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**VIRGINIA TOBACCO INDEMNIFICATION
AND COMMUNITY REVITALIZATION COMMISSION**

701 East Franklin Street, Suite 501
Richmond, Virginia 23219

Research and Development Committee Meeting

Tuesday, July 21, 2009

1:00 p.m.

Hotel Roanoke
Roanoke, Virginia

1 **APPEARANCES:**

2 The Honorable Clarke N. Hogan, Chairman

3 The Honorable Robert S. Bloxom, Secretary of Agriculture and Forestry

4 The Honorable Kathy J. Byron

5 Ms. Linda P. DiYorio

6 Ms. Lynn Hammond, Deputy Secretary of Commerce & Trade

7 The Honorable Terry G. Kilgore

8 Mr. Buddy Mayhew

9 The Honorable Edward Owens

10 Mr. Kenneth O. Reynolds

11 The Honorable William C. Wampler, Jr.

12

13 COMMISSION STAFF:

14 Mr. Neal Noyes, Executive Director

15 Mr. Ned Stephenson, Deputy Director

16 Mr. Timothy J. Pfohl, Grants Program Administration Manager

17 Ms. Britt Nelson, Manager of Program Assessments

18 Ms. Sarah Capps, Grants Coordinator - Southside Virginia

19 Ms. Sara Williams, Grants Coordinator - Southwest Virginia

20

21 OFFICE OF THE ATTORNEY GENERAL:

22 Mr. Francis N. Ferguson, Deputy Attorney General, Counsel for the

23 Commission

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1 DELEGATE HOGAN: I'll call the meeting to
2 order. Neal, would you call the roll?
3 MR. NOYES: Secretary Bloxom?
4 SECRETARY BLOXOM: Here.
5 MR. NOYES: Delegate Byron?
6 DELEGATE BYRON: Here.
7 MR. NOYES: Ms. DiYorio?
8 MS. DIYORIO: Here.
9 MR. NOYES: Deputy Secretary Hammond?
10 DEPUTY SECRETARY HAMMOND: Here.
11 MR. NOYES: Mr. Harwood?
12 MR. HARWOOD: (No response.)
13 MR. NOYES: Delegate Kilgore?
14 DELEGATE KILGORE: Here.
15 MR. NOYES: Mr. Hite?
16 MR. HITE: (No response.)
17 MR. NOYES: Delegate Hogan?
18 DELEGATE HOGAN: Here.
19 MR. NOYES: Mr. Mayhew?
20 MR. MAYHEW: Here.
21 MR. NOYES: Mr. Owens?
22 MR. OWENS: Here.
23 MR. NOYES: Senator Puckett?
24 SENATOR PUCKETT: (No response.)
25 MR. NOYES: Mr. Reynolds?

1 MR. REYNOLDS: Here.

2 MR. NOYES: Mr. Thompson?

3 MR. THOMPSON: (No response.)

4 MR. NOYES: Senator Wampler?

5 SENATOR WAMPLER: Here.

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

7 DELEGATE HOGAN: Can we get an approval of
8 the last meeting's Minutes? It's been moved and seconded. All in favor say
9 aye? (Ayes.) That's done.

10 We've got basically two points of business. We have to
11 approve the operating budget for the Energy Centers, and number two is
12 recommending guidelines for these funds. In the name of simplicity, I guess
13 we could do the operating budget first. The group got together last time, we
14 have five Centers, and that was set on 750,000 apiece.

15 Do you have any comments about that, Neal?

16 MR. NOYES: You're correct, Mr. Chairman. I
17 was asked to meet with the five Centers before we reconvened, and I did so,
18 based on the \$750,000 figure that the Committee told me to use. We have
19 received applications and have recommendations from the Staff as part of
20 the package.

21

22 DELEGATE HOGAN: If you will look, you'll see
23 Riverstone and Southern Virginia and splitting the two. For purposes of the
24 meeting today, we've had some conversations ongoing. We're doing five
25 Centers, and we may have some amendments or requests between now and

1 next week to resolve that issue. If we can get a motion for the five Centers
2 for 250,000 apiece, that would take care of that.

3 DELEGATE BYRON: I'm not sure I understand
4 the reason for putting them together. Is that temporary?

5 DELEGATE HOGAN: It's basically one entity
6 with two parts. We're trying to work out how to put that money off and what
7 to do with it, for purposes of today. In the name of simplicity, unless we
8 want to get everybody back here and how that money is going to be split up,
9 it would be easier to put it back together.

10 Does anyone have any questions or comments about that?

11 DELEGATE KILGORE: I'll make that motion.

12 DELEGATE BYRON: Second.

13 DELEGATE HOGAN: Any discussion? All in
14 favor say aye? (Ayes.) Opposed, like sign? (No response.) All right. That
15 motion carries. That will be recommended to the full Commission.

16 Is Jerry here? Jerry Giles from VEDP, and we asked him to
17 sort of head this up with our Staff to make recommendations about how to
18 deal with the guidelines for this. I've asked Jerry to join us for that
19 discussion, if that's all right. We've got Jerry together with some folks from
20 UVA and Tech, plus some other people. I can tell you that they've done a lot
21 of work, and I want to thank Jerry and the other folks who helped with that.
22 I think what you've got in front of you are pretty good recommendations,
23 and I think there are a couple of issues that we need to zero in on. I do think
24 that these are detailed enough that you probably want to take them one at a
25 time; some of them will go very quickly, and some of them we could talk

1 about for an hour. I guess, if you could, just start with one and we could
2 work through them, and we can either approve them as we go or amend
3 them as we go.

4 MR. GILES: If you'll bear with me, I'll try to give
5 you a little information with respect to the process we went through, and I'll
6 get this up here and get it in front of you. I'm not going to read all of this to
7 you, but basically, as the Chairman has indicated, the University of Virginia
8 and Virginia Tech and VEDP were asked by Chairman Hawkins to basically
9 provide some advisory information or advisory support in helping the R&D
10 Committee of the Commission and help them get their arms around what
11 kind of framework elements you wanted to apply to this substantial over a
12 three-year period of time \$100 million dollars R&D funds.

