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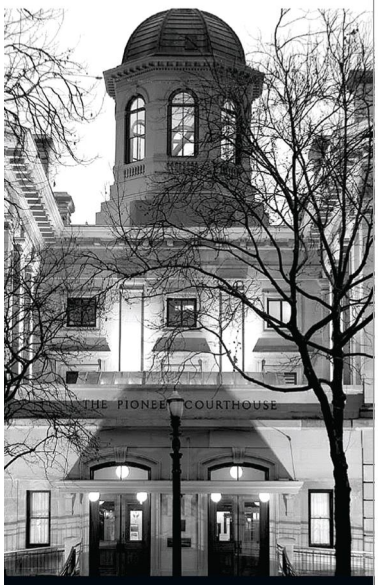

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TRANSCRIPT OF

MEETING

TAKEN ON
NOVEMBER 8, 2018
2:00 P.M.

CHILD SUPPORT GUIDELINES REVIEW COMMISSION
CHILD SUPPORT ENFORCEMENT DIVISION
HUMAN SERVICES DEPARTMENT
1474 RODEO ROAD
SANTE FE, NEW MEXICO 87505

GUIDELINES REVIEW COMMISSION MEMBERS IN ATTENDANCE

Mr. Stephen Klump

Judge James Martin

Judge Matthew Wilson

Ms. Sarah Batzli

Ms. Betina McCracken

Mr. Michael Nelson

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CHILD SUPPORT GUIDELINES REVIEW COMMISSION

MR. NELSON: All right. I'm going to call this meeting to order and I think it's --

PARTICIPANT: 2:03.

MR. NELSON: 2:03. And I would like Melinda to do a roll call for the Commission members, please.

MS. PINEDA: Representative David Gallegos?

Hearing Officer Stephen Klump?

MR. KLUMP: I'm here. I'm participating from Albuquerque North.

MS. PINEDA: Judge Gerard Lavelle?

MR. KLUMP: Judge Lavelle asked me to tell you he was unable to make it today. It's his motions day, he has 30 settings. But he has reviewed all the material and he gave me some comments to share with the committee at the appropriate time.

MS. PINEDA: Judge James Martin?

JUDGE MARTIN: Present via video from Las Cruces.

MS. PINEDA: Judge Matthew Wilson?

JUDGE WILSON: Present.

MS. PINEDA: Sarah Batzli?

MS. BATZLI: Present.

MS. PINEDA: Betina McCracken?

MS. MCCRACKEN: Here.

MS. PINEDA: And Michael Nelson?

MR. NELSON: Here.

We have a quorum. I'd like to spend a minute having everybody introduce themselves much as the Commission members, but also the folks that are joining us, other guests that are joining us. We are videotaping this session here in Santa Fe and the video tape will serve the purpose to provide the material for transcription after the meeting.

And so I would like to do kind of an administrative step here to have folks spell -- is it all right only if folks spell their last name, say their first name and spell the last name?

THE VIDEOGRAPHER: Sure.

MR. NELSON: Okay. So I will ask you to indulge me. When you introduce yourselves spell

your last name, just quickly describe your role with what organization you represent in your role.

So I'll start by saying my name is Mike Nelson, N-e-l-s-o-n. I am the Deputy Cabinet Secretary for Human Services Department and also the Acting Director of the Child Support Enforcement Division.

JUDGE WILSON: Judge Matthew Wilson, W-i-l-s-o-n. I'm a district judge in Santa Fe, Los Alamos and Rio Arriba Counties, the First District Court. I handle primarily a Family Law docket and also I'm a former child support hearing officer.

MS. BATZLI: I'm Sarah Batzli, B-a-t-z-l-i. I work with the New Mexico Human Services Department in the Child Support Enforcement Division and I'm Deputy Director of Legal Services.

MS. MCCRACKEN: Good afternoon. I'm Betina McCracken. I'll spell both, B as in boy, e-t-i-n-a, McCracken, M-c, capital C-r-a-c-k-e-n. I am a Deputy Director of Child Support overseeing the field operations.

MS. JIRON: Good afternoon. My name is Becky Jiron, J-i-r-o-n, and I'm an attorney with Child Support.

MR. TOULOUSE: Good afternoon. My name is

Jeremy Toulouse, T-o-u-l-o-u-s-e, and I'm one of the regional operations managers for the Child Support Enforcement Division.

MR. WEBB: My name's Anthony Webb. I'm a Deputy Director of -- W-e-b-b, apologize -- Deputy Director of Central Operations here in Child Support.

MS. PINEDA: Melinda Pineda, P-i-n-e-d-a, Policy Supervisor for Child Support.

MR. NELSON: Johnna?

MS. PADILLA: I am Johnna Padilla and I am the Program Support Bureau Chief. Sorry, I forgot to spell my name, so both names, Johnna, J-o-h-n-n-a, Padilla, P-a-d-i-l-l-a.

MS. GALLEGOS: I'm Kathy Gallegos. I'm the -- sorry -- G-a-l-l-e-g-o-s, Kathy with a K, and I'm the Child Support -- I'm a QA Specialist.

MS. SALAZAR-VALDEZ: Hi, I'm Jennifer Salazar-Valdez, S-a-l-a-z-a-r, hyphen, V-a-l-d-e-z, and I work with Child Support and I'm a Management Analyst.

MS. GOODMACHER: Hi, I'm Jill Goodmacher, G-o-o-d-m-a-c-h-e-r. I'm here (indiscernible) New Mexico Child Support.

MS. BIRD: Lila Bird, managing attorney,

L-i-l-a, B-i-r-d.

MR. NELSON: Okay. That covers us here in Santa Fe. A little bit hard to see on the video, I know Larry is joining us from Las Cruces.

Larry, will you introduce yourself, please?

MR. HEYECK: Larry Heyeck, H-e-y-e-c-k. I'm an attorney with Child Support Enforcement Division.

MR. NELSON: Thanks.

Who else do we have joining us in Albuquerque?

PARTICIPANT: Wait, there's a judge in Las Cruces.

MR. KLUMP: I'm Stephen --

MR. NELSON: Hold on, Stephen. I'm sorry. Sorry, Stephen. I didn't give Judge Martin a chance to introduce himself.

Judge Martin, go ahead, please.

JUDGE MARTIN: That's okay. James Martin, M-a-r-t-i-n. I'm a District Judge from the Third Judicial District. I'm a chief judge. I'm also a commissioner.

MR. NELSON: Thank you.

Stephen, go ahead.

MR. KLUMP: Thank you. Stephen Klump, K-l-u-m-p, I'm a Domestic Relations Hearing Officer in the Second Judicial District Court, and prior to that I was the Child Support Enforcement Acting Director and a field attorney for child support prior to that.

MS. LARSON: My name is Maria Larson, L-a-r-s-o-n. I am with CSED, Quality Assurance Specialist. Before that I was an advance worker and case worker with CSED.

MS. WELLS: I'm Veronica Wells, W-e-l-l-s. I'm also with Quality Assurance out of the Central Office, but housed here at Albuquerque North.

MS. APODACA: I'm Yvette Apodaca, A-p-o-d-a-c-a, a clerk advanced with training unit here in Albuquerque North.

MR. NELSON: Thanks. Anyone else via video conference?

Okay. We have Dr. Venohr on audio conference. Jane, would you care to introduce yourself?

DR. VENOHR: I'm (inaudible) Center for Policy Research and I'm the Economics Consultant.

MR. NELSON: Okay. We're having a little bit of technical difficulty with the line. I think

one of the next steps we were going to -- one of the upcoming steps was to have Jane share briefly some supplemental information that she provided, so we'll try to do that. If we're having difficulty with the line we'll try to address that as we go.

So again, Dr. Venohr is our economist. It's drafted as -- published these reports that we're using as part of our guidelines review process.

I'd like to, if I've covered everybody -- I'm getting a hand from Betina. Yes?

MS. MCCRACKEN: I just want to clarify that the offices that were joining us by video conference that didn't have any public members, I asked them to go ahead and shut down.

MR. NELSON: Okay.

MS. MCCRACKEN: Farmington, it doesn't look like there's one in Farmington as well, so that one may shut down here as well.

MR. NELSON: Okay.

MS. MCCRACKEN: Okay.

MR. NELSON: Fair enough.

Let's get into our agenda. For our first action item, our first item on the agenda is the approval of the agenda. I believe this went out to

all Commission members and it's pretty straightforward. So if there's no questions, I would entertain a motion to approve the agenda.

MS. MCCRACKEN: Motion to approve agenda.

MR. NELSON: I have a motion from Betina to approve.

MS. BATZLI: Second.

MR. NELSON: And a second from Sarah. I don't believe we need discussion so I'll call a vote.

All in favor of the agenda please signify by saying aye.

(In unison: Aye.)

MR. NELSON: Thank you.

Opposed?

Okay, the ayes have it.

Let's move to the next item which is approval of minutes from our September 28th meeting, and that document I believe was sent out in advance of the meeting and also copies are available. I felt like the minutes accurately captured the high points of the discussion and the takeaways from last time.

So unless there's discussion on the minutes or any edits that are needed, I would

entertain a motion to approve the minutes from the 28th of September.

PARTICIPANT: I move to approve the minutes from the September 28th meeting.

MR. NELSON: Thank you. Do I have a second?

JUDGE WILSON: I'll second.

MR. NELSON: Thanks, Judge Wilson.

All right, if there's no discussion on the minutes, I would call a vote.

All in favor of approving the minutes please signify by saying aye.

(In unison: Aye.)

MR. NELSON: Anyone opposed?

All right, so we have rocketed through the first three items of our exciting agenda and now we can kind of get down to business.

We, I thought, had a very productive discussion on the 28th and I thought we came to some levels of agreement on, in general, on a number of points. And I think we wanted to come back together today to maybe put detail around those points and then check for consensus. If there is consensus, then moving forward with voting on recommendations that we want to come out of this Commission meeting,

from this Commission and the review being done by this Commission.

So one of the things that we had as part of that -- takeaways from that meeting were to have Dr. Venohr do a couple different versions of schedules and work on a set of formulas for calculating orders when incomes are at the high end of the table.

And Dr. Venohr provided a supplemental document originally, I think, on the 31st of October, and then another version of that same document on the 6th of November, very minor corrections, immaterial corrections. But the most recent version that I believe is dated November 6th and there are copies available.

I was going to give Dr. Venohr a minute to, if she'd like to say anything -- why don't we try to get Jane back on the phone?

And do you know, Betina, have an email or a text, can you connect with her via --

MS. MCCRACKEN: No, I don't the number.

MR. NELSON: Let her know that we're experiencing technical difficulty. Okay.

MS. MCCRACKEN: No.

