

- 1 The Honorable Terry G. Kilgore, Chairman
- 2 The Honorable William C. Wampler, Jr., Chairman - Special
- 3 Projects Committee
- 4 The Honorable Frank M. Ruff, Chairman
- 5 Executive Committee
- 6 The Honorable Kathy J. Byron
- 7 Mr. John Cannon
- 8 The Honorable James S. Cheng, Secretary of Commerce
- 9 and Trade
- 10 Mr. Jordon M. Jenkins, Jr.
- 11 The Honorable Joseph P. Johnson
- 12 The Honorable Daniel W. Marshall, III
- 13 Ms. Connie L. Nyholm
- 14 Mr. Israel O'Quinn
- 15 The Honorable Edward Owens
- 16 The Honorable Phillip P. Puckett
- 17 Mr. David S. Redwine, DVM
- 18 Mr. Kenneth O. Reynolds
- 19 The Honorable W. Roscoe Reynolds
- 20 The Honorable Thomas C. Wright
- 21
- 22
- 23
- 24
- 25 COMMISSION STAFF:
- 26 Mr. Neal Noyes, Executive Director

- 1 Mr. Ned Stephenson, Deputy Director _
- 2 Mr. Timothy Pfohl, Grants Program Administration Manager
- 3 Ms. Stephanie Kim, Director of Finance
- 4 Ms. Sara Williams, Grants Coordinator Southwest Virginia
- 5 Ms. Sarah Capps, Grants Coordinator Southside Virginia

6

7 COMMISSION COUNSEL:

8 Mr. Francis N. Ferguson, Counsel for the Commission

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

26

DELEGATE KILGORE: Good afternoon. I'm going to call the Joint Meeting of the Executive Committee and Special Projects Committee to order. I'll turn it over to Senator

1 Wampler.

2 SENATOR WAMPLER: Good afternoon. I'll ask Neal
3 to call roll.

4 MR. NOYES: Mr. Bernard

5 MR. BERNARD: (No response.)

6 MR. NOYES: Secretary Brown?

7 SECRETARY BROWN: (No response.)

8 MR. NOYES: Delegate Byron?

9 DELEGATE BYRON: Here.

10 MR. NOYES: Mr. Cannon?

11 MR. CANNON: Here.

12 MR. NOYES: Mr. Jenkins?

13 MR. JENKINS: Here.

14 MR. NOYES: Delegate Marshall?

15 DELEGATE MARSHALL: Here.

16 MR. NOYES: Ms. Nyholm?

17 MS. NYHOLM: Here.

18 MR. NOYES: Mr. O'Quinn?

19 MR. O'QUINN: Here.

20 MR. NOYES: Mr. Redwine?

21 MR. REDWINE: Here.

22 MR. NOYES: Mr. Reynolds?

23 MR. REYNOLDS: Here.

24 MR. NOYES: We have a quorum, Mr. Chairman.

25 (Executive Committee Roll Call)

26 MR. NOYES: Delegate Byron?

1 DELEGATE BYRON: Here.
2 MR. NOYES: Secretary Cheng?
3 SECRETARY CHENG: Here.
4 MR. NOYES: Senator Hawkins?
5 SENATOR HAWKINS: (No response.)
6 MR. NOYES: Delegate Johnson?
7 DELEGATE JOHNSON: Here.
8 MR. NOYES: Delegate Kilgore?
9 DELEGATE KILGORE: Here.
10 MR. NOYES: Delegate Marshall?
11 DELEGATE MARSHALL: Here.
12 MR. NOYES: Ms. Nyholm?
13 MS. NYHOLM: Here.
14 MR. NOYES: Mr. Owens?
15 MR. OWENS: Here.
16 MR. NOYES: Senator Puckett?
17 SENATOR PUCKETT: Here.
18 MR. NOYES: Senator Reynolds?
19 SENATOR REYNOLDS: Here.
20 MR. NOYES: Senator Ruff?
21 SENATOR RUFF: Here.
22 MR. NOYES: Senator Wampler?
23 SENATOR WAMPLER: Here.
24 MR. NOYES: Delegate Wright?
25 DELEGATE WRIGHT: Here.
26 MR. NOYES: You have a quorum, Mr. Chairman.

1 SENATOR WAMPLER: My comments will be very
2 brief. We're going to entertain a presentation from Secretary
3 Cheng concerning the EB-5 Program. The anticipation is that
4 we would move forward with creating a Regional Center for the
5 Program EB-5. This is not the first time this greater group has
6 heard a description of the program, but I will go through some
7 of the highlights, and Secretary Cheng will follow.

8 The program is designed to generate investment and
9 create jobs. The minimum investment is \$500,000. It would
10 create 10 jobs over a five-year period. This is primarily
11 designed for foreign investment. Secretary Cheng and his
12 deputies have been moving forward internationally trying to
13 generate interest in this program. What we are about today is
14 to set ourselves apart from any other Regional Centers where
15 the Commonwealth, these are my terms, its Good
16 Housekeeping Seal of Approval on the programs. We would
17 ask for someone to be responsible for administering the EB-5
18 Program. We believe that within the footprint of the Tobacco
19 Commission, that being Southside and Southwest Virginia, the
20 EB-5 Regional Center would be a beacon to attract investment
21 to the region to be able to create jobs, which is what we're all
22 about.

23 So, Secretary Cheng, we'll entertain your presentation.

24 SECRETARY CHENG: Thank you, Senator
25 Wampler, in fact, both Chairmen, and thank you all for coming
26 back after a long break, and I hope you enjoyed your holiday. I

1 guess we're all trying to get back into the swing of things.

2 I know all of you have heard a little bit about the EB-5
3 Program. I had an earlier presentation, and hopefully that was
4 clear. Just to follow up with what the Senator said. There was
5 an original EB-5 Program, and many countries have programs
6 very similar to this. We're trying to find outside investors to
7 come into the country and bring money and bring jobs and
8 stimulate jobs and in return get a visa for many years in the
9 United States. Depending on what area you want to locate the
10 jobs in and the investment in, the investment can be a million
11 or a half million dollars. The half million dollars would be for
12 what we call targeted economic areas, for example depressed
13 areas based on employment and other things. The goal is to
14 create at least 10 jobs. The original program required that
15 foreign investors actually personally manage the business that
16 they have invested in. Many people took advantage of that and
17 came to the U.S., brought their half million or million dollars to
18 invest, and it had an impact on job creation.

19 Now there is a new concept called EB-5 Regional Center.
20 Much like the old program current investment the requirement
21 was a half million or a million depending on the economic area
22 they're investing in, but also you have to create 10 jobs for
23 that half million dollars, and the difference it could be a direct
24 job or an indirect job. Now the Regional Center allows you to
25 pool funds together, and the investor does not have to be
26 directly involved in the day-to-day activities of that program or

1 management of that program. So it's like having a manager to
2 manage the money and get the investors, and it gets their
3 pathway to citizenship as a permanent resident, and the
4 Regional Center gets funds that they can spend on projects
5 they want and create jobs. This is really a pilot program that
6 actually will expire in a few years, but we expect it to be
7 resumed.

