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**VIRGINIA TOBACCO INDEMNIFICATION AND COMMUNITY
REVITALIZATION COMMISSION**

701 East Franklin Street, Suite 501
Richmond, Virginia 23219

Executive Committee Meeting
Wednesday, October 27, 2010
5:00 p.m.

R. T. Arnold Library
South Hill, Virginia

1 **APPEARANCES**

2

3 The Honorable Terry G. Kilgore, Chairman

4 The Honorable Frank M. Ruff, Vice Chairman

5 The Honorable Charles R. Hawkins, Chairman, Emeritus

6 The Honorable Kathy J. Byron

7 The Honorable Joseph P. Johnson, Jr.

8 The Honorable Mary Rae Carter

9 Deputy Secretary of Commerce & Trade

10 The Honorable Daniel W. Marshall, III

11 The Honorable Edward Owens

12 The Honorable Philip P. Puckett

13 The Honorable W. Roscoe Reynolds

14 The Honorable William C. Wampler, Jr.

15 The Honorable Thomas C. Wright

16 **COMMISSION STAFF**

17 Mr. Neal Noyes, Executive Director

18 Mr. Ned Stephenson, Deputy Executive Director

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

20 Ms. Stephanie S. Kim, Director of Finance

21 Ms. Sara Williams, Grants Coordinator, Southwest Virginia

22 Ms. Sarah Capps, Grants Coordinator, Southside Virginia

23 Ms. Stephanie Allman, Program Administrator

24 **COUNSEL FOR THE COMMISSION**

25 Mr. Francis N. Ferguson, Esquire, Counsel for the Commission

1 October 13, 2010

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4 DELEGATE KILGORE: I'll call the meeting of
5 the Executive Committee to order and I'd ask Neal to call the
6 roll.

7 MR. NOYES: Delegate Abbott?

8 DELEGATE ABBOTT: (No response)

9 MR. NOYES: Delegate Byron?

10 DELEGATE BYRON: Here.

11 MR. NOYES: Deputy Secretary Carter?

12 DEPUTY SECRETARY CARTER: Here.

13 MR. NOYES: Senator Hawkins?

14 SENATOR HAWKINS: Here.

15 MR. NOYES: Delegate Johnson?

16 DELEGATE JOHNSON: Here.

17 MR. NOYES: Delegate Kilgore?

18 DELEGATE KILGORE: Here.

19 MR. NOYES: Delegate Marshall?

20 DELEGATE MARSHALL: Here.

21 MR. NOYES: Mr. Owens?

22 MR. OWENS: Here.

23 MR. NOYES: Senator Puckett?

24 SENATOR PUCKETT: Here.

25 MR. NOYES: Senator Reynolds?

1 SENATOR REYNOLDS: Here.

2 MR. NOYES: Senator Ruff?

3 SENATOR RUFF: Here.

4 MR. NOYES: Senator Wampler?

5 SENATOR WAMPLER: Here.

6 MR. NOYES: Delegate Wright?

7 DELEGATE WRIGHT: Here.

8 MR. NOYES: Mr. Chairman, you have a
9 quorum.

10 DELEGATE KILGORE: Do I have a motion we
11 approve the minutes of 7/28/10?

12 SENATOR PUCKETT: So moved.

13 DELEGATE KILGORE: It's been moved and
14 seconded, all in favor of approval of the minutes say aye.
15 (Ayes). Opposed. (No response). Next is the reserve fund
16 report.

17 MR. STEPHENSON: Mr. Chairman, this is an
18 update for the Committee. I simply want to present to you
19 some of the statistics. In your reserve fund you may
20 remember this has been running for a little over a year now. It
21 essentially is a program in which the Commission will make
22 an offer to make a grant provided that the applicant can give
23 proof that he has obtained a match. Very quickly, there's
24 some statistics on the board. We've had 100 applications flow
25 through the reserve program and we've approved half of those

1 that we've received. Of the half we have approved, about 40
2 percent of those cannot prove their match and they expire
3 unused. We have some other entries there you can see. Of
4 note is the number on the far right hand side. Of the offers
5 that have been accepted, 33 of them for \$34 million. The
6 match money or hard proof that we have \$83 million, your \$34
7 million shook \$83 million of other funding sources for use in
8 the Tobacco Commission region and that's a pretty good ratio.
9 In this particular case, that \$83 million is not smoke because
10 we have signed commitments in the file indicating that they
11 are hard commitments.

12 A couple of things we've learned from the use
13 of the reserve program Mr. Chairman, that is hard proof of
14 matching money is scarce. People speak of matching money,
15 they hope for it and they intend to get it but actually getting it
16 is hard. We still have, according to the numbers before you,
17 we have 10 offers outstanding. That means we've made the
18 offer and they're trying to secure a match. I think there's two
19 of those that have technically expired or the length of time
20 they have and we'll give them a little bit more time if they're
21 making an effort to get it but those 10 are still outstanding.
22 The last number on the page indicates that you have a balance
23 in the fund of about \$3 million. Of the two that have expired,
24 they're added to the pot and adds about \$5 million, making \$8
25 million in your reserve program. I think Mr. Chairman the

1 director may want to talk to you at this time about the future
2 of the reserve program.

3 DELEGATE KILGORE: Is it a successful
4 program?

5 MR. STEPHENSON: Yes, and those
6 representations of matching money will have to be proven
7 before we would move forward if that happened.

8 MR. NOYES: Mr. Chairman and members of
9 the Committee it's been successful not only in leveraging a
10 significant amount of money and if nothing else, it provides
11 fiscal stimulation in the Tobacco Commission footprint. We
12 suggest that this approach, this is going to take a lot of
13 pressure off the money committee who would have seen these
14 projects more certainly or many of them almost certainly and
15 decide who wins and who loses. I think it's successful in that
16 regard as well.

17 What you're seeing up there is the three
18 million available and you have applications pending for an
19 amount that exceeds the available resources at this time. As
20 happy as I am with what this program has accomplished, I
21 would say to the Committee that the opportunity that
22 presented itself with ARRA with the federal stimulus package
23 where we were remarkably successful in securing large
24 amounts of money for the broadband program. That program
25 has ended. The panel that considers these projects will not

1 commit any further funding beyond the available balance and
2 that's a moving balance. I ask the Committee that further
3 applications be suspended at 5:00 o'clock on Friday. No
4 further applications for the reserve program will be taken after
5 5:00 p.m. this Friday.

6 DELEGATE KILGORE: What would we do with
7 a caller that came in before that?

8 MR. NOYES: Some of the commitments the
9 Commission has made extend out into the winter and they
10 have six months to produce the evidence that Ned referred to.
11 When all of them have produced or failed to produce that there
12 is a positive balance, I will advise the Executive Committee
13 and you will determine how to use those funds. If there's a
14 negative balance then we don't do a good job of spending
15 money that we don't have. I need direction from the
16 Committee and we need to advise the full Commission of this.
17 There's no money so we can't spend it. Do we need a motion?

18 MR. FERGUSON: I would suggest that there's
19 no requirement for a motion. I would suggest that a more
20 formal action, motion by this Committee recommending to the
21 full Commission that would probably carry more weight and
22 allow the staff to say to disappointed applicants that this fund
23 has ceased.

24 DELEGATE KILGORE: Do I have a motion
25 that we direct staff?

1 SENATOR RUFF: I move that we suspend as
2 of Friday the 29th of October the reserve fund.

3 DELEGATE KILGORE: It's been moved and
4 seconded by Senator Puckett. Any discussion? This fund is
5 suspended as of 5:00 o'clock Friday, October 29th. Senator
6 Ruff's motion is October 29th at 5:00 o'clock we cease taking
7 applications for the reserve fund. All in favor say aye. (Ayes).
8 Opposed. (No response).

9 MR. STEPHENSON: Mr. Chairman on page 53
10 in your book there's some statistics about the TROF program
11 and I want to comment a little bit about that. If the
12 Committee would indulge me I wish to just expand on the
13 TROF program a little bit and help everybody understand how
14 it works.