13 Let's go to the next slide. I think there are some key points to
14 keep in mind, which were conveyed to us by Neal and then by Chairman
15 Hogan. The purpose of these funds quite clearly relates to time concerns and
16 transformation of the Tobacco Commission and across the Commonwealth.
17 It's not a fund that is there to replace National Science Projects in terms of
18 funding basic research. That's really the focus, as you can see up here on the
19 slide. I believe that's fully understood, and that's what those of us outside
20 the Tobacco Commission will try to support.

21 These are the names of the participants in this overall exercise,
22 and we've called ourselves the External Advisory Committee, for lack of a
23 better term, but we work very closely with the client side and the R&D
24 Committee, and this will give you an idea of how the process works.

25 MR. NOYES: If we could move to the specific

1 recommendations.

2 MR. GILES: Then we'll skip over this.
3 Framework elements, which basically there are 15 of those. Starting with
4 the grant applications, which you can see the definitions up here. The
5 question was raised in terms of how to frame what it is you want to do and
6 whether it should be a collaborative effort, the University of Virginia and
7 Virginia Tech and the other universities involved in each of these
8 applications. The recommendation is based on several interactions between
9 the external committee and the team, as you see here. Once again, the
10 commercialized end result.

11 DELEGATE HOGAN: At this point, the
12 recommendation, that's not required, although in many cases the impact or
13 the emphasis will be on research that will lead directly to commercialization,
14 and that's what is before us. Our universities will be involved, after a fair
15 amount of discussion. I think the recommendation is they're not required to
16 be involved, certainly not Virginia universities. I think that's the
17 recommendation in front of you. We can have a discussion about it or vote
18 on it, or we can do nothing about it.

19 MR. MAYHEW: Mr. Chairman, I would
20 recommend as we go through this if there are necessary changes that need to
21 be made, then we can recommend to do so if we need to, and if there are not
22 changes, we can go through it and do it at one time.

23 DELEGATE HOGAN: I think you're going to see
24 some changes; it might be easier to keep track of them as we go along. Is
25 there any discussion on this, or do you like this recommendation? Do you

1 want to make any changes?

2 DELEGATE KILGORE: Basically what we're
3 saying here is that you're going to have a great degree of flexibility in the
4 application?

5 DELEGATE HOGAN: Yes.

6 DELEGATE KILGORE: And input.

7 DELEGATE HOGAN: Yes. The
8 recommendation is not to lock down with having a bunch of requirements.

9 DELEGATE KILGORE: I understand.

10 DELEGATE HOGAN: Are you going to make
11 that motion?

12 MR. NOYES: I'd like to make a point to members
13 of the Committee. There may be instances where no university at all would
14 be involved and we'll be dealing directly with the research arm or private
15 business. I just wanted to make that clear for the Committee.

16 DELEGATE HOGAN: Is that acceptable to the
17 Committee? Let's get that as a motion.

18 DELEGATE KILGORE: I'll make that as a
19 motion.

20 DELEGATE HOGAN: All in favor say aye?
21 (Ayes.)

22 SENATOR WAMPLER: Mr. Chairman, can we
23 provide a brief comment before we take a vote?

24 DELEGATE HOGAN: Does anyone need to
25 comment about that? All right. I'll just say as we move along on any of

1 these items, if any people in the audience want to comment, just move
2 forward to the podium so I know you want to say something, and we'll be
3 happy to hear from you. I don't mean to exclude anybody, but if you want to
4 say something, go to the podium when we get to the item you're interested
5 in; I'll be happy to recognize you.

6 DELEGATE BYRON: What Neal said, is that
7 going to be amended in there? He made a point of reference that people
8 were going to be, will people understand?

9 DELEGATE HOGAN: I think it is, from reading
10 at this point.

11 MR. NOYES: Let me say as a matter of
12 clarification to the members of the Committee that it is possible for a private
13 sector partner to be engaged in research and/or development to come before
14 us and submit an application.

15 DELEGATE HOGAN: Why don't we take that as
16 an amendment to this recommendation? Do you want to make that motion?

17 DELEGATE BYRON: I'll make the motion.

18 DELEGATE HOGAN: The motion has been
19 made and seconded. All those in favor say aye? (Ayes.) Do you have that,
20 Ned?

21 MR. STEPHENSON: Yes, I think we get to
22 remove the uncertainty, it's not required.

23 DELEGATE HOGAN: We've got it in the
24 Minutes, and we'll have a draft for the full Commission.

25 Now, the next item, and this is a big one. We originally talked

1 about this just for energy, and I don't remember who on the conference call
2 made the comment, there may be a lot of other things other than energy that
3 would bear fruit to look at. This is a big issue. Do you want to include a
4 bunch of other areas? Do you want to stick to energy right now?

5 MR. NOYES: Mr. Chairman, I believe I made that
6 comment.

7 DELEGATE HOGAN: There is a list of other
8 things that are identified through the study, and if you would look at that.
9 When I was looking at this, if you open this up to everything under the sun
10 you're going to deal with, it's going to be awfully complicated. Maybe we
11 should look at it as a phase two and not phase one, because the other side of
12 that argument obviously is you don't want to exclude them from projects that
13 may be worth looking at because they're not energy-related. While energy
14 or Virginia is reasonably well-positioned energy-wise and probably better
15 positioned actually than in some other cases, then all these other issues may
16 be a real mistake. There is a list of other areas that are identified, and the
17 question is whether you want to open this up to five or six fields or stick
18 with energy. We talked about this last time.

19 DELEGATE KILGORE: Mr. Chairman, I think
20 we should be open to other things other than just energy. We don't want to
21 be left out of some things that might come up. For one thing transportation,
22 and we could spend all our money on that.

23 DELEGATE HOGAN: Do you want to amend
24 that one?

25 MR. NOYES: There was some concern that we

1 might remain focused on energy matters; it's a matter of emphasis, not
2 exclusivity.

3 SENATOR WAMPLER: Mr. Chairman, as a
4 further observation, I hope we'll make a motion at some point in this meeting
5 that we all keep the dollars to the Research Centers with the focus on energy,
6 and that would start our process.

