

Virginia Tobacco Indemnification And Community Revitalization Commission

10:30 a.m.
Thursday, August 10, 2000

Best Western Inn
South Hill, Virginia

Members Present:

Charles Hawkins	Terry Kilgore
Don Anderson	Thomas Arthur
William Bennett, Jr.	John Boyd, Jr.
C.D. Bryant	Kathy Byron
Whittington Clement	J. Carlton Courter
Allen Dudley	John Forbes
Fred Fields	Paul Grinstead
Isiah Hopkins	Joseph Johnson
Donald Lawson	Joshua Lief
Ronnie Montgomery	William Osborne
Phillip Puckett	Frank Ruff
John Stallard	John Taylor
Gary Walker	William Wampler, Jr.
Thomas West	Joseph Williams

Senator Hawkins welcomed all to South Hill, Virginia, and thanked all in attendance for their presence at today's meeting. He next reminded Commissioners that the first charge of the Commission deals with the tobacco farmer and stabilizing the family farm. The Commission has done so. During the last year, we have put into place, counting all monies, TLAP as well as the Phase II monies, \$100 million in new capital into the hands of the farmers. This has restructured debt and enabled new investments in new opportunities. It is something we should all take pride in. Without the infusion of new capital, I'm not really sure what the structure of the family farm would be in our 1/6 of the world. Our other charge, and to me the one that will have the most impact long-term, is economic. The economic part of this is one dealing with how we can invest monies in the infrastructure of the communities that we are charged to represent. It concerns what we can do to make our communities more

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competitive in the marketplace, and do things long-term. Last time, we dealt with how we divide the areas between burley and flue-cured because of the different dynamics of the situation, and we came to a conclusion on that. The Southside area of flue-cured is driven by a formula based on economic impact as well as tobacco quota and various other things. Localities know, basically, what we are dealing with. Today, there will be discussions every locality will have to understand regarding the rules for the application for funding. It is our charge to make sure that when we spend these monies, they are spent wisely. We cannot allow this money to be squandered because our charge is to manage these funds. There is no guarantee for anyone for these funds other than we are charged with a mission. This is not taxpayers' money. No one is entitled to this money out of normal processes. The only entitlement in this whole discussion is the economic viability of the counties we are charged to represent long term. There is still much to do. We need to start looking at a new division of monies to put more into economic development. The first block, 80 percent, went to the farmers because it had to. We had to put an infusion of new capital into place as quickly as possible. Hopefully, we have lived up to that part of our obligation. Now we will start looking at the economic side. Everyone has an opinion, everyone has a desire, everyone's child is more important than the other person's child. We are going to try and treat them all fairly. We are going to allocate monies in such a manner that at the end of the day, we can all say that we did a good day's work. So thank you all for coming.

- **Motion made to dispense with the reading of the minutes**
Seconded
All in favor with aye
None opposed

Report from the Executive Director, Carthan F. Currin

Thank you, Mr. Chairman. Good morning and welcome to South Hill, Virginia. I am pleased that we are able to be here for this meeting. I look forward to South Hill's 100th anniversary as they celebrate that anniversary for their tobacco market on August 14, 2000. I would also like to express my appreciation to Joyce French and her staff for the wonderful reception and dinner last night.

First, let me report the good news that Phase I payments to farmers and quota holders have gone extremely well. Clark Lewis from Mays & Valentine is here again today to give us a complete update on the payments and whatever small problems may be lingering. Before Clark makes his presentation, I'd like to take this time to thank him and his staff for doing, what I believe, was a stellar job with a complicated and problem-riddled database. I'm sure I speak for the entire Commission when I say, "Thanks for a job well done."

Now, if you will indulge me for a moment, I have a couple of thoughts that I would like to share with you. We've talked about this before, yet I feel that it bears repeating and deserves serious thought. And that is: "How will history judge us?" In preparing for today's meeting, my staff and I researched past studies on the economic problems faced in southside and southwest Virginia. One such report was the 1992 report of the A.L. Philpott Southside Economic Development Commission. While I realize this report focused on southside alone, it is clearly relevant to both southside and southwest. The Philpott Commission concluded "the challenges facing southside Virginia as it enters the next century are formidable. The region

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must eliminate disparities in educational opportunities, expand and diversify its agricultural base, promote the expansion of existing and outside industry, and provide those infrastructure improvements necessary to foster growth and enhance quality of life.” Sound familiar? In the eight years that have passed since the completion of this study, we find ourselves still facing many of those challenges.

Yes, improvements have been made, particularly in the area of education. However, the other problems cited by the Philpott Commission remain the same. We have to ask ourselves why. And we have to try to find the answer. We do not want the Economic Redevelopment Commission of 2008 reading the recommendations of this Commission and saying, “Here we still are. They had access to all that money. What went wrong?”

