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10 **Agribusiness Committee Meeting**

11
12 Thursday, October 7, 2004
13 11:00 a.m.

14
15 Hotel Roanoke & Conference Center
16 Wilson Room
17 Roanoke, Virginia
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21 **APPEARANCES:**

22 Mr. C. D. Bryant (by telephone)
23 Mr. Buddy Mayhew, Acting Chairman
24 Mr. J. Carlton Courter, III
25 Mr. Matt Erskine, Deputy Secretary of Commerce
26 Mr. Fred M. Fields
27 Mr. Jordon M. Jenkins, Jr.
28 Mr. Claude B. Owen, Jr.
29 Mr. John M. Stallard
30 Mr. Thomas E. West
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34 **COMMISSION STAFF:**

35 Mr. Carthan F. Currin, III, Executive Director
36 Mr. Timothy Pfohl, Grants Program Administration Manager
37 Mr. Ned Stephenson, Manager of Strategic Investments
38 Ms. Stephane Wass, Director of Finance
39 Ms. Britt Nelson, Grants Coordinator Southside Virginia
40 Ms. Sara Griffith, Grants Coordinator Southwest Virginia
41

42 **OFFICE OF THE ATTORNEY GENERAL:**

43 Frank N. Ferguson, Counsel to the Commission

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3 MR. MAYHEW: I'll go ahead and call the meeting to order.
4 Carthan, would you call the roll?
5 MR. CURRIN: Mr. Bryant?
6 MR. BRYANT: Here. (by telephone)
7 MR. CURRIN: Commissioner Courter?
8 COMMISSIONER COURTER: Here.
9 MR. CURRIN: Deputy Secretary Erskine?
10 DEPUTY SECRETARY ERSKINE: Here.
11 MR. CURRIN: Mr. Fields?
12 MR. FIELDS: Here.
13 MR. CURRIN: Mr. Jenkins?
14 MR. JENKINS: Here.
15 MR. CURRIN: Mr. Mayhew?
16 MR. MAYHEW: Here.
17 MR. CURRIN: Mr. Owen?
18 MR. OWEN: Here.
19 MR. CURRIN: Mr. Stallard?
20 MR. STALLARD: Here.
21 MR. CURRIN: Mr. West?
22 MR. WEST: Here.
23 MR. CURRIN: There is a quorum present. The Chair would now
24 recognize as Chairman of the Committee for purposes of nominating an individual to
25 serve as Chairman of the Agribusiness Committee today.
26 MR. WEST: Mr. Chairman, I would nominate Buddy Mayhew.
27 MR. CURRIN: There has been a nomination placed. Is there a
28 second?
29 MR. STALLARD: Second.
30 MR. CURRIN: The nomination was made and seconded. Is there
31 anyone else that would like to make a nomination at this time? Hearing none, then all
32 those in favor of Mr. Mayhew being the Chairman for the Agribusiness Committee
33 meeting please say aye? (Ayes.) Opposed? (No response.)
34 MR. MAYHEW: Thank you, Carthan. I think our first order of
35 business is that I'd like to welcome everyone here today, members and guests, and
36 appreciate you all being here.
37 First, I'd like to get an approval of our Minutes from the July 15th meeting.
38 Do I hear a motion? It's been moved and seconded that we approve the Minutes from the
39 last meeting. All in favor say aye? (Ayes.) All opposed, no? (No response.) The
40 Minutes are approved.
41 At this time Mr. Tim Pfohl will give a review of the pending proposals.
42 MR. PFOHL: Mr. Chairman, I'd like to give you a little bit of
43 background about our purpose here today and the process that brought us to this point.

1 Today you'll be reviewing five requests for Agribusiness grant funding. Those requests
2 total two point two million. Your Committee or the Commission has one point seven six
3 million and change on hand, cash on hand, that was budgeted in FY04 for the
4 Agribusiness Grant Program.

5 The background on how we got to this point, you recall that the Commission
6 received sixteen pre-applications for Agribusiness funding. Those were two to three page
7 summaries of proposals. The Committee met July 15th and invited a half dozen of those
8 proposals forward. Two of the proposals were merged into one request, so we have five
9 requests in front of us today. They were submitted on the forms and according to the
10 guidelines that the Committee approved a year ago and the Commission approved in July,
11 2003. The proposals were reviewed by Staff, using scoring that the Committee saw in its
12 meeting in June of '03. I have copies of the scoring available if anyone is interested in
13 seeing that.

14 We got input from partner agencies and organizations in the states, and those
15 comments and recommendations from the Staff are included with a summary of each of
16 the projects in the handout that you have in your packet, and I'll be happy to talk about
17 the projects individually. I think all the projects have representation here today from the
18 applicants, and I'm sure they would be more than happy to clarify their proposal to you.

19 We have a handout that has some summary descriptions and Staff comments
20 and recommendations, and if you would like, Mr. Chairman, we can proceed with those.

21 MR. MAYHEW: The first one on our list is the Value-Added Beef
22 Initiative, Southwest and Southside Regional Proposal. A request for one million six
23 hundred fifteen thousand. Is there someone here that would like to speak to that
24 proposal?

25 MS. WALLACE: My name is Linda Wallace, Agriculture
26 Development Director for Halifax County. This project is merged with Southwest, and
27 that would be Bill Blevins representing the Southwest group. We are certainly willing to
28 highlight the main points of this proposal if you so desire, or we can just answer
29 questions, whichever you prefer.

30 MR. MAYHEW: What would the Committee like to hear?

31 MR. PFOHL: Just to give you a little background on this, since the
32 Commission had a previous investment which served as the demonstration phase for this
33 project. I think most of you recall a year ago this month the Commission approved
34 awarding five hundred thousand to the Southside Beef Demonstration Program for three
35 counties in Southside. That program was implemented this past summer and forms the
36 basis for this request. The request now will be expanded to six counties in Southwest
37 Virginia, and this is the result of two merged pre-applications, and those came to the
38 Committee in July. We've got some details on the specific aspects of that if the
39 Committee members are interested.

40 DEPUTY SECRETARY ERSKINE: Given the size of this proposal,
41 I'd like to get a better handle on the return on investment and the numbers behind the
42 potential project. What is the return for the future investment by the Commission?

43 MS. WALLACE: I believe I included a preliminary economic

1 analysis of the pilot project. It is difficult to project an exact return on investment at this
2 stage, and I don't mean to oversimplify this. We've invested money, and the Tobacco
3 Commission as well as the producers have invested money in a genetic improvement
4 program, and that is for improvement of the herd. That is for the bulls and the heifers.
5 It's difficult to make a projection on that, because those calves are not on the ground yet.
6 Those heifers are pregnant with those calves, and it will be another six to eight months
7 before those calves reach the market.

8 We took some data that was provided to us by Dr. Scott Grinner and Mr. Bill
9 McKinnun from Virginia Tech on projected benefits of the improved genetics. For
10 example, adding twenty pounds for these bulls. Currently, cattle prices are high, and with
11 twenty pounds a calf that is going to bring more money at the marketplace and for that
12 producer as a result of this genetics, the superior genetics on the bulls.

13 You'll see in your packet where we speak about cattle handling facilities. Also,
14 Virginia Tech did a study in 2001 on how cattle handling facilities can improve the
15 producer's income by having the capability of working the cattle. Historically in
16 Southside Virginia tobacco has certainly been the mainstay of farm income. The tobacco
17 industry is certainly dynamic, but we are seeking some form of alternate income for
18 farmers. I'd say probably eighty percent in Southside of those participating in the pilot
19 project have been tobacco producers. In no way are we suggesting for a moment that
20 beef cattle is going to replace tobacco income. We think through better management,
21 improving the genetics and improving the cattle handling facilities, we can certainly
22 enhance the producer's opportunity to reap greater economic return from cattle
23 producing.

24 MR. BLEVINS: If I might give you an example of what happened
25 Monday night in Southwest Virginia. In regard to what Linda is talking about, this grant
26 proposal, if approved, will give us something that we need like better working facilities.
27 It will help producers participate in programs like these. We had some cattle sold at
28 auction on Monday night, and that was eighty-nine calves brought roughly ten thousand
29 dollars more than the same set of calves brought in the barn. I think that's a good
30 demonstration on return on investment, just on eighty-nine calves, and this will help us
31 be able to do.

32 MR. MAYHEW: Long-term efforts, do you think this will pay
33 dividends for years to come?

34 MS. WALLACE: Yes. In the preliminary economic analysis when
35 we looked at these heifers, two hundred forty-three bred heifers have been purchased.
36 With funding from the Beef Initiative, and as Dr. Scott Grinner's suggestion, we have an
37 eighty-percent calving rate on those heifers, which will produce a hundred and ninety-
38 four genetically superior calves annually. To do a projection out of precaution we only
39 utilized the number of years this program is for. We projected a hundred ninety-four
40 calves per year times five program years. Maintain ownership of these bred heifers for a
41 minimum of five years. Nine hundred seventy calves, and market them conservatively at
42 five hundred fifty a head. I think Mr. McKinnun with the Virginia Cattlemen's
43 Association probably would agree that that is a conservative figure at this point. We're

1 using five years. There are a number of cattlemen here that will tell you that, barring
2 injury, that heifer would produce superior calves for at least ten or twelve years. You can
3 easily take that five hundred fifty-three thousand dollars and double that.

4 MR. FIELDS: Has Southside exhausted all of their funding you
5 received in the past?

6 MS. WALLACE: Yes, I have fifteen producers who have yet to
7 complete their work. Of the one hundred fourteen that were approved, I have ninety-nine
8 complete, and ninety-nine of the producers have been reimbursed. There are fifteen out
9 there who are not complete yet, and in my mind I think those gentlemen all have
10 justifiable reasons. I, as the Administrator, granted an extension to those fifteen people.
11 There is no doubt they are going to do it, because the tobacco issue and the availability of
12 the breed of heifer that they wanted, and there is some lag time with the purchase of the
13 heifers, so I gave them an extension. We have exhausted that money, and we could use
14 another quarter of a million dollars to satisfy just Pittsylvania County.