7 DELEGATE KILGORE: We already did that.

8 DELEGATE HOGAN: Delegate Kilgore, do you
9 want to make a motion to strike out transportation, physical sciences?

10 DELEGATE KILGORE: Yes.

11 DELEGATE HOGAN: Do I have a second? Any
12 discussion on that? Jerry, do you have any problems with that?

13 MR. GILES: No, there is probably some
14 background person to deal with that.

15 DELEGATE HOGAN: If there is no discussion,
16 all in favor say aye? (Ayes.) Approve number two. Does anyone have any
17 comments from the audience about that?

18 UNIDENTIFIED: Approving all but
19 transportation?

20 DELEGATE HOGAN: Yes. Do you want to
21 come forward and give us your name?

22 MR. WEED: My name is Al Weed, Public Policy
23 Virginia. I'm here because a hundred million dollars is a lot of money for
24 energy but not a lot of money when you divide it by four. If we're looking
25 for the kind of things that this Commission is going to make a difference in

1 rural Virginia, I would think energy is the highest priority, the synergy that
2 comes from putting a lot of money in one focus, mainly energy. If you start
3 spreading it out on the pieces on that other slide you're showing, you might
4 lose the potential for synergy and the potential for learning from each other,
5 because these fields do not talk to each other, they're just interesting fields.
6 In energy everyone is talking and everyone is learning from each other, and
7 that \$100 million makes a big, big difference. I think it would be a mistake
8 to dissipate those funds.

9 DELEGATE KILGORE: Mr. Chairman, I would
10 say that's not the intent, and we intend to invest heavily in energy, but also if
11 something comes along like in biomedicine that we need to throw two or
12 three million dollars at to help, things of that nature, I think we ought to have
13 that opportunity. I think, as the Executive Director says, we should be very
14 focused on energy, or I believe that's what he said.

15 MR. WEED: I think that's a mistake, Mr. Kilgore.
16 Two or three million dollars isn't going to get you very far with bioenergy
17 or other fields, whereas that two or three million dollars could be a crucial
18 move when you've already spent \$70 million in the energy field.

19 DELEGATE HOGAN: Ladies and gentlemen,
20 you've heard the discussion back and forth. Do you want to see just energy
21 or go heavily on energy or do you want to include other fields?

22 MR. MAYHEW: I sort of agree with that idea to
23 take one and do it really well, and that might be better in the long run. It's
24 good to mention these others, but we might need to bring other people to the
25 table and grant applications and expecting money and this sort of thing. I

1 think maybe we need to simplify it and concentrate our efforts a little more if
2 we stay with energy. That's just my opinion.

3 DELEGATE HOGAN: Mr. Mayhew, I think
4 you've heard the comments I've made before, and we talked about it last
5 time, not to spread out too much.

6 MR. MAYHEW: I think you might mislead some
7 people, even though you put emphasis on energy, and that's kind of a vague
8 description. It might be that there might be an energy project that will not
9 come before you for a couple of years and in the meantime some of this
10 other stuff might pop up and look very attractive to you. You might be
11 tempted to go, well, since there's nothing big on the table right now, let's
12 track off to the side a little bit.

13 DELEGATE HOGAN: I am concerned about this
14 getting too dissipated, and we spoke about that last time. I'm wondering if
15 we can do energy, just energy right now, and let us get this program started.
16 Then, six months from now, if we get into a couple of cycles and look at
17 some things and as things are going along and if things come up, we can
18 certainly add them to the list.

19 DELEGATE KILGORE: My only concern is not
20 just to focus on energy. I certainly think that's very important. Two years
21 from now there may be a focus and we might be making headway in energy,
22 but I would hate to see us tie the hands of future Commissions. I don't think
23 anybody should have their hands tied up if something comes up when it
24 comes to looking at one of these other areas.

25 DELEGATE HOGAN: Can we do this, and this is

1 just an idea. When we get done with these guidelines and recommendations,
2 we will start going through this process with Staff and the people we have
3 looking at these issues, and we want these issues to roll right along and how
4 to deal with these things. What happens if we left the opportunity for some
5 people to come back to this Committee and had something that was not
6 energy and let the Committee at that point decide whether they want the
7 application to go forward or not, versus having them start going through the
8 process? In other words, have the Committee say we think that's worth
9 discussing or we'll even consider it.

10 DELEGATE KILGORE: The only thing I'm
11 afraid of is Staff will see that as a gatekeeper and they'll say we're not
12 recommending this, and I'm afraid if we shut the door in terms of it, I don't
13 want us to shut the door in terms of funding. I agree with focusing on
14 energy, so don't get me wrong.

15 MR. OWENS: I would agree with Delegate
16 Kilgore. I think we should be as flexible as possible and have ability to pick
17 and choose what's right at the time. Energy might not be right at the time
18 and some of these other things would be.

19 DELEGATE HOGAN: Secretary Bloxom.

20 SECRETARY BLOXOM: I think we're looking or
21 plowing new ground here, and this is sort of an open-ended process, and I
22 think maybe it would be better right now to focus on where we are and leave
23 some flexibility so that we can change and consider other recommendations
24 if it's appropriate, especially if somebody comes up with other
25 recommendations. But I would say focus right now on energy and do that as

1 sort of our beginning point for the future.

2 SENATOR WAMPLER: I thought we had
3 decided that at least two meetings ago we can revisit anything and energy
4 should be the major focus. However, as a trustee or a fiduciary of \$100
5 million, I don't know that we have the vision today to say a hundred percent
6 of those dollars should be spent on energy. The applications may prove
7 that's the most prudent investment, but I don't know today that we can
8 unnecessarily prohibit applications that may make total sense in years two,
9 three, four or five. I would associate my thoughts with that of Secretary
10 Bloxom, who I assume speaks on behalf of the Administration.