15 To date we've seen about 350 TROF
16 transactions as it appears today in your book on page 53.
17 Forty percent of those that have come to us and the deal never
18 makes it. Localities go through the dance, make applications,
19 you approve it and send it all up and for whatever reason it
20 never happens. Of those that do happen and are disbursed,
21 about half of them deliver what they promise. The other half
22 either repaid some money because they fell short or they
23 negotiate some relief or they flat out default on their
24 obligations. These are not good numbers but I want you to
25 know that this is what's happened in the TROF program but

1 its gotten better. These are alive today and I think probably at
2 your next meeting we probably need to report something like a
3 five year trailing number because some of the early deals had
4 a lot of problems and we need to get those off of our ledger.

5 I want to talk to you briefly if I may, about the
6 two primary objectives of the TROF program that is jobs and
7 investments. All of these jobs promise them hundreds of jobs
8 and \$10 million. You know that we routinely go to the Virginia
9 Employment Commission and recheck Virginia unemployment
10 tax returns filed by the employer that lists the names and the
11 salaries and the headcount who's on the payroll and we use
12 that to compare it to the promise that was made. That is
13 pretty failsafe information and we find there's often a pretty
14 big gap between promises and what shows up on the tax
15 returns and we're enforcing those at a 100 percent level. The
16 other promise made in these contracts is for capital
17 investment. I'll tell you that capital investment is not defined
18 anywhere. Everybody that makes that promise has their own
19 definition of what that is and it's pretty broad. We've been
20 struggling with this for some years and in the last year or two
21 we have written into the contracts the capital investment is
22 what shows up on the Commissioner of Revenues books in the
23 county. If it doesn't show up there, it doesn't count. The
24 theory is, it's not of any value if you don't get a tax based
25 creation from it. A lot of money is spent on things that are a

1 long way from home that are not capital salary and other
2 things that don't show up. We're using capital investment as
3 what shows up on the Commissioner's books. I bring that to
4 you by way of information and this is a little bit of a change
5 that's been going on now for about two years and the localities
6 are adjusting to this but it certainly makes it easier for us to
7 determine what is on the Commission's books so we know if
8 they are performing on their promise or not.

9 MR. OWENS: The non-profit would show up
10 on the Commission's books?

11 MR. STEPHENSON: Correct.

12 MR. OWENS: How do you engage with a non-
13 profit.

14 MR. STEPHENSON: The performance
15 agreement that the recipient of the money signs says clearly
16 that the capital investment promise of \$10 million or whatever
17 it is that they promised will be measured by taxable assets
18 assessed by the local Commissioner of Revenue. Ed is aware
19 of one case where the grantee signed it and later on we
20 discovered that entity is a tax exempt entity and it's not
21 possible for them to invest in taxable assets. They had to
22 know that when they signed the agreement and that has not
23 yet been fully adjudicated. We're trying to figure out what we
24 must do in that particular case. I'm happy to discuss it if you
25 want to.

1 DELEGATE MARSHALL: Do we have any non-
2 taxable?

3 MR. STEPHENSON: That's the first one I've
4 seen.

5 DELEGATE KILGORE: On page 53 a mature
6 partial performance number 26, 3.733150, is that the total
7 amount of TROF reward that we gave those 26 projects?

8 MR. STEPHENSON: Yes.

9 DELEGATE KILGORE: Of that total amount of
10 TROF they wouldn't be in default 3.733 or a portion of that?

11 MR. STEPHENSON: If they did a partial
12 performance and made a partial refund, \$1.120.

13 DELEGATE KILGORE: Is that all the money
14 with the partial performance? Is that all the money that we're
15 due or is there some others?

16 MR. STEPHENSON: That's all the money that
17 we're due, however, you may remember that for a couple of
18 years we had some old contracts that were so poorly worded
19 and so difficult to administer you instructed staff to negotiate
20 fulfillment and in some cases we discounted.

21 DELEGATE KILGORE: You mean in the
22 Commission?

23 MR. STEPHENSON: The Commission
24 discounted the amount that was due and we reached an
25 agreement with the party and the party did what they said and

1 paid it and we closed them out.

2 DELEGATE MARSHALL: Ned, the jobs that
3 you talked about so they have three years or a three year
4 window to meet that job requirement?

5 MR. STEPHENSON: Yes.

6 DELEGATE MARSHALL: Three years ago the
7 world was a lot different than it is today and they had all due
8 intentions of meeting them three years ago and the air has
9 been let out of the balloon here so that must have been a
10 problem.

11 MR. STEPHENSON: It's a problem and many
12 promises were made under different economic conditions than
13 exist today. In many of those cases we have either granted an
14 extension or it appears they're making progress and will
15 ultimately get there or we've negotiated a discounted
16 settlement to try to accommodate the fact that the economy
17 went flat. It presents a difficult question because the promise
18 did not say I'll create 100 jobs if the economy holds up. It
19 says I'll create 100 jobs and if they didn't, they didn't.

20 SENATOR REYNOLDS: I'll just point out that
21 when I sign a 90 day note at the local bank they don't care too
22 much what happens with the economy. They expect their
23 money back.

24 DELEGATE KILGORE: On that same page Ned
25 you have mature and default.

1 MR. STEPHENSON: We have 27 TROF
2 contracts that have reached their three year clock. They are in
3 default and they have not delivered the jobs they promised nor
4 have they delivered a refund they promised and they're
5 hanging out there in a default status.

6 DELEGATE KILGORE: Have any of them
7 performed or do we know?

8 MR. STEPHENSON: Yes, we know and some of
9 them have partially performed but I call them in default until
10 such time as they have either delivered the jobs or settled with
11 me. If they are ignoring me, I call them in default. You may
12 know that a year or so ago the Committee authorized us to
13 create a list of in default localities, freeze disbursements to
14 those localities until cured and I can tell you that nothing you
15 have done has been more effective and that list is almost non-
16 existent now.

17 SENATOR PUCKETT: A lot of good cussing
18 too.

19 MR. STEPHENSON: That's true. I'm going to
20 move on a little bit.

21 DELEGATE KILGORE: This year we have at
22 our last meeting, how much investment have we made?

23 MR. STEPHENSON: Two and a half million
24 dollars and some 800 jobs if the promises hold up, that's
25 pretty good.

1 DELEGATE MARSHALL: The US Green
2 Energy, his comment was that the reason he's in the tobacco
3 region is because of the Tobacco Commission. He's the only
4 one that said it.

5 MR. STEPHENSON: Mr. Chairman, I've given
6 you some guidance and the Committee on this topic if you'd
7 indulge me for a minute. I'm going to give you just a sample
8 request that comes to us and you might have a sample TROF
9 request that comes to us. You might hear someone say that
10 they were promised \$320 or \$30 million investment. We take
11 that and locate a number of factors surrounding that promise.
12 Notice on the left hand side these factors are the same
13 regardless of where that TROF deal is placed in the tobacco
14 region, the same everywhere. On the right hand side these are
15 localities that are specific. In other words, you get more credit
16 if you will or more TROF money where there is higher
17 employment or where there is a low prevailing wage rate.

18 DELEGATE MARSHALL: What is the stress
19 index?

20 MR. STEPHENSON: The fiscal stress index is
21 a complex formula that's done by the Commonwealth every
22 several years and it basically reflects the extent to which the
23 locality is managing its tax base and contributing to
24 development in that county. We have some high stressed
25 counties in our area. The reason I put this before you is

1 because often we will have a TROF applicant looking at two or
2 more jurisdictions and the question always comes how much
3 will you offer and the answer is different depending upon
4 which community is asking. In the case of the 320 jobs that I
5 just put before you and I just, so I just took two of our
6 communities which shall remain unnamed and ran the math
7 and the award. One county will be 950 in the award and the
8 other county would be \$1.3, that's a material difference. The
9 reason I bring this before you is that I want to ask the
10 Committee's guidance if you want us to differentiate as
11 between communities or whether you want us to make it the
12 same thing for everyone.