15 MR. FIELDS: Do you suggest that in Southwest this amount of
16 money will be applied for?

17 MR. BLEVINS: When you look at the six counties that have been
18 proposed for Southwest Virginia, and let me get the figures so I don't misstate anything
19 here. When you look at the number of herds in that area, we have almost eighteen
20 percent of the beef farms and the cattle farms in the state in those six counties, and they
21 are roughly fourteen and a half percent of the cattle. So I don't have any question that we
22 can exhaust those funds and many more when it comes to this kind of project.

23 MR. FIELDS: Eighteen percent of the herds in the state?

24 MR. BLEVINS: Yes.

25 MR. FIELDS: What about the number of cattle?

26 MR. BLEVINS: If you look at the 2002 census for cattle, we have
27 almost two hundred thirty-four thousand head in the six counties. That's fourteen point
28 four percent, according to the census. Fourteen point four percent of all cattle in the State
29 of Virginia is in those six counties.

30 MR. OWEN: What kind of return on investment analysis did we
31 do?

32 MR. PFOHL: We looked at the information provided in the
33 application as far as the three components and what they were projecting to generate, as
34 well as the preliminary economic analysis. Basically, took the figures that the applicant
35 provided and then scored on our system which were factors, such as technical merits,
36 agribusiness development, potential significance to the Commission's Long-Range Plan,
37 and relying on the applicants' projections.

38 MR. MAYHEW: Isn't it true that in many cases the applicants spent
39 more than they were required or requested when the project is completed?

40 MS. WALLACE: Yes, sir. The average producers are overspending
41 what they are receiving from the Tobacco Commission by fourteen percent. Producers
42 are certainly matching dollar-for-dollar, and they are investing more of their money than
43 they are receiving in cost sharing. I think that goes well for the producer and shows a

1 willingness of the producer to embrace better management of their cattle.

2 MR. MCKINNUN: We have a list of applications, and we could not
3 take the applications, because we took them on a first-come first- served basis. We had to
4 cut it off, we saw we were going over our funding. I think all three counties have a list of
5 applicants that we could not take their applications.

6 MS. WALLACE: In the larger counties we weren't able to fund
7 many of them, like Pittsylvania. That was unfortunate, because these gentlemen received
8 their beef quality assurance certification and were willing to try to seek alternative
9 marketing, such as the Virginia Quality Assurance Program, and that wasn't a fun task to
10 look at these people and say, we're out of money, but we had to do it.

11 MR. FIELDS: Do you have any figures on just the three counties in
12 Southside?

13 MS. WALLACE: No, we're proposing that Southside expand to
14 include Brunswick, Charlotte and Lunenburg Counties. As Mr. Bryant pointed out last
15 time, these were selected based on tobacco dependency. In Southside Virginia they are
16 the three biggest behind Mecklenburg, Halifax and Pittsylvania, they are the next three
17 most tobacco dependent communities.

18 DEPUTY SECRETARY ERSKINE: The producers are the ones that
19 take advantage of the program; who would oversee the program?

20 MS. WALLACE: There are some stipulations on the producers.
21 They are required to have beef quality assurance training. That training is provided by
22 Virginia Tech. There is a tremendous amount of in-kind investment producers have to do
23 that they couldn't do without the localities. The Cattlemen's Association works with the
24 producers, and the producer receives the VPA certification.

25 There is also cost sharing involved. The applications are very similar to the
26 state cost sharing forms, and they agree to abide by the appropriate guidelines. They also
27 agree that if we find non-compliance with the guidelines they could forfeit the cost
28 sharing benefits. At the time the application would be forwarded to the Oversight
29 Committee, which has a member of the Tobacco Commission on it. I believe Mr. West
30 serves in that capacity, and Mr. Bryant as an ex-officio member. He's been informed of
31 all the changes. The Disbursement Oversight Committee and a Screening Committee,
32 and also we involve the Virginia Cooperative Extension personnel, and they review the
33 applications and make sure that the producers meet the eligibility requirements. Then the
34 Disbursement Oversight Committee either approves or disapproves the application. Then
35 it goes back to the Feeder Cattle Association, at which time the producer is informed that
36 he is approved. Most producers are given ninety days in which to complete their
37 package. In most cases there is not a problem, but because of the timing last year we did
38 not get to open the project at the time that I thought would fit well with the average
39 tobacco producer's schedule in Southside. This year, when it came down to getting the
40 tobacco in the ground or building cattle handling facilities, we gave them an extension. I
41 thought it was appropriate. Most of those gentlemen will meet their guidelines.

42 MR. JENKINS: Were you able to make an estimate on the indirect
43 value of this project, once the superior genetic program was established and it became

1 more available or accessible to the growers who are not participants in the program. One
2 person might go off and buy a bull and the other pays a lot of money but then eventually
3 the offspring of that bull is in the community and makes it more accessible and maybe
4 keep the price down. Do you have any idea how that would work?

5 MS. WALLACE: Yes. We did some projections on the initial
6 application to the Tobacco Commission two years ago. I'm not sure how to say this, but
7 the validity of those projections were questioned. I still maintain that those projections at
8 one point was as high as thirty-three million dollars indirect benefits from this
9 investment. As I said, the validity of some of the projections were questioned, so they
10 were not included, but certainly using, and I'm thinking about Pittsylvania, Mecklenburg
11 and Halifax, the Tobacco Commission invested a half a million dollars, and the producers
12 also invested a half a million dollars, in most instances more than that. If you use a
13 simple economic multiplier of four, which most people agree is a good agricultural
14 economic multiplier, just dump four million dollars in the three counties, but there were
15 members who questioned the validity of it.

16 MR. JENKINS: It doesn't cost any to feed a good cow than a poor
17 one, and I think everybody would have to agree that once you establish this genetic
18 program you upgrade the level of profit, and it doesn't cost any more after that, once you
19 get over this initial hurdle.

20 MR. BLEVINS: You make a good point in that one of the best ways
21 that this thing will work is neighbors seeing what other neighbors are doing, and when
22 people see the improvement in cattle across the fence, and we found that to be true in our
23 area in conservation programs and other things. People see their neighbors doing it, and
24 it worked. It's hard sometimes to put a measurement on it, but it entices them to make
25 corrections and improvements that they need to make so they can be as profitable and so
26 they don't stand out as not trying to improve the situation.

27 MR. FIELDS: It think we need to hear from you, or if you're not the
28 person, we can hold off on voting funds or not funding. I think there is some concern on
29 how we're going to operate in Southwest.

30 MR. BLEVINS: I'm prepared for that. The question about the
31 AgriFeeder Cattle Association, and to set the stage for that, I understand the Feeder Cattle
32 Association, and I have a letter for each one of the Committee members, and I'll give that
33 to you. It's signed by President Clarke, sitting back here. The Feeder Cattle Association
34 is actually affiliated with the Virginia Cattlemen's Association. The goal of that
35 association is to help beef producers merchandise their cattle in a more profitable fashion.
36 It is not a good old boys club or anything like that, but it is strictly for the purpose of
37 helping area cattlemen merchandise their cattle in a better profit situation. We serve all
38 the cattlemen in our area, as you will see from the letter. You don't have to become a
39 member of the Feeder Cattle Association to sell cattle through an Association-sponsored
40 sale. That is mainly the work of the Association, to foster organized sales for producers'
41 cattle from the various parts of the region and brought together and graded by the
42 Virginia Department of Agriculture, commingling similar lots, and then sold in that
43 fashion. To avoid any suspicion that an Association member would get special treatment,

1 we've laid out the guidelines and established the committees that will avoid that situation
2 completely.

3 We're on a first-come first-served basis just like the Southside group, we
4 advertise to all beef producers. We have Lee County and Grayson County that are not
5 specifically represented on the Feeder Cattle Association Board, and there will be
6 representatives from those counties on the Oversight Committee to make sure that
7 nothing like that would happen.

8 In addition to that, we'll have representation from the Farm Bureau and from
9 the Virginia Cattlemen's Association to help ensure this thing is carried out in a fair
10 manner. We have no desire to keep this money just for people that have sold cattle in the
11 past with the Association, that is not the goal of our group at all.

12 One of the problems we have in conducting, like Southside, we have
13 Washington County, and the whole soil and water conservation district has more work
14 than they can do right now without taking on another cost-sharing program. You can call
15 them and ask them about that. Right now they are in the process of being reviewed on
16 about two hundred contracts that they have written, and they have been told don't do
17 anything else until you get the two hundred taken care of. It's impossible in our county
18 for the soil and water conservation district to do it. We've tried, and on part of that you'll
19 have to take our word on it that we're honest people and we'll be fair about it. We have
20 set up a committee in such a fashion that there will be checks there to see that it is carried
21 out in a fair and impartial manner.

22 MR. FIELDS: I certainly didn't want to insinuate that there was a --

23 MR. BLEVINS: -- I didn't take it that way.

24 MR. FIELDS: I want to commend the group, the Feeder Cattle
25 Association, for taking the initiative and to get this grant going and certainly improve this
26 initiative.

27 MR. BLEVINS: I didn't take it that way. That group is called the
28 Abingdon Feeder Cattle Association, and it is not tied to Abingdon. Abingdon just seems
29 to be the central point for things to operate in Southwest Virginia a lot of times. We're
30 not tied to any market, and we have organized ourselves with TriState Livestock Market.
31 We sell cattle other ways, too, that doesn't even concern the market.

32 MR. FIELDS: We have about six counties, and we have a very
33 viable growing market, maybe another market not growing. I see an awful lot of cattle
34 on the highway going East on Saturdays and Fridays. I know it is not tied to the market.
35 We just want to ensure that Lee County and Grayson have the same opportunities, and
36 our goal is the help the cattlemen.

