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MEETING MINUTES FOR THE RULES COMMITTEE
OF THE
BOARD OF COMMERCE AND INDUSTRY
OF THE
LOUISIANA ECONOMIC DEVELOPMENT CORPORATION
HELD AT
IBERVILLE BUILDING
627 NORTH 4TH STREET
9TH FLOOR CONFERENCE ROOM 9-104
BATON ROUGE, LOUISIANA
ON THE 10TH DAY OF AUGUST, 2016
COMMENCING AT 10:07 A.M.

REPORTED BY: ELICIA H. WOODWORTH, CCR



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1 **Appearances of Board Members Present:**

- 2 Robert Adley
3 Yvette Cola
4 Major Coleman
5 Manual "Manny" Fajardo
6 Charles R. "Robby" Miller
7 Jan K. Moller
8 Daniel J. Shexnaydre, Jr.
9 Ronnie Slone
10 Steven L. Windham

11 **Staff members present:**

- 12 Kristen Cheng
13 Danielle Clapinski
14 Frank Favaloro
15 Brenda Guess
16 Mandi Mitchell
17 Don Pierson
18 Melissa Sorrell
19 Anne Villa

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1 MR. ADLEY:

2 Matthew Block is going to join us this
3 morning, along with Richard House, who authored our
4 executive order, so I was trying to give him just a
5 couple more minutes. So while we're waiting, let me get
6 just some preliminary stuff out of the way. If we have
7 to fall to a recess just for a few minutes, we will, to
8 make sure he gets here.

9 I don't know about the rest of you, I
10 don't know for all of my years I've ever been in Baton
11 Rouge I've ever actually made it into this building
12 before. Nice place, but finding a place to park was not
13 the easiest thing. He may be running into the same
14 problem.

15 So with that, let's begin with rollcall.

16 MS. SORRELL:

17 Robert Adley.

18 MR. ADLEY:

19 Here.

20 MS. SORRELL:

21 Yvette Cola.

22 MS. COLA:

23 Here.

24 MS. SORRELL:

25 Major Coleman.



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1 MAJOR COLEMAN:
2 Here.
3 MS. SORRELL:
4 Rickey Fabra.
5 (No response.)
6 MS. SORRELL:
7 Manny Fajardo.
8 MR. FAJARDO:
9 Here.
10 MS. SORRELL:
11 Robby Miller.
12 MR. MILLER:
13 Here.
14 MS. SORRELL:
15 Jan Moller.
16 MR. MOLLER:
17 Here.
18 MS. SORRELL:
19 Danny Shexnaydre.
20 MR. SHEXNAYDRE:
21 Here.
22 MS. SORRELL:
23 Ronnie Slone.
24 MR. SLONE:
25 Here.



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1 MS. SORRELL:

2 We have a quorum.

3 MR. ADLEY:

4 Thank you very much.

5 We had some minutes from the last
6 meeting. I think those were sent out to everyone. Is
7 that not correct?

8 So Major will move for adoption of those
9 minutes. Is there any objection to the adoption of the
10 minutes from the last meeting?

11 (No response.)

12 MR. ADLEY:

13 Hearing none, those meeting minutes are
14 adopted.

15 I now ask that when we posted the
16 agenda, there was one item that I forgot to give to the
17 staff to put on the list, and that was an item for Don
18 Pierson to give us a report on the meeting he had with
19 the tax commission relative to this issue. He came away
20 with some interesting facts I thought, so I thought it
21 would be good to add him to the agenda, and so without
22 objection, we would add Don Pierson. He will become
23 Item 5; right, prior to our staff making their
24 clarification on the suggestions that they've made to
25 us.



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1 Now, with that, we are now at the
2 clarification of the executive order, so while we wait
3 on Matthew, we have Mr. House here with us. If I can,
4 I'm going to get you to come up. There have been a
5 number of questions that have come up. You helped draft
6 the executive order I know from the meetings I was in
7 with you and with the Governor, and basically LED put
8 out a great document. If any of you have not seen it,
9 they put out at the last meeting of the task force, I
10 think of July the 22nd, about this executive order. It
11 covered basically four areas that the executive order
12 covered. I think it talked about the CEA and agreement
13 between the locals that will be -- that's required; they
14 talked about the creation of jobs; they talked about
15 miscellaneous capital additions, and basically that's
16 really not going to occur anymore. And then the other
17 types of ITEP that would not be eligible for ITEP.
18 Those were environmental changes and the like.

19 So if I can get you to take a moment.
20 As you see, you also received a letter, I think, from
21 LABI. I think they had about 30 different questions for
22 the committee. For the committee to know, I talked to
23 Jim Patterson this morning on my way in. He clearly
24 understands we do not plan to address all 30 of those
25 questions here this morning, but talk in general terms



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1 about the executive order, especially as it relates to
2 local government. So while we're waiting on Matthew,
3 I'm going to turn it over to you to ask you to kind of
4 walk us back through that executive order, if you will.

5 MR. HOUSE:

6 Couple basic things here. One of the
7 things that the Board is or the staff is trying to do
8 for the benefit of the Board and the Rules Committee is
9 gather information, and that's going to take a while and
10 it's going -- there's all new applications as well as
11 some of the old applications. Information's going to
12 have to be gathered. When we look down the road in
13 terms of things like Exhibit A and Exhibit B, we're
14 talking about, again, a process where we're moving
15 towards a number of different agreements as part of what
16 we're trying to do. So these things -- none of these
17 things exist in a vacuum.

18 The ITEP program -- and we'll go through
19 each of the aspects of the executive order in just a
20 second, but just remember, the ITEP rules, as they have
21 been changed to change the program to make it a program
22 that emphasizes jobs, both job creation as well as, in
23 compelling circumstances, job retention. So that's the
24 big adjustment, and that, first and foremost, I believe,
25 has to be how we take a look at these rules.



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1 So the Governor issued his executive
2 order on June the 24th, and it provides the terms and
3 conditions under which the Governor is to determine the
4 contract for industrial tax exemption in the best
5 interest of the state has provided in Article 7 Section
6 21(f) of the State Constitution. Now, at that time, he
7 said that for all pending contractual applications for
8 which no advanced notification is required under the
9 rules of the Board of Commerce and Industry except for
10 such contracts that provide for new jobs or completing
11 manufacturing plants or establishments. This order is
12 effective immediately for all contracts for which
13 advanced notification is required under the rules of the
14 Board of Commerce and Industry. This order is effective
15 for advanced notification filed after the date of the
16 issuance of this order.

17 And, again, I'll sort of pause here if
18 any of you have any questions regarding the application
19 of that. I know we've had some from various groups,
20 and, by the way, my door is open, and if people want to
21 call me or come discuss these, I'm happy to do it, you
22 know, with any number of people any number of times. So
23 it's an ongoing, informational process, but essentially
24 what we're saying is the effectiveness in this provision
25 we're talking about in Section 2, when and how the order



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1 becomes effective. So you now have, as of June the
2 24th, you have contracts or you have advanced
3 notifications. Those are going to be subject to the
4 process and procedures that went on with the Board and
5 the Governor before the 24th of June.

6 Richard, let me just make this clear,
7 what I've heard from the Governor's office is that
8 albeit the effective date for the executive order after
9 June 24, all of those applications that we've already
10 voted on and sent to him doesn't necessarily mean he's
11 going to accept all of them because he also relies
12 heavily on what he believes the real definition of
13 manufacturing is. That's become a rule issue for him.
14 So I just didn't want anyone to be led to believe that
15 just because this Board had approved some applications
16 before or if this Board approves some more that have
17 come in prior to June the 24th and sent them over there,
18 that doesn't necessarily mean that he is obligated to or
19 will actually agree to those.

20 MR. HOUSE:

21 And that's absolutely correct. That's
22 the Governor's prerogative. And I'd also note that if
23 you look at Section 4 of the executive order, the
24 Governor is looking to this Board to specifically
25 determine that the establishment meets the



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1 constitutional definition of manufacturing. That's one
2 aspect of Section 4. Another aspect is the exemption
3 contracts for new manufacturing plants or establishments
4 are favored by the Governor, and exemption contracts for
5 any additions to any existing plants or establishment
6 are not favored by the Governor unless they provide for
7 new jobs or present compelling reasons for retention of
8 existing jobs. So that emphasizes the job creation
9 that's in there, but there is an additional -- it's a
10 duty we've always had, but he's telling me that he wants
11 you to look at what's being applied for and does it fit
12 under the definition of manufacturing as provided in the
13 Louisiana Constitution and as is provided in the cases
14 that interpret that under the Louisiana Constitution.
15 And --

16 MR. ADLEY:

17 It would help us, Richard, a whole lot,
18 while I was looking at the rule and they give -- Hello,
19 Matthew. You're right on time.

20 Matthew is a little late. He's been out
21 recruiting industry for us, so if you want to come up to
22 the table and join Richard, that would be great.
23 Richard is just kind of beginning a summary for us.

24 The cases that you referenced that give
25 a definition to manufacturing, inside the rules, I noted



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1 that what they have as a definition is nothing but a
2 repeat of what's in the Constitution, which doesn't
3 actually give a definition of manufacturing. I think it
4 would help all of us -- I know it will at least help
5 me -- before our next meeting, if you could pull up some
6 of those definitions for us that have been determined in
7 court cases that you just referenced, that would be
8 helpful.

9 MR. HOUSE:

10 Yes, sir, will do.

11 And then the other thing I will add is
12 that part of the information gathering that the staff is
13 doing also is going to have to go to this issue, that
14 more information is going to have to be obtained about
15 what in particular is being done in connection with the
16 manufacturing, the new manufacturing establishment or
17 the addition, and whether it meets the constitutional
18 requirement of manufacturing so that the Board can have
19 the information. And there are going to be some issues
20 that are going to be close and are going to require
21 discretionary judgment on your part. And the court's
22 generally have honored the discretionary judgment of the
23 Board with respect to determining what is or is not
24 manufacturing, and, you know, the Governor may also have
25 his own opinion of what is or is not manufacturing and



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1 he's going to follow that, too, but I think you have to
2 look at your constitutional --

3 MR. ADLEY:

4 Let me enter -- one of the issues that
5 came up in one of our earlier meetings, and I know the
6 people that represented the folks are here today, but
7 I'm going to go ahead and bring it up, but this is an
8 example of where we need clarity. If you have a
9 manufacturer defined to be a manufacturer, he owns the
10 plant, he owns the facility, but he then contracts out
11 with someone else who is not a manufacturer who uses
12 their equipment or stuff on his site and then this
13 entity that's clearly not a manufacturer is getting
14 ITEP, there is some issue with that. There's some
15 concern with that. And I think that's part of the
16 clarity that we're going to have to get and we're going
17 to need your help to do that.

18 MR. HOUSE:

19 That's correct. And then with whatever
20 facts we can put together on that as well as the court
21 cases that are out there.

22 MR. ADLEY:

23 Yes.

24 MR. HOUSE:

25 Y'all are going to have to make the



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1 decision ultimately as a Board as to whether or not this
2 qualifies for the manufacturer exemption, and then it's
3 going to the Governor and then the Governor is going to
4 have a separate -- under the constitution, he has a
5 separate role and he can make the same decision or he
6 can make an opposite decision.

7 I think what we are now having is a more
8 active Board and a more active level of determining the
9 ability or the qualification for the exemption, but, you
10 know, the department serves the public. It also serves,
11 you know, business and industry, so it's -- the thing
12 that the department is going to need from business and
13 industry is a lot of information to support, truthful
14 information to support what they're trying to achieve,
15 which is the manufacturing exemption, truthful
16 information about jobs, truthful information about
17 compelling needs for job retention to be considered. So
18 that's very important, and I would urge that in a public
19 meeting, that that cannot be overemphasized.

20 MR. ADLEY:

21 I will add that you will notice at the
22 beginning of the last meeting we had some public
23 comments, but in every meeting we have, we're going to
24 have, as you see on our agenda, public comments at the
25 end. It will be very helpful for whatever business or



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1 anyone else that's here who has an interest, that's
2 going to be a time for us to hear that so we have a
3 record of it, not only of what y'all are doing, but for
4 us to hear at the same time.

5 MR. HOUSE:

6 Absolutely. Yes, sir.

7 MR. ADLEY:

8 So with that, let me turn it over to
9 Matthew, if I can, the executive counsel for the
10 Governor. I've had the pleasure of working very closely
11 with Matthew. I find him to be a very bright young man
12 and one who's very amenable to listening to whatever
13 concerns everybody has.

14 I know you've looked at a number of
15 things. I know Jim Patterson from LABI sent us some
16 things; you went through some of that. I know you're
17 not going to address all of that, but I did ask you, and
18 I want to thank you, as a courtesy of this Board, you're
19 coming today just to share with us some of the general
20 thoughts behind this executive order so that we try to
21 stay on track.

22 So, Matthew, I give it to you.

23 MR. BLOCK:

24 Thank you, and thank you for allowing me
25 to come this morning.



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1 I think part of what the Governor was
2 attempting to do with this executive order is exactly
3 what's happening right now and what's happened over the
4 last two months in that I suspect there's probably been
5 more discussion and analysis as of this program in the
6 last two months than there has been for a long time
7 before then. And that's part of what this is about,
8 about making sure this program is actually an incentive
9 program and not just a program that is a rubber stamp
10 for any application that meets some sort of loose
11 criteria about what could possibly be eligible.

12 So that being said, what the Governor's
13 executive order does is it sets forth the criteria under
14 which he will sign contracts for the ITEP program. And
15 so as everybody understands, there is a multi-step
16 process. The last step in the process being the
17 Governor's approval or disapproval, which he has
18 constitutional authority to do so. So instead of just
19 taking a somewhat subjective prerogative that he has,
20 per the constitution, to decide yes or no on each of
21 those contracts, he's trying to provide some
22 predictability as to the items that he is asking for
23 LED, the Board of Industry and Commerce, to consider,
24 and also the applicant to consider for this program.
25 And if then those applications do meet those standards,



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1 those are ones that the Governor is committed that he
2 will sign and agree to and move forward.