13 DELEGATE KILGORE: I don't have a problem
14 with that because if a county has more fiscal stress after you
15 go through the formula and the job would be more beneficial
16 in county B than A and there's more money to pass through
17 there, I really don't have a problem with that.

18 DELEGATE MARSHALL: What about the
19 Governor's Opportunity Fund. Is that the same scenario
20 fiscally?

21 MR. STEPHENSON: Danny, when we first
22 started these awards, we mirrored the Governor's Opportunity
23 Fund. Some four or five years ago we stopped doing that and
24 went with your independent program and often we don't look
25 at the Governor's Opportunity Fund, they do it differently.

1 DELEGATE MARSHALL: Would they have
2 given county A less money than county B?

3 MR. STEPHENSON: I don't want to evade your
4 question and I can't speak for what the partnership does but I
5 assume you've seen it both ways, I don't know what their
6 policy is.

7 DELEGATE KILGORE: What's the issue or
8 problem? I see the \$350,000 issue.

9 MR. STEPHENSON: I think the issue, Mr.
10 Chairman, is that if we offer \$950 to one county and a million
11 three to another county, it could make it difficult for
12 Commissioners who are approving these, how come they get
13 more than we do and that could get started and once that gets
14 going, it produces a lot of unproductive conversation. If it is
15 the choice of the Committee that you want for them to be the
16 same, we'll fix the math so they'll always be the same and
17 there will not be any consideration for local issues such as
18 unemployment and we'll take those out of the equation.

19 SENATOR HAWKINS: The formulary is still
20 functioning for certain counties?

21 MR. STEPHENSON: It does. If you put
22 everything in the situation even though you're dealing with
23 small counties and you have the flexibility to deal with the
24 small counties. If we use the formulary that we've always
25 used going to larger counties then if you deny them access to

1 some flexibility with more money, they're penalized again. I
2 think leaving something that has the flexibility is better
3 overall.

4 DELEGATE WRIGHT: I would agree with
5 Senator Hawkins 100 percent, that's not the first time. Let me
6 just say that it's an excellent idea and I'll make a motion to
7 that effect to show some consideration for communities under
8 stress.

9 DELEGATE KILGORE: You're saying leave it
10 like it is?

11 DELEGATE WRIGHT: Yes.

12 DELEGATE KILGORE: Then that requires no
13 action.

14 MR. STEPHENSON: Just for clarity, the quote
15 smaller counties doesn't enter into this. It is unemployment
16 rate, fiscal stress et cetera and that can be true even in the big
17 counties.

18 SENATOR HAWKINS: But the idea today of
19 having flexibility to deal with problems that you would not
20 have if you used a strict formula.

21 MR. OWENS: Is it true that you can only get
22 three TROF grants per year per county?

23 MR. STEPHENSON: Three awards per fiscal
24 year per locality unless this body makes it more than three.

25 DELEGATE WRIGHT: So the way it currently

1 is, no motion is necessary and we'll continue to operate it as it
2 currently is? For the staff and the Commission, would it be
3 better with a motion showing that we do consider that an
4 important factor?

5 MR. STEPHENSON: I'm satisfied with your
6 acknowledgement.

7 MR. NOYES: If I may members of the
8 Committee, where this is going to get a little problematic is
9 when we're working with another state agency and they say to
10 the company as part of this incentive package, to have you
11 come to the Commonwealth, we can offer you this in this
12 community and this other amount in this other community.
13 Let me tell you we'll hear a lot about that from our partners.
14 There's no easy answer to that.

15 DELEGATE KILGORE: I think we'd get a
16 better bang for our buck if we have a high unemployment area
17 and jobs going there, we're paying out on the other end. We're
18 paying out on the other end anyway.

19 MR. NOYES: Continuing on the present basis
20 is just fine with the understanding that this is not a simple
21 matter. This is going to complicate life.

22 SENATOR HAWKINS: Mr. Chairman, if the
23 investment is important enough, we'll have to appropriate
24 more money.

25 MR. NOYES: I'll mention they should talk to

1 you.

2 DELEGATE WRIGHT: Mr. Chairman, based on
3 what Ned said about the future, maybe some feedback but I
4 think we ought to make sure that we are allowing the staff for
5 telling them that if you want to do it, that doesn't require a
6 motion, that's fine.

7 DELEGATE KILGORE: I think everybody
8 sitting here certainly has counties both ways, I think maybe
9 we should leave well enough alone.

10 MR. STEPHENSON: Absent your instructions
11 to the contrary, we're going to continue as we are.

12 MS. CARTER: What is the vetting process for
13 companies that come to you for TROF? Do you use your own
14 vetting or do you rely on the localities for vetting purposes?

15 MR. STEPHENSON: Mary Rae, in the early
16 years if it was unclear as to who bore the duty of vetting. We
17 found that when there was a default, everybody at the table
18 would shrug their shoulders and say it's not my problem.
19 Come to find out, there wasn't any vetting going on. Five years
20 ago this Committee changed the contracts to say that the
21 county and the beneficiary were jointly and severally liable for
22 repayment of the grant. That caused the counties then to
23 have to vet the deal to make sure that they were safe in
24 making this transaction. Currently that burden falls upon the
25 county.

1 I would tell you that some counties, if they
2 have vetted a transaction found it to be shaky that required
3 the beneficiary to supply the county with a letter of credit, a
4 commercial letter of credit guaranteeing their performance.
5 That has been very effective in many cases if the company
6 supplied the letter did not perform. We got repaid and the
7 county did not get hurt. In some cases where companies are
8 asked to supply a letter of credit and they cannot, it is my
9 opinion that you have your answer there. You don't want to
10 do the deal because that means they've gone to their bank and
11 can't get it and that means it has a very high probability of
12 failure.

13 One last item Mr. Chairman, when we make
14 approval for a TROF transaction, we issue a written approval
15 with certain terms in it to the recipient and those written
16 approvals contain this sentence and I'll read it to you, "The
17 Commission requires that any announcement regarding this
18 grant may be made only with prior authorization from the
19 Commission." That's a condition under which the award is
20 made. I bring this to your attention because there are
21 frequently announcements made with the Tobacco
22 Commission mentioned or not mentioned where we don't know
23 about it until we read it in the newspaper and you guys who
24 need to be involved, who need to be present and don't get a
25 shot at it and you are often and justifiably irritated when that

1 happens. I guess I'm saying to you that we've put it in the
2 contract. So if you want us to enforce it then the enforcement
3 is that if the announcement occurs without running it by us,
4 we're not going to disburse it and they're going to be hanging
5 out there. I don't think you want to do that.

6 DELEGATE KILGORE: Folks need to be aware
7 of that, that's the way it can be played out if they sign an
8 agreement. Somebody needs to be there with those
9 announcements; at least that's what I think.

10 MR. NOYES: It's uniformly done. It's not just
11 one or two jurisdictions.

12 MR. STEPHENSON: We often get a call we've
13 got this cued up for an announcement tomorrow morning at
14 10:00 o'clock and do you all want to participate. We scramble
15 trying to get a hold of you. I just bring that up as a point of
16 information. If the Committee wishes us to withhold
17 disbursement, you should tell us to do that.

18 DELEGATE BYRON: You're talking about
19 TROF?

20 MR. STEPHENSON: No, I'm talking about
21 TROF but also other grants.

22 DELEGATE BYRON: I've seen announcements
23 the day after our meeting and it might be helpful to bring it up
24 during the Commission meeting tomorrow and make sure
25 those in attendance would be wise to not run home and talk to

1 their favorite reporter.

2 DELEGATE MARSHALL: This is a public
3 meeting and the public is sitting here but the meetings we've
4 had in the past the press shows up and they're sitting there
5 and they read everything that we have. This is not an
6 executive session.

7 DELEGATE KILGORE: I think what we're
8 talking about is that when these announcements are made
9 somebody from the Tobacco Commission ought to be there.

