payment.

19 You know, if the noncustodial parent, you  
20 know, sees that the minimum payment is \$100 a month,  
21 and, boy, they can't make 100 a month, but they can  
22 sure make something, I think they're more likely to  
23 make a payment towards a minimum. So, you know, I  
24 kind of, you know, looked through the report. I'm  
25 curious if there's any way to gather data to support

1 my intuition one way or the other in New Mexico.

2 Are we accumulating large arrears that  
3 just are not paid, or does a minimum like \$150 or  
4 \$100 or even \$50 -- is there data to support the  
5 argument that that sort of a schedule would  
6 encourage payment? So that's where I'd kind of like  
7 to start.

8 **MR. NELSON:** That's a really good place to  
9 start, I think, because we've had a lot of  
10 discussion about that very topic. And I would  
11 invite some of our experts from Child Support  
12 Enforcement Division to participate in the  
13 discussion. That's why so many of our attorneys and  
14 our managers and leaders are here to support this.

15 I think inherently the idea of a minimum  
16 order somewhat smaller than \$100 is appealing, as  
17 we've had discussions internally, and a lot of  
18 debate about whether a minimum order, you know,  
19 that's a smaller amount than \$100 is more likely to  
20 be paid and result in a higher compliance rate.

21 I don't know that we have data but would  
22 look to others who work closely with the cases in  
23 our field offices and our central office if they've  
24 got parts they want to -- parts of the discussion  
25 they want to contribute as well.

1           **MS. MCCracken:** Well, I'm actually looking  
2 at your report because I think it states that, if  
3 it's a more reasonable rate or order, they're more  
4 likely going to pay it. So I think that states  
5 that. I think the fact that we have such a large  
6 arrears in New Mexico also shows that as well. So I  
7 don't have all the data in front of us, but I think  
8 we can assume that.

9           **DR. VENOHR:** Yeah. There's some national  
10 studies -- and it's not New Mexico specific -- that  
11 suggests that if the order is set at 20 percent or  
12 more of the parent's gross income, it's going to go  
13 unpaid for one child, and the threshold's 29 percent  
14 for two or more children. So that's one thing is  
15 not to set the order -- and that's the combined  
16 order. That's the child support, the arrears order,  
17 and, you know, the medical, if there's any medical.

18           The second statistic I want to share that  
19 we find at my organization that has done a lot of  
20 arrears studies, arrears compromise studies, is that  
21 about 9 percent of arrears are paid -- arrears  
22 orders are paid. And that's looking at probably  
23 five or six different states.

24           **MR. NELSON:** Thank you.

25           **JUDGE WILSON:** I just want to draw a



1 distinction between arrears that accumulate after an  
2 order is established and arrears that are imposed  
3 when a judgment is entered. And maybe it's beyond  
4 the scope of this Commission. But in this state you  
5 can go back so far, and you get these huge  
6 judgments, and they're never paid. My point being  
7 is can we draw a distinction between that, or is it  
8 important to do so?

9 **DR. VENOHR:** You know, I almost wrote a  
10 section on that. Is that -- the arrears -- that's  
11 not part of the guidelines, is it?

12 **MR. TOULOUSE:** The guidelines are ran for  
13 each of those retro years.

14 **DR. VENOHR:** But is that in the statute  
15 that you have to do it or the --

16 **MR. KLUMP:** Under the Uniform Parentage  
17 Act, it authorizes a court to go back potentially 12  
18 years; in some instances more if the noncustodial  
19 parent can be proven to have absconded. If the  
20 child was born out of wedlock and there's not an  
21 acknowledgment of paternity, potentially you can go  
22 back at least 12 years.

23 **DR. VENOHR:** Yeah. Because there's some  
24 states that limit it and it's explicit in their  
25 guidelines. They might say go back, you know, two

1 years retroactive. So that's something you could  
2 put in the guidelines, and that's one of the reasons  
3 I didn't put it in the report because it wasn't part  
4 of the guidelines.

5 **MR. KLUMP:** To give everyone some history,  
6 when I was the acting director, we proposed  
7 legislation to cap the arrears period for three  
8 years. It went through the legislature, and the  
9 House and the Senate had passed it, but they  
10 reconciled it to six years, and Governor Martinez  
11 pocket vetoed it. She did not want to add that.

12 And then we have -- as it happens, we had  
13 a case come out of the New Mexico Court of Appeals  
14 the following year said if parentage had not already  
15 previously been determined, then you can't go back  
16 at all. But now that's apparently being appealed at  
17 the Court of Appeals again. So we did try to  
18 approach -- to limit the arrears period out of the  
19 concern that we were -- people were waiting 12 years  
20 and then surprised, and you would get the sticker  
21 shock. So we were trying to limit that, but it  
22 failed at the political level at the executive's  
23 office.

24 **MR. NELSON:** Sarah, who is our leader for  
25 our legal services insofar as our attorneys, has

1 brought that to my attention, this very issue. We've  
2 talked about exactly what Stephen just said. There's  
3 not consistency between the case law and the  
4 statutes. And she's, I know, working with her  
5 attorneys, her lead attorneys, in Child Support  
6 Enforcement to prepare to address this issue, you  
7 know, make recommendations for a legislative  
8 solution because it does -- it is confusing, and  
9 it's an outstanding issue.

10 I think that one of the interesting  
11 dynamics of it that is going on and will have to be  
12 dealt with is the federal requirement that  
13 incarceration is not going to be a condition for --  
14 considered involuntary employment. So whether a  
15 minimum order can be put in place or someone's  
16 incarcerated and is in question there, it's -- what  
17 I think the -- the requirements around imputation,  
18 how more economic data is used for imputation and  
19 how incarceration is considered in terms of  
20 employing imputation and setting minimum orders are  
21 things we're going to have to address.

22 What the Child Support Enforcement  
23 Division will recommend to the incoming  
24 administration, will have to lead the legislative  
25 efforts in the next legislative session, will be

1 that the changes to the federal regulations be  
2 incorporated in New Mexico statute. And for the  
3 work we've done -- the preliminary work we've done  
4 up to this point is take the gist or verbatim the  
5 federal language and recommend that that become  
6 incorporated in the statute.

7 So that does create the need -- that will  
8 create the need for the division to change processes  
9 and incorporate those requirements in its  
10 activities, and that will be -- that's not -- that's  
11 a heavy lift. That's not an easy flip a switch and  
12 it's changed or just write a rule and it becomes  
13 done. It's going to require changes in the way our  
14 field offices prepare for cases, calculate income,  
15 and come prepared for cases in front of hearing  
16 officers and judges.

17 I think that process is going to require  
18 input from stakeholders, such as yourselves and  
19 others, to guide the division as to what's going to  
20 work, what's going to make this process consistent  
21 across our different field offices and different  
22 judicial districts, and what's going to work, how  
23 we're going to be able to do this consistently. So  
24 we don't pretend that that's not a big change in the  
25 way child support cases are worked and that that

1 work's going to have to be done. We're going to  
2 have to get good input from a broad group of  
3 stakeholders.

4 And I think the incarceration language in  
5 the federal rules is interesting as well, and I  
6 think that kind of falls in that same bucket of the  
7 work to be done.

8 I don't know if that helps add some  
9 context to what we see happening in the coming  
10 months with regard to how imputation is going to  
11 work and how incarceration is going to be considered  
12 in setting support orders.

13 **MR. KLUMP:** And I think we need to make  
14 distinction on the incarceration issue between  
15 establishment cases and enforcement cases because  
16 there is actually a 1994 New Mexico Court of Appeals  
17 decision. It's the Thomasson decision. Child  
18 support had been established. Mr. Thomasson was  
19 paying his child support. He committed a felony and  
20 was being sentenced, and he petitioned the Court to  
21 reduce his child support or modify his child  
22 support. And the Court of Appeals said, "No. You  
23 can't do that. Incarceration is a voluntary  
24 action."

25 So we have that in place by case law for

1 the enforcement cases. Obviously, the establishment  
2 cases are going to require some policy decisions by  
3 CSED and the legislature, but the enforcement cases  
4 -- we already have that built in. It would be good  
5 to --

6 **MS. MCCRACKEN:** But there's --

7 **MR. KLUMP:** -- reduce it to statute but --

8 **MS. MCCRACKEN:** Because there is the  
9 federal rule that states, if someone is  
10 incarcerated, we are supposed to contact them and  
11 ask -- we have two options, I believe. We can  
12 either ask them if they want to modify their case,  
13 request that we modify their case, or we can start  
14 the process to modify the case.

15 **DR. VENOHR:** Right. That is not in the  
16 guidelines --

17 **MS. MCCRACKEN:** No.

18 **DR. VENOHR:** -- but it's another part of  
19 the rule --

20 **MS. MCCRACKEN:** Right.

21 **DR. VENOHR:** -- and it's somewhere in this  
22 report. The Thomasson case is referenced on page  
23 45.

24 Thank you, Sarah, for getting that.

25 And I'll find the provision that you're

1 talking about because that's important to have it  
2 complement --

3 **MS. MCCracken:** It might conflict with --

4 **MR. KLUMP:** Yeah.

5 **MS. MCCracken:** -- state law.

6 **DR. VENOHR:** It's on page 6, the provision  
7 he referred to, 303.8. And Betina is referring to  
8 that a state's -- and this is for the agency.

9 **MS. MCCracken:** Yeah.

10 **MS. BATZLI:** Yeah. And we've talked about  
11 amending the statute that's particular to  
12 modification of orders in 4D cases. And we're going  
13 to have to modify our regulations as well as just a  
14 lot of statutory revision that we're going to have  
15 to propose this year.

16 **MR. KLUMP:** I want to talk about the  
17 minimum orders again, and I want to go back to the  
18 point I made earlier.

19 Philosophically, I'm not opposed to a  
20 minimum order concept. I just think New Mexico --  
21 and we're probably opening a can of worms we don't  
22 want to necessarily get into, but you're going to  
23 have to slide the schedule or go away from an income  
24 shares model because a minimum support order is  
25 predicated on the payor's income.

1 The income share model, you throw in the  
2 other party's income, and you're already -- in  
3 almost every case you're going to be past these  
4 thresholds. So, I mean, that becomes really a big  
5 issue in terms of either getting away from income  
6 shares, which New Mexico has done since 1994, or  
7 adjusting the schedule.

8 **DR. VENOHR:** You know, I apologize. I'm  
9 going to interrupt for a minute because I don't want  
10 you to think that's the only option, and I apologize  
11 that I didn't put this in the report is that Utah  
12 does find a compromise to that, a solution to that.  
13 What they have is they have an income share  
14 schedule, and then they have a low-income adjustment  
15 table.

16 And so what they would do is that area  
17 that's shaded -- that would be the low-income table,  
18 and then they have the rest of the schedule. And  
19 essentially it says if your income is below this  
20 threshold -- which, you know, is a policy decision.  
21 It could be, you know, the poverty level, which is  
22 1,012, uses -- so I don't want you to think you have  
23 to throw out the guidelines model.

24 The reason I really want to clarify that  
25 is because changing guidelines model is a huge, huge



1 deal. I mean, I just worked with Illinois. It took  
2 seven years. I mean, they went for a percent of  
3 obligatory income to income shares, and most states  
4 go to income shares. Is income shares the best  
5 model? I could pull out my academic paper, but you  
6 know, we could talk -- if you really want to talk  
7 about that, call me sometime, or e-mail me. I don't  
8 think that's a conversation -- if you want to have  
9 that, we can have that, but I don't want to -- I  
10 want to -- meeting those federal requirements -- I'm  
11 going to encourage you to meet those federal  
12 requirements and come up with recommendations for  
13 that.

14 So I'm going to be quiet.

15 **MR. NELSON:** I'm learning a lot as I'm  
16 going. I'm fairly new in this role and have not had  
17 a background with child support. So it's very  
18 interesting.

19 From this process of reviewing the report  
20 and working with the team internally, I think what I  
21 gleaned from that is that the income shares model is  
22 used in a majority of states. So a pretty strong  
23 majority, but it does -- the dynamics that Hearing  
24 Officer Klump described are -- I think they're real.  
25 They're legitimate. We've struggled with that a

1 little bit in thinking about an adjustment to the  
2 guidelines, the schedule, would look like and what  
3 it does. So very good input on that point.

4 **DR. VENOHR:** You know, and I think with  
5 hindsight -- because we've talked with the agency  
6 about the difficulty, you know, if this is something  
7 that New Mexico wants to do right away. I mean,  
8 there's some technical issues with changing the  
9 worksheet is what I understand. I mean, you know, I  
10 think Jeremy might be the person if you wanted to  
11 explore that. But if that is an issue, then the  
12 Utah approach of having two tables might be the very  
13 best way for New Mexico to meet that requirement  
14 quickly -- the federal requirement.

15 **MR. NELSON:** We have discussed the  
16 worksheet change, potentially making modifications  
17 to the worksheet and the methodology. And from an  
18 administrative standpoint, there's unanimous opinion  
19 amongst leadership in HSD that that would be a  
20 really heavy lift. It would be a big change to our  
21 old and outdated systems, our child support  
22 enforcement system. And I push back a little bit  
23 because I don't think that sounds like a really good  
24 reason.

25 If I'm sitting in your seats and someone

1 says, "Well, administratively, it's a pain to make  
2 that change," that doesn't sound like a great  
3 reason; but in exploring that with CIO and our  
4 leadership within CSED, there is a unanimous opinion  
5 that that really is a heavy lift. It would take a  
6 lot of time and money to make a change to the  
7 guidelines.

8 So internally we've evolved to a position  
9 where that's not desirable. That's not a  
10 recommendation that we would put out at this point.  
11 So just a little background on kind of the internal  
12 discussions of that topic.

13 **DR. VENOHR:** When do you think you're  
14 going to have your new automated system?

15 **MR. TOULOUSE:** We have no money yet.

16 **MR. NELSON:** Give me a crystal ball.

17 Yeah. That project is involved with our  
18 Medicaid Management Information System replacement  
19 as well, and it's kind of an enterprise-wide system  
20 replacement project, which is very exciting. And  
21 the child support piece of that, as Jeremy said, the  
22 financing's not solidified, and so it's hard to make  
23 an estimated date of completion at this point.

24 **DR. VENOHR:** And the reason I asked is  
25 that there have been some states like -- you know, I

1 mentioned that Illinois switched to the income  
2 shares model. It was the 40th state to use the  
3 income shares model, effective July 1, 2017, and  
4 they timed it so that change happened with some  
5 automation changes. So they delayed it for, I  
6 think, maybe two years or something because they  
7 knew the automation changes were coming down the  
8 pike.

9 **MS. MCCracken:** We're not that close.

10 **MR. TOULOUSE:** We've been working very  
11 hard for several years.

12 **MR. NELSON:** And that's a good point.  
13 Something -- go ahead.

14 **JUDGE MARTIN:** This is Jim Martin down in  
15 Las Cruces.

16 You know, I heard somebody mention earlier  
17 the idea of having two sets of schedules. That is  
18 problematic from my point of view as a judge because  
19 then I'm looking at two different calculations, and  
20 so then I've got to, you know, pick between the  
21 lesser of two evils.

22 You know, I'm not a big fan of having to  
23 choose between two competing obligations. I'd  
24 rather have the singular obligation that I can  
25 either accept or deviate from rather than saying,

1 well, it's Option A, Option B, or something in  
2 between.

3 **MR. NELSON:** Thank you for the input.  
4 Absolutely.

5 **JUDGE WILSON:** In family law cases you  
6 have a lot of pro se litigants, and they can go  
7 online and do their own worksheet. And I guess I  
8 agree with the judge in Las Cruces, Judge Martin.

9 It's going to make an extra step for them  
10 if they are trying to stipulate to a number. That  
11 makes it a little bit more complicated.

12 **JUDGE MARTIN:** Just to be clear, I'm  
13 against two charts --

14 **MR. NELSON:** Duly noted.

15 **JUDGE MARTIN:** -- if there was any  
16 confusion.

17 **DR. VENOHR:** One of my favorite studies  
18 that -- I wish I could find it. It's from Vermont.

19 And so any time a state uses a low-income  
20 adjustment, whether it be two charts or in the  
21 worksheet, it will show what the amount is before  
22 any adjustment and then what the amount is after any  
23 adjustment. And what Vermont found was that parents  
24 were actually stipulating between the amount between  
25 the two, which I think is pretty cool, because one

1 is actually based on how much it costs to raise that  
2 child and the other one's based on, you know,  
3 meeting the needs of the parents. And for parties  
4 to agree on something like that is -- you know, I  
5 always find that beautiful. But I just wanted to  
6 throw that out there.

7 And, of course, you know, as judges,  
8 you're hearing the cases that -- well, maybe the pro  
9 se's -- who knows that they're not stipulating? I  
10 don't, you know -- you know, you can -- I mean,  
11 you're overseeing and looking over the orders. So  
12 maybe I'm misspeaking there.

13 **JUDGE WILSON:** I mean --

14 **JUDGE MARTIN:** Yeah. This is Jim Martin  
15 again.

16 I'm going to point out one of the problems  
17 with that sort of a model is this power disparity.  
18 If you've got one parent who has a very overbearing  
19 personality and you have a meek parent that is  
20 unable to stand up to that parent, you know, the  
21 bully's going to win that argument. And so as a  
22 judge, I'm reluctant to let the bully win.

23 **DR. VENOHR:** Yeah. Thank you.

24 **MS. BIRD:** Can I say something?

25 **MR. NELSON:** Yes.

1           **THE REPORTER:** What's your name, please?

2           **MS. BIRD:** Lila Bird.

3           On page 24 of the report where we talk  
4 about payments of minimum orders, the first sentence  
5 is "A minimum order is part of New Mexico's low-  
6 income adjustment." So it's part of the child  
7 support guidelines schedule anyway. It's in there.  
8 And I think that we're good, given, if we do make  
9 all these changes that include the SSR, the self-  
10 support reserve, I think we're going to be fine. We  
11 don't need any additional worksheets, you know, to  
12 figure.

13           I think one of the reasons -- as the  
14 paragraph goes on, it states that there's few of the  
15 these so-called -- I call them "so-called minimum  
16 orders" in New Mexico, but that's also going to get  
17 taken care of by the new regulations and statutory  
18 changes that will force us to no longer impute but  
19 take into account actual income. And I think the  
20 reason why there's so few minimum orders is that  
21 we're, across the board, imputing income to people.

22           **DR. VENOH:** You know, I want to follow up  
23 on that just because there's -- thank you for  
24 pointing that out. On page 37 -- and this goes to  
25 Mr. Klump's comment before. You know, are we doing

1 income shares? We already have that issue where --  
2 if you look at the shaded area there, I shaded the  
3 area that already incorporates a low-income  
4 adjustment in a self-support reserve based on that  
5 2007, 1994 compromise. So that problem of if you  
6 had two parents with 400, they would fall into that  
7 800. So it already is an issue. You know, I mean,  
8 I agree with you that it's not really income shares  
9 at that point, but -- or it is, but it's not how  
10 much it costs to raise a kid, but already is  
11 inherent in what New Mexico has now.

12 **MR. NELSON:** Thanks.

13 **MR. TOULOUSE:** So I thought I might share  
14 just when we're talking about, you know, percentage  
15 of cases paying --

16 **JUDGE WILSON:** So let me interrupt. We've  
17 lost our --

18 **MR. TOULOUSE:** Oh.

19 **THE REPORTER:** Do you want to go off the  
20 record for a moment?

21 **MR. NELSON:** Sure. Let's go off the  
22 record for a moment while we address technical  
23 difficulties.

24 **(Lunch recess, 11:24 a.m. to 11:46 a.m.)**

25 **MR. NELSON:** Is our video conference



1 working?

2 **MR. TOULOUSE:** It's muted.

3 **MR. NELSON:** Unmute. Okay.

4 Hi, everyone at the video offices. We're  
5 going to get started again. Apologies for the  
6 technical difficulties. I believe we're all back  
7 online. We had a break scheduled here for the Santa  
8 Fe office, and so we took that while we were getting  
9 the video back up and running.

10 I have another point of housekeeping that  
11 I failed to mention earlier. We have a sign-in  
12 sheet, and I'm going to pass it around. A number of  
13 folks have already signed in here, but if you  
14 haven't, please add your name.

15 In the field offices, please make sure we  
16 have a sign-in for each person in each field office  
17 as well. We'll combine them.

18 Judge Wilson, I'll just pass that to you.

19 And I think we're having a pretty good  
20 discussion about minimum orders. Lila made a point  
21 about minimum orders are already incorporated, and  
22 by making self-support reserve more explicit, that  
23 will meet that element of the federal regulation  
24 change, and incorporating our other federal  
25 regulation changes will kind of put some structure

1 and context around the issue of, I think, folks with  
2 really low incomes and what orders for those folks  
3 should be -- where they should start, what income  
4 threshold and what a minimum order should be.

5 So I really think this is the whole point  
6 we're here. We've spent a lot of time internally  
7 talking about these things, chewing on different  
8 options, what works best for New Mexico, what brings  
9 us compliant with the federal regulations. And I  
10 don't think you'll hear from this group that there's  
11 a -- you know, kind of a predetermined idea about  
12 what we should do, how the guidelines should look,  
13 what we're going to do, what we're going forward,  
14 and that this meeting was really the opportunity to  
15 have good input and move towards a decision.

16 So I encourage the discussion along the  
17 lines of what we've covered so far in the first part  
18 of this agenda item to continue. If you have  
19 questions or comments, you know, I want it to be  
20 fairly informal and a real good opportunity for open  
21 discussion. So with that I'll open it up again.

22 And a number of folks here in the room are  
23 eating. That's fine. Keep doing that. If you need  
24 to get up and get more food, take a break and use  
25 the restroom -- any of that is fine. This next

1 probably hour and a half is going to be geared  
2 towards just open discussion and continuing along  
3 the lines that we have been working on for the last  
4 few minutes.

5 **JUDGE MARTIN:** And this is Jim Martin down  
6 in Las Cruces. And I apologize if we discussed  
7 this, but because of the technical difficulties it  
8 may have been overlooked.

9 When you're talking about the minimum  
10 self-support reserve, I support wholeheartedly the  
11 idea that it needs to be explicit in our guidelines  
12 that we're considering a self-support reserve, but I  
13 also think it's very important that it either be in  
14 the commentary or maybe explicit in the guidelines  
15 itself that we as a Commission have considered the  
16 self-support reserve for both parents, for both the  
17 custodial and the noncustodial parent.

18 I think we need to be very explicit that  
19 we're looking at this for equity purposes as a self-  
20 support reserve for both parents because the  
21 custodial parent is supporting the child with or  
22 without income, and if we only consider the  
23 noncustodial parent and ensuring that the  
24 noncustodial parent has a self-support reserve, I  
25 think we're doing a disservice to custodial parents.

1 But I just want that to -- I think it's  
2 important that it be reflected somewhere either in  
3 the commentary or in the guideline itself that we as  
4 a Commission consider both parents needing a  
5 reserve. Thank you.

6 **MR. NELSON:** That's a good addition to the  
7 discussion and another point that we spent some time  
8 on internally.

9 I think one piece of the solution might be  
10 in the way we -- if we revise the guidelines to  
11 articulate that just in text in the guidelines  
12 itself. The sense here is that there is a self-  
13 support reserve in the New Mexico schedule now, but  
14 it's not explicit.

15 And I think -- Dr. Venohr, correct me if  
16 I'm wrong -- the way you highlighted the tables in  
17 our documents and in the regular report -- the  
18 initial report and the supplement, there's some  
19 shading that indicates where self-support reserve  
20 applies. And so I think that's one way we can be a  
21 little bit more transparent that that is in  
22 existence.

23 Another -- and I wish I'd remember who  
24 told me this because I thought it was a very good  
25 suggestion, but it was someone from the team

1 internally who said when we promulgate rules around  
2 -- new rules around the changes, that's another  
3 opportunity to be clear. And we can go into some  
4 detail to talk about what the self-support reserve  
5 is and where it applies. So I think that's a really  
6 good point.

7 I think the concept of -- and I'll  
8 definitely entertain other input from everyone here  
9 today -- the Commission and our CSED -- the self-  
10 support reserve for the custodial parent may be a  
11 trickier issue to address if we don't change the  
12 guidelines, if we don't change the worksheet  
13 methodology. We've talked about the way the reserve  
14 applies.

15 Now, it does not change the calculation of  
16 the order in the guideline. So not including it  
17 doesn't have a financial impact, but for -- and I  
18 think the report bears this out, and I think Judge  
19 Martin's comments bear this out. There's that sense  
20 that it does need to be acknowledged that custodial  
21 parents have that subsistence level of income need  
22 as well.

23 So I think it's a little bit harder to  
24 deal with without maybe more extensive changes to  
25 the process, but at least the existing methodology

1 that New Mexico uses for self-support reserve is  
2 there, but it's just not well articulated. And we  
3 could do that. We could do a better job of  
4 outlining that with text in the guidelines itself  
5 and in the regulations if we promulgated changes.

6 And Dr. Venohr has a point.

7 **DR. VENOHR:** I just want to add really  
8 quickly -- and this isn't exactly what Judge Martin  
9 said, but on page 37 it shows how Arizona provides  
10 that little narrative and considers the custodial  
11 parent's needs. It's not a self-support reserve,  
12 but, you know, maybe -- what I'm hearing is that  
13 there's some sentiment here on doing something like  
14 that.

15 Maybe, you know, you want -- because you  
16 have such limited time today, at least get your  
17 concepts, your principles, that you want together,  
18 and then maybe have somebody draft some language  
19 later. I don't think you're ready for that point,  
20 but I just wanted to underscore Arizona as a  
21 template of how that could be done in the language.

22 **MR. NELSON:** Thanks.

23 Any other folks from the Commission or  
24 Child Support Enforcement that want to -- I think  
25 this is a central piece of the discussion today, and

1 having shared an understanding of how SSR works and  
2 what we would like to accomplish going forward, if  
3 there are changes, is worthwhile spending time on  
4 it.

5 So if folks here in the room or in the  
6 field offices would like to comment, I'd definitely  
7 like to hear the discussion.

8 **MR. TOULOUSE:** So to me, again, as child  
9 support subject matter expert -- you know, I'm not  
10 part of the Commission. I don't have to make a  
11 decision, but, you know, to me a big part of the  
12 self-support reserve is the guideline in general.

13 From Child Support, we want to make sure  
14 child support gets paid, you know, and that's just  
15 the very pragmatic perspective that I take as  
16 somebody who's been in this division for 20 years is  
17 I know for a fact in New Mexico in our caseload the  
18 higher the support is, you know, the less likely  
19 it's going to get paid. And, I mean, that's outside  
20 of fairness. That's outside of, you know, what  
21 somebody's responsibility should be. I don't have  
22 that responsibility myself.

23 But, you know -- and this is where I  
24 wanted to provide, you know, just a quick context.  
25 And, again, this is purely the child support

1 caseloads in the states that are in the report, you  
2 know. And this is just the percentage of cases  
3 paying the current support ordered amount and just  
4 the 4D caseloads. Again, we don't have data in New  
5 Mexico for the non-4D caseload.

6 But, I mean, you can see here -- and these  
7 are the states, you know, that Dr. Venohr, you know,  
8 used as some examples in her report. You know, in  
9 Nevada, where 33 percent of them are at the, you  
10 know, \$50 or at the minimum order, you've got 65.9  
11 percent of the cases paying something, you know.  
12 And I think, you know, again, just as a child  
13 support professional, you know, the pragmatism of  
14 coming up with an obligation that is the right size  
15 for the noncustodial parent's "situation" at that  
16 point in time has proven to lead to more money being  
17 paid.

18 And so, again, just as a child support  
19 expert, I mean, that's my perspective on the  
20 importance of employing minimum orders, employing a  
21 clear self-support reserve. And, honestly -- I'm  
22 just going to state this too -- as a child support,  
23 you know, professional here, our ability to adapt  
24 our system and our procedures at that point in time,  
25 you know, to be compliant with federal regulations,



1 is minimal. And so that's why we've suggested not  
2 changing the worksheet at this point in time just  
3 because that will probably take well over a year to  
4 -- even just to update the table would take quite  
5 some time. To change the program of how our  
6 computer system actually calculates the support  
7 would probably take, I'd say, 18 months to two years  
8 to do. You know, now we've got a new system in  
9 place. We're in the middle of a feasibility study,  
10 which will look at our alternatives for future  
11 systems, you know, once that new system's in place,  
12 but that's going to be four years down the line.

13 So -- yes, ma'am.

14 **DR. VENOHR:** Oh, I'm sorry.

15 **MR. TOULOUSE:** No.

16 **DR. VENOHR:** I just -- Arizona really hit  
17 me, and I just wanted to clarify because I was  
18 looking at that and it shows a zero order where that  
19 self-support reserve is applied in Arizona. That's  
20 their -- but I also forgot that Arizona has a  
21 presumption of full-time minimum wage earnings.  
22 That's in their statute. Their guidelines are  
23 actually in court rule. So it could be that's the  
24 income imputation.

25 It's a three-legged stool there, you know,

1 where we have default, we have income imputation,  
2 and then we have the low-income adjustment. So when  
3 I'm looking at those numbers, I'm thinking of those  
4 state policies on income imputation, default. When  
5 default -- in a lot of states they use a different  
6 wage than -- you know, they might use full-time  
7 minimum wage earnings or medium earnings and then  
8 the income imputation -- I mean then the self-  
9 support reserve, low-income adjustment.

10 Sorry, Jeremy.

11 **MR. TOULOUSE:** No. And, I mean, to that  
12 note, I think in New Mexico we impute income almost  
13 consistently on every case that we go to court on or  
14 prepare any guideline on, you know, in establishment  
15 and enforcement. So, you know, we're always  
16 imputing to full-time minimum wage, and that's  
17 probably one of the reasons why our percentage of  
18 cases paying is significantly lower.

19 I mean, we are one of the lowest  
20 performing states in this area, you know, and I  
21 think that's one of the reasons that we do that.  
22 We're not actually addressing the NCP's actual  
23 ability to pay support.

24 So that's all I wanted to have is just  
25 some context from the 4D agency perspective, which

1 is outside of, you know, the responsibility of the  
2 Commission and how, you know, judiciary receives the  
3 courtroom. But from our perspective, I mean, we  
4 want some money to come in. You know, we'd rather  
5 get \$100 every month, you know, consistently.

6 **MR. NELSON:** Thanks, Jeremy.

7 **MS. BATZLI:** Maybe we could take a look at  
8 the -- maybe it's time to just take a look at, if we  
9 were to adopt numbers, what that might look like  
10 with regard to the changes. And I'm looking at the  
11 supplement that Dr. Venohr prepared, revised  
12 September 26, 2018, starting on page 13, the side-  
13 by-side comparisons.

14 **MR. NELSON:** We spent a lot of time in the  
15 last couple days looking at this section of the  
16 supplement, and I think it's very interesting and  
17 has got some good points for discussion. I'll just  
18 reiterate what Dr. Venohr said when she presented.

19 On that page 13 of the supplement is the  
20 beginning of a table that shows in the left column  
21 our existing guidelines. The second column is  
22 Appendix A from the original report. Option B is  
23 the third column, and it is another variation we  
24 discussed. And Appendix E is the next column, and  
25 that was in Appendix E in the original report as

1 well.

2 And so then that pattern repeats  
3 throughout the table because that first section is  
4 for one child. The middle section's for two. And  
5 the right-hand side is for three. And then if you  
6 page back several pages back in the report, it shows  
7 the same pattern for four, five, and six children. I  
8 don't know which page that's on but --

9 **MS. MCCracken:** Starts on page 28.

10 **MR. NELSON:** Page 28. Thanks.

11 So it's interesting to see what some of  
12 these different scenarios do. I think one of the  
13 ongoing issues is the ambiguity of the existing  
14 schedule with regard to zero to 800. I mean,  
15 there's no detail. It just starts at 800 for one  
16 child, a \$100 order.

17 And so to my point of view -- my point of  
18 view, coming in kind of fresh to this process, it  
19 seems like there's not clarity what happens for  
20 cases where income is less than \$800. So a couple  
21 of the options would indicate that there would be no  
22 order, zero amount, up to a certain level, 700,  
23 \$800. The Appendix A option that Dr. Venohr had in  
24 her report extends the \$100 minimum payment from  
25 zero up to 799. So different dynamics in those

1 options.

2 In the report in the shaded area is the  
3 self-support reserve, and those amounts I believe in  
4 that self-support reserve -- and correct me, and  
5 help me out here if I get off track. They are lower  
6 than what prevailing economic indicators would show  
7 would be the cost of child-rearing. And because of  
8 the low-income status of the parents, those numbers  
9 are lower than they would be if they were just  
10 strictly calculated off of the cost of child-  
11 rearing.

12 They ramp up at a consistent rate until  
13 the curve of that line would change a little bit,  
14 and that would be at the point where you move from  
15 the shaded area to the unshaded area. And then you  
16 can see the growth rate as you move from one income  
17 level to the next. It grows a little bit more  
18 slowly. So that's my feeble attempt at trying to  
19 explain self-support reserve and how it would be  
20 articulated in a set of guidelines.

21 But I think we can use this table and  
22 would encourage lots of discussion on which one of  
23 these scenarios seems to make sense in terms of kind  
24 of going back to those three bullet points from the  
25 major findings. What's the best way to make the

1 guidelines applicable to folks at very low ends of  
2 the income, taking into account their ability to  
3 pay, ensuring there's a self-support reserve.

4 And then -- and we probably won't spend  
5 too much time on this topic -- on the farther end of  
6 the -- on the high income end of the schedule, tying  
7 the amounts in the schedule more closely to  
8 available economic data as opposed to where our  
9 guidelines sit now, which really were calculated  
10 through kind of a linear extension previously from  
11 income levels of something along the lines of \$8,000  
12 and then on out to \$30,000.

13 So, anyway, I think most of the discussion  
14 really lies around the low end today, and that's  
15 what I'd love to hear folks' input on. And before I  
16 quit talking, in the supplement on page 4 --  
17 starting on page 4, there's some graphs of this  
18 data, of these tables, the different options, which  
19 I think is really interesting. It kind of shows  
20 starting at zero, zero dollars in combined monthly  
21 income and zero dollars in monthly support; kind of  
22 shows the way that the different options would look  
23 out graphically -- or appear graphically. So I'm  
24 not sure that's helpful, but I've spent a lot of  
25 time studying these as well, and I found it helpful.

1 Anybody like to share comments on their  
2 thoughts on these different options, the way the  
3 curves look?

4 **MR. TOULOUSE:** So we had put together some  
5 real-life scenarios of different incomes and  
6 different situations. Would that maybe help add  
7 some context to the guidelines?

8 **MS. MCCracken:** I think it would. And I  
9 saw them. I guess the only thing I want to say,  
10 just looking at the guidelines and where we're  
11 coming from, on page 49 of Dr. Venohr's report where  
12 it states New Mexico's current minimum order  
13 amount's 100 for one child and 150 for two or more,  
14 are high relative to those of other states and other  
15 evidence.

16 So that is where I would like to, you  
17 know, focus. I think that's where we're all trying  
18 to focus on, on the lower end, and all of these  
19 options certainly take that into account.

20 **JUDGE WILSON:** Just one quick comment.

21 I always found it confusing when I was  
22 looking at the guideline amounts under \$800 where it  
23 wasn't specified. So in the end, it would be nice  
24 to see either a zero amount or a specific number or  
25 a minimum amount as opposed to not specified.

1           **MS. MCCRACKEN:** Okay.

2           **JUDGE WILSON:** That's my only comment.

3           **MR. NELSON:** That's right on the money. I  
4 think there's consensus on that. I think that's a  
5 carryover concern from a previous report. So thank  
6 you for pointing that out so clearly.

7           **MR. TOULOUSE:** So some examples that we  
8 put together. This is kind of the low end, you  
9 know, of the income. But the different scenarios --  
10 like, the first scenario is a CP with zero income.  
11 You know, you can assume the child's under six. And,  
12 you know, the NCP had an income of \$625.

13           It's shared.

14           **MR. NELSON:** I think it's too small for  
15 folks to see.

16           **MS. MCCRACKEN:** They can open it up, or we  
17 can do that as well.

18           **MR. NELSON:** We may have that in hard  
19 copy.

20           **MS. MCCRACKEN:** Thank you. There we go.

21           **MR. TOULOUSE:** So the existing guideline,  
22 you know -- it doesn't calculate that because the  
23 income is under \$800. You know, so in that  
24 situation -- I mean, I assume when we get into court  
25 on that situation, you know, we just determine what



1 the amount would be.

2 Under Attachment A that would be \$100 a  
3 month. And under Options B and Attachment E, it  
4 would be zero.

5 **MS. BATZLI:** Actually, the worksheet that  
6 I used to get that N/A actually literally says "N/A"  
7 on it.

8 **MR. TOULOUSE:** It ceases with -- our  
9 automated system wouldn't calculate it.

10 **MS. BATZLI:** Yeah.

11 **MR. TOULOUSE:** It's not on the table. I  
12 will say four years ago the Commission tried to put  
13 it on the table.

14 The second scenario -- as you can see, now  
15 both parents are at \$625 a month. You know, on the  
16 existing it's \$121 a month. You know, Attachment A  
17 is 50. And Option B is under 1950, and Attachment E  
18 is 95.

19 So in the third example, now we're  
20 imputing this, imputing minimum wage. You know, CP  
21 is still zero. So, again, I would assume the  
22 child's under six. And you can see the support goes  
23 up quite a bit. And, again, this is at minimum  
24 wage.

25 And then Example 4 is -- or Scenario 4 is

1 both parents imputed to minimum wage. I think you  
2 can see it's consistent.

3 Yes, ma'am.

4 **DR. VENOHR:** I want to say something about  
5 that first case scenario because I don't want it to  
6 come across that only a minimum order as zero or 100  
7 is appropriate, that it truly is a policy decision.  
8 And as far as the evidence that I can tell you, both  
9 as an economist and from other states, is that  
10 \$10.00 -- I've heard in some states where -- you  
11 know, like, I worked with Iowa several years ago.

12 They had a \$10.00 minimum order, and the  
13 judge said -- and I don't blame her. She was  
14 furious. She said it was an embarrassment to drag  
15 somebody into court -- the parties, the parents --  
16 to take their time and then order \$10.00.

17 So that's one anecdote I --

18 **MS. BIRD:** Could I ask something along  
19 that train of thought?

20 Is zero also an insult?

21 **DR. VENOHR:** I don't know. That, I can't  
22 -- that's something I want to work on in the future  
23 as far as the data.