In his remarks of December 11, Governor Gilmore stated, “Nearly four centuries ago, our forefathers secured our prosperity by growing tobacco along the shores of the James River. Today, tobacco remains the financial lifeblood of many of our communities and accounts for more than 80 percent of all agricultural sales in some regions.” Noting the decline in quota and other economic issues facing these regions, he further stated, “We are afforded a historic opportunity to chart a new course for Southwest and Southside Virginia – to propel them forward with prosperity in the 21st century.” I know that has been said before but I believe it bears repeating, and repeating, and repeating as often as it takes for us to understand the opportunities and obligations we have before us.

To that end, I have taken the liberty of bringing together an informal group of economists and other specialists from Virginia to assist us in making sure that our monies are spent wisely. This group, which will consist of representatives from Virginia Tech, The University of Virginia’s Weldon Cooper Center, and others, will work with my staff and me to review and make recommendations on the funding applications we will be receiving. I believe it is imperative that we have knowledgeable people review these requests and help us make wise decisions.

During the past months, we have all spoken of the need for “regionalism” in creating a new economy for tobacco country. At our meeting on January 11 of this year, our distinguished chairman, Senator Hawkins put it best when he said, “I honestly believe we have to have a regional focus on how these monies are put together...These monies...have to be invested in such a way that our communities get major impact...in the long term.” This, I believe, is where our efforts must lie. Let us not get stuck in an “us vs. them” mentality but focus instead on the two regions as a whole and how economic growth can best be accomplished for the benefit of all. Already, the Commission has taken great strides in this direction. By supporting Virginia Tech’s bioinformatic research and expanding the training capabilities of community colleges, you have shown great leadership in creating new economic opportunities. I believe that there are other opportunities out there with the potential for having a positive impact on the two regions and, ultimately, improve the prospects for all.

As you know, Virginia as a whole has a booming economy with only a 2.6 percent unemployment rate statewide, according to the 1999 Bureau of Labor Statistics. However, nearly all of southwest Virginia and more than half of southside Virginia have unemployment rates that are more than twice the state rate. This is unacceptable. There is so much that is new and exciting happening in Virginia today: wireless communications, transgenic tobacco research, an increased demand for wine grapes, and many other possibilities that did not exist just five years ago. The technology and opportunities are out there, and we have the money to make them

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work for us. Let us, right now, renew our determination to create a new economic order in southside and southwest Virginia.

In closing, let me quote another great Virginia governor. In his inaugural address on January 16, 1946, Governor William M. Tuck stated, "Virginia is a great agricultural state. We must keep it so. The successful cultivation of crops possibly means more to Virginia than any other activity of her people. It is an occupation which is conducive to the finest type of citizenship." With your leadership, I know it can remain so. Thank you for bearing with me. I would now like to introduce Clark Lewis for a report from Mays and Valentine.

Report from Clark Lewis, Mays and Valentine

Mr. Lewis began his report by reviewing the current status of the Phase I indemnification process. Noting his report from the Bristol Commission meeting, Mr. Lewis mentioned how Mays and Valentine felt very confident that by the end of June 2000, it would be able to meet the Commission's goal of distributing indemnification payments to qualified Virginia tobacco growers and quota owners. On June 26, 2000, Mays and Valentine was able to distribute \$57,991,520, the great bulk of the \$62,000,000 allocated for the Phase I indemnification payments. Since June 26, there have been two additional payouts, one being on July 7 in which 886 claims were paid, and on August 1, 834 claims were paid. As of August 1, 2000, Mays and Valentine has distributed \$59,724,112.15 to verified tobacco growers and quota holders. Money available for payment as of August 1, 2000, totals \$2,702,598.74. There will probably be another payout at the end of the current month. Pursuant to the meeting of the Executive Committee in Chatham in July, Mays and Valentine has agreed to continue to receive and review incoming applications past the July 24 deadline. These incoming applications will not be paid; however, Mays and Valentine will review them for the purposes of determining their status for the next round of Phase I payments. After totaling up the number of pounds of tobacco left unclaimed, there are potential claims for a total of \$601,531. This number however is preliminary. Taking that into account, as of last week there is a total of around \$2,000,000 that has not been claimed as of this date by any grower or quota holder. In the last two months, there have been 6,500 incoming/outgoing phone calls to growers and quota holders, which is a great volume of calls. Mays and Valentine has made changes to the original data approximately 6,000 times. Around 48,000 files have been created for the numerous verification forms. Every form has a file. Mr. Lewis noted that it is his belief that Mays and Valentine has met and exceeded numerous goals set forth by both the Commission and Mays and Valentine itself. Credit must also be given to the hard work attributed to Phase II in providing Mays and Valentine with a usable database. It was a very good beginning. Mays and Valentine appreciates their hard work.

Lastly, Mr. Lewis conveyed to the Commission the many kind words of appreciation received by Mays and Valentine on behalf of the Commission regarding indemnification payments.

Senator Hawkins and **Mr. Joseph Williams** both expressed their appreciation for the hard work done by **Clark Lewis** and Mays and Valentine.