8 DELEGATE KILGORE: So if you have \$5 million as
9 an investment or 500,000 per person all you have to worry
10 about is creating a number of jobs tied to that 500,000?

11 SECRETARY CHENG: Yes. Per investor you have to
12 have 10 jobs. If that's a half a million, that would be 100 jobs.

13 Of course, the disaster is that if one project goes south and
14 you lose the money or if you don't get the job requirements
15 fulfilled, the guy loses his money or his visa and gets kicked
16 out of the country; we don't want that to happen, although it
17 has happened before. Some of those were what I'd call a scam.

18 There are definitely projects that have been started and have
19 not been successful. We want this to be successful, and we
20 take our recommendations that the Senator talked about
21 earlier, and we want to successfully have these regional
22 centers.

23 DELEGATE MARSHALL: Are there specific types of
24 jobs, or do we designate what types of jobs they'll be?

25 SECRETARY CHENG: We can be very precise, or we
26 can be as broad as the day is long. I think the general

1 discussion among Staff is that at this point we want to keep as
2 much flexibility as possible. We talked about our energy
3 investment, our R&D activity. I'd say anything that can be
4 done within the footprint, although that can change over time.
5 Right now it's to keep this as flexible as we can.

6 MR. NOYES: Michelle handed out a brief discussion
7 that we prepared, and on the second page is suggested
8 language that I believe would offer the flexibility that we want,
9 and I don't know if you've had a chance to look at it.

10 SECRETARY CHENG: In the last slide here it shows
11 you an example of what I'm talking about, but basically it's
12 based on the business plan that you submit, and you can
13 define it any way you want to, but you'll see that basically the
14 idea is that there are only 10,000 of these visas that are open
15 per year in the entire program. Ten thousand is the total
16 number, including the families. In these regional centers
17 you're going to have half a million or a million; you can bring a
18 family. These people want to bring their kids here and get
19 them educated and engage in the American system. When you
20 look at the number of visas available for families, a family is
21 usually three or four people, so maybe there are only 2500
22 actual investors. What we're trying to do is get in before all the
23 vacancies are filled up. We're hoping that the program can be
24 expanded, but that's what we're seeing there.

25 There are currently 94 regional centers in 35 states.
26 There are none currently in Virginia, but there are around 65

1 applications for the regional center pending at the USCIS, and
2 we don't know how many are for Virginia. We've heard
3 anecdotally there are several people trying to set up regional
4 centers in Virginia, and they're all private companies.

5 Let's go to the next slide --

6 MR. JOHNSON: -- On page two of the printout at
7 the top it says that for any purpose not expressly forbidden in
8 the Code. Are we talking about the United States Code or the
9 Code of Virginia?

10 MR. NOYES: In our section of the code; I did that
11 very rapidly.

12 DELEGATE JOHNSON: In 31 US Code.

13 MR. NOYES: I was thinking of the Commonwealth
14 when I was writing that.

15 DELEGATE KILGORE: I think what he's talking
16 about, Delegate Johnson, we can be involved in, or the
17 Tobacco Commission.

18 DELEGATE JOHNSON: I just wanted to make sure
19 what code we're talking about.

20 SECRETARY CHENG: So the regional center is not
21 a physical thing, it's a person, it could be a public or a private
22 entity, so we are discussing that it might be a public entity in
23 the local locality. The region you are a regional center for, you
24 can go across state borders, and it's really very flexible.
25 USCIS, that is the old INS, that's a new name for them, and
26 they're the ones that actually approve the application. After

1 it's approved it's our understanding they let the regional center
2 run, and the immigrants themselves or investors will actually
3 apply to join the regional center and then get approval for the
4 regional center itself, and then they apply for the visa. They
5 have to prove that X number of jobs can be sustained.

6 I thought about this earlier that EB-5 is to help create
7 jobs, and the business plan is designed to be very flexible,
8 which involves direct jobs and indirect jobs. It's not just
9 people working in whatever business you're starting, but it can
10 be a supply chain for the other things that you're supplying.
11 Only U.S. citizens will have the jobs. You've heard me talk
12 about this before that people do want to come to the United
13 States, and this is one way to do it if they don't have what they
14 call preferences. There's a fifth preference, it's not family and
15 it's not because they have special skills; the reason is they're
16 bringing in money, it gives a passport to citizenship. We have
17 to remember that the capital must be returned to the investor
18 at some point. They don't expect a huge return, but they want
19 their principal back at least, and they want to have their visa
20 for their passport to citizenship. That's very, very important.
21 That's how you keep your reputation and get more investors.
22 It's certainly not a panacea but it's a source for funding. I
23 know there are 10 companies from China here that market
24 these regional centers overseas, and right now they're ready to
25 market and they're looking for opportunities in the U.S. It's
26 readily available.

1 The regional centers operating in Virginia, we've heard
2 there are several private, mostly real estate developers that
3 want to staff regional centers in Virginia. We don't know
4 actually how many applied, and we don't know the status. CIS
5 will not tell us. There are currently 65 in the United States
6 throughout the country in the application process. The
7 Commonwealth needs, along with some others in the
8 Commonwealth, we've been researching this; we're starting a
9 centralized regional center. We believe there is a better way for
10 Virginia to go and the locality to create the regional centers,
11 control your own destiny, and I think that's where the best
12 opportunities are. We have to consider how best to use these
13 funds, so we suggest the Tobacco Commission. There is up-
14 front cost concerning these regional centers and there are
15 applications and strategies. So what we've done is looked at
16 the Tobacco Commission, and I understand there have been
17 some funds advanced to help the localities start these regional
18 centers and help the entrepreneurs and help these investors
19 get started.

20 DELEGATE BYRON: What's the role of the locality
21 once these centers get started, as far as managing them?

22 SENATOR WAMPLER: Mr. Secretary wants to get
23 through this presentation, but I'll answer that for him. By
24 action of our last Full Commission, \$300,000 was transferred
25 to the Executive Committee to move forward with the request
26 for proposal to administer. I don't want to get us too far ahead

1 of the presentation. It's the action item that, the money has
2 already been set aside at the last meeting. What we're asking
3 for now is to direct the Staff to move forward with the request
4 for proposal, someone to administer, then we would define
5 what the region is, and the Staff's recommendation is it would
6 be Southside or Southwest, not mandatory, don't have to
7 participate in it. The third component, what is our target
8 market. And to answer Delegate Marshall's question, at this
9 phase we don't have, our application should be as flexible as
10 possible to meet the needs of what the Secretary is talking
11 about as far as marketing. Does that answer your question?

