

MEETING MINUTES

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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
CAPITOL ANNEX BUILDING
1051 NORTH 3RD STREET
2ND FLOOR-CRT ROOM
BATON ROUGE, LOUISIANA
ON THE 29TH DAY OF JUNE, 2016
COMMENCING AT 11:07 A.M.

REPORTED BY: ELICIA H. WOODWORTH, CCR



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MEETING MINUTES

1 **Appearances of Board Members Present:**

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

11 **Staff members present:**

12 Kristen Cheng
13 Danielle Clapinski
14 Frank Favaloro
15 Brenda Guess
16 Melissa Sorrell
17 Anne Villa

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MR. ADLEY:

It's five after 11, and I wanted to tell all of you, first, I appreciate you being here.

Before we begin, let me get someone with the staff, can you kind of call roll so we can find out who is here and not here? And I'll kind of walk us through what I hope to accomplish today.

MS. SORRELL:

Robert Adley.

MR. ADLEY:

Here.

MS. SORRELL:

Yvette Cola.

(No response.)

MS. SORRELL:

Major Coleman.

MAJOR COLEMAN:

Yes, here.

MS. SORRELL:

Rickey Fabra.

MR. FABRA:

Yes, here.

MS. SORRELL:

Manny Fajardo.

MR. FAJARDO:



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Here.

MS. SORRELL:

Robby Miller.

MR. MILLER:

Here.

MS. SORRELL:

Jan Moller.

MR. MOLLER:

Here.

MS. SORRELL:

Danny Shexnaydre.

MR. SHEXNAYDRE:

Here.

MS. SORRELL:

Ronnie Slone.

(No response.)

MS. SORRELL:

We have seven present.

MR. ADLEY:

Okay. So pretty clear we have a quorum.

I've got a list in front of me, just some of my personal notes that I want to kind of walk through to kind of get us started. I had some conversations with the staff before we began today so we could gather up some information for you in this first



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1 organizational meeting.

2 With that, let me ask, who, for the
3 committee, who should they contact, who are the staff
4 coordinators that if they have an idea, if they're
5 looking for information or anything that relates to this
6 particular committee, who is that staff person? Who
7 would that be?

8 MS. VILLA:

9 I think you can -- I think probably more
10 than one person's probably good coverage. So Danielle
11 is our staff attorney for the business incentive
12 programs, Danielle Clapinski. Kristin is over the ITEP
13 program. Frank Favaloro is the manager that oversees
14 it. I mean, I'm the undersecretary for LED, so.

15 MR. ADLEY:

16 Well, then, let me ask you to do this:
17 Just e-mail --

18 MAJOR COLEMAN:

19 Excuse me. I can't hardly hear her. I
20 don't know if it's my phone or...

21 MR. ADLEY:

22 It's where she's sitting. Let's get her
23 up a little closer. Can you get closer?

24 MR. MILLER:

25 And they're going to send it to us,



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1 Major.

2 MS. VILLA:

3 Yeah. So what we'll do is we'll send
4 the contact list for all of those here at LED. We'll
5 send it out to all of the committee members, but I was
6 basically stating who our staff attorney is here is
7 Danielle Clapinski here at LED for the business
8 incentive programs, and our program administrator for
9 ITEP is Kristin, and Frank Favaloro is our business
10 incentives manager that oversees the business incentive,
11 all of the programs. And Brenda Guess is the director,
12 as y'all know.

13 So we'll send out our contact
14 information so you'll have our e-mails and our phone
15 numbers so that if you, throughout the course of this,
16 as you have ideas that you would like us -- I think
17 Senator Adley would like us to coordinate all of that
18 information into one area, so we'll be the depository
19 for that information.

20 MR. ADLEY:

21 And the goal is to make sure what we
22 discuss, we have one place that we can all go to and say
23 this is the information we're dealing with, this is what
24 went on at the last meeting, someone keeping the minutes
25 and so forth of what we do so that you'll have it.



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1 The goal of the committee will be to
2 review all of rules dealing with C&I, but in particular,
3 the ITEP rule. And some of the rules that the staff
4 have told me that over time that they need to be
5 corrected or brought in line where they currently are.
6 We will deal with that. But all of those will be done
7 in accordance with the APA and Administrative Procedures
8 Act. For those of you not familiar with that, that is a
9 process that we will go through that's very open and
10 very transparent, that has public meetings and the like.

11 As we get to the point where we have a
12 set of rules that we intend to propose, those rules will
13 go over to the legislative body for their review and
14 then back to the Governor's office for his either
15 acceptance or rejecting of the rule. So that's the
16 guideline that we'll try to follow.