- **Executive Director Currin initiated a roll call. Those members in attendance are listed above.**

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Executive Director Currin and **Stephanie Wass** presented the most recent budget to the Commission. Commissioners were provided with handouts based on Director Currin's presentation. To begin his presentation, Executive Director Currin reviewed Fiscal Year 2000 accomplishments of the Commission:

- Processed 43,505 transactions totaling \$58 million to Virginia tobacco growers and quota holders
- Granted \$6 million for educational and job training programs at seven community colleges in tobacco-dependent regions (to be distributed in FY01)
- Granted \$5.1 million in FY00 and \$6.5 million in FY01 for bioinformatics program at Virginia Tech

Next, Director Currin presented a summary on FY2000 revenues and expenditures:

• Revenues:	\$85,370,269
Expenditures:	
Administration	\$ 241,038
Indemnification Costs	\$ 322,357
Payments to Farmers	\$57, 991,519
Economic Development	<u>\$ 7,100,000</u>
Unexpended Cash Balance	\$ 19,715,355

(Of this \$19.7 million, \$2.0 million is uncommitted and undesignated)

Next, Director Currin provided an overview of the Fiscal Year 2001 budget.

- Fiscal Year 2001 Overview

Virginia Tech	10.0%
Indemnification Costs	0.6%
Administration	1.2%
Available for Economic Development and Payments to Farmers	88.2%

For a more detailed look at the contents of the budget presentation, please see the attached handout, which was given to the Commissioners. **ATTACHMENT**

John Forbes complimented the Commission staff on the outstanding job done to pull together the Commission's fiscal affairs. **Delegate Ted Bennett** seconded this compliment.

- **Motion made to adopt the Fiscal Year 2001 budget**
Seconded
All in favor with aye
None opposed

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Executive Director Currin reviewed the economic development application regarding Policies and Procedures for Requesting Funds. The Executive Committee unanimously voted at Chatham in July to recommend to the full Commission this application. Director Currin thanked **Senator Wampler** and **Delegate Clement** for the work done in both Economic Development Subcommittees.

Senator Hawkins noted the importance of having a uniform document from which both regions could use to fund economic development projects.

- **Motion made to accept the Policies and Procedures for Requesting Project Funds**
Seconded
All in favor with aye
None opposed

Clark Lewis provided the Commission with an overview concerning the reasoning behind extending the contract with Mays and Valentine. One of the main reasons for extending the contract concerns the numerous claims that Mays and Valentine is still processing. Without an extension, Mays and Valentine would be forced to shut down its operations concerning Phase I indemnification payments pursuant to its original contract with the Commission. At the Executive Committee meeting in July, Mays and Valentine presented a proposal whereby their contract with the Commission would be extended. Mays and Valentine would maintain a skeletal staff to handle the ongoing claims.

- **Motion made to extend the Commission's contract with Mays and Valentine**
Seconded
All in favor with aye
None opposed

Senator Hawkins reviewed the Commission bylaws as approved by the Executive Committee at its July meeting. The current bylaws have also been approved by the Attorney General's office. Namely, the current bylaws on the table provide more security in voting matters, such as ones that concern specific project funds. Two-thirds of the Commission must be present in such voting matters, NOT two-thirds of those present. Senator Hawkins requested one change whereby the Executive Committee could have a maximum of 12 members and not 11. The Personnel Committee dissolved into the Executive Committee thereby requiring more members.

- **Motion made to accept this correction whereby the Executive Committee could have up to twelve members.**
Seconded
All in favor with aye
None opposed
- **Motion made to accept the Commission Bylaws**
Seconded
All in favor with aye
None opposed

Senator Hawkins next brought up the issue of Travel Policies and Procedures. As approved by the Executive Committee, the travel policies pretty much mirror those followed by state employees.

- **Motion made to accept the Commission's Travel Policies and Procedures Manual**
Seconded
All in favor with aye
None opposed

Report from Agriculture, Stan Duffer

My purpose in being with you today is to review a technical matter that has been of some concern to me. I had the opportunity to review that with the Executive Committee in Chatham, and they asked me to bring forth that same information to you today. First of all, let me review some of the actions taken by this board back in its meeting in February. Let me bring you up to speed on some motions that were adopted. A motion was adopted that the Commission accept as the basis \$12 per pound for lost quota, which indemnifies the quota owner and the producer by coupling Phase I and Phase II payments, and any other sources that address the loss of quota, i.e. TLAP payments. Another motion was adopted for the percentage allocation for burley tobacco farmers, their quota owners, and producers be divided 62 percent to 38 percent for the years 2000, 2001, and 2002. Further, the policies of 2003 and beyond would be reviewed and modified at that time, 62 percent to growers 38 percent to quota holders. Another motion therein adopted for a percentage allocation for the flue-cured tobacco farmers, quota holders, and producers provided a 50-50 split for the years 2000, 2001, and 2002. Further the policies of 2003 beyond would be reviewed and modified at such time, again 50 percent to growers and 50 percent to quota holders. Now, coupled with that, at that same meeting, you adopted the overall general payment policies of the Phase II Board. One of those [policies] you adopted was the quota owner payment process. Let me read that so that it all ties together here: "The next six years, the Board's policy is that any quota owner who sold quota after July 1, 1998, or sells it hereafter would continue to receive payments until made whole the losses sustained from the recent reduction in quota. Defining the point at which such a quota owner has been fully compensated, if ever, will be determined later and will depend on additional compensation from Phase I payments. Once a seller of quota has been fully compensated for his loss, the purchaser of that quota will be entitled to payments for quota losses incurred after the purchase date." So what we have here is obviously quota losses for 1998, and 1999 would be on its own, and then we would start anew for indemnifying quota losses for 1999-2000 fiscal payout to the 1995-1998 database.