11 SECRETARY BLOXOM: Sometimes.

12 SENATOR WAMPLER: That we ought to
13 maintain the ultimate degree of flexibility.

14 MR. MAYHEW: I'd just make an observation.
15 Why would we necessarily be closing the door permanently on some future
16 action to open the door again, if you will, by saying right now we're
17 concentrating on energy? Even in three months from now something comes
18 along and we can say, well, we're going to change and open the door and
19 look at it at that time. I'll just say that at this point if we're going to focus on
20 energy but not say energy only and forever, there'll never be a chance to
21 bring something else back; we can change as we go.

22 DELEGATE KILGORE: All I'm saying is that
23 I've been around maybe too long, and as former Delegate Bloxom and now
24 Secretary Bloxom, things change around here all the time, and people
25 change. While I'm very comfortable with this group here today and taking

1 new projects on, I don't know who is going to be on this Commission three
2 or four or five years from now. All I'm saying is let's give ourselves some
3 flexibility and not close the door.

4 DELEGATE HOGAN: Secretary Bloxom, have
5 you got a motion in mind? I think what you said may come closer to, I don't
6 know exactly what you said, but people seem to agree with you more than
7 what I've heard other people say.

8 MR. NOYES: Focus on energy and emphasize
9 that, but not exclusively.

10 SECRETARY BLOXOM: That's where I think I
11 was going, and most of you, not exclusively.

12 DELEGATE HOGAN: I think we struck out
13 transportation; does that come as close as we can with what we're talking
14 about?

15 DELEGATE BYRON: Mr. Chairman, I think the
16 most important thing that we keep having to come back to is the charge,
17 investing in research and development programs that directly support
18 economic revitalization. As long as we or the Staff clearly has the charge
19 that this is going to be directly supportive of economic revitalization, then
20 we should be able to show how that is going to happen. I think that's where
21 the focus should be.

22 DELEGATE HOGAN: All in favor say aye?
23 (Ayes.) All right.

24 Number three, I think is self-explanatory. Does anyone have a
25 problem with that? All right.

1 Number four, we had a lot of discussion about this one. Does
2 anyone have an issue with that one? Is everyone all right with that one?

3 Number five, does anybody have a problem with that one?

4 Number six, minimum of 50 percent match from other sources.
5 Is everybody happy with that one?

6 MR. MAYHEW: Does this mean that's the only
7 way it can be accepted?

8 MR. NOYES: Mr. Chairman, there is always the
9 right of appeal before the Committee. This would be the standard on the
10 piece that I provided and which I assume is in the package, and those are
11 some of my thoughts on it. It asks that the Executive Director should have
12 the authority to return applications that do not evidence at least the one-to-
13 one leverage ratio. If we don't have it and stick to it, we'll get hundreds and
14 hundreds and hundreds of 100 percent applications. We want to deal with
15 serious relationships; that's the reason it's in there. Having that as the
16 standard does not preclude someone from coming in and appealing to the
17 R&D Committee who believes they deserve an exception. Will the
18 Executive Director have the authority to return an application that does not
19 meet the standard, members of the Committee?

20 DELEGATE HOGAN: The answer is yes, and if
21 they don't like it they can come back.

22 SECRETARY BLOXOM: If we have a standard,
23 that's the standard.

24 DELEGATE HOGAN: Any comments? All right.
25 I think seven is self-explanatory. Why don't we try to adopt

1 that group in a block, three through seven. Can I get a motion?

2 DELEGATE KILGORE: So moved.

3 DELEGATE HOGAN: All in favor say aye?

4 (Ayes.) That's three through seven. All right.

5 I think number eight is something that we should take a look at
6 that one real quick. We're going to try for commercialization, not pure
7 research, is what we're saying. Does everyone agree with that? All right.

8 Number nine, any questions on that one? All right.

9 Number ten. Ten is a tricky one, because it's hard to say how
10 fast we can do it, but the shorter the better, and I think that's the emphasis. I
11 think the emphasis on part of these discussions was the issue, we wanted to
12 put emphasis on projects that had a reasonable chance of creating wealth and
13 economic activity in a relatively short period of time. We would certainly
14 do those first and maybe other things later. Does that make sense to
15 everyone? All right.

16 Number eleven. If that's not self-explanatory, then Jerry can
17 talk about that one. What that means and what it's saying I was not familiar
18 with. Why don't you explain that?

19 MR. GILES: Basically what we're talking about
20 here is not necessarily the National Science Foundation model but the model
21 that is here, and some of that is research. What we're suggesting is that there
22 would be three sets of representatives suggesting the two largest, Virginia
23 and Virginia Tech and one other rotating to balance that out. To balance it
24 out with non-Virginia and out-of-state representation. To make it as
25 transparent and as robust as you can. Universities might have applications to

1 go with that effort as well. The private sector, that could be involved as
2 well. Capital firms with a national reputation for expertise in particular
3 areas and corporations would have a direct investment in almost any venture
4 capital calculation. We've used some of those before, like Johnson and
5 Johnson.

6 Key issues for me personally is bring in that kind of horsepower
7 to assess the commercialization issues. Is the market ready for it, the cost to
8 set all this up? Are you aware of all the complications and technology
9 issues? Is the money out there? There are people who do this and do it well.
10 Then, if you desire it, to have representation from various agencies. That
11 recommendation is not intended to be heavy in academics or heavy on
12 anything else. I hope that will be helpful.

13 DEPUTY SECRETARY HAMMOND: Would
14 you anticipate the membership being tied to whatever the proposal is, or
15 would you have this membership pre-established and then the panel would
16 review all applications? Then, the second question is consulting fees,
17 consulting fees for members of the panel.

18 MR. GILES: The answer to your question
19 basically is that we envision kind of having a set representation, and UVA
20 can nominate who they want to do it, the same would be true with Virginia
21 Tech. Basically these people would have an annual seat. If we have
22 applications that pass through the first screening process, and the Staff and
23 this particular panel involved need to have subject experts outside of, outside
24 expertise represented on the panel, then the model would accommodate that.
25 That would be a very brief engagement, and take a look at this and we'll get

1 back to you next week, or something like that.