MR. NELSON: So Melinda's going to try to

get us back on the phone.

MS. PINEDA: Yeah.

MR. NELSON: And I think we can forge ahead. I think, fortunately, the supplemental information is straightforward. I think the folks that participated last time are familiar with what we're looking at. So we could proceed if we're unsuccessful with connecting with Jane again.

DR. VENOHR: This is Jane. Sorry, I was dropped for some reason.

MR. NELSON: No problem. We're not sure why, but the funny part, Jane, was that we had just gotten to the point where we were going to have you give just a quick update, if you like, on the November 6th supplement that you provided based on what we discussed on the 28th of September. Are you able to quickly go over some high level thoughts on that document?

DR. VENOHR: Sure.

MR. NELSON: Wonderful.

DR. VENOHR: Sure. So there's -- first of all, it's an updated schedule for 2018 price levels and the month current economic data there is. So that's the overall schedule. The area that's shaded, there's two differences. There's Schedule F

and Schedule G and both of them contain a self-support reserve of a thousand dollars per month.

And then the minimum and the minimum order is $60 a month for those incomes below that and $60 plus $10 for each additional child in Alternative F. F2, actually, because that's in -- there's an F1 that we provided earlier. And then for G, it's the same thing except the minimum order is $60 plus 15.

And the rationale for the thousand was that it was a round number. The federal poverty level in 2008 is 1,013 -- I mean 1,012, so it was rounded to a thousand to keep it even. The minimum order 60, most states use just either as economic evidence that non-custodial parents, low-income non-custodial parents will voluntarily pay $60 in in-kind support. So the logic is if they'll voluntarily pay it, then they should be able to formally pay it. So that's the root of the 60.

And then there is some discussion, the Commission was mixed on the $10 or the $15 increase for the minimum order, so that's why we ran it two different ways. And then the blue area, what that represents is where that self-support reserve is still applied.

And what we do is we look at the amount

that would be based on the economic data around the cost of children, that's the unshaded area. And if the amount adjusted with the self-support reserve is less, we shade it. And so that's considering the difference between the obligated parent's income or the income, the midpoint of that income and a thousand dollars.

Then we start with that minimum order, so $60 for one child, and then we add $40 per each $50 increment. And if that calculation is less than what the economic data shows then that area is shaded. So those are -- that's a quick summary of the schedule.

I can pause there before I talk about the base of the formula for the high income. So I'm going to pause there and see if there's any questions on the schedules in that brief.

MR. NELSON: I don't see any here in the room in Santa Fe. Are there other folks on video conference have questions for Dr. Venohr?

Okay, Jane. If you would maybe briefly talk about the formulas for the high income categories which you contained and went over nicely in the beginning of the report from the 6th of November, that would be helpful.

DR. VENOHR: Certainly.

So the economic data comes from the Consumer Expenditure Survey which is conducted by the U.S. Bureau of Labor Statistics and that's about 6,000 households per year. There are enough households in that survey to really know what the decrease is in expenditures.

That kind of gets to the two-pony versus the three-pony when, you know, does a family with 30,000 a month spend the same as a family with 100,000 a month? So we're only able to know how that changes up to 27,000 a month -- and that says a year. I knew that there's a little typo in there; 27,000 per month in gross income.

So what we did was we took those incomes below 27,000 where we have economic data and we developed an estimating equation. And our estimating equation allows that expenditures should be non-linear, meaning that, you know, it's not like a family constantly spends 70 percent of their income regardless if they have a thousand a month or a hundred thousand a month.

We do a non-linear which allows a curve so it gradually changes, which is the reality of the way people spend, that very, very high income

families, you know, spend the average of 70 percent; they actually spend a little bit less because they're devoting more to savings, might be donations and so forth.

So this is the common method that we use. And if you look at page 1 of the report, what we come up with is these formulas and we also adjusted them for New Mexico price parity, like we did for the rest of the updated schedule. And then the effective tax rate at a gross income of 35,000.

So this is the recommended formula based on that for incomes above 30,000 a month. And you'll see that the dollar amount in each of those formulas is the highest amount on the schedule. So I'm going to stop there and see if there are questions.

MR. NELSON: I don't see any questions here in the room in Santa Fe. Any questions from Las Cruces or Albuquerque?

Okay, great summary of the contents of the report. And again I'm hoping everybody has looked at the report, and I know the folks here in CSED have. And, you know, I think it made a lot of sense to us, the content of the Board. We didn't have questions.

We did meet internally and talk through it. We kind of got a small internal workgroup that's been supporting this effort and we met the other day in preparation for this meeting. And I think some of the high points that came out of that meeting were -- I'll go over them, I've jotted some notes down.

But the formulas, I can maybe start with the part that Dr. Venohr just covered, the formulas for the high income categories. You know, they -- I think implementing something, adopting something like that would eliminate the ambiguity that's come up in this discussion for this Commission and previous Commissions.

That does that, the fact that the order amount's in at $30,000 in the table, does that constitute a cap or what happens after that? There's some ambiguity. And so I think there was a desire to clarify that and indicate that there is not a cap, that those high amounts don't have a cap. And I think if you have a formula, if we do it the way that Dr. Venohr has described with a formula, it doesn't really matter what the dollar amount is.

Like Jane said a minute ago, it could be $31,000 or $100,000 monthly income. You can by

applying the formulas it calculates a percentage add-on to that highest amount in the table now. And so it really, I think, would be a flexibility for any income amount and any number of children up to six.

So it seemed that that, to our internal workgroup, that the work that Dr. Venohr has done as she described kind of meets the objective of that, that part of the discussion in terms of the high end of the schedule. So I wanted to make sure we had a chance to talk about, have Jane describe it to us. We can look at it as a group and talk about it. And there are folks that have input on that part of the report and the discussion and now would be a great time to cover that I think.

JUDGE MARTIN: I've got some comments.

MR. NELSON: Yes, sir.

JUDGE MARTIN: Okay. So, first of all, Dr. Venohr --

PARTICIPANT: Just for audio occurring, just say your name first.

JUDGE MARTIN: Oh, this is James Martin.

And, Dr. Venohr, thank you very much for your explanation of how the curve does not, I mean the income and expenditures does not remain flat.

It's a curve at these higher incomes and the recommended formula after $30,000 per month, I think, isn't probably an adequate way to capture those high income people. I would recommend that in the statute we include a footnote with language that makes it clear that it's the Commission's intent that this not function as a cap of any sort, and that the amounts above 30,000 would also be within the discretion of the district court to adjust as necessary.

But I think it's important that in the statute that there be a footnote or some sort of language that makes it explicit our intent not to impose a cap and that the amounts above 30,000 are modifiable at the discretion of the court.

MR. NELSON: Good points, Judge Martin. Thank you.

Any additional comments or comments on Judge Martin's input as well? I think that's valuable clarification.

Okay. Given that we've got some material to cover today and probably the guts of the discussion today centers around the schedules, changes to the schedules themselves, I kind of think if we take the temperature of the group in terms of

are we at a comfort level with the concepts that we're talking about, the formulas for calculating orders for the high end of the income levels. I get a sense that this may be something where we're at or very near consensus on.

Okay, hearing no objections, I'm going to move us onto more detailed discussion on schedules, specifically F2 and G3 in the November 6th version of the supplement. I think when we've reached the appropriate spot, we can come back and I'd like to entertain motions on including proceeding with a recommendation to change the statute related to the formulas for high end and incorporate the comments of Judge Martin just provided.

So we'll put that in the parking lot for the moment, but -- because I have a good feeling about what we've achieved on that piece -- on the schedules, I think there's a couple points that our internal group would like to highlight just from our internal discussions, then we can open it up.

And the first piece was the idea of the minimum order for parents that have incomes below a thousand dollars or some set point. I think we gained pretty close to consensus on the thousand-dollar threshold and that incomes below that would

result in a presumed order, a minimum order of $60 and both schedules have that concept articulated.

I think it's fairly clear by showing the range of zero to $999 on both tables as the very first line and then the statement that the minimum order is $60 plus $10 for each additional child. That's the F1 version; exact same language and formatting for G3 except it says, as Jane said a minute ago, it's $15 for each additional child. So I think that part of the discussion was covered.

And the F10, if you look at the blue-shaded part and kind of going over what Dr. Venohr said a minute ago, but each going from additional children at each dollar amount it's an additional ten-dollar add-on. As you go down the list, down the table from income level to income level to each range it's an additional $40 until it reaches the levels of the amounts that are indicated by the BBR4 data.

Both versions of the table, F2 and G3, they move through that same progression and the amounts are slightly different in the blue shaded area. But they move to the amounts indicated by the economic data at the same attachment point. So there's -- we've checked through and checked for

consistency and it looked like, really, the tables have very similar, if not identical, structure. Just the difference is the minimum -- the add-on for each additional child is 15 or $10.

So we had kind of an internal consensus that we liked version F2, but there wasn't, there was recognition that there was not enormous difference and it would be worthwhile spending time at the Commission meeting getting the feedback from the commissioners on if there's a preference between F2 or G3. So that being said, kind of a just a quick overview of what we talked about internally, I wanted to turn it over to the Commission and ask for members to provide any questions or comments or concerns that they may have at this time.

Okay, I'll pose some questions to you all. We had a --

PARTICIPANT: Klump.

MR. NELSON: Oh, Hearing Officer Klump?

MR. KLUMP: Thank you. Judge Lavelle and I have studied the report and Judge Lavelle recognizes the policy reasons behind this. But his preference would be for G3.

MR. NELSON: Okay.

MR. KLUMP: And in stating that he wanted

me to impress on everyone that the minimum order is not the amount to be paid by the non-custodial parent. Because of the guideline share it's going to get divided in proportion to income, so it's entirely possible that the custodial parent could be getting less than these amounts.

And he thinks that the committee needs to recognize not only the needs of the non-custodial parent, but also the household situation for the custodial parent. And as a committee member myself, I agree with Judge Lavelle's position and our preference would be for G3.

MR. NELSON: Okay, great. Great input, Hearing Officer Klump.

So those are -- there's kind of two important pieces there that I think you're bringing to light in the discussion. And I think G3 has the higher, slightly higher amount per child add-on, $15 versus the $10 in the F2, so is that the -- is that part of the preference for G3 for yourself and for Judge Lavelle?

MR. KLUMP: Yes.

MR. NELSON: Okay. And so the comments regarding the splitting of the minimum order based on the shares model that either version of the table

and the methodology we've kind of evolved to is going to -- that's going to be inherent in that. It could be a dollar amount smaller than the $60 minimum order. And that could get to be again one of the elements we talked about extensively last time was small orders don't, essentially small orders don't do a whole lot for custodial parents.

So is that kind of the grounds on the concerns about the minimum order on either version F2 or G3?