3 There's a lot of work that we all have
4 to do, and that's what this committee is doing today, to
5 try and make sure those details are set forth and also
6 workable, to make sure that, for example, I know one of
7 the issues that's raising a lot of concern is and some
8 of the questions we got from LABI was about how this
9 input from local government is going to be considered
10 and how it's going to be made a part of this. And the
11 Governor has asked LED to start to work on some rules as
12 to how that will be -- A, how that information will be
13 communicated to the local governments as to how this is
14 going to work and what they're going to be asked to do
15 and what input they are going to have. But that's a
16 part of this, because for a long period of time now, the
17 State has been essentially deciding whether or not local
18 governments get tax money, and they should and will,
19 under the Governor's executive order, have input into
20 that now in a way they didn't before, or at least
21 formally have input now in a way they didn't before.
22 And the Governor thinks that's only fair and reasonable
23 that those entities that are going to be deprived of
24 those tax revenues have some input as to whether or not
25 this is a project that makes sense, creates jobs, is



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1 doing something in line of what this incentive program
2 was set out for to begin with.

3 So what this is trying to do, again, is
4 create some predictability. We all have some work left
5 to do to make sure that that predictability is set forth
6 and how this works, and the Governor's committed to
7 doing that. He's asked his staff to be committed to
8 doing that. We're going to continue to work with you,
9 with industry, with local governments, with everybody
10 involved to make sure that that input is considered both
11 from the local level, from industry, to make sure this
12 is a workable program, but that it achieves the goals
13 that this program was set out for, which is to create
14 jobs and to stimulate development and to make it where
15 it works for everybody on all levels of government.

16 So I'm happy to answer any questions or
17 to take any comments back to our office to -- and
18 obviously we're going to continue to be working with LED
19 to make sure that as this moves forward, that it is
20 going to be a workable and predictable approval process.

21 MR. ADLEY:

22 Matthew, let me begin that if anyone
23 else has a question, just raise your hand so I'll make
24 sure I recognize you.

25 One of the issues that keeps coming up,



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1 and I'm sure everybody's getting calls. I'm getting
2 them. In the interim, while we're working toward this
3 set of rules and LED giving the specific guidelines how
4 to deal with local government, Richard, are there some
5 things that we can give to the public to say this is
6 generally what you need to do to go get that approval
7 now? Can you tell me where we are on that? I mean,
8 that's the question that keeps coming up. People who
9 say, "Look, I've got somebody interested in coming to
10 the State now. They think they're going to get ITEP.
11 How do we go about getting that local approval now?" So
12 what do we tell them?

13 MR. HOUSE:

14 Well, I think the best thing to do is
15 come to Economic Development first if they haven't
16 already. If they have come to Economic Development,
17 then -- and as you know, with legislation and with doing
18 deals, you move things forward, a number of different
19 things forward in order to achieve a goal. And when we
20 talk about Exhibit A, we talk about a cooperative
21 endeavor agreement. It may be that we have a
22 cooperative endeavor agreement with an applicant
23 separate and apart from this. If we do, we're going to
24 plug in the terms and conditions that are going to fit
25 this. And they may not necessarily fit what a clawback



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1 would be under a cooperative endeavor agreement, for
2 example, for the number of employees required, but it's
3 also going to have to fit in with what's going on with
4 this parish, which is Exhibit B, which is a series of
5 three or four approvals that need to be present.
6 Exhibit B approves what's in Exhibit A in terms of the
7 various things of jobs, the length of the contract, the
8 percentage of the exemption, the penalty for not meeting
9 the requirements of jobs, how the exemption would be
10 dealt with under those circumstances. All of that needs
11 to be formulated and discussed, but it's doable. It's
12 not an insurmountable obstacle. I mean, we've all done
13 deals; we've all put things together, that's, you know,
14 if you have any type of -- even on your mortgage, that's
15 putting together a whole bunch of documents that you
16 have to sign at the same time. So we're confident that
17 we can do that and we can move forward. And part of
18 this is going to be having an open mind while we are
19 doing it. I'm not talking about learning it while we're
20 doing it. I'm talking about learning as you go along
21 and as you experience things. But we're ready to take
22 it on. If people have projects, we can blend this into
23 it and we can do what we need to do internally. We have
24 done some drafts of Exhibit B. Exhibit A, we have many,
25 many cooperative endeavor agreements we've already done

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1 where I think we can fit this into it, and so, you know,
2 we're in a situation --

3 MR. ADLEY:

4 While we'll moving on the final rules,
5 the thing to do at this stage of the game is contact LED
6 and you will take it from there and make sure they walk
7 through the right process to try to stay in line with
8 the executive order.

9 MR. HOUSE:

10 Yes, sir. Absolutely.

11 MR. ADLEY:

12 And then if we do our business, because,
13 frankly, the rules are going to take months to get
14 adopted by the time they go through the Administrative
15 Procedures Act. We all want to make sure that there's
16 still a process in place that will comply with what the
17 Governor's wishes have been and comply if a business
18 says "I want to move forward," and you're telling me
19 that step is simply contact your office and you will
20 walk them through it.

21 MR. HOUSE:

22 Right.

23 MR. ADLEY:

24 Okay.

25 MR. HOUSE:



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1 And we also have -- we are in the
2 process of setting up with the programs that we have
3 now, information gathering online that the Board has,
4 that the staff has for the board, the ITEP staff, and
5 that's going to expand the universe of knowledge about
6 all of these projects in order to fit into the
7 manufacturing determination, the jobs determination,
8 payroll determination and trying, also, have enough
9 information to where we can go to a particular parish or
10 government and have information to be able to tell them
11 this could be by a sales tax impact of this business or
12 this could be, you know, if you give -- you know, this
13 is what you're millages are, this is what your revenue
14 was last year. They're going to know that already, but
15 how these impacts take place. We're giving guidance, by
16 the way. We're not dictating to anybody what they
17 should do, but we need as much information as possible
18 in order to give guidance.

19 MR. ADLEY:

20 But when you finish with that, I mean,
21 it still comes back to this Board for approval.

22 MR. HOUSE:

23 Yes, sir.

24 MR. ADLEY:

25 We still have a role to play while we're



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1 working through the process.

2 MR. HOUSE:

3 Yes, sir.

4 MR. ADLEY:

5 Major, you have a question?

6 MAJOR COLEMAN:

7 Yes. I want to know what mechanism are
8 we using to talk to the local government, these entities
9 that are going to be making a decision?

10 MR. PIERSON:

11 I'm happy to respond. Perhaps, if
12 Mr. Block concludes and I'll be the next one on the
13 agenda and I can comment some very comprehensive
14 information that I will request the Chairman --

15 MR. ADLEY:

16 Why don't we do that. When they finish,
17 you're going to make your presentations at that point.

18 MR. PIERSON:

19 Yes, sir.

20 MR. ADLEY:

21 And he'll cover then if that's okay with
22 you, Major.

23 MAJOR COLEMAN:

24 Sure. Sure.

25 MR. ADLEY:



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1 Are there any other questions of Matthew
2 or Mr. House?

3 Matthew, I really want to thank you. I
4 apologize. I sent you to the wrong building. I
5 apologize.

6 MR. BLOCK:

7 That's the first time you've led me
8 astray, Mr. Adley.

9 MR. ADLEY:

10 I'm so glad to hear that. Thank you
11 very much.

12 MR. BLOCK:

13 Let me just tap on to something that you
14 just said, though, just to conclude here that you said
15 and so that the Board will continue to have a role in
16 this process.

17 The whole point of this is to provide
18 some guidance to the Board of what the Governor is going
19 to be looking for so that there can be some -- what I
20 think everybody can agree would be a bad result for this
21 program is if the LED went through its process, the
22 Board went through its process and then nobody had any
23 clue whatsoever whether or not the contract was going to
24 be approved or disapproved by the Governor. I think
25 that's I think what everybody would agree would not be a



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1 good result, and so the whole point of this is to say
2 let's start this work on the beginning, and LED has done
3 a lot of that and the Board is doing it now, to ensure
4 that there's predictability there. Because I will tell
5 you, you know, when they say in the first day of
6 contracts in law school that signatures are mere
7 ornaments, the Governor does not believe that his
8 signature on these contracts are a mere ornament, but
9 that's how it's been treated for a long time. And so
10 the Governor is stating that he views his constitutional
11 authority over to sign these contracts as something that
12 he is going to take seriously, and I think the executive
13 order and the discussions that we can continue to have
14 with LED and the Board are in line with that in that
15 we're trying to make sure that that authority he has is
16 predictable so that when there are contracts that go
17 through the process with LED, go through the process
18 with the Board of Industry and Commerce, there can be
19 some predictability that this contract meets the
20 standards that the Governor has set forth and so the
21 Governor is going to approve those contracts.

22 MR. SLONE:

23 You do know, Matthew -- can I call you
24 Matthew?

25 MR. BLOCK:



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1 Yes, sir. Please do.

2 MR. SLONE:

3 You used the word "some." You know,
4 that's not predictable to me. Some. I'm just sharing
5 that with you.

6 MR. BLOCK:

7 Well, so...

8 MR. SLONE:

9 Everybody, if they do their job, we do
10 our job based upon the executive order, the rules, the
11 whole shot, "some" does not say that to the folks out
12 there that they're going to -- that he's going to sign
13 off.

14 MR. BLOCK:

15 I'm not hesitating on my response. I'm
16 hesitating trying to recall where I used the word
17 "some," because I thought what I had said, and maybe I
18 need to make it more clear, that what we are hoping to
19 create a process that when those contracts go through
20 this process and then are approved by the Board of
21 Industry and Commerce, that those contracts will be in a
22 matter that they are consistent with the executive order
23 and then will be approved by the Governor.

24 MR. SLONE:

25 Okay.



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1 MR. BLOCK:

2 So if I indicated that once those
3 processes go forward and those contracts are then
4 consistent with what the Governor's set forth, go
5 through the process and are approved by the Board of
6 Industry and Commerce, that then some of them will be
7 approved. That was not what I intended to communicate,
8 so I did I apologize.

9 MAJOR COLEMAN:

10 I think that word "predictability."

11 MR. MILLER:

12 Some predictability.

13 MR. ADLEY:

14 I think you said some predictability.

15 MR. BLOCK:

16 Okay. But I do think that's -- I can't
17 judge how a particular applicant is going to view this
18 process as being predictable or not. In other words,
19 where a particular applicant may not view the
20 Governor's -- and I guess I'm talking about some of the
21 input we've gotten so far from the executive order where
22 there seems to be some uncertainty in the process now
23 for some industry, and so what I guess I'm indicating is
24 that maybe there will never be, in the minds of some,
25 enough predictability that as they go forward, but I



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1 think the whole point of this is to create much more
2 certainty and predictability than we have right now,
3 because right now, there's no requirement that the
4 Governor go through the process. There's no requirement
5 that the Governor set forth any standards by which he
6 approves or disapproves of ITEP contracts. So whatever
7 we're doing, whatever the executive order accomplishes,
8 it provides for more predictability than we had the day
9 before the executive order existed.

10 So when I'm indicating that there's some
11 predictability, there is more than was existing
12 previously. So I'm hoping that it will be predictable
13 that once we get through this process lined with the
14 goals set further in the executive order, that those
15 contracts will be ones that will be then approved by the
16 Governor.

17 MR. SLONE:

18 Okay. Thank you.

19 MR. BLOCK:

20 I hope that answers your question. I'll
21 try and not use that word "some" again.

22 MR. SLONE:

23 I'm fine. Thanks.

24 MR. ADLEY:

25 I think the other side of that coin has



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1 been, Matthew, is that in years past, it had been so
2 predictable that if you just present it, it's going to
3 then be rubber stamped and you're going to get it. That
4 is going to change. There will be specific guidelines
5 that we will follow, or at least me. I can't speak for
6 the entire board.

7 MR. HOUSE:

8 If I could add one thing to that is that
9 even with the changes we have now, there is still, in my
10 opinion, more predictability in Louisiana for businesses
11 than there is in adjoining states based on what I've
12 seen in terms of how they make determinations.

13 MR. ADLEY:

14 There's no question. Every report that
15 we see tells us Louisiana, from a tax perspective, is
16 much better for a business to locate in than any other
17 state in America.

18 Before we let you go, Matthew, I have to
19 share with you and with the Board that during the last
20 session, to give you an example of that, someone who was
21 in one of our last meetings asked me to get with the CEO
22 of a very large energy company who was headquartered in
23 Texas, and I asked him the question, "Why are you in
24 Texas? Your tax advantages are better in Louisiana,"
25 and he said, "The reason is simple, that the stability



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1 in Texas is so much better than Louisiana because you're
2 constantly changing, ebb and flow, all of the time." In
3 Texas, their tax structure, for instance, is totally
4 different than ours. It's very dependable. It's more
5 than ours, but it's very dependable, and they're willing
6 to pay more for the stability. So hopefully at the end
7 of this process that's what we're working toward is
8 getting to that point to where that CEO looks up and
9 says, "Yes, there's stability in Louisiana, and that's
10 where we want to be."

11 I was shocked by his answer. I was,
12 because he had one of his plant managers from Louisiana
13 sitting with him who explained the tax advantages are
14 better in Louisiana than they are in Texas, but they
15 prefer to be there simply because their state government
16 wasn't constantly having to fight over budgets,
17 expenditures, so forth and so on. They had stability.
18 So I think that's the driving factor here, and not only
19 this, but a lot of things that I find this Governor is
20 doing to try and get that stability.

21 Are there any other questions for those
22 two gentlemen?

23 I want to thank both of you. Richard,
24 you'll be with us, I guess, throughout.

25 Matthew, thank you for coming. Do you



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1 need directions back to the Capitol? I know I sent you
2 to the wrong place.

3 MR. BLOCK:

4 I can work that out.

5 MR. ADLEY:

6 Thank you very much.

7 I will tell all of you that a number of
8 the Board members have to be out of here by noon, so I'm
9 going to ask the staff, Don and others, we'll try to
10 move quickly as we can. The lengthy part of the meeting
11 will be more about when we start going through those
12 rules and the questions that we have about that.

13 Thank you for coming. Thank you very
14 much.

15 MR. BLOCK:

16 Thank you.

17 MR. ADLEY:

18 All right. Don, you want to come on in?
19 You had shared with me, and I don't know with others, in
20 an e-mail the results of a meeting that you had with the
21 tax commission. I found some of the things in that
22 e-mail to be really interesting, so I'd ask that you
23 might give a summary to the Board of that and whatever
24 else you would like to discuss.

25 MR. PIERSON:



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1 Thank you very much for that. I'll
2 certainly include those elements in my remarks today.
3 Thank you for the opportunity and the important time
4 that you're investing in this process.