37 MR. BLEVINS: Our goal is to help the cattlemen make more
38 money in Southwest Virginia, regardless of whether they have ever sold cattle with the
39 Cattle Association or not.

40 MR. STALLARD: I don't have any question for the panel but just
41 wanted to say that in the tobacco economy in Southwest Virginia I think the Beef
42 Initiative has been received better than any project I've heard come through in a long
43 time. It has given farmers hope and some help. Joe Williams said Southwest Virginia

1 needs all the help it can get. I just wanted to add that I'm a hundred percent for the Beef
2 Initiative.

3 MR. MAYHEW: It was mentioned in the information that there will
4 be an equal share between Southside and Southwest and made up sixty/fifty and bring it
5 back in line with the thirty/seventy, and I believe all parties have agreed to that as being
6 fair. Any other questions from the Committee for Ms. Wallace or Mr. Blevins? How
7 about from the public, is there anyone that would like to say anything, or C. D., do you
8 have a question?

9 MR. BRYANT: I don't have a question, but I'd like to make a
10 comment at the appropriate time. I think the Committee members realize that a producer
11 wants to do one thing, and that's at his farm. To me the Commission has the
12 responsibility to utilize the infrastructure that we have in place on our tobacco farms. I'd
13 like to say that producers in the tobacco community tried many alternative crops which
14 have not been viable. To me I see this alternative as one that is a solution and will have
15 lasting value. I would certainly ask the Committee to endorse this.

16 MR. MAYHEW: Thank you, C. D. Are there any other questions
17 that anyone would like to ask at this time?

18 MR. PFOHL: Mr. Chairman, one item that may add to this. Many
19 of you know that the State of Kentucky has plunged headfirst into the Beef Cattle
20 Initiative and has invested over forty million dollars of their tobacco funds in the last
21 three years. We've taken a look at the Kentucky program and an analysis done on that.
22 The University of Louisville did an economic impact study on the investment so far. In
23 August, 2003, their professors concluded that the beef cattle program had the best
24 multiplier of the Kentucky agribusiness program. It was too early to determine profit and
25 loss. Ultimately, the professors concluded that the program was too young to determine
26 how much would be added to the bottom line for the producers. They are following and
27 monitoring that program closely but haven't come up with an exact projection yet.

28 MS. WALLACE: Mr. Mayhew, I'd like Mr. McKinnun to say a few
29 words about what this program has done for the cattle industry in Virginia.

30 MR. MCKINNUN: I do appreciate the opportunity to speak. I'm
31 Bill McKinnun, Executive Secretary of the Virginia Cattle Association. This project I
32 think offers a real opportunity, certainly from an economic incentive it's got a real strong
33 educational component, and I think there will be some long-term change from it. If you
34 think about the cattle production in our tobacco-growing region it's been a secondary or
35 tertiary enterprise. I think this program allows an opportunity to those producers to shift
36 the focus and go about their cattle business as a business in a professional manner. I
37 think Mr. Jenkins made a good comment about the long-term impact and impact to
38 producers who don't actually receive grants. I've been working with these cattle folks for
39 about thirty years, and I think this program will impact a much larger scope of producers
40 than those that actually receive grants. The people that participate in this program will be
41 those early adopters, and they can really make some changes.

42 What is going on in Southside now, for an example. I hear and feel more
43 excitement about cattle business in those three counties where the demonstration project

1 is going on than I have heard in thirty years. Through use of the Virginia Quality
2 Assurance Feeder Cattle Program, in the last two years we've been able to give those
3 producers in Southside Virginia prices that are on par with the rest of the state of cattle
4 sold the same way. Five years ago we couldn't do that. Some time ago cattle in
5 Southside Virginia were selling five to ten cents less per pound. We haven't seen that this
6 year yet. We followed up with the feed lots that bought those cattle; they are satisfied
7 with them. We think this program can really improve the economics of those producers
8 and the marketability of those cattle. We think it might be a little unfair to have to ask for
9 a return on investment in five years, because the big return will be within ten to fifteen
10 years down the road.

11 I appreciate the opportunity to be here and comment. Thank you.

12 MS. MOORE: Mr. Chairman and members of the Committee, I am
13 Martha Moore with the Virginia Farm Bureau. I stood before you when you had your
14 meeting in Wise County and talked about funding the original pilot program. Many of
15 our county Farm Bureaus support this program. I believe it enhances the existing
16 infrastructure. I don't want to reiterate the other comments, but I just wanted to let you
17 know the support of the Farm Bureau has not changed, and we believe it will enhance
18 farmers across Southside and Southwest Virginia. Thank you.

19 MR. MAYHEW: Are there any others that would like to make a
20 comment? Any more questions? The Staff has recommended an award of one million
21 four hundred forty thousand, with certain conditions and understanding. If no one
22 disagrees with it, we'll move on through these and come back after they have all been
23 discussed.

24 The next on the list is the Scott County Hair Sheep Association.

25 MR. PFOHL: Mr. Chairman and members of the Committee, this is
26 a project that the Commission has previously invested in. In fiscal year '03 you made an
27 award of twelve thousand two hundred ninety dollars to assist this project, and at that
28 time this was an outreach event. That has helped the Hair Sheep Association, which is
29 the applicant, grow from thirty to almost a hundred. Most recently the Association has
30 reached an agreement with Food City Stores, and that is an eighty-eight store grocery
31 chain, to take as many ten thousand ewes annually. The applicant projects a per ewe sale
32 cost of a hundred twenty-five dollars with full implementation of the program would
33 generate sales of one point two five million dollars per year.

34 The Staff looked at the request, which constituted a number of start-up
35 activities, and attempted to increase the number of producers that take advantage of the
36 direct market opportunities. We focused on the aspect of hiring a market liaison who
37 would be a coordinator for this program, a person whose full-time job would be to reach
38 out to producers and educate them about marketing and income opportunities. We
39 discussed with the applicant the possibility of providing funding to put that coordinator in
40 place to help the program expand as rapidly as possible. Ms. Mewbourne, who is the
41 applicant, is agreeable. The application stated there was a producer match of four
42 thousand. We'd request to bump that match up to five thousand dollars and a fifty
43 thousand dollar award from the Commission to create that coordinator position and

1 provide some operating expenses for two years. I do want to note that the request is to
2 assist the program over the course of two years. The funding commitment would just be
3 from this year's funds. They are asking for two years to spend the money, that's where we
4 are at.

5 DEPUTY SECRETARY ERSKINE: It says on the first page in your
6 application, mentions the counties of Scott, Russell and Washington and as well as
7 neighboring counties in Tennessee. Does this money go to Virginia producers who
8 happen to have ewes in Tennessee?

9 MR. PFOHL: I think Ms. Mewbourne will clarify what their
10 involvement is. The application says the ewes are coming primarily from Scott County
11 and some surrounding counties. There are some neighboring counties in Tennessee, but
12 she can give you more information on that, the actual producers in Tennessee. By putting
13 a match requirement on certainly the funds that the Commission is putting in there to be
14 spent where primarily the membership base is and producer base will be. I guess the
15 match could be construed as serving the producers from other counties, but we're not the
16 sole funding source in this. A benefit accrues to a small percentage of producers outside
17 the Southwest counties of Virginia.

18 MR. CURRIN: Are we going to be funding Tennessee sheep? I
19 love Tennessee, but, no.

20 MS. MEWBOURNE: I'm Martha Mewbourne. None of this money
21 is going to go directly to the producers, as we have kind of come to an agreement with a
22 coordinator to get this up and running, because a lot of times if somebody calls late at
23 night saying we can't get the sheep to slaughter tomorrow we need somebody to handle
24 that. What the Commission is able to do is to provide initiative to get this started for
25 Virginia sheep producers. There are some additional people from Tennessee, but the
26 majority of the money goes to the Virginia sheep producers to provide sheep to a
27 company that is headquartered in Abingdon Virginia, run by a man who has stood and
28 said we will buy everything you can produce for us, and if you ever produce too much
29 we'll help you sell it. I don't know any business where they have had somebody say to
30 them, we're going to buy everything right now. We want to make sure there is a
31 coordinator, and that is needed to make sure that we can ensure the quality of this product
32 we're getting to a local buyer that wants to do it. We may at some point go to Tennessee
33 and ask them for some money to help with their side so there is another way.

34 MR. CURRIN: Is there a way you can structure the grant
35 application to make sure only Virginians will be assisted?

36 MR. FIELDS: You wouldn't ask them to turn back the ten thousand
37 five hundred from the Kingsport Times News. That is all they are giving to those folks.

38 MS. MEWBOURNE: We're not giving anything. We're not going
39 to brand the sheep with big orange "T's" on them.

40 MR. CURRIN: You understand how sensitive this is?

41 MS. MEWBOURNE: I certainly do. I hope you all understand our
42 difficulty; we had a meeting in Abingdon last week and a hundred people came, and that
43 was to recruit more producers. We want more producers, but we have the other side, and

1 that is a commitment to a buyer that if after a year or two we can't provide that buyer they
2 may say we need to think how we are going to get lamb in our stores elsewhere. It was
3 flattering to have Food City contact us last week before they opened in Big Stone Gap,
4 and they said can we slaughter a day early, because we want to make sure that we have
5 your lamb in our store. This can be Virginia's finest product. We are trying every way to
6 make this a Virginia deal. We just think this is a fabulous opportunity.

7 MR. FIELDS: We have to look at Southwest, we're just so rural out
8 here, we don't want Tennessee Tri-Cities, we want this to help the Virginia producers.
9 Out in this area you have to understand this is a unique situation. I also understand
10 Richmond four hundred miles away, too.

11 DEPUTY SECRETARY ERSKINE: I'm not sure I understand it.

12 MR. JENKINS: It seems like this project is to help the sheep
13 farmer, and you've got to have a certain amount of volume in order to be successful. It's
14 just not like selling cattle. If it takes allowing some people in Tennessee to benefit from
15 this indirectly, I don't see where that affects the overall goal of this project. I wouldn't
16 judge it on those merits.