2 DELEGATE KILGORE: I'm a little concerned,
3 not doing anything wrong with using Virginia Tech or Virginia, and if they
4 would review their own application that wouldn't look good. We need to
5 have a little bit of cover there so they're not necessarily approving their own
6 application or something that will benefit that university. I hope we'll put
7 something in there that will look out for that situation.

8 DELEGATE HOGAN: We talked about that last
9 time.

10 MR. WALTERS: My name is Bob Walters. I'm
11 Vice-President for Research at Virginia Tech. We would not be involved in
12 evaluating our own proposals. Even though you're focused on energy, there
13 may be times to bring in outside expertise. There is no question that our
14 goal is to help revitalize the region.

15 DELEGATE KILGORE: I was just saying we
16 don't want to do anything that doesn't look good.

17 DELEGATE HOGAN: Does that clarification
18 help? Any more discussion about that?

19 DR. FOWLKES: I'm Rachel Fowlkes at the
20 Higher Ed Center in Southwest Virginia, Abingdon. I think the Center
21 representation of five groups need to be involved with the review panel, and
22 we have to have some piece because we have the original knowledge of how
23 the commercialize center could fit into our economy in other spaces in our
24 facility. I think on the review panel we'd need to have some input.

25 DELEGATE KILGORE: I'd say ex-officio.

1 DELEGATE HOGAN: Is that an amendment?

2 DELEGATE KILGORE: That's an amendment.

3 DELEGATE HOGAN: Ex-officio?

4 MR. NOYES: But not all of them for every
5 project.

6 DR. FOWLKES: If you come to Southwest
7 Virginia, we should be on it --

8 DELEGATE HOGAN: -- How about this, as part
9 of the application you designate the Energy Center to sit on the panel ex-
10 officio if you as the applicant want to? Not necessarily all the projects are
11 going to be tied to one of these Centers.

12 DELEGATE KILGORE: Why don't we have the
13 Commission designate which Centers are ex-officios?

14 DELEGATE HOGAN: Okay. That's a good idea.
15 Does that solve your problem?

16 DR. FOWLKES: Yes.

17 SECRETARY BLOXOM: Did you all consider,
18 when you say colleges, did you all consider private schools as well as public
19 schools, like St. Paul's? You could consider them as a third university.

20 DELEGATE HOGAN: I don't think we
21 contemplated any private schools.

22 MR. GILES: We didn't contemplate that one way
23 or the other. From our perspective we tend to look at the state colleges and
24 universities as a group we can identify.

25 SENATOR WAMPLER: Mr. Secretary, speaking

1 to Secretary Bloxom's point and touching on this problem about three out-
2 of-state universities as panel members, primarily what school or university
3 we would choose from. Then speaking to Secretary Bloxom's point, if we're
4 going to go outside of the research institutions in Virginia, I don't know why
5 we would necessarily want to exclude private colleges and universities if we
6 find the expertise there.

7 DELEGATE HOGAN: Are the standards okay
8 with St. Paul?

9 SENATOR WAMPLER: If that's an analogy you
10 want to construct.

11 MR. GILES: I think our recommendations, the
12 out-of-state piece, is more for public than private universities.

13 SENATOR WAMPLER: Well, according to what
14 Secretary Bloxom says, we don't want to tie our hands unnecessarily if we
15 find that expertise either inside or outside of public or private --

16 DELEGATE HOGAN: -- You want to make that
17 as an amendment?

18 SECRETARY BLOXOM: Yes, inside or outside.

19 DELEGATE HOGAN: That's the motion. Is there
20 a second? All right. All those in favor say aye? (Ayes.) Okay. You've got
21 that, Ned? All right.

22 We've got that amendment to deal with Dr. Fowlkes' issue.
23 Commission Staff would designate a Center to serve as ex-officio. So we've
24 got those amendments that we've adopted. We've finished ten. We need to
25 do eleven.

1 Have we adopted those amendments?

2 DELEGATE KILGORE: I'll make that motion if
3 we haven't.

4 DELEGATE HOGAN: All in favor say aye?
5 (Ayes.) Opposed? (No response.)

6 Number twelve, is that self-explanatory? Do we need to talk
7 about commercialization? Does anyone want to talk about that?

8 MR. GILES: Basically we put that piece in there
9 in terms of the competition.

10 DELEGATE HOGAN: We've got twelve and
11 thirteen. Fourteen, we've had a discussion about that. That's in the
12 recommendation and covers what I heard from this Committee and other
13 folks. Any questions about that one? All right.

14 Fifteen, I believe, is self-explanatory. I guess we should get a
15 motion for twelve, thirteen, fourteen and fifteen in a block. It's been moved
16 and seconded we consider these in a block. All in favor say aye? (Ayes.)
17 Opposed, like sign? (No response.) Have you got that, Ned? I'll clarify it if
18 you need to later, Ned. All right.

19 Jerry, do you want to jump back to the budget and talk about
20 that a little bit?

21 MR. GILES: This is the tag end as of July 13th.
22 We've already talked about the competition issue, the Committee has seen
23 that. These are the important issues as you go ahead. I don't know if the
24 Commission ever had to deal with the legal issues related to the project and
25 whether they caught themselves in a situation where they really didn't have

1 the right contracts and didn't have the right license agreement for that
2 technology. That's what this is all about.

3 DELEGATE HOGAN: We've already done that
4 wrong.

5 MR. GILES: Been there and done that. We're
6 suggesting this become part of the operating agreement and guidelines. Part
7 of it is the vetting process, where you actually cut a check or authorize the
8 Staff to fund this particular project.

9 DELEGATE HOGAN: I'd like to say something
10 about the IP's. I don't know if we talked about this in the Executive
11 Committee, but Neal suggested that it seems to be prudent for the
12 Commission to hire somebody to look after the IP interest. That can be
13 funded through the administration budget, and I don't know if we need to
14 take that to a motion today. I don't know if we want to adopt something that
15 doesn't say that intellectual property that we have supported would be for the
16 benefit of the tobacco region. My fear, and I think maybe all of us have the
17 same fear, and we've seen it before, when you get IP caught up in a higher
18 educational institution and we've paid to develop something and you've got
19 to buy it back, if you want to use it. I don't know how that furthers our
20 interest for commercialization and economic development to pay for
21 something twice. The higher institution people, they like IP. What I suggest
22 is that those discussions are technical and legal in nature and we want to be
23 very careful or we're going to find ourselves having purchased something
24 that we can't use for whatever we want to use it for.