MR. KLUMP: Yes, from the Second Judicial District's point of view. The option Judge Lavelle and I discussed, but this may be opening up more of a can of worms, that we want is for the income levels below a thousand, the guidelines be restructured so it's clear the NCP pays the full amount of the minimum order and that we start the income shares at the thousand-dollar combined earnings. But I don't know if that's something the committee wants to entertain or not.

MR. NELSON: There are a lot of nodding heads here. I think you're on to something.

And let me see if I'm getting the vibe right here. Was the intent that the $60 minimum order would be the responsibility of the NCP at that

-- the incomes below a thousand dollars that that amount is the NCP's presumed minimum order unless otherwise cited by a hearing officer or a judge?

PARTICIPANT: Yes, sir. That was the discussion.

MR. NELSON: Does the -- what would we need to do to the schedule or statute to make that clear?

PARTICIPANT: I don't think we have to do anything to the schedule, but we would have to put something in the statute that says that the minimum order, the presumed minimum order will apply if the non-custodial parent's income alone is less than a thousand dollars.

MR. NELSON: And that that is the NCP's responsibility. That we don't further take that minimum order and apply an income shares model, it's that the --

PARTICIPANT: We don't split it, correct.

MR. NELSON: You don't split it, it's 60.

MR. KLUMP: Correct.

MR. NELSON: Okay, all right.

JUDGE MARTIN: Hey, this is Jim Martin now in Las Cruces.

MR. NELSON: Yes, sir, Judge Martin.

JUDGE MARTIN: My thought process is the language should be something along the lines of regardless of the amount the non-custodial parent's minimum payment shall be $60 for the first child, plus 15 for each additional. That way the language in the statute would be clear that, you know, where the intent of the Commission is that regardless of your income the minimum amount you're going to pay is 60.

PARTICIPANT: Or unless that the income below a thousand dollars.

MR. NELSON: Right.

JUDGE MARTIN: Or income below a thousand dollars. I think it has to be some, structured in a way that we don't confuse people by saying, you know, you don't consider the guideline we have, I think you just put it in there that the minimum amount paid by the non-custodial parent shall be, you know, X.

MR. NELSON: I think that's valuable input on all fronts.

Hearing Officer Klump, is that as we evolve the discussion in that direction is that addressing the concerns that you and Judge Lavelle have?

MR. KLUMP: I believe it does.

MR. NELSON: Okay.

MR. KLUMP: And another factor just to bring in and Judge Lavelle mentioned this. It was kind of a throwaway comment, but I think he made a good point, is in her acceptance speech the Governor-elect said she wants to raise the minimum wage for the state.

So I think we need to have that in the back of our minds so $60 plus 15 potentially may not be intimidating as it initially looks compared to the other schedules. So, again, just an observation.

MR. NELSON: Okay.

PARTICIPANT: I guess the only question I have is that the schedule itself does say combined adjusted gross income, so if we're considering the thousand-dollar below, is that still combined or is it NCPs only?

PARTICIPANT: Well, we'd have to make an explanation in the text instead.

MR. HEYECK: Yeah. I think you would carve --

PARTICIPANT: So it is -- yeah, go right ahead.

MR. HEYECK: This is Larry Heyeck. I think what you can do is in the statute you do a carve-out, and in essence you're carving out that dollar amount prior to getting to the schedule.

PARTICIPANT: Okay.

MR. NELSON: I think this is pretty consistent with where we ended up on the 28th of September, conceptually. I think what we needed to do was come back and see it in black and white and blue, to see it and talk about it and make sure that we, what we had discussed conceptually was, you know, what it looked like on paper. And so I'm encouraged that it seems like we've done that. We've pretty well captured what we discussed on, during our last meeting. I think the additional detail that can be added in statute that we can attempt to add in statute if we move forward with updating the schedule gives the clarification of what, to how to interpret the top end of that schedule with regard to income shares and presumed minimum order.

So I think that's, you know, it's going to entail drafting it correctly and accurately drafting language and getting it enacted. But I think that's a path we can pursue to try to update the schedule

and add clarifying language to describe what the intent is.

JUDGE MARTIN: Yeah, this is James Martin again.

MR. NELSON: Yes, Judge Martin.

JUDGE MARTIN: I agree. You're tracking my thoughts because, you know, when I -- my concern is we want people that are going to be appearing in the courts at these low income levels are more likely than not to be self-represented.

MR. NELSON: Right.

JUDGE MARTIN: And we need to be able to show them in statute why this is the minimum order so that they're not confused saying, "Well, everywhere else you split it." We need to be able to, you know, show them in statute why it is the way it is. And that's most beneficial for self-represented parties.

MR. NELSON: Thank you.

I think I'd like to take the temperature again of the group on where I think we are in terms of consensus building around a potential updated schedule. There's been discussion that a preference of G3, of version G3 by Hearing Officer Klump and also providing us with Judge Lavelle's preference as

well. And there's been good discussion about making sure it's clear what the minimum order means.

It's not -- the $60 wouldn't be subject to further splitting via some income shares methodology. That it would be a sixty-dollar minimum order plus fifteen, one-five, for each additional child. Do we kind of accomplish what we set out to and are we all on the same page in terms of that being a recommendation from the Commission?

See this group --

JUDGE MARTIN: Judge Martin says yes.

MR. NELSON: All right, thank you. Thank you, Judge Martin, all right. I was going to say, you know, silence is being taken as consent. But I think we are -- that's what I'm hearing. I've got a comfort level there. Heads are nodding here and no one's throwing anything at me or yelling at me.

So okay, all right, a couple of key points I think we can move to while we wrap up our guidelines discussion. And those were important pieces that while they're not technically ingrained in the schedule they are important in the context of the changes that are being made, and those are federal regulation changes that make New Mexico statutes and regulations inconsistent with new

federal requirements.

And Dr. Venohr's original report did a really good job of detailing what those issues are, how other states are dealing with them, and we spent some time talking about it and I think we covered them well. I wanted to propose what we think is a path to integrating those into statute changes and I'll start just by summarizing what those are.

The first is the need to explicitly include an SSR in the guidelines and in the methodology. There are -- I'll come back to each one of these. I'm going to quickly summarize the three points and then I'll come back to each one and talk a little bit about each one. The next is the prohibition of using incarceration or considering incarceration as voluntary unemployment when creating or modifying an order. No, incarceration is not voluntary unemployment.

And the third is more granular detail around imputation of income and using more detailed economic factors when employing an imputation, an income imputation process. So the SSR is in our schedules. It's in our schedule now. It may not be very clear, but it is.

The versions that we've looked at that Dr.

Venohr has provided the different schedules through this process in her original and supplemental reports have SSR. And what we thought might be an approach would be to just state that explicitly or make an attempt to have statute updated to state that explicitly, so that we would be then compliant with that requirement and it doesn't change the schedule. It doesn't change our worksheet, but it is stated explicitly in statute and would be then compliant with federal requirements.

The next thing that we talked about and I don't know if it's controversial or if we've reached consensus on it, but it would be kind of a similar approach dealing with incarceration. And we could, in order to be compliant with the new regulations, attempt to add that, add language to our statutes that says simply incarceration is not to be considered involuntary unemployment -- or am I using the wrong word --

PARTICIPANT: Voluntary.

MR. NELSON: Voluntary unemployment, thank you. I knew that didn't sound right. Incarceration's not to be considered voluntary unemployment when establishing or modifying an order. And as a package of potential proposed

legislative changes we could insert that at the appropriate section. We could recommend that that language be inserted at the appropriate section.

The income imputation is probably a little more tricky in practice from what I gather from discussions. There is detail and it was nicely covered in the original report from Dr. Venohr about what should be considered, what factors should be considered with when imputing income. And that would be a lot of things around economic opportunity, the opportunity for an NCP to gain employment, prevailing wages, all those kinds of factors.

I think that will change the way income imputation is done in real life in cases. It will change the way our field offices make calculations and the work they have to do to gather information, and then that will result in documentation for cases that attorneys and hearing officers and judges are going to have to look at and make decisions on.

I think an approach, the first step would need to be, at least our internal way of thinking is the first step would be to a similar approach as to the SSR and the incarceration. Draft proposed legislative language that would insert the language,

the federal language, if not verbatim then certainly in a way that would be adequate to comply and seek to get enactment of such language.

Then probably the hard work -- well, no, it's probably going to be hard to get legislative changes made. But if we're successful in that step, then the hard work continues and that is the process changes that have to occur in our field offices, in our hearing office venues and in our courtrooms as those changes are put in practice operationally.

I think the steps that would need to be integrated would be feedback from key stakeholders as to how to do that and obtain buy-in and work with the courts and with the field offices and private attorneys and make sure that we have a process that we can manage that's straightforward and that results in imputation, income imputation that's reasonable and meets the spirit in the letter of what the federal requirements are.

So kind of a -- you can see the consistency in the three parts of that additional discussion. The attempt to get appropriate statute changes done through a legislative process, and then on the imputation piece, the operational pieces that will follow to put something like that in place.

So I've talked plenty on those three points and will now give the commissioners opportunity to weigh in and share thoughts with questions and comments.

JUDGE MARTIN: All right, this is Jim Martin. I guess I'll go first.

MR. NELSON: Thank you, sir.

JUDGE MARTIN: I support your first comments that the statute should contain explicit language that the guidelines do include the self-support reserve. And I think you're right. If the feds ever look at us from a hundred thousand feet they're going to want to see explicit language in the statute that says we considered their commentary seriously and so we need to incorporate it.

And because Dr. Venohr has done the work for us and included an SSR, I think we ought to recognize that with the recommended statutory language so I would support that notion.

MR. NELSON: Okay, thank you.

Other comments, concerns, specifically on the SSR and the proposed approach to add that to the language and become compliant with federal regulation?

MR. KLUMP: This is Stephen in

Albuquerque.

MR. NELSON: Yes, sir.

MR. KLUMP: Obviously if the SSR language or provision is a federal mandate we have to do it. But I would also repeat what I said at the prior meeting. If we're going to do that I think it would be good to educate people further by pointing out the guidelines are predicated on the notion that the custodial parent gets the dependent tax deduction, because we have to explain that so many times in court even to attorneys. They don't even understand how the guidelines are put together.

So if we're doing one thing that's a federal mandate, I think this is a pretty painless addition and I think it might make our lives a little bit easier at the courthouse. But just a thought.

MR. NELSON: Okay. How would you envision that, a recommendation from this Commission articulating that, that how that educational piece be done?

MR. KLUMP: Well, I think what I would suggest is include language in the statute basically saying New Mexico guidelines have these underlying economic conditions or assumptions that explain what

the SSR is and explain what the federal dependent tax deduction is, almost like a definitional section.