24 One of the things that Jeremy's analysis  
25 made me think about was Nevada, where Nevada had

1 that high percent paid, and that was for their 100  
2 and less. And their minimum order's actually \$100  
3 per child, but they deviate from that a lot, and  
4 they put just a \$100 minimum order on there. So I  
5 thought it was very -- that was the first time it  
6 really struck me is that maybe they're getting more  
7 payments because it's 100. 50 is the norm -- I mean  
8 what most states use. And then 60 is what the  
9 evidence is that a parent will pay -- a low-income  
10 will pay in in-kind.

11 So I want to throw that out there that it  
12 truly is a policy decision and, you know, that  
13 there's other options for that too. And I think  
14 that's a good starting ground is what's the  
15 appropriate amount for an income -- is that 800 or  
16 600?

17 **MR. TOULOUSE:** 625.

18 **DR. VENOHR:** 625. I mean, that's --

19 **MS. BIRD:** Can I just add a follow-up  
20 comment?

21 **DR. VENOHR:** Sure.

22 **MS. BIRD:** Then I'll be quiet.

23 I just think in terms of sort of the  
24 political environment proposing zero orders may not  
25 go across, but I think -- you know, I know

1 anecdotally if you're in a hearing and it looks like  
2 you're just -- you know, someone's going to pay  
3 absolute minimum, I've always -- I've seen, I think,  
4 in my experience, like, a \$50.00 order. Sometimes a  
5 \$25.00 order if somebody's applied for Social  
6 Security. And, you know, we're going back and forth  
7 about whether or not they received their benefit.

8 But just in terms of the political  
9 environment, I don't know if zero will go across.  
10 But I think if you have a higher amount, you can  
11 always deviate below. The hearing officer can  
12 always deviate lower.

13 **MR. NELSON:** I think that's a good point,  
14 Lila. Thank you for bringing it up.

15 I think when we had prepared for our  
16 meeting, that was something we wanted to hear from  
17 the judges and the hearing officer. We have the  
18 inside view from working within the division, but  
19 you are all coming from a different perspective as  
20 well. So I think that's valuable.

21 What's your take on it? A zero order? A  
22 \$25.00 order? A \$100.00 order? What? I'd like to  
23 hear your input, whoever would like to jump in.

24 **JUDGE MARTIN:** Hello. This is Judge  
25 Martin down in Las Cruces.

1           You know, fortunately or unfortunately, in  
2 American society we value ourselves based on  
3 dollars. You know, everything. We put a dollar  
4 amount on something. And if we as the Commission  
5 say that the custodial parent's value is zero  
6 regardless of the income -- you know, even if the  
7 noncustodial parent's income is zero, I think we're  
8 telling custodial parents their value in a  
9 subliminal way.

10           And I agree with the comments of the  
11 commissioner a minute ago that, even if you set it  
12 at a minimum of 100 and you, as a practical matter,  
13 realize the noncustodial parent is not going to pay  
14 and so we're going to deviate, at least you're  
15 recognizing the custodial parent's value at  
16 something, at a minimum of 100, 50 -- whatever that  
17 minimum is. And then you're making a real-world  
18 determination on case-by-case basis.

19           I'm reluctant to support an idea of a  
20 zero. That's just not -- that telegraphs, you know,  
21 that we don't think that low-income people have a  
22 value. And I don't support that idea. I think a  
23 minimum of something is -- 100 may be too high, but,  
24 you know, I think zero is a subliminal message that  
25 we don't want to send.

1           **MR. NELSON:** Thanks.

2           Other folks?

3           Stephen.

4           **MR. KLUMP:** I sound like a broken record.

5 I keep coming back to the same point with the

6 combined shares model.

7           How many cases are we going to have where  
8 the combined -- or imputed income is going to be 800  
9 or less? I mean, is that really even a practical  
10 matter? So just thinking pragmatically, why not  
11 start the table at 800 and then in statute say "If  
12 the combined family income is less than 800, the  
13 Court shall consider equitable factors in setting  
14 the child support order."

15           I don't know how the judges feel about  
16 that, but I'm just trying to be practical because I  
17 can't really see, if you have an able-bodied person,  
18 imputing them at less than \$800, as a practical  
19 matter. I'm sure it could happen, but it would not  
20 be very common.

21           **DR. VENOHR:** Yeah. I do have data from  
22 other states here that don't income impute as much.  
23 Like, Pennsylvania is a state that -- they're one of  
24 the highest performing states in the nation. And  
25 you're absolutely right. There's not -- you know,

1 even though the rule says that whole thing --  
2 "consider all these other factors" -- there's still  
3 that income imputation as a last resort. You know,  
4 you just have to do it. I mean, there's some cases  
5 where you do, but there's not that many cases where  
6 it's in between, you know.

7 So, you know, I agree that we might be  
8 spending a lot of time on that income. And even  
9 after you implement the new provisions on income  
10 imputation, there's probably not going to be --  
11 maybe less than 10 percent of the caseload probably,  
12 I would guesstimate. Maybe less. Maybe 3. Just  
13 thinking on the numbers off the top of my head.

14 **MR. TOULOUSE:** Most of our orders were,  
15 like, around between 150 and 250. Right? That's  
16 where most of our orders were.

17 **MS. BATZLI:** Between 250 and --

18 **MR. KLUMP:** And what's important there is  
19 that's the amount to be paid.

20 **MR. TOULOUSE:** Yeah.

21 **MR. KLUMP:** That's not the guideline  
22 support that would --

23 **MR. TOULOUSE:** Yeah.

24 **MR. KLUMP:** -- be pro rata divided.

25 **MR. TOULOUSE:** Yeah. And that's really

1 representative of us imputing the minimum wage  
2 consistently.

3 **DR. VENOHR:** But it's still -- you know,  
4 it's an important question. I mean, particularly, I  
5 mean, I have to think that, you know, you have a lot  
6 of pro se cases and people that are -- you know,  
7 anything -- I mean, I self-diagnose on the Internet  
8 all the time, I mean, for medical. But people do  
9 that with their child support. They look it up and  
10 their guidelines. So there's a lot of  
11 interpretation. So something that's predictable and  
12 consistent is nice to have in the guidelines.

13 **JUDGE WILSON:** Well, I agree with Judge  
14 Martin that we should have some minimum amount other  
15 than zero.

16 **MR. TOULOUSE:** And I would say our  
17 discussion was very much consistently the same thing  
18 as child support professionals. You know, it's hard  
19 for us to -- because, I mean, obviously, we aren't  
20 representing either parent. Right? We're dealing  
21 with both of them. It's hard for us to convince the  
22 custodial parent that he shouldn't have to pay  
23 anything.

24 **MR. NELSON:** So I'm hearing that one  
25 concept is a minimum amount, not determining what



1 that would be, and that would be zero up to a  
2 certain income level with the ability to, on a case-  
3 by-case basis, deviate from that based on  
4 circumstances of the parties. And 100 may be too  
5 high.

6 Here's something I struggled with a little  
7 bit when we talked about a \$50.00 minimum order in  
8 the days leading up to our meeting today, and that  
9 was when the income shares model was described to me  
10 and we started to do the calculations like Jeremy  
11 had provided, you know, a \$50.00 minimum order if  
12 both parents are imputed half of the income. So you  
13 would then take half of the minimum order, and  
14 that's an order of \$25.00.

15 We liked the idea -- we liked -- the  
16 \$50.00 minimum order resonated with us internally  
17 because of the point that this is the most commonly  
18 used minimum order for all states. So the idea of  
19 consistency and a number that's relied on by other  
20 jurisdictions had appeal.

21 But I struggled a little bit with the  
22 scenario -- and this is not every scenario that's  
23 going to calculate out this way, but when their  
24 income is divided -- the income is half and half  
25 between the noncustodial parent and the custodial

1 parent, then that minimum order is then split 50/50.  
2 That results in a \$25.00 order, and it kind of comes  
3 back to the point that Dr. Venohr made a minute ago.  
4 Is it worth the effort to go through for a \$25.00  
5 order? Is that an insult to a CP? I don't know. I  
6 don't know the answer to that, but those are some  
7 questions I struggled with a little bit when we  
8 talked about a minimum order at that level.

9 So, I mean, I think this is the very crux  
10 of what we've been struggling with. So I appreciate  
11 the input, and I'm glad we're not the only ones with  
12 the same kinds of questions.

13 Others? Comments on the different  
14 options? The pros and cons that you see in any of  
15 them?

16 **MS. MCCracken:** Do you want to continue on  
17 any of the examples or...

18 **MR. NELSON:** We could do that.

19 **MS. AVENT:** I have a question or question  
20 more like a comment, I guess.

21 **MR. NELSON:** Okay. Who are you?

22 **MS. AVENT:** This is Leona.

23 **MR. NELSON:** Oh. Hi, Leona.

24 **MS. AVENT:** I'm not on the Commission in  
25 any way, shape, or form. I'm just kind of nosing my

1 way in here.

2 **MR. NELSON:** That's what you're here for.

3 **MS. AVENT:** A word was brought up a few  
4 minutes ago -- able-bodied NCP. To me that's a very  
5 key word, "able-bodied," because if an NCP or a CP  
6 is able-bodied, why would we ever go below minimum  
7 wage on them. When there's the extenuating  
8 circumstances, of course. Medical, psychological,  
9 SSI -- I understand all those. But I don't  
10 understand why, if it is an able-bodied person, why  
11 we're not using minimum wage. And I'm only talking  
12 able-bodied, the ones that are able to work full-  
13 time and able to do what they need to do.

14 **MR. NELSON:** Thanks, Leona. I think  
15 that's a valuable perspective.

16 I think that one of the things that will  
17 help evolve this in this area is federal regulations  
18 around taking into account more detailed granular  
19 employment and economic data around prevailing  
20 wages, the availability of jobs, types of jobs,  
21 success in finding jobs, job searching history --  
22 all those things that are in that federal rule  
23 change.

24 We think that gets to a better -- well,  
25 that is going to present some challenges in the

1 implementation. That gets to a better sense of  
2 ability to pay, which is an underlying piece of it.  
3 I think that's kind of what the calculation of a  
4 minimum wage at 40 hours a week is an attempt to do  
5 is to get at what a realistic ability to pay is, but  
6 going through that process with more granular data  
7 probably gives you a better overall picture.

8 Dr. Venohr.

9 **DR. VENOHR:** I just wanted to make sure we  
10 -- and I apologize that I didn't do this earlier --  
11 was the reg that you were referring to. It's on page  
12 5. It's in paragraph (c)(1)(ii) -- actually (iii).  
13 So page 5, paragraph (c)(1)(iii).

14 And just so -- you know, you're absolutely  
15 right. If it's able-bodied and -- you know, states  
16 can still have that provision. It's just that there  
17 has to be in the guidelines that -- I think it's  
18 important to think of the -- read the actual  
19 language that, "if an imputation of income is  
20 authorized, take into consideration the specific  
21 circumstances of the noncustodial parent and, at the  
22 State's discretion, the custodial parent to the  
23 extent known, including such factors as the  
24 noncustodial parent's assets."

25 You know, for instance, I am aware that

1 there was a case with a prisoner that had a cattle  
2 farm in Mexico that was doing pretty well.

3 Residence, employment, earning history,  
4 job skills, educational attainment, literacy, age  
5 health, criminal record and other employment  
6 records, and record of seeking work as well as the  
7 local job market, the availability, employer is  
8 willing to hire the noncustodial parent, prevailing  
9 earning levels in the local community, and other  
10 relevant background factors in the case.

11 And I just want to make sure we all read  
12 that and really think about it because, absolutely,  
13 there could be situations where somebody is still  
14 able-bodied and doesn't -- you can consider that,  
15 and you might still impute minimum wage. In fact,  
16 an attorney I know in Minnesota wants to propose  
17 that, if they meet at least two of these criteria,  
18 use the minimum order amount.

19 **JUDGE WILSON:** You mean minimum order or  
20 minimum wage?

21 **DR. VENOHR:** Minimum order. Like, if  
22 they're homeless and have a substance abuse, it  
23 automatically goes. It's not been tried, but I  
24 thought it was an interesting suggestion.

25 **MR. TOULOUSE:** I thought one of the

1 interesting parts of your study was the different  
2 unemployment rates across New Mexico, you know,  
3 which makes it very difficult to come up with a  
4 consistent policy, you know, on how we apply some of  
5 these -- you know, like, imputation of minimum wage.

6 When you have an unemployment rate of 12  
7 percent, you know, expecting that there's a full-  
8 time job out there for somebody to obtain is kind of  
9 difficult. Obviously, in urban areas, you know,  
10 where there's more jobs and an unemployment rate of  
11 4 percent, you know, it's much easier to expect that  
12 somebody could go find full-time employment but --

13 **MS. MCCracken:** But what's full-time  
14 employment?

15 **MR. TOULOUSE:** Yeah.

16 **MS. MCCracken:** Because the hours worked  
17 in income imputed, your research found that, based  
18 on New Mexico labor market data, the average weekly  
19 hours worked in July 2018 varied by industry. The  
20 average was 34.2 hours a month [sic], employees in  
21 private industry; 39.6, construction; 26.8, leisure  
22 and hospitality industry. And right now we're  
23 imputing minimum wage, 40 hours a week.

24 **MR. TOULOUSE:** Yeah.

25 **MR. HEYECK:** I want to add a couple points

1 there that Jeremy brought up, I think, is that one -  
2 -

3 **MR. NELSON:** Tell us who you are, Larry.

4 **MR. HEYECK:** Larry Heyeck.

5 **MR. NELSON:** Thank you.

6 **MR. HEYECK:** In some communities, like  
7 when I go out to Deming or Lordsburg, the  
8 opportunity for employment is almost to the point of  
9 being nonexistent, you know, Luna County having the  
10 highest unemployment rate.

11 The second point on this is let's also  
12 take into consideration a possible statute change  
13 when you think about payment on the arrears of being  
14 no more than 20 percent of the ongoing. So if you  
15 had a \$50 order and a \$30,000 judgment -- and I  
16 exaggerate that, but, you know, we do have some  
17 \$30,000 judgments -- the payment towards that  
18 arrears is ten bucks, and that doesn't even cover  
19 the interest rate.

20 **MR. NELSON:** Thank you.

21 **JUDGE MARTIN:** Hello. This is Jim Martin  
22 again.

23 **MR. NELSON:** Yes.

24 **JUDGE MARTIN:** You know, following up on  
25 Dr. Venohr's comment about, you know, what is

1 considered minimum wage, I think you have to -- you  
2 know, we have to consider both the statutory minimum  
3 as set by the State and by local. Down in Las  
4 Cruces our minimum wage is above the state minimum.  
5 But as the data reflects, full-time employment in  
6 Las Cruces is not always available. You're more  
7 likely to have a 35-hour a week job for less, and  
8 that would be about as full-time as you could get.

9           So I think when we define "minimum wage,"  
10 I think we also need to define that to include, you  
11 know, a minimum number of hours -- and not 40,  
12 because I think 40 is an unrealistic -- it's an  
13 artificial minimum wage because people that are  
14 already minimum aren't going to be working 40 hours  
15 a week. I think it's artificial. So I think we  
16 ought to define "minimum wage" as, you know,  
17 something less than 40 hours too.

18           **MR. NELSON:** Thank you, Judge Martin. I  
19 think that's something to take into consideration.

20           I think, again, if we are successful in  
21 integrating the federal requirements into our  
22 processes, that's exactly right. Looking at the  
23 minimum wage, different jurisdictions in the state  
24 have different minimum wages. There's a statewide  
25 set minimum wage. For Santa Fe it's higher.



1 Albuquerque, Las Cruces -- they deviate from the  
2 State-set minimum wage. So that's important to  
3 accommodate for that detail and setting it to a  
4 realistic number of hours that is available for  
5 employment. That gets more to the realistic  
6 estimation of available income if a parent was to  
7 seek employment and find employment.

8 I can't think of what else I wanted to say  
9 on that. I had an idea, and it came and went.

10 Other folks, comments? Concerns? Input  
11 on what a minimum order might look like, a threshold  
12 where that might attach?

13 I think what we've struggled with a little  
14 bit is trying to come up with an approach for  
15 guidelines, for a schedule revision, as somewhat of  
16 a theoretical exercise without understanding what  
17 the changes in the imputation process could employ.

18 And it might have been Stephen, Hearing  
19 Officer Klump, that said a few minutes ago that will  
20 we ever -- you know, will the imputation ever result  
21 in a combined income that low? And I think it's  
22 hard to know, by taking some of these factors into  
23 account in that process, where those income amounts,  
24 those combined projected income amounts, will land.

25 Probably -- this process described on page

1 5 that Dr. Venohr just went over a minute ago  
2 probably doesn't result in higher imputation than  
3 what it is being done now. So it does put some of  
4 that pressure and it concentrates, I think, those --  
5 for the lower income folks, I think it's going to  
6 concentrate the imputation, the combined monthly  
7 amounts, in some of these lower income areas, this  
8 kind of first page, page 13 on the supplement.

9 Some of my observations based on what  
10 folks have shared with me and what we've talked  
11 about internally.

12 Other?

13 **JUDGE MARTIN:** I've got a question.

14 **MR. NELSON:** Yes, please.

15 **JUDGE MARTIN:** This is Jim Martin again.

16 If somebody could refresh my recollection,  
17 I recall from the last Commission meeting a decade  
18 ago that we picked the \$800 number because it was  
19 somehow tied to where income support had to pay. But  
20 I don't recall exactly why we picked 800.

21 Dr. Venohr, do you remember where 800 came  
22 from?

23 **DR. VENOHR:** It might have been the  
24 federal poverty level at that time. I'll look it  
25 up. It might have been pretty close. I'll look it

1 up while we're discussing.

2 **JUDGE MARTIN:** While we're discussing.

3 And then kind of spring-boarding off of  
4 that, I like the new proposed update which kind of  
5 raises that zero to 1,350, which, if my calculator's  
6 close, that runs right about the state minimum wage  
7 imputing 35 hours a week. So it would be kind of in  
8 line with this idea of what a minimum-wage parent  
9 would earn. If they're working minimum wage at 35  
10 hours, they're going to be making 1,350. So I like  
11 that zero to \$1,350 as a starting point, you know,  
12 and raising it from 800.

13 **MR. NELSON:** Okay.

14 **JUDGE MARTIN:** But I need some memory  
15 refreshment on why we picked 800.

16 **MR. NELSON:** Would love folks to provide  
17 input.

18 One clarification on that: That number -- has  
19 that \$800 number been in place since '94, or was  
20 that changed in '07?

21 **DR. VENOHR:** Do you remember?

22 **MS. BIRD:** I don't.

23 **MR. KLUMP:** It was changed in '07.

24 **MR. NELSON:** It was changed to 800 in '07.

25 Okay. Any recollection or record of that?

1           **MS. BIRD:** It's probably in the old  
2 report, and my old report's outside.

3           **MR. TOULOUSE:** And I have the table, the  
4 old tables. Actually, '95 was up to 800.

5           **MR. NELSON:** It was -- say that again,  
6 Jeremy.

7           **MR. TOULOUSE:** In '95 it was up to \$800.  
8 So it started it at 800 in '95. So it was prior to  
9 2007.

10          **DR. VENOHR:** Oh, it was?

11          **MR. TOULOUSE:** Yeah. Prior to '95 it was  
12 under \$600 is the verbiage in the table.

13          **DR. VENOHR:** If I don't --

14          **MR. TOULOUSE:** -- in the schedule.

15          **DR. VENOHR:** I'm sorry. I didn't mean to  
16 talk over you. If I don't find it in this, I'll  
17 pull up out my computer, and it's on a flash drive  
18 somewhere.

19          **MS. BATZLI:** I happen to have the 1994  
20 report for some reason.

21          **DR. VENOHR:** Yeah.

22          **MS. BATZLI:** And it is zero to 800.

23          **DR. VENOHR:** Okay.

24          **MR. NELSON:** That was, you said, in the  
25 1995 report?

1 MS. BATZLI: 1994.

2 MR. NELSON: 1994 report.

3 MS. BATZLI: Yeah.

4 MS. BIRD: It was passed in 1995.

5 MR. NELSON: Okay. Excellent.

6 DR. VENOHR: I'm going to go over there  
7 and find...

8 MR. NELSON: I don't know if there is  
9 detail from that time period on the rationale. It  
10 might have been federal poverty level --

11 DR. VENOHR: Yeah, it was the federal  
12 poverty level.

13 MR. NELSON: -- at that time.

14 DR. VENOHR: I just have to find what the  
15 federal poverty level was back then. It might have  
16 been, I would guestimate, 560. And it's not in this  
17 particular report, but I've got it somewhere --

18 MR. NELSON: Okay.

19 DR. VENOHR: -- if you give me a second.

20 MR. NELSON: That has been a topic of  
21 discussion internally. Is that of good metric? Is  
22 federal poverty level a good metric?

23 I think we did a little back-of-the-  
24 envelope calculations taking federal poverty level  
25 now and adjusting it for New Mexico price

1   relativity, so multiplying that number times .936,  
2   and came up with a 900 -- well, we rounded it to a  
3   \$950 number as one potential relevant metric of  
4   poverty. It's kind of an internal calculation, but  
5   it had some merit for discussion internally as a  
6   potential attachment point for an order, for a  
7   minimum order.

8           I'm hearing input from commissioners today  
9   on having a minimum order that would start at zero  
10   up to a certain threshold and then start a process  
11   of increasing and having the ability to deviate from  
12   that minimum order. But that's sounding like a  
13   potential preferred option. I'm just doing a little  
14   bit of -- taking the temperature of the group. But,  
15   again, really, that's the goal of the discussion is  
16   to feel out what's the best, what scenario we think  
17   works best, and build from there.

18           I think Dr. Venohr has a point.

19           **DR. VENOHR:** Okay. In 1994 the federal  
20   poverty level was 613. So that was incorporated in  
21   there. In 2007 it was 851 was the federal poverty  
22   level for one person. So 613 in 1994 and 851 in  
23   2007.

24           And one thing -- and I apologize for not  
25   thinking about this sooner is, when we developed

1 those 1994 schedules and 2007 schedules, we treated  
2 that as an after-tax amount. So it wasn't grossed  
3 up and the reason being was at the time the federal  
4 government said it was an after-tax amount.

5 If you look at what they say now, they say  
6 that the federal poverty guidelines can be treated  
7 as an after-tax amount or a gross income amount. So  
8 in the Schedule A where we prepared it with the  
9 federal poverty guidelines, we treated it as a gross  
10 income amount. And one reason that -- of course,  
11 you know, the federal definition of it changed. So  
12 that's the reason we, you know, changed it.

13 Another reason is that, because of the new  
14 federal rules, to say that self-support reserve is  
15 explicit, to make it a gross income amount is  
16 explicit when you say -- you know, we're basing --  
17 say you're to adopt -- New Mexico was to adopt a  
18 self-support reserve based on the federal poverty  
19 guidelines and your guidelines are met based on  
20 gross income, to say it's \$1,012, which was the  
21 federal poverty guidelines in 2018, is clearer than  
22 to say it's, you know, a net income amount. So it's  
23 just a little language thing.

24 And dates -- because, you know, taxes do  
25 occur. There's a 7.65 percent FICA tax alone, and

1 then, you know, there's federal tax. Some states up  
2 that amount by whatever their tax rate is, which is  
3 usually about 10 to 20 percent at that lowest  
4 income. So instead of using 1,012, to account for  
5 taxes, they might use 1,100.

6 So it's a little bit of apples and  
7 oranges, you know, comparing it, because, you know,  
8 we could do that easily to convert it to a -- where  
9 we hid the -- so to say "hid" is incorporated into  
10 the schedule, but it's not as easy to do that now  
11 that you have to make it transparent to explicitly  
12 state.

13 So I apologize. That probably was as  
14 clear as mud. So...

15 **MR. NELSON:** I think it's helpful. That's  
16 helpful to consider that, the impact of the taxes as  
17 well and, you know, what the role of using a federal  
18 poverty level is as one of the metrics.

19 Other discussion? Any other comments?

20 I think we did just go through the first  
21 couple of examples. I had Jeremy go through the  
22 first couple examples of running scenarios but based  
23 on the different options. And I think there were  
24 kind of an interesting grouping of hypotheticals  
25 kind of using some common amounts and looking at



1 common amounts for monthly income and then looking  
2 at if that's all custodial parent -- pardon me --  
3 all noncustodial parent or if that's shared 50/50  
4 between the noncustodial parent and the custodial  
5 parent and then kind of jumping to the next income  
6 level.

7 So I thought that was kind of interesting  
8 working through it and looking at those numbers this  
9 week. So if there's some interest, we could look at  
10 those, look at some of those additional options on  
11 the sheet there; or, if that's not of interest, we  
12 can pursue other discussion.

13 **MS. MCCracken:** I think it's good if we go  
14 --

15 **MR. NELSON:** Okay.

16 **MS. MCCracken:** -- to the next set.

17 **MR. NELSON:** Okay.

18 **MR. TOULOUSE:** All right. So this is kind  
19 of our middle income scenarios. Again, first one,  
20 you know, CP at zero, NCP at 2,600. Pretty  
21 consistent. Second one is with, you know, both  
22 parents at 2,600. You can see Attachment A is  
23 lower. You know, second scenario, you have 5,200.  
24 You know, again, Attachment A is lower, and the same  
25 thing with both parents are 5,200.

1 And I think what we observed throughout  
2 all of the examples or all of the options is really  
3 once you get past that, you know, low income, you  
4 know, the rate of increase is fairly consistent  
5 across all of the examples. It is all kind of  
6 tapered at the bottom end of income. And Attachment  
7 A, I think, gradually climbs a little bit slower,  
8 you know, because, I mean, it's more based upon  
9 actual economic data.

10 Correct, Dr. Venohr?

11 Attachment E, you know, climbs a little  
12 bit slower, but then once it gets to a certain  
13 level, it becomes consistent with the other options.

14 It's existing. Existing at the first  
15 column.

16 **MS. MCCracken:** Right. Existing is the  
17 first column of Attachment A.

18 **MR. TOULOUSE:** Yeah.

19 **MS. MCCracken:** So the only issue I have  
20 with the examples that we have in the side-by-side  
21 comparisons is, if you look at the third example  
22 there where the CP is making zero, NCP 5,200, it  
23 jumps on all examples pretty darn high from  
24 existing, 676, to 846 in all examples. Even if both  
25 parents are making 5,200 -- so you're doubling that

1 amount -- that amount is going to be 605.

2 So that's probably the biggest heartburn I  
3 have on all of the examples is what we're calling --  
4 I guess we're calling it "middle class" or just  
5 above poverty if -- that would be my example where  
6 the increase in child support jumps.

7 **MS. BIRD:** Betina, that's exactly why we  
8 did what we did in '07 was because of those jumps  
9 beginning at that income level.

10 **MS. MCCracken:** Okay.

11 **MS. BIRD:** Yeah. And that's why we went  
12 with a conservative 25 percent increase.

13 **MS. MCCracken:** Okay.

14 **MS. BIRD:** And I see it conforms with the  
15 schedule here on pages -- beginning at page 67, it  
16 shows your existing and then the proposed update. So  
17 you can see that same jump occurring.

18 **MS. MCCracken:** Right.

19 **MS. BIRD:** Actually, it starts increasing  
20 at the income level of 2,800.

21 **MS. MCCracken:** Right.

22 **MS. BIRD:** Yeah.

23 **MS. MCCracken:** It goes up at -- exactly.  
24 On page 68 it starts going up at gross -- combined  
25 gross income at 2,800, and it goes up and up and up

1 until page 73 at 14,150. Then it starts going down.

2 **MS. BIRD:** Right.

3 **MS. MCCracken:** So there's my heartburn --

4 **MR. NELSON:** It's the growth rate changes.

5 **MS. MCCracken:** -- from 68 --

6 **MR. NELSON:** The growth rate changes. The  
7 growth rate changes.

8 **MS. MCCracken:** Yeah.

9 **MR. NELSON:** Stephen said the curve  
10 flattens out a little bit. I think that what occurs  
11 to me is that there is an issue here of how quickly  
12 do you get to levels that would be indicated by  
13 economic data supporting the cost of child-raising.

14 The curve that Dr. Venohr provided in  
15 Appendix A -- correct me if I'm wrong -- is our best  
16 estimate of what the cost of raising children is.

17 And so how quickly do we get up to that? And  
18 right now our existing guidelines at some point  
19 crossed more steeply and continue to grow. So how  
20 do we flatten that out on that end, but I think  
21 really what we're focusing on is on the lower end  
22 right now. But you have to at some point step up a  
23 little bit more quickly to get up to that curve and  
24 then join that slower progression. And I think  
25 that's something to be decided: What level of

1 income is the right spot for that to happen?

2 Yes.

3 **DR. VENOHR:** And another factor -- I was  
4 just thinking of some of the underlying assumptions.  
5 Back in '94 the highest income tax bracket was 39.6.  
6 So they had less disposable after taxable income to  
7 spend. And with the reduction in the tax rates,  
8 those families had more but -- never mind. Because  
9 that's not affecting it. But there's some  
10 differences because of the tax rates. I was just  
11 thinking in where, and I should have thought it out  
12 before I said it because it didn't make any sense.  
13 But that's another factor besides the measurements  
14 of child-rearing costs.

15 **MR. NELSON:** Okay.

16 **DR. VENOHR:** And then I didn't say this.  
17 Betina pointed it out earlier is that you noticed --  
18 if we can -- that 2,600, the first case example. It  
19 goes down from 469 to 460. That economic data that  
20 we have at the very low incomes -- and that's a low  
21 income, what we define, the economists. And we're  
22 loosely using the definition of "low income" as  
23 those families on average that spend more than their  
24 income or equal to. They have no savings. And  
25 right now that's around 40- to 50,000 a year gross,

1 you know. And so when we put together those  
2 numbers, there's a couple things that happen that I  
3 need to clarify.

4 One is that we cap it because the  
5 presumption is that a family shouldn't have to be  
6 forced to spend more than their income. So you're  
7 seeing partly the effect of the cap.

8 And the other thing that's happening that  
9 causes that reduction there is that between -- this  
10 is Betson's fourth study. And in the first and the  
11 second and the third study, the Bureau of Labor  
12 Statistics that conducts the Consumer Expenditure  
13 Survey -- they used a different definition of  
14 "expenditures." And now -- it was a true  
15 economist's perspective of what expenditures are,  
16 which is -- with the housing only mortgage principal  
17 is considered an expenditure because the rest of it  
18 you don't -- I mean -- sorry. Interest is  
19 considered an expenditure. Principal wasn't. That's  
20 considered an investment.

21 And, you know, obviously, you know, the  
22 economic crisis, the housing crisis, hit. And it's,  
23 like, that's not the way people think. You know,  
24 they don't think like economists, and their  
25 expenditures -- they're living paycheck to paycheck.

1 And it's like that mortgage payment that includes  
2 interest and principal or if they're renting or  
3 whatever.

4           So economists developed a different  
5 definition called outlays, and it's, like, what  
6 somebody shells out every month in their bills. So  
7 before it was, like, if they bought an entertainment  
8 unit and it was financed for a course of two years -  
9 - you know, it was that whole \$2,000 expenditure  
10 showed up. And now it's just the -- no. Now it's  
11 the payment. It's just the payment.

12           So there's some nuances that are caused by  
13 that, and there was also re- -- they improved how  
14 they measured income. I mean, inherent in any sort  
15 of survey is that -- I mean, judges know this and,  
16 you know, magistrates and hearing officers is that  
17 people tend to underreport income. I mean, that's  
18 just -- and even in -- yeah, in data. You know,  
19 even high-income people.

20           So, you know, and the CES is probably the  
21 most rigorous survey in the world, I think. So they  
22 refined how they captured that income information.  
23 And they found that some of those people that were  
24 kind of lumped in what we were considering low  
25 income, they actually should have been in another

1 category. And so now these people that are in that  
2 low-income category, they're truly low income, and  
3 we found that they spend a little less than what we  
4 thought. So that's why you see the decreases.

5 So I'm sorry. That was a technical point,  
6 but I just felt like I had to clarify.

7 **MS. MCCracken:** I appreciate the  
8 decreases.

9 **MR. NELSON:** That is where we spent some  
10 time talking about what does that represent, what  
11 does that curve represent. And it's been helpful to  
12 me to get that kind of background that Dr. Venohr  
13 just provided in terms of trying to fine tune that  
14 as much as we can, trying to understand that because  
15 we want to have that understanding. It gives us a  
16 better sense of what it's costing folks to raise  
17 kids and what I think in my mind is by proxy a  
18 reasonable order and something we can use to justify  
19 what the guidelines look like -- what the amounts  
20 and the guidelines look like that are tied to  
21 something that has some rationale behind it.

22 So that's been helpful.

23 I think that there's -- you know, if you  
24 look at -- if I can find the -- going back to the  
25 supplement and the -- page 4 is the graphs of the



1 different scenarios at the very low end. There's  
2 also a graph in -- there's a set of graphs in the  
3 report that show some curves for a lot broader  
4 income range, which is helpful to look at kind of  
5 both of them side by side, although it takes a lot  
6 of paper flipping.

7 But it's really down in that bottom end of  
8 the scale that we're struggling with. The current  
9 guidelines, I don't think we've -- at the lower ends  
10 we don't feel like are a bad representation. They  
11 don't represent unrealistic values, and they don't  
12 deviate from what the data we're seeing today says  
13 is a reasonable approximate cost of raising  
14 children.

15 So it comes down to what model do we like,  
16 and where do we start it? Do we start it at zero?  
17 Do we start it at 1,350? And then what's that  
18 amount. And that's what -- I think those graphs  
19 represent kind of the deviation of the dots down  
20 there, and they all start to converge -- you know,  
21 1,500, \$2,000 annual support -- annual -- monthly  
22 income. So there's -- you know, they all kind of  
23 get to the same spot. So it's incumbent upon us to  
24 come up with what we think is the best way to get  
25 there.

1 I think that, you know, the idea of  
2 amending -- as I said a few minutes ago, the idea of  
3 a minimum order that starts at zero has been  
4 appointed to some discussion already today. So it's  
5 worthwhile to keep that in mind if that's the  
6 direction we want to go. A couple of the scenarios  
7 have zero up to a point of \$700 or \$750, and there  
8 was some discussion about how we got to those  
9 attachment points, but, you know, that's a little  
10 bit different than having a minimum order that  
11 starts at zero up to a certain point before it  
12 starts to grow.

13 **DR. VENOHR:** You know, I can pull up my  
14 laptop and change that minimum order right here if  
15 we want to -- you know, I'm just thinking about time  
16 and the Commission and if there's any strong  
17 sentiment and you want to see what it looks like.  
18 I'd be happy to do that.

19 **MR. NELSON:** I think that would add value.  
20 So we can do that. And so what you're saying is we  
21 could play with that minimum order number and then  
22 you could regraph?

23 **DR. VENOHR:** Yeah.

24 **MR. NELSON:** Is that what you're saying?

25 **DR. VENOHR:** I probably could to a certain

1 -- yeah. I mean, what I've been hearing -- and  
2 correct me if I'm wrong -- is that zero isn't the  
3 right amount and that 100 might be too low -- I mean  
4 too high.

5 **MR. NELSON:** Too high.

6 **DR. VENOHHR:** And so, yeah, I'd be happy  
7 to. I think the Commission needs to direct me,  
8 though.

9 **MR. NELSON:** Yeah. I'm not opposed to  
10 that.

11 If there's any opposition, let it be  
12 noted.

13 I think as part of the discussion, I think  
14 just in terms of time constraints and so forth, we  
15 have time -- about an hour left on our agenda. I  
16 would like to come to kind of a conclusion of this  
17 section of the agenda maybe in the next 45 minutes.  
18 If out of that discussion we start to come to a  
19 shared sense of what a modification of the  
20 guidelines would look like, we could try to assemble  
21 a motion that -- assemble a proposal that could be  
22 the subject of a motion that the group could vote  
23 on, and then we can move forward. That would be  
24 ideal for me, but I don't know if we'll get there.  
25 So I think we have some time to focus on the details

1 around that.

2 I want to make sure there's plenty of  
3 opportunity for other ideas to come up that we've  
4 focused a lot for the last few minutes on -- minimum  
5 amount of an order and at what point in income  
6 growth does that minimum order start changing and  
7 start increasing.

8 **DR. VENOHR:** I think Judge Martin said  
9 something with an option. There was one option he  
10 mentioned earlier with a minimum order or something  
11 through a certain income and I --

12 **MS. MCCracken:** He liked it all the way --  
13 well, Judge Martin is right there. He can tell us.  
14 But it was up to 1,350, where he liked the minimum  
15 order up to 100 which I get the point there.

16 **MS. BATZLI:** I think he's looking at  
17 Appendix A.

18 **MS. MCCracken:** Right. Appendix A, \$100 -  
19 -

20 **JUDGE MARTIN:** Appendix A to the written  
21 report supplied by Dr. Venohr.

22 **MR. NELSON:** That is the Appendix A model.  
23 From zero to 1,350 is a \$100 order. We may not be  
24 set on the \$100 amount, but it's the same -- I think  
25 it's the same concept of the Appendix A of what Dr.

1 Venohr originally proposed in her report.

2 **MR. TOULOUSE:** And don't forget in the  
3 income shares model, I mean, that's going to be  
4 dependent on the income notice of the parent notice  
5 --

6 **MS. MCCRACKEN:** Right.

7 **MR. TOULOUSE:** -- of the split. So that  
8 \$100.00 could be \$50.00 --

9 **MS. MCCRACKEN:** \$50.00, right.

10 **MR. TOULOUSE:** -- you know, or it could  
11 even be less if the CP's income is more; right?

12 **MS. MCCRACKEN:** Right. Yes.

13 **DR. VENOHR:** Judge Martin, I apologize I  
14 missed this, but I thought you also said at one time  
15 -- there's two questions here -- that at one time  
16 you would be okay with something less than 100. And  
17 then the second question is whether you think that  
18 150 should still be for two and more.

19 **JUDGE MARTIN:** Sure. I guess, yes, I  
20 think maybe -- I would be comfortable if we started  
21 at a lower amount, you know, even 50 or 60, like you  
22 suggested some states are doing because, you know, a  
23 parent with zero income, \$100.00 might as well be  
24 1,000.

25 But I do think that, you know, for each

1 additional child, you know, if we lower the first  
2 tier to 50.00, the second should be 100.00, and the  
3 third should be 150.00. I think you ought to have  
4 some sort of graduation for each additional child to  
5 a reasonable amount. I don't think you could keep  
6 adding \$50.00 until you get to six children. But I  
7 do believe that there is an increased cost to  
8 raising multiple children, and, you know, 150.00 a  
9 month is not going to, you know, feed one, much less  
10 three.

11 So I'm not opposed to a lower starting  
12 rate than 100.00, but I do want at least the second  
13 and third child to be recognized at a higher dollar  
14 amount.

15 **MR. NELSON:** Okay. That's a great  
16 clarification. Thank you.