5 Matthew's and the Governor's comments,
6 particularly around predictability, I mean, if we do a
7 great job here of establishing these rules, then we will
8 be able to guide with, as we close to as we can,
9 absolute clarity to that client through the process of
10 the Board and onto the Governor's desk for that
11 signature. That's our goal is to help craft those rules
12 so there's a very clear understanding all of way through
13 the process, and I hope that amplifies what we were
14 talking about there essentially.

15 To make sure, you know sort of that
16 full-view situation awareness of a lot of activities
17 that have been ongoing since the 24th of June and when
18 the issue of executive order was issued, we have been
19 very, very busy. This is your second meeting in the
20 community, both in Baton Rouge and across the state.
21 We've had over 20 engagements to include going over
22 fact-to-face with LABI and address to LMA. We want to
23 be very conscientious that we are communicating with all
24 of our elected officials that this is a process.
25 Something's happening here, and it's going to be



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1 different on that far end than it's been in the past. I
2 believe it's going to be better because the futures that
3 we're including are around the areas of accountability
4 and governance, a local voice for those that have having
5 their millages impacted. So being very proactive around
6 the State right now.

7 A portion of that is to listen to the
8 concerns. A portion of that is to gather the questions
9 so that we can communicate those internally so that the
10 staff has a chance to really get into the weeds on how
11 things proceed in terms of our recommendations back to
12 the Rules Committee, which we hope to begin to bring you
13 some drafts. We don't envision that we can answer all
14 of the issues that are before us. Some that maybe
15 you're aware of that we're not aware of, but maybe we
16 can make some good progress by identifying what I'll
17 call the low-hanging fruit, things that we can all agree
18 on that we think are basic tenets. We can bring those
19 drafts to the committee for adoption. Not to the full
20 Board yet. We don't want to see it going forward to the
21 full Board until the committee would feel like we have
22 that comprehensive package of what would go before the
23 Board. So we are working in that regard.

24 Certainly we're hearing a lot of comment
25 around concerns and anxieties about renewals. Certainly



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1 we feel that those parties with executed contracts are
2 going to encounter their renewal process, and it will be
3 recommended by LED to the CNI Board that those renewals
4 go forward with the exception that the reason that
5 contract is divided into 505 is if that company has
6 pollutions, violations on record with the EPA, if that
7 company has tax liens with our department of revenue.
8 There can be some aggrievance reasons where the company
9 wouldn't receive their renewal, but it will be the
10 recommendation from the department. And we're trying to
11 bring some of this anxiety level down where there's
12 great concern about the renewal of existing contracts.

13 We also have some --

14 MR. ADLEY:

15 Let me ask you this question, Don,
16 before you move on from that.

17 Looking at the track record, I guess is
18 the best way I know how to describe it, one of the
19 things I noted from your meeting was a concern over
20 renewing ITEP over pieces of property that had already
21 been depreciated, and basically just replacement of a
22 piece of equipment. Are y'all going to be looking
23 closer at that now than we possibly have in the past, or
24 is that just a standard accepted procedure?

25 MR. PIERSON:



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1 Certainly we will. We know that's in
2 the post-6/24 environment, and those are some of the
3 comments that I'll include that we had with the tax
4 commission and that I'll get to in just a minute.

5 We do some have some applications that
6 were not approved because they were incomplete or not
7 timely. It's not a large number of applications that
8 didn't make it from that May and June batch that we're
9 talking to in the field right now. It's a fairly small
10 universe of somewhere under 20, I believe, of
11 applicants, but since they didn't get that approval,
12 although they felt like they had their application, they
13 didn't meet deadlines, they didn't meet comprehensive
14 qualifications of what we needed to bring that applicant
15 opportunity to the Board. We're having that dialog, and
16 in some cases or in all cases, to make this the easiest
17 pathway, we're asking for job certifications related to
18 those. So just know that that's a gray area that we are
19 trying to work through. They were not certified at the
20 6/24 meeting. That consequence was of their making, and
21 now we're trying to assist them as best we can in moving
22 forward.

23 So, again, big picture, lot of issues,
24 lot of items. If we can take some of the easier ones
25 that we all have agreement on, we'll bring a resolution



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1 to your next rules committee meeting, which I believe is
2 on the 22nd, and you'll be provided that prior to that
3 meeting for review. But we may be able to begin making
4 some forward progress through that submission of
5 proposed opportunities that are agreeable.

6 The more complex issues, the ones that
7 Chairman Adley started to talk about, reporting a lot of
8 research against that, we have to investigate, work on
9 definitions, review the quality of our work. This is
10 coming back to some of the issues such as the definition
11 of manufacturing. Another one is the idea that
12 presently there is required pollution control equipment
13 that would not qualify for ITEP, but in the case of a
14 company that wants to have a green footprint and
15 installs additional pollution control equipment, would
16 that be acceptable from the Governor's standpoint.
17 Certainly some of the issues that are around renewals.

18 We do have, as Richard House has pointed
19 out, the drafts for Exhibit A and Exhibit B that we
20 worked up internal. We want to take those drafts
21 externally to some of our stakeholders and get some
22 final input before we feel like we have that ready to
23 bring back to you.

24 We would note that particularly for this
25 audience, you don't have to wait for Exhibit A and



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1 Exhibit B. Just as the point was made that an
2 appointment can be responsive today to a company, we are
3 not going to stand in the way of moving companies
4 forward that meet the qualifications for the program.
5 If we have to call a special meeting of the Commerce and
6 Industry Board meeting for a big project, we'll do that,
7 but the templates that we're making for Exhibit A and
8 Exhibit B are to provide comfort to those communities
9 that may not have legal staff or economic development
10 possibly, but it's not going to be the only way. It is
11 a pathway and a pathway that's clear and well-defined,
12 totally usable, but I don't want to get hung up on the
13 idea of a long debate over our templates that we create
14 in a sense that we are going to slow down commerce in
15 any way. Each deal is different. We want to engage
16 each situation and each set of circumstances, but at the
17 same time, we want to support the parishes. So if
18 Rapides needs assistance, Ouachita needs assistance,
19 Calcasieu needs assistance, we are going to work for
20 them.

21 So we have a larger set of more complex
22 issues. We're putting resources against it so that we
23 can bring you the most comprehensive suggestions on how
24 we will present to you if we agree is a great way to
25 proceed and that will be open to your input and debate



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1 and hopefully eventually adopt. And we'll take that in
2 bite-sized pieces with the easiest ones first with
3 significant resources going against the balance of that.

4 One of the programs that we did take
5 some counsel from Tax Assessor Chehardy on, again, this
6 was part of your outreach effort to talk to a lot of
7 organizations and a lot of individuals, his comment,
8 just so they're shared with the committee here today, is
9 that he suggests driving each local entity into a
10 simplistic decision on when or how in their ITEP
11 adoption.

12 The back side of that is all of these
13 deals can become very complex, and the more you get into
14 all of those complexities and debate that at the local
15 level, the more you kind of get joined in that quicksand
16 and red tape and inaction. So his guidance at one point
17 is to make things as simplistic as possible for adoption
18 at the local level. He suggests gearing all locals to
19 uniformity with the terms in his contracts.

20 When we say CEA as part of Exhibit A,
21 Exhibit A is established to establish to accountability.
22 In the past, if you're going to have an ITEP contract, a
23 10-year tax exemption, you do an advanced notification
24 just saying, "I'm going to build a plant. I think the
25 plant's going to cost this much money. I think I'm



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1 going to have this many people at the end of the
2 process," then that advanced notification is tucked in
3 the file and never sees the light of day again. The
4 change here is Exhibit A, what we're calling a
5 cooperative endeavor agreement, is giving the program
6 its grounding in the constitution by which the parish
7 can give millages to the company only in the case where
8 a company has something of value to present back to the
9 community. So this CEA is essentially a declaration by
10 the corporation of what they're going to provide to
11 Tangipahoa Parish, "I'm going to build a plant; I'm
12 going to employ this many people; this is going to be
13 the payroll; this is how long the term that I'm going to
14 give you assurances that that's what you get," so that
15 five years later, when they've invested and automated,
16 instead of having 100 jobs, only have 50 jobs. In the
17 past, that 10-year contract ran, it didn't matter what
18 the job count was. There was no enforceability; it was
19 no accountability. Today there will be a cooperative
20 endeavor agreement asking what they're going to do, and
21 the only requirement is to do what you said you're going
22 to do if you want to continue to enjoy the tax
23 abatement. Very fair. So uniformity in those
24 contracts, that ability, that declaration that the
25 company makes is something that Chehardy asked us to



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1 contemplate.

2 And at the end of the conversation, one
3 more item that is important for us to acknowledge and
4 discuss in this is a greater coordination between LED
5 and the tax commission. LED currently collects an
6 affidavit of final cost to capture information at the
7 end of a project. That's what's before you when you
8 vote on your ITEP contract. It's no longer that
9 estimate from the advanced notification. Now it's a
10 final affidavit of final cost and a sharing of the
11 affidavit of final cost and a look at the depreciation
12 of that aspect and how it goes on the tax rolls and
13 having more of a dialog and intradepartmental
14 communication between LED and the tax commission is an
15 important area that he believes we can follow up on and
16 that that's going to bring some better results across
17 the board.

18 The last thing I want to mention is
19 that, you know, from our perspective, and to drive home
20 Chairman Adley's point, this improvement to this
21 program, making it more accountable and giving the local
22 government a voice at the table has not impacted our
23 ability to compete by one dollar. We can still go 100
24 percent for 10 years. We can still go toe-to-toe with
25 all of the other state. And, oh, by the way, all of the



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1 other states are doing this. They're all required a
2 local voice at the table. So I've gone back over to
3 LABI, who put in the media that the program was gutted.
4 I don't fish as much as Robert does, so I had to look up
5 "guttled" in the dictionary and it said, "Rendered
6 useless," and this program has not been rendered
7 useless.

8 On the 6th of August, my colleague, Ed
9 Mornay (sic) indicates that the recent proposals to
10 change the ITEP would direct its emphasis towards mega
11 sites -- and that's not what we're doing here. It
12 doesn't direct emphasis to mega sites -- and would
13 severely restrict incentives to be invested in existing
14 business, and I don't believe for a moment that that's
15 what you're doing either. So I will continue the
16 message that we're doing something important here.
17 Thank you for your time and attention that's directed to
18 that, but the message that you'll hear from me is that
19 the Governor has brought us a program that's going to be
20 more accountable. If the parish signs up for a deal,
21 they get the deal. We had to close essentially it's a
22 loophole.

23 And then the other part of that is it's
24 not decided in Baton Rouge what your tax impact is when
25 Wenn Parish or Rapides Parish, Tangipahoa Parish, that



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1 parish gets a voice.

2 I'll be happy to answer any questions
3 that you may have for me.

4 MR. ADLEY:

5 Don, real quickly, there's three items I
6 netted in the message that you had with him. One was
7 their concern over the renewal, the other was steering
8 the locals to some uniformity, and the third that I
9 didn't hear you mention but would like to know how we
10 might deal with that. They said the tax commission
11 wants to begin tracking the depreciation of exempted
12 properties. And when I first read that, I just said,
13 "Oh, they want to track the amount of money that was
14 going to the locals." I don't think that's what they're
15 saying. Tell me exactly what you got out of that from
16 him, and is there anything that LED can do to work with
17 them to ensure someone's actually tracking this property
18 to make sure we're not just doing maintenance ITEPs, and
19 I think that's what they're talking about here.

20 MR. PIERSON:

21 Well, the tax commission is essentially
22 the association of all the assessors, and all of the
23 assessors have a responsibility and there's a lot of
24 qualifications and clarifications that are embedded in
25 the law about how frequently they have to go out and do



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1 appraisals, so certainly when we do an affidavit of
2 final cost. Sharing that with them will give them the
3 starting point that on the 5th of June, there was a
4 \$100-million asset on the ground. Four years later,
5 they'll come back and assess the value of that, even
6 though they're not collecting taxes on it because it's
7 exempt for that 10-year period. So I think that their
8 idea is, in part, as you go along then, they don't get
9 to look at just that initial \$100-million investment
10 because four years later or three years later, maybe
11 there's a capital improvement, some of it's through
12 these various programs here that they may have multiple
13 exemptions running and it becomes a very complex picture
14 for them to analyze. So the idea of us sharing that
15 affidavit of final cost and having more dialog with
16 them, exchanging information, I think can help them have
17 the most accurate picture of the valuation of what's on
18 the ground and then the valuation of the associated
19 multiple contracts, in many cases, relative to the
20 facility that's had improvements and various
21 miscellaneous capital additions that were also issued
22 contracts.

23 MR. ADLEY:

24 Don, let me conclude with this so that I
25 fully under this. This suggested steering locals to



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1 uniformity in terms of the contracts such as you don't
2 end up with the school boards saying they're in for 80
3 percent, municipalities saying they're in for 70
4 percent, the sheriff saying something completely
5 different, which brings to light is going to be a really
6 important issue before we get through. One is I know
7 when I pay my personal taxes, I pay different amounts to
8 all of them. I write different checks. That's not a
9 problem for me. Maybe it's a problem for business. I'm
10 not sure. We need to know if that is a problem, and we
11 also need to know if it is a problem and we're going to
12 get to some uniformity. The only other alternative to
13 that is some proposal where you might cap ITEP where you
14 say it's not at 100 percent; it's at 80 percent and you
15 either make the decision you're in or you're out. That
16 issue and how we deal with that is going to become, I
17 think, from what I'm hearing and seeing, really
18 critical. So at some point, I'd really like to get from
19 y'all is this a problem, one saying 70, one saying 80,
20 or not, and if it is, how do we create that uniformity.

21 MR. PIERSON:

22 So I believe that it is not, and I think
23 that the Governor fully considered that he did have the
24 ability to come back and put into the executive order,
25 "Here's what I'm going to require: All school board



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1 millages paid, et cetera." He could do that
2 constitutionally. What he instead did was give that
3 voice back to the parishes, and it's going to be
4 different in every parish. And parishes are going to
5 compete. They compete today. You saw that
6 multi-billion-dollar Exxon project in the paper. I
7 really didn't want you to see that in the paper, but for
8 other reasons, they had to disclose it. All our offers
9 and issues relative to property tax have already been
10 negotiated, are already part of these, and they're on
11 the table and we're in a very competitive position on
12 that. We have to respect that.