17 I can tell you the next C&I meeting I
18 think is on August the 26th, and what I'd like to do, if
19 at all possible, have at least one or two more of these
20 meetings prior to that. After we get through this
21 initial meeting, I think we're going to have enough laid
22 out on the table to sort of start gathering up
23 information that we need to evaluate things that I think
24 when you leave here today, you're going to leave with
25 some material that I think will help you along the way.



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1 The first thing I did was ask the
2 staff -- I think before you, you've got a document. I
3 asked them, "I'd like you to pull up the constitutions
4 to see what the constitution says about ITEP. I'd like
5 to know what the rules say and the executive order so
6 that you could compare them altogether." Now, as I
7 understand it, staff, y'all went through and made some
8 notes, you highlighted some various items and some
9 comments that you wanted to make to us about that. Is
10 that right?

11 MS. CLAPINSKI:

12 Yes, sir.

13 MR. ADLEY:

14 I'm going ask you now if you would
15 follow through with that.

16 MS. CLAPINSKI:

17 Yes, sir.

18 The third document you have -- the first
19 is just the provisions from the constitution on ITEP.
20 The second one is the ITEP rules as they sit currently.
21 This third draft, you have two different notations on
22 here. So when we talked to Senator Adley prior to, we
23 let him know there was some sort of administrative
24 housekeeping, other LED things that we wanted to do in
25 rules that were not necessarily affected or because of



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1 the executive order. So those are noted in blue. Some
2 of that already has some suggested language because
3 those are LED's wants, so to speak. Those are
4 highlighted in blue.

5 And then all of the things highlighted
6 in yellow, we have made no changes to those rules, but
7 we have highlighted the portion of the rules that we
8 believe, due to the executive order, will require some
9 looking at or some changes. And those are the two
10 notations that are on that third document.

11 As it relates to the blue, it's a first
12 draft. You know, we're not necessarily married to any
13 language. If anyone has issues with how that's drafted,
14 I've worked with people in the past on making it mean
15 what everybody thinks it should mean. So I'm happy to
16 take any suggestions on that.

17 And the yellow is for the Board to
18 determine, you know, how, moving forward with the
19 executive order, they'd like to proceed.

20 MR. ADLEY:

21 So rather than trying to take any action
22 on this now, I wanted to have this prepared for the
23 Board or this committee so that you could take these
24 things home, read them for yourself, get your thoughts
25 put together so that at our next meeting, we'll go into



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1 more detail with them.

2 There is a point here on my notes toward
3 the end where I know some of you, the other day, we had
4 the meeting on Friday, said you already had some
5 suggestions of things you wanted to bring forth, so when
6 we get toward the end, I'll do that and ask each one of
7 you if you've got anything in particular you want the
8 staff to start researching or looking for. But if
9 you'll take that home with you, and you've got the
10 constitutional provision, you've got the rules, you've
11 got the executive order --

12 MS. CLAPINSKI:

13 I don't know that it's in there, but we
14 can PDF everybody a copy of that by e-mail today.

15 MAJOR COLEMAN:

16 I was about to say, I don't have that.
17 I'm not there.

18 MS. CLAPINSKI:

19 I'll be happy to send that.

20 MR. FABRA:

21 I didn't want to throw a curve ball into
22 the conversation as well, but I did not receive the
23 three documents.

24 MS. CLAPINSKI:

25 I wasn't sure who was in person and who



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1 was going to be on conference call. So as soon as the
2 meeting is over, I'll get those over to you this
3 morning.

4 MS. VILLA:

5 And we'll PDF that to everybody.

6 MAJOR COLEMAN:

7 All right. Thank you.

8 MR. ADLEY:

9 So the issues that came up at the last
10 meeting, just a couple of them I'm going to identify
11 here. I think when we go home, we're going to be able
12 to go back through the rules and deal with that. And
13 one of the questions that came up was the issue with the
14 MCAs, those that do not require the advanced notice. As
15 I understand the executive order, unless it creates jobs
16 or you can show good reason for maintaining jobs, a lot
17 of the MCAs, as we have seen them in the past, may not
18 be here unless they're creating jobs or showing some
19 sound reason for that. So as you're reading through the
20 executive order and these rules, I'd ask that you would
21 keep that in mind.

22 I'd ask you to look for, when you're
23 reading through it, any ambiguous language that you
24 think is not clear, because I think the rules -- one of
25 the things that came out the other day, there was a



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1 question, I know when we discussed the issue of
2 capitalization versus your immediate write-off versus
3 being maintenance, being additions. When you're reading
4 the rules, just look through them carefully and just
5 make sure we don't have ambiguous language, that we can
6 find ways to deal with that.