25 SENATOR WAMPLER: I don't think you were

1 on the Commission at the time we first attempted a joint venture and we
2 wrestled with this very question. I think then the Attorney General said that
3 we had challenges as a Commission receiving any for-profit proceeds from
4 commercialization. The thought at that time was that we would create a
5 foundation, if you will, to be the repository of those proceeds. I agree with
6 your point, and I think it's more complicated than us trying to resolve it at
7 the table today with regards to the spirit. I suspect that we as a Tobacco
8 Commission, if we provide a third of the leverage in the project, we ought to
9 have some type of expectation of receiving a pro rata share, whether it's a
10 foundation that the General Assembly creates or a designated --

11 DELEGATE HOGAN: -- I think you're right,
12 William, I think it's too complicated, but something can be worked out on an
13 individual basis. My concern is that if you have a business that comes into
14 this area and develops a project with a higher education institution and they
15 develop some IP and they need to run their business. My feeling is that as
16 long as our goal is economic development, I don't want them to have to go
17 buy the IP back from the higher education institution so that they can
18 function. If they want to move that business to South Dakota, maybe they'll
19 have to buy it back. As long as they're operating in the footprint and we
20 approve this application for that development, I'd kind of like not to have to
21 buy that twice and then triple that business development. I don't know how
22 to say that in a motion. I think most people would agree with what I'm
23 saying. We've got to figure out how to be real clear to the Staff and to our
24 legal counsel that we won't accept something different from that.

25 MR. FERGUSON: Mr. Chairman, Neal and Ned

1 and I and others have talked about this concern as we go forward with the
2 project. Senator Wampler is absolutely right. We did wrestle with this a
3 couple of times in the past. He's also correct that the state entity or the
4 Commission itself may not be the best repository of owning intellectual
5 property. It's like Mid Atlantic Broadband; we have to let people operate the
6 Broadband system. Ned and Neal and I have talked about this. One of the
7 ideas was to create a foundation type of entity or something like that that
8 would hold title to the property, or at least the piece that the state would
9 need or the Commission and that would be representative of the
10 Commission's efforts to the process. Certainly, and I don't claim to be an IP
11 expert, but I'm fairly confident that our licensing agreement on IP would
12 take into account the kinds of concerns that you just expressed, that a license
13 could be granted and the duration and cost of that license would be tied to
14 other factors where that license would be exercised.

15 MR. NOYES: Mr. Chairman, I will be bringing
16 before the Executive Committee a request for a letter of agreement to hire
17 counsel for R&D and that I be instructed to go forward on that. I had
18 thought about using the R&D account rather than the administrative account
19 to pay for that. For the record, I wanted to clarify that. I'll be doing that
20 next Wednesday and will be asking permission from the Executive
21 Committee to develop a letter agreement for this purpose.

22 DELEGATE HOGAN: What about adopting a
23 motion or a line that says it's the intention of this Committee or the
24 Commission that the IP that is developed in conjunction with this program
25 be for the benefit of economic development for this area and that the IP

1 agreement is entered into as part of the proposal will accommodate that
2 structure. Or in other words, I'm not worried about a foundation getting
3 money and if we work hard put some money together and then all of a
4 sudden having to buy it back. Maybe I'm wrong, and maybe we could get
5 some of the money back, and what we're trying to do is develop this. How
6 do we say that? Maybe we don't want to say it, and maybe we don't need to.

7 MR. FERGUSON: My understanding of the sense
8 of this discussion is that any intellectual property developed in the course of
9 these projects, to the extent that some portion of that development is the
10 result of Tobacco Commission investment the results of that work and the IP
11 that is developed, would be for the benefit of regions served by the Tobacco
12 Commission. That any use of that IP would be licensed accordingly. We
13 can work out the details of that. This would have to be worked out on a
14 case-by-case basis. There'll be different things involved, but that motion
15 could be made to clear that up.

16 MS. NYHOLM: I have a question about the first
17 paragraph and how that might be modified and cover the flexibility that
18 you're looking for. Does the first paragraph say that the parties to the
19 application have to identify what they're bringing to the application? You
20 might amend that to say that as part of the application that they specify how
21 the IP development would be handled. Then you can decide whether they're
22 adequately commercializing the area by any company anywhere or to be
23 held with the university or how you might want to address that, because it's
24 disclosed in the application, and then you'll have to work it out coming
25 forward.

1 MR. NOYES: That's reasonable. That can be part
2 of the application itself. The applicant can specify their intention at this
3 position of the IP.

4 DELEGATE KILGORE: I'll make that
5 amendment.

6 DELEGATE HOGAN: All right. We've got that
7 amendment. Is there a second?

8 SECRETARY BLOXOM: Would you say that
9 again?

10 DELEGATE HOGAN: That the IP dispensation is
11 part of the application. They have to tell us whether we can enter into the
12 discussion. That's part of it, and we have to make sure that we won't have a
13 problem that we've had in other places. We've got the amendment with a
14 second. All in favor say aye? (Ayes.) Opposed? (No response.)

15 SENATOR WAMPLER: Without trespassing on
16 the issue of where this Committee is going, there is something to say; and
17 cash can be a good thing, and it can be a problem. If we monetize, there are
18 other ways of reinvesting. For one, you can turn them into scholarships and
19 not have to worry about distribution of U.S. dollars and find a way to
20 maximize that. I'd like to find an institution of higher education that
21 wouldn't be interested in IP profits back into the cause of education. And
22 that's just a thought.

23 MR. MAYHEW: If we went along with that, I
24 wonder how much of that or what percentage we could buy scholarships?

25 DELEGATE HOGAN: IP? We have \$100

1 million.

2 MR. MAYHEW: If the IP has value and you put
3 that into scholarships, how much overhead cost would you have, or where
4 would it go?