17 DEPUTY SECRETARY ERSKINE: Is it the issue that Virginia
18 producers can't meet the demands, that's why you have to go to Tennessee?

19 MS. MEWBOURNE: That's the initial thing, we're trying to, this
20 started with probably fifty sheep and a few people sitting around saying we need to do
21 some education for future farmers and begin to see opportunities. We have a good
22 relationship with the CEO of Food City. We told him we weren't ready at that time to
23 sell, but we want to talk to you about what we can do. He said, why aren't you ready to
24 sell, I'm ready to buy and what can you have next week, is what he said. We really didn't
25 know what to do at that time. We want as many people from Virginia to succeed from
26 this thing as possible. That is our goal. We're trying to be successful and make it work.

27 MR. FIELDS: That's the problem with Virginia and Tennessee, and
28 that concerns me, and I can see the problem meeting that goal.

29 MS. MEWBOURNE: We're really becoming a showplace with this
30 project, and we really want this to be a success.

31 DEPUTY SECRETARY ERSKINE: Can you tell me a little bit
32 more about this program and the marketing opportunities?

33 MS. MEWBOURNE: The market liaison person or coordinator, the
34 problem is trying to get to the volume of this that we want to. The person has to be
35 familiar with raising sheep and has to be able to go to producers and say, this is the
36 quality of sheep. The difference in a fifty- pound lamb - what I'm say is that somebody
37 has to help train these producers so they will know what we're looking for. We also have
38 to consider picking up the sheep heads and taking them to the landfill after they are
39 slaughtered. There are some federal regulations concerning that. Everything from
40 picking up the sheep heads to coordinating, helping to consistently do a good job with the
41 producers. That requires a lot of driving, obviously, because we are in rural areas. There
42 is a lot of time involved in the car for whoever would do this, and on the telephone.

43 DEPUTY SECRETARY ERSKINE: What is your projected

1 growth?

2 MS. MEWBOURNE: We have hit our one hundred and fifth
3 member now, and we are an open membership. We're trying to increase our numbers.
4 We know we need about six to eight thousand production ewes. We've got producers
5 with as few as four to five sheep. A person with that amount of sheep can sell just as well
6 as a person with five hundred. Most of these are small farms, twenty-five head or less,
7 and we have room for the small producers and opportunities for large producers.

8 MR. MAYHEW: Thank you, very much. Any other comments
9 concerning this grant application? If not, we'll move on to the next one.

10 U. S. Department of Agriculture, the Virginia Cooperative Coyote Damage
11 Control Program, a request for a hundred and fifty thousand.

12 MR. PFOHL: This is a cooperative program of state and federal
13 funding to reduce economic loss due to coyote attacks on sheep, cattle and goats,
14 primarily. The U. S. Department of Agriculture has a program, and the state contributes
15 to this through a couple of sources, the Sheep Board and Department of Agriculture and
16 Consumer Services. The economic losses as a result of this program and the removal of
17 about a hundred coyotes per year has reduced economic losses from more than ninety
18 thousand five years ago to sixteen thousand and has served two hundred sixty-nine farms
19 in Southwest Virginia.

20 Their request is not only for coyote damage control but also for starling
21 abatement. Specifically the Commission's funds are requested for a variety of equipment
22 and material due to budget cutbacks. The program is asking for assistance in purchasing
23 trucks, ATV's, laptop printers, some guns and ammunition and traps, as well as
24 administrative and operating expenses. The Staff felt that there were a number of issues
25 regarding this and a question as to whether this request was consistent with our Long-
26 Range Plan. This is a request to supplant state budget cuts. To the applicants' credit, they
27 pointed that out and made us aware of those budget cuts. It is operating expenses for an
28 existing program, and the Commission's Long-Range Plan calls only for operating
29 expenses for a new start-up program. In addition to operating expenses it's a request to
30 replace a substantial portion of a program's capital equipment. It is not only supplanting
31 operating expenses but replenishing and replacing their capital equipment. For those
32 reasons the Staff recommended no award and found that the request was inconsistent
33 with the Long-Range Plan general funding policies.

34 MR. MAYHEW: Would anyone like to speak to this?

35 MR. FOX: My name is Chad Fox, and I'm with the Wildlife
36 Service. I'd be happy to answer some of the questions you might have. Mr. Pfohl said
37 this is a request to basically update our equipment. Originally we were told we couldn't
38 request funds to supply staff requirements. We were told we could apply for funding that
39 would replace equipment. A lot of the equipment listed on the request is personally
40 owned. We purchased a lot of things on that list ourselves to make our job work. This is
41 a request for more funding for equipment that we need to do our job better. We shared a
42 whole host of information, including twelve letters of support from the counties that we
43 serve. The county Boards of Supervisors provided some letters of recommendation that

1 we receive funding.

2 MR. MAYHEW: How many of those county Boards have provided
3 any funds for this?

4 MR. FOX: No, sir, we haven't gotten any from them.

5 MR. MCMULLIN: One of the reasons we haven't had any requests
6 is because we have some poor counties, and we never felt it was fair to ask Washington
7 County to give fifteen and poorer counties to give five. Say if a county only gave five
8 thousand and we worked twenty farms, maybe we worked fifteen and they gave five
9 thousand. Therefore, we never really pursued that avenue.

10 MR. FOX: The history of this program is that we started in 1990
11 through cost sharing basis from VDOT and USDA. Historically that has been the two
12 funding sources for the program. In '96 we received some supplemental funds, most of
13 which was funding that came into our program to help benefit the sheep producers. It is
14 those three sources of funding that we have operated under for the last fourteen years.
15 The state money has gone through some problems, and we have been negatively affected
16 by that. We're looking at ways to keep our level of service as they are and make them
17 better in the long term. We recommended, or we thought this was a good way or a good
18 program to look into.

19 MR. CURRIN: Have you looked into how Tennessee or Kentucky
20 have dealt with this in those states?

21 MR. FOX: The states of Tennessee and Kentucky do not have the
22 number of sheep that Virginia does, or cattle, for that matter. They do not have an on-
23 ground direct control program that is designed for Virginia. The three states in the
24 eastern United States that have cooperative ties in a damage control program, Virginia,
25 West Virginia, and Ohio has a program. They are funded through Congressional
26 directives or state money.

27 MR. CURRIN: What are the various populations?

28 MR. FOX: It varies.

29 MR. MCMULLIN: As far as the coyote population, if you take into
30 consideration what we have removed in the last fourteen years, it's fifteen thousand.
31 Every county has different habitats. Some counties have more coyote population than
32 others. There are more coyotes in Southwest Virginia than in the Richmond and
33 surrounding area. The habitat is better in this part of the state, and there are more
34 problems in this part of the state for livestock. The Shenandoah Valley is another hot
35 spot.

36 MR. MAYHEW: What about the Starling Abatement Program?

37 MR. FOX: There is a statewide program; however, this money that
38 we are requesting would be for the Southwest and Southside counties. The starlings are
39 little blackbirds that you see many times in the City of Roanoke. In the wintertime they
40 have to get their food requirements somehow. In the summer they devour insects, and
41 you see them in the grass. In the wintertime there are no insects, so they plague dairy
42 farmers. They pick out the nutrient-rich portions right out of the silage, which decreases
43 milk production. What we started, or years ago the Virginia Department of Agriculture

1 had a program that funded, or they would go around and visit farmers and treat the
2 starlings with poison. The program was cut three or four years ago, and we took up the
3 slack from that. What we have done is try to help the farmers. The starlings are much
4 easier to control than the coyotes. A week or two effort in this regard, and the problem
5 starts to be solved. It is something they can afford to work with. Most of the work is on
6 the dairy farms, and sometimes it is in the feed lots as well. To solve this problem with
7 these birds takes possibly about two weeks.

8 MR. MAYHEW: The farmers are paying that?

9 MR. FOX: We want to try to reduce the cost to the farmer and the
10 dairy farmer.

11 MR. CURRIN: Do you anticipate coming to us in the future, or is
12 this a one-time request?

13 MR. MCMULLIN: No, not in this amount. If the government
14 would hire, or if we had federal funds and they would hire another Wildlife Service
15 person in Southwest Virginia, then we might come in to help purchase some equipment.

16 MR. FOX: This starling bird problem, it's not so much for that
17 program, but we wanted to put it in this year to see if we could get going on it. If we get
18 the funding, then yes, we might apply in a year. We do know that the coyote problem is
19 increasing in Southside, but this funding would really help us to set up a program in this
20 part of the state as well.

21 MR. JENKINS: Several things jump out here. Under what
22 conditions do you need the rifles and silencers?

23 MR. MCMULLIN: We always had a budget, thirty-five thousand
24 budget from federal and state funds. If I would have come to my state director and said I
25 need funds to buy a shotgun, rifles and shotguns, that would take the field time away
26 from the farmer, I went ahead and purchased some weapons myself. That was about
27 three thousand. It's just like a lot of the things on that list as you go down it.

28 MR. JENKINS: What is the silencer for?

29 MR. MCMULLIN: It helps muffle the shots.

30 MR. JENKINS: What type of ammunition are you using?

31 MR. MCMULLIN: Two forty-three. The rifle doesn't make a whole
32 lot of noise.

33 MR. JENKINS: What range?

34 MR. MCMULLIN: Anywhere from a hundred to three hundred.

35 MR. JENKINS: You realize the bullet makes most of the noise. In
36 order for this rifle to work you need to use a real low velocity. Then you have the range.
37 Whenever you're shooting a coyote from the middle of town.

38 MR. MCMULLIN: It's a real decreased velocity.

39 MR. JENKINS: I don't understand some of the equipment you've
40 got here, what are you going to do with it?

41 MR. MCMULLIN: I was up in New York at the airport and they
42 had some shotguns, these particular rifles don't wear out. That is why we wanted to get
43 those and invest in those, they are well worth it.