13 In large part, the sophisticated
14 parishes have been in play in economic development for a
15 long time. They're going to be very comfortable. We
16 are going to depend on the support system for our rural
17 parish for underdeveloped areas that get an opportunity
18 and may not fully understand that, and that's where
19 Richard said we're going to have to give some guidance.
20 But it hurts our ability to negotiate if we're backed
21 into a corner that says you always have to do this cap.
22 That's our perspective. We're sitting at this table
23 because after we leave, we go out and win projects for
24 our state, and that just doesn't mean by recruiting
25 somebody else. That means taking people that are here,



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1 the companies that are here, and helping them grow. So
2 the more flexibility that we have to meet in the middle
3 on some things is helpful with this.

4 MR. WINDHAM:

5 Matthew, I appreciate you coming and
6 giving us the Governor's perspective on this.

7 Is there a situation if the locals come
8 together -- and this is for the benefit of the locals --
9 if Bobby decides that he wants to do 80 percent, do you
10 envision that the Governor would say, "No. I'm only
11 going to do 70"?

12 MR. BLOCK:

13 That I'm only going to do 70?

14 MR. WINDHAM:

15 Seventy percent. I mean, if the locals
16 come together, decide it's worth it for them to forgo 20
17 percent, is it envisioned that he could come back and
18 say, "No. I'm going to do 30 percent. I'm going to
19 restrict them by 30 percent"?

20 MR. BLOCK:

21 Well, I mean, the whole point of this --
22 and I'll allow -- certainly defer some of this to Don
23 and to Richard, but I think the whole point of this is
24 to get that local input in the first place, and so it's
25 not to dictate to the local government what their input



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1 should be. It's, in fact, the other way around to say,
2 "Okay. We want to get your input in to see whether you
3 think this project is a good idea, whether or not you
4 think it is going to be something helpful to your parish
5 and whether or not that tradeoff that you make of losing
6 that tax revenue by having some industry or some plant
7 or whatever it is put in your parish makes sense for
8 you." So I wouldn't imagine that that scenario that you
9 just indicated would be something that the Governor
10 would say, "No. This is how we're going to have it
11 done, in a more restrictive package than what the parish
12 is willing to consider on."

13 MR. PIERSON:

14 And I would add on to that if I may is
15 that my sense of this is that the Governor is not trying
16 to assert himself as a third-party in negotiations.
17 He's looking to the parish for acknowledgement and
18 consent. They know that the fee plan is not going on
19 their tax rolls and they are supportive of that at
20 whatever they negotiated.

21 And keep in mind, from an economic
22 develop professional approach as well, the communities
23 have the ability to go out and work on pilots and they
24 won't even come see you and that contract won't even go
25 across the Governor's desk. So there's other ways to



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1 negotiate directly with the parish and do tax abatement
2 without doing the formal ITEP process. So that's
3 another reason why I believe that it was a hardball
4 negotiation. It still would not involve -- direct
5 involvement with the Governor would be very unusual.
6 It's a hypothetical question, but the concept is around
7 acknowledgement and consent.

8 And I can assure you that the Governor
9 has a full-time job. He's not looking for another one
10 of becoming the mediator and the chief of each one of
11 these projects.

12 MR. WINDHAM:

13 And I think that will provide the locals
14 with some sense of, you know, sharing in the project and
15 sharing in the ability to do this and make commitments
16 from their level.

17 MR. PIERSON:

18 And what Assessor Chehardy is speaking
19 to is he can go in the room and agree and come out and
20 tell us what they were, and I know it's very difficult
21 because we've empowered the parish or the municipality
22 and the school board and the sheriff. The sheriff needs
23 to know because he's going to run the tax rolls; right?
24 He may or may not even have a dog in the hunt, but
25 that's why he's there.



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1 You're looking at the two major bodies
2 in those parishes, and we couldn't get down in the weeds
3 with every fire district and water district and library
4 district, et cetera, et cetera. So it does put some
5 additional weight on the shoulders of the parish
6 president and school board president, but it's about
7 shaping their economic future.

8 MR. ADLEY:

9 And it's very important, you made the
10 comment before, every state in America except for
11 Louisiana basically does it that way.

12 MR. PIERSON:

13 Thirty-eight other states that have this
14 program, that's what they do.

15 MR. ADLEY:

16 And so they clearly have found a way to
17 work through it. I got you.

18 Any other questions of these two
19 gentlemen?

20 (No response.)

21 MR. ADLEY:

22 Thank you very much, Don. We appreciate
23 the update.

24 And now I'm going to try get to the meat
25 of this, the real meat I think everybody wanted to hear



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1 is we tried to move through some of these rules that
2 we're currently operating under and what some
3 suggestions the committee might have for those.

4 So, Melissa, I don't know who's going to
5 be doing that, but y'all want to come on up now?

6 Matthew, I encourage you, if you want to
7 hang around just a minute, you'll be interested in a
8 couple of these rules. They're really interesting.
9 Unless you've got to go.

10 What I'm going to ask the committee --
11 does everyone have copy of the same thing that I have,
12 the thing y'all sent out highlighted in blue and yellow?
13 And you turned around and changed it for me in gray so I
14 can read it. Got it.

15 As I remember now, the blue ones or the
16 gray ones are some administrative changes that y'all
17 have recommended. The stuff they see highlighted in
18 yellow are things that you think need to be addressed
19 because of the executive order.

20 MS. CLAPINSKI:

21 That's correct. So nothing is -- the
22 rules are as they exist today, except for those portions
23 that are in blue. Those that are in blue are some
24 administrative cleanup. I think most of them are things
25 that are part of the department's practice right now



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1 that we're just trying --

2 MR. ADLEY:

3 Okay. I see some that are in blue, and
4 it looks like existing rules, and then I see some stuff
5 in red inside that blue. Is that the proposed changes,
6 what you put in red?

7 MS. CLAPINSKI:

8 Correct.

9 MR. ADLEY:

10 And if I just look at the normal type,
11 that's what the current rule is?

12 MS. CLAPINSKI:

13 Correct. The yellow is current rules.
14 It's just highlighted for y'all to notice because those
15 are things that appear to be inconsistent.

16 MR. ADLEY:

17 Well, some of your blue and your gray
18 is, too; right or wrong? Let's go to the first page.

19 MS. CLAPINSKI:

20 Yes, sir.

21 MR. ADLEY:

22 The first page is Industrial Ad Valorum
23 503(a)(2).

24 MS. CLAPINSKI:

25 Yes, sir.



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1 MR. ADLEY:

2 The first one that I have on my list,
3 and you've highlighted that as an administrative
4 change --

5 MS. CLAPINSKI:

6 Change, yes, sir.

7 MR. ADLEY:

8 -- into that first sentence. That's the
9 current rule; right?

10 MS. CLAPINSKI:

11 The way the current rule reads is you
12 have a big "A," and it touches all of that part at the
13 top. That first paragraph where there is a new "1,"
14 that was part of the original paragraph, the phrase,
15 "Beginning of construction shall mean." So the red is
16 changes to the current rule to make the rest of the
17 changes sort of fit into the section.

18 MR. ADLEY:

19 Okay.

20 MS. CLAPINSKI:

21 Yes, sir.

22 MR. ADLEY:

23 My only question on that proposal that
24 you had, and I invite other members of the committee, as
25 we're going to hit each one of these, when we get to



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1 them, if you have a question about them, please raise
2 your hand because what I hope to accomplish today when
3 we go through this is hear some of the discussion and
4 then try to come back with a proposed set of rules
5 making some of the changes that we discuss here today.

6 MS. CLAPINSKI:

7 Yes, sir.

8 MR. ADLEY:

9 Not going to be voting on anything
10 today. Just trying to make some proposals to get them
11 out there so we get something back in front of us.

12 MS. CLAPINSKI:

13 Sure.

14 MR. ADLEY:

15 But your very first one, the first page,
16 which is an administrative change --

17 MS. CLAPINSKI:

18 Yes, sir.

19 MR. ADLEY:

20 The only question I have, you referenced
21 that there's no need for time or days to get this
22 proposal back to CIB, to the Board. Does that need to
23 be part of this administrative change or can you explain
24 to me how that works? It says you have to be filed --
25 "Advanced notice expired and void after 12 months. The



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1 estimated ending date notification amended by applicant
2 if the applicant made prior to," and then blah, blah,
3 blah, blah. Do you need any language here requiring
4 something going back to the Board in some specified
5 period of time if this happens? That's all I'm asking.

6 MS. CLAPINSKI:

7 No, sir. It's just we had an
8 inconsistency between when an advanced certification
9 expired and when an application had to be filed. We
10 were trying to put those two to work together. That's
11 all that intended to do. It has nothing to do with when
12 something will come to the Board. No, sir.

13 MR. ADLEY:

14 Did anybody else have any questions on
15 that item?

16 (No response.)

17 MR. ADLEY:

18 The next one on the same page, I notice
19 that Ronnie had sent in some question about now would be
20 DE, no more than three applications.

21 MS. CLAPINSKI:

22 Well, I would want to touch just -- that
23 dealt with the one that's in two. The second actual
24 administrative change would be the one, the paragraph
25 right below it that's now the cap "B," and what happened



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1 there is that's language that we have in all of our
2 other program rules that we're just duplicating here,
3 which says that we basically do not allow you to add a
4 program to an advance later. This is just clarifying
5 that when you file an advance, that advance is only good
6 for the programs you select on that advance at the time.
7 So everything you want to participate in needs to be on
8 that advance. So that's what "B" is doing.

9 That, again, is current practice of the
10 department that we're just trying to get into the rules.
11 Again, it does not have any affect on when or how things
12 are taken to the Board.

13 MR. ADLEY:

14 Got you. Okay.

15 Why don't you drop down to "E" then. I
16 think that's where Ronnie had this question about the
17 three applications.

18 MS. CLAPINSKI:

19 Yes, sir. Sure.

20 So my understanding is this is one of
21 those other things that is currently a practice of the
22 department that we were intending to get put into rules,
23 and my understanding -- I wasn't here when the change
24 occurred, but it used to be that there was no limitation
25 on the number of applications that you could file on an



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1 advance. And my understanding is what they saw was that
2 the company never felt the need to file, everything
3 became one big project and they just kept adding and
4 adding and adding to it. So to clearly define, you
5 know, what the project was, they put a limitation on the
6 number of advances, and if it was so big that you need
7 more than that, then you need to file a new advance to
8 put the department on notice.

9 So, again, that was the intent of that
10 is, again, part of the department's current practice,
11 and we were just intending to put it into rules. If you
12 want to change that number to a different number or, I
13 mean, however you want to handle that, but that was the
14 purpose of that language in here.

15 MR. SLONE:

16 The question I had was based upon the
17 fact that there are some projects out there that are
18 long term, and I stated to you guys four to six years,
19 and they put stuff in the service incrementally, does
20 this, you know, play an important part in that? Because
21 we're talking three applications, whereas maybe if we
22 had room in there for additional applications because
23 they put in certain things in service incrementally.
24 How does that...

25 MS. CLAPINSKI:



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1 Like I said, my understanding of the
2 actual administration of that is if they go beyond the
3 three, they just file another advance, so they get three
4 more applications. So I think the only additional work
5 or cost is the actual filing of another advance and the
6 \$250 now that goes along with that. But we have been,
7 for the most part, holding everyone to those, as far as
8 I know, the three applications per advance, and that's
9 been for quite a while. I don't know exactly when that
10 changed. When I came in '11, I believe that was the
11 practice.

12 MR. SLONE:

13 Okay.

14 MR. ADLEY:

15 I'm like you. I'm trying to follow this
16 one because if I'm looking at a very large project, I
17 just figure I'm looking at one application. I got this
18 new plant, this new facility coming in, here's their
19 application for what they are about to do. I assume the
20 multiple applications come in because since we're not
21 going to have the MCAs anymore and you're going to have
22 these ongoing renewals, I assume that's where the
23 multiple number really comes into play.

24 MS. CLAPINSKI:

25 And maybe the removal of the replacement



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1 parts and those types of things may do away with the
2 need for this because I think what happened is maybe the
3 advance started for the building of this facility and
4 then it came online with pieces every two or three years
5 and then they wanted to replace things so they never
6 filed a new advance, they just did another application.
7 It was a constant rolling application, I believe, for
8 one advance, and they felt some need to put some sort of
9 parameters on how many they could do on a single
10 advance, and three is what they came up with. I can't
11 tell you why because I wasn't there at the time, why
12 three was selected.

13 MR. ADLEY:

14 Yeah. I think --

15 MR. SLONE:

16 That's my question.

17 MR. ADLEY:

18 What I suggest to you is you might want
19 to track this suggested change along with what
20 ultimately gets changed in the rules altogether because
21 you may or may not need that provision anymore.

22 MS. CLAPINSKI:

23 Sure.

24 MR. SLONE:

25 Right.



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1 MR. ADLEY:

2 And I agree with you. I kept saying --
3 I kept going back and forth. I really don't understand
4 the multiple-action application. I don't get that. But
5 I understand the renewals on the smaller projects. I
6 do. But I'm just going to suggest for the committee, we
7 might want to track that as a plausible-needed change
8 provided what the outcome is for these other changes,
9 particularly the ones in yellow that are going to be put
10 in line with the executive order.

11 MS. CLAPINSKI:

12 Sure. Yes, sir.

13 MR. ADLEY:

14 Was there more, Ronnie? I'm sorry.

15 MR. SLONE:

16 No. For that one, that's -- I like
17 that, for data.

18 MS. CLAPINSKI:

19 Sure. No problem. I'll be happy to do
20 that.

21 MR. SLONE:

22 Thank you.

23 MR. ADLEY:

24 And the next, I'm on Page 2 now, and I'm
25 looking at "Miscellaneous Capital Additions."



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1 MS. CLAPINSKI:

2 Yes, sir.

3 MR. ADLEY:

4 There were two things -- couple things I
5 noticed. First thing is I'm unsure why it's needed
6 anymore if everything is going to be advanced notice.

7 MS. CLAPINSKI:

8 And it may not be. This is just
9 highlighted to ensure that this is current rule.

10 MR. ADLEY:

11 I got you. And, look, I appreciate
12 that. I'm just supporting that you did that because I
13 think it relates to the executive order, and so my
14 question to you would be, if everything's requiring an
15 advanced notice, why do you need that at all?

16 MS. CLAPINSKI:

17 I'm not sure that you do.

18 MR. ADLEY:

19 And the last one I had was in Item E.
20 It caught my eye that said, "If the application is
21 submitted after the filing deadline, the 10-year term,"
22 and my understanding is there is no 10-year term.