12 DELEGATE BYRON: Right now.

13 DELEGATE JOHNSON: What's the definition of
14 what you've said, "create jobs"?

15 SECRETARY CHENG: Direct jobs or indirect jobs,
16 This is all very flexible. The business plan is to define the
17 direct and indirect jobs. Direct jobs are very simple. Retail
18 stores, clerks, those are direct jobs. The supply chain is
19 people bringing in the supplies and inventory. It could be an
20 outside contractor, and that would be an indirect job. If you're
21 talking about full-time direct jobs, you could make that
22 definition. I think that's what really kick started this program,
23 and pooling funds you could have a very, very large
24 opportunity for a very large project as a result. The use of an
25 indirect supply chain, and non-direct jobs are created, and I
26 think that can be very powerful, and that takes in a lot of

1 projects. I was looking through some of these projects. I think
2 maybe about five years ago there was a \$6 million project to
3 improve the ski resort up in Vermont, and that's been very
4 successful. EB-5 is not new, and you could be using the
5 money to help troubled business, kick-start a new one. It's
6 very, very flexible by definition. That's just one example of a
7 program that so far has been very successful. I did try to look
8 for more recent examples. I started at the beginning with letter
9 A and started with Alabama. It turns out that Alabama is a
10 very interesting sector. They call themselves the Alabama
11 Regional Center, but I don't know if they're private or public,
12 but they now call themselves American Center for Foreign
13 Investors; and also in Tennessee. That's in their business plan
14 for what they want to do, agriculture, healthcare, and so on
15 and so forth. They ended up picking up this one major project
16 that I've listed there, and their EB-5 will partially fund a \$4-
17 million automotive manufacturing plant, and this is just over
18 the last couple of months. Governor Bob Riley went to China
19 and signed a deal, and I think it involved a hybrid car. They
20 are going to supposedly build an auto manufacturing plant. I
21 know they're going to partially fund it out of their regional
22 center. They started with a very broad definition of what they
23 wanted to do, and they ended up with an automotive
24 manufacturing plant. You just don't know sometimes the way
25 the federal government, they prefer you to have a project in
26 mind, but they will allow you to amend it. There is a little

1 flexibility, and I wouldn't say you'd want to push that, but it's
2 a good idea to get something in mind. Localities have a better
3 idea than us in Richmond to figure out what works best in
4 different regions of the state.

5 If you talk about that example up in Vermont, they've had
6 great success with Sugar Bush. I know there are two or three
7 different ski slopes now, and the Governor of Vermont just
8 came back from China, a big article about him bringing back
9 \$20 million out of the EB-5 funding. I know the comment is
10 tobacco has a lot of money but there is a lot of opportunity to
11 invest EB-5 money. Certainly other states, and 35 of them
12 now, I think it's worthwhile, and a lot of them are private, and
13 not all of them are successful. We think that getting localities
14 involved and the localities can really zero in on this. If we
15 could bring low risk good projects, and if people feel like it's a
16 very low risk and good investment because people feel that
17 with the local government and some support from the state
18 government they can get their pathway to citizenship.

19 Basically that's about as far as I wanted to go in terms of
20 my presentation, and we need to be flexible and why we think
21 the Tobacco Commission is a good vehicle to get this kick-
22 started. My feeling is we need to do it soon because many
23 other states are doing it, and we need to get going with this.
24 Thank you.

25 SENATOR WAMPLER: Questions for Secretary
26 Cheng.

1 MR. JENKINS: I have a question, Mr. Chairman.
2 Overall this is administered by the federal government?

3 SECRETARY CHENG: The program, yes.

4 MR. JENKINS: What strings come along with that?
5 When you're dealing with the federal government there is
6 always something like that. Are you talking about whoever is
7 in charge locally deciding what enterprise they want to do, or
8 what enterprises they wouldn't want to do? What would be the
9 limitations? I'm sure the federal government is going to say
10 you have to follow certain guidelines.

11 SECRETARY CHENG: It's my understanding that
12 you make your pitch and you file your business plan, for
13 example, if they wanted to support manufacturing. But the
14 main thing is this is run by Immigration, the old INS, and
15 they're primarily concerned with citizenship. The main thing
16 they're involved in, and it isn't so much how you spend your
17 money, how you invest it, or where you invest it, or even who
18 invests it, but they're mainly concerned with did you create 10
19 jobs, if so we'll give this person a pathway to citizenship.
20 They're also very keen on making sure where that money came
21 from, because they don't want any terrorism money. They will
22 do independent research on the investor, the INS will, and
23 they'll do a lot of research on the investors as far as where the
24 money comes from and that the money gets invested and jobs
25 are created. The people don't get their visa until, they only get
26 a permanent visa after three to five years, and a path to

1 citizenship only after these jobs have been created and the
2 money has been invested. No strings in terms of how or where
3 or who manages the investment. They do control the visas.

4 MR. JENKINS: Not to oversimplify things, but I see
5 some of the things going on now, especially in rural areas,
6 ownership of motels. A group will buy a motel, and they'll sell
7 it to another person from the same country, and they bring
8 their people in, and I'm not knocking, but it's really not
9 creating a lot of jobs.

10 SECRETARY CHENG: This will stop that. The
11 reason why they're doing that is because that was the old
12 EB-5 program. That program said the investor had to come to
13 Danville, had to come to whatever place it was, and they had
14 to run it and live there. The new program says they can live
15 anywhere they want to, but the money has to come here, and it
16 has to be invested here and the jobs have to be here. Some of
17 them aren't even involved in the management. I think that will
18 solve that problem. The families that come and run the hotel,
19 if they had a choice, maybe they'd be somewhere else.

20 MR. JENKINS: I'm not knocking it, but it hasn't
21 done a lot for the economy.

22 SECRETARY CHENG: That's the old EB-5 Program,
23 one family at a time. The new program says pool that money.
24 It's a different program.

25 MR. OWENS: What are you asking the Tobacco
26 Commission to do?

1 SECRETARY CHENG: The money that's brought in,
2 if they invest say 500,000 and some of that money is used for
3 administration and marketing materials, there has to be some
4 marketing, and there is an administrative fee. The
5 administrative fees are taken out of the investors' money; that
6 can be 25 or 50 thousand.

7 DELEGATE MARSHALL: Who gets the 50,000?

8 SECRETARY CHENG: The regional center gets it,
9 and you might have to pay for an attorney. The people who
10 are doing some of the marketing, what you actually do is end
11 up getting a good law firm that knows how to run these things.
12 That involves an administrative fee.

13 DELEGATE MARSHALL: How does this involve the
14 Tobacco Commission, say three, four or five years from now?
15 What is our obligation in the years coming forward?