17 **JUDGE WILSON:** And, Dr. Venohr, what was  
18 the significance of 60.00 as opposed to 50.00?

19 **DR. VENOHR:** \$60.00 is based on research  
20 by Kathryn Edin. She's published, like, tons of  
21 books on poverty, and they have found that low-  
22 income parents -- fathers specifically in her study  
23 -- will voluntarily pay 60.00 -- on average they buy  
24 \$60.00 worth of diapers and other in-kind. So the  
25 thought is that, if they're willing to do that

1 voluntarily, that in guidelines they could do it,  
2 you know, legally too. You know, it's, like, where  
3 is that sweet spot? I don't think the economic  
4 evidence tells us yet, I mean, you know, if it's  
5 50.00, 60.00, 80.00, that's going to be that magic  
6 bullet or if there even is a magic bullet.

7 **MR. NELSON:** To piggyback on this idea of  
8 tiering that, as Judge Martin had talked about a  
9 minute ago, there is a -- I'm probably going to use  
10 the wrong terminology -- algorithm or formula. As  
11 we progress into higher incomes on the table, there  
12 is a methodology where multiple children -- each  
13 additional child adds an amount. And they're pretty  
14 small additional amounts, but they grow as the  
15 income levels grow as well, and they become more  
16 apparent.

17 I think it's hard at the lower -- when  
18 we're talking about on these very low -- like, a  
19 minimum order starting at zero up to X number of  
20 dollars, it's a rounding error. You know, if you  
21 start at \$60.00 and you apply the same methodology  
22 that Dr. Venohr applied further down the table, then  
23 you're looking at -- okay -- it's \$60.50 for the  
24 second child, and it's 70.00 to \$61.00 for the  
25 third. It doesn't really create that differential

1 that Judge Martin described, and it doesn't really  
2 replicate the reality that there is an additional  
3 expense for each additional child.

4 So there's an additional complexity of  
5 trying to -- in my mind it's creating kind of a  
6 consistent growth, a consistent pattern between  
7 moving from multiple children and then moving up the  
8 incomes. But I don't discourage the idea of  
9 exploring further the concept of a \$50.00 or \$60.00  
10 minimum order up to a certain level and then have  
11 the progression start.

12 Again, it kind of goes back to the way  
13 that Dr. Venohr proposed we modify our -- you know,  
14 I think her original proposal was the Appendix A  
15 version, which says start it at 100.00 and keep at  
16 same minimum order up until a threshold, and then it  
17 starts to grow. It starts to phase out.

18 Yes, Jane.

19 **DR. VENOHR:** And we can -- you know,  
20 reiterating what Judge Martin said, we can start  
21 with 50.00 and then his progression -- or 100.00.

22 I forgot if you said 50.00 or 100.00. I  
23 apologize.

24 But his where you ramp it up -- we could  
25 use what the economic evidence says, which his was



1 actually pretty intuitive and right on. Instead of  
2 50 percent more, the second child costs 46 percent  
3 more. You know, there's an economies of scale.

4 **MR. NELSON:** Yep.

5 **DR. VENOHR:** And it's roughly, like, 20-  
6 something percent. I have them here. But it would  
7 be the ramp-up that he's talking about and be  
8 consistent with the economic data.

9 **MR. NELSON:** So if we looked across, say,  
10 hypothetically a \$50.00 minimum order, zero dollars  
11 in income up to 1,000 income -- something  
12 hypothetical -- what would -- for one child, what  
13 does that look like for two children? Is it now  
14 \$141.00 or whatever that --

15 **DR. VENOHR:** Well, if you start with  
16 50.00, it would be roughly --

17 **MR. NELSON:** Oh, I'm sorry.

18 **DR. VENOHR:** -- about 72 --

19 **MR. NELSON:** Right.

20 **DR. VENOHR:** -- 73. Then, you know, it  
21 would be about 100 for three --

22 **MR. NELSON:** I gotcha.

23 **DR. VENOHR:** -- with that type of ramp-up.

24 **MR. NELSON:** Okay. I messed up my own --

25 **DR. VENOHR:** That's okay. We've got lots

1 --

2 **MR. NELSON:** -- hypothetical example.

3 **DR. VENOHR:** -- of numbers.

4 **MR. NELSON:** I jumped from 50.00 to  
5 100.00.

6 **DR. VENOHR:** I really apologize to the  
7 Commission members. I mean, you're very -- I just  
8 want to say very quickly you're very quick studies,  
9 and I appreciate that everybody's got a working  
10 knowledge of the schedule because it's complex.

11 **MR. NELSON:** So then you would apply -- we  
12 could potentially apply that algorithm, that  
13 formally, from one child, two child, up to six. And  
14 then moving from -- where we're going to start to  
15 think about what happens is if we have that -- that  
16 minimum order applies up until a certain income  
17 level, and then it starts growing. And then we  
18 apply the kind of algorithms, formulas, that we've  
19 used to move up.

20 And that's that phase-in section -- right?  
21 -- because we're still going to be down below the  
22 shape of the curve where it says what the cost of  
23 raising children is going to be. We're going to  
24 have to ramp up a little bit more quickly until we  
25 catch up to that curve and then set pace with that

1 curve, or keep pace with that curve.

2 Am I making any sense at all? I mean, it  
3 makes perfect sense in my mind, but I don't think it  
4 does to anyone else.

5 **JUDGE WILSON:** No. It does.

6 **MR. NELSON:** Not a soul.

7 **JUDGE WILSON:** No. It does.

8 **MR. NELSON:** Okay. I don't know. I mean,  
9 I think if we have the technological capability  
10 of playing with some of that this afternoon, I'm not  
11 opposed to that. I think that visually could help  
12 us seeing -- again, taking the temperature of the  
13 group, it seems like we're kind of moving towards a  
14 concept that this may have some validity: A minimum  
15 order up to a certain point, and it starts to grow;  
16 something maybe less than \$100; and then applying  
17 those rules for multiple children; and the phase-out  
18 process to catch us up to what the economic data  
19 would say is the cost of raising children. Okay.

20 **MS. MCCracken:** I like all of that --

21 **MR. HEYECK:** Good summary.

22 **MS. MCCracken:** -- except for when it  
23 starts raising up again.

24 **MS. BATZLI:** Well, you can't pick.

25 **MS. MCCracken:** Yeah, I think you can.

1           **MS. BATZLI:** You're going to follow the  
2 bell or you're not.

3           **MR. NELSON:** I think that's worth  
4 discussion. I think that trying to -- Betina and I  
5 talked about this this morning a little bit.

6           When the proposed curve, the proposed --

7           **MS. BIRD:** Increase.

8           **MR. NELSON:** -- order's increasing hits --  
9 it crosses the existing. It goes -- those amounts  
10 become higher than the existing, and then they  
11 flatten out and become lower than the existing. Is  
12 there an artificial way to prevent that from  
13 crossing the curve? I'm probably -- looking at  
14 these graphs has been helpful to me. Let me see if  
15 I can find the one in the original report.

16           **MS. MCCRACKEN:** Page 14.

17           **MR. NELSON:** Was it page 14? I thought it  
18 was 17.

19           You'll notice on page 14 on -- all the  
20 graphs show the same thing. Each one is for  
21 differing numbers of children. But the dotted blue  
22 line passes the solid blue line. The solid blue is  
23 existing, and dotted blue is the Appendix A number.  
24 And then at around 13,000, 14,000, it crosses again.

25           And so I think what Betina's point would

1 be is why would we have to set guideline amounts  
2 that exceeded what existing --

3 **MS. MCCRACKEN:** Or current.

4 **MR. NELSON:** -- existing amounts are? Is  
5 there a way to just -- when it crosses initially and  
6 gets larger, then make it conform to the existing  
7 guidelines amounts up until those lines deviate from  
8 each other and cross again at around \$14,000.

9 Did I explain that correctly?

10 **MS. MCCRACKEN:** You explained it  
11 perfectly.

12 **MS. BATZLI:** What's your objection? I  
13 mean --

14 **MS. MCCRACKEN:** These are -- I don't -- I  
15 guess just don't --

16 **MS. BATZLI:** -- you just don't want it to  
17 increase?

18 **MS. MCCRACKEN:** I don't under- -- I mean,  
19 did you see that increase? The increase is huge.  
20 For someone who's -- an NCP who's making \$5,200, his  
21 existing current -- his existing order would be six  
22 -- his or hers -- 676, and it would jump from 676 to  
23 846. So at \$5,200 -- sorry. I had that in my head  
24 earlier how much that is. That's an annual income -  
25 -

1           **MR. WEBB:** 62,400.

2           **MS. MCCracken:** That's a big increase for  
3 someone who worked --

4           **MS. BATZLI:** It is a big increase, but we  
5 haven't changed these since 1994 -- or 2007.

6           **MS. MCCracken:** Right. And we've gone  
7 through a great recession, and I just don't think  
8 that we are -- I personally don't -- I think that's  
9 too large of an increase. So that's the one thing  
10 in all of this that has heartburn for me.

11           When I first came in, I was really  
12 thinking of the zero order up until 700, and I  
13 really appreciated Judge Martin's point that that's  
14 a slap in the face to the CP, saying that they're  
15 worth nothing. So I completely agree that a minimum  
16 order is warranted. But my concern is where it  
17 starts going up for what we're calling "middle" -- I  
18 don't know what you call that -- you know, "middle  
19 income."

20           **MS. BATZLI:** So the custodial parent will  
21 never -- at least in the middle range isn't going to  
22 get any increase in her cost of raising her  
23 children? The child support will never go up?

24           **MS. MCCracken:** That's what's in my brain,  
25 yes.

1 JUDGE WILSON: Well --

2 MR. NELSON: When you put it that way.

3 MS. MCCracken: I'm wrong. But Judge  
4 Martin just convinced me that a zero order is a slap  
5 in the face.

6 MS. BATZLI: Yeah. He convinced me too,  
7 actually.

8 MS. MCCracken: Okay.

9 MS. BATZLI: I thought that was very  
10 compelling.

11 JUDGE WILSON: What we personally think  
12 may be one thing. Whatever decision we make needs  
13 to be based on --

14 MS. MCCracken: Data.

15 JUDGE WILSON: -- some data. So if the  
16 data supports these numbers, then we should probably  
17 stick to them as opposed to imposing our own  
18 personal will on the numbers.

19 MS. MCCracken: Well, there you go making  
20 sense again. Gee.

21 MR. TOULOUSE: This is a statute change;  
22 right? It's going to have to go in front of the  
23 legislature.

24 MS. BIRD: That's what I'm thing about.  
25 It's going to go before legislature. They're going

1 to be looking at these numbers too. It's a good way  
2 to justify it, but that's just --

3 **MS. MCCRACKEN:** Yeah.

4 **MS. BIRD:** -- the underlying concern.

5 **MR. NELSON:** Good pros and cons.

6 **MS. MCCRACKEN:** Yes.

7 **MR. NELSON:** Good discussion. And that's  
8 the point of bringing everyone together, to get the  
9 points of view. It looks like Dr. Venohr has  
10 another point.

11 **DR. VENOHR:** Yeah.

12 **MR. NELSON:** So please share.

13 **DR. VENOHR:** This is from the policy hat  
14 from other states is that I have heard states say  
15 they're just going for the low-income adjustment,  
16 updating that just because the -- updating the whole  
17 schedule is -- it opens up a can of worms. They  
18 figured they just better go with meeting the new  
19 federal regs.

20 **JUDGE WILSON:** So no changes to the  
21 existing guidelines except for the --

22 **MR. TOULOUSE:** And what is that threshold?  
23 To me that's a really good question. 1,700? You  
24 know, what is that threshold?

25 **DR. VENOHR:** It depends on what you want



1 to use as your self-support reserve.

2 **MR. TOULOUSE:** Yeah.

3 **JUDGE WILSON:** Well, I want to touch on  
4 something briefly. The guideline numbers, I think,  
5 for higher income towards the end of the guidelines  
6 I think are unrealistic as they're written now when  
7 you get up to \$30,000 a month and what the  
8 obligation is. I think they're unrealistic.

9 I like the changes where there's a  
10 decrease in the total obligation. I think those are  
11 more realistic.

12 And, Mr. Klump and Ms. Batzli, you can  
13 correct me if I'm wrong. The old guidelines had a  
14 procedure or a methodology for what to do when you  
15 hit the higher ends of the guidelines.

16 **MR. KLUMP:** And that higher end was at a  
17 low number.

18 **JUDGE WILSON:** Yeah.

19 **MR. KLUMP:** So what happened in '07. I  
20 wasn't on the committee, but as I understand it --  
21 and Lila can probably speak to it -- is they  
22 expanded it out to 30,000 so that the judicial  
23 officers didn't have to do the calculations  
24 essentially manually.

25 Is that a fair summary, Lila?

1 MS. BIRD: I think so.

2 MR. KLUMP: Because I think that they cap  
3 out at, like, 8,000.

4 JUDGE WILSON: That was the old  
5 guidelines.

6 MR. KLUMP: So in 2007 they bumped it up  
7 to 30,000.

8 JUDGE WILSON: But in the old guidelines  
9 there was a methodology for calculating support.

10 MR. KLUMP: Correct.

11 JUDGE WILSON: And then the current  
12 guidelines --

13 JUDGE MARTIN: This is Jim Martin down in  
14 Las Cruces.

15 I was on that Commission, and I remember  
16 this discussion explicitly. There was two issues  
17 going on. One, there was a lot of argument at where  
18 the table stopped. That was being interpreted as  
19 cap. And so the Commission decided that if we  
20 extended it out to 30,000, the chances of us ever  
21 finding a custodial parent that made that much  
22 income was unlikely. So we extended it out.

23 And then what we did, if I -- now, this  
24 one Dr. Venohr can probably correct me if I'm wrong.  
25 We took the cap, and we applied the mathematical

1 formula. And that's why if you look at the chart,  
2 it basically goes almost in a straight line up from  
3 where it used to be because we just applied the math  
4 formula under the old guidelines and applied it to  
5 that level and just went straight up. So it's just  
6 a straight-line increase using the mathematical  
7 formula.

8 Is my recollection right or wrong, Dr.  
9 Venohr?

10 **DR. VENOHR:** Yeah. I think there's a  
11 little bit of complication because of that '94  
12 formula that you're alluding to. It's higher than  
13 what most states do at high income. I have it  
14 somewhere. It was, like, 12 percent above 8,000.  
15 And now that number's coming out to be about 10  
16 percent above 30,000, and obviously it ramps down.  
17 So that 12 percent was too high.

18 But it wasn't just the 2007. It was also  
19 the '94. And if I remember right, there were some  
20 high-income attorneys on the Commission at that time  
21 that they had some very "strong" opinions maybe.

22 **JUDGE MARTIN:** They did.

23 **JUDGE WILSON:** And let me just say we do  
24 encounter cases that exceed \$30,000 a month, and  
25 it's not that uncommon.

1 And the last comment I want to make -- I  
2 don't think there's any language as to what to do  
3 when you get past 30,000.

4 **MS. BATZLI:** There's not.

5 **JUDGE WILSON:** And so I would propose  
6 maybe we should include some language as to what to  
7 do when you get past that.

8 **DR. VENOHR:** And that was the  
9 recommendation of the last Commission was to -- you  
10 know, I can't -- do you have -- do you know it off  
11 the top of your head?

12 **MR. TOULOUSE:** There's two things. Right?  
13 We were going to add zero to 800 --

14 **MS. MCCracken:** Right.

15 **MR. TOULOUSE:** -- and we were going to add  
16 that 30,000 wasn't a cap.

17 **MS. MCCracken:** I don't know how we  
18 calculated it or what the legislature said.

19 **MR. TOULOUSE:** It's in that report.

20 **MS. MCCracken:** Yeah.

21 **DR. VENOHR:** A lot of states say it's not  
22 -- the highest amount on the schedule is a floor and  
23 judicial discretion for above that. They might have  
24 -- I mean, I can bring some language or send it to  
25 you that says judicial discretion in recognizing the

1 standard of living that the child enjoyed or  
2 experienced when the couple was still --

3 **JUDGE WILSON:** Together.

4 **DR. VENOHR:** -- living together.

5 **JUDGE WILSON:** I'm not suggesting we  
6 should do a cap at all. I'm just saying maybe there  
7 should be some guidance.

8 **DR. VENOHR:** Yeah. Like the language --

9 **MR. TOULOUSE:** What we said was "Further,  
10 the Commission recommends that guidelines provide  
11 that, with respect to the number of children for  
12 whom support is being determined, the highest basic  
13 obligation of the schedule are the minimum amounts  
14 to be applied when the parents' combined gross  
15 income exceeds \$30,000 and provide judiciary  
16 discretion when combined gross monthly income  
17 exceeds \$30,000."

18 **MS. BIRD:** That's probably not helpful, is  
19 it?

20 **JUDGE WILSON:** I don't know. Maybe we  
21 need to tweak it a little bit.

22 **MS. MCCracken:** That's just like saying  
23 it's up to you.

24 **MR. NELSON:** I think it's helpful in  
25 defining that it's not a cap.

1           **MS. MCCracken:** Right.

2           **MR. NELSON:** It's a floor. And it  
3 probably doesn't solve the issue of how do you --

4           **MS. BIRD:** Right.

5           **MR. NELSON:** -- how do you apply judicial  
6 discretion on calculating an amount, but it does  
7 take out the ambiguity of the fact that the 30,000  
8 is not the cap.

9           Jane.

10          **DR. VENOHR:** I can extrapolate and come up  
11 with a percentage. We have done that for Virginia  
12 and Pennsylvania where the schedule goes up above --  
13 you know, it stops at 30-, and then we say -- in  
14 Pennsylvania they're net income. The guidelines are  
15 net income, and the courts -- they made it  
16 presumptive at something like 8.2 percent for one  
17 child of after-tax income in Pennsylvania.

18           The only thing is that in Pennsylvania  
19 they made it presumptive, and it was just some -- it  
20 ended up in court, and it ended up in court because  
21 my report said it's based on extrapolation. So now  
22 it's advisory rather than --

23          **JUDGE WILSON:** Presump.

24          **DR. VENOHR:** -- than presumptive.

25          **MR. NELSON:** Do you think that would be

1 helpful, though, even --

2 JUDGE WILSON: I'm just thinking it would  
3 just be helpful.

4 MR. NELSON: Okay.

5 MR. KLUMP: I can tell you --

6 JUDGE WILSON: Those are my comments.

7 MR. KLUMP: I'm sorry.

8 JUDGE WILSON: I'm sorry.

9 MR. KLUMP: The judges in the Second  
10 Judicial District wanted that issue addressed as  
11 well because they get some high-dollar cases also.  
12 And I know it's a perpetual source of frustration  
13 for Judge Walker.

14 MR. NELSON: Okay.

15 MR. KLUMP: So she wants the Commission to  
16 try to fix it. We did recommend it in '14, but it  
17 never went anywhere.

18 MR. NELSON: Right.

19 I like it. I think we have -- we're  
20 moving towards a potential recommendation on the  
21 high end. I think I'd like to hear, since we're on  
22 the topic -- and I think I heard from Judge Wilson.

23 Looking again at page 14, the graphs,  
24 you'll see the solid blue line is our existing  
25 guidelines, and the dotted blue line represents a

1 recommended adjusted guideline, and it deviates,  
2 again, somewhere at \$14,000 monthly income. The  
3 shape of the curve -- slope, the steepness of the  
4 curve -- of the proposed is less than that of the  
5 existing, indicating lower amounts at that point.

6 And I think I heard that you felt like  
7 that starts to replicate reality and it's based more  
8 on economic data than the kind of straight-lined --  
9 for lack of a better way of saying it, a straight-  
10 lined methodology that resulted in the existing  
11 amounts.

12 **JUDGE WILSON:** Yeah. To paraphrase me or  
13 summarize, yeah, I think so. I mean, we all know  
14 that the more money you make, the less, in  
15 proportion to the total amount of money you make,  
16 that you pay for your children; right? I mean, I'm  
17 not --

18 **MS. BIRD:** It's true.

19 **JUDGE WILSON:** I mean, it's true; right?

20 **MS. BIRD:** Yeah, it is.

21 **JUDGE WILSON:** I'm deferring to Dr. Venohr  
22 here.

23 **DR. VENOHR:** It's true. It's true.

24 **JUDGE WILSON:** So, I mean, at some point  
25 the straight line should maybe start to taper off.



1 **MS. MCCracken:** Yes.

2 **MR. NELSON:** So if we incorporate that  
3 dynamic into a recommendation and dealing with this  
4 issue of the cap or that there's not a cap, that  
5 it's not a cap, that there is -- it's intended to be  
6 a floor, not a cap, and maybe some additional detail  
7 about some -- you know, an unextrap- -- let's not  
8 use that word -- a number calculated that could be  
9 used as an advisory way for a rate of increase  
10 beyond the amounts in the table, that judges and  
11 hearing officers can use, I think that starts to get  
12 us to some solution around the higher end, the  
13 higher income, the amounts in the table for higher  
14 incomes.

15 Okay. So we'll circle back to that when  
16 we come to recommendations and trying to make  
17 motions on those fronts.

18 Melinda, can you capture that? I've taken  
19 some notes, but I think we need to capture this as a  
20 piece that we're gaining some agreement on and, so  
21 when we come to the next steps in our agenda, we can  
22 put it into words that make sense to us, and we can  
23 make a vote on it.

24 **MS. PINEDA:** Okay.

25 **JUDGE MARTIN:** And I would add that I

1 would ask Dr. Venohr to give us that number. If the  
2 cost of raising the child increases at 8 1/2 percent  
3 or 12 percent or whatever that number is, I'd like  
4 her to give us the statistical data that would  
5 support that so we can include that in the  
6 mathematical formula suggestion.

7 **DR. VENOHR:** Yes. I'd be more than happy  
8 to do that. Unfortunately, I can't do it on the  
9 spot.

10 **MR. NELSON:** Sure.

11 **DR. VENOHR:** I can't tell you what that  
12 percentage is, but it will be around 8, 9 percent  
13 for one child.

14 **MR. NELSON:** Okay. I think both of those  
15 points are reasonable, I think, Judge Martin's  
16 request for something based on data and analysis and  
17 Dr. Venohr's request to do that, to be able to take  
18 that off-line and to make that calculation and  
19 present it. It may result in a decision today to  
20 move forward in that direction and come back and  
21 incorporate the detail.

22 Okay. Do a quick time check. About 25  
23 minutes after 1:00. I think we've made some  
24 progress. I think that there's been some agreement  
25 particularly on the last point we covered on the

1 higher end income issues and really good discussion  
2 around the lower end. And as you may remember, when  
3 I set the stage for the meeting, for the discussion  
4 portion of the meeting, those are kind of the  
5 challenging issues I thought we needed to deal with  
6 today.

7 We had some movement, some progress, on  
8 the idea of a minimum order -- something higher than  
9 zero, maybe something less than 100 -- and then  
10 having that minimum amount persist until an  
11 attachment point of something that looks like a  
12 self-support reserve and then grow, and then phase  
13 out. I liked the \$60.00 number. There was some  
14 good discussion around that number. And there was  
15 some background that Dr. Venohr provided, why that  
16 number has some merit.

17 And if we had a -- check me if I'm wrong.  
18 If we had -- in an income shares model, if both  
19 parents shared half the income, then the custodial -  
20 - noncustodial parent would end up with an order --  
21 if we use the \$60.00 minimum order, would be a  
22 \$30.00 minimal order up until the progression  
23 begins. Not a lot of money. I think we all believe  
24 something is better than nothing, and a reasonable  
25 order is important for compliance. A reasonable

1 level of -- a reasonable amount is important for  
2 compliance at lower ends of the income schedule --  
3 income spectrum.

4 Any major concerns about \$30.00?

5 Yes, sir.

6 **JUDGE MARTIN:** Yeah. I was going to chime  
7 in on that.

8 I'm not feeling that taking the minimum  
9 order and cutting it in half is appropriate. I  
10 think a minimum order is a minimum order. That's  
11 the minimum amount that the noncustodial parent  
12 pays. It's not the minimum guideline amount that  
13 you then apply the percentage of income to each  
14 party and come up with a number. I'm not favoring  
15 that solution.

16 **MR. NELSON:** Okay.

17 **JUDGE MARTIN:** I think a minimum order  
18 ought to be just exactly that. If it's \$50.00,  
19 that's the minimum the noncustodial parent pays.

20 **MS. MCCracken:** But in order for our  
21 worksheet to work properly, then we would have to  
22 probably set that minimum order at 100.00 to get  
23 that \$50.00 minimum.

24 **MR. TOULOUSE:** Which then we're right with  
25 Exhibit [sic] A pretty much.

1 MS. MCCracken: Right.

2 MR. NELSON: Say that again, Jeremy.

3 MR. TOULOUSE: Then we're with Attachment  
4 A, you know.

5 MR. NELSON: Yeah. Yeah. Yeah. That's  
6 what the Attachment A amounts would --

7 MR. TOULOUSE: So it's going to be a  
8 percent -- but, I mean, with that situation, if the  
9 CP's income is zero, then the noncustodial parent  
10 would be paying 100.00, you know. So that's kind of  
11 where this --

12 JUDGE WILSON: So I don't understand. Is  
13 this just like a technical defect with the  
14 worksheet?

15 MR. NELSON: It's -- in my mind, it's the  
16 fact that there's multiple scenarios.

17 JUDGE WILSON: I don't want to say  
18 "defect." Sorry. Just the technical --

19 MR. NELSON: Inherent, yeah.

20 JUDGE WILSON: -- inherent way the  
21 worksheet works.

22 MR. TOULOUSE: I'd say it's more on the  
23 policy of how we impute income or don't impute  
24 income is what I'd say it is. It's really the  
25 scenario where the child's under six and we're not

1 applying any income to the custodial parent. I  
2 think that's the general scenario that's going to  
3 create that for the NC paying that full \$100.00.

4 **JUDGE WILSON:** Isn't it just a  
5 spreadsheet, I mean, like an Excel --

6 **MS. MCCRACKEN:** It's an Excel spreadsheet  
7 worksheet that --

8 **MR. TOULOUSE:** Well, it's actually --

9 **MS. MCCRACKEN:** -- is a calculator.

10 **MR. TOULOUSE:** -- an automated system  
11 which is the official record for the guidelines. We  
12 mostly use a worksheet. You're right. I mean, I  
13 think it could be solved with a -- I mean, the  
14 formula could just not calculate --

15 **MS. MCCRACKEN:** Right.

16 **MR. TOULOUSE:** -- you know, \$100.00, or it  
17 could just not calculate 50.00. You know, I mean,  
18 that could be changed.

19 **MR. KLUMP:** AOC would have to do its IT  
20 fix, too, because child support calculating --

21 **MR. TOULOUSE:** That's definitely going to  
22 have to happen because I think a ton of people use  
23 that.

24 **MR. KLUMP:** Yeah. That is actually what I  
25 use in court.

1           **MR. NELSON:** That speaks to the preference  
2 to avoid worksheet changes at this point.

3           **MR. TOULOUSE:** And a table change is one  
4 thing, but changing out how the program calculates  
5 is a different story.

6           **MR. NELSON:** But you have -- when the  
7 income is shared between the parents, you have this  
8 dynamic where that's going to reduce what that  
9 minimum -- using the minimum amount on the table,  
10 it's going to reduce the minimum order. It's going  
11 to reduce what the order is. But in some cases  
12 there's going to be zero income on the custodial  
13 parent.

14           So that's where I really kind of went off  
15 the tracks this week is -- okay -- sometimes that  
16 \$100.00 minimum order really is a \$50.00 minimum  
17 order, and sometimes it's a \$100.00 minimum order.

18           Yes, please.

19           **MR. KLUMP:** I'm sorry to interrupt, but I  
20 think we're losing sight of the fact that the Court  
21 has the discretion to deviate on a case-by-case  
22 basis. So I think the easiest solution, from my  
23 perspective, is the Committee decides on what that  
24 minimum order number is and we train the judiciary  
25 and the hearing officers "You can deviate based upon

1 equities of the case. You just have to put an  
2 explanation as to why," because I've actually begun  
3 to deviate more on my cases as of late, trying to  
4 find compromises that are more -- in my opinion,  
5 more just. But I put the explanation in any report.

6 **MR. NELSON:** I think that's a good report.  
7 I don't think we should lose sight of that, that  
8 deviation is reasonable based on the circumstances.  
9 And I think also not knowing what imputation is  
10 going to look like in a year, after new regulations  
11 are promulgated, we're dealing with some unknowns.  
12 So I think in the end if we come out of this process  
13 with a recommendation, it's going to be somewhat of  
14 that, this is what we think is the best arrangement  
15 for what we know of at this moment, knowing that  
16 imputation is going to change those monthly amounts  
17 and that judges and hearing officers are going to  
18 have to take into account the details of each case -  
19 - particularly at these low incomes -- what makes  
20 sense, what's liable to be paid, what's likely that  
21 the parents can earn.

22 **MS. JIRON:** That means we're going to have  
23 to have a lot more hearing --

24 **JUDGE MARTIN:** This is Judge Martin again.  
25 I want to maybe clarify some terminology.



1 When I talk about, you know, a minimum amount, I'm  
2 talking about a minimum order amount, not a minimum  
3 guideline amount.

4 **MR. NELSON:** Right.

5 **JUDGE MARTIN:** And I think there is a  
6 distinction. You know, you talk about a minimum  
7 guideline amount. Then you apply, you know, each  
8 parent's income to that, and you work up either --  
9 and your Worksheet A or Worksheet B scenarios. But  
10 what I'm talking about is a minimum order amount,  
11 which would kind of alleviate -- or would not be  
12 deviation, but it would not take into consideration  
13 the guideline applications.

14 It would say, "Okay. Your income is \$800.  
15 The minimum amount for a single child for the  
16 noncustodial parent is 60 bucks." So that's where  
17 the terminology for me -- there's a minimum order  
18 amount, and then we're also talking about the  
19 minimum guideline range. But I think we need to be  
20 clear that there ought be a minimum order amount.

21 **MR. TOULOUSE:** Would that be --

22 **JUDGE MARTIN:** That would be based on the  
23 data.

24 **MR. TOULOUSE:** -- an addition of a new  
25 section to the statute?

1           **MS. BATZLI:** Not necessarily. I mean,  
2 Stephen brought this up earlier today. And I  
3 thought, "No. No. That's not right." But now that  
4 I'm sitting here for a while, maybe it is.

5           We've been spending a lot of time trying  
6 to figure out -- because we had a concern similar to  
7 yours. There's nothing right now for these really  
8 low-income cases in our guidelines. It's not  
9 specified. And if you put it in the worksheet, it  
10 spits it back at you in a -- but what if -- I mean,  
11 we don't have to pick 800.00. We could pick another  
12 number.

13           But what if we had language in the statute  
14 that said, you know, "If the noncustodial parent's  
15 income is less than \$800.00" -- or 400.00 whatever  
16 number you pick -- "per month, the presumed minimum  
17 order is \$50.00 per month, subject to the Court's  
18 discretion," or something to that effect. It would  
19 give you your minimum order for less than that  
20 amount of money, and we wouldn't have to screw  
21 around with trying to figure out if the custodial  
22 parent --

23           **MS. MCCracken:** Has an income.

24           **MS. BATZLI:** -- is going to -- you know,  
25 we wouldn't have to do the pro rata thing.

1           **MR. NELSON:** Because I don't think --

2           **JUDGE MARTIN:** Sarah --

3           **MR. NELSON:** Go ahead.

4           **MR. HEYECK:** This is Larry down in Las  
5 Cruces.

6                   It would have to be a change in the  
7 statute, something along the lines of "A  
8 noncustodial parent's minimum monthly obligation  
9 shall be no less than \$50.00, subject to the  
10 discretion of the Court" -- something along those  
11 lines.

12           **MS. BATZLI:** That's what we're talking  
13 about, Larry.

14           **MR. NELSON:** Yeah. Yeah.

15           **MS. McCRACKEN:** It was like it went from  
16 you to there and then came back out of his mouth.

17           **MR. NELSON:** I think -- maybe I don't want  
18 to confuse. Maybe I don't want to go here.

19                   But I don't see how you can solve for that  
20 issue without changing the worksheet by putting a  
21 "lesser of" logic in there.

22           **MR. TOULOUSE:** Yeah. If the guidelines  
23 apply, it has to be split with the income shares  
24 model. For the guideline to apply, then you have to  
25 add some clarifying statement in the statute.

1           **MR. NELSON:** Right. Yeah. That, I think  
2 would do it. We could keep the worksheet logic as  
3 is. We could set a minimum amount in the guideline.  
4 And then there's the statutory language that would  
5 say in this case "Really the guidelines don't apply.  
6 You use that minimum order unless the judge or  
7 hearing officer applies other criteria, deviates  
8 according to other criteria."

9           **MS. BATZLI:** But we wouldn't actually put  
10 a minimum amount in the guideline. It would not be  
11 in part of the chart.

12           **MR. NELSON:** Right. Exactly.

13           **MS. BATZLI:** It would just be in --

14           **MR. NELSON:** That's what I meant to say,  
15 what she said.

16           We wouldn't put it -- it would be a  
17 starting amount of \$100.00 or \$60.00 or whatever it  
18 is. It would start at zero to 800.00, zero to  
19 1,000.00, whatever -- that first range. It would  
20 look like Appendix A, the Appendix A version,  
21 although that \$100.00 amount might change.

22           **MS. BATZLI:** It'd look like the existing  
23 version.

24           **JUDGE WILSON:** What's that? I'm sorry?

25           **MS. BATZLI:** We wouldn't have to add

1 anything for the zero to 800 or 900 or --

2 **MR. KLUMP:** Right.

3 **MS. BATZLI:** -- whatever our self-support  
4 reserve would be.

5 **MR. KLUMP:** This solution would not adjust  
6 the guideline table. It would be a statutory fix --

7 **MR. NELSON:** I gotcha.

8 **MR. KLUMP:** -- just language that -- we're  
9 not even going to monkey with what Dr. Venohr has  
10 done on the table. We could take the -- whatever  
11 number -- I guess the \$60.00 number -- whatever the  
12 Committee agrees on -- and we just make it a new  
13 subparagraph of forty, dash, eleven, dash --

14 **MS. BATZLI:** One, one, dash, one.

15 **MR. KLUMP:** Forty -- yeah. **MS. BATZLI:**  
16 40-4-11.1.

17 **MR. KLUMP:** Yeah.

18 **MS. BATZLI:** Yeah. And we could put the  
19 blurb about the self-support reserve in the same  
20 paragraph.

21 **MR. KLUMP:** Actually, I wanted to come  
22 back to that because I had a proposed solution for  
23 that, but I also had another issue.

24 So when the chairman's ready, I'd like to  
25 come back and revisit that issue.

1           **MR. NELSON:** The self-support reserve  
2 issue?

3           **MR. KLUMP:** Right. And then I thought of  
4 another issue that could tie in.

5           If we're going to be talking about getting  
6 legislative fixes, I've got something else that,  
7 from my perspective as a hearing officer, I'd like  
8 to have added, but I'd like to hear from Judge  
9 Martin and --

10           **MR. NELSON:** Yeah. I think let's move to  
11 that in a second after I take the temperature of the  
12 Commission.

13           We had a shift in direction a minute ago  
14 to, I think, simplify -- I think it accommodates  
15 some of the concerns that all of us have expressed  
16 and struggled with, and I think it simplifies the  
17 task of updating the guidelines around what happens  
18 at these very low income levels, what's fair to both  
19 parties, and what's the right amount of the order,  
20 and where does that start increasing.

21           And that was -- I'm going to try to  
22 capture what we talked about a minute ago -- the  
23 idea of putting a minimum amount in the statute that  
24 says "Below a certain threshold, the NCP's minimum  
25 order should be X number of dollars" -- \$60.00,

1 \$50.00. And we could decide on what those two  
2 numbers are, but that way it simplifies the  
3 guidelines, the -- it answers the question of what  
4 happens below \$800.00 or whatever that threshold is,  
5 and it doesn't require extending an amount all the  
6 way out to zero, all the way down to zero, or  
7 putting zeros in all the way up to a threshold.

8 Did we get close to what -- did I get  
9 close to --

10 **MS. BATZLI:** Yes, sir.

11 **MR. NELSON:** I think I'd like to put that  
12 as a placeholder for a potential recommendation from  
13 the Commission. And if we are highly motivated at  
14 this point, we might be able to plug numbers in  
15 there. I think I explained it conceptually. But is  
16 the right number of that minimum order \$50.00 or  
17 \$60.00? \$100.00?

18 Betina does not like \$100.00.

19 **JUDGE MARTIN:** I think I'd ask Dr. Venohr  
20 to come back with some data to support a number.

21 **MR. NELSON:** Well, I think we have a lot  
22 of data.

23 **MS. MCCracken:** She has 60.00.

24 **MR. NELSON:** \$50.00 is the most commonly  
25 used by most states -- the minimum order. \$60.00 is

1 a number from a study that showed that that's what  
2 noncustodial parents are likely to contribute in  
3 kind. So we do have that. So I don't know if the  
4 Commission feels like that's enough or if we want to  
5 task Dr. Venohr with the suggestion that Dr. Martin  
6 [sic] just provided.

7 **DR. VENOHR:** I think you've got the data.

8 **MR. NELSON:** Okay.

9 **DR. VENOHR:** I don't think I can do  
10 anything better. You know, Jeremy pointed out the  
11 Nevada finding, which was interesting, of \$100.00. I  
12 mean, that's -- unfortunately, yeah. Check back in  
13 a couple years.

14 **MR. NELSON:** Okay. Okay. Sorry, Dr.  
15 Martin [sic]. I don't know -- sorry, Judge Martin.  
16 I'm not sure we've got a whole lot more to go off  
17 of. Good suggestion.

18 So, again, is there enough -- has there  
19 been enough discussion to come to a comfort level on  
20 those two amounts?

21 **MS. JIRON:** That would be for one child?

22 **MR. NELSON:** For one child. Thanks,  
23 Becky. Excellent. Excellent.

24 That would be -- the 60.00 -- 50.00 or  
25 \$60.00 would be the minimum amount, and then the



1 other logic that has been used to accommodate  
2 additional children would be incorporated in that.

3 **JUDGE MARTIN:** I think I could rally  
4 around \$60.00 as a starting point --

5 **MR. NELSON:** Okay.

6 **JUDGE MARTIN:** -- for one child.

7 **MR. NELSON:** Okay. Where does that amount  
8 start increasing? What's the right level? Is it  
9 800.00? That could simplify things greatly because  
10 that's the number that we have now.

11 **JUDGE WILSON:** I think we've thrown  
12 numbers around, and there's been a number of --  
13 like, \$1,000.00 is the --

14 **MS. BATZLI:** Federal poverty level.