PARTICIPANT: Stephen, if we were to do that though, I mean the income tax exemption for dependents is controlled by the IRS code. We'd have to tie in maybe with a reference to, you know, as determined by the IRS code or whatever.

MR. KLUMP: Yeah, I don't disagree with that. But again the dependent tax deduction is embedded in the guidelines. It's there. It's like the SSR, people just can't see it. So I don't think there's any harm in just explaining. If we're going to explain one piece of it let's explain the other piece.

PARTICIPANT: Yeah, I don't disagree.

MR. NELSON: Okay.

Any concerns or support for that?

JUDGE MARTIN: Yes. Sure, this is Jim Martin down at Las Cruces. I'm concerned that that sort of language in the statute would be problematic. You know, I don't oppose the notion of educating people, providing education, but including that in the statute oftentimes, you know, a judge will have the parties alternate the tax exemption

for a child and that's quite common, especially where the non-custodial parent has a higher income than the custodial parent.

So alternating that tax deduction is common and if it's included in some sort of statutory change I think it would discourage that and it might, you know, throw some of this off the rails. If a non-custodial legislator thinks he's going to lose his tax deduction he might think twice before he votes on this particular legislation.

And like I said, I'm not against the education, but I'm leery of including language like that in the statutory changes.

MR. NELSON: Okay, good input as well.

Other discussion on that point? Okay. How about our approach or possible approach to add language to statute related to incarceration? Did that make sense? I mean, I think it makes sense on the surface that it's a federal requirement and that would be an approach to bring New Mexico statutes into compliance.

Any real-world scenarios that we're not thinking about that would be created -- problems would be created by that approach?

MR. HEYECK: This is Larry Heyeck down in

Las Cruces. I think a statutory change is going to be needed because of the current state of New Mexico law, case law that is. So that's one side of it. The other side of it is, depending on what you put in the statute how do we administratively try to enforce it and do it?

MR. NELSON: That's part of what my comment was a minute ago. I don't know. I don't know the answer to that, Larry. I don't know what the impact of anything enforcement of that change would be. I don't know that we've talked about it in this Commission and I think our internal groups we've really relied on the fact that it is what it is.

The language is clear from the federal standpoint, but I don't know that we covered operationally what does it mean; I don't want to create unintended consequences by suggesting the statutory change and missing out on something that we should have thought of as we're trying to get that passed.

MR. HEYECK: Well, let me -- again this is Larry Heyeck. The first side of it is do I think something needs to be put in a statute, the answer is yes.

MR. NELSON: Yes.

MR. HEYECK: The second piece is, let's assume somebody has a child support obligation and then they become incarcerated for longer than 180 days. They're entitled -- I'll put that in quotes -- to a potential modification for the time period that they're incarcerated. However, we have case law that says that effective date of the modification begins the month after the motion's filed. I mean how many incarcerated people are going to know that we've got to file something to do something and then if the burden falls upon CSED when they learn about it, again that places additional burden upon the operations in the field? So I mean yes, I think something needs to be put in the statute; two, it's got to be operational. And we do have time to think about it. So again --

MS. MCCRACKEN: And we are.

JUDGE MARTIN: -- I just raise it. It doesn't mean we have to do anything tomorrow.

MR. NELSON: Thank you.

MS. MCCRACKEN: And we are. We've talked about it and we've talked about companies that will alert us for people who are going in and out of jail and/or prison so that we can try to do exactly as

you were discussing, Larry. So we are working on that. And I understand we have potentially a contract coming up with a company that does just that and will be reporting to us or we'll have a portal that we go on and we'll get reports off on connections between NCPs and jail and/or prison.

MR. NELSON: Thanks, Betina. That's a good reminder, because that's something, a larger issue that affects other agencies as well within HSD. So it's more of a departmental-wide --

MS. MCCRACKEN: Right.

MR. NELSON: -- effort to have real-time access to that kind of data. So I appreciate you reminding me. So to me it will be -- there are implementation implications as well.

MS. MCCRACKEN: Yes, everything that would --

MR. NELSON: Similar to the imputation piece, it is whatever we change it we'll have to come up with a process to abide by that by understanding when folks are incarcerated and what activities need to occur to proceed with modifications.

MS. MCCRACKEN: Right.

MR. NELSON: Okay, Jeremy.

Oh yes, go ahead, Judge Martin.

JUDGE MARTIN: This is Jim Martin again. You know, I just, you know, one of the thing, we've got to make sure that we're balanced. So if we're including some sort of language that says, you know, upon incarceration they're entitled presumptions, we need to have the inverse also applicable. It's upon release that presumption goes away.

MR. NELSON: Sure.

JUDGE MARTIN: So, you know, that the incarcerated non-custodial parent would have a, you know, a zero income and then they get out and they get off roll and they get a job and there's no modification. We need to, you know, consider that if you're automatically producing it when they go in, there ought to be a mechanism to automatically modify it when they get out.

MR. NELSON: Okay, very, very helpful comments. Thank you.

So, Jeremy, go ahead.

MR. TOULOUSE: So this is Jeremy Toulouse. And I was going to say to your point, Larry, is the operations we're trying out several different pilot projects across the state that will allow us to better use data to improve how we, you know, what

actions and how we assess cases. So I think that's really the precursor to be able to be a little more flexible with our business processes, which is really the goal that I think a lot of these federal rules require of us.

MR. NELSON: Okay.

Lila has her hand up in the back. Lila Bird, yes. Please.

MS. BIRD: Just a point of clarification regarding that federal rule. If you look at the actual wording, it simply says that incarceration may not be treated as voluntary unemployment at the point of -- I'm adding that in -- in establishing or modifying child support orders. So it's at the point of establishment or modification.

MR. NELSON: Thank you.

MS. BIRD: All these other processes, that's, you know, we'll work on it. But that doesn't go in the language. It's at the point of establishment or modification.

MR. NELSON: Good clarification, thank you.

Imputation of income, I think, similar. I mean I think that all of these kind of have a thread weaving through them. As I said --

JUDGE MARTIN: I apologize for interrupting.

MR. NELSON: No, sir. No apology necessary, go right ahead.

JUDGE MARTIN: This is Jim Martin again. On the involuntary, or the incarceration --

MR. NELSON: Yes.

JUDGE MARTIN: -- again I need -- I want to emphasize we should be clear that the minimum order still applies if you're incarcerated. You know, we may not be imputing any income to them, but we need to be clear that the minimum order still applies so that we don't have a misunderstanding that if you get incarcerated your support goes to zero just because your income goes to zero.

So I think, you know, whatever language we propose, I think, needs to be clear about that part of the minimum order remains in effect even on incarcerated individuals.

PARTICIPANT: And I think that's a really good point. We're not advocating an automatic zero order every time somebody's incarcerated. That's a good point.

MR. NELSON: Okay, good. So thanks for adding that.

Judge Wilson.

JUDGE WILSON: Matthew Wilson, Santa Fe. So with regard to incarceration, I don't know if we're contemplating whether or not the court has discretion to continue to impute income even though that we're making a finding of that they're not voluntarily unemployed. I mean are we going to have language that allows the court discretion to continue with imputation considering various factors like the length of incarceration, the resources, the employability of the person and things like that?

MR. NELSON: Yes, certainly if someone had assets and an income stream out, you know, that was not dependent on whether they were incarcerated or not, that would be a circumstance when an order might still, you know, they still might be required to pay an order. So it's a good point.

JUDGE WILSON: So I guess what I'm asking is, is it the intent to just zero out their income every time they're incarcerated for a certain amount of time? I would think that the court should still have discretion in terms of having that authority to impute if appropriate.

MR. NELSON: That makes sense to me.

Are there --

MR. HEYECK: Judge, Larry Heyeck, Las Cruces. Judge, I think you're hitting a very good point. I think what Lila Bird read from the federal regulation I think covers that situation that it's not an automatic go to zero, that this is just that we would not impute a minimum wage to this person.

And, Lila, correct me if I'm wrong, but I thought that's what you were reading. I thought it was very good.

MS. MCCRACKEN: I think that's correct. This is Betina -- and doesn't it updates like how long they're going to be in or --

PARTICIPANT: Oh, no.

PARTICIPANT: No, that's in a different regulation. That's not the guidelines regulation.

MS. MCCRACKEN: Okay. Okay.

PARTICIPANT: We could do it probably if we had language in the statute in the provision that says incarceration cannot be considered as voluntary unemployment in establishing or modifying child support.

PARTICIPANT: Exactly.

PARTICIPANT: We could say that the court -- we could say that, then say but the court has discretion, I suppose, to consider factors such as

availability of other income or assets or length of sentence or the factors that are now listed in the Thomasson case and the other case.

MR. NELSON: Okay, so it would be important to capture that in our proposed legislative language. I think there's probably some value in being very clear and brief, but those points I don't think need a high volume of words to explain. So I think it could be we could capture these sentiments if that's the pleasure of the Commission.

PARTICIPANT: Yeah.

MR. NELSON: And I think I'm getting a, you know, kind of a consistent thread from Judge Wilson and Judge Martin on that point. It doesn't -- incarceration language doesn't automatically mean that there's no order. It doesn't mean automatically that there can't be discretion to set an order based on other factors and we can clarify that.

Okay, getting some nodding heads and that's helpful. I think that's good clarification.

How about the imputation of income, the concepts that I discussed a little bit in terms of kind of a two-pronged approach to pursue legislative

changes and to integrate the federal language in the New Mexico statutes and then a process to implement that and to have processes within our offices to be compliant? Does that make sense and are there questions or concerns about those concepts?

Okay.

We -- I'll let you all continue to digest what we've just covered for a few minutes because I think we've really covered the guts of what we wanted to cover, I think.

What we have in terms of what we want to try to recommend out of this Commission, I think those are the main points. I think those are some of the critical points covered in Dr. Venohr's report, original report, and I think we've done some good work to really talk through what we think should come out of this Commission.

We have an agenda item which is next, I mean I believe it's agenda item number 5. Given that this is a meeting that's a public meeting and subject to the rules around public meetings, we do want to have an opportunity for public comment. I believe that in addition to the Commission members present today we have a number of child support folks that have been really helpful in bringing us

to this point and you all are welcome to make comments.

I don't believe we have folks participating with us today that are either not Commission members or Child Support Enforcement Division employees. Am I wrong about that? Okay.

JUDGE WILSON: So, I'm sorry.

MR. NELSON: Yes, sir.

JUDGE WILSON: I hate to interrupt you.

MR. NELSON: No problem.

JUDGE WILSON: This is Matthew Wilson from Santa Fe. I have a question for Dr. Venohr. Are you there?

MR. NELSON: Jane, are you there?