10 MR. FERGUSON: This is a problem with TROF
11 grants because unlike the other grants that is provided by the
12 Commission, that is done in a closed session or it's done by a
13 small committee and it doesn't have the publicity involved
14 because of the nature of the TROF.

15 MR. STEPHENSON: I'd like to ask if Craig
16 Horn is present, Buchanan County. Come up Craig.
17 Members of the Committee, we have an unusual situation in
18 which one of your TROF contractors, we've been in a fact
19 finding mode. We believe we have the facts of what happened
20 and there's a resulting liability from Buchanan County to the
21 Commission. Today Craig Horn wanted to come and speak to
22 you about that. There are some notes in your book on page 50
23 that gives you some indication of what happened so I'll yield
24 this to Craig.

25 MR. HORN: It was a good drive from

1 Buchanan to South Hill. I brought this board here to
2 illustrate my point. There's \$1.1 million on this project to run
3 a trunc sewer line from my property and we own 3,000 acres
4 and that's the property we're developing. It's a mix use
5 property. We applied to your program for the \$1.1 and we
6 matched \$1.9 million to build the trunc line and sewer line.
7 At that time we were recording prospects. We signed that
8 agreement that Ned's been talking about for a performance of
9 400 jobs and a \$10 million investment. That was three years
10 ago. Our agreement comes due next month sometime and
11 we're not going to meet it, especially on the investment side.
12 Buchanan County IDA signed the agreement because the
13 tenant would not sign the performance agreement. This
14 tenant has never signed the performance agreement. They
15 told us they wouldn't do that. The reason we did it and only
16 reason we did it is because of the new park. At this time
17 there's nothing there but a road, water, sewer, broadband.
18 Only property that was developed, this is a service member
19 property that's been released from the permit. So we felt like
20 get somebody there, a company looking pretty heavily for a site
21 and we probably should do a little bit more. We have the rest
22 of the money in place and we spent another \$4 or \$5 million.
23 Just in this area where the company is would be right here.
24 We spent another \$3 or \$4 million on other sites here with
25 utilities and improvements; right now as of today, over 300

1 employees. One of the issues that's been brought up during
2 the same time that we brought the employees up in Buchanan
3 County and supposedly Wise County has actually went down,
4 same company. When I talked to Ned I told him that may
5 affect us if we have to pay the money back, how much, how
6 much we have to pay back.

7 DELEGATE KILGORE: What's the Wise
8 County number?

9 MR. HORN: Wise County number of
10 employees that work for Sykes for the same quarter went down
11 when ours went up over a year's period of time. We went up
12 245 according to VEC, those are the numbers that Ned got
13 going down 199 at the same time. We're about an hour and
14 35 or 40 minutes apart. Route 83 through Dickenson County
15 is the only county in Virginia that doesn't have four lanes. We
16 don't think we affected Wise County numbers but we
17 understand the agreement we signed three years ago may
18 affect that. We feel that there probably is 400 and most likely
19 maybe 350 sometime within a couple of months.

20 DELEGATE KILGORE: What are they now?

21 MR. HORN: A little over 300 with 40 or 50 in
22 training. In two or three months it will be 350. All those
23 people that don't make it, it's a pretty high percentage. Now,
24 on the investment side to give you guys' numbers, the
25 Executive Vice President sat down and came up with the

1 numbers and we told them to put the number of \$10 million in
2 and that's not going to happen. We have to go back and
3 assess it. The money we invested doesn't count. Right now I
4 think we're at \$6.4 taxable assets so we're going to miss that a
5 little bit. That's about \$193,000 on that side of it that we
6 probably have to pay back. We're willing to do what we have
7 to do but it doesn't affect us on things we're doing in other
8 places. I was hoping that you guys would, that you'd do the
9 same kind of projects in your communities. We use this
10 money for the trunc sewer line as there is 3,000 acres and we
11 did not use it specifically on that site. I'm hoping you guys
12 can help me out someway with this because we've got some we
13 haven't drawn down that we need to do next year in the spring
14 or summer.

15 DELEGATE KILGORE: On page 50 it says
16 Buchanan's liability is 36/400, what does that mean?

17 MR. STEPHENSON: That means the promise
18 was 400 employees. Fact shows there are 46, 46 out of 400
19 resulting in a liability of \$486,000. I need to know Terry that
20 the 46 employees is the net employment gain for the two
21 entities in Wise County and Buchanan County. The TROF
22 contract provides that you cannot get the TROF incentive for
23 moving employees from one location in Virginia to another.
24 When we look at employment, we look at the net employment
25 in Virginia. If you take them out of one county and put them

1 in another one, it doesn't count.

2 DELEGATE KILGORE: I don't think they're
3 going to be driving from Wise to Buchanan.

4 SENATOR PUCKETT: Mr. Chairman, I've
5 driven that road more than I'd like to. Unless somebody can
6 show me from VEC or somewhere these are actually
7 employees, I understand Ned's figures, the net number but
8 there's no way in the world if you go to look at the site today in
9 Buchanan County 300 plus, that's exactly what is there. The
10 people up on the hill and you can go up and count them. To
11 say Buchanan County shouldn't get credit for 325 or 300 or
12 whatever it is, is not fair to Buchanan County to say that you
13 all took them from Wise County. They didn't do that; you
14 can't get there from here. They don't make enough money to
15 afford to drive like that, a roundtrip everyday. It's physically
16 impossible and they would not do it because of what it would
17 cost them to do it. I'll sort of confess I don't understand that
18 language in that contract. It says if you move them around
19 because that literally just has not happened in Buchanan
20 County. They should be given credit for the number they have
21 in Buchanan County and I don't believe Sykes has transferred
22 them. If I'm in Wise and Sykes comes to me, and says we're
23 going to move you to Grundy, I'm going to say thank you and
24 I'll look somewhere else because I'm not driving to Grundy
25 roundtrip five days a week. Keep in mind the hours that you

1 drive, you don't have an 8 to 5 job. I don't know how we got
2 46 but like Craig told you all, these numbers and they're
3 accurate. I'm going to tell you that they don't steal employees
4 from Wise. If the VEC can document that, say that other than
5 just looking at numbers, then I would accept it but they can't
6 do that. They don't know.

7 MR. STEPHENSON: That is correct. VEC
8 doesn't know where they're located.

9 SENATOR PUCKETT: Mr. Chairman, we do
10 know that there are 300 plus people in southern gap right
11 now.

12 DELEGATE KILGORE: Within two months
13 there will be 350?

14 SENATOR PUCKETT: I'd say there will be a
15 few less than that because you won't know that until you get
16 through with this.

17 MR. HORN: I talked to Carl Snodgrass at
18 Buchanan County with another person that came to the
19 meeting. He said he would check. He said he was pretty sure
20 that didn't happen. I don't have a letter but it's my
21 understanding he drafted a letter to explain the situation from
22 Wise County and it has not affected us. We did have one
23 person move in the beginning because this moving from
24 assistant ID person to the director of IT in Buchanan. He
25 actually moved. It was a move up for that person. Other than

1 that, that's the only person I know of.

2 SENATOR WAMPLER: An observation to the
3 Committee. I would have to concur with the analysis. It
4 would be hard from a monetary standpoint to decide to change
5 a job location from the County of Wise to the County of
6 Buchanan and that probably would be anywhere from an hour
7 to an hour and a half so that premise is very hard to believe. I
8 don't even think VEC can justify that even if that was the case
9 Mr. Chairman. The question I wanted to ask Craig is can you
10 bring your map up a second? I want the Committee to
11 understand that you're on top of a mountain in the green area
12 there and that's a former surface mine area. If you look in the
13 lower right, the black box that is where Sykes is located. I
14 think I'm doing all right so far. How much has Buchanan
15 County received or put in as an investment as a result of
16 Sykes being the anchor tenant? That green there where you
17 call southern gap, what do you think the total investment of
18 that facility at that park would be?