15 **JUDGE WILSON:** -- poverty level. Then  
16 there's the \$1,300.00, which is the federal minimum  
17 wage.

18 My thought is the poverty level, federal  
19 poverty level. That makes sense to me.

20 **MS. BATZLI:** Does to me.

21 **MR. KLUMP:** I think that makes sense, too,  
22 because that's used for so many public assistance  
23 programs. So it would actually make life easier for  
24 the Human Services Department. Your income, based  
25 upon the federal poverty level, determines what

1 benefits you can get. So I think that makes sense  
2 to use the federal poverty level.

3 **MS. MCCracken:** 100 percent of the federal  
4 poverty level? Because, as you know, ISD uses  
5 everything -- percentage of the federal poverty  
6 level.

7 **MR. NELSON:** When we discussed internally,  
8 there was a lot of interest in that suggestion. We  
9 resolved that we would pick a federal poverty level  
10 at a moment in time and plug it into the guidelines.  
11 It's not a number we would -- we would not leave  
12 that loosely defined so that it would change because  
13 it would go into guideline at a certain level.

14 And is that \$1,012?

15 **MS. BATZLI:** Yes.

16 **DR. VENOHR:** That's the federal.

17 **MR. NELSON:** \$1,012. And we may want to  
18 consider some rounding. But that's where we go  
19 until the guidelines change again. That was our  
20 take internally if we used that type of a metric,  
21 just like if we picked any other random number --  
22 \$800, 950, 1,300.

23 **MS. JIRON:** But for New Mexico wouldn't it  
24 be 950?

25 **DR. VENOHR:** That was if we adjusted it

1 for that .936 percent price level.

2 **MR. NELSON:** Exactly.

3 **DR. VENOHR:** You know, you don't have to.  
4 I mean, you could -- you know, Stephen's point was  
5 valid that the poverty programs -- they're not  
6 adjusted for --

7 **MS. JIRON:** Right.

8 **DR. VENOHR:** So it really -- it's a policy  
9 decision.

10 **MR. NELSON:** I think there's merit, I  
11 think, good discussion. Good points all around.

12 Is the unrounded number of \$1,012 a weird  
13 thing? Is that --

14 **MS. BATZLI:** Yes. Round it down.

15 **MR. NELSON:** Round it down? Round it up?  
16 Okay. \$1,000?

17 **MR. KLUMP:** Yes.

18 **DR. VENOHR:** Okay.

19 **MR. NELSON:** Okay. I'm going to take the  
20 temperature again. We have moved towards some  
21 agreement along the lines of \$60.00 minimum order  
22 and using zero to \$1,000 where that minimum would  
23 apply. And so I'm thinking the table would look  
24 like not specified from zero to 1,000.00 -- zero to  
25 999.00 -- and then start up from there and then

1 adding statutory language that would define for  
2 under \$1,000.00 a minimum payment for an NCP would  
3 be \$60.00 a month based on sort of judiciary  
4 discretion. I'm kind of making the language up.

5 **MS. BATZLI:** Based on noncustodial  
6 parent's income of \$1,000 or less, this will be the  
7 presumed minimum order subject to the discretion of  
8 the Court.

9 **MR. KLUMP:** And then we'd have to add a  
10 step up for additional children.

11 **MR. NELSON:** Good point.

12 Okay. I'm hoping someone's writing this  
13 down so we can make a motion and move -- because I  
14 wanted to take the temperature.

15 Is that where the group is?

16 Hold on just a second.

17 **DR. VENOHR:** I'm sorry.

18 **MR. NELSON:** That's okay.

19 Any -- Judge Martin? Attorneys in other  
20 offices? Love to hear input. County directors?

21 **JUDGE MARTIN:** I think you've done a good  
22 job of capturing, you know, the compromise between,  
23 you know, some competing positions. So, yeah, I  
24 think that's a good starting point.

25 I'm sensing we're going to have to have

1 another Commission meeting to really adopt some  
2 formal measures, but I think that's a good point to  
3 put into some sort of an agenda that we'll be voting  
4 on. So I like it. It's a good compromise.

5 **MR. NELSON:** Okay. Jane, you had a point?

6 **DR. VENOHR:** This is just because I'm  
7 trying to program a -- did the Commission reach an  
8 agreement with regard to ramping that \$60.00 up for  
9 two children, three children?

10 **MR. KLUMP:** Not yet.

11 **MR. NELSON:** No. I think we've  
12 acknowledged we need to do that for moving from one  
13 child to multiple children. Is that what you're --

14 **DR. VENOHR:** Yeah.

15 **MR. NELSON:** Yeah. I --

16 **MR. HEYECK:** I have a suggestion.

17 **MR. NELSON:** Go ahead. Yes?

18 **JUDGE MARTIN:** So if you're going to end  
19 up doing a statutory change, one of the things we  
20 can do is no less than \$60.00 for the first child  
21 and \$15.00 for each additional child -- something  
22 like that. Keep it simple, and keep it low. But,  
23 you know, it's all subject to the discretion of the  
24 Court. So something simple.

25 **MR. KLUMP:** I was going to propose

1 something very similar.

2 **MR. NELSON:** Okay.

3 **MR. HEYECK:** We can do the math but --

4 **THE REPORTER:** I'm sorry. I can't tell  
5 who's talking.

6 **MR. NELSON:** Okay. From the field office,  
7 we had some comments. We couldn't hear those.

8 So please say who you are, and say what  
9 you want to say.

10 **MR. HEYECK:** This is Larry Heyeck.

11 **MR. NELSON:** Okay. Larry, say that again.  
12 Say what you just said.

13 **MR. HEYECK:** I was suggesting \$60.00 for  
14 the first child and then maybe \$15.00 per month for  
15 each additional child --

16 **MR. NELSON:** Okay.

17 **MR. HEYECK:** -- all subject to the  
18 discretion of the Court, even if you wanted to cap  
19 it.

20 **MR. NELSON:** Okay.

21 **MS. MCCRACKEN:** And 15, one five, per  
22 additional child?

23 **MR. HEYECK:** One five. It's a start of  
24 the conversation.

25 **MS. MCCRACKEN:** Right.

1           **MR. HEYECK:** That's all.

2           **MR. NELSON:** Yeah. Hearing Officer Klump,  
3 I think, acknowledged that some methodology like  
4 that is what he would be in support of as well.

5           **MR. KLUMP:** Yeah. And I was going to  
6 propose \$10.00 per extra child, but, you know,  
7 that's open for the Committee. I mean, if we're  
8 dealing truly with noncustodial parents at such low  
9 incomes, I think \$10.00 is better, but I'll listen  
10 with fresh ears. I don't think 15.00 is  
11 unreasonable by any stretch either.

12           **MR. NELSON:** Okay. Good.

13           Okay. I wanted to make sure we captured  
14 all the discussion and thought there might have been  
15 another comment from one of the field offices. And  
16 if there is, please repeat what you said.

17           Okay. Where does that leave us? I think  
18 that really gives some structure to a potential  
19 recommendation that comes out of this meeting. We're  
20 about 13 minutes before the end of our allotted  
21 time. I'm trying to think of how we want to  
22 proceed. If we don't have a recommendation with  
23 enough specificity that the Commission agrees upon,  
24 we will need to reconvene. We've blocked time on  
25 folks' calendars, hopefully, on the 19th of October.

1 And one outstanding piece is more detail  
2 on what the rate of increase would be for high-  
3 income orders after \$30,000 per month. We were  
4 going to ask Dr. Venohr to bring that back. So I  
5 don't think we have the specificity there unless the  
6 group felt comfortable saying we'll vote to include  
7 a rate, the rate that's determined through Dr.  
8 Venohr's analysis.

9 I think we have enough specificity to form  
10 a motion for the adoption of the changes we've just  
11 been talking about in terms of a minimum order and  
12 where that minimum order starts to go up and also  
13 incorporate some concepts of what the additional  
14 dollars per order are for additional children.

15 So I think we're getting to some level of  
16 specificity to be able to form motions and vote, but  
17 I want to see how folks feel in proceeding from  
18 where we are or if we really aren't at a spot where  
19 we've got enough detail. We need to maybe write it  
20 all down, write it out, amend it, and then come back  
21 and vote on it. I think that's kind of -- we're at  
22 that point where we need to decide if we're going to  
23 proceed and not meet again or, as Judge Martin said,  
24 potentially formulate everything with real  
25 specificity and then come back and meet again.



1           **JUDGE MARTIN:** I think we need to meet  
2 again because there's two other points that we're  
3 going to have to polish.

4           One, we're going to need some statutory  
5 language, you know, some guidance for the definition  
6 of "minimum wage" and minimum amount of employment.  
7 You know, do we apply 40 hours, or do we use Dr.  
8 Venohr's data to support some lesser amount. The  
9 definition of "imputed minimum wage." So I think  
10 we're going to need to polish, you know, a  
11 recommendation on that.

12           And we're going to have to polish some  
13 language to make clear that the guideline changes  
14 that we're making have taken into consideration the  
15 minimum self-supporting reserve for both parents.  
16 That needs to be an annotation somewhere so that  
17 it's clear ten years from now, when we're doing this  
18 again, that we've thought about it for both  
19 custodial parents.

20           So I think that sort of language needs to  
21 be polished, and I don't think we have enough time  
22 to do it today.

23           **MR. NELSON:** Agreed. And I would offer a  
24 perspective that, on the first point, that maybe  
25 beyond the scope of this Commission in terms of

1 determining how we define "minimum wage" and what  
2 imputation will look like, though it's really  
3 critical to the discussion. It's critical to what  
4 we're trying to accomplish.

5 I think on the second point that's valid.  
6 We need to have language that describes what the SSR  
7 is, and if we're going to go to the point of this  
8 group recommending language for statutory change  
9 around those parameters we described a few minutes  
10 ago and including the self-support reserve, I think  
11 we probably need to put that in writing and see what  
12 that looks like and all be able to read it and agree  
13 on that's what we want it to say.

14 So I think you're right in terms of -- I  
15 think as Judge Martin was saying that, I think heads  
16 were nodding around here that, while it's tough to  
17 commit the time to do it, we probably do need to  
18 take the time with a future meeting to finish this  
19 work-up.

20 I also realize that I committed to Hearing  
21 Officer Klump to move to a couple other items, and I  
22 want to definitely do that before we close. So  
23 let's take a few minutes at least to introduce what  
24 your other couple points were that you wanted to  
25 cover.

1           **MR. KLUMP:** Thank you, Mr. Chairman. I'll  
2 be real brief.

3           We're federally mandated to address the  
4 self-sufficient [sic] reserve. As a hearing  
5 officer, I get kind of a corresponding issue, and if  
6 we're going to be making fixes, I would propose that  
7 we add not only the explanation of the self-  
8 sufficient [sic] reserve, but I frequently get from  
9 either -- I get this from attorneys even. "Well, if  
10 my client's going to be paying child support, he  
11 wants the tax deduction for the child."

12           I think it would be good if we could add  
13 language that says, simply, the guidelines factor in  
14 or assume the custodial parent is claiming the child  
15 as the dependent. I don't think we need a whole lot  
16 of explanation, but I think just the statement that  
17 we've thought about the tax issue, and the  
18 presumption is the guideline amount is predicated on  
19 the custodial parent claiming the kid.

20           We don't have to resolve that today, but  
21 it's just a placeholder because at least three or  
22 four times a week I'm explaining this either to an  
23 attorney or to a pro se party. And not that  
24 anyone's actually going to read it, but I could say,  
25 "Read the statute," if I'm in a hurry.

1           **MR. NELSON:** Interesting point that had  
2 not come up, to my knowledge, in our internal  
3 discussions and worth continuing to discuss.

4           What I envision happening from this point  
5 is some very specific recommendations coming out of  
6 this group that will take on the form of a proposed  
7 bill for the 2019 legislature around the guidelines  
8 -- "This is what the guidelines will look like.  
9 This is the actual language." And they're in there  
10 now. They're in the statute now, and so we'll  
11 change those based on what the group decides.

12           We will also have proposed language for  
13 statutory changes around the federal regulatory  
14 changes that have to happen. And suggestions like  
15 Hearing Officer Klump's suggestion, addition of a  
16 clarification like that, could be included in that.  
17 We haven't really -- in the end it's not up to us.  
18 It's not up to me as a director or as a deputy  
19 cabinet secretary to define what the legislative  
20 strategy for the next administration will be.

21           We can merely do our best to put the  
22 building blocks in front of them so that they can  
23 take that three weeks after they're inaugurated to  
24 the legislature and say, "This is what we need to do  
25 to be compliant with federal law." So it may take

1 the form of multiple bills, or it may take the form  
2 of two bills.

3 **MS. BATZLI:** One big one.

4 **MR. NELSON:** But we'll put -- what's that?

5 **MS. BATZLI:** One big one.

6 **MR. NELSON:** We could do one big one.

7 So we need to formulate that packet and  
8 pass that on in the transition so that we've done  
9 our job to prepare the next administration, the  
10 division, and the legislature to act quickly and be  
11 able to incorporate these changes that are needed.

12 So I think we can cover that --

13 **JUDGE MARTIN:** I would point out that  
14 income imputation is one of the requirements under  
15 the federal guidelines we've got to address. So  
16 we've got to do that at some point.

17 **MR. NELSON:** Yes.

18 **JUDGE MARTIN:** How do we impute income? So  
19 it's not beyond the scope.

20 **MS. MCCracken:** I thought that it's just  
21 claiming that -- oh, well, never mind.

22 **DR. VENOHR:** Yeah. I agree, actually.

23 **MS. MCCracken:** Okay.

24 **DR. VENOHR:** You know, it's not only --  
25 it's that provision -- you know, that grocery list

1 of 14, but you could also take it a step further and  
2 say -- I can't remember who recommended it to maybe  
3 impute as a last resort or look at the language in  
4 North Dakota, which is in the supplement, that says  
5 "Impute at 34 hours a week whatever your minimum  
6 wage in the community" or something like that.

7 I apologize. I do have to ask a question  
8 just because I have a really tight schedule. I know  
9 that I have to extend a percentage above 30. I need  
10 some clarification. Is that as to the schedule in  
11 Appendix A, or is it to the existing schedule? And  
12 whether I need to do anything at the low income of  
13 the schedule in preparation for your October 14  
14 meeting.

15 **MR. NELSON:** 19th.

16 **DR. VENOHR:** 19th meeting.

17 I mean, I just -- you know, and I have to  
18 do it now just because all the Commission members  
19 are here. So I need to get those marching orders.

20 **MR. NELSON:** Let see if I can speak for  
21 the group, and if I'm not, please let me know.

22 On the high end I think we are in  
23 agreement with the Appendix A amount. Do some  
24 calculations on the reasonable rate of increase from  
25 the Appendix A amount.

1           On the lower end, on the other part of Dr.  
2 Venohr's question, I think that -- I don't know that  
3 additional analysis is needed. I don't think the  
4 analysis is needed. I think modification of the  
5 table will occur because I think we effectively  
6 start the table at \$1,000 and move up from there. So  
7 with the addition of the language around the minimum  
8 order, we addressed the question of the ambiguity at  
9 the bottom end. And so I don't think that we need  
10 additional analysis.

11           What am I missing?

12           **DR. VENOHR:** There's -- it's just that I -  
13 - and I truly apologize because I feel like I'm  
14 putting you on the spot.

15           There's one thing I can prepare. I can  
16 give you a schedule that doesn't have any shaded  
17 area so it's truly based on the child-rearing  
18 expenditures. Actually, I have that. You don't  
19 have it. And then the other thing is whether you  
20 truly want that \$1,000 to be like a self-support  
21 reserve. So, you know, for six children it  
22 obviously -- the six children amount, how much it  
23 would cost at \$1,000 or 1,100 is going to be, you  
24 know, \$700 or something like that. I'm just  
25 throwing out a number.

1 So do you want a self-support reserve to  
2 go above \$1,000 and then kind of slowly phase out? I  
3 truly -- I just feel like I'm pushing you. So I  
4 totally apologize if that doesn't --

5 You're shaking your head.

6 **MS. MCCRACKEN:** Well, I think that --

7 **DR. VENOHR:** So explain it, please.

8 **MS. MCCRACKEN:** I don't know. I don't  
9 know if I can explain it, but I think what you're  
10 asking is how to update these particular charts, the  
11 Appendix A, B -- or Option B or Appendix E, and we  
12 would just go to \$1,000 and then at -- where we were  
13 going to do the change in statute and then update  
14 the rest of those -- after \$1,000 update those  
15 accordingly.

16 **DR. VENOHR:** Yeah. But I guess what I'm  
17 saying is, if you look at those, you see that shaded  
18 area goes above 1,000.

19 **MS. MCCRACKEN:** Uh-huh.

20 **DR. VENOHR:** So I need some guidance on  
21 whether you want those reduced amounts. So anyplace  
22 that it's shaded, it doesn't reflect how much it  
23 costs to raise children. It's been reduced. And it  
24 might be too hard to do it in our last minute. I  
25 think we're over.



1           Maybe what I'll do is I'll try to prepare  
2 -- I'm going to come equipped to just do it on the  
3 spot. You know, I'll give you what is the -- how  
4 much is -- the raw data, how much it costs to raise  
5 children, and I won't have any shaded area unless I  
6 hear something right now. I think might be forcing  
7 it.

8           It didn't make any sense.

9           **MS. MCCracken:** I think I'm lost.

10          **DR. VENOHR:** We're tired.

11          **MR. NELSON:** No. It is --

12          **MS. BATZLI:** I understand what you're  
13 saying, but that's a big decision to --

14          **DR. VENOHR:** Right.

15          **MS. BATZLI:** -- just make in ten seconds.

16          **DR. VENOHR:** Right. So I'm going to  
17 prepare to do it. And we should try to do it early  
18 in the meeting and then -- I don't want to talk.  
19 Time is valuable. I know my strategy. So I'm going  
20 to technically be prepared to do it during the  
21 meeting on the 19th.

22          **MR. NELSON:** Okay. So we'll try to --  
23 we'll have Dr. Venohr prepare a schedule that would  
24 replicate what we've described, the \$1,000 -- what  
25 I'm calling a self-support reserve -- I'm not sure

1 if I'm using that correctly -- and then child  
2 support amounts starting there and moving up in a  
3 consistent way until -- I'm not sure where they hit  
4 that curve and then move into the same pattern as  
5 the Appendix A pattern.

6 **DR. VENOHR:** Okay.

7 **MR. NELSON:** Is that what you're trying to  
8 accomplish? We've got the starting point, and how  
9 do we get from there -- those amounts are going to  
10 be less than the cost of raising children at that  
11 income level. So they need to step up until it  
12 starts to get to the same pace as the other curve of  
13 Appendix A.

14 **DR. VENOHR:** And what you're saying to me  
15 is Appendix A, which is important. So what I'll do  
16 is I'm going to prepare -- I'm going to give you a  
17 raw schedule. I'm going to give you the high-income  
18 thing. And then I'll do something like Appendix A.  
19 And I just want to make it clear that those are  
20 options. We're just -- it's just to make the best  
21 use of your time.

22 **MR. NELSON:** Good.

23 **DR. VENOHR:** And I'll do it a week before.  
24 I've just got some schedule issues.

25 **MR. NELSON:** Okay. So we'll cover that as

1 our immediate agenda item on our next meeting, and  
2 we'll review those options and, I think, formulate  
3 motions for a recommendation. I think that we've --  
4 I'm not surprised we're at this point because it's  
5 so complicated and it's so interesting and so much  
6 to talk about -- so many factors.

7 We covered a lot of ground. I think we  
8 moved to a general area of agreement but with still  
9 some of the key details not defined and some other  
10 pieces about some supporting language around the  
11 statutory changes that need be considered as well.

12 So I think what we'll try to do as a group  
13 internally is debrief and pull all the critical  
14 pieces together and put a packet together that shows  
15 the things that we committed to talk about and to  
16 discuss further. We'll cover some more analytical  
17 material from Dr. Venohr. And I'm hoping we can at  
18 that time take some motions to have some specific  
19 recommendations come out.

20 **JUDGE MARTIN:** And one thing you mentioned  
21 was October 19 as the tentative meeting date.

22 **MR. NELSON:** Yes, sir.

23 **JUDGE MARTIN:** That poses a conflict for  
24 me.

25 **MR. NELSON:** Okay.

1           **JUDGE MARTIN:** October 19 I've got Chief  
2 Judges Counsel with the Supreme Court, and that goes  
3 from -- it starts at 9:00, and it usually goes until  
4 at least 1:00. Depending on the chief justice, it  
5 could go longer. So I'm not sure I'm available on  
6 Friday, the 19th.

7           **MR. NELSON:** Okay.

8           **JUDGE MARTIN:** So could we look at an  
9 alternative day?

10          **MR. NELSON:** We can. We'll poll  
11 Commission members and try to find a date that will  
12 work best for the most Commission members.

13          **JUDGE MARTIN:** That would be great. Thank  
14 you.

15          **MR. NELSON:** And for Jane.

16          **DR. VENOHR:** When is our deadline for a  
17 report?

18          **MR. NELSON:** I don't know.

19          **MS. BATZLI:** December 31.

20          **MR. NELSON:** What is it?

21          **MS. BATZLI:** December 31.

22          **MR. NELSON:** December 31.

23          **MS. BATZLI:** And that would be this year.

24          **MR. NELSON:** Okay.

25          **MR. TOULOUSE:** Well, and I need it -- if

1 we're going to face legislation, we want it as soon  
2 as possible to get into the process.

3 **MS. MCCRACKEN:** Yeah.

4 **MR. NELSON:** Okay. I appreciate  
5 everyone's hard work today. I think we're past  
6 time. We have -- I don't think we need to take  
7 motions or vote on what we just talked about doing  
8 at our next meeting. Probably do need to -- we  
9 would normally have time for public comment, and I  
10 don't think we have any members of the public in  
11 attendance. So I think we can forego that agenda  
12 item.

13 Anybody feel differently about that?

14 **DR. VENOHR:** I just wanted to add that I  
15 want to thank everybody. You really have  
16 accomplished a lot. I mean, this is the fastest  
17 I've ever seen it, I mean, for where you're going.  
18 So don't -- I want to keep my time short.

19 **MR. NELSON:** We appreciate your support as  
20 well and encouragement and your good insights as  
21 well.

22 The process would not have been possible  
23 up to this point without Dr. Venohr's assistance.

24 So with that being said, again, I don't  
25 think we have any other motions. We had one agenda

1 item for voting on guidelines changes, and we're not  
2 there yet. So we don't have other items on the  
3 agenda. So as part of the public meeting protocol,  
4 we're not going to go there. I think we can -- I  
5 don't think we need to take a motion for our next  
6 meeting.

7 I think we can entertain a motion to  
8 adjourn and with the idea that we'll get the group  
9 back together at time that's convenient for the most  
10 Commission members and for Jane.

11 So with that, I'd ask for a motion to  
12 adjourn.

13 **MS. MCCracken:** Motion to adjourn.

14 **MR. NELSON:** Can I have a second?

15 **MS. BATZLI:** I'll second it.

16 **MR. NELSON:** Okay. Any discussion on  
17 adjournment or anything else?

18 Okay. All in favor of adjourning?

19 **(Simultaneous replies of "aye.")**

20 **MR. NELSON:** Opposed?

21 The "ayes" have it, and this meeting is  
22 adjourned.

23 **(The proceedings adjourned at 2:07 p.m.)**

24

25

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2 COUNTY OF SANTA FE

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<b>39</b> 38:15	<b>49</b> 14:14	<hr/>	76:22 126:12
	40:11	6	
		<b>6</b> 18:5 18:6	

<b>72</b> 121:18	<b>9:00</b> 172:3	91:5 91:6	<b>acknowledged</b>
<b>73</b> 108:1	<b>90</b> 36:6	91:10	69:20 157:12
121:20	<b>900</b> 102:2	91:12	159:3
<b>799</b> 76:25	149:1	92:15 93:14	<b>acknowledges</b>
<hr/>	<b>93.6</b> 21:8	<b>absconded</b>	32:5
8	21:10 28:4	49:19	<b>acknowledgmen</b>
<b>8</b> 40:15 40:20	<b>936</b> 21:7	<b>absolute</b> 84:3	<b>t</b> 49:21
138:2 138:12	102:1 155:1	<b>absolutely</b>	<b>acknowledgmen</b>
<b>8,000</b> 26:11	<b>94</b> 99:19	61:4 86:25	<b>ts</b> 32:8
130:3 131:14	109:5 131:11	92:14 93:12	<b>across</b>
<b>8.2</b> 134:16	131:19	<b>abuse</b> 18:23	52:21
<b>80</b> 36:6 37:2	<b>95</b> 81:18	19:11 93:22	63:21 82:6
<b>80.00</b> 119:5	100:4	<b>academic</b> 57:5	83:25 84:9
<b>800</b> 17:1 17:2	100:7	<b>accept</b> 60:25	94:2 106:5
30:6 39:1	100:8 100:11	<b>accommodate</b>	121:9
64:7 76:14	<b>950</b> 154:22	41:2 97:3	<b>act</b> 49:17
76:15	154:24	153:1	165:10
83:15 86:8	<b>999.00</b> 155:25	<b>accommodates</b>	<b>acting</b> 4:19
86:11	<hr/>	150:14	5:24 50:6
86:12	A	<b>accomplish</b>	<b>action</b> 53:24
98:20	<b>a.m</b> 3:6 64:24	44:7 44:7	<b>activities</b>
98:21	64:24	71:2 162:4	52:10
99:12	<b>abbreviate</b>	170:8	<b>actual</b> 22:2
99:15	22:8	<b>accomplished</b>	22:3 23:19
99:24	<b>ability</b> 72:23	45:7 173:16	24:19
100:4	74:23 78:2	<b>according</b>	63:19
100:8 100:22	89:2 92:2	148:8	74:22
132:13 149:1	92:5 102:11	<b>accordingly</b>	92:18
<b>800.00</b> 146:11	<b>able</b> 34:3	168:15	106:9 164:9
148:18 153:9	37:12	<b>account</b> 63:19	<b>actually</b>
<b>846</b> 106:24	52:23	78:2 79:19	26:14
125:23	91:12	91:18	29:19
<b>851</b> 102:21	91:13 138:17	97:23	34:17 48:1
102:22	151:14	104:4 144:18	53:16
<hr/>	160:16	<b>accumulate</b>	61:24 62:1
9	162:12	49:1	73:6 73:23
<b>9</b> 40:23	165:11	<b>accumulating</b>	74:22 81:5
41:6 48:21	<b>able-bodied</b>	47:2	81:6 83:2
138:12	86:17 91:4		92:12

100:4 107:19	158:15	29:17	<b>afternoon</b>
111:25 121:1	158:22	29:20	123:10
127:7	160:13	30:15	<b>after-tax</b>
142:8 142:24	160:14 167:3	32:25	103:2
144:2	167:10	36:23	103:4
148:9 149:21	<b>add-ons</b> 39:16	36:25	103:7 134:17
153:23	<b>address</b> 38:14	38:16 39:4	<b>against</b> 61:13
163:24	51:6 51:21	39:15	<b>age</b> 33:19
165:22	64:22	40:17	93:4
167:18	69:11	56:14 58:1	<b>agency</b> 11:9
<b>adapt</b> 72:23	163:3 165:15	61:20	11:21
<b>add</b> 50:11	<b>addressed</b>	61:22	13:20 40:4
53:8 65:14	20:2	61:23 63:6	55:8 58:5
70:7 79:6	135:10 167:8	64:4 74:2	74:25
83:19	<b>addressing</b>	74:9 128:15	<b>agency's</b>
94:25 114:19	74:22	<b>administratio</b>	13:19
132:13	<b>adds</b> 119:13	<b>n</b> 51:24	<b>agenda</b> 9:8
132:15	<b>adjourn</b> 174:8	164:20 165:9	9:9 9:22
137:25	174:12	<b>administrativ</b>	10:3 10:10
147:25	174:13	<b>e</b> 58:18	10:12
148:25 156:9	<b>adjourned</b>	<b>administrativ</b>	10:15
163:7 163:12	174:22	<b>ely</b> 59:1	10:17
173:14	174:23	<b>adopt</b> 27:3	10:23
<b>added</b> 150:8	<b>adjourning</b>	75:9	43:21 45:5
<b>adding</b>	174:18	103:17	45:17 46:2
118:6 156:1	<b>adjournment</b>	103:17 157:1	66:18 115:15
<b>addition</b>	174:17	<b>adoption</b>	115:17
17:23 41:9	<b>adjust</b>	160:10	137:21 157:3
68:6	22:23 149:5	<b>adult</b> 23:23	171:1 173:11
145:24	<b>adjusted</b>	23:24 24:1	173:25 174:3
164:15 167:7	16:25	<b>advance</b> 13:22	<b>ages</b> 21:14
<b>additional</b>	21:15	27:24	<b>ago</b> 8:6 81:12
63:11 105:10	136:1 154:25	<b>advisory</b>	82:11
118:1	155:6	36:24 134:22	85:11 90:3
118:4 119:13	<b>adjusting</b>	137:9	91:4 97:19
119:14 120:2	56:7 101:25	<b>affect</b> 31:15	98:1 98:18
120:3	<b>adjustment</b>	<b>affecting</b>	114:2
120:4	13:15 14:4	109:9	119:9 150:13
137:6	16:18 28:8	<b>affects</b> 40:4	150:22
153:2 156:10			162:10
157:21			

<b>Agreed</b> 161:23	64:10	79:24	166:25
<b>agreement</b>	65:13	79:25 81:1	167:22
137:20	65:21	83:15	<b>amounts</b>
138:24	96:14 114:4	84:10 85:4	17:3 26:18
155:21 157:8	<b>Alshouse</b> 7:13	87:19	27:4 31:9
166:23 171:8	7:13	88:14	44:15
<b>Agriculture</b>	<b>alternative</b>	88:25	44:23 77:3
23:3	172:9	93:18	78:7 79:22
<b>ahead</b> 3:8	<b>alternatives</b>	103:2	97:23
4:22 60:13	73:10	103:4	97:24 98:7
147:3 157:17	<b>am</b> 4:17 5:7	103:7	104:25 105:1
<b>aimed</b> 18:14	43:19	103:7 103:10	112:19
19:8	92:25	103:15	119:14 124:9
<b>Albuquerque</b>	123:2 167:11	103:22 104:2	125:1
3:23 7:17	<b>ambiguity</b>	107:1	125:4
7:21 97:1	76:13	107:1 113:18	125:7 133:13
<b>alcohol</b> 23:25	134:7 167:8	115:3	136:5 136:11
<b>algorithm</b>	<b>amend</b> 160:20	116:5 116:24	137:10
119:10	<b>amending</b>	117:21 118:5	137:13 141:6
122:12	55:11 114:2	118:14	144:16
<b>algorithms</b>	<b>American</b> 85:2	119:13	152:20
122:18	<b>among</b> 29:9	132:22 134:6	168:21 170:2
<b>allegedly</b>	29:10	136:15	170:9
37:11	<b>amongst</b> 58:19	139:10 140:1	<b>amount's</b>
<b>alleviate</b>	<b>amount</b> 9:13	140:11	79:13
145:11	22:13 25:5	140:12 143:9	<b>analysis</b>
<b>allotted</b>	27:18	145:1	12:15
159:20	27:21 28:8	145:2	12:19
<b>alluding</b>	28:23	145:3	17:21
131:12	29:21 31:1	145:7 145:10	31:24 32:1
<b>alone</b> 103:25	31:2 31:15	145:15	32:24
<b>already</b>	33:20 34:7	145:18	34:20
9:23 12:25	44:13	145:20	82:24 138:16
21:23	46:18	146:20 148:3	160:8
41:10	47:19	148:10	167:3
50:14 54:4	61:21	148:17	167:4 167:10
56:2 64:1	61:22	148:21	<b>analytical</b>
64:3 64:7	61:24 72:3	150:19	171:16
	76:22	150:23 151:5	<b>analyze</b> 33:10
		152:25 153:7	<b>analyzed</b>
		161:6	
		161:8 163:18	
		166:23	

32:25	<b>apologize</b>	166:23	122:9
<b>anecdotaly</b>	56:8 56:10	166:25	173:4 173:19
84:1	67:6 92:10	168:11	<b>appreciated</b>
<b>anecdote</b>	102:24	168:11 170:5	126:13
82:17	104:13	170:13	<b>approach</b>
<b>annotation</b>	117:13	170:15	23:13 24:2
161:16	120:23 122:6	170:18	50:18
<b>annual</b> 113:21	166:7 167:13	<b>apples</b> 104:6	58:12 97:14
113:21	168:4	<b>applicable</b>	<b>appropriate</b>
125:24	<b>apparent</b>	78:1	25:7 82:7
<b>answer</b> 90:6	119:16	<b>applications</b>	83:15 140:9
<b>answering</b>	<b>apparently</b>	145:13	<b>approval</b> 9:9
9:14	50:16	<b>applied</b>	<b>approve</b>
<b>answers</b> 151:3	<b>appeal</b> 89:20	36:7 73:19	9:25 10:3
<b>anybody</b>	<b>appealed</b>	84:5	<b>approving</b>
29:5 43:7	50:16	119:22	10:11
46:4 46:5	<b>appealing</b>	130:25 131:3	<b>approximate</b>
79:1 173:13	47:16	131:4 133:14	113:13
<b>anyone</b> 8:20	<b>Appeals</b> 50:13	<b>applies</b>	<b>area</b> 38:17
42:19 123:4	50:17	43:1 44:13	39:13
<b>anyone's</b>	53:16 53:22	68:20 69:5	56:16 64:2
163:24	<b>appear</b>	69:14 122:16	64:3 74:20
<b>anyplace</b>	21:25 78:23	148:7	77:2 77:15
168:21	<b>Appendix</b> 14:6	<b>apply</b> 37:1	77:15
<b>anything</b> 88:7	14:6 36:21	39:20 94:4	91:17 167:17
88:23	36:22	119:21	168:18 169:5
149:1 152:10	75:22	122:11	171:8
166:12	75:24	122:12	<b>areas</b> 45:19
174:17	75:25	122:18 134:5	94:9 98:7
<b>anyway</b>	76:23 108:15	140:13 145:7	<b>aren't</b> 17:4
14:25 63:7	116:17	147:23	88:19
78:13	116:18	147:24 148:5	96:14 160:18
<b>anywhere</b>	116:20	155:23 161:7	<b>arguable</b>
135:17	116:22	<b>applying</b>	25:17
<b>AOC</b> 142:19	116:25	123:16 142:1	<b>arguing</b> 28:13
<b>Apologies</b>	120:14	<b>appointed</b>	28:20
65:5	124:23	114:4	<b>argument</b> 47:5
	148:20	<b>appreciate</b>	62:21 130:17
	148:20	90:10 112:7	
	166:11		

<b>Arizona</b> 35:18 36:4 36:5 36:23 70:9 70:20 73:16 73:19 73:20 <b>arrangement</b> 144:14 <b>arrears</b> 46:11 46:15 47:2 48:6 48:16 48:20 48:20 48:21 48:21 49:1 49:2 49:10 50:7 50:18 95:13 95:18 <b>articulate</b> 68:11 <b>articulated</b> 70:2 77:20 <b>artificial</b> 96:13 96:15 124:12 <b>assemble</b> 115:20 115:21 <b>assets</b> 92:24 <b>assistance</b> 153:22 173:23 <b>Assistant</b> 25:4 <b>Associates</b> 5:11 <b>assume</b> 48:8 80:11 80:24	81:21 163:14 <b>assuming</b> 38:24 <b>assumptions</b> 22:13 109:4 <b>attach</b> 97:12 <b>attachment</b> 81:2 81:3 81:16 81:17 102:6 105:22 105:24 106:6 106:11 106:17 114:9 139:11 141:3 141:6 <b>attainment</b> 36:2 93:4 <b>attempt</b> 77:18 92:4 <b>attendance</b> 173:11 <b>attention</b> 51:1 <b>attorney</b> 5:14 6:13 7:3 7:5 7:9 7:19 7:21 8:10 93:16 163:23 <b>attorneys</b> 47:13 50:25 51:5 51:5 131:20 156:19 163:9 <b>authorized</b> 92:20 <b>authorizes</b> 49:17	<b>automated</b> 32:2 34:4 59:14 81:9 142:10 <b>automatically</b> 93:23 <b>automation</b> 60:5 60:7 <b>availabiity</b> 91:20 <b>availability</b> 93:7 <b>available</b> 25:19 78:8 96:6 97:4 97:6 172:5 <b>Avent</b> 8:22 8:22 90:19 90:22 90:24 91:3 <b>average</b> 21:8 21:20 33:6 35:2 94:18 94:20 109:23 118:23 <b>avoid</b> 46:16 143:2 <b>aware</b> 15:3 15:8 32:21 92:25 <b>away</b> 18:20 55:23 56:5 58:7 <b>aye</b> 10:12 10:13 174:19 <b>ayes</b> 174:21 <hr/> B <hr/>	<b>background</b> 12:5 57:17 59:11 93:10 112:12 139:15 <b>back-of-the</b> 101:23 <b>bad</b> 113:10 <b>ball</b> 59:16 <b>based</b> 15:5 15:17 15:20 21:1 21:2 22:10 22:11 26:15 28:13 32:1 34:24 36:1 37:2 62:1 62:2 64:4 85:2 89:3 94:17 98:9 103:18 103:19 104:22 106:8 118:19 127:13 134:21 136:7 138:16 143:25 144:8 145:22 153:24 156:3 156:5 164:11 167:17 <b>basic</b> 18:8 38:21 133:12 <b>basically</b> 31:6 131:2 <b>basing</b> 103:16 <b>basis</b> 21:16 85:18 89:3
---	--	--	--