DR. VANOHR: Yes, I am.

MR. NELSON: Okay.

DR. VENOHR: I apologize. I was on mute.

MR. NELSON: Thank you.

JUDGE WILSON: I'm sorry. I think I understand to how you're proposing to calculate in high income cases over $30,000 a month, but I would like you to cover an example for me so that I completely understand before we get into the other sections of the agenda, if you don't mind. So do you mind, Dr. Venohr, and I really appreciate that.

Do you mind?

DR. VENOHR: Oh, no. No problem. I'm sorry, let me just, you know, I was looking at something else. I'm going to just flip it up.

I'm on page 1 on the formula, so let's just assume that we have one child and we have income of 31,000. It's a combined adjusted gross income of the parties. And we're going to assume that the obligated parent some, has an income of 30,000 a month and then the custodial parent has an income of 1,000 a month.

So then what we would do is we would take 31,000, which is their combined, minus 30 and -- 1,000, apply that by 0.6- -- well, 6 --

MR. NELSON: Are you there, Jane? We're having some technical difficulties.

That's interesting. When it comes time for Dr. Venohr to help us out --

PARTICIPANT: We lose her.

MR. NELSON: -- we have problems with the phone line. We did have similar questions, Judge Wilson, and had tried some scenarios as well.

Melinda, would you try ringing her back on this?

I'm going to switch places with the

telephone and I'll share my notes with Judge Wilson. And I don't know if I can talk to folks too, but I think going down the track that Jane was, I use a different example of $40,000 was the combined monthly. And so it's kind of a round number, $10,000 over the highest amount.

So you would subtract 30,000 from 40,000. That gives you the additional amount, the income over 30,000 which is $10,000, and then you multiply 10,000 times the appropriate percentage. So for one child it's 6.42. And so for $10,000 -- for $10,000 times 6.4 percent, that results in $640, $640 plus $2,266 leaves us with $2,906. That was the math that I came up with and using just an example of 40,000, and then I tried it for all of the options across.

JUDGE WILSON: So that was my understanding and I did the same example on my own piece of paper, 40,000. Okay, so thank you very much. It's very clear to me now.

MR. NELSON: Okay. That's helpful.

I'm not sure if that exercise was helpful to the folks on the video conference. We want to make sure that it's clear whatever approach we take, if we make a recommendation that there's consensus

that it makes sense and that we can all come up with the same amounts.

PARTICIPANT: That amount would be in proportion to their incomes, right?

DR. VENOHR: Hello, this is Jane again.

MR. NELSON: Thanks, Jane. We missed -- we're having some technical difficulties with the phones.

I went through an example with Judge Wilson similar to what you were, I think, taking us through.

DR. VENOHR: Excellent.

JUDGE WILSON: So thank you, Dr. Venohr. I don't need you to continue with your example and I appreciate it.

DR. VENOHR: Oh, thank you. Sorry.

MR. NELSON: Excuse me. I may be having an emergency so I will see if that's the case, so my apologies for holding us up.

Okay. We -- Jane, I had said when we were trying to get you back on the phone we are having -- we want to make sure whatever we adopt, formulas to calculate orders at the high income level, we want to make sure it makes sense, it's clear that we understand the amounts that we calculated. So as

Judge Wilson said, we did walk through an example here. I think there's some comfort level. There are other concerns about that that that methodology, those formulas, we can cover those now or we can come back and talk about that more as we move more towards formal recommendation. So thank you, good question, and I'm glad we covered that before we moved on. As I was mentioning a minute ago, we do have opportunity for public comment. Again, other than Child Support Enforcement folks and our Commission, I don't think we have any members of the public unless I'm incorrect. But I certainly would give all, anybody and everybody an opportunity to make comments at this point as well.

PARTICIPANT: So I have a question.

MR. NELSON: Yes.

PARTICIPANT: If there's a 50/50 time share would the $60 minimum order apply?

MR. NELSON: Say that again, please.

PARTICIPANT: If there's a 50/50 time share would there still be a $60 minimum order?

MR. HEYECK: I was just -- this is Larry. I was just thinking that that would be in all cases or is not shared responsibility.

PARTICIPANT: Yeah. It's not intended to

apply to a worksheet B.

MR. HEYECK: That's how I was reading mine. Okay. Worksheet A, primary physical custody versus shared. Shared is, it depends on the income, period.

THE VIDEOGRAPHER: So who's talking?

PARTICIPANT: How many cases did you --

THE VIDEOGRAPHER: Who was speaking?

MR. NELSON: That was Larry Heyeck.

THE VIDEOGRAPHER: Oh, okay.

MR. NELSON: From our Las Cruces office. Larry's an attorney there.

Lila.

MS. BIRD: Just a clarification. The $60 minimum order's still left to the discretion of the court, the court still has discretion.

PARTICIPANT: Yes.

PARTICIPANT: Yes.

PARTICIPANT: Doesn't the court always have discretion?

PARTICIPANT: Yes.

PARTICIPANT: Okay.

MR. NELSON: As long as the court uses discretion, (inaudible). So, okay.

PARTICIPANT: So does that mean they have

to have hearings on all these cases?

PARTICIPANT: No. You could settle them, why not?

PARTICIPANT: She may not agree.

PARTICIPANT: Well, then that would be like a regular situation then.

DR. VENOHR: This is Jane. I can't hear you right now, but I think Lila asked whether that minimum order would be discretion. I think that by the federal rule or the federal regulation you have to make a rebuttable presumption. So whatever you have for your deviation criteria to rebut for that minimum order would be applied, so that might be a good time to review that and think about it in that scenario.

MR. NELSON: Okay, thank you, Jane.

Okay, I'm going to consider ourselves successful in moving through the public comment item on our agenda and move on to item number 6, which is our vote on guidelines. It's kind of a couple bullet points under there on the agenda, legislative language changes and schedule changes. And I've given some thought on how to bring the group through this process. I made some presumptions and but it was really based on work that the Commission had

done up to this point. So I drafted four statements that I thought might be helpful for draft motions snd I think we should pull them up and look at them on the screen one at a time. They take us through the sections of discussion that we've already covered this afternoon.

I think we need to --

PARTICIPANT: Share.

MR. NELSON: We need to probably edit those based on this afternoon's discussion and then we can get them to where we like them. I think we could use them as a proposed or a draft motion for moving forward with a vote on a recommendation, so maybe paper would have been a good idea.

I'm going to put these papers here --

PARTICIPANT: Thank you.

MR. NELSON: -- for a couple of the folks here, and --

PARTICIPANT: Tried to capture some of the comments that were made.

MR. NELSON: Oh good, as we were going along.

Can the folks in Las Cruces and Albuquerque see what's on the screen that this, the first statement about the formulas for orders when

the income exceeds 30?

PARTICIPANT: Las Cruces, yes.

MR. KLUMP: We can see it in Albuquerque.

MR. NELSON: Okay, great.

All right, I'll read the first one quickly. "The Commission recommends the Child Support Enforcement Division prepare draft language for a statutory change that integrates the formulas developed by the Division's economist in describing her supplemental information dated November 6, 2018 for calculating child support orders when the combined monthly incomes of the parties exceed $30,000. "The Commission further recommends the Child Support Enforcement Division make efforts to have the proposed statutory changes enacted by the New Mexico legislature including seeking endorsement by the Governor's Office, securing a sponsor through the legislation and supporting the drafting of the legislation and the legislative process as the bill makes its way through committees and floor debate and votes."

Jeremy added based on our discussion, the point in red, "The Commission further recommends that there be a footnote placed in the statute that states the 30,000 limit in the Child Support

Guidelines does not represent a cap and that the judiciary will continue to maintain the authority to establish, modify the support amount at the higher income levels."

Is this in the spirit of what we want to recommend on calculating orders for incomes of 30,000 a month or more?

I'm not hearing any objection. Did we capture the additional discussion adequately? Obviously the trick will be in the drafting of the language to ensure that the language captures the intent of the Commission. But at a high level, if we had a recommendation that included this content would we -- would that recommendation be reflecting the intent of the Commission?

Hearing no objections, I would entertain a motion at this time to -- that the Commission make a recommendation based on the discussion of the formulas for orders that -- incomes greater than 30,000.

JUDGE MARTIN: This is Jim Martin. I would make that motion.

MR. NELSON: Thanks, Judge Martin.

JUDGE WILSON: I'll second.

MR. NELSON: Thank you. Judge Wilson

seconded. Any more discussion on this particular point? Okay, not hearing any, I would call the matter to a vote. All in favor of the motion please signify by saying aye.

(In unison: Aye.)

MR. NELSON: Opposed?

No opposition, so the motion will pass. Wonderful.

Okay, I'd like to move on to the proposed language for the schedule change. We'll see a very similar pattern here and structure, and I know you enjoyed hearing me read so I will do that again.

Folks in Las Cruces and Albuquerque, are you able to see the language on the screen?

PARTICIPANT: Las Cruces, yes.

MR. KLUMP: In Albuquerque the image is the -- we see ourselves over the bottom right corner of the document.

PARTICIPANT: Okay. In that instance, whoever has the little iPad-looking thing they need to hit the top right corner of that -- looks like a camera -- and that will get rid of that for you.

That's what they're seeing.

MR. NELSON: Well, get rid of that.

PARTICIPANT: There.

PARTICIPANT: Is someone able to do that for you?

PARTICIPANT: Well, we see ourselves, so we have a big 60-inch image of ourselves. There we go.

PARTICIPANT: Yay, you did it.

PARTICIPANT: Did you scare yourselves? Is that what you did? Okay.

MR. NELSON: Okay, sounds like the screen shows the proposed language. I'll just quickly read. "The Commission recommends the Child Support Enforcement Division prepare draft language for statutory change to update the Child Support Guidelines schedule using the schedule developed by the Division's economist and described as schedule G3 in her supplemental information dated November 6, 2018.

"The Commission further recommends the Child Support Enforcement Division make efforts to have the proposed statutory language and statutory changes enacted by the New Mexico legislature including seeking endorsement by the Governor's Office, securing a sponsor for the legislation and supporting the drafting of the legislation and the legislative process as the bill makes its way

through committees and floor debate and votes."

The red language was added by Jeremy based on discussion today -- thank you, sir -- and makes this process more efficient.

"The Commission further recommends that language be added to the statute that defines that the minimum order amount shall be the support obligation for the NCP when their monthly income is less than $1,000, and that the minimum order amount will not be split for the percentage of shared income as per the rest of the Child Support Guidelines schedule."

That I think captures nicely the discussion and I would certainly give opportunity now for additional input. We do have an opportunity to edit this if that's the pleasure of the group.