23 MS. CLAPINSKI:

24 Yes, sir.

25 MR. ADLEY:



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1 And I see 10 years have been in the
2 rules, and I don't know how it got there, but I'm going
3 to suggest to you that you, the staff, need to look very
4 carefully, do we need any of this in the rules if
5 there's not going to be an MCA. This is strictly for
6 those things that do not give notice, so if the
7 executive order requires everything to give notice, it
8 appears to me you don't really need that.

9 And I would welcome the public, when it
10 comes their time to speak, anything that we're talking
11 about up here that you disagree with or you see
12 differently, you need to tell us, but that's just one
13 person looking at it. That's how I see it. If you're
14 not going to have it anymore, why is that in the rules?

15 MS. CLAPINSKI:

16 Yes, sir.

17 MR. ADLEY:

18 Anything else, members?

19 (No response.)

20 MR. ADLEY:

21 All right. Let's go to the next page
22 starting with Item F. I know Ronnie had questions on
23 this one. I have a number of questions. I guess
24 probably the most important one I have is down there at
25 507(a), and your definition of manufacturing is drawn



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1 straight from the constitutional language.

2 MS. CLAPINSKI:

3 Yes, sir.

4 MR. ADLEY:

5 That doesn't define anything, but the
6 constitution gives this Board the authority to establish
7 the rules and to define. We need a definition of
8 manufacturing.

9 This is, Richard, why I was asking you
10 earlier when you mentioned court cases, that really got
11 my attention. We need some language there. Whatever
12 you get, however you come out to define what
13 manufacturing really is to clear up any confusion over
14 that.

15 I might suggest, too, you might look to
16 anything the United States Government uses. Somebody.
17 We need some definition other than just straight
18 language out of the constitution that gives no clarity
19 at all. Does that make sense to y'all?

20 The other one I had here was to define
21 "addition." Item A, you've got addition used herein.
22 Is there a better way to define that to ensure that it's
23 just not maintenance, that we're really dealing with an
24 addition or are we not doing what the tax commission
25 suggested, we're just not deprecating the equipment,



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1 then replacing it and going back and getting it all over
2 again. I think that's important.

3 Ronnie, you had some questions on this
4 issue.

5 MR. SLONE:

6 Yeah.

7 MS. CLAPINSKI:

8 I think it's on the blue language; is
9 that correct?

10 MR. SLONE:

11 Yeah. I was on the blue language, "50
12 percent of activity on a site must be manufacturing,"
13 and it goes back to what Secretary Pierson said, we've
14 got to come up with a definition of manufacturing. If
15 we try to use NAICS' codes, some are in the threes, some
16 are in the twos, it just depends. If you want that long
17 laundry list, then so be it, but...

18 MS. CLAPINSKI:

19 That's correct. And I will tell you
20 that blue is another thing that has been practice for
21 the department for a few years at least and that we
22 were -- it was sort of on a laundry list before this
23 executive order ever came into place to have put into
24 rules.

25 MR. ADLEY:



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1 I don't understand the 50 percent at
2 all. I don't. If the ITEP applies to manufacturing,
3 why does the 50 percent come into play?

4 MS. CLAPINSKI:

5 Well, it's how to determine
6 manufacturing establishment. So if 90 percent of what
7 they do is something completely different and 10 percent
8 of it is doing some small manufacturing, is that a
9 manufacturing establishment as a whole?

10 MR. ADLEY:

11 If it is 10 percent, then 10 percent of
12 the facility is all that should be able to apply.

13 MR. SLONE:

14 Right.

15 MS. CLAPINSKI:

16 Okay.

17 MR. ADLEY:

18 More important than saying play the game
19 of 50 percent. If you've got manufacturing, you got it,
20 but only --

21 MR. SLONE:

22 If it's 29 percent --

23 MR. ADLEY:

24 This was the problem for me in our first
25 meeting was someone walked in and said, "I've got desks



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1 and computers and those things that's part of
2 manufacturing," well, in my mind, that's not.

3 MS. CLAPINSKI:

4 I understand.

5 MR. ADLEY:

6 So the 50 percent, in lieu of just using
7 a 50 percent, they ought to get the ITEP for whatever
8 the manufacturing is, but it only ought to be for a very
9 clear definition that we would come up with in that
10 above paragraph to what manufacturing is.

11 MS. CLAPINSKI:

12 And I think that's fine.

13 MR. ADLEY:

14 I think that, for me, is a better
15 approach. The members may disagree.

16 Go ahead. I'm sorry.

17 MR. WINDHAM:

18 I've got a quick question. When you say
19 "activity," how do you define "activity"?

20 MS. CLAPINSKI:

21 We have allowed the company to come in
22 and argue a -- we look usually at profit, then we let
23 them come in and we let them make the case to us, and so
24 various different things have been used.

25 MR. WINDHAM:



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1 So it could be revenue, could be volume
2 of products?

3 MS. CLAPINSKI:

4 Exactly. And we let them come in, and
5 the department made the determination. I don't have a
6 problem -- like I said, this was just a practice of the
7 previous administration that we were attempting to put
8 in the rules prior to this executive order, so if that
9 changes, we will put in whatever we need to.

10 MR. HOUSE:

11 I would add it's not that -- we will
12 give you as much information as possible from the cases
13 and any other reliable sources, but at the end of the
14 day, you still have some discretion to exercise -- and
15 the case is also supported the exercise of that
16 discretion. Probably, you know, the most recent case is
17 the Bunkie case that --

18 MR. ADLEY:

19 Richard, here --

20 MR. HOUSE:

21 -- that involved a whole lot of
22 different factors.

23 MR. ADLEY:

24 Richard, here's the problem: Even
25 though giving us the authority to exercise that



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1 decision, I wanted to remain inside what the
2 constitution wants.

3 MR. HOUSE:

4 No question about that.

5 MR. ADLEY:

6 For example, I'm going to take you to
7 the next step, Paragraph B, right below that and then
8 Paragraph D. In Paragraph B, it allows for ITEP, it
9 said the facility's leased property is eligible for the
10 exemption. Now, here's the exemption, this is the case
11 that I talked about a moment ago, and it creates some
12 concern, you have a manufacturing facility, they have
13 ITEP and then they go out and contract with various
14 other parties to provide services to that facility, but
15 they are not manufacturers. They don't manufacture
16 anything. They provide a service and they are under
17 this rule getting ITEP. That's why I think all of this
18 section, in this definition of manufacturing, we're
19 going to have to figure out a way to clearly define this
20 because, at least in my eyes, and I think in the eyes of
21 some other people, that is not manufacturing. That is
22 not. If the guy who owned it his self, that's
23 manufacturing, but if he goes out to get the third-party
24 to do it who is not a manufacturer, then you're creating
25 a lot of other ITEP for people who are clearly not



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1 manufacturing a project, which brings me to Item D.

2 MS. CLAPINSKI:

3 Yes, sir.

4 MR. ADLEY:

5 "Capitalize Materials," and you put
6 there, "Some examples are." I got that and I understand
7 the examples, but I think "examples" is not a good word
8 because then the door's wide open for anything. It
9 needs to be more specific language, I believe, as you
10 deal with what that is, and only you know what that is.
11 I know I don't. I doubt any of the other members really
12 know what it is. But, for example, that's where I think
13 you get desks, computers and paperclips. What I learned
14 at our first meeting was, someone made the statement, if
15 we capitalize the cost, then it's ITEP, and I don't
16 think that's manufacturing inside the view of the
17 constitution. I don't think that's what the public
18 expected. I don't think the public expected you to have
19 a choice between an immediate write-off, which is a
20 write-off on your income tax, or you can capitalize it,
21 depreciate it off your income tax and take the ITEP.
22 That's a double dip, and I don't think that's what
23 manufacturing ITEP was designed to do. It appears to me
24 that's where we've headed, that's what happened.

25 MR. HOUSE:



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1 The constitution says "manufacturing
2 plant" in support of what you're saying, so...

3 MR. ADLEY:

4 Yeah. I think that definition is going
5 to be just so critical to what we are doing here.
6 That's why I was really intrigued by your court cases.

7 Anybody else on this page before I move
8 to the next?

9 MR. SLONE:

10 Just one other thing, just a thought on
11 the single, which one is that 507(a), but it's Number 2,
12 there, for a contiguous piece of property, I'm not sure
13 if anybody else thinks that it's going to be a concern
14 that you're talking about within the same fence line.
15 Depending upon the footprint of that organization, it
16 may not be within the same fence line.

17 MS. CLAPINSKI:

18 Certainly. I think we have to look at
19 how the assessor assesses, and so that may be. And
20 that's a definition that's taken from another one of our
21 programs. I mean, we can certainly look to see if
22 that's consistent with how the assessor -- because the
23 assessor has to have an address attached to go find
24 that, and I think that's really what that's geared to
25 mean is that they may have five sites in the same



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1 parish. They can't all go on one application. You've
2 got to have it divided up by where it's located because
3 that assessor knows where those are and we know where
4 they are when --

5 MR. ADLEY:

6 Well, that might be a better approach
7 for your definition. That was a good point. That was a
8 good catch. Thank you.

9 Anything else on the other ones, Ronnie?

10 MR. SLOANE:

11 No. I think I'm okay for that page.

12 Next page. We can move on.

13 MR. ADLEY:

14 The very first paragraph, Item E, and
15 I'm in the second sentence that says, "The owner of a
16 new facility under construction may apply for exemption
17 with the expectation that the facility will become
18 operational." I'm just confused. I just don't
19 understand why you wouldn't get it once it's done. Why
20 would you apply for it in the middle of it? I don't
21 understand that piece.

22 MS. CLAPINSKI:

23 Those are, we call those front-end
24 contracts, and they generally have been allowed when
25 projects exceed 100-million into the billions because a



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1 lot of times those companies need that guarantee of a
2 program in order for financing or other purposes in
3 building that project and so those -- they're not very
4 many. I think we have -- any idea how many right now?
5 Maybe 10 out of all of our contracts we have.

6 MR. ADLEY:

7 Let's say you're building a facility and
8 it takes three years to build, so you start the building
9 and then because you're under construction, you get the
10 exemption. During that three-year period, would there
11 be any property taxes paid in that period of time if
12 they didn't have the exemption or not?

13 MS. CLAPINSKI:

14 No, sir. My understanding is that --

15 MR. ADLEY:

16 So there's never an issue of I'm getting
17 an exemption, and at the end of the day, I didn't really
18 do what I said I was going to do?

19 MS. CLAPINSKI:

20 Correct. The way those contracts work
21 is that the affidavit of final cost and a project
22 completion report amend and supplement that contract so
23 that it gives the date and the year in which that
24 contract will begin and the items that are covered.
25 That is turned in when the project is complete, but this



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1 just provides some...

2 MR. ADLEY:

3 But in no case there would never be any
4 avoidance of tax --

5 MS. CLAPINSKI:

6 Correct.

7 MR. ADLEY:

8 -- during the construction, and at the
9 end, you didn't comply with what you said you were going
10 to do, so no one's ever at risk?

11 MS. CLAPINSKI:

12 Correct.

13 MR. ADLEY:

14 That's what I want to make sure of.

15 MS. CLAPINSKI:

16 Yes, sir.

17 MR. ADLEY:

18 I got you.

19 MR. WINDHAM:

20 I have one question. Don't projects
21 have to be completed within a two-year period?

22 MS. CHENG:

23 No. You can extend.

24 MS. CLAPINSKI:

25 You get a period of time, but as long as



1 you amend your date, your project ending date, within
2 times provided by rule, we are allowed to extend that
3 date out for you.

4 MR. ADLEY:

5 And then I'm at 509 now on the same
6 page, Paragraph A, and this is office furniture again,
7 and it says only when they're an integral part of the
8 manufacturing operation. Apparently definition of
9 "integral" is very loosely held in the past. In my
10 view, I think the simple answer here is that should
11 never be allowed in your ITEP. I thought ITEP was for
12 you facility, your buildings, your equipment. I just
13 never envisioned that. I don't know anybody else
14 that -- I tried in my mind my very hardest to figure it
15 out. The plant that I've been in where they had a
16 computer set up somewhere, it was truly helping them
17 with manufacturing. Anyone that's ever been in a timber
18 mill, for instance, or anywhere else, uses that computer
19 for their manufacturing.

20 If it's sitting in some office
21 somewhere, I just can't imagine you ought to be getting
22 ITEP on that. Just because you capitalize it on your
23 books, on your tax returns, should not make it
24 applicable for ITEP. Somehow you've got to figure out
25 how to make it an integral part, if it's an integral



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1 part.

2 MR. WINDHAM:

3 Robert?

4 MR. ADLEY:

5 I'm sorry.

6 MR. WINDHAM:

7 What about facilities like the control
8 room in a plant where they have the huge computer, they
9 have to have desks, they have to have work stations,
10 they have to have...

11 MR. ADLEY:

12 I got that.

13 MR. WINDHAM:

14 The assets are different.

15 MS. CLAPINSKI:

16 I would say that's integral. I think
17 that's what he's saying.

18 MR. ADLEY:

19 That's why I was saying, if you've ever
20 been in a timber mill, that's what happens. A guy sits
21 there and he's got a computer that's running everything.
22 I got that. That makes sense.

23 MS. CLAPINSKI:

24 But the front office building, that's --

25 MR. ADLEY:



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1 But the front office, where they're just
2 putting on their books, "Look, I'm going to buy all of
3 my paperclips, my desks, everything else, and I'm going
4 capitalize it over a period of time," that clearly
5 should not be part of that process. What you described,
6 in my view, should be. And so that word "integral" has
7 been loosey interpreted, it seems to me. And I say that
8 only based on the testimony we got at our first meeting
9 where someone actually said, "Well, we just, all of the
10 paperclips we buy, we capitalize it," so it's in here,
11 and that means front office expenses, and I don't think
12 that's what the intent was.

13 MR. WINDHAM:

14 But are the sales of manufactured goods
15 integral to the manufacturing process at all? Because
16 you can make it, but if you don't sell it, it served no
17 purpose.

18 MR. ADLEY:

19 I don't even know if I follow what
20 you're saying.

21 MR. WINDHAM:

22 I'm saying the people that sit at the
23 front office and make the decisions about how the
24 operation runs or how they make sales or how they
25 generate revenues from all of the activities that went



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1 into process of manufacturing something, isn't that
2 integral to the manufacturing process?