5 SENATOR WAMPLER: That was just a thought.

6 MR. MAYHEW: I think it's a good thought.

7 MR. NOYES: The Committee needs to adopt a
8 motion that authorizes the Executive Director to reimburse for actual
9 expenses incurred in getting the assistance here. The estimate is \$400,000 a
10 year, and I can assure you that every quarter I will report on how that has
11 been paid out. There needs to be a motion authorizing the Executive
12 Director to do that.

13 MR. MAYHEW: I so move.

14 MR. NOYES: That's from the R&D funds.

15 MR. OWENS: I'll second that.

16 DELEGATE HOGAN: With idea in mind that
17 you'll report back to the Committee quarterly. If the Committee thinks it's
18 too expensive, we'll deal with it then.

19 DELEGATE KILGORE: Does that include the
20 attorney fees we talked about?

21 MR. NOYES: No, that would be extra. That
22 would be a separate expense, but in the letter agreement the Board would see
23 where that would be.

24 DELEGATE KILGORE: We'd have to approve
25 that at a later time.

1 MR. NOYES: Correct.

2 DELEGATE HOGAN: Any questions on that
3 one? We've got a motion. All in favor say aye? (Ayes.)

4 MR. NOYES: Mr. Chairman, I believe it's very
5 important for the five R&D Centers that have been supported by the
6 Tobacco Commission to be clear on what the rules of the road are and where
7 our funds are involved in leveraging other funds with regard to their
8 sustainability. There are three ways, and I've put this in, and folks haven't
9 had a chance to read it yet, three basic ways that the five R&D centers can
10 sustain operations over the long run. The Commission can provide ongoing
11 support beyond the three years that we're recommending as a result of
12 today's meeting. R&D Centers can charge rent for facility use, that's one
13 way. The most important way, in my view, indirect costs that are normally
14 incorporated in research budgets can be used for operational expenses.
15 Commission funds are being used to leverage up other funds. My
16 recommendation is that the Commission, with regard to the total project as a
17 single source of funds, allow indirect costs to be consistent with whatever
18 percentage is approved by the other funder, not segregating ours. If there's
19 \$20 million and someone else is putting in \$20 million and the indirect cost
20 allocation is 10 percent, \$4 million would be available for ongoing
21 operations to sustain these costs. Whatever the third party establishes as the
22 indirect cost allocation ratio, all programs could do this. The Department of
23 Energy, the Department of Defense --

24 DELEGATE HOGAN: -- Let me ask you a
25 question. The Commission sets this up and establishes an operating budget,

1 and what you're saying is that we're going to use federal guidelines, and they
2 haven't put money into doing these Centers or operating them. What I'm
3 trying to say in a roundabout way is I'm not sure I like that one too much.

4 MR. NOYES: There has been a lot of pushback
5 from the Commission historically for providing funds for operations, and
6 research is a different animal that requires people. Unless the Commission
7 is willing to support things long-term, then there are really only three places
8 where money can come from. Rent, which isn't going to pay a lot for many
9 people; ongoing Commission support, or indirect cost allocation ratio as
10 established by the third-party funder. Is it possible some folks could get to
11 be in really good shape because of this? They could. It's possible, and I
12 think that would be marvelous, and they could expand their R&D.

13 DELEGATE HOGAN: Could we do it this way,
14 maybe? We establish an operating budget and discuss this sometime later.

15 MR. NOYES: I think so.

16 DELEGATE HOGAN: Let's see how it works and
17 let them make some proposals before we start that.

18 MR. NOYES: This is not a matter that needs to be
19 decided today or recommended, but it is a serious issue for all of these R&D
20 Centers unless we're willing to support them ongoing.

21 DELEGATE KILGORE: You can make a
22 proposal about how you feel it should go.

23 MR. NOYES: I'll be happy to do a pro forma on
24 it, but not for the July meeting, maybe the October meeting. Some of these
25 folks, they're making application in August or September for federal funds,

1 so I think October will be our timeline for deciding this. Some of these are
2 going to include actual line items in the indirect costs.

3 DELEGATE HOGAN: I think it would be
4 worthwhile to look at that as the applications come through and we'll get a
5 better idea.

6 MS. NYHOLM: That's what I was going to
7 suggest, to have that as part of the application process and that they at least
8 disclose the percentage of funds that would go indirectly with an indication
9 of what that would be comprised of.

10 MR. NOYES: It would have to be a line item.

11 DELEGATE HOGAN: Does that suit everybody?

12 MR. STEPHENSON: I have a couple of
13 questions, if I may, in the interest of clarity, so we know what to do next.
14 Am I understanding clearly that what the Committee would like for the Staff
15 to do is to take these elements that Jerry's group has made and put them into
16 a suitable application document, disseminate it to the public and fix a
17 deadline for its return, which we would then assemble and deliver to Jerry's
18 team? Is that the pathway?

19 DELEGATE HOGAN: In the short-term to take
20 the recommendations as amended and write that up as guidelines and have
21 the full Commission approve it. Then at that point we can start some of the
22 things we're talking about.

23 MR. STEPHENSON: Not to be a smart aleck, but
24 to answer the specific question you asked, that's what's got to be done
25 between now and next week.

1 SENATOR WAMPLER: Ned chooses his words
2 carefully every time, and I want to thank you for that. What concerns me
3 about what Mr. Stephenson said was Jerry's team. Earlier I asked the
4 question as to what we may agree with when it came to the other institutions.
5 I want to make it very clear that we would be the ones who appreciate the
6 Partnership putting together a team, but we would want the ability to see
7 who they placed on the team before they actually start.

8 MR. STEPHENSON: I think one thing we need
9 here in terms of the review panel that we discussed earlier, I have lots of
10 questions about who sits on the panel, who appoints them, how long they sit
11 there, what are their voting rights, what are their terms, how many people are
12 at the table, and what are their duties, and some by-laws as to how they will
13 function, and what the relationship is to the Commission. I think we need to
14 flush those things out for you to look at so that you're satisfied about in-state
15 and out-of-state and who all is at the table. You need to know that and need
16 to know where the control lies.