1 MR. JENKINS: Do you use a case of shells a day at coyotes?

2 MR. MCMULLIN: No.

3 MR. JENKINS: It seems like for these coyotes you'd try to get stuff
4 in general use. It looks like some of this is a little misleading. I think in people's minds
5 this program that is specifically for coyotes, that's where you're trying to get the money to
6 fund it with.

7 MR. MCMULLIN: Long-range this is for all the farmers. We're
8 going to try to reduce that coyote population, save livestock and sheep and cattle. At the
9 same time you're helping with this funding for dairy farmers. You could close down an
10 entire dairy farm if you had a salmonella problem.

11 MR. JENKINS: What about these traps?

12 MR. MCMULLIN: I can put so many out on a farm, you have to
13 pick and choose. I'll put three or four out on a farm, and then in order to spread out to
14 about sixty farms I could work at different times. I've had calls, and I have to put people
15 off sometimes for a week and a half, and then I'll have to pull up equipment from other
16 farms in order to work there. With some funding for that we can purchase equipment that
17 we need.

18 MR. JENKINS: How many of these traps are you going to use?

19 MR. MCMULLIN: If I had the equipment I would work anywhere
20 from forty to fifty farms right now, and I have about three dozen of these traps that I use.
21 It depends on the problem at a particular farm, and that will depend on how much
22 equipment I can use there.

23 MR. JENKINS: I can sympathize with three thousand, but when
24 you talk about five thousand, maybe you're getting a twenty-year supply.

25 MR. MCMULLIN: As long as you take good care of this equipment
26 it will last a lifetime.

27 MR. JENKINS: What traps do you use?

28 MR. MCMULLIN: We actually use three. They range anywhere
29 from about twenty-three dollars to thirty dollars apiece, depending on the brand name.
30 Sterling is one brand that we use.

31 MR. JENKINS: You're paying that much for them?

32 MR. MCMULLIN: Yes.

33 MR. FOX: These are the best traps you can buy.

34 MR. MCMULLIN: This equipment can be used over and over again
35 if it is taken care of.

36 MR. JENKINS: But you're paying over thirty dollars per trap?

37 MR. MCMULLIN: That's the best you can buy. The Sheep
38 Federation bought the M-44's a couple of years ago. I've had to buy about four dozen
39 myself in order to work these farms. It's a fine line as far as funding. I'm running about
40 fifteen hundred miles a week and paying almost two dollars a gallon for gas, this
41 morning, and that doesn't go too far. The equipment has to come from somewhere. If you
42 were a farmer calling me and I say I'm sorry, I can't help you. I just don't do it. I'll buy
43 whatever is needed, as much as a thousand to fifteen hundred a year. We just don't have

1 the funds for it.

2 MR. JENKINS: Why is it necessary to have the highest priced
3 handgun there is? If a gun is three or four ounces heavier, why is it worth three or four
4 hundred more in the price?

5 MR. MCMULLIN: The average price of a twenty-two is probably
6 what, two or three hundred. We put our request in for equipment, this equipment has to
7 last a long time. You have to remember an investment of this type will last a lifetime.

8 DEPUTY SECRETARY ERSKINE: The entity that has these funds
9 that you are requesting is who?

10 MR. MCMULLIN: The USDA, Department of Agriculture.

11 MR. MAYHEW: Gentlemen, our lunch is waiting, and I know this
12 is going on. Why don't we try to finish up this one, and then we'll take a break and then
13 come back and go through the remaining ones. Are there any more questions on this
14 item? Is there something else we need to ask these gentlemen?

15 DEPUTY SECRETARY ERSKINE: I'd just note that this is the
16 federal government, an agency of the federal government.

17 MR. MAYHEW: Are there any more questions from anyone? All
18 right, well, we're going to go ahead and take a break at this time, and then we'll come
19 back and finish the other ones up.

20

21 NOTE: A break is had, whereupon the meeting
22 reconvenes, viz:

23

24 MR. MAYHEW: Let's go back on the record, and we'll reconvene
25 our meeting. The next item is the Virginia Nursery and Landscape Association. Virginia
26 Ornamental Plant Evaluation and Introduction Program. The request is for two hundred
27 seventy-one thousand.

28 MR. PFOHL: Specifically, the Nursery and Landscape Association,
29 a 501 C3 non-profit horticultural foundation, has requested two hundred seventy-one
30 thousand dollars to establish research projects that will look at growth characteristics,
31 market appeal, financial cost benefit of a hundred forty different cultivars plant sites, with
32 an eye towards seeing how those plants would grow in the tobacco region that potentially
33 offer income generating opportunities for farm owners. There are six sites that are
34 specifically identified, research sites that are all existing, such as agriculture research and
35 extension centers. The funds would contract services to coordinate the plant evaluations
36 and research demonstrations. It's a strong component of outreach and education, and the
37 results of the research can be disseminated among farmers and producers in the tobacco
38 region. The Staff has recommended full funding. The request will be to use our funds
39 over a two-year period of time. This is a very well-developed plan of action, and that
40 will bring extensive research into the region and utilize existing facilities in a cost-
41 effective manner, so we recommended full funding.

42 MR. MAYHEW: Anyone here to speak on their behalf?

43 MR. DUIS: I'm Fred Duis from the Virginia Nursery and Landscape

1 Association. As Mr. Pfohl indicated, we're proposing six test sites throughout the
2 tobacco region that would serve in concert with test sites at the Lewis Ginter Botanical
3 Garden in Richmond, the Hampton Roads Area Research Center in Virginia Beach, and
4 one in Northern Virginia, to serve as test sites for ornamental plants that we would have
5 access to through relationships with plant breeders and plant explorers throughout the
6 world. The reason we think this is important is that many plants come into this region
7 from other areas of the country, some of which are suited for Virginia consumers and
8 many of which are not. There are many Virginia native plants and species of native
9 plants that have significant potential we're not tapping at this point. This program would
10 allow the facilities at Danville and in Virginia Tech that would explore the possibilities of
11 breeding within these particular gene lines. Also to manage to some degree the testing of
12 these plants in a real world setting. The test sites are throughout the region and around
13 the state. Are there any questions?

14 MR. MAYHEW: What is your ultimate goal, or what is the
15 achievement of your goals and the time frame, and what do you hope to accomplish by
16 that or see happen as a result of these tests?

17 MR. DUIS: In the first year we want to physically establish the test
18 sites. Some of them will need special preparation. We have a facility in Bedford on
19 property owned by Lynchburg College. It's going to need irrigation run through it, and it
20 is going to need a building built for equipment, and the soil has to be prepared. That
21 won't be at all test sites but some of them. The one in South Boston, and those details
22 have to be worked out. We want to begin to locate plant material and become part of the
23 worldwide system in a real and active way. We need to bring plants into the test sites so
24 that they can be studied at the facility in Danville, studied at the facility in Patrick
25 County. If they can be propagated early on in Danville we can grow them to the degree
26 that we need to allow these test sites to go forward. The research in Danville and Patrick
27 County will be studying the protocol of propagation and plant culture. They will be
28 grown in containers in the soil that they need to grow in and so forth, in any manner that
29 is necessary for propagation.

30 Into the second year we hope to have developed a sophisticated pipeline, as it
31 were, of levels of getting plants on the market in a pipeline, and that would consist of the
32 research at the center in Danville. That would populate the test sites. Once the plants are
33 proved suitable at the test sites, then that tissue would go to a private sector lab. Dr.
34 Nowak is working with us. That tissue would go to a lab, and that is where the
35 replication would take place so that liners could be produced at existing tobacco facilities
36 in the region, and then liners at that stage would go on to the nursery level, and from the
37 nursery level it would go on to the consumer.

38 MR. MAYHEW: These cultivar hundred and forty-one or whatever
39 are not the same that are being used today in our area?

40 MR. DUIS: They would be different. That number is subject to
41 change. We may be testing a lot more than that, eventually, depending on how the local
42 networks begin to be worked out. Let's say in the Ilex, holly, this type of material was
43 experimented with, dragon ladies and other forms are now suitable for Southwestern

1 Virginia. Up until that time the hollies that we used in the industry generally were not
2 hearty enough for those areas. In azaleas, the Garards Nursery in Ohio worked on this,
3 and they developed these azaleas, and now they have made azaleas possible for the
4 Blacksburg area and the western Virginia area. The color range of those azaleas is
5 somewhat narrowed. There is lots of work within specific genes to bring some of these
6 plants to the plateau of Southwest Virginia. It just depends on their particular
7 characteristics.

8 MR. FIELDS: I notice you have three or four other sites in the state
9 out of the tobacco region, and then you mentioned Northern Virginia and Hampton
10 Roads; do you all get any funding at all from local government?

11 MR. DUIS: Those sites are not included in this particular area.

12 MR. FIELDS: Do you all receive funding for those sites?

13 MR. DUIS: They are partners in this project. The Hampton Roads
14 facility, through its present budget, would handle whatever expenses are incurred there.
15 The Lewis Ginter Botanical Gardens in Richmond contributes monies in kind provided
16 through the use of their facility for horticulture. Virginia Nursery and Landscaping
17 Association through the years has given grants to Lewis Ginter. They do a similar type of
18 work there. The scope has been small, compared to what we want to do, and not nearly
19 effective enough to make a difference on a statewide basis.

20 DEPUTY SECRETARY ERSKINE: They are privately owned?

21 MR. DUIS: Lewis Ginter is. Hampton Roads is a state research
22 center.

23 MR. FIELDS: What about Northern Virginia?

24 MR. DUIS: I'm not sure. The Northern Virginia site was
25 established by the Master Gardener Association of Prince William County. Some of
26 these master gardener associations, like the one in Prince William, are actually pretty
27 well funded from within the membership and from their fund-raising activities. The
28 group in Northern Virginia has also been so visible in their community that they have
29 generated quite a lot of community support. This garden in particular is a teaching
30 garden and donated by a monastery, the Benedictine Monastery. I think the monastery
31 continues to hold title to the land, but they lease it for nothing, I guess, to the Master
32 Gardener Group. It currently has an all-volunteer staff that takes care of the practices
33 there and also money from their association that purchases materials and supplies that
34 they use.