If you could cut the lights, I have a few overheads that I would like to review with you and show you some of the problems that concern me.

What we have here is basic assumptions for 1999-2000, the total amount of money committed out there so far. We have \$24 million in Phase II money for the 1999 calendar year. I showed you the various splits and so forth. Now, in the year 2000, we had to make some assumptions because of TLAP, which is an ongoing federal program now. I'm not sure exactly how the split is going to be made in terms of what went to flue versus burley. Plus there is another item that we may have to take up at another date. We've got a situation on the

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TLAP, too. They are using the 2000 database, using a different database than we are and in the case of burley, using a different payment scheme. The point I'm trying to make here is this, in this presentation I'm making the assumption that from 2001-2004 that roughly 50 percent of the allocation payments from this Commission would be in the grower/quota owner indemnification part rather than the 80 percent that you had this year. In its continued use in the out years, the assumption of a 50-50 split being for the flue-cured producer/quota holder, Phase I and Phase II, burley being 62-38 for Phase I and 75-25 for Phase II, which we had, at \$12 per pound of quota, it takes the following to compensate for the 1999 quota cut as compared to the 1995-1998 phase. In flue-cured, it takes \$248.4 million, burley \$82.8 million for a total compensation for first year quota loss as compared to today's \$331.2 million. Now, if you look at the case of flue-cured, we are at the point where we've got \$253 million by the year 2003. So the time is fast approaching. What's happening, of course, is with the 2000 plan loaded with these indemnification payments, and some of the TLAP payments came in that weren't expected earlier on, there's a fair amount of money going out this year. We are fast approaching the time when flue-cured producers and quota holders will be fully compensated. Now, on the case of burley, we will also be settling up in the year 2003, by virtue of the fact that in burley it takes \$82.8 million to \$82.4 million, and again these are just projections subject to change with percentages of what you allocate. The whole point I am trying to make here today is not so much about individual numbers, but the fact that we are fast approaching the time when a decision is going to have to be made. In my opinion, you will not be able to live with your motion where you stay with the 62-38 split on burley through 2002 and the 50-50 split on flue-cured through 2002. I think you are going to run out of time, and the reason I say that, depending on the action you take on what is the value of the quota to the quota holder versus the producer, we could in fact overpay one segment leading up to 2002. [To explain this better, Mr. Duffer made use of technical graphs on the overhead.] To summarize, Mr. Duffer noted that there should be a percentage realignment so one segment (grower/quota holder) does not get overpaid.

Delegate Clement asked if **Mr. Duffer** would be willing to make a recommendation to the Commission on how to best to make a percentage realignment. Mr. Duffer noted that from a technical standpoint he is not in a position to make such a recommendation. However, once the Commission makes a decision, Mr. Duffer could inform the Commission of where they are in the process.

Delegate Kilgore motioned to have the formation of two subcommittees, one from the burley region and one from the flue-cured region. These two committees would initiate discussion based on **Mr. Duffer's** presentation as well as consult him once a decision is made before the next full Commission meeting.

There was discussion on whether or not to have an 8-4 split as the goal for these two subcommittees. A motion was made to formally adopt such a goal. However, after discussion, the motion and its second were withdrawn.

The two committees formed are as follows:

The Burley Subcommittee (5)
Senator Puckett, Chairman

The Flue-Cured Subcommittee (6)
Delegate Clement, Chairman

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Fred Fields
Delegate Kilgore
John Stallard
Delegate Johnson