16 SENATOR WAMPLER: I'll try to give you a very
17 short answer to address your point. The 300,000 that's been
18 approved would be for initial RFP to get the program up and
19 running. Our current Governor, or previous Governor, or
20 future Governors have all made trade missions overseas to try
21 to attract foreign investment and create jobs. On a small level
22 in the town of Wise there is a thing called the Wise Inn. It
23 requires a lot of rehab, but under the financial standards
24 today few banks, if any, would underwrite that loan. My
25 thought is that the \$500,000, if you aggregate a million or 1.5
26 million and buy down the cost of that loan, and all of a sudden

1 that project would become bankable. If you believe that
2 switchgrass can be used as a fuel in a utilities plant, you might
3 be able to aggregate \$5 million to buy down the cost of the
4 equipment that you'd be required to have, using my term co-
5 op, to process the switchgrass. Whether it's a small local
6 project or on a true regional or bigger scale project that would
7 create 25, 50 or 100 jobs, I think that's the mission Mr.
8 Secretary has in mind as he travels overseas to try to
9 encourage investors. I would say foreign investment coming to
10 the U.S., U.S. jobs are being created, whether it's preserving
11 an existing job or creating a new job or expanding on our many
12 existing businesses, that's the vision I'd have to work out.
13 There may be other visions around the table.

14 DELEGATE MARSHALL: Other than the \$300,000
15 that we spend now, what is our obligation going forward?
16 What do you see the Tobacco Commission doing in years two,
17 three, four and forward?

18 SENATOR WAMPLER: Administratively, if the entity
19 is up and running it should be self-sufficient, and the budget
20 or whoever administers could charge fees sufficient to carry the
21 entity.

22 MR. NOYES: That's the \$50,000 Secretary Cheng
23 was talking about, per investor.

24 SENATOR WAMPLER: I'd say if a program works,
25 and we think it is as we hope it is, and the Governor is able to
26 convince the investment, we may leverage that investment up.

1 We may find projects under Special Projects or Southside or
2 Southwest or R&D, so I see it as a way to help capitalize
3 ventures that we're trying to do.

4 MS. NYHOLM: Are we competing for other investors
5 or --

6 SENATOR WAMPLER: -- We will be one of the
7 centers; there are a lot of fly-by-night operations and driven by
8 fees generated from promises that may not be there, and that's
9 why we want to be the beacon for this.

10 SECRETARY CHENG: Some people are looking for
11 long-term and some want to park their money, and this is like
12 a three-to-five-year program, and we need to be able to do that.

13 Not every project, but there are certainly good projects that
14 the center has mentioned and are bankable and projects that
15 are definitely or have some sort of revenue behind them but
16 have to meet bankable standards, and there are these types of
17 projects, or the locality might find these projects.

18 DELEGATE MARSHALL: Who would market this,
19 the Partnership?

20 SECRETARY CHENG: We're not asking the
21 Partnership to do this. There are overseas companies that do
22 this, but you should work with a local law firm to make sure
23 there is a good legal foundation. There are all sorts of
24 companies that do this.

25 SENATOR WAMPLER: We're talking about the EB-5
26 Program that we have.

1 SECRETARY CHENG: Right now if you don't use it,
2 we have a lot of private developers that are trying to get
3 involved or trying to get the Governor to say I have an EB-5,
4 I've looked over some of them. As the Senator said, many of
5 them are reputable people, but sometimes you can't tell if they
6 really understand the program. The program is not about
7 venture capitalists. We're not going to be investing in just
8 anything. We're going to go for projects that are at low risk
9 that people can expect to get their money back and create
10 some jobs, projects that can be backed up, and say we want
11 these jobs to be in these localities.

12 SENATOR WAMPLER: Delegate Byron has a
13 question.

14 DELEGATE BYRON: You mentioned 500,000. Is
15 that the investment, or is that just one investor, or is it more
16 than that, or is that the minimum? Five hundred thousand
17 really isn't a lot of money for this type of thing. We've got
18 houses that are more than 500,000.

19 SECRETARY CHENG: That's why the old EB-5 did
20 not work. We want to work together and try to progress, pool
21 the money and put all the money together and see that it's run
22 right. The immigrant investor may have no management
23 experience, so they'd need professionals to run it. This isn't
24 simple, and it's going to take a lot of work, but just like in
25 Alabama they found a new project. You can leverage it with
26 other money.

1 DELEGATE JOHNSON: Mr. Chairman, who will be
2 the watchdog to make sure the money is spent wisely?

3 SECRETARY CHENG: We're talking about seeding
4 the locality, and I don't know what the locality is thinking
5 about right now, but I'm thinking about localities that you
6 would know and probably have some and --

7 SENATOR WAMPLER: -- Our investment would be
8 300,000 to start with, and after that the program would
9 become self-sufficient from the administration, should we
10 desire to invest and become a joint venture or any entities in a
11 formal process Staff's oversight.

12 DELEGATE JOHNSON: We're not writing a check
13 for 300,000?

14 MR. NOYES: The 300,000 would be for a law firm to
15 set up the regional center.

16 DELEGATE JOHNSON: That's my question. Who is
17 going to be in charge to make sure that it's done correctly?

18 SENATOR WAMPLER: The Staff would have
19 oversight.

20 DELEGATE WRIGHT: Mr. Chairman, I've got a
21 couple of questions. How long will these jobs be maintained?
22 If somebody is going to create 10 jobs, how long will these jobs
23 be maintained?

24 SECRETARY CHENG: After they get a conditional
25 visa, that takes a couple of years to get, they can apply in two
26 or three years to get their final visa to give them permanent

1 residency.

2 DELEGATE WRIGHT: I mean the jobs?

3 SECRETARY CHENG: That's what they have to
4 certify to at the end of three to five years, that that job is there,
5 so it's five years.

6 DELEGATE WRIGHT: What I don't understand is
7 why isn't there some requirement, some plan or some kind of
8 equipment involved, because when you create a business, and
9 creating 10 jobs is no problem, and if you can get a business
10 already going and add 10 people, and that's 10 jobs, why isn't
11 there some requirement that they have to start a business, and
12 why don't they create a business to generate tax revenue, or is
13 this a going business?

14 SECRETARY CHENG: That would be an internal
15 requirement you could put on a locality through the regional
16 center. You could put that in the internal document or make
17 that a requirement.

18 DELEGATE WRIGHT: Are these the minimum
19 requirements?

20 SECRETARY CHENG: These are the federal
21 requirements, and they're very minimal.

22 SENATOR WAMPLER: Today what many of our, if
23 it's a small or large business, and three to five years is pretty
24 much the standard of what we expect before a clawback would
25 take place. The five-year period is the window in which you
26 maintain your jobs. I think we're pretty much in the market in

1 terms of a performance standard.

2 DELEGATE WRIGHT: One final question, and I may
3 have asked this before. What's the reason the Tobacco
4 Commission needs to be involved in this?

5 SECRETARY CHENG: The cost of money would be
6 100,000 or 200,000 for them to set it up, and it will have
7 projects, and it has to be in their region. Our observation is
8 that could be a much larger region. You have a much better
9 feel for where the region should be.

10 DELEGATE KILGORE: I think I've heard it said we
11 have more street credibility.

12 SENATOR WAMPLER: Other questions or
13 comments while we're here and airing this issue as we are?

14 SECRETARY CHENG: The reason why we need the
15 urgency is because quotas are getting filled up. There are 65,
16 and if we don't try to get the money for Virginia someone else
17 will, that's why.