35 DR. EATON: I'm Dr. Greg Eaton from the Department of
36 Horticulture.

37 DR. NOWAK: I'm Dr. Nowak, head of the Department of
38 Horticulture. I'd like to supplement and support what has been said. Northern Virginia is
39 a very important market to the Nursery and Landscape Association. Sales are good in
40 Northern Virginia and the western part of the state. Our promotional side is very crucial
41 in this enterprise.

42 MR. JENKINS: In regard to the hundred and forty or so cultivars
43 that you intend to work with, have these been identified?

1 MR. DUIS: Not to my knowledge. We have access to several
2 private collections, not only to Lewis Ginter, but also with Paul James in Franklin County
3 and other gardeners and institutions around the state.

4 MR. JENKINS: What steps will be taken to make sure that we get
5 something for this?

6 MR. DUIS: That's an important reason for doing this, because we're
7 going to contract out the testing of the plants for the most part to Virginia Tech. A lot of
8 the work I cite is going to be done by unpaid volunteers and master gardeners. They will
9 be managed by an executive or manager we want to hire to do this, plus Virginia Tech
10 will be monitoring the data all the time. That is one of the reasons why we want
11 institutionally to do this project, because when a single nurseryman brings something in
12 to test it, it may have nine great characteristics. I think that is one of the greatest
13 arguments for doing this scientific measure site-by-site, so we can keep our eye on this
14 plan.

15 Any other questions?

16 MR. MAYHEW: Are there any other questions? Thank you very
17 much.

18 The next on our list is the Virginia Tech, Beekeeper Recruitment and Training
19 in Tobacco Dependent Localities. Eighty-one thousand five hundred and five dollars
20 requested.

21 MR. PFOHL: There are two components to this request, and the
22 first would be to educate and encourage a hundred individuals in Southside and
23 Southwest to become beekeepers. Classes will be conducted by satellite feed to
24 community college campuses. Following the classes and a one-day hands on workshop,
25 each individual will be provided equipment and supplies to establish two beehives, two
26 hundred total, including equipment for personal protection.

27 Funds are also requested to establish a test management educational program
28 that includes training, creation of an interactive web site and the distribution of mite-
29 resistant queens to twenty-five to fifty beekeepers. That will be for existing beekeepers.
30 That would increase the availability of hives and will offset the trend of annual losses that
31 threaten the pollination, yield and market value. The estimated return on investment to
32 take a variety of components, beehives will be used as a commercial vehicle to pollinate
33 crops in the field, and rental fees are estimated for two hundred hives of six to twelve
34 thousand a year. Honey sales from the beehives to generate twenty-one thousand a year
35 for two hundred hives. The big question mark in that aspect of the program is what is the
36 effect on crop yield? With bee pollination in the field there is evidence that substantially
37 higher crop yields could be achieved, but the question is the effect of two hundred
38 additional hives on crop yields.

39 With the test management side of the proposal, probably a little more of a
40 question mark as far as impact of the program, but the applicant suggests that due to the
41 loss of beehives by mites, the cost of replacement for beehives is two hundred a year.
42 They suggest twenty-five to fifty hives to get new queens would stave off a loss of five to
43 ten thousand dollars.

1 When Staff took a look at this I think probably the glaring absence was any
2 kind of matching investment from start-up beekeepers. We said that the people enlisted
3 for this program had to pay a hundred dollars per person enrollment fee that would
4 generate ten thousand in matching funds and require some commitment by the
5 individuals. People think more seriously when they have their own dollars invested.

6 The program's impact on commercial production would be difficult to measure,
7 but we thought one hundred new beekeepers would have little effect on reversing the
8 long-term decline in the number of hives. The Staff recommended no award, though.

9 MR. MAYHEW: Would anyone like to speak to this?

10 MR. FELL: My name is Rick Fell, and I am a professor of
11 entomology at Virginia Tech. I'd like to introduce Pete Tignor. I'd be happy to answer
12 any questions. Our view of things may be a little bit different from what Mr. Pfohl
13 suggested, having worked with the industry in the State of Virginia for twenty-six years.
14 We've had a tremendous loss of bees, and we don't see this as the answer to solve the
15 problems. Over the past ten to fifteen years we've lost better than fifty percent of the
16 hives and almost all of our, if you're an apple producer or a pumpkin producer bees, are
17 necessary for pollination. We've seen a tremendous loss and growers asking for
18 assistance. We want to find the source of the bees and get a pilot demonstration project
19 started and get people interested in keeping bees, getting people back into the beekeeping
20 business. It provides a valuable service. Considering in 1985 approximately seventy-
21 eight thousand managed colonies, today we probably have thirty-eight. We're seeing
22 tremendous losses in Southside and other parts of Virginia in the range of forty or fifty
23 percent of these bee colonies per year. In a previous explanation by the landscape people
24 they talked about lilacs; all those things are dependent on bees. Do you want red berries?
25 The value of what we're talking about extends beyond two hundred colonies. So we're
26 trying to regenerate an interest in this and trying to get people interested in being
27 beekeepers. Linda Wallace contacted us and said I've gotten requests from our
28 beekeepers in Halifax County. So what we're trying to do is get something started and
29 get something moving forward, and hopefully it will answer some of the problems we're
30 seeing now in the decline.

31 MR. CURRIN: Do you feel this is an ongoing request, or is this a
32 one-time request?

33 MR. FELL: At this point I can't give you an answer to that. I'd like
34 to see us continue, but at the same time I hope we can start to get an interest and get
35 people back in.

36 MR. CURRIN: Could the two gentlemen or two applicants from
37 Virginia Tech coordinate your request, did you do that with Virginia Tech or come
38 straight to you?

39 MR. FELL: I actually started with Linda, with her first, and then
40 came to you.

41 DR. NOWAK: From the nursery application.

42 DEPUTY SECRETARY ERSKINE: It might be helpful to the
43 Committee if you could provide some more concrete data and more information on the

1 type of return you expect and the impact in terms of beekeeping and pollination.

2 MR. FELL: Pollination might be difficult, but I can tell you that in
3 the State of Virginia between twelve and fifteen thousand colonies, most of those were
4 with apples. We're seeing a growing increase in new crops, pumpkins for example,
5 cantaloupes, cucumbers. I think that was some of the interest in Halifax and why it got
6 started.

7 In terms of what we're looking for, we actually do intend to request funds from
8 those people to get started. We're going to try to get them to pay tuition and get started
9 and come into the course and take it and pay part of the tuition, and that's part of the
10 commitment.

11 We've got about eight active associations, each anywhere from twenty to sixty-
12 seven members. All of those people indicated an indication that they would like to work
13 within the system. That involves getting involved in the program and helping to teach
14 classes. We've got a pretty good commitment from those people and from the State
15 Association.

16 MR. MAYHEW: Any other questions or comments? Thank you
17 very much.

18 At this time we have heard the proposals and asked questions, and it is now
19 our duty to decide what to do with this. Do you want to vote on them individually or take
20 them as a block or go through them again? Any feelings one way or the other? Do you
21 want to take all of the recommendations that Mr. Pfohl and his Staff have given us and
22 vote on this as a block, or do you want to go back individually and take a look at these,
23 approving each one individually, or how do you want to handle it?

24 MR. WEST: The three that the Staff recommended, that's the ones
25 they approved. I would say we could do that.

26 MR. MAYHEW: If there is no objection, what is your pleasure?

27 MR. OWEN: To get something on the floor, Mr. Chairman, I'd
28 move that the Committee approve the Staff recommendations.

29 MR. WEST: Second.

30 MR. MAYHEW: It's been moved and seconded that the Committee
31 approve the Staff recommendations on these three requests. Any discussion? Hearing
32 none, all in favor say aye? (Ayes.) All opposed, no? (No response.) Motion carried.
33 The requests are approved.

34 At this time I believe the next item on the agenda is discussion of the federal
35 buyout legislation, and I'll let Carthan take over.

36 MR. CURRIN: Mr. Chairman and members of the Committee, you
37 may recall at the last Commission meeting that Senator Hawkins had requested Delegate
38 Johnson's committee to get an update on the federal buyout legislation, and the Staff and
39 the Attorney General's Office have been monitoring this very closely, and it is a very
40 fluid situation even as I speak.

41 Let me begin by saying that bill was reported out of Conference Committee
42 yesterday. The summary of that Conference Committee report has been as expected
43 today, the Senate is expected to vote tomorrow. That is before you as the Conference

1 Committee reported as to their respective changes. The hundred and twenty-eight point
2 eight million dollars of the Commission's obligation cover losses through 2002. This
3 factors in all previous payments totaling three hundred fifty million dollars through 2004
4 from all sources and assumes that the December 2004 Phase 2 payments will be made.
5 However, if this legislation passes, cigarette manufacturers may argue that they are no
6 longer obligated to make Phase 2 payments, effective immediately. The Commission's
7 obligation could potentially increase by another twenty-eight million dollars. In the
8 House-passed version of the bill the payment rate would be 7 - 3 dollars, but the Phase 2
9 payments would continue making up a difference in the ten-dollar-a-pound payment
10 versus twelve dollars a pound. Any payment that would exceed twelve dollars a pound
11 for Phase 2 could potentially be applied to our one hundred twenty-eight point eight
12 million dollars. If the buyout bill fails and we continue as we have in the past five years,
13 the Commission's remaining obligation for losses through 2004 would be one hundred
14 twenty-six million dollars. This amount already factors in the Commission's fiscal year
15 '05 budget, but there are two big assumptions with this number. Number one, the Phase 2
16 payments will continue as forecasted. Number two, there will be no future cuts in quota.
17 Those are two big assumptions.