19 MR. HORN: So far we've got about \$25 million
20 in it.

21 SENATOR WAMPLER: Mr. Chairman, my
22 point is that when that park was developed, the economy was
23 going along pretty well and they've made some significant
24 investments and unfortunately the geography requires us to
25 pump water from the bottom of the mountain to the top of the

1 mountain and then on the other side have a pressure
2 reduction valve so we don't blow the lines out. That's why you
3 have a cost of \$25 million to improve that property but if it
4 were not for Sykes, I'm not sure that we would have that \$25
5 million investment. It does not justify the exact agreement
6 that Ned speaks to but if it wasn't for Sykes, we wouldn't have
7 the \$25 million investment as it exist today.

8 MR. HORN: That's right.

9 MS. CARTER: I have driven from the site in
10 Wise to the site in Grundy and I agree with Senator Wampler
11 and Senator Puckett that there is no way, that the people are
12 not going to or not for the money, they're just not going to do
13 it. I had a conversation last week about the site in Wise.
14 What they do in Wise is totally different from what they do in
15 Buchanan County, totally different. I don't think there's any
16 job shifting along those lines.

17 DELEGATE KILGORE: The total investment
18 by Sykes is \$6.5?

19 MR. HORN: \$6.4.

20 DELEGATE MARSHALL: You told us about
21 the investment but how many jobs have been created other
22 than Sykes in the park?

23 MR. HORN: In the park, nothing else in the
24 park right now. We're still building and improving the
25 utilities. By next year all the utilities should be in. Next

1 spring we start with the utilities and then we have to get the
2 roads fixed so people can have access to the property.

3 MR. STEPHENSON: Mr. Chairman, I observe
4 that in some cases, and I don't know if it's true of Sykes but in
5 some cases it is possible to move the company's work from one
6 location to another without moving the company's people from
7 one location to the other and maybe only Sykes would know
8 the answer to that. If they downsize one area and cranked up
9 the other, the people didn't move but the work did.

10 DELEGATE KILGORE: Mary Rae, you seem to
11 know more about it.

12 MS. CARTER: I would agree with what Ned
13 says. In Wise County they have a very, very tight scripted
14 contract. Everyone in Wise County work for one contractor.
15 The criteria for hiring people there is almost to the point of
16 extreme. They require heavy, heavy background checks. You
17 can't hire these people without background checks and they
18 have to be certified. The fact that any of that would occur is
19 unlikely. I do know they just purchased another company, I
20 think it's 30,000 or 35,000 additional jobs. They're extremely
21 pleased with the workforce they have in Wise and Buchanan.
22 I personally, especially after being able to talk to them in Wise
23 County. I think you're probably going to see people working in
24 Virginia a little more. There's a possibility they'll be increasing
25 the number of jobs at one of those sites.

1 DELEGATE KILGORE: We need to get rid of
2 this issue somehow so Craig can sleep at night and Ned can
3 sleep at night and so I can sleep at night.

4 SENATOR PUCKETT: I don't want to speak
5 out of turn here but Craig mentioned the class of employees
6 and I tried to step up and do what's right here. It might be
7 good to explain what that number is if the Commission feels
8 comfortable in doing that and then we'll know exact figures.
9 Buchanan County has said we're going to pay whatever we
10 owe but I think in fairness to them if we go through this and
11 we're willing to accept the numbers, let's see what the new
12 class does and we'll know that probably the first of the year.

13 MR. HORN: Where they got that number –

14 SENATOR PUCKETT: Craig and I grew up –

15 MR. STEPHENSON: - Mr. Chairman, in this
16 particular case, which is unusual, Sykes is not party to the
17 contract and it's difficult to demand any information from
18 them.

19 MR. OWENS: The performance agreement
20 says it has to be done in 36 months?

21 MR. STEPHENSON: Yes.

22 MR. OWENS: We need to figure from 9/28/10
23 how many people are employed there at this time and it would
24 be three years from that date?

25 MR. STEPHENSON: Yes, sir.

1 DELEGATE KILGORE: A little over 300.

2 MR. OWENS: Then how many people were
3 there from 9/28/2010?

4 MR. STEPHENSON: Mr. Owens, what we can
5 tell with certainty is the net employee count at Sykes,
6 Incorporated. VEC does not know where they are located, they
7 simply know what the total count is. We would depend on
8 local intelligence how many are in each place.

9 MR. HORN: The total number in Virginia
10 meaning Wise and Buchanan.

11 MS. CARTER: Mr. Chairman, I don't have a
12 problem contacting the officials and asking them to help us
13 with that if that would help. He's a senior vice president for
14 the company.

15 DELEGATE KILGORE: Is he located in Wise?

16 MS. CARTER: Yes, he moves around.

17 MR. OWENS: Do we concede the fact that they
18 invested \$6.5 million?

19 MR. HORN: Yes, at the time we signed the
20 agreement. Obviously there is much more incentive than
21 there is now.

22 MR. OWENS: But counting the investment at
23 \$6.5?

24 MR. HORN: Yes.

25 MR. OWENS: So that's not the issue, it's just

1 the jobs.

2 SENATOR PUCKETT: Mr. Chairman since
3 Mary Rae has offered to at least to try to find that out, why
4 don't we let her do that and we'll resolve that issue when she
5 gets that information.

6 DELEGATE KILGORE: Then we'll put this off
7 until January? It's fine with me.

8 SENATOR PUCKETT: Then the alternative is
9 to accept the figures that Craig said and get rid of it. I'm
10 willing to do that if somebody wants to make that motion.

11 MR. HORN: I'll tell you the people that are
12 there are being paid and they're employed.

13 MR. STEPHENSON: There are several
14 possibilities here. One might be to ask the county if it is
15 willing, if it would promptly negotiate a settlement with us as
16 to the capital investment side which is known. That we give
17 an extension of a year's time together with Mary's efforts to get
18 a figure or find out how many people are there and give them a
19 chance to make the hurdle on the employment side.

20 SENATOR REYNOLDS: I so move.

21 SENATOR RUFF: Second.

22 DELEGATE KILGORE: It's been moved and
23 seconded, all those in favor say aye. (Ayes). Opposed. (No
24 response).

25 MR. CROWDER: I'm O. T. Crowder. I want to

1 thank you all on behalf of our Board for your support for
2 Appomattox. Because of the reserve fund we were able to
3 attract the funds to open the museum and we're ready to start
4 construction of our project. However, because of the nature of
5 the private funding and over a period of time say five years,
6 primarily the tax year, that about once a year will be deriving
7 cash funding from the fund, those funds are available to us to
8 spend. In order to begin construction in the fall, we need your
9 assistance for two items to make the money work. First we
10 have to take advances against the current grant that we have
11 more quickly for the first part of the project so we can meet the
12 cash requirements of our construction costs.

13 Secondly, we need to be able to use the
14 acreage that we purchased for the site and all improvements
15 to that site for collateral to secure the private loan to allow us
16 to bridge the construction costs.

17 DELEGATE KILGORE: Neal, do you have the
18 authority to do that?

19 MR. NOYES: I don't have that authority and
20 these are policy issues which is why I've asked them to come.
21 The construction costs recognizing the particular situation, I
22 would be happy to honor your instructions.

23 SENATOR HAWKINS: What's the time line and
24 with the 150th anniversary coming up and 460 all the way
25 across, I would certainly move that we give these folks the

1 flexibility they need.

2 SENATOR RUFF: Second.

3 DELEGATE KILGORE: I have a motion and a
4 second. Any more discussion on this? All in favor say aye
5 (Ayes). Opposed. (No response).

6 MR. NOYES: On the TROF matter, in talking
7 with Ned, we have commitments that exceed the available
8 resources. Ned can back me up here, for about \$1 million.
9 We have projects that have expired and we don't believe it will
10 go without the \$1 million so we think we're at the break even
11 point with the TROF program four months from the fiscal year.

12 MR. STEPHENSON: Yes, in October we're out
13 of money.

14 MR. NOYES: I would welcome a motion that if
15 you wish the TROF program to continue to perform, then my
16 motion is to move \$4 million from the unbudgeted amount
17 that we've already invaded.