18 DELEGATE MARSHALL: What's the timeline for
19 this?

20 SENATOR WAMPLER: I'll defer to Neal on this.

21 MR. NOYES: If we move forward and get the RFP
22 out in January and hire somebody to put together the center's
23 business plan, there is a whole series of things, eight or ten or
24 twelve steps that have to take place. As a practical matter,
25 May or June is when this could be operational and open for
26 business, and foreign investors could start then with the

1 \$500,000 investment. It's unlikely it would be any sooner than
2 that.

3 DELEGATE MARSHALL: When is your next trip to
4 China?

5 SECRETARY CHENG: We're going to China in May,
6 Israel and India in November.

7 DELEGATE JOHNSON: Is Staff recommending it?

8 MR. NOYES: Indeed, yes.

9 SENATOR WAMPLER: Neal said yes. The
10 Committee that has the funding --

11 MR. NOYES: The funds have been transferred to
12 Administration from direction from the Special Projects
13 Committee to move forward with it today. The funds are
14 already there, and it's just a matter of --

15 SENATOR WAMPLER: Then the proper motion
16 would come from Special Projects?

17 MR. NOYES: Yes, sir.

18 SENATOR WAMPLER: We have the Executive
19 Committee listening to all of our activities.

20 MR. NOYES: Executive Committee heard it the last
21 time.

22 SENATOR WAMPLER: So the Chair of Special
23 Projects could say that if there are no other questions or
24 comments, I would entertain a motion to accept the Staff's
25 recommendation to create the regional center, to define the
26 regions as Southside and Southwest, and that we be as broad

1 and as flexible as we can in the application with regard to the
2 sectors that we intend to pursue.

3 DELEGATE MARSHALL: So moved.

4 MS. NYHOLM: Second.

5 SENATOR WAMPLER: It's been moved and
6 seconded. Any further discussion?

7 MR. JENKINS: The maximum amount we'll be liable
8 for is 300,000?

9 SENATOR WAMPLER: Not to exceed.

10 MR. NOYES: Not to exceed, that's the condition of
11 approval, and that's in the October Meeting Minutes.

12 SENATOR WAMPLER: Any other questions or
13 comments to the motion? Hearing none then, Special Projects,
14 all in favor of that motion signify by saying aye? (Ayes.)
15 Opposed, no? (No response.) The ayes have it, the motion
16 passes.

17 There is one other matter in Special Projects, and that is
18 to approve the Minutes from December 14. It's been moved
19 and seconded that the Minutes be approved. All in favor say
20 aye? (Ayes.) Opposed, no? (No response.) The ayes have it.

21 Now, is there anyone from the public that wishes to be
22 heard at this meeting of Special Projects? Hearing none or
23 seeing none, that item is off the agenda. I know of no other
24 business to come before the Special Projects Committee, and I
25 yield to the Chair.

26

1

2

3

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

26

DELEGATE KILGORE: Now, hopefully, we'll briefly go through the Executive Committee Agenda. First of all, do I have a motion to approve the Minutes of the 11-29 Executive Committee Meeting, which you all have read, I'm sure? It's been moved and seconded. All in favor say aye? (Ayes.) Opposed, no? (No response.) The Minutes are approved.

Next will be the Tobacco Region Opportunity Fund, which we call TROF. Mr. Stephenson.

1 MR. STEPHENSON: Mr. Chairman, November 29th
2 the Governor appeared before this Committee and asked you to
3 help him recruit a particular confidential company to Virginia.

4 At that time we had nearly no information that we needed for
5 you to make a decision, but you indicated your support for this
6 Governor's request, and you instructed Staff to obtain
7 information necessary to prepare the TROF request. Staff
8 asked this confidential company for considerable information,
9 which they supplied. Based on that information the Staff put
10 together a term sheet for a TROF transaction, and that term
11 sheet appears in your book on page 41. The term sheet we
12 prepared for the transaction, the two very essential items in it
13 being items number 10 and 11 on the page, and I'll go over
14 them briefly with you.

15 When we got the information from this particular
16 company, this is a speculative shell company with nothing
17 behind it. We asked that there either be a commercial letter of
18 credit to guarantee the promises to the Commission or that the
19 principals endorse this contract so we could move forward with
20 fairly lenient terms. The company principals have indicated
21 since that meeting that they could provide neither. So if you
22 make this TROF award you'll be exposed to the promise of a
23 shell company. That doesn't mean we can't do it, but it does
24 mean, in the opinion of Staff, that the terms of the TROF
25 contract need to be such that your money is spent on hard
26 assets on the ground in the tobacco region such that if this

1 company walks away you still get your assets, and that is
2 unusual for TROF. We normally don't do that, we have to have
3 a promise from the company that we accept.

4 The terms before you are the ones we have prepared
5 about a week ago, and since then the company has come back
6 and said they can't provide a letter of credit or a guarantee.
7 There is one essential element here that I need a little guidance
8 on from the Committee, because this is an ongoing negotiation.
9 That is item number four. We had placed a requirement in
10 the term sheet that this company provide to us an irrevocable
11 loan commitment for a hundred million dollars. We needed to
12 see if we put up five million dollars to make this happen that
13 the real money was committed from another source. The
14 company has asked that in lieu of an irrevocable loan
15 commitment they simply provide us with a loan application.
16 I'm just telling you the way it is. This is an ongoing
17 negotiation, and I think there is a way to get to the point where
18 you can make this award if you choose to. At this point it
19 would have to be along the lines of the terms that we have
20 outlined, and you may or may not want to give Staff authority
21 to negotiate those terms.

22 DELEGATE KILGORE: You're talking about terms
23 12 and 13?

24 MR. STEPHENSON: Yes, terms 12 and 13 were
25 inserted in case we didn't have a guarantee that your money
26 would go to this company and only on presentation of an

1 invoice for what I call hard assets or capital assets that are on
2 the ground and cannot be removed from the tobacco region.
3 Otherwise the \$5 million will become what I call walking
4 around money for the company to burn to try to figure out if
5 they can make this work or not. If they can't, then they're
6 gone, and so is the money.

7 DELEGATE JOHNSON: I would oppose anything on
8 assets. I remember we had liens on stock on assets and we
9 ended up with nothing.

10 MR. NOYES: Physical assets.

11 DELEGATE JOHNSON: Mr. Chairman, assets may
12 be there, but if they're not useful, what good are they? Could
13 they sell them or could we sell them?

14 MR. STEPHENSON: That is the risk, Delegate
15 Johnson.

16 DELEGATE JOHNSON: I'm not willing to take that
17 risk with money from the Tobacco Commission. I'm speaking
18 for myself.

19 DELEGATE WRIGHT: I agree a hundred percent
20 with Joe. If this is a shell company I don't see any way that we
21 can do this, and I'm certainly not for it.