3 MR. ADLEY:

4 If I were trying to get the most of out
5 the government I would get, I would say, "I'm in the
6 front office and I'm handling all of the withholding and
7 the Social Security and everything else that's going on
8 there, and without that, you don't have that guy sitting
9 at that desk out there making the equipment." I just,
10 somehow you need to get specific that it really -- this
11 word "integral" has got to be better defined somehow.

12 MS. CLAPINSKI:

13 Yes, sir.

14 MR. ADLEY:

15 Just seems to me. I mean, that's the
16 problem. It's loose, you know.

17 MR. WINDHAM:

18 I don't disagree with the looseness of
19 it, but I do believe that the sale of a product or a
20 manufactured item is just as integral as the
21 manufacturing itself.

22 MR. ADLEY:

23 I don't know that I agree with that. I
24 don't. I'd have to think through that.

25 MR. MOLLER:



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1 How do the other states define this? I
2 mean, is it possible to look at how it's defined?

3 MR. ADLEY:

4 Are there court cases on this?

5 MR. HOUSE:

6 There are court cases that would make
7 the discussion you just had a matter y'all could put it
8 up for vote, and either way you voted, you'd probably be
9 right. That's what I can tell you. That would be
10 definitely an area of discussion that the Board would
11 have one way or the other. Each of your opinions is
12 legitimate and goes to the issue.

13 MS. CLAPINSKI:

14 And that may need to be a change in how
15 we collect the data and what we collect and how we
16 present it.

17 MR. HOUSE:

18 Yeah. I think the collection of data is
19 absolutely important, you know, and ideas that you have
20 regarding the collection.

21 MR. ADLEY:

22 Well, again, when we come back to our
23 next meeting after we had this discussion, we really --
24 I know Don talked about y'all working on some
25 resolutions and stuff in-house, but we need to get some



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1 suggestions about how to deal with these things, I
2 think.

3 I'm down at 511 now, the Replacement
4 Property. This one really got my attention. When it
5 says, "Capitalization for remodeling," that appears to
6 me, when I hear the word "remodel," I see a front
7 office, somebody needs some new drapes, curtains and
8 couches. I don't see that as part of the manufacturing
9 process. It just looks like, to me, the word is that --
10 it's just a bad word, and it allows \$50-million. If
11 it's \$50-million, my guess is that's got to be something
12 attached to the plant, equipment or -- if it's
13 remodeling, it's remodeling the whole place.
14 Fifty-million dollars, that's a pretty big chunk of
15 change. So I would ask that we need to look carefully
16 at the language in that Paragraph A specifically.

17 And then in Paragraph B, you said, "The
18 exemption may be granted on cost of rebuilding a
19 partially or completely damaged facility, but only the
20 amount not to exceed the original cost." That one makes
21 sense to me. The one above it is just wide open over
22 and above what was said in B.

23 MS. CLAPINSKI:

24 I think "replacement property" is taken
25 out in the executive order anyway, so...



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1 MR. HOUSE:

2 It is. It's in Section 3.

3 MR. ADLEY:

4 Well, if that's the case and if all of
5 this 511 deals with replacement property, you might want
6 to consider removing it altogether.

7 MS. CLAPINSKI:

8 Yes, sir.

9 MR. ADLEY:

10 If the executive order basically said
11 it's not going to recognize it, you might want to just
12 take it out altogether. That would make dealing with
13 that simpler. Unless -- I see y'all's eyes move up and
14 down sometimes and your facial expressions. Unless
15 there's something we need to know, you need to tell us.

16 MR. WINDHAM:

17 Robert, I think -- I think -- this may
18 be related to if a unit explodes and you've got to
19 replace that unit, the original exemption may have been
20 on the books for 25-million, but the whole facility, the
21 whole unit was destroyed, so they want to replace the
22 unit and they're going to spend 35-million on the
23 replacement, will they get --

24 MR. ADLEY:

25 Well, I think -- let me make this



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1 suggestion to you. I think a better approach then,
2 instead of going through all of this that went through
3 A, B, C and D, if you flip to the next page, where it
4 says B and C, it talks about disasters. Now, these are
5 natural disasters. What he's talking about may not be a
6 natural disaster, but you might want to simply add to
7 this B and C something dealing with some occurrence that
8 might be manmade that could be defined as a disaster
9 without doing all of this other that's creating the
10 interpretation problem.

11 MS. CLAPINSKI:

12 Okay. I understand.

13 MR. ADLEY:

14 If that's the issue and you want to make
15 sure you're dealing with disasters, and that's what
16 they're talking about in B and C, and if all of this
17 other stuff was there to kind of deal with that, maybe
18 you ought to simplify it.

19 MR. WINDHAM:

20 I think part of it may have to do more
21 specifically with the reduction of the replaced item
22 being restricted for the amount of the original tax
23 exemption that may have been on the books.

24 MS. CLAPINSKI:

25 It's the original value of the item.



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1 So I think what he's saying is it may
2 need to be limited to those situations, either a
3 disaster or something manmade that happens. I think
4 this section has also been used when you take out P-7,
5 no explosion or anything, and you replace it, this
6 section has been used, and I think that would be a
7 policy --

8 MR. ADLEY:

9 But when you replace it, you don't need
10 that piece.

11 MS. CLAPINSKI:

12 Correct.

13 MR. ADLEY:

14 But you do need to keep the door open if
15 there is...

16 MS. CLAPINSKI:

17 Sure.

18 MR. ADLEY:

19 I'm trying to think where it was. South
20 of Baton Rouge where they had that big explosion down
21 there.

22 MS. CLAPINSKI:

23 Or like a Katrina or some of these
24 Katrina-type situations.

25 MR. ADLEY:



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1 Well, Katrina is covered. It's covered.
2 It's a natural disaster. Some manmade thing.

3 MS. CLAPINSKI:

4 It was Geismar. I can't remember. I
5 know what you're talk about, though.

6 MR. ADLEY:

7 So what I'm going to suggest to you, if
8 replacement property is out, take that out, and if it's
9 manmade, you might want to add some language that deals
10 with that. We covered the natural disasters in B and C,
11 and then analyze whether or not you need any limit in it
12 at all if you're taking the replacement out.

13 MS. CLAPINSKI:

14 Okay.

15 MR. SLONE:

16 So if you take "replacement" out, D-2
17 would be sort of where we would start?

18 MR. ADLEY:

19 I'm sorry. Say that again.

20 MR. SLONE:

21 D-2, it's on --

22 MS. CLAPINSKI:

23 Yes. Well, you would add probably
24 something -- well, you would add, as part of the
25 qualified disaster, a manmade element, and I think the



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1 policy --

2 MR. ADLEY:

3 And it carries over to the next page is
4 what I'm saying. It carries over to B and C on the next
5 page. So you're covering, it looks like, natural
6 disasters; you're covering terrorism, blah, blah, but
7 you're not covering some manmade disaster that could
8 happen, explosion or something like that. And when you
9 do that, you clearly need to give the latitude to you
10 and to the Board, say, some big plant blows up and they
11 say, "Well, it blew up. I want to come back and get my
12 ITEP and I want to rebuild it again." You say, "Wait a
13 minute. I want to look at your track record before I do
14 that."

15 MS. CLAPINSKI:

16 Okay.

17 MR. ADLEY:

18 You still want to be able to do that.
19 You don't want to make it where you have to.

20 MS. CLAPINSKI:

21 Well, and some of that top part, this
22 would be a policy call for the Board deals with what
23 value they get if you come back for another exemption.
24 So, let's say, for instance, there is a manmade and
25 something blows up, under these rules, if you're



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1 previously on -- when you purchased it, you take that
2 purchase price, you're going to remove it from the new
3 cost of the build, and it only gives the exemption on
4 the difference. And so do we need to keep that piece
5 because then some of that above D-2 needs to remain, or
6 do we say if it's a natural disaster, the 100 percent --

7 MR. ADLEY:

8 I got you. So if you look at --

9 MS. CLAPINSKI:

10 So I don't know. That's y'all's call to
11 make how we do that.

12 MR. ADLEY:

13 If you look at keeping the value piece,
14 we need to look at it, but the pure replacement, if it's
15 not in the executive order, take it out.

16 MS. CLAPINSKI:

17 Okay. Yes, sir.

18 MR. HOUSE:

19 The executive order says, "New
20 replacements for existing machinery," so I think that
21 fits within the discretion --

22 MR. ADLEY:

23 So just take that out and you'll be in
24 compliance with it.

25 MR. WINDHAM:



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1 And the good thing about it is it goes
2 on the tax rolls as new equipment. That portion that's
3 restricted, the 100 percent value.

4 MR. ADLEY:

5 And on the next page, I didn't have any
6 questions in that one, except, I guess, "This exemption
7 may be granted for new location." Can you kind of tell
8 me what that is?

9 MS. CLAPINSKI:

10 Well, something that happens, let's say
11 you had a crane that's on site and you transfer it from
12 your facility to a Lake Charles facility, that exemption
13 has to transfer. That good, that crane that transfers,
14 Baton Rouge needs to take off of their rolls and Lake
15 Charles is going to put it their exempt rolls. The
16 assessor has to know what property is in their area, so
17 that exemptions that ties to that piece has to transfer
18 as well, and that comes to the Board and y'all approve
19 the transfers.

20 And the reason that's highlighted is
21 because there is a replacement word in there, so we'll
22 have to...

23 MR. HOUSE:

24 Replace the replacement.

25 MR. ADLEY:



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1 Now I'm flipping over two pages, I
2 guess. I'm down to what would be Section 529 Paragraph
3 B.

4 Ronnie, I know that you had some
5 questions about that. I had several. I'll let you go
6 ahead and get yours if you'd like, and I think Robby
7 might have had some on this, too.

8 MR. SLONE:

9 Robbia had to leave, but the comment was
10 really about the things that we've already been
11 discussing with reference to renewals, if you will. A
12 little still fuzzy on whether or not if it's an MCA out
13 there right now that was before the executive order.
14 That's the confusion, whether or not it was
15 grandfathered or honored because it was already out
16 there, and I think you spoke to that a little bit
17 earlier today.

18 MR. ADLEY:

19 And just to try to clarify, if this
20 Board, albeit the effective date was the 24th, it
21 doesn't remove the responsibility from the Board making
22 a decision whether or not they think that whatever came
23 in, it complies with manufacturing and what their
24 interpretation is. You still have the authority, even
25 on those, to decide whatever you want to do with them.



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1 I just want to make that clear. It's not a deal of a
2 rubber stamp that they're out there. That's what I'm
3 trying to say. You may say, "I want to implement mine
4 now," but we can do whatever we want to if we want it to
5 move along.

6 MS. CLAPINSKI:

7 And this is highlighted. I highlighted
8 it because at a previous Board meeting, there was some
9 discussion of how we decide what's the penalty based on
10 how late, and so that's just to your attention. If you
11 want to make any parameters in place, this is where it
12 goes.

13 MR. ADLEY:

14 Yeah, and I think you were wise to pick
15 up on that. I do remember that discussion. I would
16 suggest to you that this word "may" should be removed
17 and the word "shall" should go in its place. Then that
18 removes from the Board this having to look at this one
19 guy in the face or another guy in the face, "Were you
20 there?" "Were you not there?" It makes it clear that
21 these exemptions are for your benefit. Period. And
22 it's your benefit. You ought to be -- you're the one
23 that needs to file timely. If you don't file timely,
24 there's some penalty for not doing that. And I would
25 suggest to you that my notes here, instead of the word



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1 "may," I would put the word "shall."

2 And I also put here, Richard, and it
3 relates back to our definition when we went all of the
4 back to manufacturing at the very beginning, I believe
5 that how we define manufacturing, and I think in that
6 definition, we need to make clear that that means CEA,
7 that means jobs, that means local approval. No
8 maintenance, no exemption for equipment, for
9 environmental. What's in that definition in the
10 beginning that you're going to pull up from the court or
11 whatnot, you need to make sure that these requirements
12 in that executive order are part of that definition and
13 they would fit, also, in that same place. So there is,
14 for these renewals, that the same thing applies for them
15 as applies as you're going in. I think that's the
16 intent of the executive order. So I'm just suggesting
17 to you that when you define what manufacturing is, you
18 also need to make it clear that manufacturing is this
19 with these things, this CEA, this job, this blah, blah,
20 blah. Does that make sense to you? I mean, I think
21 that makes it really clear, "This is who a manufacturing
22 guy is. I'm a manufacturing facility, and as such, I'm
23 going to enter this CEA. I'm going to have these jobs,
24 blah, blah, blah.

25 I see you frowning, but I think you have



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1 to figure that out somehow.

2 MS. CLAPINSKI:

3 No. I put it in my head because I think
4 that definition of manufacturing is in the constitution
5 in one place and what's in the best interest of the
6 State in a separate place, so I'm trying to figure out
7 how you --

8 MR. ADLEY:

9 Well, I'm going to help you. I'm going
10 to help you. You are not dealing with the constitution.
11 You're dealing with that separate place now. What the
12 rules have had in the past is just straight language out
13 of the constitution that didn't have a definition. This
14 is that separate place.

15 MS. CLAPINSKI:

16 I'm not disagreeing -- go ahead.

17 MR. HOUSE:

18 Well, I think what she's referring to,
19 at least in my mind, is, Senator, in here, and rightly
20 so, and in the constitution, you guys have to make a
21 determination as to whether or not something is or is
22 not manufacturing. That's one set of rules. In my
23 mind, that's one set of looking at things. I think you
24 may obscure that if you start talking about Exhibits A
25 and B. That doesn't mean Exhibits A and B --



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1 MS. CLAPINSKI:

2 Somewhere else. It's not.

3 MR. HOUSE:

4 -- aren't in the very next section or
5 wherever. It's there in their mind, but to say that you
6 incorporate that in the definition of manufacturing, I
7 think it's a little more complicated and may induce many
8 more questions.

9 MR. ADLEY:

10 Let me suggest this then: In the
11 previous session that we're dealing with and now the
12 renewals, somewhere in that section needs to be a clause
13 then that deals with the issue of jobs and the CEA
14 that's not there now. It's not in there.

15 MS. CLAPINSKI:

16 I understand.

17 MR. HOUSE:

18 Yes, sir.

19 MR. ADLEY:

20 And so when I read through all of these,
21 I guess when I got to the end, I said, "You know, I
22 haven't seen anything about the CEA, the jobs, the
23 approval and all of that, the local approval." I
24 haven't seen any of that, so somewhere in these rules,
25 that's got to go.