143:22	62:5	113:24	83:19
<b>Batzli</b> 3:25	<b>Becky</b> 5:13	144:14	83:22
4:5 4:6 4:11	152:23	164:21	99:22
5:5 5:5	<b>become</b> 52:5	170:20	100:1
55:10 75:7	119:15	172:12	101:4
81:5 81:10	124:10	<b>Betina</b> 4:7	107:7 107:11
87:17 100:19	124:11	6:1 55:7	107:14
100:22 101:1	<b>becomes</b>	107:7 109:17	107:19
101:3 116:16	13:4 52:12	124:4 151:18	107:22 108:2
123:24 124:1	56:4 106:13	<b>Betina's</b>	124:7 127:24
125:12	<b>beginning</b>	124:25	128:4
125:16 126:4	19:24	<b>Betson</b> 21:3	130:1 133:18
126:20 127:6	42:23 45:5	22:5 23:25	134:4 136:18
127:9 129:12	45:13	25:22	136:20
132:4	75:20	<b>Betson's</b>	<b>bit</b> 13:9
146:1 146:24	107:9 107:15	22:10	45:16
147:12 148:9	<b>begins</b> 139:23	25:15 110:10	45:24 58:1
148:13	<b>begun</b> 144:2	<b>better</b>	58:22
148:22	<b>behind</b> 112:21	15:24 70:3	61:11
148:25 149:3	<b>believe</b>	91:24 92:1	68:21
149:14	4:13 54:11	92:7	69:23
149:15	65:6 77:3	112:16	77:13
149:18	118:7 139:23	128:18 136:9	77:17
151:10	<b>Belinda</b> 10:4	139:24	81:23 89:7
153:14	<b>bell</b> 124:2	152:10 159:9	89:21 90:7
153:20	<b>benefit</b>	<b>beyond</b> 49:3	97:14 102:14
154:15	29:1 84:7	137:10	104:6
155:14 156:5	<b>benefits</b>	161:25	106:7 106:12
165:3	154:1	165:19	108:10
165:5 169:12	<b>besides</b>	<b>bigger</b> 32:13	108:23
169:15	109:13	<b>biggest</b> 107:2	114:10
172:19	<b>best</b> 15:17	<b>bill</b> 8:12	122:24 124:5
172:21	22:2 34:15	8:15 164:7	131:11
172:23	57:4 58:13	<b>bills</b> 111:6	133:21
174:15	66:8 77:25	165:1 165:2	<b>blame</b> 82:13
<b>Bean</b> 5:10	102:16	<b>Bird</b> 6:13	<b>blocked</b> 10:23
<b>bear</b> 69:19	102:17	6:13 62:24	159:24
<b>bearing</b> 31:8	108:15	63:2 63:2	<b>blocks</b> 164:22
<b>bears</b> 69:18		82:18	<b>blow</b> 30:10
<b>beautiful</b>			<b>blue</b> 124:21
			124:22



124:22	<b>bringing</b>	<b>buy</b> 118:23	<b>calculus</b>
124:23	84:14 128:8	<b>by-case</b> 89:3	23:17
135:24	<b>brings</b> 66:8	<b>by-side</b> 75:13	<b>calendars</b>
135:25	<b>broad</b> 53:2		159:25
<b>blurb</b> 149:19	<b>broader</b> 113:3	<hr/> C <hr/>	<b>cap</b> 17:4 50:7
<b>board</b> 63:21	<b>broke</b> 19:10	<b>c) (1) (ii</b>	110:4
<b>books</b> 118:21	<b>broken</b> 86:4	92:12	110:7
<b>bordering</b>	<b>brought</b>	<b>c) (1) (iii</b>	130:2 130:19
44:16	51:1 91:3	92:13	130:25
<b>bore</b> 23:16	95:1 146:2	<b>cabinet</b>	132:16 133:6
<b>born</b> 49:20	<b>bucket</b> 53:6	4:18 164:19	133:25 134:8
<b>bottled</b> 42:25	<b>bucks</b> 95:18	<b>calculate</b>	137:4
<b>bottom</b>	145:16	52:14	137:4
27:23	<b>build</b> 102:17	80:22 81:9	137:5
106:6	<b>building</b>	89:23 142:14	137:6 158:18
113:7 167:9	164:22	142:17	<b>capability</b>
<b>bought</b> 111:7	<b>built</b> 54:4	<b>calculated</b>	123:9
<b>bound</b> 23:16	<b>bullet</b>	34:7 77:10	<b>capture</b>
25:6 25:6	18:10	78:9	137:18
25:10 25:11	44:10	132:18 137:8	137:19
<b>box</b> 18:3 18:7	44:18	<b>calculates</b>	150:22
<b>boy</b> 46:21	44:22	73:6 143:4	<b>captured</b>
<b>BR4</b> 22:4 22:8	77:24	<b>calculating</b>	111:22
23:1	119:6 119:6	130:9	159:13
<b>bracket</b> 109:5	<b>bullets</b>	134:6 142:20	<b>capturing</b>
<b>brain</b> 126:24	18:6 44:4	<b>calculation</b>	156:22
<b>break</b> 35:20	<b>bully</b> 62:22	69:15 92:3	<b>car</b> 19:10
43:4 43:5	<b>bully's</b> 62:21	102:4 138:18	<b>care</b> 17:13
43:6 45:25	<b>bumped</b> 130:6	<b>calculations</b>	21:15
65:7 66:24	<b>bunch</b> 20:4	39:14	39:16
<b>brief</b> 163:2	<b>burden</b> 31:8	60:19	41:18 63:17
<b>briefly</b>	<b>bureau</b> 6:12	89:10 101:24	<b>Carol</b> 7:13
12:6 129:4	22:16 110:11	129:23	<b>Carolina</b> 39:9
<b>bring</b> 31:17	<b>BURK</b> 8:12	166:24	39:12
45:22 132:24	<b>Burke</b> 8:12	<b>calculator</b>	<b>carryover</b>
160:4	8:15	142:9	80:5
		<b>calculator's</b>	<b>case</b> 12:15
		99:5	12:17 13:2
			31:24

32:18	53:15 54:1	154:13	154:19
35:24	54:2 54:3	<b>certainly</b>	157:19 162:8
36:15	55:12 61:5	35:8 42:17	164:11
50:13 51:3	62:8 64:15	79:19	168:13
53:25	72:2 72:11	<b>CES</b> 111:20	<b>changed</b> 34:24
54:12	74:18	<b>Chairman</b>	39:11
54:13	76:20 86:7	163:1	52:12
54:14	87:4 87:5	<b>chairman's</b>	99:20
54:22 56:3	88:6	149:24	99:23
74:13 82:5	131:24	<b>chairperson</b>	99:24 103:11
89:2 93:1	135:11	4:20	103:12 126:5
93:10 109:18	143:11 144:3	<b>challenges</b>	142:18
144:1 144:18	146:8	91:25	<b>changes</b>
148:5	<b>catch</b>	<b>challenging</b>	9:18 9:20
<b>case-by-</b>	122:25	13:17 139:5	17:18 41:8
<b>case</b> 21:16	123:18	<b>chance</b> 45:22	41:8 43:13
85:18 143:21	<b>category</b>	<b>chances</b>	45:11 52:1
<b>caseload</b> 27:5	24:16	27:1 130:20	52:13 60:5
33:5 35:9	112:1 112:2	<b>change</b>	60:7 63:9
35:10	<b>cattle</b> 93:1	15:23 16:4	63:18
71:17 72:5	<b>caught</b>	21:22	65:25 69:2
87:11	34:14 35:22	22:13	69:24 70:5
<b>caseloads</b>	<b>caused</b> 111:12	26:24	71:3 75:10
72:1 72:4	<b>causes</b> 110:9	26:25 41:2	97:17
<b>cases</b> 5:2 5:3	<b>ceases</b> 81:8	52:8 52:24	108:4
5:23 8:2 8:3	<b>Center</b> 5:19	58:16	108:6
8:3 13:21	<b>central</b> 6:9	58:20 59:2	108:7 128:20
27:3 27:6	47:23 70:25	59:6 60:4	129:9
27:8 31:3	<b>certain</b> 76:22	65:24	143:2 160:10
32:14	89:2	69:11	161:13
32:16	102:10	69:12	164:13
32:24 33:1	106:12	69:15 73:5	164:14
33:4 33:13	114:11	77:13	165:11
34:4 35:13	114:25	91:23	171:11 174:1
35:19 36:1	116:11	95:12 114:14	<b>changing</b> 45:9
36:6 40:10	120:10	127:21 143:3	56:25 58:8
47:22	122:16	144:16 147:6	73:2 116:6
52:14	123:15	148:21	143:4 147:20
52:15	150:24	154:12	<b>chart</b> 131:1
52:25 53:15			148:11
			<b>charts</b>

61:13	52:25	163:11	170:10
61:20 168:10	53:17	163:14 170:1	<b>child's</b> 33:19
<b>Chaves</b> 8:23	53:19	<b>child-raising</b>	80:11
<b>Chavez</b> 7:3	53:21	108:13	81:22 141:25
7:3	53:21	<b>child-rearing</b>	<b>chime</b> 140:6
<b>check</b> 39:15	57:17	21:3 21:13	<b>CHIP</b> 40:6
138:22	58:21	22:12 23:4	<b>choose</b> 60:23
139:17	59:21 62:2	23:11	<b>chunk</b> 9:15
152:12	63:6 67:21	23:19	<b>CIO</b> 59:3
<b>chewing</b> 66:7	70:24 71:8	24:20	<b>circle</b> 137:15
<b>chief</b> 6:12	71:13	24:22 77:7	<b>circumstance</b>
7:25 172:1	71:14	109:14	26:25
172:4	71:25	167:17	<b>circumstances</b>
<b>child</b> 3:2 3:3	72:12	<b>children</b>	18:12
4:20 5:1 5:4	72:18	12:10	18:21 89:4
5:6 5:13	72:22 76:4	12:12 15:6	91:8 92:21
5:14 5:16	76:16	20:24 23:8	144:8
5:23 5:24	77:10	23:8 23:21	<b>City</b> 8:20
6:2 6:7	79:13 83:3	23:22 24:8	<b>civil</b> 8:4
6:9 6:12	86:14 88:9	24:9 24:9	<b>claiming</b>
6:14 6:16	88:18	29:23	163:14
7:1 8:2 8:11	107:6	32:18	163:19
8:24 9:18	118:1	44:24	165:21
18:18	118:4 118:13	48:14 76:7	<b>clarification</b>
21:15	119:13	108:16	99:18 118:16
21:17	119:24 120:3	113:14 118:6	164:16
21:18	121:2 121:12	118:8 119:12	166:10
21:19	122:13	120:7 121:13	<b>clarification</b>
21:21 22:1	122:13	122:23	<b>s</b> 10:22
29:22	126:23 133:1	123:17	<b>clarify</b>
31:14	134:17 138:2	123:19	17:3 56:24
32:14	138:13	124:21	73:17
32:17	142:20	126:23	110:3
38:20	145:15	133:11	112:6 144:25
39:16	152:21	136:16 153:2	<b>clarifying</b>
44:23	152:22 153:6	156:10 157:9	20:14 30:1
47:11	157:13	157:9 157:13	37:19 147:25
48:13	157:20	160:14	
48:16	157:21	167:21	
49:20 51:5	158:14	167:22	
51:22	158:15	168:23 169:5	
	158:22 159:6		
	163:10		

<b>clarity</b> 76:19	75:21	67:14 68:3	172:11
<b>class</b> 107:4	75:23	<b>comments</b>	172:12
<b>clear</b> 17:1	75:24 106:15	66:19	174:10
40:8 61:12	106:17	69:19 79:1	<b>commissioned</b>
69:3 72:21	<b>combine</b> 65:17	85:10	25:2
104:14	<b>combined</b>	90:13	<b>commissioner</b>
145:20	16:25	97:10 104:19	8:5 8:9
161:13	26:11	135:6 158:7	85:11
161:17	48:15	<b>Commission</b>	<b>commissioners</b>
170:19	78:20 86:6	3:2 8:5	102:8
<b>clearer</b>	86:8 86:12	11:17 14:8	<b>Commission's</b>
103:21	97:21	14:16	14:23
<b>clearly</b> 80:6	97:24 98:6	15:15	<b>commit</b> 162:17
<b>client's</b>	107:24	16:22	<b>committed</b>
163:10	133:14	16:22	53:19 162:20
<b>climbs</b>	133:16	20:12	171:15
106:7 106:11	<b>comes</b> 90:2	20:15 37:8	<b>committee</b>
<b>close</b> 36:5	113:15	40:14	41:13 129:20
60:9 98:25	159:19	41:12	143:23
99:6 151:8	<b>comfort</b>	41:14	149:12 159:7
151:9 162:22	152:19	41:17	<b>common</b>
<b>closed</b>	<b>comfortable</b>	41:24 42:3	86:20 104:25
43:23 43:24	25:23 117:20	42:7 45:21	105:1
<b>closely</b> 47:22	160:6	49:4 67:15	<b>commonly</b>
78:7	<b>coming</b> 9:19	68:4 69:9	89:17 151:24
<b>closing</b> 9:18	45:11 53:9	70:23	<b>communities</b>
<b>clothing</b>	60:7 72:14	71:10 75:2	95:6
23:24 24:1	76:18	81:12 85:4	<b>community</b>
24:11	79:11	90:24	93:9 166:6
24:13 24:15	84:19 86:5	98:17 114:16	<b>compare</b>
<b>coin</b> 46:17	131:15 164:5	115:7	36:3 36:4
<b>collaborators</b>	<b>comment</b> 33:15	122:7 130:15	<b>comparing</b>
22:6	63:25 71:6	130:19	104:7
<b>color</b> 35:8	79:20 80:2	131:20 132:9	<b>comparisons</b>
<b>Colorado</b> 36:9	83:20	133:10	75:13 106:21
37:8 37:10	90:20	135:15	<b>compelling</b>
<b>column</b> 75:20	95:25	150:12	127:10
	132:1 159:15	151:13 152:4	<b>competing</b>
	173:9	157:1	
	<b>commentary</b>	157:7 159:23	
		161:25	
		166:18	

31:11	116:25 120:9	51:8 79:21	110:19
60:23 156:23	123:14	<b>confusion</b>	110:20
<b>complement</b>	<b>concepts</b>	61:16	171:11
55:2	70:17 160:13	<b>connecting</b>	<b>considering</b>
<b>completely</b>	<b>conceptually</b>	41:17	18:20
126:15	151:15	<b>cons</b> 90:14	67:12 111:24
<b>completion</b>	<b>concern</b> 50:19	128:5	<b>considers</b>
59:23	80:5	<b>consensus</b>	40:5 70:10
<b>complex</b> 42:16	126:16 128:4	80:4	<b>consistency</b>
122:10	146:6	<b>conservative</b>	51:3 89:19
<b>complexity</b>	<b>concerned</b>	107:12	<b>consistent</b>
120:4	18:19	<b>consider</b>	28:5 52:20
<b>compliance</b>	<b>concerns</b>	14:16	77:12 82:2
33:6 47:20	33:25	17:12 20:5	88:12 94:4
139:25 140:2	97:10	21:6 28:10	105:21 106:4
<b>compliant</b>	140:4 150:15	33:21	106:13 120:6
11:22 66:9	<b>conclusion</b>	40:14	120:6
72:25 164:25	115:16	67:22 68:4	121:8 170:3
<b>complicated</b>	<b>conclusions</b>	86:13 87:2	<b>consistently</b>
61:11 171:5	14:15	93:14 96:2	52:23
<b>complication</b>	<b>condition</b>	104:16	74:13 75:5
131:11	51:13	154:18	88:2 88:17
<b>compromise</b>	<b>conducted</b>	<b>consideration</b>	<b>constraints</b>
15:7 15:25	22:16	18:8 18:11	39:6 115:14
16:10	<b>conducts</b>	92:20	<b>construction</b>
48:20	110:12	95:12	94:21
56:12 64:5	<b>conference</b>	96:19 145:12	<b>consulting</b>
156:22 157:4	64:25	161:14	5:20
<b>compromises</b>	<b>conflict</b>	<b>consideration</b>	<b>consumer</b>
144:4	5:3 55:3	<b>s</b> 14:15	22:15 110:12
<b>computer</b> 73:6	171:23	<b>considered</b>	<b>contact</b> 11:25
100:17	<b>conform</b> 125:6	18:14	12:1 37:13
<b>concentrate</b>	<b>conforms</b>	23:15	54:10
98:6	107:14	24:23 29:3	<b>contents</b> 12:3
<b>concentrates</b>	<b>confuse</b>	29:3 29:4	<b>context</b> 45:16
98:4	147:18	51:14	53:9 66:1
<b>concept</b> 55:20	<b>confusing</b>	51:19	71:24
69:7 88:25		53:11	74:25 79:7
		67:15 96:1	<b>continue</b>
		110:17	

66:18	<b>corresponding</b>	133:2 152:13	<b>coverage</b>
90:16 108:19	163:5	162:21	17:14 40:3
<b>continued</b>	<b>cost</b> 12:9	162:24	40:5 40:6
12:16	12:12	<b>course</b> 9:12	<b>covered</b> 42:17
<b>continuing</b>	20:24	14:18	66:17 138:25
67:2 164:3	23:12 24:2	38:12	171:7
<b>contribute</b>	77:7 77:10	40:19	<b>covers</b> 9:7
47:25 152:2	108:13	41:22 62:7	<b>CP</b> 80:10
<b>convene</b> 3:8	108:16	91:8	81:20 90:5
<b>convenient</b>	113:13 118:7	103:10 111:8	91:5
174:9	122:22	<b>court</b> 4:25	105:20
<b>converge</b>	123:19	5:22 27:7	106:22
113:20	126:22 138:2	49:17	126:14
<b>conversation</b>	167:23	50:13	<b>CP's</b> 117:11
40:12 57:8	170:10	50:17	141:9
158:24	<b>costing</b>	53:16	<b>craft</b> 38:12
<b>convert</b> 104:8	112:16	53:20	<b>create</b> 52:7
<b>convince</b>	<b>costs</b> 15:6	53:22	52:8
88:21	21:10	73:23	119:25 142:3
<b>convinced</b>	21:17	74:13	<b>creating</b>
127:4 127:6	22:12	80:24	120:5
<b>cool</b> 61:25	29:19	82:15	<b>credible</b> 25:6
<b>copy</b> 11:6	29:21 62:1	86:13 134:20	25:6 25:10
80:19	64:10 109:14	134:20	44:12
<b>corner</b> 6:20	121:2 168:23	142:25	<b>criminal</b>
<b>correct</b> 26:17	169:4	143:20	8:3 93:5
36:12	<b>Counsel</b> 172:2	147:10 156:8	<b>crisis</b> 110:22
68:15 77:4	<b>Counties</b> 7:15	157:24	110:22
106:10	8:23	158:18 172:2	<b>criteria</b>
108:15 115:2	<b>county</b> 7:2	<b>courtroom</b>	93:17
129:13	7:13 8:23	75:3	148:7 148:8
130:10	95:9 156:20	<b>courts</b> 134:15	<b>critical</b>
130:24	<b>couple</b> 17:5	<b>Court's</b>	162:3
<b>corrected</b>	23:1 43:10	146:17	162:3 171:13
36:12	45:17	<b>cover</b> 17:1	<b>cross</b> 125:8
<b>correctly</b>	75:15	45:19	<b>crossed</b>
125:9 170:1	76:20	95:18 162:25	108:19
	94:25 104:21	165:12	<b>crosses</b> 124:9
	104:22 110:2	170:25	
	114:6	171:16	

124:24 125:5	<b>curves</b> 79:3	12:15	161:8 169:4
<b>crossing</b>	113:3	12:17	<b>date</b> 59:23
124:13	<b>custodial</b>	12:19	171:21
<b>Cruces</b> 7:23	30:9 31:7	12:21 13:1	172:11
8:18 30:22	31:13	13:2 13:3	<b>dates</b> 41:13
46:8 60:15	36:18	14:1 15:5	103:24
61:8 67:6	67:17	15:7 15:18	<b>David</b> 3:17
84:25 96:4	67:21	15:20 16:3	21:3
96:6 97:1	67:25	16:8 20:6	<b>day</b> 172:9
130:14 147:5	69:10	20:7 20:23	<b>days</b> 75:15
<b>crux</b> 90:9	69:20	22:2 22:14	89:8
<b>crystal</b> 59:16	70:10 85:5	22:14	<b>deadline</b>
<b>CS</b> 7:19	85:8 85:15	22:22	172:16
7:21 54:3	88:22	26:10	<b>deal</b> 5:3
59:4 69:9	89:25	31:25 32:1	5:3 13:6
<b>CSLA</b> 7:11	92:22	32:4 32:9	57:1 69:24
<b>curious</b> 46:25	105:2	34:15	139:5
<b>current</b>	105:4 126:20	34:20	<b>dealing</b> 88:20
22:9 25:18	130:21	34:24	137:3 144:11
44:19	139:19 142:1	35:20	159:8
44:20	143:12	41:23	<b>dealt</b> 51:12
44:23 72:3	146:21	44:20	<b>dear</b> 13:19
79:12	161:19	46:25 47:4	<b>debate</b> 47:18
113:8	163:14	47:21 48:7	<b>debating</b>
125:3 125:21	163:19	51:18 72:4	37:10
130:11	<b>cutting</b> 140:9	78:8 78:18	<b>debrief</b>
<b>currently</b> 8:3	<hr/>	82:23	171:13
27:20	D	86:21	<b>debt</b> 31:5
<b>curve</b> 77:13	<b>Dakota</b>	91:19 92:6	<b>decade</b> 98:17
108:9 108:14	28:22 29:5	94:18 96:5	<b>December</b>
108:23	30:5 34:21	106:9 108:13	12:21
112:11	38:6 38:9	109:19	16:16 172:19
122:22	38:15 39:4	111:18	172:21
122:25 123:1	39:9 166:4	113:12 121:8	172:22
123:1	<b>Dame</b> 21:4	123:18	<b>decide</b>
124:6 124:13	22:5	127:14	151:1 160:22
136:3	<b>darn</b> 106:23	127:15	<b>decided</b>
136:4	<b>dash</b> 149:13	127:16 136:8	
170:4 170:12	149:13	138:4 138:16	
	149:14	145:23	
	<b>data</b> 12:11	151:20	
		151:22 152:7	

108:25	154:12 171:9	162:9 169:24	60:25 83:3
130:19	<b>defining</b>	<b>describes</b>	84:11
<b>decides</b>	133:25	162:6	84:12
143:23	<b>definitely</b>	<b>deserving</b>	85:14 89:3
164:11	10:1 69:8	19:15	97:1
<b>decision</b> 9:19	71:6	<b>desirable</b>	102:11
27:17	142:21	59:9	113:12 125:7
45:11	162:22	<b>detail</b>	143:21
53:17	<b>definition</b>	14:10	143:25 144:3
53:17	41:3	14:11 69:4	<b>deviated</b>
56:20	103:11	76:15 97:3	12:18
66:15	109:22	101:9	<b>deviates</b>
71:11 82:7	110:13 111:5	137:6 138:21	136:1 148:7
83:12 127:12	161:5 161:9	160:1 160:19	<b>deviation</b>
138:19 155:9	<b>delayed</b> 60:5	<b>detailed</b>	33:24 113:19
169:13	<b>delve</b> 30:24	14:17 91:18	144:8 145:12
<b>decisions</b>	<b>DeMartino</b>	<b>details</b>	<b>diapers</b>
14:24 42:2	7:19	26:3	118:24
54:2	<b>Deming</b> 95:7	115:25	<b>differ</b> 44:20
<b>decrease</b>	<b>Department</b>	144:18 171:9	<b>difference</b>
129:10	3:4 4:19 5:6	<b>determination</b>	16:14
<b>decreases</b>	23:3 25:3	85:18	21:19 23:5
112:4 112:8	34:25 153:24	<b>determine</b>	23:9 39:23
<b>deduction</b>	<b>dependent</b>	80:25	<b>differences</b>
163:11	117:4 163:15	<b>determined</b>	25:15 109:10
<b>deemed</b> 23:11	<b>depending</b>	50:15 133:12	<b>different</b>
<b>default</b>	26:2 172:4	160:7	21:18 22:4
34:5 74:1	<b>depends</b> 29:12	<b>determines</b>	27:4 33:20
74:4 74:5	128:25	153:25	48:23
<b>defect</b> 141:13	<b>deputy</b> 4:17	<b>determining</b>	52:21
141:18	5:7 6:2	88:25 162:1	52:21
<b>deferring</b>	6:8 164:18	<b>develop</b> 15:17	60:19 66:7
136:21	<b>derivatives</b>	<b>developed</b>	74:5 76:12
<b>define</b> 96:9	23:17 24:5	15:20 16:3	76:25
96:10	<b>described</b>	20:25 22:3	78:18
96:16 109:21	57:24 89:9	26:9 37:11	78:22 79:2
156:1	97:25 120:1	102:25 111:4	79:5 79:6
162:1 164:19		<b>deviate</b> 32:20	80:9 84:19
<b>defined</b>			90:13 94:1
			96:23



96:24 104:23 110:13 111:4 113:1 114:10 143:5 <b>differential</b> 119:25 <b>differently</b> 173:13 <b>differing</b> 124:21 <b>difficult</b> 94:3 94:9 <b>difficulties</b> 64:23 65:6 67:7 <b>difficulty</b> 58:6 <b>digest</b> 29:15 <b>digesting</b> 31:16 <b>digging</b> 26:3 <b>diligence</b> 17:17 <b>direct</b> 115:7 <b>direction</b> 114:6 138:20 150:13 <b>director</b> 4:19 5:8 5:24 6:2 6:8 7:2 7:14 8:23 50:6 164:18 <b>directors</b> 156:20 <b>discourage</b> 120:8 <b>discourages</b>	46:13 <b>discretion</b> 92:22 132:23 132:25 133:16 134:6 143:21 146:18 147:10 156:4 156:7 157:23 158:18 <b>discuss</b> 164:3 171:16 <b>discussed</b> 44:5 58:15 67:6 75:24 154:7 <b>discussing</b> 9:14 31:22 46:6 99:1 99:2 <b>discussion</b> 9:16 10:9 10:21 27:9 31:21 39:8 42:19 43:22 45:4 45:8 45:14 45:18 45:20 45:23 47:10 47:13 47:24 65:20 66:16 66:21 67:2 68:7 70:25 71:7 75:17 77:22 78:13 88:17 101:21	102:5 102:15 104:19 105:12 114:4 114:8 115:13 115:18 124:4 128:7 130:16 139:1 139:3 139:14 152:19 155:11 159:14 162:3 174:16 <b>discussions</b> 42:13 47:17 59:12 164:3 <b>disparities</b> 21:11 <b>disparity</b> 62:17 <b>disposable</b> 109:6 <b>disservice</b> 67:25 <b>distinction</b> 49:1 49:7 53:14 145:6 <b>District</b> 4:25 5:22 8:1 135:10 <b>districts</b> 52:22 <b>divided</b> 87:24 89:24 <b>division</b> 3:3 5:7 5:17 5:25 6:3 6:14 47:12 51:23 52:8	52:19 71:16 84:18 165:10 <b>docket</b> 8:4 <b>documents</b> 68:17 <b>dollar</b> 21:9 85:3 118:13 <b>dollars</b> 22:21 78:20 78:21 85:3 119:20 121:10 150:25 160:14 <b>domestic</b> 8:2 <b>done</b> 8:2 14:9 14:23 17:16 17:21 23:2 25:2 28:18 31:23 32:11 37:18 39:21 40:23 48:19 52:3 52:3 52:13 53:1 53:7 56:6 70:21 98:3 134:11 149:10 156:21 165:8 <b>door</b> 43:16 <b>dots</b> 22:25 113:19 <b>dotted</b> 22:25 124:21 124:23
---	--	---	--

135:25	95:25 98:1	136:23 138:1	<b>dynamics</b>
<b>doubling</b>	98:21	138:7 138:11	51:11
106:25	98:23	138:17	57:23 76:25
<b>Dr</b> 5:18	99:21 100:10	139:15 149:9	<hr/>
5:18 8:6	100:13	151:19 152:5	E
9:13 10:18	100:15	152:5	<b>earlier</b> 25:24
10:18	100:21	152:7	46:9 55:18
10:25 11:1	100:23 101:6	152:9 152:14	60:16
15:16	101:11	154:16	65:11
20:20	101:14	154:25 155:3	92:10 109:17
25:12 30:3	101:19	155:8 155:18	116:10
30:12	102:18	156:17 157:6	125:24 146:2
30:19	102:19	157:14 160:4	<b>early</b> 169:17
31:17 42:8	106:10	160:7	<b>earn</b> 99:9
42:14	108:14 109:3	161:7 165:22	144:21
43:23	109:16	165:24	<b>earning</b>
46:10 48:9	112:12	166:16 167:1	93:3 93:9
49:9 49:14	114:13	167:12 168:7	<b>earnings</b>
49:23	114:23	168:16	17:13
54:15	114:25 115:6	168:20	18:25
54:18	116:8 116:21	169:10	34:18
54:21 55:6	116:25	169:14	73:21 74:7
56:8 58:4	117:13	169:16	74:7
59:13	118:17	169:23 170:6	<b>earns</b> 30:8
59:24	118:19	170:14	30:9
61:17	119:22	170:23	<b>ears</b> 159:10
62:23	120:13	171:17	<b>ease</b> 40:8
63:22	120:19 121:5	172:16	<b>easier</b>
68:15 70:6	121:15	173:14	94:11 153:23
70:7 72:7	121:18	173:23	<b>easiest</b>
73:14	121:20	<b>draft</b> 70:18	143:22
73:16	121:23	<b>drag</b> 82:14	<b>easily</b> 104:8
75:11	121:25 122:3	<b>draw</b> 48:25	<b>easy</b> 52:11
75:18	122:6	49:7	104:10
76:23	128:9 128:11	<b>drive</b> 100:17	<b>easy-to-</b>
79:11 82:4	128:13	<b>due</b> 17:16	<b>read</b> 24:18
82:21	128:25	<b>Duly</b> 61:14	<b>eat</b> 43:8
83:18	130:24 131:8	<b>during</b> 169:20	<b>eating</b> 66:23
83:21	131:10 132:8	<b>dynamic</b> 137:3	
86:21 88:3	132:21 133:4	143:8	
90:3 92:8	133:8 134:10		
92:9 93:21	134:24		
	136:21		

<b>economic</b> 12:11 13:1 13:25 15:5 15:18 15:20 17:20 17:21 17:25 20:23 23:16 26:10 44:19 51:18 77:6 78:8 91:19 106:9 108:13 109:19 110:22 119:3 120:25 121:8 123:18 136:8	<b>effect</b> 110:7 146:18 <b>effective</b> 60:3 <b>effectively</b> 167:5 <b>effort</b> 32:4 90:4 <b>efforts</b> 51:25 <b>either</b> 54:12 56:5 60:25 67:13 68:2 79:24 88:20 145:8 159:11 163:9 163:22 <b>element</b> 65:23 <b>eleven</b> 149:13 <b>else</b> 34:12 97:8 123:4 150:6 174:17 <b>e-mail</b> 57:7 <b>embarrassment</b> 82:14 <b>employ</b> 97:17 <b>employees</b> 94:20 <b>employer</b> 93:7 <b>employing</b> 51:20 72:20 72:20 <b>employment</b> 51:14 91:19 93:3 93:5 94:12 94:14 95:8 96:5 97:5	97:7 97:7 161:6 <b>encounter</b> 131:24 <b>encourage</b> 32:19 46:18 47:6 57:11 66:16 77:22 <b>encouragement</b> 173:20 <b>enforcement</b> 3:3 4:20 5:7 5:17 6:3 6:14 7:2 47:12 51:6 51:22 53:15 54:1 54:3 58:22 70:24 74:15 <b>Engel</b> 24:2 24:7 <b>enjoyed</b> 133:1 <b>ensuring</b> 67:23 78:3 <b>entered</b> 49:3 <b>enterprise-</b> <b>wide</b> 59:19 <b>entertain</b> 69:8 174:7 <b>entertainment</b> 111:7 <b>entire</b> 40:14 <b>envelope</b> 101:24 <b>environment</b> 83:24 84:9 <b>envision</b>	164:4 <b>equal</b> 109:24 <b>equality</b> 39:23 <b>equally</b> 23:9 23:22 23:23 <b>equipped</b> 169:2 <b>equitable</b> 86:13 <b>equities</b> 144:1 <b>equity</b> 67:19 <b>error</b> 119:20 <b>essentially</b> 13:7 28:12 40:16 56:19 129:24 <b>established</b> 15:25 49:2 53:18 <b>establishing</b> 19:20 <b>establishment</b> 53:15 54:1 74:14 <b>estimate</b> 23:3 26:14 26:15 108:16 <b>estimated</b> 26:20 34:8 59:23 <b>estimates</b> 25:15 26:4 <b>estimation</b> 97:6
<b>economics</b> 13:24 25:13 <b>economies</b> 121:3 <b>economist</b> 5:19 8:7 15:11 21:4 25:18 82:9 <b>economists</b> 22:3 24:5 24:12 109:21 110:24 111:4 <b>economist's</b> 110:15 <b>Economists</b> 22:1 <b>Eddy</b> 8:23 <b>Edin</b> 118:20 <b>educational</b> 36:1 93:4			

<b>Evaluation</b>	81:19	35:12	94:7
25:4	81:25 106:21	36:11	<b>expenditure</b>
<b>eventually</b>	107:5 109:18	36:15 38:2	22:15
29:18	122:2	39:19 140:25	24:23 110:12
<b>everybody</b>	<b>examples</b> 38:5	<b>existed</b> 17:8	110:17
11:5 14:20	72:8 80:7	<b>existence</b>	110:19 111:9
19:1 19:17	90:17 104:21	68:22	<b>expenditures</b>
26:22 32:3	104:22 106:2	<b>existing</b>	21:3 21:13
37:21 173:15	106:5 106:20	22:24 26:5	22:2 22:3
<b>everybody's</b>	106:23	26:18	23:4 23:10
122:9	106:24 107:3	26:19	23:12
<b>everyone</b> 42:9	<b>exceed</b> 131:24	36:20	23:19
50:5 65:4	<b>exceeded</b>	69:25	23:23
69:8 128:8	125:2	75:21	24:17
<b>everyone's</b>	<b>exceeds</b>	76:13	24:20
173:5	133:15	80:21	26:15
<b>everything</b>	133:17	81:16 106:14	29:23 110:14
26:12	<b>Excel</b> 142:5	106:14	110:15
39:10 85:3	142:6	106:16	110:25
154:5 160:24	<b>excellent</b>	106:24	167:18
<b>evidence</b>	31:18	107:16	<b>expense</b> 120:3
28:13	41:19	108:18 124:9	<b>expenses</b>
28:14 45:1	101:5 152:23	124:10	21:15
79:15 82:8	152:23	124:11	21:15
83:9 119:4	<b>except</b>	124:23 125:2	21:20 24:21
120:25	21:17 26:6	125:4	<b>experience</b>
<b>evils</b> 60:21	123:22	125:6 125:21	84:4
<b>evolve</b> 91:17	128:21	125:21	<b>experienced</b>
<b>evolved</b> 59:8	<b>exception</b>	128:21	133:2
<b>exactly</b> 31:23	44:10	135:24 136:5	<b>expert</b> 71:9
51:2 70:8	<b>excerpt</b> 15:4	136:10	72:19
96:22	<b>exciting</b>	148:22	<b>experts</b> 47:11
98:20	59:20	166:11	<b>explain</b> 77:19
107:7 107:23	<b>executive's</b>	<b>exists</b> 16:7	125:9
140:18	50:22	16:19	168:7 168:9
148:12 155:2	<b>exercise</b>	<b>expand</b> 16:25	<b>explained</b>
<b>exaggerate</b>	97:16	<b>expanded</b>	125:10
95:16	<b>Exhibit</b>	12:19 129:22	151:15
<b>example</b> 38:25	15:3 19:24	<b>expect</b> 94:11	<b>explaining</b>
		<b>expecting</b>	

163:22	<b>extenuating</b>	57:16	11:8 11:11
<b>explanation</b>	91:7	66:20 106:4	11:13 12:6
144:2	<b>extra</b> 61:9	<b>fairness</b>	12:10
144:5	159:6	71:20	12:20
163:7 163:16	<b>extraordinary</b>	<b>fall</b> 64:6	12:24 13:1
<b>explicit</b> 16:9	39:16	<b>falls</b> 53:6	13:7 16:10
16:17	<b>extrapolate</b>	<b>families</b>	16:11
16:18	134:10	25:25 26:1	16:15 17:7
40:21	<b>extrapolation</b>	28:14	17:8 17:17
49:24	26:12	28:15	18:4 18:18
65:22	26:16 134:21	32:15	25:3 27:19
67:11	<b>Extrapolation</b>	109:8 109:23	28:3 32:23
67:14	<b>s</b> 26:13	<b>family</b> 4:25	33:12 34:1
67:18		5:23 61:5	34:16 38:7
68:14 103:15		86:12 110:5	39:19 40:8
103:16	<hr/> F <hr/>	<b>fan</b> 60:22	40:22
<b>explicitly</b>	<b>face</b> 126:14	<b>farm</b> 93:2	40:25 41:9
13:14 104:11	127:5 173:1	<b>farming</b> 35:6	41:21
130:16	<b>facing</b> 31:5	<b>Farmington</b>	43:13
<b>explore</b> 58:11	<b>fact</b> 48:5	7:12 7:14	51:12 52:1
<b>exploring</b>	71:17	<b>farther</b> 78:5	52:5 53:5
59:3 120:9	93:15	<b>fastest</b>	54:9 57:10
<b>expressed</b>	134:7 141:16	173:16	57:11
150:15	143:20	<b>fathers</b>	58:14
<b>extend</b> 166:9	<b>factor</b> 28:8	118:22	65:23
<b>extended</b>	28:9 28:10	<b>favor</b> 10:11	65:24 66:9
130:20	109:3 109:13	174:18	72:25
130:22	163:13	<b>favoring</b>	91:17
<b>extending</b>	<b>factors</b> 18:13	140:14	91:22
151:5	86:13 87:2	<b>favorite</b>	96:21
<b>extends</b> 76:24	92:23	61:17	98:24 101:10
<b>extension</b>	93:10	<b>Fe</b> 65:8 96:25	101:11
78:10	97:22 171:6	<b>feasibility</b>	101:15
<b>extensive</b>	<b>facts</b> 24:6	73:9	101:22
69:24	<b>failed</b>	<b>feasible</b>	101:24
<b>extensively</b>	50:22 65:11	39:10	102:19
25:21	<b>fair</b> 129:25	<b>federal</b>	102:21 103:3
<b>extent</b> 92:23	150:18		103:6
	<b>fairly</b>		103:9 103:11
			103:14
			103:18
			103:21 104:1
			104:17