22 DELEGATE KILGORE: What's the correct word for
23 not shell company, but --

24 MR. NOYES: It's a startup corporation.

25 SECRETARY CHENG: The Governor would
26 appreciate everyone's comments, and the result of the trip out

1 was to talk to people or venture capitalists. Venture capital
2 has a lot of deals, and these deals are all on the stage of
3 commercialization. This one company is a shell or startup,
4 and it's one that made this very, very reputable venture capital
5 and very exciting opportunity and has possibilities, and a most
6 exciting investment, really the transformational nature of the
7 technology. The Governor, of course, is very excited about
8 this, but I don't think the Governor is going to ask you to do
9 anything beyond common sense. I know there is a lot of
10 common sense in this room. Following what Ned said, I don't
11 know that these are all negotiations, and a lot of negotiations
12 will happen, and I don't think the Governor is going to ask you
13 to do something at any cost. On the other hand, we will see
14 opportunities that are very startup and if there is some way to
15 make it more reasonable.

16 DELEGATE KILGORE: That's what I was thinking;
17 if Ned talks to them and continues the negotiations and sees
18 what he can get for protecting us, I'm fine with continuing to
19 do that.

20 SECRETARY CHENG: The company said they chose
21 Virginia as their first site for a plant to commercialize. This
22 will take the wood by-product and turn it into basically, the
23 best example would be cocoa, and that's because of the sugar.
24 It will turn wood in a shorter process, and people do this
25 already, and turn wood into a bio-fuel and sugar. This is a
26 process that is supposed to be faster and cheaper so they can

1 get you the cocoa and it will give you a non-petroleum base
2 non-fuel. And these products will all come from the trees,
3 much cheaper, it's very transformational, as I said, and
4 supposed to be something they will build other plants on. Part
5 of the idea was we'd get a first-class, and if they agree to the
6 terms, we would want them to fund a second plant here, too.

7 MR. NOYES: Mr. Chairman, in the TROF
8 transaction there are four members and three Commissioners
9 and myself who have to believe that this is a viable project
10 before it can be approved. We've been doing TROF for years
11 and years. The issue before us today is you don't have \$5
12 million in TROF at this point. Should negotiations proceed and
13 the recommendation come from the TROF Panel to go forward
14 with approval, the decision that needs to be made today is
15 whether or not to continue the process to provide funds for the
16 project, should it be ultimately considered and approved by the
17 TROF Panel. Is that right, Ned?

18 MR. STEPHENSON: Close. If I may, I'd like to
19 respond to Delegate Johnson's concerns. A normal TROF deal
20 is where we give cash in exchange for a job and investment
21 promise. If the promise does not hold up, we have to have a
22 way to get the cash back. In this case there is a job and
23 investment promise. If the promise doesn't hold up, we're not
24 going to have a way to get the money back, because there is
25 nowhere that it goes, because it's a shell.

26 Delegate Johnson, I understand the concerns about the

1 Tobacco Commission buying assets that may not be useful. I
2 simply pitch that as probably the only way that I can see to
3 provide this money to this group such that if this thing
4 happens and the deal goes south we will have at least spent
5 Tobacco Commission money on public infrastructure assets in
6 a community that could have use later on down the road,
7 roads, water lines, fiber and whatever it is that they need in
8 order to make this work. I think I'm saying that's as good it
9 gets. If that's not good enough, then we've got to stop.

10 SECRETARY CHENG: The Administration's point of
11 view, we don't want a deal at any cost. We want to show the
12 venture capitalists that have a lot of good projects that we're
13 serious, because this project may go somewhere else. We want
14 to show we've tried every way we can to make a reasonable
15 deal that makes common sense in light of the somewhat
16 startup nature of the project. I'd like to have something that
17 we can take back and say we tried as hard as we can to do
18 this, but we believe this might be unreasonable, there's no way
19 to spend that kind of money. But I'd like people to try to hard
20 enough so the next time folks out in Silicon Valley have a
21 project that we get some opportunity to consider it.

22 DELEGATE WRIGHT: What kind of motion do you
23 need to get folks to say that not asking for Commission funds -
24 -

25 DELEGATE KILGORE: -- I just think we need to
26 allow Ned to continue, and if he can get there, fine, and if we

1 don't get there, we don't, but he's made a good faith effort, and
2 so have we. If Ned doesn't agree with it, I'm not going to sign
3 that.

4 DELEGATE MARSHALL: Even if you get a full
5 agreement we're still not going to let the money go. Neal, do
6 you need a motion to transfer \$5 million to the TROF?

7 MR. NOYES: Yes.

8 MR. STEPHENSON: If I may clarify that, we don't
9 have quite all of the money, we've got somewhere close, and
10 there is a small handful of old TROF deals that are expiring
11 and will come back; we can probably get through, but the
12 bucket will be empty, so we'll be dead in the water until
13 July 1.

14 SENATOR WAMPLER: Mr. Chairman, Ned, you can
15 help me through this. Ned, I'll ask you to help me through
16 what I suggest as far as a motion. That we recommend to the
17 Full Commission tomorrow to transfer the amount necessary,
18 which is \$5 million, to TROF, that period at the end of the
19 motion, if I could speak to that.

20 Mr. Chairman, let me start again. To accomplish what
21 Ned described at length, at least put it in place and keep the
22 negotiations alive, we would propose transferring \$5 million
23 from the R&D Committee to TROF, period. It would be
24 understood that the Director in his budgeting process
25 recapitalize R&D at a future point. Another observation to that
26 motion would be that we still have negotiations to enter into to

1 keep the project alive with the proper amount of funding that
2 would be expected by the Administration. And that's my
3 motion.

4 DELEGATE MARSHALL: Second.

5 DELEGATE KILGORE: Transfer \$5 million to TROF
6 from R&D.

7 DELEGATE JOHNSON: You transfer it, but what
8 guarantee do we have, what conditions are we putting on it?

9 MR. STEPHENSON: I think the money will simply
10 be in the TROF budget, as I understand it. Negotiations will
11 continue, and once we've done the best that we can, the
12 decision to award or not to award would rest with the TROF
13 Panel, or you can bring it back here.

14 DELEGATE JOHNSON: Mr. Chairman, I think it
15 should be brought back here to the Executive Committee. I
16 want to make sure that we have usable, good assets, if that's
17 the decision.

18 DELEGATE KILGORE: That's fine.

19 SENATOR WAMPLER: I'll accept that as an
20 amendment.

21 MR. OWENS: I'll second it.

22 DELEGATE KILGORE: You'll second it and in fact it
23 will come back to here to the Executive Committee.

24 MR. OWENS: Yes.

25 DELEGATE KILGORE: We've got the Executive
26 Committee, and we can bring it back before them. All right,

1 you've heard the motion. All those in favor say aye? (Ayes.)
2 Opposed, no?