Don Anderson
Delegate Bennett
C.D. Bryant
Thomas West
Joseph Williams

Report from the Attorney General's Office, Frank Ferguson

Mr. Ferguson briefed the Commission on a couple items to which the Commission should be aware. First, there are a couple legislation issues that the Commission may want to present to the General Assembly in January. With the Commission's direction, we will begin working on possible drafts for review at the next full Commission meeting. The issues that I am aware of include specified authority to make clear the Commission's authority to distribute economic development funds through a loan mechanism. Certainly there is language in the statute to support that, however, it is our belief that it could be better defined in the statute. Second is the issue of the protection of the database and the confidentiality of the database. I know that is something that the Executive Committee expressed some concern over at its last meeting in Chatham. If that is the will of the Commission, we will work on ways to address that as well. Next is the catch-up issue. As **[Mr. Lewis]** told you in his report, at this point, the 2000 round of indemnification payments have been cut off for new applicants as of July 24, 2000. That date was adopted consistent with the cut-off date for the Certification Board. However, they have continued to receive applications from folks they have never heard of before. This is the first time that those folks have appeared. Of course that was well beyond what the published dates were and what the notifications were. There was some leeway given, but at some point there had to be a cut-off so that **[Mays and Valentine]** could finish the bookkeeping for the year. One of the things I do not have a specific recommendation on at this point, but we do offer for your consideration the possibility of legislatively addressing **[concerns]** whether or not you want to, either by action policy or legislation, determine how you want to treat folks who come in late, such as this. The options are that they are out for good or they can roll it over one year so that they can apply next year and also try to pick up what they would have gotten this year had they applied in time. Reserves are available. Would you allow the catch-up issue to go on for more than one year? I think there are some bookkeeping issues to be considered there, and also some sort of way to finalize the payment schedule. Those are the issues that don't necessarily have to be addressed legislatively, but it may be best if everyone was given notice that it was built in the statute. You wouldn't be charged with having to make those policy decisions on the fly here.

Senator Hawkins agreed with the comments of **Mr. Ferguson**.

I think you're absolutely right. Before we get into that at the next meeting or so, we need to start thinking about that sort of problem that we are facing. What is the timeline we're dealing with? Do we let these drift on forever and there's no closure? Or do we have a timeline that is a drop-dead date that something is not done by a certain point that's it because then we could move on with the other expenditures of monies. If we are not careful, we could have things that would go on forever. The monies could never be adequately set aside not knowing what we are dealing with. That is not a decision that we would have to make today, but something we need to start thinking about. What is a reasonable time frame to work within? Legislatively probably would give us a little more security than a policy decision, but we could do either.

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Frank Ferguson reviewed another issue.

Another issue that has come up, and it's one of the issues that separates this commission from the Phase II Certification entity, concerns the issue of assignments and garnishments. For those of you who deal with the Certification Board and the National Trust, you are probably aware there is a prohibition under the National Trust against assignments. As a result of that prohibition, it is the Certification Board's position that no assignments of quota would be accepted, and we pay the quota owner of record as of the '98 base year. If there is something to be worked out among private parties after that, they will have to work it out among themselves. Because this Commission adopted all rules except those specifically changed from the Certification Board as its rules and payments, that rule is applied for payments that Mays and Valentine processed this year as well. Frankly, given the time constraints, we almost had to do it that way anyway. However, this Commission is not bound by that same trust provision that the Certification Board is, so you could take a different view of assignments. I would not suggest that we be in a position of arbitrating or of becoming a judicial body determining claimants. But you may want to consider whether or not you will pay an assignee of quota rather than the signor if it was clear that's what happened, that the business deals with both parties. Related to that is the garnishment issue, and we, in fact, had at least one garnishment arise in the payments this year. What we've done, which the Executive Committee signed off on, we essentially will pay the court for the amount of this claim, and the court through the garnishment judicial proceedings will determine who gets what. So again, we won't be in a position of having to make decisions concerning garnishments. We did make sure of who the proper party was to service for that. They were serving Mays and Valentine, and they clearly were not the proper party to be serving. It's a technical issue that Steve has been taking care of. Unless we are told differently, that is the way we will proceed on garnishment matters.

Joseph Williams noted that he has been contacted numerous times by one of the individuals involved in the garnishment case. Not knowing exactly how to answer his question, Mr. Williams referred him to a local law firm. **Mr. Ferguson** noted how that was probably the best thing to do. He also reiterated that the Attorney General's Office is not there to determine who is right and who is wrong in these cases, but instead they will make money available to the court based on their decision. Money left over would go back to the recipient after such action by a court.

Frank Ferguson reviewed another issue:

There are a couple of areas where there are inconsistencies between the Commission statute and the rules they've adopted, if you will, as a result of adopting the Certification rules. As a matter of clarification, [there are a couple issues] one is the date issue. As you probably all know, the Certification Board, as **Stan Duffer** calls it "the day the world changed," is July 1, 1998. That is the day there is a drop-dead date on whether or not you own quota. However, under the statute, which is more generalized language and gives this Commission, I think, some discretion, but it says essentially, folks who own quota as of January 1, 1998. Of course there was a good reason why the Certification Board, and this Commission in turn, adopted the July 1 date because that's really the more active date when transfers from the prior year and so forth were settled of quota ownership. That's an issue you may want to address. I can't make a

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particular recommendation, but just be aware that there is that slight inconsistency. The question may arise one day, “I sold quota on March 1, 1998, so why am I not getting paid?”

Senator Hawkins noted that today the actions of the Commission are based on real world experiences. The law was made in a vacuum. It would probably be to our advantage to change the law to reflect real world experiences that we face. **Mr. Ferguson** made the suggestion of changing the law to reflect the July 1 date.