18 With this scenario, since we're chasing an annual moving target, our obligation
19 could be as high as seven hundred thirty-eight point eight million dollars if quotas
20 continue to decline. This is the remaining value of the quota, so our liability would not
21 exceed this amount, assuming Phase 2 payments continue as forecasted.

22 There are a couple of policy decisions that the Commission will need to make
23 if the buyout bill is passed. One question is if the buyout rate is less than twelve dollars a
24 pound should the Commission pay the difference? Counsel has advised us that the
25 legislation may be required if the Commission agrees to a lesser amount. The other
26 question is that if payments are made over a five or ten-year period will the Commission
27 want to suspend its indemnification payments while the federal buyout payments are
28 being made. The Commission could then resume indemnification payments once the
29 federal payments are completed.

30 Those are thoughts for you to consider and the Commission. We'll just have to
31 wait and see what transpires at the federal level, and I think Counsel might have some
32 additional information he might like to add.

33 MR. FERGUSON: The most recent update I have on what is going
34 on in Washington, and that was as of an hour ago. The version that has, or most of you
35 know what was reported out of Conference, has a ten point one billion dollar buyout
36 provision, ten point one four, I think. It would be funded by an assessment or a tax
37 against the tobacco companies, which translates into the probable end of Phase 2, and has
38 no FDA regulation attached to it. The last I hear is that the House is expected to pass it
39 today or tomorrow, the Senate thereafter, and maybe as late as Saturday. As of now
40 everyone expects that it will be passed. Senator Daschle is one of the conferees voted
41 for, and that would send a signal that there is a threat to filibuster by Senate Democrats
42 that were opposed to not having the FDA piece attached to it, probably not successful.
43 As of now at least it looks like there will be a buyout legislation passed by the weekend.

1 MR. CURRIN: Is it fair to say the President will probably sign that?

2 MR. FERGUSON: I have no information on that.

3 MR. OWEN: Frank, do we know enough about the legislation, is
4 this an obligation of the federal government, or is it an obligation of the tobacco
5 companies that could go away if they went into bankruptcy?

6 MR. FERGUSON: I do not know. My understanding is that it is
7 tied to a tax on tobacco companies. I haven't seen the current version of it, so I don't
8 know for sure, there has not been any report.

9 MR. JENKINS: The tax will apply to all manufacturers, it will be
10 like an excise tax on --

11 MR. FERGUSON: -- Presumably.

12 MR. JENKINS: As long as cigarettes or tobacco products are sold
13 they will --

14 MR. FERGUSON: -- That goes beyond what I know now, but that
15 would be my assumption.

16 MR. CURRIN: Mr. Chairman, I would appreciate, and I think the
17 Staff would, if the Committee has a, based on the two policy options that were brought
18 up, I would welcome some Committee perspectives, so we could report to the Executive
19 Committee and Full Commission if we have some thoughts on those two policies.

20 MR. FERGUSON: On that issue, as we all know, the statute that
21 establishes the Commission and establishes the goals of the Commission, indemnification
22 and economic development, it's not absolutely written in strict mandatory language. It
23 would be my expectation that should the Commission determine not to continue with the
24 indemnification program, that made quota owners and producers poll vis-a-vis the twelve
25 dollars a pound benchmark, that would be those that would allege that the Commission is
26 not carrying out its statutory mandate. Having said that, there is not any requirement in
27 the statute that there be a particular schedule for indemnification payments. It would be a
28 much more difficult position for folks that take a different view to press if the
29 Commission suspended or slowed down or took another look at how the indemnification
30 process worked or what time period.

31 MR. CURRIN: Each fiscal year we have had a different amount of
32 money brought into indemnification. That is totally up to the Commission. There is no
33 set figure that we have to put in our budget in a given year.

34 The other part that Frank raises is if any time that we go to the General
35 Assembly of Virginia and tinker with our statute that does open up potentially Pandora's
36 Box. There would be risks involved, I'd be obligated to tell you there would probably be
37 some risk involved in that.

38 MR. JENKINS: Another factor is that the Master Settlement money
39 is contingent upon companies staying in business, and that could be lost. If you don't get
40 any, I think you need to get as close to the front as you can, because the land and
41 resuming payments twelve or fourteen years down the road can change.

42 MR. CURRIN: That's a very good point. There is a risk. There is
43 currently a federal suit against Philip Morris.

1 MR. JENKINS: A profitable business, but can't be but so profitable.
2 MR. CURRIN: Yes, everything eventually does have a breaking
3 point.

4 MR. FERGUSON: On the federal suit, there is not a whole lot of
5 news about it. Those of you that read the newspaper know as much as I know. We don't
6 anticipate a decision on that case for a minimum of six months, and my guess is probably
7 this time next year. The two sides each have fifteen weeks to put on their case, only been
8 going about a week now. That's thirty weeks right there. My guess is that the Court is
9 not going to rule from the bench until the conclusion of the evidence. That's probably
10 two or three months before an opinion. With that being said, I'm looking for maybe late
11 summer or early fall of '05, assuming it goes that far and assuming there is not some
12 other settlement.

13 MR. JENKINS: What do you think, will the government try to get it
14 over with?

15 MR. FERGUSON: My personal view is I thought it was better if
16 there was an FDA piece tied to it. I think the lack of the FDA regulation piece, no matter
17 what you think of it, the lack of that probably hurts the chances of there being a
18 settlement on that suit, because it has given the Justice Department an out. I think that is
19 less likely now, though.

20 MR. CURRIN: We are monitoring that case.

21 MR. FERGUSON: The case I'm referring to is called the Freedom
22 case, Freedom Holdings from New York, that's a case that had a bunch of challenges to
23 the MSA and to the statute. What is left in that case has to do with, and that's significant
24 right now. There is always a challenge to the MSA. The folks defending the MSA and
25 defending the escrow statute have had pretty good success thus far except in one case,
26 and that amendment we talked about before. New York had passed that, and Virginia
27 hasn't passed it. That is a piece that would eliminate a refund if you will, under the
28 escrow requirements that non-participating manufacturers pay. I think thirty-seven states
29 have passed that amendment now. New York is one of them. The court in New York has
30 enjoined enforcement of that amendment. New York is currently operating under the
31 same escrow statute that Virginia has.

32 MR. CURRIN: Just for information purposes, Mr. Chairman and
33 members of the Committee, the Chairman has directed the Staff to work on a scenario,
34 the worst-case scenario, if the April 15th payment doesn't come in. Knowing our
35 obligations and what we have in treasury, Ned and the Staff and myself are working
36 trying to create the best we have, what we can find and what we can't, if that happens.

37 MR. MAYHEW: Do you think we need to make any
38 recommendations at our upcoming meeting in Clarksville from this Committee to the Full
39 Commission relative to this matter?

40 MR. CURRIN: The Chairman asked this Committee to kind of look
41 at providing some direction on this very serious subject. I know there are a lot of mixed
42 feelings around the table, slowing down indemnification or suspending, I think there are
43 some mixed emotions. If this buyout takes place, as your Executive Director I think you

1 need to take a hard look --

2 MR. MAYHEW: -- When do you anticipate the first payment will
3 be made under the bill?

4 MR. CURRIN: I haven't seen the recent version, I'm not sure of
5 that.

6 MR. FERGUSON: I personally think it is more to the end of '05.

7 MR. DUFFER: You'll get a payment in '05.

8 MR. CURRIN: That's all I have on that.

9 MR. MAYHEW: Does anyone have any questions, or is there
10 anyone that would like to support the recommendation, or thoughts concerning this?

11 MR. BRYANT: Ask Frank Ferguson if he knows the date
12 of enactment if this bill is passed that contains the tobacco buyout.

13 MR. FERGUSON: As far as I know it would become effective upon
14 the President's signature. That means next week, perhaps. When it is actually
15 implemented is, we expect a payment under it in '05, but how soon that will all start
16 happening I don't know. There was an effort to delay its effective date until after January
17 1st. That is precisely for the purpose of not interfering with the '04 Phase 2 payments. I
18 have not been advised whether there was language inserted to address that or not. It is
19 one of the things I am waiting to hear, because those efforts are still being negotiated as
20 recently as yesterday afternoon when I left my office.

21 MR. BRYANT: The reason I asked the question, the Executive
22 Committee within the Phase 2 Board decided that if the enactment date actually comes
23 about in 2005 we would pursue our Phase 2 payments for '04.

24 MR. FERGUSON: That is the general plan of all Phase 2 states
25 right now. I just don't know for sure what the final version says on that, C. D.

26 MR. DUFFER: As far as the fiscal year 2005 contract date.

27 MR. FERGUSON: I think the Phase 2 states, even if there is
28 nothing else in there, that that means the '04 payments for Phase 2 are due. That was an
29 issue that came up last year about this time. There is a resolution that the court still has
30 jurisdiction over in North Carolina. The other Phase 2 jurisdiction is Wake County,
31 North Carolina. The court has maintained oversight over that issue in anticipation of the
32 potential buyout. My guess is that no matter what the bill says there will be some
33 discussion at least before the court about that.

34 MR. MAYHEW: If we fail to get Phase 2 at the end of this year and
35 the buyout, if the first payment doesn't occur until the end of next year, that's a long time
36 with nothing coming in.

37 MR. DUFFER: Keep in mind that fiscal year 2005, July 1, 2005
38 through June 30, 2006.

39 MR. FERGUSON: One of the things that is going to be significant
40 is when the tax against the tobacco companies will be assessed. If they don't have to start
41 paying until January 1, I think there will be a difficult time arguing that they don't only
42 owe for Phase 2 payments. If the tax becomes accruing immediately, if that is the right
43 accounting word, then they might at least argue they don't owe for the fourth quarter '04

1 payment.

2 MR. FIELDS: We've had three quarters.

3 MR. FERGUSON: Having not been told, I assume we do.

4 MR. MAYHEW: Does this Committee have a recommendation to
5 go forward to the Full Commission relative to these points Mr. Currin has raised here?