18

19 NOTE: The meeting is interrupted by staff
20 from the library indicating a tornado is in the area.

21

22 MR. NOYES: \$8.35 million was not budgeted
23 but we invaded for it last year, I'm sorry, the current fiscal
24 year and the money is sitting there unbudgeted. I think we
25 need to move the \$4 million.

1 SENATOR PUCKETT: So moved.

2 SENATOR HAWKINS: Second.

3 DELEGATE KILGORE: We have a motion and
4 a second, any more discussion? All those in favor (ayes).
5 Opposed. (No response).

6 MR. NOYES: You should have in front of you
7 an email that was received yesterday morning from Dr. Berry
8 Johnson from UVA representing the Commonwealth Center for
9 Advanced Manufacturing. The proposal I emailed to members
10 of the Executive Committee. I think you've got hard copies
11 here and that is the result of the discussions that the Vice
12 Chairman, the Chairman and I had with the principles of
13 CCAM including Rolls Royce over the last six months. They're
14 seeking \$4 million which is different than the \$12.5.
15 Originally \$3 million which they're now seeking \$4 million
16 from us and the \$2.5 million that would be used for
17 construction purposes for the nonprofit CCAM research facility
18 to be located in Prince George County as part of the footprint.
19 The balance of the funds would be used principally as
20 described in this memo. This job would be dedicated to
21 advancing the company's interest in locating in the Tobacco
22 Commission area. More importantly in my view, I think also
23 Delegate Kilgore and Senator Ruff who share my view on this
24 is that they're prepared to work with the Tobacco Commission
25 to develop an advanced manufacturing and education program

1 and identified equipment overseeing the cooperation of the
2 private sector partnership. We are talking Siemens, Canon,
3 Rolls Royce and some other very, very well known business
4 people. In talking in particular with the Rolls Royce folks, the
5 labor profile is sufficient for the parts manufacturing facility
6 that I guess will be in the January/February timeframe and
7 they're already hiring and training people. Rolls Royce plans
8 to open and this is just one company, Rolls Royce, 30
9 production facilities over the next decade. Looking at our local
10 labor profile, they would say those aren't going to be in
11 southern Virginia because you don't have the folks trained in
12 the advanced manufacturing or with the advanced
13 manufacturing skills we would require. The same is certainly
14 true for other partner members of CCAM or of companies not
15 related to CCAM and must rely on advanced manufacturing.
16 This is the piece of this deal, which for me, I find most
17 important. That is beginning the process of resolving and
18 cooperating with the community colleges in advanced
19 manufacturing curriculum and then providing the equipment
20 to support that to get our labor force in line with other places
21 so we can have the opportunity to capture some of these very,
22 very fine employers. Is \$2.5 million out of the footprint,
23 they're matching this, they're matching us dollar for dollar and
24 it's not in that sense hugely unlike what we did for Massey. I
25 support this and I don't think it's going to get any better. We

1 need to tell these folks that we're prepared to work with them
2 or we need to end the discussions at this point. I welcome
3 comments of the Commission.

4 SENATOR RUFF: Mr. Chairman, obviously
5 with somebody outside the footprint causes some heartburn
6 but the reality is that Rolls Royce is the type of company that
7 can push and lead us into a new era. I've met with them and
8 workforce is their number one issue. We've got to change the
9 way we do workforce and unless we get serious, we cannot
10 compete so I would support this and I move we do.

11 MR. NOYES: Ned has in his pocket a motion
12 that would transfer \$4 million from the unbudgeted amount
13 we had used for the invasion to the budget of the Special
14 Projects Committee which is the next Committee that will meet
15 to consider a formal application. We do not now have a formal
16 application with the line items all filled out and with the
17 signatures that we would have to have. If it's your decision to
18 move this forward and move this \$4 million for this purpose to
19 the Special Projects Committee and they will meet in mid
20 December and we'll have a recommendation for the full
21 Commission at the January meeting.

22 DELEGATE KILGORE: Then they'd be able to
23 ask the perfect questions about this.

24 MR. NOYES: There's some little details that
25 have to be worked out. The broad structure of the agreement

1 is what you see here.

2 DELEGATE MARSHALL: The only question
3 that's really before us today is we move the \$4 million. You
4 still have to have special projects approval and they have to
5 say yes and then it will go before the full board?

6 MR. NOYES: Yes.

7 DELEGATE MARSHALL: We're not approving
8 this today, it's just to transfer the \$4 million?

9 MR. NOYES: I think Ned said it originally,
10 we're making this possible.

11 MR. STEPHENSON: You bring up a fine point
12 and that is, are we approving it today, yes or no and my
13 understanding earlier from conversations that what the
14 director was asking to do today is what?

15 MR. NOYES: What I'm asking today to be very
16 clear is that we move the \$4 million as I suggested to Special
17 Projects, that we get an application and there be a staff
18 recommendation that is just the same way we do with our
19 other programs. The Special Projects Committee will make a
20 determination whether or not to recommend for approval at
21 the January meeting.

22 MR. STEPHENSON: For clarity, the motion is
23 to increase the special projects committee budget by \$4
24 million.

25 SENATOR RUFF: That would be my motion.

1 MR. OWENS: Second.

2 DELEGATE KILGORE: Any discussion?

3 MR. OWENS: The full applications will go to
4 special projects and then go before the full Commission if it's
5 recommended from Special Projects.

6 MR. NOYES: If you're not willing to consider
7 this, then we don't need to move any money.

8 DELEGATE WRIGHT: I think you've asked a
9 good question. Well, as far as a vote, I feel that at this point I
10 don't have enough information to support it. It sounds good
11 but my questions would involve the support facilities that may
12 be built and so forth, where these support facilities will be
13 built. These are questions we should have answered first.

14 MR. NOYES: Let me lay the ground work for
15 that. The supply chain for the Prince George County campus
16 is a 20 year process and it's not something that's going to
17 happen in two years or three years or four years. There will be
18 companies that are part of that supply chain for whatever
19 reason will be in Tidewater, they'll be in North Carolina. Will
20 there be jobs coming into the region? Almost certainly but
21 nobody can tell you right now how many and when.

22 SENATOR HAWKINS: Call the question.

23 SENATOR WAMPLER: With that motion, I
24 think it needs to be very clear that we would invite an
25 application to the special projects committee because I don't

1 know that that deal is necessarily open. So along with that
2 transferring of dollars, we'd ask the Executive Committee to
3 approve and invite the applicant and invite the application
4 from CCAM. That may be the motion.

5 MR. OWENS: I would second it.

6 DELEGATE KILGORE: I have a motion and a
7 second, any more discussion? All those in favor of
8 transferring \$4 million to the Special Projects Committee to
9 invite CCAM to come and make an application, say aye.
10 (Ayes). Opposed. (No response).

11 SENATOR REYNOLDS: I was hoping that with
12 regards to paragraph five, that would make that applicable to
13 the tobacco region as much as anything else.

14 DELEGATE KILGORE: I think that's good.

15 MR. NOYES: The final matter, Mr. Chairman,
16 I was asked at the previous meeting to inform this Committee
17 on a program called the EB-5 Visa Program. I believe you
18 have a handout with large print pages prepared by the
19 Economic Development Partnership and that's part of a
20 Committee effort that Secretary Chang directed earlier this
21 year. The top sheet has a few points of emphasis.
22 Summarized foreign investors bring \$500,000 to the table to
23 secure permanent residency in the United States. They don't
24 do it for other reasons other than they get a green card. The
25 Commission's interest is in securing foreign direct investments

1 for economic revitalization purposes and there's no other
2 reason for the Commission to be involved. The Commission
3 would specify particular investment partners. For example,
4 the Commission might target bio refinery, bio communications
5 or telecommunications infrastructure, employment of solar
6 technology, healthcare facilities, the variety of economic
7 clusters that you can select is virtually infinite. They have
8 cruise ship tournaments, they have meat packing plants, they
9 have a huge number of things. It would be your responsibility
10 to identify what the areas of emphasis would be or the
11 economic development clusters. The Department of Homeland
12 Security has to approve the investment target. A regional
13 center which is nothing more than an aggregation of some
14 number of contiguous political subdivisions must be
15 designated and the Commission would do this and the
16 Department of Homeland Security would approve this for that
17 hunk of geography if one is a regional center. An entire state
18 could be a regional center and some regional centers are entire
19 states. Some are limited liability corporations. Those are
20 nonprofits. This is a mixed variety where you can go about
21 doing this.