Frank Ferguson: Related to that is the definition of producer in the statute. Arguably there is a slight variation between the definition that is in the statute and the definition that has been adopted, again, in reference to the definition adopted by the Certification Board. It really is a very, very slight distinction, and one that we haven’t had a problem with so far. However, the Certification Board’s definition of producer will change even more next year from the way things currently stand. It may become a bigger problem than what it is now. You may want to consider conforming those two definitions. It has to do with who is going to be a producer in terms of who shares in the risk of production, and what that terminology will be.

Senator Hawkins asked if the Attorney General’s Office could provide a rough draft of these recommendations before the next Commission meeting. **Mr. Ferguson** noted that this could be done. Legislatively, all of these recommendations could be placed in one bill.

Frank Ferguson: Those are all the legislative issues that I know of. Obviously, there are others that may come up. A couple other issues that we will be continuing to talk about concern the universal database concept. There are really two notions involved there. Chase Mellon, who is one of the vendors of services to the Certification Board and is of course somewhat related to the National Trust entity, which is Chase Manhattan, has been contemplating creating a nationwide (14 tobacco states that are in the Trust) database. They would maintain [the database] for everybody. Each state would be able to access their own only. I don’t know whether that notion is still alive or not. I guess it is, but we’ve heard little about it lately. The Certification Board was not particularly interested in it. I detected no particular notion of support in the Executive Committee of this Commission. The reason Virginia has so little interest in it is because we have a fixed database with a fixed base year of 1998, while most states have a rolling base year. The problem was that the price tag was fairly high. The up front cost would be in excess of \$6 million. We would pay our own proportional share. But, still it would be a little high. What we are suggesting, or giving serious consideration to, is a Virginia universal database, one that this Commission, the Phase II Board, and possibly the FSA for the purposes of Virginia TLAP payments, would all have equal access to, would all work together towards creating and maintaining that would be governed by a set of protocols that everyone would be subject to for making changes and additions to that database. The big issue with this frankly goes back to the confidentiality and security of that database. Basically, this database is in tact. However, it would need some structure.

After an inquiry by **Senator Hawkins**, it was the consensus of the Commission that the Attorney General’s Office look into structuring such a database.

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Lastly, **Mr. Ferguson** noted the importance of moving forward on determining procurement services for next year's round of payments. **Senator Hawkins** noted that the Procurement Committee would be meeting soon to discuss this. **Mr. Ferguson** also noted that the next infusion of capital would come around January 1, 2001. A second payment from the MSA, would come on April 15, 2001.

Senator Hawkins noted: Prior to that money arriving in our care, we need to have a discussion, probably at our next meeting or so, regarding how the distribution would be made. An 80-20 split was adopted [this past year] because of the needs of our farming community. The economic piece has been at 20 percent. I think there has been a feeling of the Commission that we need to increase that. We won't talk about it today, but start thinking about a realistic approach as we start phasing in a more equitable distribution to the economic side.

Report from Virginia Tech, Ralph Byers

Ralph Byers reviewed with the Commission the current status of the bioinformatics program. To begin his presentation, he also brought the Commission up to speed on Tech's progress in providing wireless Internet connections in Virginia. Tech has received a \$50,000 planning grant from the CIT to proceed with a wireless Internet high-speed unit to be placed over at the South Boston industrial park. Tech also has commitments from the Federal Economic Development Authority. They plan on funding Tech's wireless Internet project. The South Boston location will provide Virginia with the first wireless Internet broadband industrial park in the country. Tech has plans to link the Continuing Education Center in South Boston to the industrial park. Also, the Henry County Board of Supervisors has approved proceeding with planning for a wireless Internet project in Henry County, which they will be funding.

Mr. Byers iterated that the major issue concerns getting low-cost, high-speed Internet connections into these areas. It really doesn't matter whether it is a fiber or wireless connection. There are some situations in which one is better than the other. Mr. Byers noted how students at Virginia Tech can get a high-speed Internet connection for only \$40 a month. In some areas of the region, the same service can cost \$1,000, or it may not even be available. Virginia Tech's goal is to lower that cost while speeding up connections. Tech currently is in conversation with some major private sector vendors to help them with this.

Senator Hawkins personally thanked **Mr. Byers** and Virginia Tech on the work they have done thus far and the effort they have made.

For the update on the Bioinformatics program, **Mr. Byers** introduced **John Alderson**.

John Alderson noted how biotechnology is the new economy. Virginia has much competition in this field, but with the help of the Commission, good progress has been made. Virginia Tech has put in place the top of the organization with the hiring of a director, associate director, a manager of corporate and government relations, and two other staff members. Negotiations are underway for four other positions. Plans are underway for the first capital expenditure, administrative offices, and laboratories. Construction will begin soon. Mr. Alderson offered to all Commissioners the opportunity for he and his staff to come visit the different localities. Such a visit would give the Commissioners' constituents the chance to hear about and understand the

bioinformatics program. **Delegate Kilgore** noted how he would like Tech to visit his community in such a matter.

Senator Hawkins thanked Virginia Tech for their work and noted that it is his hope that in the next couple of years, Virginia Tech will be the major research university on the East Coast.