128:19	44:22	46:4 63:4	132:22 134:2
153:14	<b>figure</b>	66:17 76:3	137:6
153:16	63:12	80:10 82:5	<b>focus</b> 12:5
153:18	146:6 146:21	83:5 98:8	79:17
153:25 154:2	<b>figured</b>	104:20	79:18 115:25
154:3	128:18	104:22	<b>focused</b> 116:4
154:5	<b>file</b> 12:15	105:19	<b>focusing</b>
154:9 154:16	12:17 13:2	106:14	108:21
164:13	31:25	106:17	<b>folks</b> 3:15
164:25	<b>fill</b> 20:23	109:18	6:16 9:2
165:15	<b>final</b> 29:16	110:10 118:1	43:2 43:2
<b>federally</b>	40:1 42:4	126:11	45:20
163:3	42:9	148:19	65:13 66:1
<b>feeble</b> 77:18	<b>finally</b> 41:24	157:20	66:2 66:22
<b>feed</b> 31:14	<b>financed</b>	158:14	70:23 71:5
118:9	111:8	161:24	78:1 78:15
<b>feel</b> 14:8	<b>financial</b>	<b>five</b> 12:4	80:15 86:2
86:15 102:16	69:17	35:25	97:10 98:5
113:10	<b>financing's</b>	37:18	98:10
160:17	59:22	48:23 76:7	99:16 112:16
167:13 168:3	<b>finding</b> 44:11	158:21	159:25
173:13	91:21 130:21	158:23	160:17
<b>feeling</b> 140:8	152:11	<b>fix</b> 32:7	<b>follow-up</b>
<b>feels</b> 152:4	<b>findings</b>	135:16	83:19
<b>felony</b> 53:19	12:14 44:1	142:20 149:6	<b>food</b> 24:3
<b>felt</b> 112:6	44:3 77:25	<b>fixes</b> 150:6	24:7 24:8
136:6 160:6	<b>finds</b> 23:5	163:6	24:10
<b>FICA</b> 103:25	<b>fine</b> 63:10	<b>flash</b> 100:17	24:17 66:24
<b>fidgety</b> 14:5	66:23	<b>flatten</b>	<b>footnote</b>
<b>field</b> 6:3	66:25 112:13	108:20	24:19
6:17 9:3	<b>finish</b> 162:18	124:11	<b>force</b> 14:22
11:6 43:3	<b>fired</b> 19:14	<b>flattens</b>	63:18
47:23	<b>first</b> 3:14	108:10	<b>forced</b> 110:6
52:14	4:16 4:24	<b>flip</b> 21:24	<b>forcing</b> 14:23
52:21	11:24 12:4	27:23	169:6
65:15	18:6 19:14	27:23	<b>forego</b> 173:11
65:16 71:6	22:10	46:16 52:11	<b>forget</b> 117:2
158:6 159:15	28:23 39:1	<b>flipping</b> 14:1	<b>forgot</b> 34:2
<b>fifth</b> 44:4		34:19 113:6	42:22
		<b>floor</b>	

73:20 120:22	159:10	<b>gather</b> 46:25	149:7
<b>form</b> 90:25	<b>Friday</b> 3:5	<b>geared</b> 67:1	<b>government</b>
160:9 160:16	172:6	<b>Gee</b> 127:20	12:20 103:4
164:6	<b>front</b> 11:6	<b>general</b>	<b>Governor</b>
165:1 165:1	11:19 48:7	25:9 33:6	50:10
<b>formal</b> 9:24	52:15 127:22	42:19	<b>grab</b> 43:6
157:2	164:22	71:12	45:25
<b>formally</b>	<b>fronts</b> 137:17	142:2 171:8	<b>gradually</b>
122:13	<b>frustration</b>	<b>generally</b>	106:7
<b>formula</b>	135:12	26:6	<b>graduates</b>
119:10 131:1	<b>fulfill</b> 40:23	<b>Georgia</b> 38:9	36:3
131:4	<b>full</b> 91:12	<b>Gerard</b> 3:21	<b>graduation</b>
131:7 131:12	94:7 142:3	<b>gets</b> 34:19	118:4
138:6 142:14	<b>full-time</b>	37:21	<b>granular</b>
<b>formulas</b>	18:17	71:14	91:18 92:6
122:18	18:25 19:5	91:24 92:1	<b>graph</b> 113:2
<b>formulate</b>	19:16	97:5	<b>graphically</b>
160:24 165:7	34:10	106:12 125:6	78:23 78:23
171:2	34:17	<b>getting</b> 54:24	<b>graphs</b>
<b>forth</b> 20:8	36:17	56:5 65:8	78:17 112:25
22:7 24:17	73:21 74:6	83:6 150:5	113:2 113:18
41:14 84:6	74:16	160:15	124:14
115:14	94:12	<b>gist</b> 52:4	124:20
<b>fortunately</b>	94:13 96:5	<b>given</b> 63:8	135:23
85:1	96:8	<b>gives</b> 18:4	<b>great</b> 9:7
<b>forty</b>	<b>funding</b> 11:21	37:15 92:7	42:15 45:8
149:13	19:22	112:15	59:2
149:15	<b>furious</b> 82:14	159:18	118:15 126:7
<b>forward</b> 66:13	<b>future</b>	<b>glad</b> 8:6 15:8	172:13
71:2	41:23	90:11	<b>greatly</b> 12:19
115:23	73:10	<b>gleaned</b> 57:21	153:9
138:20	82:22 162:18	<b>goal</b> 102:15	<b>grocery</b>
<b>fourth</b> 44:4		<b>gone</b> 18:20	165:25
44:18 110:10		126:6	<b>gross</b> 48:12
<b>free</b> 14:8	<b>gaining</b>	<b>goods</b> 23:23	103:7
<b>frequently</b>	137:20	23:24	103:9 103:15
163:8	<b>Gallegos</b> 3:18	<b>gotcha</b> 121:22	103:20
<b>fresh</b> 76:18	<b>Gallup</b> 7:14		107:24

107:25	168:16	25:7 27:19	131:4 133:10
109:25	<b>guesstimate</b>	38:2 40:8	134:14
133:14	87:12	42:19	135:25
133:16	<b>guestimate</b>	43:12	142:11 146:8
<b>grossed</b> 103:2	101:16	43:22	147:22 148:5
<b>ground</b>	<b>guidance</b>	44:11	150:17 151:3
83:14 171:7	133:7	44:14	154:10
<b>group</b> 53:2	161:5 168:20	44:15 45:9	154:19
66:10 102:14	<b>guide</b> 11:4	45:12	163:13 164:7
115:22	11:15 52:19	49:11	164:8 165:15
123:13	<b>guideline</b>	49:12	174:1
156:15 160:6	19:19 68:3	49:25 50:2	<b>guts</b> 43:11
162:8	69:16	50:4 54:16	
164:6 164:11	71:12	56:23	<hr/> H <hr/>
166:21	74:14	56:25 58:2	<b>half</b> 38:22
171:12 174:8	79:22	59:7 63:7	67:1 89:12
<b>grouping</b>	80:21	66:12	89:13
104:24	87:21	67:11	89:24
<b>grow</b> 108:19	125:1	67:14	89:24 139:19
114:12	129:4	68:10	140:9
119:14	136:1 140:12	68:11	<b>halfway</b>
119:15	145:3	69:12 70:4	16:1 43:16
120:17	145:7 145:13	73:22	<b>hall</b> 43:15
123:15	145:19	75:21	43:17
139:12	147:24 148:3	77:20 78:1	<b>hand</b> 35:21
<b>growing</b>	148:10 149:6	78:9 79:7	<b>handles</b> 5:1
122:17	154:13	79:10	<b>happen</b>
<b>grows</b> 77:17	161:13	88:10	86:19 100:19
<b>growth</b>	163:18	88:12	109:1
77:16	<b>guidelines</b>	92:17	110:2 142:22
108:4	3:2 5:20	97:15	164:14
108:6	9:17 9:18	103:6	<b>happened</b> 60:4
108:7	9:20 12:7	103:9 103:19	129:19
116:6 120:6	12:18	103:21	<b>happens</b>
<b>guess</b> 26:13	13:25	108:18	26:7 50:12
26:14 61:7	15:11	112:19	76:19 122:15
79:9 90:20	17:10	112:20 113:9	150:17 151:4
107:4 117:19	17:11	115:20 119:1	<b>happy</b>
125:15	17:18 18:7	125:7 128:21	114:18 115:6
149:11	19:25 20:6	129:5 129:13	
	21:12 22:9	129:15 130:5	
		130:8 130:12	



138:7	150:8 156:20	78:25 104:15	115:5 131:13
<b>hard</b> 59:22	158:7 169:6	104:16	131:17
60:11	<b>heard</b> 17:25	112:11	135:21 160:2
80:18	60:16	112:22 113:4	166:22
88:18	82:10 128:14	124:14	<b>high-dollar</b>
88:21	135:22 136:6	133:18	135:11
97:22 119:17	<b>hearing</b> 5:1	133:24 135:1	<b>higher</b> 26:7
168:24 173:5	5:21 10:8	135:3	26:8 26:19
<b>harder</b>	10:11 27:9	<b>helping</b> 15:9	26:25 27:4
17:23 69:23	42:21	<b>helps</b> 53:8	35:8 36:19
<b>hat</b> 128:13	52:15	<b>Here's</b> 89:6	47:20
<b>hate</b> 24:12	57:23 62:8	<b>heroic</b> 32:4	71:18
<b>haven't</b> 37:12	70:12 84:1	<b>hers</b> 125:22	84:10
65:14	84:11	<b>he's</b> 3:25	96:25 98:2
126:5 164:17	84:17	20:15 22:6	118:13
<b>having</b> 9:16	88:24	25:13 116:16	119:11
58:12	97:18	121:7	124:10 129:5
60:17	102:8 111:16	<b>Heyeck</b> 8:10	129:15
60:22	115:1 137:11	8:10 94:25	129:16
65:19 71:1	143:25	95:4 95:4	131:12
95:9 102:9	144:17	95:6	137:12
102:11	144:23 148:7	123:21 147:4	137:13
114:10	150:7	157:16 158:3	137:13 139:1
139:10	159:2 162:20	158:10	139:8
<b>head</b> 44:9	163:4 164:15	158:10	<b>highest</b>
46:16	<b>heart</b> 13:19	158:13	17:3 25:5
87:13 125:23	<b>heartburn</b>	158:17	37:6 86:24
132:11 168:5	107:2	158:23 159:1	95:10
<b>heads</b> 162:15	108:3 126:10	<b>Hi</b> 7:18	109:5 132:22
<b>health</b> 25:3	<b>heavy</b> 24:8	65:4 90:23	133:12
93:5	52:11	<b>hid</b> 104:9	<b>high-income</b>
<b>healthcare</b>	58:20 59:5	104:9	111:19
17:14 40:3	<b>Hello</b> 84:24	<b>high</b> 26:18	131:20
40:5 41:3	95:21	36:2 36:3	170:17
<b>hear</b> 7:6 8:14	<b>help</b> 14:19	44:21	<b>highlight</b>
42:6 66:10	40:17 42:2	44:24 78:6	14:14
71:7 78:15	42:25 43:7	79:14 83:1	34:21
84:16	77:5 79:6	85:23 89:5	39:19 40:1
84:23 135:21	91:17 123:11	106:23 115:4	40:2
	<b>helpful</b> 78:24		<b>highlighted</b>

68:16	94:22	25:3 153:24	120:8
<b>highly</b> 151:13	<b>hounds</b> 24:13	<b>hundreds</b>	139:8 150:23
<b>hindsight</b>	<b>hour</b> 34:13	22:20	174:8
39:1 58:5	37:6 67:1	<b>hurry</b> 31:21	<b>ideal</b> 115:24
<b>hire</b> 93:8	115:15	163:25	<b>ideas</b> 116:3
<b>hired</b> 19:13	<b>hours</b> 19:2	<b>hypothetical</b>	<b>iii</b> 92:12
<b>hiring</b> 11:9	19:4 19:5	121:12 122:2	<b>I'll</b> 4:16
<b>history</b>	34:8 34:13	<b>hypotheticall</b>	10:5 10:7
50:5 91:21	34:24 35:1	<b>y</b> 121:10	19:13 27:8
93:3	35:2 43:10	<b>hypotheticals</b>	42:24 46:7
<b>hit</b> 17:20	45:17 92:4	104:24	54:25
17:22	94:16		65:18
73:16 110:22	94:19	<hr/>	66:21 69:7
129:15 170:3	94:20	I	75:17
<b>hits</b> 29:6	94:23	<b>I'd</b> 9:15 9:21	83:22
124:8	96:11	10:18	98:24
<b>Hobbs</b> 6:19	96:14	43:21	98:25 100:16
6:22 6:23	96:17 97:4	45:24 46:9	159:9
6:24 7:2 7:4	99:7 99:10	47:6 60:23	163:1
<b>hodgepodge</b>	161:7 166:5	68:23 71:6	169:1
16:7	<b>House</b> 50:9	73:7 78:15	169:1
<b>Hold</b> 156:16	<b>households</b>	84:22 114:18	169:3 170:15
<b>hole</b> 31:7	22:19 23:6	115:6 135:21	170:18
<b>homeless</b>	23:7 23:11	138:3	170:23
18:22 93:22	23:21	138:7 141:22	174:15
<b>honestly</b>	<b>housekeeping</b>	141:24	<b>Illinois</b> 57:1
72:21	42:22 43:1	149:24 150:7	60:1
<b>hope</b> 11:5	43:14	150:8 151:11	<b>I'm</b> 4:19 5:13
30:19	43:19 65:10	151:19	5:15 5:18
<b>hopefully</b>	<b>housing</b> 24:17	174:11	5:18 5:19
9:19 45:10	24:21	<b>idea</b> 38:18	5:21 6:1 6:2
159:25	24:21 110:16	47:15	7:6 7:19
<b>hoping</b> 14:9	110:22	60:17	7:20 7:24
44:7	<b>HSD</b> 58:19	66:11	7:25 8:3 8:6
156:12	<b>huge</b> 31:5	67:11	11:2 11:16
171:17	49:5 56:25	85:19	12:4 12:22
<b>hospitality</b>	56:25 125:19	85:22	14:8 14:8
	<b>Human</b> 3:4	89:15	14:23 15:8
	4:18 5:6	89:18 97:9	16:21 17:6
		99:8 114:1	18:9 20:10
		114:2 119:7	20:17

21:23	90:24	170:16	<b>impossible</b>
25:11	90:25	170:17 171:4	22:17
25:23 26:2	91:11 100:15	171:17 172:5	<b>impoverished</b>
29:25	101:6	172:5	26:1
30:23	102:8 102:13	<b>immediate</b>	<b>impression</b>
31:16	108:15 112:5	171:1	45:2
31:16	114:15 115:2	<b>immediately</b>	<b>improved</b>
31:18	115:9 118:11	39:10	111:13
31:21	119:9 121:17	<b>impact</b>	<b>imputation</b>
32:11	123:10	69:17 104:16	13:6 13:9
32:19	124:13 127:3	<b>implement</b>	13:11
33:11	127:24	87:9	18:11
34:19	129:13	<b>implementatio</b>	18:17 20:7
37:17	130:24 133:5	<b>n</b> 92:1	30:25
37:20	133:6	<b>implications</b>	33:18 34:5
38:25	135:2	9:17 43:13	34:12
40:11	135:7	45:9	37:22
46:24 48:1	135:8 136:16	<b>importance</b>	37:25
55:19 56:8	136:21	72:20	38:10
57:10	139:17 140:8	<b>important</b>	40:24 41:4
57:14	140:14	11:20	46:13
57:15	143:19 145:1	16:19	51:17
57:15	145:10 146:4	27:13	51:18
57:16	148:24	29:14	51:20
58:25	150:21	31:25	53:10
60:19	152:16	33:16	73:24 74:1
60:22	155:19	35:10	74:4 74:8
61:12	155:23 156:4	40:20 42:6	87:3 87:10
62:12	156:12	43:14 49:8	92:19 94:5
62:16	156:17	55:1 67:13	97:17
62:22	156:25 157:6	68:2 87:18	97:20 98:2
65:12	158:4 159:21	88:4 92:18	98:6 144:9
68:16	163:22	97:2	144:16 162:2
70:12 71:9	163:25	139:25 140:1	165:14
72:21	166:21	170:15	<b>impute</b> 31:3
73:14 74:3	167:13	<b>imposed</b> 12:20	63:18
74:3 75:10	167:24 168:3	16:16 49:2	74:12
78:23	168:16 169:2	<b>imposing</b>	86:22
85:19	169:9 169:16	127:17	93:15 141:23
86:16	169:19		141:23
86:19	169:25		165:18 166:3
88:24 90:11	169:25 170:1		
	170:3 170:16		

166:5	38:16 111:1	63:21 64:1	111:14
<b>imputed</b> 34:10	<b>including</b>	64:8 66:3	111:17
35:13 82:1	28:22	67:22	111:22
86:8 89:12	69:16	69:21	111:25 112:2
94:17 161:9	92:23 162:10	73:24 74:1	113:4 113:22
<b>imputing</b>	<b>income</b> 13:6	74:4 74:8	116:5 116:11
18:24	13:9 13:11	74:12	117:3
63:21	13:15	76:20	117:4 117:11
74:16	16:25	77:16 78:2	117:23
81:20	17:12	78:6 78:11	118:22
81:20	18:10	78:21 80:9	119:15
86:18 88:1	18:17 20:7	80:10	121:11
94:23 99:7	21:1 21:2	80:12	121:11
<b>inaugurated</b>	27:2 28:15	80:23	122:16
164:23	28:15 29:1	83:15 85:6	125:24
<b>incarcerated</b>	29:4 29:6	85:7 86:8	126:19 129:5
13:12 29:7	30:6 30:11	86:12	130:22
29:10	33:13	86:22 87:3	131:13
30:25 31:1	33:17 34:5	87:8 87:9	133:15
31:4 31:12	34:9 34:12	89:2 89:9	133:16
37:23	34:17	89:12	134:14
37:25	34:22	89:24	134:15
38:10 41:4	35:13	89:24	134:17 136:2
41:5 51:16	35:16	92:19	137:13 139:1
54:10	36:16	94:17 97:6	139:18
<b>incarceration</b>	36:18	97:21	139:19 140:2
19:19	37:22	97:23	140:3 140:13
51:13	37:24	97:24 98:5	141:9 141:23
51:19 53:4	38:10	98:7 98:19	141:24 142:1
53:11	38:20 39:3	103:7 103:10	143:7 143:12
53:14 53:23	40:23 41:4	103:15	145:8 145:14
<b>include</b> 21:14	48:12	103:20	146:15
33:8 40:6	52:14	103:22 104:4	146:23
63:9 96:10	55:23	105:1	147:23
132:6	55:25 56:1	105:5 105:19	150:18
138:5 160:6	56:2 56:5	106:3	153:24 156:6
<b>included</b>	56:13	106:6	160:3 165:14
164:16	56:19 57:3	107:9 107:20	165:18
<b>includes</b>	57:3 57:4	107:25 109:1	166:12
25:24	57:4 57:21	109:5	170:11
	60:1 60:3	109:6 109:21	<b>incomes</b>
	63:6 63:19	109:22	17:2 25:9
		109:24 110:6	

26:7 26:8	<b>increases</b>	47:15	<b>intended</b> 17:4
26:11	138:2	<b>initial</b> 68:18	137:5
26:16	<b>increasing</b>	<b>initially</b>	<b>intent</b> 12:12
26:18 27:1	102:11	125:5	<b>interest</b>
27:4 28:24	107:19 116:7	<b>in-kind</b> 28:17	95:19
30:5 35:7	124:8 150:20	83:10 118:24	105:9 105:11
36:1 44:21	153:8	<b>inordinate</b>	110:18 111:2
66:2 79:5	<b>incredible</b>	13:20 25:25	154:8
109:20	42:11	<b>input</b> 41:15	<b>interested</b>
119:11 120:8	<b>incumbent</b>	45:8 45:22	27:9
137:14	113:23	52:18 53:2	<b>interesting</b>
144:19 159:9	<b>indicate</b>	58:3 61:3	51:10 53:5
<b>incoming</b>	76:21	66:15 69:8	57:18
51:23	<b>indicated</b>	78:15	75:16
<b>incorporate</b>	108:12	84:23	76:11
27:14 52:9	<b>indicates</b>	90:11	78:19
137:2 138:21	68:19	97:10	93:24 94:1
160:13	<b>indicating</b>	99:17	104:24 105:7
165:11	136:5	102:8 156:20	152:11 164:1
<b>incorporated</b>	<b>indicators</b>	<b>inside</b> 84:18	171:5
52:2 52:6	77:6	<b>insightful</b>	<b>internal</b>
65:21 102:20	<b>individual</b>	8:8	59:11
104:9 153:2	31:1	<b>insights</b>	102:4 164:2
<b>incorporates</b>	<b>industry</b>	173:20	<b>internally</b>
16:8 64:3	17:24	<b>insofar</b> 50:25	42:13 44:6
<b>incorporating</b>	94:19	<b>instance</b>	47:17
65:24	94:21 94:22	92:25	57:20 59:8
<b>increase</b>	<b>informal</b>	<b>instances</b>	66:6 68:8
106:4	66:20	49:18	69:1 89:16
107:6 107:12	<b>information</b>	<b>instead</b>	98:11 101:21
124:7 125:17	11:25 12:2	16:4 104:4	102:5
125:19	42:11	121:1	154:7 154:20
125:19 126:2	59:18 111:22	<b>instrumental</b>	171:13
126:4	<b>inherent</b>	15:9	<b>Internet</b> 88:7
126:9 126:22	64:11 111:14	<b>insult</b>	<b>interpret</b>
131:6	141:19	82:20 90:5	20:1
137:9	141:20	<b>integrating</b>	<b>interpretatio</b>
160:2 166:24	<b>inherently</b>	96:21	<b>n</b> 88:11
<b>increased</b>			<b>interpreted</b>
118:7			

130:18	69:11 106:19	7:24	<b>join</b> 108:24
<b>interrupt</b>	108:11 134:3	<b>Jane</b> 5:18	<b>joining</b> 5:9
56:9 64:16	135:10 137:4	10:17	9:3
143:19	147:20	43:10	<b>Juan</b> 7:14
<b>introduce</b>	149:23	43:23 120:18	<b>judge</b> 3:21
4:15 6:17	149:25 150:2	134:9	4:1 4:2
46:5 162:23	150:4	157:5 172:15	4:3 4:4 4:22
<b>introduced</b>	163:5 163:17	174:10	4:24 4:24
43:11	<b>issues</b> 14:2	<b>Jeremy</b> 5:15	7:24 7:25
<b>introductions</b>	17:24	58:10	8:1 8:19
3:15 9:8	32:13 35:9	59:21	20:15
<b>intuition</b>	38:13 58:8	74:10 75:6	20:17
47:1	76:13 130:16	89:10 95:1	30:21
<b>intuitive</b>	139:1	100:6 104:21	30:23
121:1	139:5 170:24	141:2 152:10	33:14 46:7
<b>investment</b>	<b>It'd</b> 148:22	<b>Jeremy's</b>	48:25
110:20	<b>item</b> 9:9	82:24	60:14
<b>invite</b> 47:11	10:17	<b>Jessenia</b> 7:11	60:18 61:5
<b>invited</b> 45:20	10:23	<b>Jim</b> 46:8	61:8 61:8
<b>inviting</b> 8:8	43:14	60:14	61:12
<b>involuntary</b>	43:22 46:2	62:14 67:5	61:15
51:14	66:18	95:21	62:13
<b>involved</b> 32:3	171:1 173:12	98:15 130:13	62:14
32:6 59:17	174:1	<b>Jiron</b> 5:13	62:22
<b>Iowa</b> 82:11	<b>items</b> 22:20	5:13	64:16
<b>ISD</b> 154:4	43:20 162:21	144:22	65:18 67:5
<b>Island</b> 38:7	174:2	152:21	69:18 70:8
<b>isn't</b> 19:16	<b>I've</b> 8:1	154:23 155:7	79:20 80:2
70:8 115:2	8:2 28:13	<b>job</b> 13:13	82:13
126:21 142:4	31:2 31:10	41:19 70:3	84:24
<b>issue</b> 19:7	60:20	91:21 93:4	84:24
29:14	78:24	93:7 94:8	88:13
29:16 51:1	82:10 84:3	96:7	88:13
51:6 51:9	84:3 98:13	156:22 165:9	93:19
53:14 56:5	101:17 115:1	<b>jobs</b> 19:3	95:21
58:11 64:1	137:18 144:2	35:1 91:20	95:24
64:7 66:1	150:6 170:24	91:20	96:18
	172:1 173:17	91:21 94:10	98:13
		<b>Johnna</b> 6:10	98:15 99:2
		6:11	99:14
			116:8 116:13
			116:20

117:13	162:15	106:23 107:6	129:19 130:2
117:19	165:13	107:8	130:6 130:10
118:17 119:8	165:18	<b>jurisdiction</b>	135:5
120:1 120:20	171:20	26:2	135:7
123:5	171:23 172:1	<b>jurisdictions</b>	135:9 135:15
123:7 126:13	172:8 172:13	18:16 38:3	142:19
127:1	<b>judges</b>	89:20 96:23	142:24
127:3 127:11	32:21	<b>justice</b> 172:4	143:19 149:2
127:15	52:16 62:7	<b>justify</b>	149:5
128:20 129:3	84:17	112:18 128:2	149:8 149:15
129:18 130:4	86:15 111:15		149:17
130:8 130:11	135:9 137:10	<hr/>	149:21 150:3
130:13	144:17 172:2	K	153:21
131:22	<b>judgment</b>	<b>Kathryn</b>	155:17 156:9
131:23 132:5	46:15 49:3	118:20	157:10
133:3	95:15	<b>key</b> 25:14	157:25 159:2
133:5 133:20	<b>judgments</b>	43:25 44:3	159:5 162:21
134:23 135:2	46:11 49:6	91:5 171:9	163:1
135:6	95:17	<b>kid</b> 29:19	<b>Klump's</b> 63:25
135:8 135:13	<b>judicial</b> 4:25	64:10 163:19	164:15
135:22	5:22 8:1	<b>kids</b> 24:14	<b>knew</b> 60:7
136:12	52:22 129:22	24:15 112:17	<b>knowledge</b>
136:19	132:23	<b>kinds</b> 90:12	122:10 164:2
136:21	132:25 134:5	<b>Kirk</b> 7:3	<b>known</b> 24:3
136:24	135:10	<b>Klump</b> 3:19	24:19 92:23
137:25	<b>judiciary</b>	3:20 4:11	<hr/>
138:15 140:6	75:2	5:21 5:21	L
140:17	133:15	10:5 10:7	<b>labor</b> 20:6
141:12	143:24 156:3	10:8 15:14	22:16
141:17	<b>July</b> 60:3	30:3 30:18	34:20
141:20 142:4	94:19	49:16 50:5	34:25
144:24	<b>jump</b> 15:22	53:13 54:7	94:18 110:11
144:24 145:5	37:20	55:4 55:16	<b>lack</b> 15:24
145:22 147:2	84:23 107:17	57:24 86:4	136:9
148:6 148:24	125:22	87:18	<b>land</b> 97:24
150:8 151:19	<b>jumped</b> 122:4	87:21	<b>language</b>
152:15 153:3	<b>jumping</b> 16:21	87:24	37:25 38:1
153:6 153:11	40:11 105:5	97:19	38:3 38:4
153:15	<b>jumps</b>	99:23 129:12	38:7 38:10
156:19		129:16	40:25 52:5
156:21			
157:18			
160:23 161:1			

53:4 70:18	132:9 138:25	<b>legally</b> 119:2	136:14 139:9
70:21	166:3 168:24	<b>legislated</b>	146:15
92:19 103:23	<b>late</b> 144:3	37:14	146:19 147:9
132:2	<b>lately</b> 28:20	<b>legislation</b>	156:6 157:20
132:6 132:24	<b>later</b> 70:19	11:13 38:8	170:10
133:8 146:13	<b>Lavelle</b> 3:21	50:7 173:1	<b>lesser</b>
148:4	<b>law</b> 4:25 5:23	<b>legislative</b>	60:21 147:21
149:8	51:3 53:25	51:7 51:24	161:8
156:1	55:5 61:5	51:25	<b>let's</b> 3:8
156:4	164:25	150:6 164:19	4:22 6:16
161:5 161:13	<b>lead</b> 51:5	<b>legislature</b>	6:22 9:8
161:20 162:6	51:24 72:16	11:19	39:18
162:8 163:13	<b>leader</b> 50:24	15:10 42:4	39:25
164:9 164:12	<b>leaders</b> 47:14	50:8 54:3	64:21
166:3	<b>leadership</b>	127:23	95:11
167:7 171:10	58:19 59:4	127:25	137:7 150:10
<b>laptop</b> 114:14	<b>leading</b> 89:8	132:18 164:7	162:23
<b>large</b> 46:11	<b>learned</b> 32:13	164:24	<b>letting</b> 42:5
47:2 48:5	42:12	165:10	<b>level</b> 16:10
126:9	<b>learning</b>	<b>legitimate</b>	16:11 28:3
<b>larger</b>	57:15	57:25	37:3 37:4
25:16 125:6	<b>least</b> 12:8	<b>leisure</b> 94:21	50:22
<b>Larry</b> 8:10	17:15	<b>Leona</b> 8:22	56:21
95:3 95:4	22:13	90:22	69:21
147:4 147:13	49:22	90:23 91:14	76:22
158:10	69:25	<b>less</b> 24:10	77:17 89:2
158:11	70:16	24:14 29:6	90:8 98:24
<b>Las</b> 7:23 8:18	85:14	33:19	101:10
30:22 46:8	93:17 118:12	35:17 36:2	101:12
60:15 61:8	126:21	71:18	101:15
67:6 84:25	162:23	76:20 83:2	101:22
96:3 96:6	163:21 172:4	86:9 86:12	101:24
97:1	<b>leave</b> 24:9	86:18	102:20
130:14 147:4	154:11	87:11	102:22
<b>last</b> 16:24	159:17	87:12 96:7	104:18 105:6
17:25	<b>legal</b> 5:8	96:17	106:13 107:9
19:13 67:3	50:25	109:6	107:20
75:15 87:3		112:3 117:11	108:25
98:17		117:16 118:9	120:10
116:4 132:1		123:16 136:4	122:17 131:5
			140:1 152:19



153:8 153:14	<b>Linda</b> 7:1	61:11	42:12
153:15	<b>line</b> 22:24	68:21	42:16
153:18	22:25 26:6	69:23	42:16 47:9
153:19	27:24	70:10	47:17
153:25 154:2	28:23 39:1	77:13	48:19
154:4	73:12	77:17 89:6	55:14
154:6	77:13 99:8	89:21 90:7	57:15 59:6
154:9 154:13	124:22	97:13 101:23	61:6 66:6
155:1 160:15	124:22 131:2	102:13	74:5 75:14
170:11	135:24	103:23 104:6	78:24 83:3
<b>levels</b> 21:6	135:25	106:7 106:11	87:8 88:5
21:7 78:11	136:25	108:10	88:10
93:9	<b>linear</b> 78:10	108:23 112:3	113:3
108:12	<b>lined</b> 136:10	114:9 122:24	113:5
119:15	<b>lines</b> 25:8	124:5 131:11	116:4 130:17
150:18	66:17 67:3	133:21	132:21
<b>Lewin</b> 25:2	78:11	<b>living</b> 110:25	139:23
<b>Lexis</b> 37:15	125:7	133:1 133:4	144:23 146:5
<b>liable</b> 144:20	147:7 147:11	<b>loads</b> 31:5	151:21
<b>lies</b> 78:14	155:21	<b>local</b> 93:7	152:16 154:8
<b>life</b> 153:23	<b>lingered</b> 18:1	93:9 96:3	163:15 171:7
<b>lift</b> 52:11	<b>list</b> 18:13	<b>logic</b> 28:17	173:16
58:20 59:5	41:12 165:25	28:25 147:21	<b>lots</b> 77:22
<b>likely</b>	<b>listed</b> 41:12	148:2 153:1	121:25
46:15	<b>listen</b> 159:9	<b>long</b> 11:20	<b>loud</b> 45:3
46:22	<b>listening</b>	42:6	<b>love</b> 78:15
47:19 48:4	10:1	<b>longer</b> 18:1	99:16 156:20
71:18 96:7	<b>literacy</b> 93:4	63:18 172:5	<b>low</b> 13:14
144:20 152:2	<b>literally</b>	<b>loosely</b>	28:14
<b>Lila</b> 6:13	81:6	109:22	28:15
6:15 15:8	<b>litigants</b>	154:12	33:12
63:2 65:20	61:6	<b>Lordsburg</b>	34:17
84:14 129:21	<b>little</b> 13:8	95:7	44:21 63:5
129:25	14:17	<b>lose</b> 144:7	66:2 78:1
<b>limit</b> 49:24	16:14 38:6	<b>losing</b> 143:20	78:14 80:8
50:18 50:21	43:4 45:16	<b>lost</b> 64:17	97:21
<b>limited</b> 70:16	45:24 58:1	169:9	106:3 109:20
<b>limiting</b> 41:4	58:22 59:11	<b>lot</b> 11:7 32:6	109:20
		36:8 42:10	109:22
			111:24 112:2
			113:1

115:3 118:21	56:17	47:14	99:14
119:18	61:19 64:3	<b>managing</b> 6:13	116:8 116:13
129:17	74:2 74:9	<b>mandate</b> 12:7	116:20
144:19	77:8 83:9	<b>mandated</b>	117:13
150:18	85:21	163:3	117:19 119:8
157:22 159:8	112:2 128:15	<b>manually</b>	120:1 120:20
166:12	146:8	129:24	127:4 130:13
<b>lower</b> 23:16	<b>low-incomes</b>	<b>marching</b>	130:13
25:11	44:12	166:19	131:22
26:15	<b>lumped</b> 111:24	<b>marginal</b>	137:25 140:6
29:21 33:9	<b>Luna</b> 95:9	23:12 24:2	140:17
35:1 35:7	<b>lunch</b> 45:25	<b>Mark</b> 25:12	144:24
35:13	64:24	<b>market</b> 20:6	144:24 145:5
39:13		34:20 93:7	145:22 147:2
74:18 77:5	<hr/> M <hr/>	94:18	150:9 151:19
77:9 79:18	<b>ma'am</b> 8:19	<b>Martin</b> 4:1	152:5 152:15
84:12 98:5	73:13 82:3	4:2 7:24	152:15 153:3
98:7	<b>magic</b> 119:5	7:25 8:19	153:6 156:19
105:23	119:6	20:15	156:21
105:24	<b>magistrates</b>	20:17	157:18
108:21 113:9	111:16	30:21	160:23 161:1
117:21 118:1	<b>main</b> 11:9	30:23	162:15
118:11	15:2	33:14 46:7	165:13
119:17	<b>mainstream</b>	46:8 60:14	165:18
124:11 136:5	36:14	60:14 61:8	171:20
139:2	<b>major</b> 9:11	61:12	171:23 172:1
140:2 167:1	9:11 17:18	61:15	172:8 172:13
<b>lowest</b>	35:22	62:14	<b>Martinez</b>
16:25 25:6	37:21 45:6	62:14 67:5	50:10
35:15	77:25 140:4	67:5 70:8	<b>Martin's</b>
74:19 104:3	<b>majority</b>	84:24	69:19 126:13
<b>low-income</b>	32:20	84:25	138:15
13:21 14:4	57:22 57:23	88:14	<b>material</b>
16:18 28:8	<b>Management</b>	95:21	171:17
28:16	59:18	95:21	<b>math</b> 131:3
29:17	<b>manager</b> 6:7	95:24	158:3
29:20	8:13 8:16	96:18	<b>mathematical</b>
32:25	<b>managers</b> 5:16	98:13	130:25 131:6
33:13 35:9		98:15	138:6
36:23		98:15 99:2	<b>matter</b>
40:16 56:14			40:21 71:9

85:12	169:1	127:8 127:14	88:8 88:19
86:10 86:19	<b>mccracken</b>	127:19 128:3	90:9 93:19
<b>matters</b> 15:13	3:11 3:23	128:6 132:14	100:15 106:8
<b>Matthew</b> 4:3	4:8 4:12 6:1	132:17	110:18
4:24	6:22 6:25	132:20	111:14
<b>maximum</b> 28:25	7:12 7:16	133:22 134:1	111:15
<b>may</b> 19:19	7:22 8:15	137:1 140:20	111:17 115:1
30:4 31:14	8:18 8:20	141:1	115:3
67:8 69:10	8:25 10:3	142:6	117:3
80:18	48:1 54:6	142:9 142:15	119:4
83:24	54:8 54:17	146:23	122:7
85:23 89:4	54:20 55:3	147:15	123:2
116:23	55:5 55:9	151:23 154:3	123:8 125:13
123:14	60:9 76:9	158:21	125:18
127:12	79:8 80:1	158:25	132:24
138:19 139:2	80:16	165:20	136:13
154:17	80:20	165:23 168:6	136:16
164:25 165:1	90:16	168:8 168:19	136:19
	94:13	169:9	136:24 141:8
<b>maybe</b> 49:3	94:16 105:13	173:3 174:13	142:5 142:12
60:6 62:8	105:16	<b>McCracken</b> 4:7	142:13
62:12	106:16	6:2	142:17 146:1
67:14	106:19	<b>McKinley</b> 7:15	146:10
69:24	107:10	<b>mean</b> 11:20	152:12 155:4
70:12	107:13	12:24 15:8	159:7 166:17
70:15	107:18	15:23 20:2	173:16
70:18 75:7	107:21	26:13	173:17
75:8 79:6	107:23 108:3	30:19	<b>means</b> 23:24
83:6 87:11	108:5	32:20 39:9	23:24 144:22
87:12	108:8	56:4 57:1	<b>means-</b>
87:12 115:17	112:7 116:12	57:2 58:7	<b>tested</b> 29:3
117:20	116:18 117:6	58:9 62:10	<b>meant</b> 148:14
123:16	117:9 117:12	62:13 64:7	<b>measured</b>
131:21 132:6	123:20	71:19 72:6	26:20 111:14
133:6 133:20	123:22	72:19 74:8	<b>measurement</b>
136:25 137:6	123:25	74:11	22:1
139:9 144:25	124:16 125:3	74:19 75:3	<b>measurements</b>
146:4 147:17	125:10	76:14	21:2 21:5
147:18	125:14	80:24 83:7	23:25
158:14	125:18 126:2	83:18 86:9	26:20 109:13
160:19	126:6 126:24	87:4 88:4	
161:24 166:2	127:3	88:5 88:7	