22 A half a million dollars is the buy in for foreign
23 investors in rural areas. It's an aggregate of \$10 million that's
24 required. The Department of Homeland Security would, when
25 an EB-5 Visa is requested, it is responsible for finding that the

1 funds are not illicit, a minimum of 10 jobs must be created
2 within two years to reach a half million dollars. Both direct
3 and indirect jobs count and you can use any kind of formulary
4 you want to and Homeland Security will be happy to look at
5 this is my understanding on a portfolio basis. Your \$10
6 million will fund three different projects. Some of them create
7 10 jobs and some of them don't and you're still in good shape
8 and not in violation. There are two basic approaches. First
9 there is a specific project and the one I see most often is
10 looking at what other of these centers, regional centers have
11 done. One is hotel deals and Seattle does hotel deals and
12 Portland does. We can do a hotel deal in Prince Edward
13 County and things like that. We can do all kinds of different
14 things. It is for a specific project. The other is that you would
15 create an investment pool and then from that investment pool
16 low interest loans for equity investments are made.

17 SENATOR HAWKINS: What I've heard you say
18 and what I see on paper, what are we talking about
19 individually as a Commission going out and, we're going to be
20 in partnership with the federal government and looking for us.

21 MR. NOYES: The way it works is we contract
22 with an entity and set up a rural center and be responsible for
23 the paperwork and things like that and your cost is a quarter
24 of a million or \$300,000 as a one time expense to get a
25 turnkey operation. You've still got to decide what the hunk of

1 geography is and you got to decide what your economic
2 incentive is. Then you hire an SCC registered guy to go and
3 market this program in China or India wherever it is you want
4 it done. The broker/dealer makes his money to the surcharge
5 with the investors over and above their \$500,000 or like
6 \$35,000 per investor. That's how that person makes the
7 money.

8 SENATOR WAMPLER: I'll take a crack at it.
9 Senator Hawkins was my desk mate for a number of years and
10 I've learned to read you in various fashions. It's pretty easy
11 when Governor McDonald travels to a foreign country and
12 tries to attract investment. Many times it's in the hundreds of
13 millions of dollars and goes to other parts of the state. I think
14 what our director is trying to tell us, this is an opportunity to
15 look at the smaller investor and I think if we target that, I
16 think we have an opportunity to attract some of that foreign
17 investment either individually or in an aggregated fashion in
18 the rural parts of the state within the footprint. The federal
19 government has established guidelines and all we're doing is
20 putting structure around it and recognizing it and putting the
21 Commonwealth's good housekeeping seal of approval on it. I
22 would say it's just as important to get 10 jobs as it is a 100.
23 Let's do that 10 times in both regions and if our governor is
24 going to go out and sell the Commonwealth, we ought to give
25 him the tool from this Tobacco Commission to set up a

1 meeting that says we're going to accept foreign investment and
2 it's a heck of a lot cheaper for us to for programs like this than
3 it is for us to do our own trade mission to Germany or Asia or
4 any part of the globe. I kind of think that's where the director
5 is taking us on this one.

6 SENATOR HAWKINS: If we get into these
7 agreements, the ultimate decision on the location of funds will
8 have to go through the same process we have today.

9 MR. NOYES: We're not at that place yet where
10 we have decided what the geography is going to be and what
11 the areas of emphasis are. I really don't see a down side trying
12 this. There are not any of these regional centers in the
13 Commonwealth. We're not seeing foreign direct investments.
14 If we set one of these up, almost certainly there will be an
15 appetite because foreign investors want to, they want to send
16 their kids to a university in the United States but this is a
17 turnkey operation. We've got steps that we have to take and
18 then it is an RFP and we hire somebody that's done this
19 before, a law firm probably in Richmond and they would
20 supply all the paperwork to the rural center, they identify the
21 registered broker dealer and the broker dealer then goes and
22 says this exists and these are the rules. Give me your
23 \$500,000 here for a project or it's in a pool and they're buying
24 shares in the pool. I think it's a good idea and it's going to
25 require \$250 to \$300,000 to go through the RFP process.

1 SENATOR REYNOLDS: Can somebody explain
2 to me the details on how the first bullet works?

3 DELEGATE KILGORE: As far as I understand
4 it, it allows these foreign investors to get a Visa for their kid
5 where the children can come here to go to college.

6 SENATOR HAWKINS: It's a permanent Visa
7 and they're buying a green card for maybe a half a million
8 dollars.

9 SENATOR REYNOLDS: I wish I understood
10 that better.

11 DELEGATE KILGORE: I wish I did too.

12 MR. NOYES: But it's not something else.
13 Their \$500,000 has to be found to be clean. They apply for it,
14 they're going to get the green card and the only way they will
15 lose it is misbehave or if it doesn't create those 10 jobs within
16 two years and then the Department of Homeland Security can
17 withdraw the card. It's permanent residency in the United
18 States.

19 SENATOR REYNOLDS: The bullet says, "the
20 VEDP reports that the record of rural centers is spotty."

21 MR. NOYES: That's all I know. What has
22 happened is that they got in trouble with the Department on
23 particular projects not succeeded with the Department of
24 Homeland Security and green cards have been withdrawn.

25 SENATOR WAMPLER: Senator Reynolds, I

1 would only add to you that the inquiry or if you're going to
2 invest a half a million dollars or be part of a greater group, you
3 want to follow your investment, that's one of the reasons why
4 you have the federal government allowing the Visa to be
5 issued. The spottiness and under lessons learned from others
6 or states that tried it pretty loose and that's why Secretary
7 Chang is trying to say let's get focused to it and let's have a
8 reputable firm that's certified and not a fly by night operation
9 that would say send me money and you'll be eligible under the
10 EB-5. That's really why we're trying to put structure around it
11 from the state level so he goes and sells it where he'll say we're
12 a beacon in Virginia.

13 DELEGATE MARSHALL: If we move forward
14 on this, do we, how would we track the number of jobs? Do
15 we want to try to be specific for energy or software?

16 MR. NOYES: We decide what the economic
17 clusters will be the focus for this regional center and what that
18 will involve. As to tracking how many of the jobs actually
19 happened, the truth, Delegate Marshall, is that this is going to
20 rely on all kinds of econometric models and things of that sort
21 and I'm not sure that we will be able to tell you with any
22 certainty the number of jobs created.

23 DELEGATE MARSHALL: That's what I mean
24 by tracking. Do we want to make it specific for the type of jobs
25 as a software job as opposed to a –

1 MR. NOYES: - That's the option that you have.
2 That's what the Commission must decide. One would be
3 geography, what you want. The action item, if you want to go
4 forward, would be to move \$250,000 to \$300,000
5 administratively to the administrative line item so an RFP can
6 be issued. We're not going to do that ahead of doing what
7 Delegate Marshall suggests and having the geography defined.
8 That's the action item if you want to take the next step today,
9 its \$250 to \$300 thousand.

10 SENATOR WAMPLER: Mr. Chairman, if
11 there's a motion in order or be in order to recommend to the
12 full Commission tomorrow to move an amount between \$250
13 to \$300 thousand to work in partnership with the Secretary of
14 Commerce and Trade foreign investment, I would make it, an
15 amount up to \$300,000 if that's an acceptable motion.