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1 MR. HOUSE:

2 Can I ask you a question on -- I agree
3 that should go in there and we should incorporate this,
4 but should we also have a clause in there that makes
5 reference to other requirements or other determinations
6 as made by executive order of the Governor?

7 MR. ADLEY:

8 You know, I don't -- my gut feeling is I
9 don't know that you need that simply because he's a
10 separate entity and he has the authority to do whatever
11 he wants to do. We are obliged in doing our best to
12 comply with what he has suggested he wants done in this
13 executive order. I prefer you not do that, and I will
14 tell you why, because then by executive order, you could
15 literally just change the rules. I'm in hopes that
16 whether this guy's reelected or not reelected, that when
17 the next group comes along -- and I have my friends out
18 there to lobby every day. I know them well and they
19 always look forward to whoever the next guy is they can
20 go get from him what they couldn't get from us. I mean,
21 I get that, but I don't want to make it so simple they
22 just go right into executive order and change these
23 rules. If the rules are going to be changed, I want
24 them to have to go through the same process we're having
25 to go through. And I believe that brings a whole lot



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1 more sunshine on this process. So I don't think, in my
2 mind -- the initial reaction is just me. I don't like
3 that idea. I do like the idea of what's covered in this
4 executive order being put in the rules, and then once
5 the rules are finally adopted, if somebody wants to
6 change the rules, they'd have to go through what we're
7 going through.

8 MR. WINDHAM:

9 On the flip side of that, Robert, when
10 the entity would go for renewal, if the local-elected
11 bodies have changed, are they to be bound by the
12 previous elected body's CEAs?

13 MR. ADLEY:

14 I'm not a lawyer, but I know if people
15 have signed a contract, they have a problem.

16 MR. HOUSE:

17 That have approval.

18 Of course, I think if the legislature,
19 city council, school board or whatever approves
20 something by resolution, it's approved and then you act
21 on that A and B, you act on B approving A and the
22 Governor signs it, that's a contract for whatever number
23 of years it's a contract for.

24 MR. WINDHAM:

25 Right. And then when it comes up for



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1 renewal, it's still subject or bound by those original
2 agreements?

3 MR. HOUSE:

4 I think it would be, yes. I think
5 that --

6 MR. ADLEY:

7 If they enter into the agreement, that's
8 part of the contract.

9 MR. WINDHAM:

10 Just for clarification.

11 MAJOR COLEMAN:

12 Does this Governor do the same thing?
13 Can he just say, "Yeah, we're going to do it this way,"
14 and then maybe the next Governor would do the same
15 thing, and he ultimately has the --

16 MR. ADLEY:

17 No. There is a difference.

18 MAJOR COLEMAN:

19 He has the authority to accept what we
20 do from this table right now? He can just say no?

21 MR. ADLEY:

22 No. There's a difference. There is a
23 difference, and I'll tell you what the difference is.
24 Under the current rules, we all know they're very
25 loosely drawn, anything, just dang near anything gets



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1 ITEP. It's been rubber stamped for years. Now, he
2 said, "You can keep those rules, but this is the way I'm
3 going to do it." The difference is, if you change the
4 rules; okay, the next Governor can still say, "This is
5 the way I'm going to do it. I'm not --" you're right
6 about that, but people who come to apply originally, we
7 will have removed at least this rubber-stamped process.
8 We will have clarified what real manufacturing is. We
9 will have brought it back in line in the rules of the
10 State of Louisiana what we think really ought to apply
11 to ITEP.

12 If I just accepted what you just said,
13 we won't never get to meet at all. We'll just wait for
14 him to go see if he wants to sign it or not. That is
15 what's happened in the past. So I'm trying to draw
16 these rules tighter so that we get back -- at least
17 that's what I hope to do. Y'all going to make the
18 decision.

19 MAJOR COLEMAN:

20 I agree with you.

21 MR. ADLEY:

22 -- so we get them tighter than they were
23 so that when we leave here, when you and I leave this
24 Board, we can go home and say, "You know, we did
25 something to change Louisiana for the better." And if



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1 somebody doesn't like what we are going to do, they're
2 going to have to go publically and go through the same
3 process we went through.

4 I'm going to tell y'all, it's a big deal
5 now. It is. I know some of my friends out there don't
6 like that, but that's the way it ought to be. Sunshine
7 is a great disinfectant for anything that went on bad,
8 and that's what I see we're doing here is it's creating
9 a whole lot more sunshine than has ever been in this
10 process. At least what I hope for.

11 The last question -- let me ask my last
12 question and I'm going to get to you.

13 MR. SLONE:

14 Oh, okay.

15 MR. ADLEY:

16 Is there anything in these rules refer
17 to the Ward Bill that passed in the last session or not?
18 My gut feeling is it probably didn't, but I need to
19 know.

20 MS. CLAPINSKI:

21 That's the refundability of that
22 inventory tax credit if you have ITEP.

23 MS. MITCHELL:

24 Yeah. I don't think so.

25 MR. ADLEY:



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1 Mandi, you don't think it does?

2 MS. MITCHELL:

3 No. It's more on the revenue side.

4 MR. ADLEY:

5 For the Committee's benefit, Senator
6 Ward passed a piece of legislation, if you got ITEP,
7 then you would give up the refundability portion of your
8 inventory tax credit.

9 MS. MITCHELL:

10 Yes, sir. So LDR is going to have to
11 address their rules on the side of inventory tax credits
12 because they administer ITC.

13 MR. ADLEY:

14 That's the last question I had, Ronnie.

15 MR. SLONE:

16 I feel like I'm beating a dead
17 hours. MCAs that were in place prior to 6/24 still run
18 the way they were based on the original rules?

19 MS. CLAPINSKI:

20 They had approval on 6/24 or before,
21 they got their contract approved.

22 MR. ADLEY:

23 But, now, under the original rules, when
24 it comes to the Board, the Board can accept or reject
25 them.



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1 MR. HOUSE:

2 Well, I think what she was talking about
3 is approval by the Board as of 6/24, those MCAs will
4 have the -- presumably, unless you tell us otherwise --
5 the same contract.

6 MR. SLONE:

7 Right.

8 MR. HOUSE:

9 Now, MCAs that were not approved as of
10 6/24, unless they have jobs with them, they're gone.

11 MR. ADLEY:

12 I got you. Okay.

13 MR. WINDHAM:

14 My understanding from Matt said, though,
15 what Matthew said, is that it was still up to the
16 Governor whether or not he's going to sign it.

17 MR. ADLEY:

18 That's correct.

19 MR. HOUSE:

20 It's still always up to the Governor and
21 it's still always up to this Board. You could ask us to
22 write new contracts for everybody, so -- I mean, we'd
23 recommend you don't do that, but still.

24 MR. ADLEY:

25 Listen, I don't want to beat a dead



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1 horse either, but it's real important for this committee
2 to remember when we finish this work, we will be sending
3 a message throughout Louisiana and throughout America,
4 and because it's going to be in writing, that's very
5 important. It's really very, very important.

6 MS. CLAPINSKI:

7 So can I ask for a point of
8 clarification?

9 MR. ADLEY:

10 No (laughing).

11 MS. CLAPINSKI:

12 Am I taking from here that based on the
13 comments that we've just had and those that will come
14 from the public discussions, you'd like some form of
15 draft at the next meeting on the 22nd?

16 MR. ADLEY:

17 Yes.

18 MS. CLAPINSKI:

19 Okay. Just want to make sure.

20 MR. ADLEY:

21 No. And what I'm -- so the committee
22 knows, my plan is to get some draft, go through that and
23 actually maybe start some voting process once we get
24 that draft so we can start deciding amongst ourselves
25 what we really think these things ought to look like.



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1 So that when we have your meeting, Mr. Chairman, on the
2 26th, what I would ask is the opportunity at that
3 meeting simply to state that we are in process; right,
4 and we will not be through by then.

5 MS. CLAPINSKI:

6 We can add an update, a rules update.

7 MR. ADLEY:

8 If in fact by the 22nd meeting we
9 have -- if we can come out of it with approval and say
10 this is what we want, we would get them to you for the
11 meeting on the 26th. If that cannot happen, we will
12 meet again shortly after the 26th to try to finalize
13 them, and you may even have to call a special meeting to
14 do nothing but to approve those rules so they can start
15 the Administrative Procedures Act. That's generally
16 what I'm thinking. Just I'm trying my best to get these
17 things out there as quickly as we can, but once you
18 start the APA, you're going to be right after the first
19 of year before you finalize this thing.

20 MR. HOUSE:

21 That's right.

22 MR. ADLEY:

23 So it's a very time-consuming process.

24 So thank you very, very much.

25 Does anybody else have any other



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1 questions before we let them go?

2 (No response.)

3 MR. ADLEY:

4 Then with that, I'm going to public
5 comments. I'm asking you to bear in mind that we're all
6 trying to get out of here, but we want to hear from you.
7 I would ask that you use the podium. I'd ask that you
8 identify yourself and try to be on point with whatever
9 comment you might have.

10 MR. LEONARD:

11 Yes, sir. Thank you very much. My name
12 is Jimmy Leonard, and I'm with Advantous Consulting --

13 MR. ADLEY:

14 Would you repeat that again? I'm sorry.
15 Are y'all recording these comments? Are
16 you getting them? Did you hear him?

17 So-so. You need to speak up a little
18 bit.

19 MR. LEONARD:

20 Yes, sir. My name is Jimmy Leonard.
21 I'm with Advantous Consulting. I have two questions for
22 the Board for consideration as we go throughout the
23 drafting process.

24 The first one, there seems to be a very
25 laser focus on maintenance capital and what that really



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1 means. I'm hoping that during the rules drafting
2 process we can get further clarification as to what
3 maintenance really means, concepts such as, you know,
4 improvements and upgrades, refurbishments. There are a
5 lot of other activities that occur that require capital
6 investments made by companies, and where do some of
7 these other concepts fall into the executive order.

8 The second item is we are working with a
9 number of projects that are presented and financed as
10 one very large project that takes millions, billions, of
11 dollars to construct, multiple years, multiple lines.
12 Each line goes into service in different years, so
13 during the process for approvals for your Exhibits A and
14 Exhibit B, property taxes are due January 1 following
15 the year in asset a line goes into service. So the way
16 to program has historically worked, you were not waiting
17 until the last line went into service where you would
18 effectively get maybe 12 years or 13 years of exemption
19 on one plant expansion. As each line went into service,
20 your 10-year property tax exemption kicked in. So the
21 previous rule about three contracts or three
22 applications for an advance is what we use predominantly
23 for very large capital investments for one project.

24 MR. ADLEY:

25 Which rule? Say it again.



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1 MR. LEONARD:
2 Sir, that was the one on the first page.
3 E. That is...
4 MR. SLONE:
5 503(e), I believe.
6 MR. LEONARD:
7 503(e), yes, sir.
8 So during the approval process, I guess
9 the curiosities are if we have multiple lines going into
10 service and multiple years on one project, do we need
11 multiple Exhibit As and Bs? Do we have multiple
12 contracts? What will be the process for these large
13 capital investment?
14 So those are just our only two.
15 MR. ADLEY:
16 So we'll look at the issue of mega
17 projects is what you're saying?
18 MR. LEONARD:
19 More or less.
20 MR. ADLEY:
21 Give your name one more time.
22 MR. LEONARD:
23 Sure. My name is Jimmy Leonard.
24 MR. ADLEY:
25 Thank you.



1 MR. LEONARD:

2 Yes, sir.

3 MR. ADAIR:

4 Good morning. My name is Bob Adair and
5 I represent -- I'm a member of the property tax
6 committee for the Louisiana Mid-Continent Oil and Gas
7 Association, so I am speaking on their behalf. I'll be
8 very brief. Couple comments and then one request for
9 you to reconsider.

10 One is that the manufacturing, we talked
11 about that, the integral. I'm not an attorney, but as
12 I've worked with this for the last 30 years or so, there
13 are attorney general opinions -- I think there's one I
14 can recall in 1948.

15 MR. ADLEY:

16 Say that again.

17 MR. ADAIR:

18 1948, the attorney general opinion said
19 something about if it's an integral part of the
20 manufacturing process. As I recall, it was an office
21 building that was specifically talked about in that it
22 was eligible, and that's just a reference.

23 Also, the renewal on 5/29, the May
24 language, again, this goes back to my understanding of
25 the last 30 years or so working in this. The intent is



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1 to allow justification. I mean, if somebody, if a key
2 person in the plant or whatever, if they happen to leave
3 the company for whatever reason or they die or if
4 another company acquires that company, and for whatever
5 reason, it falls between the cracks, then it allows the
6 Board to accept a justifiable reason for that. That's
7 my understanding.

8 Predictability, I'll just tell you from
9 what I'm hearing through LMOGA and others, there will
10 likely be many more applications applied very early. I
11 know 503 allows for applications before completion. I'm
12 aware of some that were applied before we got the
13 authorization for the expenditure for management, so
14 you'll likely get more of those until there's some
15 stability come through this.

16 The last item, real quickly, pollution
17 control. I realize that was excluded through the
18 executive order, but just as a reference --

19 MR. ADLEY:

20 Say that again.

21 MR. ADAIR:

22 Pollution control.

23 MR. ADLEY:

24 Okay.

25 MR. ADAIR:



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1 I know that's excluded as exempt on the
2 executive order, but in Texas, for example, since 1994,
3 it has been permanently exempt. So if you're trying to
4 compare it to Texas, pollution control is a 100-percent
5 exempt permanently, and I'm reading from the intent, and
6 their guideline says, "The intent of the constitutional
7 amendment was to ensure that capital expenditures
8 undertaken to comply with the environmental rules did
9 not increase a facility's property tax." So that's the
10 case in Texas. A lot of states have this.

11 Alabama is completely exempt. I was in
12 Illinois last week, and their's is a fairly minimal
13 value, which is just depreciating cost times the 1.5
14 percent, and that's just to state the scrap value. So
15 that's how -- I know Montana, for example, they have a
16 10-year exemption. I won't go through a lot more
17 states, but I can easily get more information on that
18 for your reference.

19 So if there's any way -- I know the
20 horse is out of the barn to some extent, but if we can
21 reconsider that, pollution control, that would be -- put
22 you in better competition with other states.