3 DELEGATE WRIGHT: No.

4 MR. STEPHENSON: Mr. Chairman, I'm seeking
5 some policy guidance from the Committee. I have a situation
6 that arose this summer where the TROF Panel made a routine
7 TROF award to an entity in exchange for a job and investment
8 promise. It came to light this summer that that particular
9 entity is a tax exempt entity and exempt from real property
10 taxes. For that reason it's impossible for them to fulfill the
11 terms of the TROF agreement, because the TROF agreement
12 says that they must invest in taxable assets. So, we have a
13 situation where this company promised a capital investment,
14 received a TROF award, but by operation of state law they're
15 exempt from paying taxes, so they can't fulfill the agreement.
16 The question arises as to whether the Commission wants to
17 waive that requirement or ask that they return a portion of the
18 grant that is allocated to capital investments.

19 SENATOR REYNOLDS: Ned, I'm assuming that
20 what has happened is that this company has real estate that
21 the local government has asked the General Assembly to
22 declare free from local taxes. Do I understand that correctly?

23 MR. STEPHENSON: Precisely, Senator Reynolds.
24 We measure capital investment as being that amount which
25 the Commissioner assesses, and if the Commissioner does not
26 assess it because it is exempt by operation of state law, then

1 the Commissioner will not put a value on that property,
2 because it is exempt. In other words, it's not a local decision;
3 it's already done by state law.

4 SENATOR REYNOLDS: Is the problem not being
5 able to establish the value of the real estate, or is the problem
6 the fact that the real estate has become exempt?

7 MR. STEPHENSON: At this moment I cannot get the
8 Commissioner to assess the value of the property, and the
9 Commissioner appears reluctant to assess it because it is not
10 taxable.

11 SENATOR REYNOLDS: Couldn't that be required by
12 requiring the owner of the property to find a person or some
13 qualified real estate assessor to assess the value of the
14 property?

15 MR. STEPHENSON: Yes, when we offer TROF
16 grants in exchange for an investment, investments have not
17 been defined, and we get people offering appraised values,
18 assessed values and market values, book values, depreciated
19 values, they've all got values and a story as to why that counts.
20 The fundamental reason we offer these cash grants is to
21 produce tax revenue to the locality. If it doesn't produce tax
22 revenue, one has to wonder why we're interested in causing it
23 to happen.

24 SENATOR REYNOLDS: It is not producing revenue
25 because the locality, they don't want you to have to pay real
26 estate taxes.

1 MR. STEPHENSON: I believe it's correctly stated to
2 say that the legislature of Virginia has said that you don't have
3 to pay taxes.

4 SENATOR REYNOLDS: But that only happens if the
5 locality asks for it. The locality has to have a public hearing
6 and has to agree they don't want to collect real estate tax, then
7 they come to the General Assembly and say, we want you to
8 pass a law that says we don't have to collect these real estate
9 taxes. It would seem to me, if I'm understanding this correctly,
10 what you want to make sure is that they invest in something
11 that has value.

12 MR. STEPHENSON: That produces tax revenue.

13 SENATOR REYNOLDS: If that's the sole issue, then
14 the locality has killed it by doing what they did and by coming
15 to the General Assembly so they'll be exempt from real estate
16 taxes.

17 MR. OWENS: Did it create the jobs that they
18 promised?

19 MR. STEPHENSON: The job side of the equation,
20 the clock has not run out yet, so it appears on track, and there
21 are no issues with it at this moment.

22 MR. OWENS: Did they spend the money in the area
23 that they said they would?

24 MR. STEPHENSON: I rely on the Commissioner of
25 Revenue to tell me whether they did or not. I can't audit their
26 books and find out where they spent money. I simply depend

1 on the Commissioner of Revenue.

2 MR. OWENS: It seems to me if they create the jobs
3 and spend the money in the community, then the county, by
4 way of requesting the General Assembly and they say they're
5 not interested in collecting taxes on this property, then why are
6 we here talking about it? Why is it a concern of the
7 Commission?

8 MR. STEPHENSON: It's my understanding that if
9 we offer these grants to produce tax revenue and if it's not tax
10 revenue, it seems to me that we'd like to get our money back.

11 DELEGATE KILGORE: They don't have income tax
12 or payroll taxes?

13 MR. STEPHENSON: They are a non-profit.

14 DELEGATE KILGORE: They're employees will?

15 MR. STEPHENSON: That has developed into the
16 job-promise side of the equation. I think there are two grants,
17 two grants to the same entity. In the future, would the
18 Executive Committee issue an instruction that we not provide
19 TROF funds except where there will be tax revenue?

20 DELEGATE KILGORE: I don't know that we want to
21 say something like that. The Committee, we want to create
22 jobs in the region. That's our key charge. If we're creating
23 jobs and we're providing some sort of revenue in the localities,
24 get people working and so forth, I don't know that I'm prepared
25 to say that.

26 MR. NOYES: If they said they're going to pay taxes

1 and it turns out they can't pay taxes.

2 MR. STEPHENSON: The agreement that the entity
3 signed spelled out that the investments were those that are
4 assessed by the Commissioner of Revenue.

5 SENATOR REYNOLDS: It's been my experience with
6 dealing with several of these, a request for property to be
7 exempt from real estate taxes just doesn't happen. The entity
8 goes to the local government and says we want to be exempt
9 from payroll and paying real estate taxes. Then the locality
10 has to have a public hearing and has to pass a resolution
11 saying we want the General Assembly to free this entity from
12 having to pay local taxes. It seems to me that at least at this
13 point the locality has said to us we don't need the tax revenue,
14 and we've said creating tax revenue is one of our primary roles.
15 So it seems to me at this point we ought to ask for our money
16 back.

17 DELEGATE MARSHALL: Ned, does our obligation
18 ask if they're taxable or non-taxable?

19 MR. STEPHENSON: It does not.

20 DELEGATE KILGORE: Probably need to put that in
21 there.

22 MR. STEPHENSON: There is one potential solution
23 short of asking for the money back.

24 DELEGATE KILGORE: What is it?

25 MR. STEPHENSON: I've had a little bit of experience
26 with some non-profits outside of the Commission, and there is

1 a concept called pay in lieu of taxes. Some non-profits will
2 make sure, promise to make certain nominal payments in lieu
3 of taxes to earn their right to exist and not pay taxes. We
4 could fix a sum, if you wish, and suggest that to the entity,
5 that they make that payment in lieu of tax to the locality, and
6 turn them loose; or we could ask for the entire grant money
7 back.

8 DELEGATE JOHNSON: What kind of an example or
9 precedent are we setting if we did that?

10 MR. STEPHENSON: It's \$190,000 from this entity.

11 SENATOR REYNOLDS: It may be pretty simple, but
12 it looks like the immediate cure for it, the locality getting back
13 together and getting straight on this tax issue, and if they
14 can't, they need to understand at least now unless there is
15 some change in policy we're going to be asking for our money
16 back.

17 MR. STEPHENSON: I've been pressing for this since
18 summer, and I'm at the point of needing to put this locality on
19 my frozen disbursement list to induce them to cure this.