MR. KLUMP: This is Stephen in Albuquerque. I just have a question regarding the language in red. This language, my reading of the language in red pins it to the NCP's income solely. Did we want to keep it as the combined income of both parents as less than a thousand? And I'm fine with whatever other committee members want, but I'm kind of confused by how that reads.

PARTICIPANT: I agree, Stephen. That was

my question earlier because I think it's supposed to be combined, the combined income under a thousand, but then the sixty dollars is incumbent upon the NCP to pay, not split.

MR. TOULOUSE: This is Jeremy. What I understood the conversation to be is that minimum order only applies to the non-custodial parent's income.

PARTICIPANT: That's my understanding as well.

PARTICIPANT: Okay, so we have confusion. I don't have a problem with that.

MR. HEYECK: This is Larry in Las Cruces. I apologize, but I'm wondering if the comment in red is saying it "shall be," the support obligation "shall be" the presumed support obligation or at the discretion of the court. Remember we were having that discussion?

MR. NELSON: Yep.

PARTICIPANT: Yeah.

MR. TOULOUSE: All right, so where does that need to be edited? So shall we -- the presumed -- okay, is that by adding that word, the word "presumed," I didn't quite get that. Okay. Okay.

PARTICIPANT: Want to add "at the

discretion of the court?"

MR. TOULOUSE: After obligation, presume support obligation, comma, at the discretion of the court?

PARTICIPANT: And I thought the discretion of the court was we were really focusing on the involuntary employment for incarceration, but here as well?

MR. TOULOUSE: I hadn't thought it -- that's why it come up in that section of the discussion as well.

PARTICIPANT: Okay.

PARTICIPANT: You know, my understanding from the discussion was, you know, first, we wanted to make sure that minimum order was not going to be split, you know, it wasn't going to become $35 or 37.50, right.

PARTICIPANT: Right, right.

PARTICIPANT: You know, and that really in this instance, you know, it's the court -- I mean none of this, I mean again it's a guideline, you know, so it's rebuttal. So the judge has the ability to set support at whatever they want, which I thought we agreed was just implied in the guidelines themselves but.

MR. NELSON: So is there, on the question on whether the income of a thousand dollars or less is only the NCP's income or if that's a shared income, is there -- is that a point of confusion, still, or not, not full agreement? I get the sense that it is. I think that we have an opportunity by editing this language to make that clear if we can, if there's agreement on that point.

I thought that the thousand-dollar or less was combined income amount, but of course but that $60 minimum payment applied to the NCP only and would not be further split. But if I'm wrong or if that's not the consensus, then let's --

PARTICIPANT: Ask Jane.

MR. NELSON: Jane, are you still with us?

DR. VENOHR: I am. Thank you for giving me --

MR. NELSON: Would you weigh in on that?

DR. VENOHR: Yeah. I don't know if you have my September 10th report in front of you. If you do, on page 39 of the North Carolina, and I'm a little bit confused on the discussion if you're trying to mimic North Carolina or if you're just trying to -- and there's a typo there obviously. We're going to make a revision. There's an

apostrophe in the middle of "for," the word "for."

But what it does is it shades the area of the low income adjustment and if the obligated parent's income alone falls in that shaded area -- and see they have the $50 in the first line and you use only the $50 -- then it does what I heard the Commission say. It says there's something explicit, you know, that's based on the 214 federal poverty levels, it was also part reserved, which I hear the Commission say they want some sort of language. This might be too detailed.

It also says absent a deviation of the establishment of a minimum order of 50, which I'm hearing the Commission say they want. What I'm not hearing is if they want that to apply above, in the case of North Carolina it's for incomes above eleven-fifty, but for what New Mexico's talking about is for incomes of a thousand or more.

So I'm going to stop there because I just rolled three issues into one. But I did think that North Carolina language is a way to ground the discussion and maybe see what the Commission members like and don't like about that language, because it sounds like, Mike, you're seeking some general language and maybe that's a starting point to get

some clarity. Stop there.

MR. NELSON: Thank you. Yeah, I think there will be a couple pieces of this if we move forward, when we move forward. The schedule that we, I think, have settled on, G3, would need to be added to the statute. The schedule has -- the first line is the range zero to 999 and it has a minimum order of $60 plus $50 for each additional child. So the art of the deal will be to include statute language in the appropriate place that describes in a little more detail what the Commission means by that. And that is, I think we're agreed that the $60 is, would be the minimum payment for the NCP. It's not going to be subject to the shares model, and I think Jeremy's language there captures that.

I think the other piece that we need to cover at this point is what we're talking about as well, is if the thousand dollars share or less is that combined on income or just the NCP. So I -- so, Jane, for the North Carolina model it's just the -- or just the NCP for that minimum order it's just their income that is being considered?

I think that's what that bottom paragraph in the North Carolina section on page 39 says. (Indiscernible) just goes income falls within the

shaded area.

DR. VENOHR: Yeah, I apologize. I was on mute. Yeah, so what I'm asking is if you put -- if you use North Carolina language but stick G3 in as the schedule and then substitute the thousand dollars for, instead of where it says the 2014 federal poverty level blah blah blah, put a thousand there. And then of less than instead of ten-ninety seven put in the thousand. And again when you see ten-ninety seven substitute a thousand, and when you see fifty -- does that capture, to substitute sixty does that capture the spirit of what the Commission is recommending or are there additional tweaks?

I mean I think this is a little too detailed, but at least it's -- the North Carolina for what the Commission wants to recommend, But at least it's a way to see if this is the gist of where you want to go. If you just substitute the New Mexico amounts that would be a thousand for the ten-ninety seven and then the sixty for the fifty in that language.

But the North Carolina language seems to embrace that (indiscernible) up to the $60 minimum order and allowing some court discretion and so forth. I'm going to stop there.

MR. NELSON: Any questions or comments from the Commission on this part of the discussion?

JUDGE MARTIN: Yeah, this is Jim Martin down in Las Cruces. I like Dr. Venohr's suggestion that the North Carolina language, I think it's a pretty good descriptor of what my intention was. As far as the language that the Commission is proposing I believe that it should be explicit that it's combined income, because that would correspond with G3 where the combined income of zero to 99999.99, minimum order of 60. So the combined 1,000 would match the G3.

MR. NELSON: Great.

MR. KLUMP: This is --

MR. NELSON: Yes, go ahead.

MR. KLUMP: This is Stephen in Albuquerque. I completely agree with what Judge Martin just said.

MR. NELSON: Thank you. All right, that's kind of the premise I was working off of.

MS. MCCRACKEN: Me too.

MR. NELSON: I look around to the other commissions. We've got Betina's on the same page, Sarah and Judge Wilson?

JUDGE WILSON: I can live with that. It's

fine.

MS. BATZLI: I can live with it.

MR. NELSON: Okay. All right, we're going to try to pull up the draft motion language again and see if, and I think we can edit it and --

PARTICIPANT: It's not showing.

MR. NELSON: It's not coming up.

All right, it's up on the screen here. How about Albuquerque and Las Cruces, are we able to see?

MR. KLUMP: Yes, we can see it in Albuquerque.

MR. NELSON: All right, fantastic.

Let me see if I can make suggestions on where edits could be made to that language at the bottom.

I think that said, where that middle part of it says when the combined monthly income is less than 1,000, covers that concept. It clarifies that piece whether it would be NCP income only or combined. So I don't know that we needed to show edits. Let me read the last clause.

PARTICIPANT: You could really just remove -- could just read the presumed support obligation for the NCP and the amount will not be split for a

percentage of (inaudible). Not where the guideline applies, right?

MR. NELSON: But I like that the capturing that concept there. I don't know if others agree, but I wouldn't recommend removing the detail about combined monthly income. Okay.

PARTICIPANT: Yep. I like it.

JUDGE MARTIN: This is Jim Martin. I agree with that. I don't know if we need it in our motion, but I think that I would encourage the Department to look at the North Carolina language as a model for the proposed statutory change that the motion suggests.

I don't think it's necessary for us to be in the motion, but I want to make that on the record that I encourage the Department to look at the North Carolina language when they're proposing statutory changes.

MR. NELSON: Good.

PARTICIPANT: Got it.

MR. NELSON: We will.

JUDGE MARTIN: So with that I would move that we adopt as our second position the guideline update that is on the screen, including the red language that includes the combined monthly income

of less than $1,000.

MR. NELSON: Thank you, Judge Martin.

Do I hear a second?

PARTICIPANT: I'll second.

MR. NELSON: All right. We've had lots of good discussion up to this point, but I don't want to miss an opportunity to offer additional discussion.

Hearing none, I'd like to call this motion to a vote. All in favor?

(In unison: Aye.)

MR. NELSON: All opposed?

The ayes have it and we'll adopt this motion as a recommendation from the Commission.

I think we'll start to feel a little bit repetitive. The next document is the self-support reserve piece we talked about, very similar structure I'll quickly read through. "The Commission recommends the Child Support Enforcement Division prepare draft language for a statutory change to specify that the New Mexico Child Support Guidelines include a self-support reserve.

"The Commission further recommends that the Child Support Enforcement Division make efforts to have the proposed statutory changes enacted by

the New Mexico legislature including seeking endorsement by the Governor's Office, securing responsible legislation and supporting the drafting of the legislation and the legislative process as the bill makes its way through committees and floor debate and vote."

The additional language added per the discussion at the bottom in red: "The Commission further recommends that the statute state that the guidelines are the result of economic analysis and that the custodial parent claiming the child for tax purposes is built into the economic data. It does not prevent the court from allowing either party from claiming the child for tax purposes."

So that was some additional language drafted by Jeremy for the discussion. I think it is helpful. I think Stephen did bring up the point about the tax deductions. And again the art of this deal will be accurately drafting the language for seeking a sponsor and then moving forward with legislation.

But does that -- does the original language from the motion, from the proposed motion language and the additions from the discussion today capture adequately what we covered earlier?

JUDGE WILSON: All right, so this is Matthew Wilson. It's my understanding that James Martin was opposed to that additional language.

PARTICIPANT: Okay. That's why I added that second part of it, but I just wanted to capture it (indiscernible) discuss it.

JUDGE MARTIN: This is Jim Martin.

DR. VENOHR: When I can -- can I -- I want to add some clarifying language when it's a good opportunity. I apologize for interrupting.

MR. NELSON: Sure, go ahead, Jane. And then we'll go to Judge Martin right after. Go ahead.

DR. VENOHR: Yeah. I just want to highlight that due to tax reform that what has happened, you know, tax reform became effective in 2018 and it eliminates that dependency deduction for minor children, the allowance. And the IRS is -- they didn't change it on the W-4 right away or the -- because, you know, they didn't want employers to have to go through all that because, you know, Congress just passed it the end of December.