As a result of the meeting being ahead of schedule, **Senator Hawkins** yielded to **Delegate Clement** for a report from the Southside Economic Development Committee.

Report from the Southside Economic Development Committee

There was no report from this committee. **Delegate Clement** noted the Committee's pleasure with the policies and procedures to be used for all of the communities. It is his hope that staff would make the applications available immediately, so the Commission could act on such applications by the first of the year.

Report from the Southwest Economic Development Committee

Senator Wampler discussed a couple issues. First, he asked for the concurrence of the Chair to hold one, maybe two, meetings of the Southwest Committee with the Planning District Commissions and various entities who have been requesting funding regarding the applications they will be receiving. Another issue concerned re-appointing a new member to the Committee. One of the current members may have a job conflict. This issue will be taken up by the Executive Committee. Senator Wampler also asked if staff would disseminate the application to the counties and cities as well as the planning district commissions. Pursuant to the recommendation of the Executive Committee, Senator Wampler informed the Commission of the grant proposal from the Appalachia Sustainable Development. This entity is requesting up to \$90,000 for the purposes of developing an organically grown product that is readily recognized in grocery stores and restaurants.

- **Senator Wampler motioned that the Commission would recommend an expenditure of up to \$90,000, and would have staff work with this entity to complete the application process for the purposes of disbursing those dollars once conditions have been met.**

Seconded

All in favor with aye

None opposed

Lastly, **Senator Wampler** noted that, if needed, the Southwest Committee would be willing to meet with the Southside committee regarding any type of joint ventures pertaining to economic development.

Report from the Personnel Committee

Based on the recommendation of the Executive Committee, **Delegate Dudley** made a motion regarding the hiring of Stephanie Wass.

- **Motion made to accept the application and hiring of Stephanie Wass, who would be in charge of fiscal and budgetary matters pertaining to the Commission**
Seconded
All in favor with aye
None opposed

Senator Hawkins yielded the floor to any public comments.

-Public Comments-

There were no public comments at this meeting.

-Break-

Frank Ferguson read corrections to the Bristol Commission meeting minutes. These corrections reflect oversights.

- **Motion made to adopt the Bristol meeting minutes as amended**
Seconded
All in favor with aye
None opposed

Report from the Education Committee

Based on the recommendation of the Education Committee, **Delegate Ruff** made a motion concerning seven community colleges: Southside Virginia Community College, Southwest Virginia Community College, Virginia Highlands Community College, Patrick Henry Community College, Mountain Empire Community College, Central Virginia Community College, and Danville Community College.

- **Motion made such that the Commission provides funding for the seven community colleges of approximately \$857,000 each.**
Seconded

Senator Wampler noted that it is his hope that the Commission provides this funding as expeditiously as possible. **Senator Hawkins** noted that it is his hope that the funding will go out in two weeks' time.

Joe Williams brought to the attention of the Commission repeated requests by Wytheville Community College. **Senator Hawkins** noted that Wytheville's amount of tobacco production is not near what it is around the other seven community colleges. At another time, Wytheville Community College may need to be addressed, but based on the cut right now, they are not part of the seven.

- **Vote on the motion to fund the seven community colleges**
All in favor with aye
None opposed

-Lunch-

Senator Hawkins entertained suggestions for meeting places and dates for the next Commission meeting. South Boston has requested the presence of the Commission. The latter part of October was suggested as a good time frame with the 26th as a target date.

Tobio and the Special Projects Committee

Senator Hawkins: There are people in the farming community that will benefit, like all in this Commonwealth will benefit [from such entities as Tobio and CropTech]. We have to make judgements based on the best investments we can do for the overall economic good of this Commonwealth. I personally think this is one of those areas where we need to do it. Also, we need to understand this Commission is made up of thirty people that have varied backgrounds from the agricultural end to the government end to all sorts of varied backgrounds. There are those in this Commission that will probably be involved at some point in the aspects of this discussion. There will be votes taken [in which] some will abstain due to perceived conflicts, and some will abstain from due to direct conflicts. That is up to the conscience of the individual as to how they deal with these matters. What we need to make sure is that there is no misunderstanding from the press, public, or anyone else that all of our votes are done in the open. All these decisions are based on the economic good of the Commonwealth as a whole, not any particular group, not any particular industry, but what we can put in place to benefit the charge we have been given, which is to benefit the citizens of this Commonwealth and this nation with these monies. This type of investment does that. If we did not step up and do these things we can do under our charge, we would not be responsible to the people we should be representing. So as we go through this process, we will have more and more opportunities to do things that have a private involvement, but that should not deter us from making wise investments for the citizens of the Commonwealth. As for members of this Commission, you have to judge for yourself if there is a conflict or not. If you feel you have a conflict, be it real or perceived, I would urge you to abstain in voting as we go through the process. All votes are open. Everyone has their conscience they have to deal with, but we need to get on with the people's business in how we act to the future economies. This is part of the future's economies.