<b>measures</b>	98:17 128:18	19:23 20:9	41:2 41:10
157:2	139:3	34:1 103:19	41:20
<b>Medicaid</b> 40:6	139:4	<b>method</b> 38:15	44:14 47:1
59:18	157:1 159:19	<b>methodologies</b>	48:6 48:10
<b>medical</b> 21:17	162:18	22:4	50:13 52:2
39:16 40:9	166:14	<b>methodology</b>	53:16
48:17	166:16	21:5 22:7	55:20 56:6
48:17 88:8	169:18	23:5 23:6	58:7 58:13
91:8	169:21 171:1	23:15	63:16
<b>medium</b> 36:1	171:21 173:8	23:18 24:7	64:11 66:8
74:7	174:3	25:14	68:13 70:1
<b>meek</b> 62:19	174:6 174:21	58:17	71:17 72:5
<b>meet</b> 11:10	<b>Melinda</b>	69:13	74:12 93:2
11:13	3:16 6:5 6:6	69:25 119:12	94:2 94:18
16:15	41:15 137:18	119:21	101:25
19:24	<b>member</b> 20:16	129:14 130:9	103:17
31:11	<b>members</b>	136:10 159:3	154:23
31:13	3:14 14:8	<b>metric</b> 101:21	<b>Mexico's</b> 28:4
34:15	20:12	101:22 102:3	36:10
40:22	41:12	154:20	36:19
41:20	122:7 166:18	<b>metrics</b>	44:11
57:11	172:11	104:18	44:22 63:5
58:13	172:12	<b>Mexico</b> 5:6	79:12
65:23	173:10	11:12	<b>Michael</b> 4:9
93:17 160:23	174:10	11:22	<b>microphones</b>
160:25 161:1	<b>memory</b> 99:14	15:10	3:12
<b>meeting</b> 3:9	<b>mention</b> 60:16	16:17	<b>middle</b> 73:9
3:9 4:21	65:11	17:16	76:4
9:12 9:16	<b>mentioned</b>	17:22	105:19 107:4
9:19 12:23	42:23 60:1	17:22 18:1	126:17
17:17 37:8	116:10	18:16 21:7	126:18
41:13	171:20	21:10 22:9	126:21
41:14	<b>merely</b> 164:21	22:23 25:9	<b>midstream</b>
42:23 43:9	<b>merit</b> 33:11	27:3 28:11	36:10
43:11	102:5 139:16	29:2 30:7	<b>Mike</b> 4:17
43:20 45:5	155:10	33:17 35:2	31:20
45:10	<b>message</b> 85:24	35:5 35:6	<b>mind</b> 9:11
45:14 46:2	<b>messed</b> 121:24	35:15 36:4	9:22 31:11
57:10 62:3	<b>met</b> 16:22	36:14	32:1 44:2
66:14		36:18	109:8 112:17
84:16 89:8		38:19 41:1	

114:5	79:12	120:16	161:9 161:15
120:5	79:25	121:10	162:1
123:3 141:15	81:20	122:16	166:5 167:7
165:21	81:23 82:1	123:14	<b>minimum-</b>
<b>minimal</b>	82:6 82:12	126:15	<b>wage</b> 99:8
73:1 139:22	83:2 83:4	133:13 139:8	<b>Minnesota</b>
<b>minimum</b> 18:17	84:3 85:12	139:10	93:16
18:25	85:16	139:21 140:8	<b>minute</b> 4:14
19:16	85:17	140:10	56:9 85:11
28:10	85:23 88:1	140:10	90:3 98:1
28:11	88:14	140:11	119:9 150:13
30:25 31:2	88:25 89:7	140:12	150:22
31:3 31:15	89:11	140:17	168:24
32:24 33:2	89:13	140:19	<b>minutes</b>
34:8 34:10	89:16	140:22	14:9 37:18
34:18	89:18 90:1	140:23 143:9	67:4 91:4
34:22	90:8 91:6	143:9 143:10	97:19
34:23	91:11 92:4	143:16	114:2 115:17
36:17 37:4	93:15	143:16	116:4 138:23
37:5 40:19	93:18	143:17	159:20 162:9
44:13	93:19	143:24 145:1	162:23
44:23	93:20	145:2	<b>missed</b> 4:11
46:12	93:21 94:5	145:2	117:14
46:18	94:23 96:1	145:6 145:10	<b>missing</b> 43:19
46:20	96:2 96:4	145:15	167:11
46:23 47:3	96:4 96:9	145:17	<b>misspeaking</b>
47:15	96:11	145:19	62:12
47:18	96:13	145:20	<b>model</b> 21:1
51:15	96:14	146:16	21:2 30:6
51:20	96:16	146:19 147:8	30:11
55:17	96:23	148:3	55:24 56:1
55:20	96:24	148:6 148:10	56:23
55:24 63:4	96:25 97:2	150:23	56:25 57:5
63:5 63:15	97:11 99:6	150:24	57:21 60:2
63:20	99:9 102:7	151:16	60:3 62:17
65:20	102:9 102:12	151:25	86:6 89:9
65:21 66:4	114:3 114:10	152:25	113:15
67:9 72:10	114:14	153:16	116:22 117:3
72:20	114:21 116:4	155:21	139:18
73:21 74:7	116:6 116:10	155:22 156:2	147:24
74:16 76:24	116:14	156:7 160:11	
	119:19	160:12 161:6	
	120:10	161:6	

<b>Moderation</b>	118:9	43:21	
16:16	129:7 131:24	45:10	<hr/> N <hr/>
<b>modernization</b>	146:16	66:15	<b>N/A</b> 81:6 81:6
40:4	146:17 156:3	77:14	<b>name's</b> 4:17
<b>modification</b>	158:14 160:3	77:16 115:23	<b>narrative</b>
26:23	<b>monthly</b> 78:20	122:19	70:10
55:12 115:19	78:21 98:6	138:20	<b>nation</b>
167:4	105:1 113:21	150:10	18:15 21:9
<b>modifications</b>	133:16 136:2	156:13	37:7 86:24
39:7 58:16	144:16 147:8	162:21 167:6	<b>national</b>
<b>modified</b>	<b>months</b>	170:4	22:14
19:20 34:11	53:10 73:7	<b>moved</b> 45:3	22:22 48:9
<b>modify</b>	<b>morning</b> 6:1	155:20 171:8	<b>NC</b> 142:3
53:21	7:24 8:22	<b>movement</b> 13:5	<b>NCP</b> 80:12
54:12	124:5	139:7	91:4 91:5
54:13	<b>mortgage</b>	<b>moving</b> 18:3	105:20
54:14	110:16 111:1	20:22	106:22
55:13 120:13	<b>mostly</b> 142:12	40:12	125:20 156:2
<b>moment</b>	<b>motion</b> 10:1	40:18 46:1	<b>NCP's</b> 74:22
64:20	10:3	120:7	150:24
64:22 144:15	115:21	120:7 122:14	<b>necessarily</b>
154:10	115:22	123:13	55:22 146:1
<b>money</b> 59:6	156:13	135:20	<b>neighboring</b>
59:15	160:10 174:5	157:12 170:2	36:20
72:16 75:4	174:7 174:11	<b>mud</b> 104:14	<b>Nelson</b> 3:8
80:3	174:13	<b>multiple</b>	3:13 4:9
136:14	<b>motions</b>	32:15	4:10 4:13
136:15	137:17	118:8 119:12	4:17 5:9
139:23	160:16 171:3	120:7 123:17	5:12 6:5
146:20	171:18 173:7	141:16	6:10 6:15
<b>monkey</b> 149:9	173:25	157:13 165:1	6:21 6:24
<b>month</b> 26:11	<b>motivated</b>	<b>multiplying</b>	7:8 9:1 10:4
27:20 29:2	151:13	102:1	10:6 10:8
30:8 36:17	<b>mouth</b> 147:16	<b>murky</b> 16:14	10:14 42:8
37:4 46:20	<b>move</b> 9:8	<b>mute</b> 3:12	42:15 47:8
46:21 75:5	10:22	<b>muted</b> 3:22	48:24
81:3 81:15	14:19	65:2	50:24
81:16	42:18 42:22	<b>myself</b> 71:22	57:15
94:20 111:6			58:15 59:16

60:12 61:3	121:24 122:2	158:6 158:11	<b>noncustodial</b>
61:14	122:4 122:11	158:16	17:13
62:25	123:6	158:20 159:2	18:12
64:12	123:8	159:12	18:21 30:7
64:21	124:3	161:23 164:1	46:13
64:25 65:3	124:8 124:17	165:4	46:19
68:6 70:22	125:4	165:6 165:17	49:18
75:6 75:14	127:2	166:15	67:17
76:10 80:3	128:5	166:20	67:23
80:14	128:7 128:12	169:11	67:24
80:18	133:24 134:2	169:22 170:7	72:15 85:7
84:13 86:1	134:5 134:25	170:22	85:13
88:24	135:4 135:14	170:25	89:25
90:18	135:18 137:2	171:22	92:21
90:21	138:10	171:25 172:7	92:24 93:8
90:23 91:2	138:14	172:10	105:3
91:14 95:3	140:16 141:2	172:15	105:4 139:20
95:5 95:20	141:5 141:15	172:18	140:11
95:23	141:19 143:1	172:20	140:19 141:9
96:18	143:6	172:22	145:16
98:14	144:6	172:24 173:4	146:14 147:8
99:13	145:4	173:19	152:2
99:16	147:1	174:14	156:5 159:8
99:24	147:3 147:14	174:16	<b>none</b> 10:11
100:5 100:24	147:17 148:1	174:20	42:21
101:2	148:12	<b>nest</b> 24:10	<b>nonexistent</b>
101:5	148:14 149:7	<b>net</b> 103:22	95:9
101:8 101:13	150:1 150:10	134:14	<b>nonprofit</b>
101:18	151:11	134:15	11:10
101:20	151:21	<b>Nevada</b>	<b>norm</b> 83:7
104:15	151:24 152:8	35:18 72:9	<b>normally</b>
105:15	152:14	82:25	173:9
105:17 108:4	152:22 153:5	82:25 152:11	<b>North</b> 7:17
108:6	153:7	<b>newest</b> 26:4	28:22 29:5
108:9 109:15	154:7 154:17	<b>nice</b> 79:23	30:5 38:6
112:9 114:19	155:2 155:10	88:12	38:9 38:15
114:24 115:5	155:15	<b>nodding</b>	39:3 39:8
115:9 116:22	155:19	162:16	39:9 39:12
118:15 119:7	156:11	<b>non-4D</b>	166:4
121:4	156:18 157:5	32:10 72:5	<b>nosing</b> 90:25
121:9 121:17	157:11		
121:19	157:15		
121:22	157:17 158:2		

<b>notable</b> 44:10	60:23	97:19	37:19
<b>note</b> 74:12	<b>obligation's</b>	148:7	42:21
<b>noted</b> 61:14	38:21	150:7	43:21 65:3
115:12	<b>obligatory</b>	159:2 162:21	80:1 90:21
<b>notes</b> 137:19	57:3	163:5 164:15	99:13
<b>nothing</b>	<b>observations</b>	<b>officers</b>	99:25 100:23
126:15	98:9	52:16 111:16	101:5 101:18
139:24 146:7	<b>obtain</b> 94:8	129:23	102:19
<b>notice</b>	<b>obviously</b>	137:11	105:15
117:4	13:19	143:25	105:17
117:4 124:19	21:10	144:17	107:10
<b>noticed</b>	26:16	<b>offices</b>	107:13
109:17	33:19 54:1	6:17 43:3	109:15
<b>notion</b> 30:24	88:19 94:9	47:23	117:16
<b>Notre</b> 21:4	110:21	52:14	118:15
22:5	131:16	52:21 65:4	119:23
<b>nuances</b>	167:22	65:15 71:6	121:24
111:12	<b>Ocano</b> 7:5 7:5	156:20	121:25 123:8
<b>number's</b>	7:9 7:9	159:15	123:19 127:8
131:15	<b>occur</b> 33:18	<b>official</b>	135:4 135:14
<hr/>	103:25 167:5	142:11	137:15
0	<b>occurring</b>	<b>officially</b>	137:24
<b>objection</b>	107:17	28:19	138:14
125:12	<b>occurs</b> 108:10	<b>off-line</b>	138:22
<b>objective</b>	<b>October</b>	138:18	140:16
11:9	159:25	<b>oh</b> 27:11	143:15
<b>objectives</b>	166:13	35:12	145:14 152:8
9:11 45:6	171:21 172:1	64:18	152:14
<b>obligated</b>	<b>offer</b> 161:23	73:14	152:14 153:5
28:16	<b>office</b> 9:3	90:23 100:10	153:7 155:16
36:16 39:3	18:18 25:3	121:17	155:18
<b>obligation</b>	47:23	165:21	155:19
31:14	50:23 65:8	<b>oil</b> 17:24	156:12
60:24	65:16 158:6	<b>okay</b> 8:21	156:18 157:5
72:14	<b>officer</b> 5:1	8:25 10:9	158:2
129:8 129:10	5:22 10:8	10:15	158:6 158:11
133:13 147:8	57:24	11:16	158:16
<b>obligations</b>	84:11 84:17	13:13	158:20
		20:22 35:22	159:12
			159:13
			159:17
			165:23
			169:22 170:6



170:25	95:8 116:3	28:11	102:6
171:25 172:7	<b>opposed</b> 10:14	28:23 29:7	102:7
172:24 173:4	55:19 78:8	29:9 29:9	102:9 102:12
174:16	79:25	31:2 31:15	112:18 114:3
174:18	115:9 118:11	33:2 33:20	114:10
<b>old</b> 58:21	118:18	34:7 37:1	114:14
100:1	123:11	38:23	114:21 116:5
100:2	127:17	40:19	116:6 116:10
100:4 129:13	174:20	44:13	116:15
130:4	<b>opposition</b>	44:23	116:23
130:8 131:4	115:11	47:16	119:19
<b>ones</b> 90:11	<b>ops</b> 8:12	47:18 48:3	120:10
91:12	<b>option</b> 14:7	48:11	120:16
<b>one's</b> 62:2	27:25	48:15	121:10
<b>ongoing</b>	36:22 38:9	48:16	122:16
31:9 31:13	38:11 39:9	48:16 49:2	123:15
76:13 95:14	39:19	51:15	125:21
<b>online</b>	40:24	55:20	126:12
41:11 61:7	56:10 61:1	55:24 63:5	126:16 127:4
65:7	61:1 75:22	66:4 69:16	139:8 139:20
<b>open</b> 37:18	76:23	72:10	139:21
45:19	81:17 102:13	73:18	139:22
45:22	116:9	76:16	139:25 140:9
66:20	116:9 168:11	76:22	140:10
66:21 67:2	<b>options</b> 13:23	79:12 82:6	140:10
80:16 159:7	14:3 14:6	82:12	140:17
<b>opening</b> 55:21	54:11 66:8	82:16 83:4	140:20
<b>opens</b> 128:17	76:21 77:1	84:4 84:5	140:22
<b>operations</b>	78:18	84:21	143:10
6:4 6:9 8:16	78:22 79:2	84:22	143:11
<b>opinion</b> 58:18	79:19 81:3	84:22	143:16
59:4 144:4	83:13	86:14 89:7	143:17
<b>opinions</b>	90:14 104:23	89:11	143:17
131:21	105:10 106:2	89:13	143:24 145:2
<b>opportunity</b>	106:13	89:14	145:10
20:11 42:9	170:20 171:2	89:16	145:17
42:18	<b>oranges</b> 104:7	89:18 90:1	145:20
66:14	<b>order</b> 3:9	90:2 90:5	146:17
66:20 69:3	23:17 24:5	90:8 93:18	146:19 148:6
	28:10	93:19	150:19
		93:21	150:25
		95:15 97:11	151:16
			151:25

155:21 156:7	<b>others</b>	<b>Owen</b> 7:18	76:10
160:11	47:22	<b>OWEN-</b>	78:16
160:12	52:19 90:13	<b>DEMARTINO</b>	78:17
160:14 167:8	<b>ought</b> 96:16	7:18	79:11
<b>ordered</b> 72:3	118:3 140:18	<hr/>	92:11
<b>orders</b>	145:20	<hr/> P <hr/>	92:13
19:21 30:5	<b>ourselves</b>	<b>p.m</b> 174:23	97:25 98:8
32:17	4:15 85:2	<b>pace</b> 122:25	98:8
32:24 33:1	<b>outcome</b> 39:23	123:1 170:12	107:15
33:10 34:9	<b>outdated</b>	<b>packet</b>	107:24 108:1
34:11	58:21	165:7 171:14	112:25
35:17	<b>outlays</b> 111:5	<b>Padilla</b>	124:16
48:22	<b>outline</b> 14:25	6:11 6:11	124:17
51:20	<b>outlining</b>	<b>page</b> 11:3	124:19
53:12	70:4	11:5 11:24	135:23
55:12	<b>out-of-pocket</b>	11:24	<b>pages</b> 11:17
55:17	21:20	14:14	43:25 76:6
62:11 63:4	<b>outside</b> 71:19	16:21 17:7	107:15
63:16	71:20 75:1	18:4 18:5	<b>paid</b> 47:3
63:20	100:2	18:6 20:4	47:20
65:20	<b>outstanding</b>	21:24	48:21
65:21 66:2	51:9 160:1	21:25	48:22 49:6
72:20	<b>overall</b> 92:7	27:12	71:14
83:24	<b>overbearing</b>	27:24	71:19
87:14	62:18	27:25 28:1	72:17 83:1
87:16	<b>overlooked</b>	32:23	87:19 144:20
160:3 166:19	67:8	33:16	<b>pain</b> 59:1
<b>order's</b>	<b>overnights</b>	33:24 34:2	<b>paper</b> 57:5
83:2 124:8	36:8	34:19 35:2	113:6
<b>organization</b>	<b>overseeing</b>	35:14	<b>paragraph</b>
11:10 12:2	6:3 62:11	35:24	63:14
20:25 48:19	<b>overstate</b>	38:15	92:12
<b>orienting</b>	24:4 24:19	38:18 40:2	92:13 149:20
45:15	<b>overstated</b>	40:11 44:3	<b>parameters</b>
<b>original</b>	24:24	44:18	162:9
75:22	<b>overview</b>	46:10	<b>paraphrase</b>
75:25 120:14	42:15	54:22 55:6	18:5 24:12
124:15		63:3 63:24	33:15 136:12
<b>originally</b>		70:9 75:12	<b>paraphrasing</b>
117:1		75:19 76:6	13:13
		76:8 76:9	

<b>pardon</b> 105:2	28:16	11:8 44:4	136:16
<b>parent</b>	33:18	44:21 88:4	<b>paycheck</b>
17:13	38:19	138:25	110:25
18:21 30:8	39:21	144:19	110:25
30:9 31:7	46:13	<b>parties</b>	<b>paying</b> 31:8
31:13	61:23 62:3	62:3 82:15	33:8 53:19
36:18	64:6 67:16	89:4 150:19	64:15 72:3
46:19	67:20	<b>partly</b> 110:7	72:11
49:19	67:25 68:4	<b>party</b>	74:18 141:10
62:18	69:21 77:8	140:14	142:3 163:10
62:19	81:15 82:1	163:23	<b>payment</b>
62:20	82:15 85:8	<b>party's</b> 56:2	20:7 32:24
67:17	89:12 105:22	<b>pass</b> 65:12	33:4 35:13
67:21	105:25	65:18 165:8	46:14
67:23	106:25	<b>passage</b> 10:15	46:18
67:24	118:22	<b>passed</b> 50:9	46:20
69:10 83:9	133:14	101:4	46:23 47:6
85:13	139:19 143:7	<b>passes</b> 124:22	76:24
88:20	144:21 152:2	<b>past</b> 12:15	95:13
88:22	159:8 161:15	56:3 106:3	95:17
89:25 90:1	161:19	132:3	111:1 111:11
92:21	<b>parent's</b>	132:7 173:5	111:11 156:2
92:22 93:8	36:16	<b>paternity</b>	<b>payments</b> 63:4
97:6 99:8	38:22 39:3	49:21	83:7
105:2	48:12	<b>pattern</b>	<b>payor's</b> 55:25
105:3	70:11	76:2 76:7	<b>pays</b> 140:12
105:4	72:15 85:5	120:6	140:19
105:5	85:7 85:15	170:4 170:5	<b>Pennsylvania</b>
117:4 117:23	92:24	<b>pause</b> 20:10	30:13
126:20	145:8 146:14	27:12 29:25	86:23 134:12
130:21	147:8 156:6	<b>pay</b> 28:16	134:14
139:20	<b>parity</b> 28:4	33:7 48:4	134:17
140:11	<b>Partially</b>	74:23 78:3	134:18
140:19 141:9	24:20	83:9 83:10	<b>people</b> 15:3
142:1 143:13	<b>participate</b>	84:2 85:13	32:6 35:7
145:16	9:4 45:21	88:22 92:2	50:19
146:22	47:12	92:5 98:19	63:21
163:14	<b>particular</b>	118:23	85:21 88:6
163:19	55:11 101:17		88:8 96:13
<b>parentage</b>	168:10		110:23
49:16 50:14	<b>particularly</b>		
<b>parents</b> 18:12			

111:17	121:6 131:14	62:19	137:20 160:1
111:19	131:16	<b>personally</b>	<b>pieces</b>
111:23 112:1	131:17	126:8 127:11	40:18 171:10
142:22	134:16 138:2	<b>perspective</b>	171:14
<b>per</b> 21:17	138:3 138:12	71:15	<b>piggyback</b>
21:18	141:8	72:19	119:7
21:19	154:3 155:1	74:25 75:3	<b>pike</b> 60:8
21:19	<b>percentage</b>	84:19	<b>Pineda</b> 3:17
21:21	25:25	91:15 110:15	3:21 4:1 4:3
21:21 29:2	64:14 72:2	143:23 150:7	4:5 4:7
34:24 36:8	74:17 134:11	161:24	4:9 6:6
36:16 83:3	138:12	<b>petitioned</b>	6:6 137:24
146:16	140:13 154:5	53:20	<b>placeholder</b>
146:17	166:9	<b>phase</b> 29:17	151:12
158:14	<b>perfect</b> 123:3	120:17	163:21
158:21 159:6	<b>perfectly</b>	139:12 168:2	<b>Planning</b> 25:4
160:3 160:14	125:11	<b>phase-in</b>	<b>play</b> 114:21
<b>percent</b> 16:13	<b>performing</b>	29:17	<b>playing</b>
21:7 21:8	74:20 86:24	29:22 122:20	123:10
21:10	<b>period</b>	<b>phase-out</b>	<b>plays</b> 31:2
24:22	25:16 50:7	29:23 123:17	<b>please</b> 3:11
24:22 26:1	50:18 101:9	<b>Philosophical</b>	3:12 9:4
26:23	<b>perpetual</b>	<b>ly</b> 55:19	10:12 63:1
26:24 27:5	135:12	<b>phone</b> 20:13	65:14
28:4 32:14	<b>persist</b>	20:16	65:15
32:16	139:10	<b>pick</b> 60:20	98:14 128:12
32:17 33:7	<b>person</b>	123:24	143:18 158:8
33:10 34:9	16:11	146:11	159:16
34:10 35:8	16:12	146:11	166:21 168:7
35:16	16:12	146:16 154:9	<b>plenty</b> 116:2
35:18 36:6	27:20 29:1	<b>picked</b>	<b>plopped</b> 38:8
37:2 38:23	31:4 41:16	38:25	<b>plopping</b> 38:1
48:11	58:10	98:18	<b>plug</b> 151:14
48:13	65:16	98:20	154:10
48:21 57:2	86:17	99:15 154:21	<b>plunge</b> 15:1
72:9 72:11	91:10 102:22	<b>picture</b> 92:7	30:2
83:1 87:11	<b>personal</b>	<b>piece</b> 45:15	<b>pocket</b> 50:11
94:7 94:11	127:18	59:21 68:9	
95:14 103:25	<b>personality</b>	70:25 92:2	
104:3 107:12			
121:2 121:2			

<b>point</b> 10:20	156:24 157:2	161:21	101:22
11:15	157:5 160:22	<b>political</b>	101:24 102:4
19:17	161:24 162:5	50:22	102:20
20:18	162:7	83:24 84:8	102:21 103:6
21:25	164:1	<b>poll</b> 172:10	103:9 103:18
31:18	164:4 165:13	<b>poor</b> 13:12	103:21
32:12	165:16 170:8	<b>popular</b> 28:21	104:18 107:5
33:23 34:2	171:4 173:23	28:21	118:21
35:11 46:9	<b>pointed</b> 16:24	<b>population</b>	153:14
49:6 52:4	46:17 109:17	19:8 29:7	153:15
55:18 58:3	152:10	32:10	153:18
59:10	<b>pointing</b>	<b>portion</b> 139:4	153:19
59:23	63:24 80:6	<b>poses</b> 171:23	153:25 154:2
60:12	<b>points</b> 11:4	<b>position</b> 59:8	154:4
60:18	35:22	<b>positions</b>	154:5
62:16 64:9	45:18	156:23	154:9 155:5
65:10	46:11	<b>possible</b>	<b>power</b> 10:19
65:20 66:5	75:17	36:13	11:4 11:15
68:7 69:6	77:24	95:12	21:25 62:17
70:6 70:19	94:25	173:2 173:22	<b>practical</b>
72:16	114:9	<b>potential</b>	85:12 86:9
72:24 73:2	128:9 138:15	102:3	86:16 86:18
76:17	155:11 161:2	102:6 102:13	<b>pragmatic</b>
76:17	162:24	135:20	71:15
77:14	<b>policies</b> 13:9	151:12	<b>pragmatically</b>
84:13 86:5	13:12 20:7	159:18	86:10
89:17 90:3	74:4	<b>potentially</b>	<b>pragmatism</b>
95:8 95:11	<b>policy</b> 5:19	49:17	72:13
99:11	6:6 13:23	49:21	<b>precise</b> 18:4
102:6 102:18	13:25 14:2	58:16 122:12	<b>predetermined</b>
108:18	27:17	160:24	66:11
108:22 112:5	33:17 54:2	<b>poverty</b> 16:10	<b>predicated</b>
114:7 114:11	56:20 82:7	16:11	55:25 163:18
116:5 116:15	83:12 94:4	27:19 28:3	<b>predictable</b>
123:15	128:13	37:3 37:4	88:11
124:25	141:23 155:8	56:21	<b>preference</b>
126:13 128:8	<b>polish</b>	98:24 101:10	25:17 143:1
128:10 136:5	161:3 161:10	101:12	<b>preferred</b>
136:24	161:12	101:15	102:13
138:25	<b>polished</b>		
139:11 143:2			
151:14 153:4			
155:4 156:11			

<b>preliminary</b> 52:3	<b>presumptive</b> 34:23 36:25 36:25 134:16 134:19 134:24	18:24 19:13 <b>prisoner</b> 93:1 <b>private</b> 94:21 <b>pro</b> 61:6 62:8 87:24 88:6 146:25 163:23	<b>proceed</b> 159:22 160:23 <b>proceeding</b> 160:17 <b>proceedings</b> 3:1 174:23 <b>process</b> 11:20 41:8 41:8 52:17 52:20 54:14 57:19 69:25 76:18 92:6 97:17 97:23 97:25 102:10 123:18 144:12 173:2 173:22
<b>preparation</b> 166:13	<b>pretend</b> 52:24 <b>pretty</b> 33:25 36:14 57:22 61:25 65:19 93:2 98:25 105:20 106:23 119:13 121:1 140:25	<b>probably</b> 9:22 14:5 17:22 27:6 37:17 38:24 39:2 48:22 55:21 67:1 73:3 73:7 74:17 78:4 87:10 87:11 92:7 97:25 98:2 100:1 104:13 107:2 111:20 114:25 119:9 124:13 127:16 129:21 130:24 133:18 134:3 140:22 162:11 162:17 173:8	<b>processes</b> 52:8 96:22 <b>professional</b> 72:13 72:23 <b>professionals</b> 88:18 <b>professor</b> 22:5 25:13 <b>program</b> 6:11 19:22 29:4 73:5 143:4 157:7 <b>programs</b> 153:23 155:5 <b>progress</b> 119:11 138:24 139:7 <b>progression</b>
<b>prepare</b> 51:6 52:14 74:14 165:9 167:15 169:1 169:17 169:23 170:16	<b>prevailing</b> 77:6 91:19 93:8 <b>prevent</b> 124:12 <b>previous</b> 80:5 <b>previously</b> 50:15 78:10 <b>price</b> 15:24 21:6 21:7 24:21 28:4 101:25 155:1 <b>prices</b> 15:23 22:23 <b>principal</b> 110:16 110:19 111:2 <b>principles</b> 70:17 <b>prior</b> 5:23 100:8 100:11 <b>prison</b>	<b>problem</b> 18:15 19:11 64:5 <b>problematic</b> 60:18 <b>problems</b> 18:23 62:16 <b>procedure</b> 129:14 <b>procedures</b> 72:24	
<b>prepared</b> 21:3 52:15 75:11 84:15 103:8 169:20 <b>present</b> 4:2 4:4 4:6 91:25 138:19 <b>presentation</b> 10:17 10:19 <b>presentations</b> 8:7 <b>presented</b> 42:10 75:18 <b>preserved</b> 39:17 <b>preside</b> 4:25 <b>presiding</b> 8:3 <b>pressure</b> 98:4 <b>presumed</b> 146:16 156:7 <b>Presump</b> 134:23 <b>presumption</b> 34:22 73:21 110:5 163:18			

108:24	<b>protocol</b>	<b>purpose</b> 12:5	108:11
120:11	174:3	<b>purposes</b>	108:17
120:21	<b>proven</b>	67:19	108:23 122:8
139:22	49:19 72:16	<b>pursue</b> 40:9	122:24
<b>project</b> 15:12	<b>provide</b> 17:14	105:12	165:10
59:17 59:20	71:24	<b>push</b> 58:22	<b>quiet</b> 57:14
<b>projected</b>	99:16 133:10	<b>pushing</b> 168:3	83:22
97:24	133:15	<b>putting</b>	<b>quit</b> 78:16
<b>promulgate</b>	<b>provided</b> 9:23	40:7	<b>quite</b> 73:4
69:1	89:11 108:14	147:20	81:23
<b>promulgated</b>	112:13	150:23 151:7	<b>quorum</b> 4:14
70:5 144:11	139:15 152:6	167:14	
<b>properly</b>	<b>provides</b> 17:7		<hr/> R <hr/>
140:21	70:9	<hr/> Q <hr/>	<b>raise</b> 15:6
<b>proportion</b>	<b>provision</b>	<b>quarter</b> 16:4	29:19
136:15	19:18 40:3	<b>question</b> 20:1	29:21 62:1
<b>proposal</b>	54:25 55:6	30:3 51:16	64:10 112:16
115:21	92:16 165:25	88:4 90:19	168:23 169:4
120:14	<b>provisions</b>	90:19	<b>raises</b> 99:5
<b>propose</b> 55:15	13:7 87:9	98:13 117:17	<b>raising</b>
93:16	<b>proxy</b> 112:17	128:23 151:3	12:9 12:12
132:5 157:25	<b>psychological</b>	166:7	20:24
159:6 163:6	91:8	167:2 167:8	99:12 108:16
<b>proposed</b>	<b>public</b> 40:3	<b>questions</b>	113:13 118:8
22:11 28:5	40:6 41:14	9:14 10:21	122:23
36:20	153:22 173:9	20:13	123:19
36:21 50:6	173:10 174:3	20:14	123:23
99:4	<b>publish</b> 41:11	20:18 30:1	126:22 138:2
107:16 117:1	41:11	30:22	170:10
120:13 124:6	<b>published</b>	37:17	<b>rally</b> 153:3
124:6	118:20	42:10	<b>ramp</b> 77:12
136:4 149:22	<b>pull</b> 46:2	42:20 44:2	120:24
164:6 164:12	57:5	66:19 90:7	122:24
<b>proposing</b>	100:17	90:12 117:15	<b>ramping</b> 157:8
83:24	114:13	<b>quick</b> 71:24	<b>ramps</b> 131:16
<b>prorated</b>	171:13	79:20	<b>ramp-up</b> 121:7
38:22	<b>pure</b> 13:24	122:8 138:22	121:23
<b>pros</b> 90:14	<b>purely</b> 71:25	<b>quickly</b>	<b>ran</b> 49:12
128:5		4:15 32:4	
		58:14 70:8	

<b>random</b> 154:21	149:24	143:14	<b>recently</b>
<b>range</b> 44:12	<b>real</b> 43:11	143:16 146:7	18:24
113:4 126:21	57:24	148:5	<b>recess</b> 64:24
145:19	66:20 160:24	155:8	<b>recession</b>
148:19	163:2	157:1 159:18	17:20
<b>rata</b> 87:24	<b>realistic</b>	160:18 162:2	17:25 126:7
146:25	92:5 97:4	164:17 166:8	<b>recognized</b>
<b>rate</b> 33:6	97:5 129:11	173:15	118:13
33:24	<b>reality</b> 19:17	<b>real-world</b>	<b>recognizing</b>
47:20 48:3	120:2 136:7	85:17	85:15 132:25
77:12	<b>realize</b> 85:13	<b>rearing</b>	<b>recollection</b>
77:16 94:6	162:20	22:2 77:11	98:16
94:10	<b>real-life</b>	<b>reason</b>	99:25 131:8
95:10	79:5	21:22	<b>recommend</b>
95:19	<b>really</b> 4:15	23:20 24:4	51:23 52:5
104:2	18:20 27:8	24:25 26:7	135:16
106:4	30:24	56:24	<b>recommendatio</b>
108:4	41:15	58:24 59:3	<b>n</b> 16:20
108:6	42:13 43:1	59:24	16:24 41:5
108:7 118:12	44:8 44:17	63:20 100:20	59:10
137:9	45:8 45:16	103:3 103:10	132:9 135:20
160:2	45:21 47:8	103:12	137:3 144:13
160:7	56:4 56:24	103:13	151:12
160:7 166:24	57:6 58:20	<b>reasonable</b>	159:19
<b>rates</b> 94:2	58:23 59:5	48:3	159:22
109:7 109:10	64:8 66:2	112:18	161:11 171:3
<b>rather</b>	66:5 66:14	113:13 118:5	<b>recommendatio</b>
60:24	69:5 70:7	138:15	<b>ns</b> 11:18
60:25 75:4	73:16 78:9	139:24	11:19
134:22	78:14	139:25 140:1	14:17 17:5
<b>rationale</b>	78:19 83:6	144:8 166:24	40:13
101:9 112:21	86:9 86:17	<b>reasons</b> 30:15	41:23
<b>rationalize</b>	87:25	50:2 63:13	41:25 42:3
31:11	93:12 102:15	74:17 74:21	44:2 51:7
<b>raw</b> 169:4	106:2 108:21	<b>rebuttable</b>	57:12 137:16
170:17	113:7 119:25	34:23	164:5 171:19
<b>re</b> 111:13	120:1	<b>recall</b>	<b>recommended</b>
<b>reach</b> 157:7	122:6 126:11	98:17 98:20	14:15
<b>ready</b> 70:19	126:13	<b>received</b> 84:7	136:1 166:2
	128:23 139:1	<b>receives</b> 75:2	
	141:24		



<b>recommending</b> 162:8	96:5	75:18	<b>report</b> 9:14
<b>recommends</b> 133:10	<b>refresh</b> 98:16	<b>reiterating</b> 120:20	10:18
<b>reconciled</b> 50:10	<b>refreshment</b> 99:15	<b>relative</b> 44:25 79:14	10:22 11:2
<b>reconvene</b> 159:24	<b>reg</b> 40:25	<b>relativity</b> 102:1	11:6 12:8
<b>record</b> 64:20	92:11	<b>released</b> 18:24	24:18 25:2
64:22 86:4	<b>regard</b> 13:12	25:12 25:20	32:6 36:11
93:5 93:6	29:16 33:4	<b>relevant</b> 93:10 102:3	41:11 42:1
99:25 142:11	36:15 41:3	<b>relied</b> 89:19	42:12
<b>records</b> 93:6	53:10	<b>relief</b> 5:20	42:13
<b>reduce</b> 53:21 54:7	75:10	<b>reluctant</b> 62:22 85:19	43:24 44:6
143:8 143:10	76:14 157:8	<b>remember</b> 68:23	45:7 46:10
143:11	<b>Regarding</b> 12:3	98:21	46:17
<b>reduced</b> 168:21	<b>regardless</b> 85:6	99:21 130:15	46:24 48:2
168:23	<b>region</b> 8:12	131:19 139:2	50:3 54:22
<b>reduces</b> 28:3	8:15 17:12	166:2	56:11
<b>reduction</b> 109:7 110:9	<b>regional</b> 5:16	<b>remind</b> 9:4	57:19 63:3
<b>referenced</b> 24:18 54:22	21:11	9:5 26:21	68:17
<b>referred</b> 55:7	<b>regraph</b> 114:22	<b>reminder</b> 9:2	68:18
<b>referring</b> 55:7 92:11	<b>regs</b> 128:19	<b>renting</b> 111:2	69:18 72:1
<b>refined</b> 111:22	<b>regular</b> 68:17	<b>repeat</b> 159:16	72:8 75:22
<b>reflect</b> 44:19	<b>regulation</b> 13:8 43:13	<b>repeats</b> 76:2	75:25 76:6
168:22	65:23 65:25	<b>replacement</b> 59:18 59:20	76:24 77:2
<b>reflected</b> 68:2	<b>regulations</b> 12:6 52:1	<b>replicate</b> 22:18	79:11 80:5
<b>reflects</b> 21:13 22:2	55:13	22:21	100:2 100:20
	63:17 66:9	120:2	100:25 101:2
	70:5 72:25	136:7 169:24	101:17 113:3
	91:17 144:10	<b>replies</b> 10:13	116:21 117:1
	<b>regulatory</b> 164:13	174:19	124:15
	<b>Reina</b> 7:18		132:19
	<b>reiterate</b>		134:21 144:5
			144:6 172:17
			<b>reporter</b> 5:9 5:10 7:6
			7:10 8:14
			8:17 63:1
			64:19 158:4
			<b>report's</b> 100:2
			<b>represent</b> 112:10
			112:11
			113:11