16 SENATOR PUCKETT: Second.

17 DELEGATE KILGORE: I have a motion and a
18 second.

19 MR. NOYES: It goes to the administrative line
20 item.

21 MR. OWENS: Do we get to choose the type of
22 cluster?

23 DELEGATE KILGORE: There could be two or
24 three different kinds.

25 MR. NOYES: What I was prepared to do today

1 was to describe what the program is about and tell you what
2 the next steps are and it may be that if this Committee wants
3 recommendations from staff, maybe it wants a
4 recommendation from Special Projects or wants to have an all
5 hands discussion at the next Commission meeting.

6 MS. CARTER: We had Secretary Chang to
7 explain this to the Commission but he's actively working along
8 those lines. Peter Su and Jim Rhee are working along those
9 lines on this and very actively working along those lines. I
10 think they'd be able to give you some more in depth
11 information. Jimmy Rhee just got back from Korea. I thought
12 that the motion –

13 DELEGATE KILGORE: All we're doing is
14 moving money and authorizing the executive director to start
15 these discussions. Then at the next committee meeting make
16 a report to us on the clusters and where we're going to go in
17 consultation with the Secretary's office. I think that would be
18 the best bet.

19 SENATOR WAMPLER: I would have to agree
20 Mr. Chairman, I think the motion today was to set the funding
21 in place to do that. It seems to me the Special Project
22 Committee is probably the logical place to be. We could have
23 Secretary Chang meet with us in December and report back in
24 January what structure he recommends to be placed around it
25 if that is appropriate.

1 DELEGATE BYRON: I have a question, the
2 amount for the contracting work, does that have to be
3 approved or does that come out of a different pot? If you're
4 contracting with somebody for \$250 or \$300 thousand, does
5 that have to be approved as well?

6 MR. NOYES: That's what the money would be
7 used for. If you transfer it, it's for that purpose but we're not
8 there to issue the RFP yet.

9 DELEGATE BYRON: If you're moving that, I'm
10 talking about besides that.

11 MR. NOYES: \$250 to \$300 thousand is the
12 turnkey to set up the center and get the Department of
13 Homeland Security to do their things.

14 SENATOR WAMPLER: Mr. Chairman, I just
15 say that the director is telling us he wants an amount up to
16 \$300,000 and we can leave it at that or wait.

17 DELEGATE KILGORE: With a provision that
18 we would discuss it at the next meeting whether it's the
19 Executive Committee or full committee, it doesn't matter to
20 me, probably the Executive Committee.

21 MR. NOYES: Special Projects will be making a
22 recommendation, that's what I think will happen.

23 DELEGATE KILGORE: That's fine.

24 DELEGATE WRIGHT: I agree with what the
25 executive secretary said. I'd like to have more information. If I

1 vote yes in my mind and I probably could be persuaded to do
2 that but in addition to what Senator Reynolds said, also a vote
3 that says the risk involved in dollars and reputation of
4 Virginia's brand and I'm not sure what that means. So I don't
5 know what to tell you but I don't have enough information to
6 vote. I just don't have enough information on this.

7 DELEGATE MARSHALL: Can I make a
8 suggestion that on Mary Rae's idea, the question before us
9 today is to transfer the money so Special Projects can look at
10 it. If Special Projects looks at the project then it will come
11 back to the full Committee and there's a lot of people here that
12 aren't on Special Projects. So I would suggest that the
13 Secretary and one of his people do a conference call and make
14 sure everybody in this group understands because this is a
15 pretty good step that we all know we'll be comfortable with it.

16 MR. FERGUSON: A conference call might be a
17 problem especially with FOIA.

18 DELEGATE MARSHALL: A small conference
19 call.

20 MR. OWENS: You won't get a recommendation
21 from Special Projects, will you? Won't they make a
22 recommendation to take the application?

23 MR. NOYES: Not an application for this. It
24 doesn't get spent until the full Commission agrees on where
25 the centers are going to be, what the center is going to be

1 about and all the terms. It's not like we can spend this money
2 and this is just the first step.

3 SENATOR REYNOLDS: I've got to say that I'm
4 very concerned about that first bullet. I don't know what
5 business the Tobacco Commission has in helping people
6 obtain permanent residency in the United States. I don't think
7 that should be an issue that we should be dealing with.
8 Maybe my perspective on this is warped and I apologize for
9 that but it seems to me that's a federal issue. I'd feel more
10 comfortable about this and what we're about if that was not
11 part of it. I would encourage if there's a possibility of doing
12 what you're doing and staying away from any discussion about
13 green cards, aren't the feds going to have to do that?

14 MR. NOYES: The feds set this program up.

15 SENATOR REYNOLDS: I understand that but
16 what I'm trying to say, maybe I'm not doing a good job but I
17 wouldn't like to see any discussion about whether or not an
18 investment is made in Virginia that somehow the Tobacco
19 Commission played a role in providing green cards or seeing
20 people are here as a result of some investment they were
21 making. I don't feel comfortable with that.

22 DELEGATE KILGORE: We're going to have to
23 hear from the Secretary anyway as far as how the program
24 operates.

25 SENATOR REYNOLDS: Help me to

1 understand, I apologize.

2 DELEGATE KILGORE: What we're doing
3 Roscoe is that foreign investors are investing money and
4 creating jobs, \$500,000 minimum and 10 jobs and that gets
5 them a permanent Visa in the United States.

6 SENATOR REYNOLDS: But how do we get
7 involved in that process?

8 DELEGATE KILGORE: We'll be setting up a
9 rural center for a regional center and we're authorizing these
10 dollars to come into us or to come into the center to create
11 jobs.

12 SENATOR REYNOLDS: Couldn't that be done
13 without their being any reference to a green card?

14 DELEGATE KILGORE: That's one of the
15 reasons they want to do it.

16 DELEGATE MARSHALL: I think maybe the
17 sensitivity of this is that, there's 24 centers trying to get jobs
18 for folks that –

19 DELEGATE KILGORE: The jobs are for our
20 people.

21 DELEGATE MARSHALL: That's where I was
22 headed, to create jobs locally, we're not bringing in 10 folks to
23 create jobs, 10 jobs for people in the Tobacco Commission
24 area.

25 MS. CARTER: The regional centers that's

1 when the effort will be to create within the tobacco region jobs
2 and then they would get their green cards and the money
3 would be invested.

4 MR. NOYES: The foreign nationals have to be
5 in the centers. Their money goes into it.

6 MS. CARTER: The money goes in there and in
7 the tobacco region, that's the incentive.

8 DELEGATE KILGORE: We have a motion and
9 a second. All we're doing is transferring the money over to
10 Special Projects. All those in favor say aye to transfer the
11 money and madam secretary we'll get a presentation at the
12 Special Projects Committee meeting. All those in favor say
13 aye. (Ayes). Opposed.

14 DELEGATE WRIGHT: No.

15 DELEGATE KILGORE: Stephanie, you're up.

16 MS. KIM: We have a budget transfer of \$4
17 million added to TROF. I'd like to transfer the remaining
18 unobligated balance from technology \$1,090,855.00 to the
19 TROF and that would increase the TROF balance to about \$5.

20 DELEGATE KILGORE: It's been moved and
21 seconded. All in favor say aye (Ayes). Opposed. (No
22 response).

23 MS. KIM: We'd like to transfer the remaining
24 unclaimed balance of \$1,068,022.00 from the 2009
25 indemnification as unclaimed and transfer that to the

1 Agribusiness Committee.

2 DELEGATE KILGORE: It's been moved and
3 seconded. All those in favor say aye. (Ayes). Opposed. (No
4 response). Stephanie, is that it?

5 MS. KIM: Yes.

6 DELEGATE WRIGHT: Mr. Chairman, I know
7 the Vice Chairman is going to beat me to this but I'd just like
8 to welcome everyone from the Tobacco Commission and all the
9 folks here. Welcome them to Southside. The Tobacco
10 Commission is very important to our area and done an
11 excellent job and I thank you all for coming.

12 DELEGATE KILGORE: Thank you Delegate
13 Wright. Is there any public comment? Going once, going
14 twice. We're adjourned.

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16 PROCEEDINGS CONCLUDED

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