In response to an inquiry, **Senator Hawkins** noted that the only legal conflict concerning Tobio and today's vote concerns owning stock in Tobio and/or CropTech. **Frank Ferguson** noted that based on the Conflict of Interest Act, Senator Hawkins answer is correct. Owning stock is the only legal conflict perceived today. Also, for the purposes of the Conflict of Interest Act, having a spouse or other family members who own stock is a perceived conflict.

Report from the Special Projects Committee

Delegate Ted Bennett informed the Commission that an agreement between all parties (the Commission, Tobio, and CropTech) had been reached. The Special Projects Committee recommends that the Commission provide Tobio with a \$2 million loan, whereby the Commission would specify how the loan is used.

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Delegate Bennett: The foundation this Commission has laid, by the Chairman and the Commission, has brought us today to a place where those who thought tobacco was dead will now see that it is going to come into the new economy. I don't think I have seen a more classic piece of business that epitomizes the new economies than this project. The collateral that is available to us is not collateral from the old economies. It's not collateral of land, timber, minerals, oil, even tools and machinery. The capital that's here being collateralized is intellectual collateral. This agreement and this loan, in our judgement, will bring Southside Virginia and the great far Southwest into that new economy. We are delighted with it. We believe the amount and magnitude of business in this new economy and in this new technology that will be brought into Southside and Southwest Virginia is extraordinary.

Senator Hawkins pointed out that the \$2 million would come out of discretionary funds and would not affect other investments such as the funding for the seven community colleges or any funding targeted for communities.

Delegate Bennett introduced representatives from Tobio and CropTech and personally thanked them for their work in this area. The representative from CropTech expressed his thanks and appreciation for the joint venture between Tobio, CropTech, and the Commission.

Senator Hawkins thanked **John Forbes** and **Delegate Bennett** for the work they have done to bring this agreement together.

Delegate Bennett walked through the agreement between Tobio, CropTech, and the Commission.

Delegate Clement asked about the current status of CropTech creditors. **Delegate Bennett** noted how CropTech was a ten-year old company with creditors. The Commission should understand that even if CropTech didn't have the creditors, Delegate Bennett doesn't think it would have affected the recommendation today.

Delegate Bennett recognized and thanked Leigh Huff for his work in reviewing CropTech and Tobio's proposal.

Senator Wampler expressed his concern that farmers and neighboring states could reap the rewards this venture has to offer before Virginia farmers. It's important that Virginia farmers are prioritized first because the Commissioners have to answer to their constituents.

Senator Hawkins asked **Delegate Bennett** if there was a way of looking into this. Delegate Bennett noted that this issue had not been looked at lightly. He also noted the importance of providing Virginia farmers with the benefits this venture, but at the same time he noted that the Commission doesn't want to get into the situation of overburdening Tobio and CropTech. Doing so might be self-defeating.

At **Senator Wampler's** suggestion, **Senator Hawkins** asked if Tobio would be willing to entertain proposals from the Commission on how to include neighboring states into this venture

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while preserving the interests of the Virginia farmers. Tobio said that they would be willing to do this.

Mr. John Boyd recommended that the agreement reflect a decision by the Commission to use outreach programs and other agricultural institutions to inform as many farmers as possible of this program. **Senator Hawkins** noted how reaching as many farmers as possible is definitely one of the intents of the Commission.

After more discussion on the agreement, the following motion was made:

- **Motion made to amend the agreement as follows: On page 3 of 5, the terminology shall read: ‘Borrowers shall be Virginia tobacco farmers and Virginia quota owners to be eligible for membership.’**
Seconded
All in favor with aye
None opposed

Based on the recommendation by **Mr. Boyd**, staff will work on proposals regarding how to deal with local farm bureaus in informing all tobacco farmers about this venture.

After discussing the terms and conditions based on the agreement with Tobio and CropTech, and reviewing such document with the Commission, the following motion was made:

Delegate Ted Bennett motioned that the Commission approve this document's terms and conditions and authorize the present to be executed on behalf of the Commission.
Seconded
Roll Call Vote

Anderson - aye	Arthur – aye	Bennett - aye
Boyd - aye	Bryant - abstain	Byron - aye
Clement – aye	Courter - absent	Dudley - absent
Fields - abstain	Forbes - aye	Grinstead - aye
Hawkins - aye	Hopkins - aye	Hurley - absent
Johnson - abstain	Kilgore - aye	Lawson - aye
Lief - aye	Montgomery - aye	Osborne - abstain
Puckett - abstain	Ruff – aye	Stallard - abstain
Taylor – aye	Thomas - absent	Walker - aye
Wampler - aye	West – absent	Williams - abstain

Total:	eyes =	18
	nays =	0
	abstentions =	7
	absent =	<u>5</u>
		30

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Senator Hawkins requested that the record show that abstentions were based on potential conflicts concerning investments into Tobio and CropTech. Abstentions do not reflect a vote of no confidence regarding this project.

-Meeting Adjourned-

**Respectfully transcribed by
Jeffrey W. Farthing
August 18, 2000**