17 DELEGATE HOGAN: The relationship between
18 Jerry's team and the Commission is that they are advisors and we're buying
19 advice from them; that's implicit in everything we talked about. In terms of
20 who is on that committee and exactly how it would work or function, I guess
21 what I'm saying is that, number one, the way I understand it is that there is
22 going to be some people who are static and some people coming and going,
23 depending on the project. I guess what I'm asking is that if they're going to
24 make a recommendation back to this Committee and the Committee
25 approves or doesn't approve the project, it gives us a check. I'd sort of make

1 a suggestion, without, and I don't want to make this too complicated. They
2 put together this team so let them work around, and then at that point if we
3 don't like who is on the team and you don't like what they're doing, you've
4 got an adequate chance to adjust that, versus trying to create another
5 Commission, is what I heard Ned say.

6 SENATOR WAMPLER: I don't know where you
7 want to go with that, but I just have to disagree at this point and say that the
8 Commission, either through its Director or through a smaller group, should
9 have the ability to look at who is examining the application. I don't know
10 that I want a third party team a sole entity to determine who is reviewing the
11 scope of work.

12 DELEGATE HOGAN: Would it be acceptable,
13 then, to have as part of this recommendation, I don't think we can put all this
14 together by next week, or maybe you can, if we go ahead and adopt the
15 guidelines and put together a team and have that team approved by the
16 Commission.

17 SENATOR WAMPLER: I would like to have our
18 Director make a recommendation and say this is the panel to review and
19 meet the objectives that we set forth.

20 DELEGATE HOGAN: Jerry, can you get it done
21 by next week?

22 MR. GILES: In terms of the individual names,
23 that's very difficult.

24 MR. NOYES: You really need to do it case-by-
25 case, because in terms of institutions and in terms of the types of institutions

1 and what persons sit as ex-officios with this review thing, ultimately it's the
2 Committee that will recommend and the Commission will approve.

3 SENATOR WAMPLER: Mr. Chairman, I would
4 just say that the Commission works pretty well with its citizen members and
5 legislative members and gubernatorial members, and it's pretty broad-based,
6 and I think there's a lot of strength in that. I'd like for us to have a couple of
7 folks doing this, and I don't want the entity to be the selector for all the
8 positions, and that's all I'm saying. It's not that big of a deal, but I'd like to
9 make sure that we buy into the folks who are going to be reviewing the
10 subject. We have this Partnership on the team and bring them together,
11 bring them back to us and let's look at who it is that they're suggesting.

12 DELEGATE HOGAN: What's the feeling on the
13 Committee?

14 DELEGATE KILGORE: I think so.

15 DELEGATE HOGAN: I hear what you're saying,
16 and I think I agree with you, but we have to accomplish it.

17 MR. NOYES: It can be presented to the Chairman
18 and Vice-Chairman of the R&D Committee, and they can give it the green
19 light.

20 SENATOR WAMPLER: I would like the whole
21 Commission to at least take a look at what the framework is that they're
22 about ready to set in motion.

23 MR. OWENS: The whole Commission.

24 SENATOR WAMPLER: Ned's point is well
25 taken, and this is complicated, and it takes a lot to put together; if we don't

1 have buy-in, we'll be right back where we were.

2 DELEGATE HOGAN: If you take the general
3 recommendations to the full Commission next week, and I'm going to
4 assume that would be approved, at that point we'd be ready to put those
5 recommendations out into guidelines and start accepting applications. At
6 that point we're going to need this entity to start reviewing this pretty
7 quickly. At what point in the process do you want us to accept or not this
8 committee?

9 MR. STEPHENSON: My thought would simply
10 be that the constitution of that committee would be known as to what
11 institutions are at the table, and not necessarily the names of the individuals,
12 but just so you know who is seated and how many. Once the Commission is
13 comfortable with that, when the applications have come and it's put in order,
14 they would be delivered to VEDP, and they would run with it, and you'd
15 already know who is at the table.

16 DELEGATE HOGAN: I understand that, but what
17 I'm trying to figure out is if you want that committee approved by the full
18 Commission, that would be October, which means we won't be able to get
19 applications considered until October, which is up to the Commission.
20 That's what we're saying.

21 MR. STEPHENSON: I think Jerry has the essence
22 of the constitution on that list there.

23 DELEGATE HOGAN: Can you get it ready by
24 next week? How about that?

25 MR. STEPHENSON: It needs a little work on it,

1 and I can work with Jerry and get it into a form.

2 DELEGATE HOGAN: Maybe you can get
3 together and try to get it by next week and the recommendations to the full
4 Commission and get it approved.

5 DELEGATE KILGORE: If for some reason
6 something comes up and you can't, I would suggest the full Commission
7 give that authority to the Executive Director, who can work with this group;
8 that way we can move forward. I don't want us to stop and don't do
9 anything.

10 DELEGATE HOGAN: It would better if we could
11 get it done next week.

12 MR. STEPHENSON: We'll work to get it done,
13 yes.

14 DELEGATE HOGAN: All right, does anyone
15 have anything they wish to say? All right, thank you, Jerry, we appreciate it.

16 Now, public comment, does anyone feel compelled to say
17 anything at this point? I don't mean that the way it sounded, but would
18 anyone like to address the Committee? All right, thank you all for coming.

19

20 PROCEEDINGS CONCLUDED.

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24 CERTIFICATE OF THE COURT REPORTER

25

1 I, Medford W. Howard, Registered Professional
2 Reporter and Notary Public for the State of Virginia at large, do hereby
3 certify that I was the court reporter who took down and transcribed the
4 proceedings of the **Virginia Tobacco Indemnification and Community**
5 **Revitalization Commission Research and Development Committee**
6 **Meeting when held on Tuesday, July 21, 2009 at 1:00 p.m. at the Hotel**
7 **Roanoke, Roanoke, Virginia.**

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

10 Given under my hand this day of August, 2009.

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22 My Commission Expires: October 31, 2010.

23 Notary Registration Number: 224566