23 MR. ADLEY:

24 I might add just for the committee's
25 information, in the State of Texas, the property tax is



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1 a very large leg in their stability of their taxes.
2 They have no corporations tax; they have no personal
3 income tax. They only have the margin tax and the sales
4 and the property. That's their three-legged stool. So
5 what they do is, as it relates to property taxes,
6 sometimes dramatically different to us simply because we
7 do have a different three-legged stool than what they
8 have.

9 MR. ADAIR:

10 Correct. There's also different
11 assessment ratios. For example, Texas is all the same
12 here. Most business is 15 percent higher than
13 residential. Fifteen versus 10. So, yeah, we need to
14 look at the whole structure.

15 MR. ADLEY:

16 And Texas allows the locals to make that
17 call.

18 MR. ADAIR:

19 Correct. With the exception of schools,
20 it has to also be approved by the state -- office and
21 the local school board. And the pollution control has
22 to be approved by the Texas Commission on Environmental
23 Quality. That's a state agency.

24 MR. ADLEY:

25 Okay. Thank you.



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1 MR. ADAIR:

2 Sure.

3 MS. REAP-CURIEL:

4 Rhonda Reap-Curiel. I represent Cencor
5 Consulting.

6 With respect to 503 with the limits on
7 the applications, I'd like to suggest that maybe you
8 include some language that says something that could
9 have more at the discretion of the secretary. Certainly
10 a larger project's going to take three or four or five
11 years to build. The secretary is going to be involved
12 with that project.

13 MR. ADLEY:

14 Now, does that fall in line with the
15 same mega project that Jimmy was talking about?

16 MS. REAP-CURIEL:

17 Yeah. It would be similar to that, but
18 that would give him some discretion and it would still
19 allow the tracking, which they're wanting, but it would
20 keep the company from having to constantly come back and
21 file advances as they run out when their items are
22 placed into service.

23 With respect to 511, remodeling is not
24 the front office such as new drapes. What it does is it
25 allows us, particularly in the rural areas, to take



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1 older retail facilities that have been vacated or
2 warehouses that have been vacated and allow
3 manufacturing to go in there. So when you remodel with
4 that respect, you may be putting in a different type of
5 loading dock, upgrading electrical, putting in firewalls
6 and other items that weren't necessarily needed when
7 those facilities were originally constructed. So what
8 happens when that occurs is the facility is on the book
9 as current assessed value. Any improvements made to
10 that facility, the cost of those improvements are what
11 is exempted. So if you have a \$100,000 building and you
12 spend 100,000, the first 100 you're paying the full
13 property tax on. The second 100 would be exempted.

14 MR. ADLEY:

15 So is it safe to say that it may be
16 better than remodeling; you are reengineering something?

17 MS. REAP-CURIEL:

18 Rehabilitation. Not necessarily a
19 remodel. We don't even use -- we use "remodel" in the
20 real estate world as it relates to residential.
21 Redevelopment or rehabilitation. The reason is more
22 for --

23 MR. ADLEY:

24 And I see it the same way, so when I saw
25 it in this rule, I was kind of caught by that.



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1 MS. REP-CURIEL:

2 I just don't want it to lose the ability
3 to put older buildings back into commerce.

4 MR. ADLEY:

5 I got you.

6 MS. REAP-CURIEL:

7 I know you talked about office furniture
8 and computers, and I just want to hit on some things
9 because we do have modern facilities now. You do have
10 computers on the manufacturing floor where literally an
11 employee goes and scans his badge, he knows what he's
12 pulling to put onto that part to whatever the final
13 product is, especially in metal fabrications scenarios.
14 So he scans his badge; he gets his part; he goes and
15 puts it on; he scans back out. That logs the time; that
16 logs the part. It's followed up with quality control.
17 He scans, does their checks. Those type computers may
18 just be a regular Del laptop on the floor, but it's not
19 an office computer. Those computers that may be in the
20 administrative area are also receiving the orders,
21 printing the quality checks, all of those things.

22 No paperclips, pens and pencils, I would
23 agree with you, but just because it's on the
24 administrative side of the wall does not necessarily
25 mean it is not relevant to manufacturing. Quality



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1 control lives on the administrative side, and I
2 certainly don't think you want things going down the
3 road that haven't had proper quality checks. So I think
4 we can work to clean up some language there, but --

5 MR. ADLEY:

6 Well, I would suggest if you do have
7 some suggested language, if you would get it to Melissa
8 now, it would be very helpful, because right now, it's
9 so broadly interpreted, it could be remodeling, like
10 remodeling your home. So any language you have, we
11 always welcome that.

12 MS. REAP-CURIEL:

13 Okay. Thank you.

14 MR. ALLISON:

15 Hello, members. My name is Don Allison.
16 I'm with Advantous Consulting. I have one question with
17 two parts on the subject that's going to come up before
18 y'all pretty soon in some things over the next few
19 months, and it was related to a question Mr. Slone asked
20 earlier about renewals and MCAs. I think he
21 specifically asked about MCAs. But over the next few
22 months, you're going to see a lot of applications for
23 renewals of contracts that were entered into five years
24 ago. Now they're five years old and it's time for their
25 renewal application. So the first question is -- I



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1 mean, I just want clarity. I'm not sure I heard
2 correctly how those are going to be handled. Again, a
3 renewal of the contract that was entered into in 2011 or
4 so that comes up -- and, look, these all have to be
5 renewed before January 1st of 2017, because if any
6 assets were in service on January 1st, 2017 and did not
7 go by any exemptions, they go on the tax rolls. So all
8 of these companies have to get these renewals processed.
9 As the rule is currently stated, renewal applications
10 have to be filed within the last six months of the year
11 prior to their expiration. So starting July 1st of this
12 year through December 31st this year is when all of
13 these new applications have to be filed on these
14 five-year-old contracts. You'll see a flood of them
15 coming before the Board. I'm not sure about August.
16 I'm sure certainly August through October and December,
17 whatever other meetings you might have. Is there a
18 plan, are renewals going to be handled just like they
19 would have before or is there something new?

20 MR. ADLEY:

21 Don? I don't think anybody can
22 specifically answer that for you because everyone
23 reserves the right to do, every one of these members,
24 whatever they want to do, and I can just tell you how I
25 feel about it and I will ask them to make sure I feel



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1 about it correctly, but I'm sitting here as his
2 appointee for him. I'm not going to vote for any
3 renewals or anything else that doesn't comply with what
4 the intent is in this executive order. If it doesn't
5 have a relationship in jobs and local involvement, for
6 me, I don't care what it is. I think the way that it's
7 been done before has been too loose; I think it's been
8 lackadaisical; I think it's been rubber stamped. For
9 me, that's how I feel. They're all going to have to
10 make their decision, and when they start coming to the
11 Board, I think that is going to be the time they're
12 going to have to debate it and figure out. That's how I
13 feel about it. If it's a renewal and it's coming in
14 there and it's not creating any jobs --

15 MR. PIERSON:

16 Wait a minute. Robert, let me make sure
17 that you guys are both on the same wavelength because --
18 are you strictly on miscellaneous capital additions?

19 MR. ALLISON:

20 No. I'm on renewals.

21 MR. PIERSON:

22 So they got an offer letter from the
23 State; they filed their advanced notification; they got
24 their contract, and everything that's been represented
25 to them up to this point in time is that they have a



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1 10-year tax exemption.

2 MR. ALLISON:

3 But they done it five years ago; right?

4 MR. PIERSON:

5 So this is when it has that exit ramp
6 where he filters out bad actors, but the company said
7 they were going to do something, they made that
8 investment, and I believe this is the point where the
9 Governor says that the State's going to stand by it's
10 commitment. So the State had offered a 10-year tax
11 exemption.

12 MR. ADLEY:

13 If that is the case, I can give you my
14 word that I'll certainly visit with him and make sure
15 that's what his intent is, but if he's talking about
16 renewals there that are going to hit us in January, I'm
17 not sure --

18 MR. PIERSON:

19 He's calling it a renewal, but it's part
20 of the 10-year tax exemption program.

21 MR. ADLEY:

22 Huh?

23 MR. PIERSON:

24 It's that part because it's a 10-year
25 tax exemption program. There is two five-year charges,



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1 as you know, but with a good actor that's done
2 everything that they're supposed to do, they've
3 employed, you know, they may have a letter in their file
4 from the State saying, "We welcome your investment. We
5 want you to know that you're going to have a 10-year tax
6 exemption," they followed our rules posted on our
7 website, they filed that advanced notification, they've
8 done everything that they're supposed to do, it's my
9 understanding from the Governor that we're going to
10 honor those commitments.

11 MR. ADLEY:

12 And if that's your view, that's what I'm
13 going to do.

14 MR. ALLISON:

15 Okay. That's a very important topic.
16 That's why I want to get it out here so we can flush it
17 out.

18 MR. ADLEY:

19 We're not going to flush out here, Don.
20 I mean, I will. I'll go find out --

21 MR. HOUSE:

22 This isn't about a maintenance contract.
23 This is a plant that was built.

24 MR. ALLISON:

25 That's the renewal of a five-year-old



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1 contract, yes. So that's an issue that a lot of people
2 in the audience and outside of this building are
3 wondering about, so I wanted to raise the question, and
4 it looks like there will be some more discussion before
5 we have an answer. That's fine.

6 MR. ADLEY:

7 No. I think that's good, and we'll have
8 public comments again on the 22nd. Between now and
9 then, I'll try to get a more definitive answer on how he
10 feels about it. I will. And if you're correct, I mean,
11 I'll certainly say that's how he feels about it.

12 MR. ALLISON:

13 The second part of my question is, Mr.
14 Slone raised the question about miscellaneous capital
15 additions. Now, a lot of people, a lot of companies
16 started their MCAs, they're called, in January of this
17 year and they didn't file an advanced notification form
18 because there's no rule that said they had to. As
19 they're plugging along, they spend money. They spend
20 two, three, 5-million, whatever they spend, before June
21 24th and they're going to file their application for
22 their miscellaneous capital addition. Sometime later
23 they do by March 31st of next year, so between now and
24 then you're going to see a lot of applications for MCAs
25 for moneys that were spent prior to June 24. So the



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1 question I'm hearing from a lot of people is what about
2 those? We didn't do anything wrong. We didn't file an
3 advanced notification form because we weren't supposed
4 to, we didn't have to, but now June 24th an executive
5 order was issued, how are those MCAs going to be
6 handled, specifically for pre-June 24th expenditures?

7 MR. ADLEY:

8 I think you've got the same answer as
9 you're getting before. I think the big issue that I saw
10 on the MCAs were two issues. One was many of them
11 appear to me to look like they were filed just below the
12 \$5-million threshold getting around the advanced notice
13 of the old rule. If, for me, if I viewed one and it
14 looked like to me that's what the intent was, I might
15 not be for that. But if it was clearly under the old
16 rule, an MCA, it's a legitimate deal, it's what I had to
17 do, I would certainly view that differently.

18 What got our attention on the MCA was
19 that when we went down the list of those things, it was
20 just tons of them that were just 4-million-something
21 just to get under the five and the would be five or six
22 of them in a row all of at the same place.

23 MR. ALLISON:

24 I understand.

25 MR. ADLEY:



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1 And it certainly gives the impression
2 that people were filing the MCAs just to get around the
3 advanced notice.

4 MR. ALLISON:

5 I understand. I'm more concerned about
6 the legitimate MCAs who complied with the rules that
7 existed pre-June 24, how they're going to handle the
8 application they --

9 MR. ADLEY:

10 I can tell you that the Board them
11 self -- Richard, you might want to deal with this, but
12 the Board is going to have to make that call.

13 MR. HOUSE:

14 One factor you need to include is MCAs
15 with jobs or MCAs without jobs. That's a very important
16 definition point.

17 MR. ALLISON:

18 But that wasn't a requirement pre-June
19 24th.

20 MR. HOUSE:

21 But it is now.

22 MR. ALLISON:

23 All right. I just wanted to raise those
24 questions. And I think LABI submitted a set of a lot of
25 questions. I think they maybe went to all of you-all.



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1 Maybe in the next meeting or in a future meeting --

2 MR. ADLEY:

3 It was a novel.

4 MR. ALLISON:

5 We'll look forward to discussing those
6 at a future meeting.

7 MR. ADLEY:

8 I did talk to Mr. Patterson about his
9 manuscript that he submitted for review. I know it's
10 got about 30 items in there. I know the Governor's
11 office is going through them. Matthew's got them, as we
12 discussed. I think y'all sent them out to all of the
13 members.

14 Did you send everybody a copy of that?
15 Y'all got it. So it's in there for us
16 to pick up and deal with. It is.

17 Now, look, let me just say this to the
18 committee. I really want to thank y'all for taking the
19 time to do this, just putting out a monumental effort.
20 Much more than the people had dreamed that you were
21 getting into, I'm sure, but you got yourself involved
22 with it.

23 And to y'all for being patient with us.
24 It's very important. I think you will find at the end
25 of the day, he's trying to be as fair as we know how.



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1 I'm saying that for the Governor's office. He's truly
2 trying to figure that out. He's not trying to be
3 harmful. Just trying to get the taxpayer in the best
4 position the taxpayer ought to be in. I mean, I think
5 that's our obligation to do that.

6 Is there anything else? The next
7 meeting is going to be on August -- what did I say?

8 MS. GUESS:

9 22nd.

10 MR. ADLEY:

11 -- 22nd at two, and I think that was on
12 the Monday and we set it at two to give everybody some
13 time to get in from wherever they're from. And it's
14 going to be where?

15 MS. VILLA:

16 In the LaBelle Room at LaSalle.

17 MR. PIERSON:

18 Back across the street at LaSalle.

19 MR. ADLEY:

20 Back across the street at LaSalle.

21 Now, just for information, did y'all
22 tell me the other day y'all where moving or moving to
23 another building? What's fixing to happen with y'all?

24 MR. PIERSON:

25 We're moving to LaSalle this week.



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MR. ADLEY:

You're moving to LaSalle. Okay. So it will be at LaSalle where the meeting we had before.

With that, if there are no further questions, this meeting is adjourned.

(Meeting concludes at 12:18 p.m.)



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2 I, ELICIA H. WOODWORTH, Certified Court
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5 Rules Committee of the Board of Commerce and Industry of
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12 That the transcript has been prepared in
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17 1434 and in rules and advisory opinions of the board;

18 That I am not related to counsel or to the
19 parties herein, nor am I otherwise interested in the
20 outcome of this matter.

21 Dated this 3rd day of August, 2016.

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