6 MR. WEST: There are a whole lot of unknowns, as far as I'm
7 concerned, to make a recommendation.

8 MR. MAYHEW: Maybe we are not in a position today where we
9 are ready to do that.

10 MR. FERGUSON: Mr. Chairman, if I might, at the risk of not
11 getting where we need to be, presumably by early next week there will be available a
12 final draft analysis of the federal bill. We will certainly make that, through Carthan,
13 available to everyone on the Committee that would like to address these points as to what
14 may be involved. It may be that you'd want to see that and know what is in there and
15 what all that means and be prepared to possibly have a brief Committee meeting prior to
16 the Full Commission meeting the evening of the 19th or 20th.

17 MR. JENKINS: The second thing up here. What would be the
18 reason for that, other than to leave the money in the treasury?

19 MS. WASS: One of the reasons is that that would extend the period
20 of time that the farmers receive payment, because after those ten years then you start
21 receiving money again from us, versus doubling up. Then when the ten years is over that
22 is it.

23 MR. JENKINS: Then there is money that you're receiving in the
24 indemnification payments for a different quota than what you're talking about on the
25 back. Why should you quit receiving on what is past due because you got a new
26 account?

27 MR. CURRIN: Part of that is public perception out there that you're
28 getting these payments from all of these sources. The legacy of the Commission is
29 economic revitalization efforts, as we have monies available to use for those efforts now
30 rather than later. I think from a public policy perspective we're better off.

31 MR. JENKINS: If you have money being stashed away and people
32 say, look, you don't need that money, so give it to us.

33 MR. CURRIN: It's not stashed.

34 MR. JENKINS: It won't be spent.

35 MR. CURRIN: I would put it in the budget to be spent on things we
36 have talked about here today and other economic development and educational efforts of
37 the Committee, that would be my recommendation.

38 MR. JENKINS: I don't think I could support that.

39 MR. CURRIN: I assume there would be some discussion on that
40 matter.

41 MR. OWEN: One person's opinion, I don't think we should be
42 going to the Legislature if there is any risk at all in the way we operate. Secondly, I think
43 anything that speaks to the long-term policy on these payments would be hard to

1 anticipate. We make the best decisions we can on an annual basis for indemnification
2 needs versus economic development and education needs. I would think that ought to
3 continue to be our ongoing process. If we find out that the indemnification payment from
4 the federal government is of the magnitude that our money would be better spent putting
5 more of it in education and economic development, we can do that. If we make the
6 opposite decision we should maintain the flexibility to do that.

7 MR. CURRIN: That is a very valid point. Our job is to give you
8 options to look at, all of them. Some are more risky than others. I want you to be fully
9 informed as to what your options are.

10 MR. MAYHEW: We probably should take some time to think about
11 that.

12 MR. CURRIN: Yes, I'm not promoting going back to the
13 Legislature, I'm not saying that, but it is an option that you need to be aware of.

14 MR. FIELDS: When we meet again in January, I think we have
15 plenty of time to make that kind of decision.

16 MR. JENKINS: You don't want to stir up anything.

17 MR. WEST: A lot of quota holders will be gone in fifteen years.

18 MR. CURRIN: I'm an optimist at heart, Mr. West.

19 Let me conclude this, Mr. Chairman, by saying that we appreciate
20 Commissioner Courter and his Staff hosting the Agribusiness Committee Retreat in
21 Richmond this past winter. One of the things that came up, and Mr. Pack from Kentucky
22 was with us, and the discussion was made, or the presentation was made for this
23 Committee to go to Kentucky. That would be all or some of you would go to Kentucky
24 with Staff to look firsthand at what problems they have and how they handle things on
25 the agricultural front. They have done some things that I think would be worth the field
26 trip. Unless the Committee doesn't want to do that, I'll try to make some plans next
27 month. I'll be polling those Committee members that would like to go, probably a two-
28 day visit, so it will involve overnight, but I think it would be worth the Committee's time
29 and effort to do something. If that is something you all would like to do, I'll pursue
30 putting those plans into action. That's all I have, Mr. Chairman.

31 MR. MAYHEW: Thank you. Is there anything else that needs to be
32 discussed at this time? Any public comment?

33 MR. BRYANT: Mr. Chairman, the Committee needs to make a
34 decision dealing with the allocable share. Chairman Hawkins has asked us to look at this
35 issue and bring a recommendation, and it is something I think we need to do fairly soon.
36 I'm talking about before December. We need to line up some factual testimony so we can
37 make a decision that would probably help the General Assembly. It is an issue that was
38 real difficult for the members of the General Assembly. I think it is quite a task for us to
39 take on, so we need to decide this and get everything lined up.

40 MR. MAYHEW: Thank you.

41 MR. CURRIN: The charge to this Committee, the court's
42 committees are really entrusted with making policy decisions, and Mr. Ferguson is going
43 to be part of that process, but we will certainly work on it at the Chairman's direction, but

1 if you want to make a recommendation we can work toward making that.

2 MR. MAYHEW: Do you want to hold that until our meeting in a
3 couple of weeks down in Clarksville?

4 MR. CURRIN: Yes.

5 MR. MAYHEW: Is that agreeable with everyone that at our fall
6 meeting make that decision, and if Chairman Hawkins wants us to continue working
7 toward this, and if so we'll schedule a meeting.

8 SENATOR HAWKINS: What we're bringing to the court's
9 committee, I don't think anyone on the court's committee right now is interested in going
10 into this, they don't have background in this. Last year in the General Assembly we made
11 some commitments, and we were trying to figure out something we could do bringing
12 everyone under the tent. If we don't deal with it this year we could have a real problem
13 that is not going to go away. We have got to figure out some way we can address all the
14 points that have been brought up.

15 MR. MAYHEW: Clarence, who was the gentleman you said had
16 some good factual information about this whole topic that you're suggesting we bring
17 into this discussion?

18 MR. BRYANT: Mr. Green, who heads the NAAG, out of
19 Washington. I understand he was very influential in bringing forward a compromise with
20 the non-participating manufacturers. My understanding is that all of the Attorney
21 Generals, they have to agree on anything that comes forward. I'm saying that I'm sure
22 that Frank Ferguson can address this, but I think this gentleman's testimony would be
23 very important for us to hear.

24 MR. FERGUSON: Mark Greenwald is the Chair or Director of the
25 NAAG Tobacco Group, the National Association of Attorney Generals, that group, and
26 they work on tobacco issues. He has other people in his shop that have expertise in
27 certain areas of it. He was involved in negotiating with NPM Manufacturers in Virginia
28 trying to come up with a settlement decision with MSA. All the states and all the OPM
29 manufacturers have to agree, the big four manufacturers. Virginia can certainly amend its
30 escrow statute without other states agreeing to it. The issue on that piece of it is if we
31 adopt the allocable share amendment, if that is something the General Assembly chose to
32 do, that's been approved as a change to the escrow statute. Other changes risk us having
33 then an escrow statute which is not a "qualifying" statute, which means it does not give
34 us a safe harbor against the NPM adjustment MSA. The NPM adjustment potentially is
35 the most devastating adjustment to the MSA payment in theory, because in theory it could
36 wipe out all of the MSA payments. That is the worst-case scenario, but it could happen.
37 Allocating any NPM adjustment on a percentage-wise basis among all the states, if other
38 states have a safe harbor it narrows the adjustment down to what states don't have it, and
39 Virginia is the only state that doesn't have an effective escrow statute as a safe harbor and
40 goes in enforcement either/or. We then would stand to absorb the entire NPM adjustment
41 at least up to the amount that we are scheduled to receive that year. The NPM adjustment
42 is very likely to be greater than Virginia's allocable share, given the huge shift in market
43 share between the participating manufacturers and non-participating.

1 MR. FIELDS: Senator Hawkins, do you feel that at the January
2 meeting before you all reconvene, do you think that is too late for some kind of, I think
3 we could get into some desperate tactics.

4 SENATOR HAWKINS: No question about it, we're going to have
5 to deal with that. I don't know exactly what the answer is. There is a need to go ahead
6 with some recommendations so we have an understanding of the impact of this and try to
7 offer something that would be agreed upon by all participating states. If we don't, we
8 could find ourselves really in a problem with some of the major manufacturers.

9 MR. FIELDS: You made a statement a moment ago that if we don't
10 it's going to be tough and if we do it is going to be tough. It's going to be damned if you
11 do and damned if you don't. Let's not rush into these things. Things can happen in
12 Washington, D. C. in two or three days.

13 MR. MAYHEW: Suppose we aim for at least some idea of where
14 we are headed, maybe prior to our fall meeting, go from there and not try to move too
15 quickly.

16 MR. CURRIN: As soon as Counsel gives me the information,
17 assuming these things happen, I'll get it to you immediately. You all can give me
18 individual feedback.

19 MR. MAYHEW: This particular problem is going to exist with or
20 without the buyout, and the NPM is certainly an issue.

21 If no one else has anything, any public comment, do I hear a motion that we
22 adjourn? It's been so moved that we adjourned, we are adjourned.

23 PROCEEDINGS CONCLUDED.

24 CERTIFICATE OF THE COURT REPORTER

25

26

27 I, Medford W. Howard, Registered Professional Reporter and Notary
28 Public for the State of Virginia at large, do hereby certify that I was the court reporter
29 who took down and transcribed the proceedings of the **Agribusiness Committee**
30 **meeting when held on Thursday, October 7, 2004 at 11:00 a.m. at the Hotel Roanoke**
31 **& Conference Center, Wilson Room, Roanoke, Virginia.**

32 I further certify this is a true and accurate transcript to the best of my
33 ability to hear and understand the proceedings.

34 Given under my hand this 10th day of November, 2004.

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Medford W. Howard
Registered Professional Reporter
Notary Public for the State of Virginia at Large

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My Commission Expires: October 31, 2006.