So if you look at the W-4 for 2018 it still has, you know, you claim those exemptions for your children. But, and the one that's going to be

for 2019 you won't see that anymore. So the only thing left with, you know, how families they have to be divorcing parents, but there's an IRS Form 8332 that the custodial parent can, say, sign over the rights to the non-custodial parent to claim the children.

And, you know, historically in every state in the country or jurisdictions that's been debated and what Judge Martin says is, you know, I've heard that before where they split it every other year if there's an odd number of children or so forth.

So the only tax deduction left now or affiliated with the child, because there's not going to be that allowance, is the earned income tax credit which they can't sign over and then the child tax credit which increased from a thousand dollars per year maximum to two thousand dollars per year maximum.

But that applies to a narrow income, you know, on that child tax credit only they have to be sort of above the EITC. There's a phase-in, that's why I say sort of, and then it phases out at, you know, it's about 200,000 for a single thing right now.

So what they would be fighting about now

or on agreeing to, if they were to sign that IRS Form 8332, would be the child tax credit only. And as I mentioned it could be 2,000 a month, but it's not going to be -- it's not like it was in the past.

So with that said, the only thing that I have a reservation with some of the language is I don't, because of the complications with the IRS and this all phases out in another, I think it's 2026 off the head, off the top of my head, I don't want -- I caution you to be careful how you language it because people are going to be questioning, "Well, is it before tax reform or is it after tax reform?" And then it's this, whatever you put in is it, you know, it phases out like it's supposed to, you know, there will be questions there. I'm going to stop. I sort of rambled, but my point is, is that there's some complications with the tax reform that I wanted to make you aware of.

MR. NELSON: Thank you.

Judge Martin.

JUDGE MARTIN: I think Dr. Venohr is much more eloquent than I am because she captured my concerns.

MR. NELSON: Okay.

JUDGE MARTIN: I don't like the red

language at all. I think that if we bring it up we're playing with fire.

MR. NELSON: Okay.

JUDGE MARTIN: We will cause more confusion than we will offer clarity.

MR. NELSON: Okay. I know Stephen, Hearing Officer Klump had a suggestion with that and we covered that ground as well in our September 28th meeting. I guess I'll leave it to the pleasure of the majority rules of the Commission. I'd like those that are in favor of including detail on the tax deduction please speak up at this point.

MR. KLUMP: This is Stephen in Albuquerque. As I said when I started the conversation, if the committee just thinks it's too complicated it's not a deal breaker for me. It was simply a suggestion. But regarding the tax in black above --

MR. NELSON: Yes.

MR. KLUMP: -- I think it might be good at least for the committee's report to indicate that the SSR language is a federal mandate.

MR. NELSON: That's a good addition, yes.

MR. KLUMP: I think it makes it --

PARTICIPANT: As required by the federal

government?

MR. KLUMP: Pursuant to the federal reg, whatever the reg number is. That's just a suggestion. I think it would make the report more comprehensive and explain what we're doing.

MR. NELSON: Jeremy, why don't you just put a line in there -- we'll fill in the appropriate citation -- as a placeholder.

I think that's an excellent addition, Hearing Officer Klump. Thank you.

Okay. I'm going to thank Hearing Officer Klump for articulating his preference to add the language on the tax deduction is not a showstopper. I'm getting a sense that there's not a strong sentiment to include that by there's not a majority intent amongst the Commission to include that language, acknowledging that education of NCPs and CPs regarding that is it is important and would bring value to the process and it is a challenging element that hearing officers and judges are tackling every day when they work on these cases.

But that being said I think we'll omit additional language at that level of specificity. And if the language as it reads on the screen right now is acceptable to the Commission, I would

entertain a motion that we adopt this as one of our recommendations.

MS. MCCRACKEN: I'll make that motion.

MR. NELSON: Thank you, Betina.

Do I have a second?

JUDGE WILSON: I'll second.

JUDGE MARTIN: Judge Martin, I'll second.

MR. NELSON: Okay. We got two seconds from Judges Wilson and Martin, great.

Discussion, any additional discussion needed at this point?

Okay, I'm not hearing any, so I will put the issue to a vote. All in favor of this motion please signify by saying aye.

(In unison: Aye.)

MR. NELSON: All opposed?

Hearing no opposition, this motion passes. Thank you.

And we have one more, again very similar in approach and structure, very similar language. You'll see it's our proposed language on a recommendation for imputation of income and the treatment of incarceration when setting orders. And Jeremy's working to pull that up for us.

MR. TOULOUSE: Can I have a --

MR. NELSON: Sure, no worries.

MR. TOULOUSE: Sorry, it's not (inaudible).

MR. NELSON: He's at a -- okay.

MR. TOULOUSE: It moved so, yeah.

MR. NELSON: All right. It seems like these get smaller every time. Can the folks in Albuquerque --

PARTICIPANT: Jeremy can help you with that.

MR. NELSON: -- and Las Cruces see the text on the screen?

PARTICIPANT: We can see it here.

MR. NELSON: Excellent?

PARTICIPANT: Yes.

MR. NELSON: Excellent.

And thanks, Jeremy.

Jeremy blew it up a little bit. This is regarding imputation and incarceration. "The Commission recommends the Child Support Enforcement Division prepare draft language for statutory changes to bring New Mexico into compliance with federal regulations on Child Support Guidelines. Such language will describe the parameters around the imputation of income to a party and will specify

that incarceration may not be treated as voluntary unemployment in establishing or modifying a support order. "The Commission further recommends the Child Support Enforcement Division make efforts to have the proposed statutory changes enacted by the New Mexico legislature including seeking endorsements by the Governor's Office, securing a sponsor for the legislation and supporting the drafting of the legislation and the legislative process as the bill makes its way through committees and floor debate and votes.

Additionally, from the discussion today Jeremy added the language at the bottom, "The Commission further recommends that the statute needs to be clear that incarceration does not" include -- "does not exclude the minimum order amount from being ordered and that there are other factors that may determine what income could be imputed to the NCP, even while incarcerated; that the court has discretion to determine in establishing the support amount."

So I think that does capture elements of our discussion on imputation and incarceration. And from there the piece at the bottom I think is surrounding incarceration.

Discussion on the draft language, are there -- did we capture -- does the initial proposed language plus the addition from the discussion today capture the intent of the Commission today?

Okay, not hearing any objection, I know we're probably getting towards the end of our meeting and we're probably moving ahead and wanting to conclude. So I will, if --

JUDGE MARTIN: Well, this Jim Martin down in Las Cruces.

MR. NELSON: Yes, sir.

JUDGE MARTIN: My recollection from our discussion at the last meeting, we had a lot of discussion about imputing income at 30 hours, 35 hours or 40 hours, recognizing I think Dr. Venohr talked extensively about the fact that New Mexico, the employment, full employment does not necessarily equate to 40 hours anymore.

And so I think, you know, my sense from our discussion last time is we might -- wanted to include some guidance in the statute about what constitutes full-time employment. Maybe I missed it or not, but that was my recollection. Does anybody else remember that or remember differently?

MR. NELSON: I think you're right on the

money in terms of that being a point of significant discussion in September. And there is good coverage of that topic and I think in the report that Dr. Venohr provided that sparked that discussion.

I think it is going to be critical. I think looking at the language, and I'm not sure if we can find a quick reference to that section in the report from early September, but that language is very detailed about the specific economic conditions that are applicable to the NCP.

I think compliant with that language does just what Judge Martin suggests. It does have to take into consider the availability of hours, the type of work available. So I'm not sure I want to try to rifle through this report, but if somebody knows where that language is offhand we can turn to it. But I do think that the detail of that language -- Becky Jiron --

PARTICIPANT: Page 29?

MR. NELSON: Page 29. I knew if I just rambled long enough someone would throw out a page number.

PARTICIPANT: And while you do that -- we discussed that internally as well. And if I remember correctly, because we're not going to be

imputing minimum wage and we are creating these new, this new guideline, I think the hours aren't necessarily as important if we were imputing minimum wage on a regular basis.

MR. NELSON: Thank you.

PARTICIPANT: So I don't --

DR. VENOHR: Mike.

MR. NELSON: Yes, Jane.

DR. VENOHR: I'm sorry to interrupt. I'm totally sorry.

MR. NELSON: Nope.

DR. VENOHR: I can't see your faces.

On page 5 it has, of the September report in Exhibit 2 and at paragraph C3, well, Roman numeral III, it has the federal language that's required, and states are generally talking this into their statute. And there is -- if you read the -- if you get to -- so I'm -- so page 5, paragraph C3 in that Exhibit 2.

MR. NELSON: Yep.

DR. VENOHR: And if you get to the third to the bottom line it says "as well as local job market," you know, blah blah blah and "prevailing earning levels of the local community." I'm wondering if, you know, I can't remember the

specifics of the discussion whether CSA, is that different than Las Cruces and whether this would handle like if the average hours work is 34 and in another jurisdiction it's 36, would this suffice to get to that nuance to where it says "as well as the local job market?" I'm going to stop there.

MR. NELSON: Yeah, that's exactly what -- thank you, Dr. Venohr.

My sense is that adoption of language that is identical or very similar to this in statute does that. It does require that the actual factors, the economic factors applied to the NCP are taken into account in imputing income. And so that -- I think these things exactly, the concerns about differing hours, whether it was 30 hours is -- would be considered full-time or that's what's available or 35 or 40, that that means that we would have to take those kinds of details into account in imputing income if that language was adopted.

It looks like there's folks over here. Nope, Betina, I thought you might have wanted to -- I'm sorry.

Judge Martin, does that -- were you able to see that language that Dr. Venohr referenced in the original report on page 5?

JUDGE MARTIN: Yes, I've got it in front of me.

MR. NELSON: Okay.

JUDGE MARTIN: So what Jeremy's proposing is what he just typed in, "Pursuant to the appropriate citation," is that what we're trying to do, is if we use this citation to the CFR that would kick this language up?

MR. NELSON: Yeah, yes. And I think in our internal discussions we thought -- we had some back and forth of do we take the language verbatim on the federal regulation and pop it into where the statute changes need to be something different or more extensive, but I think that is right. We want to do it specific to the citation and make sure the language is either used verbatim or very, very consistent.

JUDGE MARTIN: I think we have to.

MR. NELSON: Okay.

JUDGE MARTIN: You know, just, you know, again, you know, I would be concerned that if we're not explicit enough judges outside the Rio Grande corridor who don't do a lot of child support work might miss that change unless it's, you know, a little more explicit.

So we don't -- I think the statute needs to be clear in that in setting imputed income the judge has to take into account the local economics and the amount of work done in that community. Because I know that in reserve you're not going to get a 40-hour a week job as readily as you could in Albuquerque.