20 DELEGATE KILGORE: Tell them if it's not cured for
21 some reason, some suggestion on how to cure it, not before the
22 next meeting, we're going to proceed and take our money from
23 the county, who ultimately signed off on it. That's who
24 ultimately guaranteed it, correct?

25 SENATOR RUFF: Mr. Chairman, I don't think
26 anyone but the entity sought an opportunity to provide a

1 service to the community, and they'll be having their grand
2 opening in about 48 hours or so.

3 DELEGATE KILGORE: Are you going to be there?

4 SENATOR RUFF: I will not be there. I think we
5 ought to let Ned try to figure out somehow if this can be
6 worked out before we take any other action.

7 DELEGATE KILGORE: That's what I was thinking,
8 as long as they let us know something between now and the
9 next meeting at the end of May. I think that would be
10 sufficient time to come up with some solution. I know they're
11 creating some jobs, and that's great, as far as I'm concerned.

12 MR. STEPHENSON: Mr. Chairman, I can work with
13 that. I just need some leverage to get some closure on this.

14 DELEGATE KILGORE: Does that give you enough to
15 work with?

16 MR. STEPHENSON: I can work with that.

17 DELEGATE KILGORE: Anything else?

18 MR. STEPHENSON: I have more, Mr. Chairman.
19 Stephanie, would you put that slide up, please?

20 In your meeting at South Hill in October you considered a
21 situation as in Southwest Virginia in which a certain company
22 has promised 400 jobs and certain investment and has fallen
23 short on both. The county and I worked on this investment
24 portion, and that has been settled to my satisfaction. The job
25 portion is still short. In October you granted the company an
26 extra 12 months to meet their obligation, and that's

1 customary, and we do it routinely, and there is still time left on
2 that clock. However, the job statistics we have available are
3 before you on the board showing the job creation went from
4 zero to 245; now we have another year on the clock.

5 Next slide, please. The contract indicates you can't count
6 jobs if the net increase is coming from another area in the
7 tobacco region. What I'm showing you here is the job growth
8 in Buchanan County where the TROF agreement was made,
9 the corresponding job shrinkage in the nearby county for the
10 same company, and then the total of the two. In Wise County
11 they lost 199 jobs during the same time period that Buchanan
12 gained 245, so we have a net job increase of 46. My question
13 for the Committee --

14 DELEGATE KILGORE: -- The drive from Wise to
15 Grundy is not going to happen. They don't make that kind of
16 money to pay; it's about an hour and 45 minutes.

17 MR. STEPHENSON: The TROF application and the
18 agreement both stated that we don't count job increases if
19 there are corresponding decreases anywhere in the tobacco
20 region under that company footprint. The question before the
21 Committee, even though there are 12 months remaining, by
22 what yardstick are we to measure job creation? Are we to
23 measure it only in the one county, Buchanan, where they have
24 that one plant, or do we measure the net job increases in the
25 tobacco region? They need to know by which standard they're
26 going to be measured.

1 SENATOR WAMPLER: Without reading the Minutes,
2 my memory is somewhat clear, Deputy Secretary Carter helped
3 us in discussion as to breaking down the VEC method
4 capturing those jobs, and the job description for the employees
5 in Wise is completely different than those for Grundy. I think
6 Ned is correct to bring it to us, but I would ask, Mr. Chairman,
7 if the Committee feels comfortable, ask Deputy Secretary
8 Carter to help us work through and report back what the
9 Administration's call is on whether those jobs are separate and
10 distinct. We still may see a quagmire at the end, but I think
11 that would be helpful.

12 DELEGATE KILGORE: Is that acceptable, Ned?

13 MR. STEPHENSON: Whatever the Committee
14 wishes.

15 DEPUTY SECRETARY CARTER: You want me to
16 confirm that in Wise County their process is different than
17 Buchanan?

18 DELEGATE KILGORE: And what the prospects of
19 Buchanan going up to the job promises, 400, if that's doable
20 by October. Is that right? If they think they can reach that
21 goal.

22 DEPUTY SECRETARY CARTER: Just recently
23 they're hiring more people in Wise and looking for more in
24 Buchanan, something like 150 new jobs.

25 MR. STEPHENSON: Last item, Mr. Chairman.
26 Several years ago you authorized the Staff to freeze

1 disbursements to any locality that had not fulfilled their
2 obligation under the TROF agreement, and that list has
3 shrunk down to two, and these are unresolved issues as of
4 2007 and 2008, April of 2008. These are old TROF contracts.
5 This is on page 42. These two contracts are old, and they do
6 not contain the language that says the locality is liable under
7 these contracts, so we have no course of action against
8 Saltville. My question for the Committee is, do you want
9 through the Commission to sue these companies through the
10 Attorney General's office or not?

11 DELEGATE KILGORE: Yes, I think so. How much
12 are we talking about?

13 MR. STEPHENSON: One hundred seventy thousand
14 on one, thirty-five thousand dollars on the other one. I just
15 want them off my list.

16 DELEGATE MARSHALL: Are the companies still in
17 business?

18 MR. STEPHENSON: They're viable businesses in
19 that community, and there is obvious sensitivity for the
20 Commission and the community leaders if the Commission
21 should move against them.

22 DELEGATE KILGORE: What does the Committee
23 think about that?

24 SENATOR PUCKETT: I represent that area. I know
25 of the entities, and if we said we're going to do this, then I
26 think we need to pursue, and if we've done everything to settle

1 it.

2 MR. STEPHENSON: We have, and I'll tell you that
3 when we begin to rattle, things get cured shortly thereafter.

4 DELEGATE KILGORE: Then proceed.

5 MR. STEPHENSON: Yes, sir. Thank you for your
6 indulgence.

7 DELEGATE KILGORE: Does anyone have any
8 public comment?

9 MR. STEPHENSON: I have a parking pass if you're
10 parked in this building, if you need to get out.

11 DELEGATE KILGORE: We've completed our agenda,
12 and there is no public comment. Do I have a motion to
13 adjourn? All right, we're adjourned.

14

15 PROCEEDINGS CONCLUDED.

16

17

18

19

20

21 CERTIFICATE OF THE COURT REPORTER

22

23 I, Medford W. Howard, Registered Professional
24 Reporter and Notary Public for the State of Virginia at large, do
25 hereby certify that I was the court reporter who took down and
26 transcribed the proceedings of the **Virginia Tobacco**

1 **Indemnification and Community Revitalization**
2 **Commission Joint Meeting of the Executive Committee**
3 **and Special Projects Committee when held on Monday,**
4 **January 10, 2011 at 5:00 p.m. at the Hilton Garden Inn**
5 **(Downtown), Richmond, Virginia.**

6 I further certify this is a true and accurate
7 transcript, to the best of my ability to hear and understand the
8 proceedings.

9 Given under my hand this day of January, 2011.

10

11

12

13

14

Medford W. Howard

15

Registered Professional Reporter

16

Notary Public for the State of Virginia at Large

17

18 My Commission Expires: October 31, 2010.

19 Notary Registration Number: 224566