113:19	51:17 52:9	161:15	<b>retro</b> 49:13
<b>representatio</b>	57:10	162:10 163:4	<b>retroactive</b>
<b>n</b> 113:10	57:12	163:8 167:21	50:1
<b>representativ</b>	96:21 165:14	168:1 169:25	<b>review</b> 3:2
<b>e</b> 3:17 88:1	<b>research</b> 5:19	<b>Residence</b>	5:2 9:25
<b>representing</b>	94:17 118:19	93:3	12:7 12:11
88:20	<b>reserve</b> 13:16	<b>resolve</b>	17:9 17:19
<b>represents</b>	13:18 16:9	163:20	19:25 20:3
135:25	16:17 18:9	<b>resolved</b>	20:6 27:2
<b>request</b> 54:13	27:13	154:9	45:7 171:2
138:16	27:15	<b>resonated</b>	<b>reviewed</b>
138:17	27:18 28:2	89:16	15:11
<b>require</b> 52:13	28:9 29:24	<b>resonating</b>	17:15 44:5
52:17 54:2	37:2 37:7	44:5	<b>reviewing</b>
151:5	37:12	<b>resort</b> 87:3	9:13 57:19
<b>required</b>	37:22	166:3	<b>reviews</b> 13:24
12:17 17:9	38:14	<b>respect</b>	43:23
<b>requirement</b>	39:17	133:11	<b>revise</b> 32:5
12:16 13:2	39:20	<b>responsibilit</b>	68:10
13:3 16:15	40:21	<b>y</b> 71:21	<b>revised</b> 75:11
20:23	44:13	71:22 75:1	<b>revision</b>
32:23 34:1	63:10 64:4	<b>rest</b> 27:11	55:14 97:15
34:16 40:9	65:22	28:6 56:18	<b>revisit</b>
40:22	67:10	110:17	149:25
51:12	67:12	168:14	<b>Rhode</b> 38:6
58:13 58:14	67:16	<b>restroom</b>	<b>right-hand</b>
<b>requirements</b>	67:20	66:25	76:5
11:11	67:24 68:5	<b>restrooms</b>	<b>rigorous</b>
11:14	68:13	43:15 43:17	111:21
12:10	68:19 69:4	<b>result</b>	<b>ringing</b> 44:8
12:19	69:10	33:20	<b>Rocio</b> 7:5 7:9
12:22	69:13 70:1	46:12	<b>Rodgers</b> 25:12
12:24 13:4	70:11	47:20	<b>Rodgers's</b>
17:7 17:8	71:12	97:20 98:2	25:24
17:17 18:5	72:21	138:19	<b>role</b> 57:16
37:16	73:19 74:9	<b>resulted</b>	104:17
40:24	77:3 77:4	136:10	<b>roles</b> 4:16
41:10	77:19 78:3	<b>results</b> 90:2	
41:18 41:21	103:14		
	103:18 129:1		
	139:12 149:4		
	149:19 150:1		

<b>roll</b> 3:14	103:14	104:22	134:12 140:2
3:16	123:17	105:19 113:1	166:8 166:10
<b>Romero</b> 7:11	<b>running</b>	114:6 141:16	166:11
7:11	65:9 104:22	145:9	166:13
<b>room</b> 20:12	<b>runs</b> 99:6	<b>schedule</b>	167:16
26:22 43:2	<b>rush</b> 31:18	12:13 15:4	169:23
66:22 71:5	<b>Rutgers</b> 25:13	15:17	170:17
<b>Roswell</b>		15:19 16:2	170:24
8:21 8:24	<hr/> S <hr/>	16:2 16:5	<b>scheduled</b>
<b>rotating</b>	<b>salary</b> 27:1	16:6 17:1	65:7
22:19	<b>San</b> 7:14	17:4 19:5	<b>schedules</b>
<b>Rothbarth</b>	<b>sand</b> 46:16	20:25	60:17
21:5 22:7	<b>sandwiches</b>	22:11	103:1 103:1
23:5 23:6	43:5	22:25 26:9	<b>school</b> 36:2
23:15	<b>Santa</b> 65:7	26:9 26:10	36:3
23:18	96:25	26:19 27:3	<b>scope</b> 49:4
24:11	<b>Sarah</b> 4:5 5:5	27:16	161:25
25:14 25:23	50:24	27:21	165:19
<b>roughly</b> 121:5	54:24 147:2	27:22	<b>screw</b> 146:20
121:16	<b>savings</b>	27:25 28:1	<b>se</b> 61:6
<b>Round</b>	109:24	28:6 28:24	88:6 163:23
155:14	<b>saw</b> 79:9	30:16	<b>searching</b>
155:15	<b>scale</b> 113:8	33:22	91:21
155:15	121:3	38:17	<b>seats</b> 58:25
<b>rounded</b> 102:2	<b>scenario</b>	38:17	<b>second</b> 5:22
<b>rounding</b>	80:10	38:19	8:4 10:5
119:20	81:14	40:15	10:6 10:7
154:18	81:25 82:5	44:19	12:9 18:10
<b>rule</b> 16:16	89:22	44:20 47:5	20:10
18:13 38:7	89:22 102:16	55:23 56:7	22:11
40:4 52:12	105:23	56:14	23:17 24:5
54:9 54:19	141:25 142:2	56:18 58:2	30:1 48:18
73:23 87:1	<b>scenarios</b>	63:7 68:13	75:21
91:22	32:18	76:14 78:6	81:14
<b>rules</b> 11:8	35:24	78:7 97:15	95:11 101:19
11:23	76:12	100:14 103:8	105:21
12:20 19:8	77:23 79:5	104:10	105:23
33:12 53:5	80:9	107:15	110:11
69:1 69:2		122:10	117:17 118:2
		128:17	118:12
		132:22	
		133:13	

119:24 121:2 135:9 150:11 156:16 162:5 174:14 174:15 <b>seconds</b> 169:15 <b>secretary</b> 4:18 25:4 164:19 <b>section</b> 9:8 12:4 12:9 12:14 12:23 14:12 14:13 14:14 15:1 15:2 20:8 20:11 20:14 20:22 27:11 30:2 30:2 31:24 35:3 37:17 37:20 43:8 44:1 45:14 49:10 75:15 76:3 115:17 122:20 145:25 <b>sections</b> 12:4 12:25 31:19 43:24 <b>section's</b> 76:4 <b>sector</b> 19:3 35:1 <b>Security</b> 29:1 84:6	<b>seeing</b> 110:7 113:12 123:12 <b>seek</b> 97:7 <b>seeking</b> 93:6 <b>seems</b> 76:19 77:23 123:13 <b>seen</b> 9:22 31:3 84:3 173:17 <b>sees</b> 46:20 <b>self</b> 37:11 37:21 44:12 63:9 67:19 68:12 69:9 74:8 163:7 <b>self-diagnose</b> 88:7 <b>self-</b> <b>sufficient</b> 163:4 <b>self-</b> <b>support</b> 13:15 13:18 16:8 16:17 18:9 27:12 27:15 27:18 28:2 28:9 29:24 37:2 37:6 38:14 39:17 39:20 40:21 64:4 65:22 67:10 67:12 67:16	67:24 68:19 69:4 70:1 70:11 71:12 72:21 73:19 77:3 77:4 77:19 78:3 103:14 103:18 129:1 139:12 149:3 149:19 150:1 162:10 167:20 168:1 169:25 <b>self-</b> <b>supporting</b> 161:15 <b>Senate</b> 50:9 <b>send</b> 85:25 132:24 <b>sense</b> 28:5 68:12 69:19 77:23 92:1 109:12 112:16 115:19 123:2 123:3 127:20 137:22 144:20 153:19 153:21 154:1 169:8 <b>sensing</b> 156:25 <b>sentence</b> 63:4 <b>sentenced</b> 53:20 <b>sentiment</b>	70:13 114:17 <b>September</b> 3:5 75:12 <b>seriously</b> 33:14 <b>service</b> 19:3 25:4 34:25 <b>services</b> 3:4 4:18 5:6 5:8 50:25 153:24 <b>serving</b> 4:19 <b>se's</b> 62:9 <b>session</b> 51:25 <b>sets</b> 60:17 <b>setting</b> 45:15 51:20 53:12 86:13 97:3 <b>seven</b> 57:2 <b>several</b> 16:22 22:20 27:14 28:22 38:3 44:3 60:11 76:6 82:11 <b>shaded</b> 39:13 56:17 64:2 64:2 77:2 77:15 167:16 168:17 168:22 169:5 <b>shades</b> 38:17 <b>shading</b> 68:19 <b>shaking</b> 168:5 <b>shape</b> 90:25
---	---	--	---

122:22 136:3	111:10 152:1	<b>simplifies</b>	<b>skew</b> 30:9
<b>share</b> 10:20	<b>shows</b> 34:25	150:16 151:2	<b>skills</b> 93:4
30:11	35:14	<b>simplify</b>	<b>skip</b> 17:6
38:22	35:25	150:14 153:9	<b>skipped</b> 41:7
48:18 56:1	36:10	<b>simply</b> 163:13	<b>slap</b> 126:14
56:13	36:14	<b>simulation</b>	127:4
64:13 79:1	39:21 48:6	34:6	<b>slide</b> 35:23
128:12	70:9 73:18	<b>Simultaneous</b>	36:12 55:23
<b>shared</b> 71:1	75:20 76:6	10:13 174:19	<b>slides</b>
80:13	78:19	<b>single</b> 29:1	10:20 11:4
98:10	78:22 107:16	145:15	<b>Slone</b> 5:10
105:3 115:19	171:14	<b>single-parent</b>	<b>slope</b> 136:3
139:19 143:7	<b>shuffling</b>	25:24 25:25	<b>slower</b>
<b>shares</b> 21:1	11:17	<b>singular</b>	106:7 106:12
21:2 24:3	<b>sic</b> 94:20	60:24	108:24
24:8 30:6	140:25 152:6	<b>sir</b> 140:5	<b>slowly</b>
55:24 56:6	152:15 163:4	151:10	77:18 168:2
57:3 57:4	163:8	171:22	<b>small</b> 27:5
57:4 57:21	<b>side-by-</b>	<b>sit</b> 78:9	80:14 119:14
60:2 60:3	<b>side</b> 106:20	<b>sites</b> 3:11	<b>smaller</b> 47:16
64:1 64:8	<b>sidetrack</b>	<b>sitting</b> 58:25	47:19
86:6 89:9	32:12	146:4	<b>smallest</b>
117:3 139:18	<b>sight</b>	<b>situation</b>	22:25
147:23	143:20 144:7	72:15	<b>so-called</b>
<b>sheet</b> 65:12	<b>signed</b> 65:13	80:24	63:15 63:15
105:11	<b>significance</b>	80:25 141:8	<b>Social</b> 84:5
<b>shells</b> 111:6	118:18	<b>situations</b>	<b>society</b> 85:2
<b>she's</b> 10:19	<b>significant</b>	79:6 93:13	<b>solid</b> 22:24
10:20 15:8	9:13	<b>six</b> 48:23	26:6
41:16	<b>significantly</b>	50:10 76:7	124:22
41:18 51:4	44:15 74:18	80:11	124:22
118:20	<b>sign-in</b> 65:11	81:22	135:24
<b>shift</b> 150:13	65:16	118:6 122:13	<b>solidified</b>
<b>shock</b> 15:25	<b>Silver</b> 8:20	125:21	59:22
50:21	<b>similar</b> 146:6	141:25	<b>solution</b> 51:8
<b>short</b> 16:6	158:1	167:21	56:12 68:9
173:18	<b>simple</b> 157:22	167:22	137:12
<b>showed</b> 16:2	157:24	<b>size</b> 72:14	
16:3 35:12			

140:15	110:18 112:5	<b>specificity</b>	<b>staff</b> 41:16
143:22 149:5	121:17	159:23 160:5	<b>stage</b> 139:3
149:22	125:23 135:7	160:9 160:16	<b>stake</b> 27:8
<b>solve</b> 134:3	135:8 141:18	160:25	<b>stakeholders</b>
147:19	143:19	<b>specified</b>	52:18 53:3
<b>solved</b> 142:13	148:24	79:23	<b>stand</b> 62:20
<b>somebody</b> 19:4	152:14	79:25	<b>standard</b>
60:16	152:15	146:9 155:24	133:1
70:18	156:17 158:4	<b>spectrum</b>	<b>standpoint</b>
71:16	<b>sort</b> 29:22	140:3	58:18
82:15	33:14	<b>spend</b> 9:12	<b>start</b> 6:19
93:13 94:8	46:12 47:5	9:15 24:14	6:22 6:24
94:12	62:17	46:5 78:4	14:1 31:22
98:16 111:6	83:23 111:14	109:7 109:23	46:7 47:7
<b>somebody's</b>	118:4	110:6 112:3	47:9 54:13
71:21 84:5	156:3	<b>spending</b>	66:3 86:11
<b>somehow</b> 98:19	157:3 161:20	24:10 71:3	102:9 102:10
<b>someone</b>	<b>soul</b> 123:6	87:8 146:5	113:16
54:9 58:25	<b>sound</b> 59:2	<b>spent</b> 21:9	113:16
68:25 125:20	86:4	43:9 66:6	113:17
126:3	<b>sounding</b>	68:7 75:14	113:20
<b>someone's</b>	102:12	78:24 112:9	115:18 116:6
51:15 84:2	<b>sounds</b> 58:23	<b>spits</b> 146:10	116:7 119:21
156:12	<b>source</b> 135:12	<b>split</b> 90:1	120:11
<b>sometime</b> 57:7	<b>South</b> 34:21	117:7 147:23	120:15
<b>somewhat</b>	<b>speak</b>	<b>spot</b> 109:1	120:20
47:16	129:21	113:23 119:3	121:15
97:15 144:13	166:20	138:9 160:18	122:14
<b>somewhere</b>	<b>speaks</b> 143:1	167:14 169:3	136:25
54:21 68:2	<b>specific</b>	<b>spreadsheet</b>	148:18
100:18	18:12	142:5 142:6	150:20 153:8
101:17	20:18 41:1	<b>spring-</b>	155:25
131:14 136:2	45:17	<b>boarding</b>	158:23 167:6
161:16	48:10	99:3	<b>started</b>
<b>sooner</b> 102:25	79:24	<b>SSI</b> 29:3 29:6	65:5 89:10
<b>sorry</b> 7:6	92:20	29:9 91:9	100:8 117:20
38:25 43:2	164:5 171:18	<b>SSR</b> 63:9 71:1	<b>starting</b>
73:14	<b>specifically</b>	162:6	75:12
74:10 100:15	15:7 118:22		78:17 78:20

83:14	23:14	<b>statistic</b>	170:11
99:11 118:11	25:22	48:18	<b>Stephanie</b>
119:19	27:18	<b>statistical</b>	5:10
148:17 153:4	28:12	138:4	<b>Stephen</b>
156:24 170:2	28:22 29:8	<b>statistics</b>	5:21 51:2
170:8	30:13 34:3	22:17 35:4	86:3 97:18
<b>starts</b> 36:7	35:16	35:15 110:12	108:9 146:2
76:9 76:15	36:20	<b>status</b> 77:8	<b>Stephen's</b>
107:19	37:24 38:1	<b>statute</b> 49:14	155:4
107:24 108:1	38:9 40:7	52:2 52:6	<b>steps</b> 45:11
114:3 114:11	44:16	54:7 55:11	137:21
114:12	44:25 48:2	73:22	<b>Steven</b> 3:19
120:17	48:4 48:23	86:11	<b>stick</b> 46:15
120:17	49:24 54:9	95:12 127:21	127:17
122:17	57:3 57:22	145:25	<b>sticker</b> 15:24
123:15	59:25	146:13 147:7	50:20
123:23	63:14 72:1	147:25	<b>stipulate</b>
126:17 136:7	72:7 74:5	150:23	61:10
137:11	74:20	163:25	<b>stipulating</b>
160:12	79:12	164:10	61:24 62:9
170:12 172:3	79:14 82:9	168:13	<b>stool</b> 73:25
<b>state</b> 12:6	82:10 83:8	<b>statutes</b> 51:4	<b>stop</b> 29:25
13:24	86:22	<b>statutory</b>	<b>stopped</b>
17:11	86:24	55:14	130:18
19:24 20:5	89:18	63:17 96:2	<b>stops</b> 134:13
22:17	92:15	148:4	<b>story</b> 143:5
22:21 25:7	104:1 117:22	149:6	<b>straight</b>
25:21 26:2	128:14	156:1 157:19	131:2
29:12 49:4	128:14	161:4	131:5
55:5 60:2	131:13	162:8 164:13	136:9 136:25
61:19	132:21	171:11	<b>straight-line</b>
72:22 74:4	151:25	<b>steeply</b>	131:6
86:23 96:3	<b>state's</b>	108:19	<b>straight-</b>
96:4 96:23	18:7 19:19	<b>steepness</b>	<b>lined</b> 136:8
99:6 104:12	55:8	136:3	<b>strategy</b>
<b>statement</b>	<b>States</b> 12:16	<b>step</b> 38:6	164:20
147:25	<b>State's</b> 92:22	42:22 61:9	169:19
163:16	<b>State-set</b>	108:22	
<b>states</b> 12:7	97:2	156:10 166:1	
12:11 13:8	<b>statewide</b>		
17:9 21:1	96:24		

<b>streams</b> 11:21	<b>subparagraph</b> 149:13	129:25	55:24
<b>stretch</b> 159:11	<b>subsistence</b> 18:8 35:6 69:21	<b>supplement</b> 13:16 14:7 28:1 38:4 68:18 75:11 75:16 75:19 78:16 98:8 112:25 166:4	57:17 58:21 59:21 63:7 63:10 67:10 67:20 68:13 69:10 70:24 71:9 71:13 71:14 71:18 71:25 72:3 72:13 72:18 72:22 73:6 74:9 74:23 78:21 81:22 85:19 85:22 86:14 87:22 88:9 88:18 98:19 107:6 113:21 126:23 130:9 133:12 138:5 142:20 151:20 159:4 161:8 163:10 170:2 173:19
<b>strictly</b> 77:10	<b>substance</b> 18:23 19:11 93:22	<b>Supplemental</b> 28:25	
<b>strong</b> 57:22 114:16 131:21	<b>substitution</b> 24:6	<b>supplied</b> 116:21	
<b>struck</b> 83:6	<b>Subway</b> 43:5	<b>support</b> 3:2 3:3 4:20 5:2 5:4 5:7 5:14 5:14 5:16 5:23 5:24 6:2 6:7 6:9 6:12 6:12 6:14 6:16 7:2 8:2 8:11 8:24 9:18 18:18 28:17 29:9 29:9 30:5 37:12 37:22 40:9 44:13 46:25 47:4 47:11 47:14 48:16 51:5 51:22 52:25 53:12 53:18 53:19 53:21 53:22	
<b>structure</b> 65:25 159:18	<b>success</b> 91:21		
<b>structured</b> 45:18	<b>successful</b> 96:20		
<b>struggled</b> 57:25 89:6 89:21 90:7 97:13 150:16	<b>sufficient</b> 163:8		
<b>struggling</b> 90:10 113:8	<b>suggest</b> 23:18 38:21		
<b>stuck</b> 44:17	<b>suggested</b> 73:1 117:22		
<b>studies</b> 23:2 25:1 48:10 48:20 48:20 61:17 122:8	<b>suggesting</b> 33:11 133:5 158:13		
<b>studying</b> 78:25	<b>suggestion</b> 68:25 93:24 138:6 152:5 152:17 154:8 157:16 164:15		
<b>stuff</b> 42:16 43:1	<b>suggestions</b> 164:14		<b>supporting</b> 67:21 108:13 171:10
<b>subject</b> 71:9 115:22 146:17 147:9 156:7 157:23 158:17	<b>suggests</b> 48:11		<b>supports</b> 127:16
<b>subliminal</b> 85:9 85:24	<b>summarize</b> 136:13		<b>supposed</b> 54:10
	<b>summary</b> 123:21		<b>Supreme</b> 172:2



<b>sure</b> 11:3	142:10	42:5 55:16	163:11
41:11	<b>systems</b> 58:21	57:6 57:6	163:17
41:16	73:11	63:3 69:4	<b>taxable</b> 109:6
41:17	<b>system's</b>	100:16 145:1	<b>taxes</b>
41:19	73:11	145:6 169:18	103:24 104:5
42:17		171:6 171:15	104:16
45:19 46:7	<hr/>	<b>talked</b> 13:1	<b>teach</b> 19:12
46:22	T	13:22 51:2	<b>team</b> 57:20
64:21	<b>table</b> 12:3	55:10 58:5	68:25
65:15	21:23	69:13 89:7	<b>technical</b>
71:13	21:24 38:5	90:8 98:10	58:8 64:22
78:24	56:15	119:8	65:6 67:7
83:21	56:17 73:4	124:5 150:22	112:5 141:13
86:19 92:9	75:20 76:3	173:7	141:18
93:11	77:21	<b>talking</b>	<b>technically</b>
116:2 117:19	81:11	14:8 18:9	39:22 169:20
138:10	81:13	30:4 33:7	<b>technological</b>
152:16	86:11	40:16	123:9
159:13	100:3 100:12	43:10 55:1	<b>telegraphs</b>
169:25 170:3	119:11	64:14 66:7	85:20
172:5	119:22	67:9 78:16	<b>temperature</b>
<b>surprised</b>	130:18	91:11 112:10	102:14
50:20 171:4	137:10	119:18 121:7	123:12
<b>survey</b>	137:13 143:3	145:2 145:10	150:11
22:15	143:9	145:18	155:20
22:19 110:13	149:6 149:10	147:12 150:5	156:14
111:15	155:23 167:5	158:5 160:11	<b>template</b>
111:21	167:6	<b>talks</b> 16:21	70:21
<b>surveys</b> 22:18	<b>tables</b>	40:2	<b>ten</b> 8:5 95:18
<b>sweet</b> 119:3	58:12	<b>taper</b> 136:25	161:17
<b>switch</b> 52:11	68:16	<b>tapered</b> 106:6	169:15
<b>switched</b> 60:1	78:18 100:4	<b>Target</b> 19:4	<b>tend</b> 111:17
<b>system</b> 32:2	<b>taking</b> 78:2	<b>task</b> 150:17	<b>tentative</b>
34:4 39:6	91:18	152:5	171:21
58:22	97:22 101:24	<b>tasks</b> 9:24	<b>terminology</b>
59:14	102:14	<b>tax</b> 103:25	119:10
59:18	123:12 140:8	104:1	144:25
59:19	<b>talk</b> 4:16	104:2	145:17
72:24 73:6	12:6 27:9	109:5	
73:8 81:9	29:12	109:7 109:10	
	30:19		
	37:13 39:8		

<b>terms</b> 44:6 51:19 56:5 77:23 83:23 84:8 112:13 115:14 160:11 161:25 162:14	23:17 <b>there's</b> 5:3 9:23 11:7 12:3 12:21 14:2 14:3 14:4 14:14 17:5 17:23 18:17 20:1 20:4 21:11 23:1 23:2 23:14 24:6 25:1 25:22 27:1 27:7 27:24 28:7 28:14 29:8 30:1 33:11 33:25 35:1 35:5 35:7 35:14 36:11 38:4 39:5 39:15 40:18 41:7 41:7 42:18 43:17 43:25 46:25 48:9 48:17 49:20 49:23 51:2 54:6 58:8 58:18 63:14 63:20 63:23 66:10 68:18 69:19 70:13 76:15 76:19 78:3 78:17 80:4 83:13	86:25 87:2 87:4 87:5 87:10 88:10 91:7 94:7 94:10 96:24 103:25 104:1 105:9 108:3 109:9 110:2 111:12 112:23 113:1 113:2 113:22 114:16 115:11 116:2 117:15 120:4 121:3 129:9 131:10 132:2 132:4 132:12 137:4 138:24 141:16 143:12 145:17 146:7 148:4 153:12 153:16 155:10 161:2 167:12 167:15 <b>they're</b> 19:9 19:12 19:13 24:19 27:6 29:5 31:5 31:6 37:10 46:22 48:3 49:6 57:24 57:25 62:9 83:6 86:23 93:22 99:9 99:10 110:25 111:2	112:2 118:25 119:13 126:14 127:25 128:15 129:6 129:8 134:14 155:5 164:9 164:10 164:23 <b>they've</b> 47:23 <b>third</b> 7:25 12:14 13:14 15:14 28:10 35:18 38:14 44:4 44:10 75:23 81:19 106:21 110:11 118:3 118:13 119:25 <b>Thomasson</b> 53:17 53:18 54:22 <b>thoughts</b> 79:2 <b>three-</b> <b>legged</b> 73:25 <b>threshold</b> 56:20 66:4 97:11 102:10 120:16 128:22 128:24 150:24 151:4 151:7 <b>thresholds</b> 56:4 <b>threshold's</b>
<b>Texas</b> 36:9 37:11 <b>text</b> 18:3 18:7 68:11 70:4 <b>thank</b> 3:13 5:12 6:15 7:10 7:16 7:22 8:8 8:17 10:4 11:1 20:18 20:20 30:18 30:20 32:3 42:5 48:24 54:24 61:3 62:23 63:23 68:5 80:5 80:20 84:14 95:5 95:20 96:18 118:16 163:1 172:13 173:15 <b>Thanks</b> 9:1 42:8 64:12 70:22 75:6 76:10 86:1 91:14 152:22 <b>theoretical</b> 97:16 <b>theories</b>			

26:23 48:13	<b>topic</b> 46:5	132:15	136:18
<b>throughout</b>	47:10	132:19 133:9	136:19
76:3 106:1	59:12 78:5	140:24 141:3	136:23
<b>throw</b> 29:13	101:20	141:7 141:22	136:23
56:1 56:23	135:22	142:8 142:10	<b>truly</b> 82:7
62:6 83:11	<b>topics</b> 43:10	142:16	83:12
<b>throwing</b>	<b>total</b>	142:21 143:3	112:2
167:25	129:10	145:21	159:8 167:13
<b>thrown</b> 153:11	136:15	145:24	167:17
<b>tie</b> 150:4	<b>totally</b> 168:4	147:22	167:20 168:3
<b>tied</b> 98:19	<b>touch</b> 129:3	172:25	<b>try</b> 43:3
112:20	<b>tough</b> 162:16	<b>tour</b> 8:4	50:17 115:20
<b>tier</b> 118:2	<b>Toulouse</b> 5:15	<b>towards</b> 46:23	135:16
<b>tiering</b> 119:8	5:15 6:19	66:15 67:2	150:21 169:1
<b>tight</b> 166:8	49:12	95:17 123:13	169:17
<b>time-</b>	59:15	129:5 135:20	169:22
<b>sharing</b> 36:5	60:10	155:20	171:12
36:5	64:13	<b>track</b> 77:5	172:11
<b>tired</b> 169:10	64:18 65:2	<b>tracks</b> 143:15	<b>trying</b>
<b>title</b> 11:24	71:8 73:15	<b>train</b> 31:19	14:21
<b>tobacco</b> 23:24	74:11 79:4	82:19 143:24	14:22
<b>today</b> 16:7	80:7 80:21	<b>TRANSCRIPT</b>	50:21
21:21 44:7	81:8 81:11	3:1	61:10
45:6 45:15	83:17	<b>transition</b>	77:18
69:9 70:16	87:14	165:8	79:17
70:25	87:20	<b>transparent</b>	86:16
78:14 89:8	87:23	68:21 104:11	97:14 112:13
102:8 113:12	87:25	<b>treat</b> 19:19	112:14 120:5
114:4 138:19	88:16	<b>treated</b> 103:1	124:4 137:16
139:6	93:25	103:6 103:9	144:3
146:2 161:22	94:15	<b>treatment</b>	146:5 146:21
163:20 173:5	94:24	39:24	157:7 159:21
<b>ton</b> 142:22	100:3	<b>trickier</b>	162:4 170:7
<b>tons</b> 118:20	100:7 100:11	69:11	<b>tune</b> 112:13
<b>Tony</b> 6:8	100:14	<b>tried</b> 81:12	<b>tweak</b> 41:1
<b>top</b> 87:13	105:18	93:23	133:21
132:11	106:18 117:2	<b>tries</b> 24:16	<b>tweaked</b> 38:11
	117:7 117:10	<b>true</b> 110:14	<b>tying</b> 78:6
	127:21		<b>type</b> 121:23
	128:22 129:2		154:20
	132:12		

<b>types</b> 23:7 91:20	<b>understates</b> 23:19	<b>unshaded</b> 77:15	84:20 91:15 169:19
<b>typo</b> 36:11	<b>undoubtedly</b> 37:9	<b>update</b> 22:4 37:16 73:4	<b>value</b> 85:2 85:5 85:8
<b>typos</b> 32:7	<b>unemployed</b> 31:12	99:4 107:16	85:15 85:22 114:19
<hr/> U <hr/>	<b>unemployment</b> 19:20 35:4	168:10 168:13	<b>values</b> 113:11
<b>U.S</b> 21:8 23:2	94:2 94:6 94:10 95:10	168:14	<b>variation</b> 75:23
<b>Uh-huh</b> 168:19	<b>unextrap</b> 137:7	<b>updated</b> 12:13 20:25 21:6	<b>varied</b> 35:5 94:19
<b>ultimately</b> 42:2	<b>unfortunately</b> 85:1 138:8	21:22 23:1 36:4 40:15	<b>Venohr</b> 5:18 5:18 8:6
<b>umph</b> 13:9	152:12	44:19	10:18 10:19
<b>unable</b> 62:20	<b>Uniform</b> 49:16	<b>updating</b> 22:12 128:16	10:25 11:1 15:16
<b>unanimous</b> 58:18 59:4	<b>unique</b> 18:16	128:16 150:17	20:20 30:4 30:12
<b>unchanged</b> 33:25	<b>unit</b> 111:8	<b>upon</b> 106:8 113:23	30:19 31:17 42:8
<b>uncommon</b> 131:25	<b>University</b> 21:4 25:13	143:25 153:25	42:14 43:24
<b>underlying</b> 92:2 109:4	<b>unknowns</b> 144:11	159:23	46:10 48:9 49:9 49:14
128:4	<b>unless</b> 148:6	<b>urban</b> 94:9	49:23 54:15
<b>underneath</b> 18:6	160:5 169:5	<b>USDA</b> 24:16 36:3	54:18 54:21 55:6
<b>underreport</b> 111:17	<b>unlikely</b> 130:22	<b>usually</b> 35:1 104:3	56:8 58:4 59:13
<b>underscore</b> 32:22 70:20	<b>Unmute</b> 6:25 65:3	172:3	59:24 61:17
<b>understand</b> 16:19 58:9	<b>unpaid</b> 48:13	<b>Utah</b> 56:11 58:12	62:23 63:22
91:9 91:10	<b>unrealistic</b> 96:12 113:11	<hr/> V <hr/>	68:15 70:6 70:7 72:7
112:14	129:6 129:8	<b>valid</b> 155:5 162:5	73:14 73:16
129:20	<b>unreasonable</b> 159:11	<b>validity</b> 123:14	75:11 75:18
141:12	<b>unrounded</b> 155:12	<b>valuable</b> 14:21	
169:12			
<b>understanding</b> 39:5 71:1			
97:16 112:15			

76:23 82:4	131:10 132:8	<b>version</b>	18:25
82:21	132:21 133:4	120:15	19:16 31:3
83:18	133:8 134:10	148:20	34:8 34:10
83:21	134:24	148:23	34:18
86:21 88:3	136:21	<b>versus</b> 31:12	34:23
90:3 92:8	136:23 138:1	<b>vetoed</b> 50:11	36:17 37:5
92:9 93:21	138:7 138:11	<b>vetted</b> 25:21	37:5 46:13
98:1 98:21	139:15 149:9	<b>via</b> 9:3	73:21 74:6
98:23	151:19 152:5	<b>video</b> 3:11	74:7 74:16
99:21 100:10	152:7	9:3 64:25	81:20
100:13	152:9 154:16	65:4 65:9	81:24 82:1
100:15	154:25 155:3	<b>view</b> 60:18	88:1 91:7
100:21	155:8 155:18	76:17	91:11 92:4
100:23 101:6	156:17 157:6	76:18	93:15
101:11	157:14 160:4	84:18 128:9	93:20 94:5
101:14	165:22	<b>Villanueva</b>	94:23 96:1
101:19	165:24	7:20 7:20	96:4 96:9
102:18	166:16	<b>Virginia</b>	96:13
102:19	167:12 168:7	134:11	96:16
106:10	168:16	<b>visually</b>	96:23
108:14 109:3	168:20	123:11	96:25 97:2
109:16	169:10	<b>Vlas</b> 7:20	99:6 99:9
112:12	169:14	<b>voluntarily</b>	153:17 161:6
114:13	169:16	28:15	161:9
114:23	169:23 170:6	28:17 118:23	162:1 166:6
114:25 115:6	170:14	119:1	<b>wages</b> 19:1
116:8 116:21	170:23	<b>voluntary</b>	91:20 96:24
117:1 117:13	171:17	19:10	<b>waiting</b> 50:19
118:17	172:16	19:20 53:23	<b>walk</b> 11:2
118:19	173:14	<b>vote</b> 115:22	<b>walked</b> 9:24
119:22	<b>Venohr's</b> 9:13	137:23 160:6	<b>Walker</b> 135:13
120:13	79:11	160:16	<b>warranted</b>
120:19 121:5	95:25 138:17	160:21 173:7	126:16
121:15	160:8	<b>voting</b>	<b>wasn't</b> 17:1
121:18	161:8	157:3 174:1	50:3 79:23
121:20	167:2 173:23	<b>W</b>	103:2 110:19
121:23	<b>verbatim</b> 52:4	<b>wage</b> 18:17	129:20
121:25 122:3	<b>verbiage</b>		131:18
122:6	100:12		132:16
128:9 128:11	<b>Vermont</b> 61:18		<b>water</b> 30:10
128:13	61:23		
128:25			
130:24 131:9			

42:25	23:22	141:25	138:23 146:5
<b>ways</b> 27:14	24:10	143:20	152:16
<b>Webb</b> 6:8	29:20 33:6	144:11	153:11
6:8 126:1	33:21 44:7	144:22	157:11
<b>we'd</b> 75:4	51:21	145:18	159:24
156:9	52:23 53:1	147:12 149:8	160:10
<b>wedlock</b> 49:20	55:12	150:5 156:25	160:19
<b>week</b> 19:4	55:14	159:7 159:19	161:18
19:6 34:13	55:21 60:9	160:15	163:17 165:8
34:24 92:4	63:8 63:10	160:21	165:15
94:23 96:7	63:21	160:22 161:2	165:16
96:15 99:7	64:14 65:4	161:4 161:10	169:24 170:8
105:9 143:15	65:6 65:19	161:12	171:3
163:22 166:5	66:6 66:13	161:14	<b>whatever</b>
170:23	66:13	161:17 162:4	85:16
<b>weekly</b> 94:18	67:12	162:7	104:2
<b>weeks</b> 42:12	67:19	163:3	111:3 121:14
164:23	67:25 73:9	163:6 168:25	127:12 138:3
<b>weird</b> 155:12	74:15	169:10	146:15
<b>welcome</b> 12:1	74:22	170:20 171:4	148:17
<b>we'll</b> 3:15	79:10	173:1	148:19 149:3
9:5 9:20	79:17	173:5	149:10
20:8 32:8	81:19 84:6	174:1 174:4	149:11 151:4
43:4 45:25	85:7 85:14	<b>we've</b> 10:23	166:5
65:17 115:24	88:20	12:25	<b>whether</b> 18:22
137:15 157:3	90:11	31:10	18:22
160:6 164:10	91:11	42:11 45:7	18:23 41:2
165:4 169:22	94:22 99:1	45:20 47:9	47:18
169:23	99:2	47:17 51:1	51:14
170:25 171:2	103:16 107:3	52:3 52:3	61:20 84:7
171:12	107:4 108:21	55:10	117:17
171:16	109:21 113:8	57:25 58:5	166:12
172:10 174:8	113:12	59:8 60:10	167:19
<b>we're</b> 11:3	119:18	64:16 66:6	168:21
11:10	122:14	66:17	<b>whoever</b> 84:23
13:10	122:21	69:13 73:1	<b>whole</b> 20:4
14:19	122:23	73:8 90:10	21:9 66:5
14:21	123:13	97:13	87:1 111:9
14:21 15:1	126:17	98:10	128:16
	135:19	113:9	152:16
	135:21	116:3 121:25	163:15
	137:20	122:18 126:6	
	140:24 141:3		

<b>wholeheartedl</b>	148:24	<b>worksheet</b>	160:20
<b>y</b> 67:10	153:11	21:16	<b>writing</b>
<b>whom</b> 133:12	153:15	27:16	156:12
<b>who's</b> 21:4	<b>win</b> 62:21	30:16	162:11
31:4 71:16	62:22	38:16 39:7	<b>written</b>
125:20	<b>wish</b> 61:18	39:22 58:9	116:20 129:6
125:20 158:5	68:23	58:16	<b>wrong</b> 68:16
<b>Williams</b>	<b>wording</b> 19:23	58:17 61:7	108:15 115:2
7:1 7:1	<b>work</b> 5:2	61:21	119:10 127:3
<b>willing</b>	5:5 18:25	69:12 73:2	129:13
93:8 118:25	25:24 35:2	81:5	130:24 131:8
<b>Wilson</b> 4:3	47:22 52:3	140:21	139:17
4:4 4:22	52:3 52:20	141:14	<b>wrote</b> 49:9
4:24 4:24	52:22 53:7	141:21 142:7	<hr/>
48:25 61:5	53:11	142:12 143:2	Y
62:13	82:22	145:9	<b>Yep</b> 121:4
64:16	91:12 93:6	145:9	<b>yet</b> 37:14
65:18	140:21 145:8	146:9 147:20	59:15
79:20 80:2	172:12 173:5	148:2	119:4 157:10
88:13	<b>worked</b>	<b>worksheets</b>	174:2
93:19 118:17	52:25 57:1	63:11	<b>yield</b> 44:14
123:5	82:11	<b>work-up</b>	<b>you-all</b> 6:17
123:7	94:16	162:19	<b>you'll</b>
127:1 127:11	94:19 126:3	<b>workweek</b>	36:19
127:15	<b>workforce</b>	34:22	66:10 124:19
128:20 129:3	19:9	<b>world</b> 111:21	135:24
129:18 130:4	<b>working</b>	<b>worms</b> 55:21	<b>yours</b> 146:7
130:8 130:11	43:8 51:4	128:17	<b>yourself</b> 43:1
131:23 132:5	57:20	<b>worth</b> 90:4	43:7
133:3	60:10 65:1	118:24 124:3	<b>yourselves</b>
133:5 133:20	67:3 84:18	126:15 164:3	6:18 52:18
134:23 135:2	96:14 99:9	<b>worthwhile</b>	<b>you've</b> 9:22
135:6	105:8 122:9	71:3 114:5	62:18
135:8 135:22	<b>works</b> 19:4	<b>wrapped</b> 41:5	72:10
136:12	39:4 66:8	<b>wrapping</b>	152:7 156:21
136:19	71:1	45:10	<hr/>
136:21	102:17	<b>wrap-up</b> 46:3	Z
136:24	141:21	<b>write</b> 52:12	<b>zero</b> 17:1
141:12	<b>work's</b> 53:1	160:19	21:14
141:17			
141:20 142:4			

28:21	<b>zeros</b> 151:7		
28:23			
28:24 29:7			
30:4 30:14			
36:18 37:1			
38:24 39:1			
40:20			
73:18			
76:14			
76:22			
76:25			
78:20			
78:20			
78:21			
79:24			
80:10 81:4			
81:21 82:6			
82:20			
83:24 84:9			
84:21 85:5			
85:7 85:20			
85:24			
88:15 89:1			
99:5 99:11			
100:22 102:9			
105:20			
106:22			
113:16 114:3			
114:7 114:11			
115:2 116:23			
117:23			
119:19			
121:10			
126:12 127:4			
132:13 139:9			
141:9 143:12			
148:18			
148:18 149:1			
151:6			
151:6 155:22			
155:24			
155:24			