MR. NELSON: Makes sense. I think there's some nodding heads over here in agreement, so I think that'll be the responsibility of the Division to capture that language and make sure it's clear that those factors are taken into account.

And even more so as what we discussed a little bit earlier in the meeting, the implementation process is going to be critical. Communities differ as you just said across the state, but the process to determine what is a reasonable income to impute should have some consistencies in it and it needs to work. It needs to work in our field offices across the state and in the courtrooms where cases are being heard.

So that I think it starts with having clear legislative, clear statutory language updated through a legislative process, and then a robust implementation that includes stakeholders and

develops policy and procedure that is workable in field offices and in courtrooms.

MR. KLUMP: This is Stephen --

JUDGE MARTIN: That (indiscernible) my concerns.

MR. NELSON: Thank you, Judge Martin.

MR. KLUMP: This is Stephen in Albuquerque.

MR. NELSON: Yes, sir.

MR. KLUMP: I'm a little confused and forgive me. I was reading this document to apply to the federal mandate on the incarceration issue.

MR. NELSON: It kind of reminds them, yep.

MR. KLUMP: Yeah. So I think we need to make it clear that -- then I think perhaps even come up with just language for the incarceration issue and then a general statement as to imputation for non-incarcerated individuals.

And I'm not trying to make this harder, but I'm afraid the way this is worded people are going to read it to say, "Oh, we're only doing this for people that are in prison, but if you're out of prison we're not going to consider these factors." So it was just a thought.

MR. NELSON: It's a good thought. I think

clarity is an important outcome from this process.

Could we --

JUDGE MARTIN: This is Jim Martin. Following along on that should we do it as two separate motions?

MR. NELSON: That's what I was going to suggest. I think that's -- we could use the general structure of the draft motion, one that would be used to make a recommendation to adjust statute, pursue statutory changes around the incarceration, and a second one to pursue statutory changes around the income imputation.

I think it generally is the same structure. I think that the language at the bottom is primarily related to the discussion we had on incarceration. So that part may not apply to the motion we consider for the imputation.

MR. HEYECK: This is Larry Heyeck. May I make a suggestion?

MR. NELSON: Yes, sir.

MR. HEYECK: One motion contained the first sentence, you modify the second sentence that starts with "Such language," so "Such language will describe the parameters around," and then I would just use the word "incarceration," "such that it may

not be treated as voluntary unemployment in establishing or modifying a child support order."

And then leave everything there at is and that's your incarceration motion, then when you get to the imputation you kind of do "such language will describe the parameters around the imputation of income to any party." And then take the rest of it out on incarceration and then take the additional language out.

Does it make sense, Jeremy?

MR. TOULOUSE: Yep.

PARTICIPANT: Yeah, he said yes. He's on it.

PARTICIPANT: Yep. I think we're on a path that may be fruitful. Okay, you might -- okay, so this would be our -- is this the one that you want to modify for imputation of income?

PARTICIPANT: Yeah.

PARTICIPANT: You might want to do "in establishing or modifying this in a court order." Or is that still applicable, the imputation, and that's really the language that was related to incarceration.

MR. HEYECK: I think you're fine the way it is.

MR. TOULOUSE: Okay.

MR. HEYECK: And that would be your income, your imputation one and then yeah, I think you're fine.

MR. TOULOUSE: Okay.

PARTICIPANT: Mr. Toulouse, yes.

MR. NELSON: Okay. We can save on that. Well, wait. We can do this one. It doesn't really matter which order. Let's do the one that's on the screen. This would be the order. This would be the recommendation for changing legislation. Let us change the statutory language around imputation, the federal imputation requirements. I'm going to read it very quickly.

"The Commission recommends the Child Support Enforcement Division prepare draft language for statutory changes to bring New Mexico into compliance with federal regulations on child support guidelines. Such language will describe the parameters as defined pursuant to appropriate citation" -- and you'll have that citation -- "around the imputation of income to a party in establishing or modifying a support order.

"The Commission further recommends" -- I'm not going to read that part because that's identical

to what we've said three times already. We used that language for a recommendation around imputation of income.

Does that capture the intent of the Commission?

PARTICIPANT: I believe so.

MR. NELSON: Okay. I'm getting a few nodding heads here in Santa Fe and --

PARTICIPANT: Yes.

MR. NELSON: Okay, thank you.

All right, in that case I would like to entertain a motion.

PARTICIPANT: I move that we adopt the motion that's on the screen right now.

MR. NELSON: Okay. Do we have a second?

PARTICIPANT: Second.

MR. NELSON: Great, one last chance for discussion of imputation of income.

Hearing none, I will call this motion to a vote.

All in favor please signify by saying aye.

(In unison: Aye.)

MR. NELSON: All opposed, say nay.

All right, no opposition, so we'll adopt that motion for a recommendation around imputation

of income.

And jumping back to the changes we made to this item related to incarceration, I'm going to quickly read, "The Commission recommends" -- I'm just going to read the first part. "The Commission recommends the Child Support Enforcement Division prepare draft language for statutory changes to bring New Mexico into compliance with federal regulations on child support guidelines pursuant to the appropriate citation" which we will enter.

"Such language will describe the parameters around incarceration such that it may not be treated as voluntary unemployment in establishing or modifying" an order, "a support order." The last part of that paragraph reads the same as the other ones in terms of the legislative effort to get that updated in the statute.

And the language at the bottom says, "The Commission further recommends the statute needs to be clear that incarceration does not exclude the minimum order amount from being ordered and that there are other factors that may determine what income could be imputed to the NCP even while incarcerated; that the court has discretion in determining and establishing the support amount."

Does that capture our discussion and our intent for a recommendation around updates to statute related to incarceration?

PARTICIPANT: Yes.

MR. NELSON: Okay.

PARTICIPANT: Yes.

MR. NELSON: Wonderful. I would entertain a motion to accept this language as a recommendation from the Commission.

JUDGE MARTIN: Jim Martin, I'll make that motion.

MR. NELSON: Thank you, Judge Martin.

Do I hear a second?

MS. BATZLI: I'll second.

MR. NELSON: Sarah beat Judge Wilson to the second, so we have a motion and a second, one last opportunity for discussion on language around incarceration.

Hearing none, I would entertain a vote on this motion. All in favor signify by saying aye.

(In unison: Aye.)

MR. NELSON: Opposed, say nay.

Not hearing any opposition, the motion passes. And I think that covers the main points we wanted to, the items we uncovered during our first

session in September and the things that were, I think, in large part driven by the great report from Dr. Venohr.

And I think generally a need to do some major updates around the current statute and the guidelines, which haven't changed the schedule itself, which hasn't changed in a long time. So I think we are on the right track in making these recommendations for statutory changes in the upcoming legislative session and the Division is committed to moving forward with those steps.

I tried to articulate those steps and what it takes to get a piece of legislation passed in getting the administration's support, finding a sponsor and getting it through both Houses and getting is signed. I think the recommendations point us in the right direction. Now all that work remains to be done to get those steps in place. But in that respect, I feel like this committee has done its due diligence to carefully look at economic information, carefully look at federal regulation, state regulation and law, and recommend how we move forward and modernize those statutes and the processes around them.

So I don't have any other items for action

or voting in this Commission today. And given that I don't and we haven't articulated anything of that nature on the agenda, probably not much we can do.

I'd like to move to agenda item 7, which is Next Steps. We will incorporate the work of the Commission into a final report. I believe Dr. Venohr drafts that substantively and then that comes from the Division from the Director. And I think that will be the basis of moving forward with drafting proposed legislation and working with the administration and the legislature.

And so that's kind of the next steps. All of this work will be posted publicly and the Commission will receive the report directly. Other next steps or anything else that I've left out, I can't think of anything. Any other comments, questions or concerns by the Commission before we move to our last agenda item?

JUDGE MARTIN: This is Jim Martin down at Las Cruces. Again I want to thank Dr. Venohr for her hard work and all of her insight. You know, the level of detail that she puts in a report is not so heavy that it puts me to sleep, but it is deep enough that it gives me a full understanding of the purpose of the guidelines and the amount of analysis

that she puts into it is greatly appreciated. And, you know, so on behalf of me personally I want to thank her for her hard work.

MR. NELSON: Thank you, Judge Martin.

Go ahead, Jane.

DR. VENOHR: Thank you for the kind words. It's been my pleasure. I appreciate that New Mexico Commission members read. I think I'm very proud that you made some difficult recommendations in six hours of meeting time. I applaud your efficiency. So and part of it is that you read the reports, so thank you.

MR. NELSON: Thank you. Thank you. Absolutely echo Judge Martin's sentiments as I think all of us would. And I'd also like to thank the Commission members for your hard work, being prepared and bringing your expertise to help us develop recommendations that I think are really practical and appropriate.

I always want to thank the staff of the Child Support Enforcement Division. I work with an incredible team, many of the folks are here today and the work that they do is incredible and greatly appreciated. And probably could spend plenty of time thanking people and recognizing them for their

hard work and we don't have enough time to do that ever, but I wanted to say that as well.

If there are no other additional comments I would move us to our last agenda item which is to adjourn. We're a little bit over time, it's about eight minutes after 4:00 now, but if there's nothing else I would entertain a motion to adjourn.

MS. MCCRACKEN: The only thing I want to say --

MR. NELSON: Yes.

MS. MCCRACKEN: -- is I know Sarah and I both want to thank you.

MS. BATZLI: Oh, yes.

MS. MCCRACKEN: and I think all of us do because you kept, despite the fact that we're eight minutes late today I think that you've kept us on point.

MR. NELSON: Good.

MS. MCCRACKEN: Eight minutes, Mike. It's awesome. You're awesome.

MR. NELSON: Good. I'm glad we could get through that important work and there was a lot of it. Appreciate it.

PARTICIPANT: Thank you.

PARTICIPANT: Great.

MR. NELSON: Anybody want to make one more motion?

PARTICIPANT: Go, Judge Wilson.

MR. NELSON: Judge Wilson would.

JUDGE WILSON: I motion that we adjourn.

MS. MCCRACKEN: Okay, second.

MR. NELSON: And we have a second from Betina.

All in favor signify by saying aye.

(In unison: Aye.)

MR. NELSON: All right, we are adjourned. Thanks, everyone.

(WHEREUPON, the meeting was adjourned at 4:06 p.m.)

CERTIFICATE

I, Patty English, do hereby certify that the proceeding named herein was professionally transcribed on the date set forth in the certificate herein; that I transcribed all testimony adduced and other oral proceedings had in the foregoing matter; and that the foregoing transcript pages constitute a full, true, and correct record of such testimony adduced and oral proceeding had and of the whole thereof.

IN WITNESS HEREOF, I have hereunto set my hand this 3rd day of December, 2018.

Patty English, AAERT 843

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