7 It's going to be important as we move
8 forward that ITEP is tied to jobs and a method and a way
9 to audit and keep up with that. Staff tells me that
10 that can be done, but will have to be done. One of the
11 issues that came up last Friday was that I know at least
12 two of the members said to me, "We really need to get a
13 little more dependable data in the reports that we get."
14 As an example, we had one set of those MCAs came up and
15 they were all for different projects, but had the exact
16 number of construction jobs associated with each. It's
17 going to be critical when you read the rules to look at
18 what we need to do to make sure we're getting more
19 dependable data than we might have been getting in the
20 past.

21 Inside the executive order is highly
22 encouraging local input and participation and possible
23 local approval for the ITEP, and so when you go through
24 those rules, I'd ask you to pay particular attention to
25 that. I would ask the staff, if you will, between now



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1 and the next meeting, to look at the ramifications of
2 these rules changing to -- if they can be changed to
3 require that approval or if they can be changed only to
4 make sure that local governmental bodies are getting
5 information what's happening to them with the loss of
6 revenue from their ITEP. I think that's going to be
7 important.

8 The other issue is that, what I'd ask
9 the staff between now and the next meeting, is to give
10 us all of the backup we need to know whether or not when
11 someone comes to apply for ITEP it has always been 100
12 percent, but it's my understanding that you don't have
13 to grant 100 percent. I need to know what the law says
14 about that, what the rules say about that so that we can
15 deal with that particular issue. As we said in the
16 meeting the other day, Louisiana's ITEP has been very
17 generous. The Tax Foundation says, "Unusually
18 generous," and the notes we got from LED said that if it
19 was actually reduced down to 70 percent, we'd still be
20 number one in the country, particularly for
21 labor-intensive facilities. And so I'd ask that you do
22 that.

23 This question, I think I know the
24 answer, but I'd ask you to research it just to be sure,
25 if the State of Louisiana had a property tax in place.



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1 I think under the law it could impose a 5-mill tax
2 today. If that were in place, does it fall under these
3 exemptions that are in existence today or not. I need
4 to know the answer to that one.

5 Now, the ideas from the committee, and
6 at this point, I'm going to ask you, but there were
7 three of them I know y'all brought up in the committee.

8 John, I think you had one about video
9 meetings or were these meetings videoed -- I think you
10 asked that question -- made public, and obviously
11 they're not where we're meeting now. I think it would
12 be good if y'all would look into the possibility if it's
13 possible to get to another location for these meetings,
14 possibly even inside one of legislative committee rooms
15 where these things could be videoed and people could
16 watch and could get a copy of all of the proceedings, a
17 visual copy instead of just a written copy.

18 There was an issue regarding the late
19 filings and looking for particular guidance on that. I
20 know, Robby, I think you brought that up a couple of
21 times about how critical that was.

22 And then the last that I had on my list
23 from that meeting was how do we deal with people who
24 don't even show up when they file the application. The
25 Board took pretty decisive action if they didn't show



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1 up, but it might be good if we had something in the
2 rules to deal with that.

3 Those are the notes that I had from that
4 meeting. Beyond that, what I would ask y'all as
5 committee members now what your thoughts are, what you
6 think we need to get the staff or anybody else looking
7 into so that we have everything in front of us that we
8 need to start dealing with some revision to these rules.

9 MAJOR COLEMAN:

10 I just have one question about the
11 statement that the lady made. So would I have in my
12 hand is what the current rules are and the executive
13 order so I can compare --

14 MS. CLAPINSKI:

15 Yes, sir, you will.

16 MAJOR COLEMAN:

17 Okay. That's what I would need.

18 MS. CLAPINSKI:

19 And you'll also have a copy of the rules
20 where we have highlighted in yellow those portions that
21 we believe the executive order would have some impact
22 upon.

23 MAJOR COLEMAN:

24 Okay. Thank you.

25 MR. FABRA:



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1 This is Rickey Fabra, and I don't have
2 the executive order document in front of me, but looking
3 at when we first went through the orientation for the
4 ITEP program, and the eligibility requirements stated
5 that job creation or retention was not a requirement for
6 this program. So the executive order pretty much spells
7 it out it that it has to create jobs with ITEP
8 eligibility requirement?

9 MR. ADLEY:

10 Yeah. The Governor has said that if
11 it's not tied to jobs, he will not approve any
12 applications that hit his desk.

13 MR. FABRA:

14 Okay. And I guess the next question
15 would be --

16 MR. ADLEY:

17 Hold on. Did you have something?

18 Rickey, wait just a minute.

19 MS. CLAPINSKI:

20 The only thing I was going to -- what I
21 was going to add there is that I think what happened in
22 that original meeting was that there is nothing in the
23 constitutional provision that requires jobs. However,
24 the Governor has the right to decide what is or is not
25 in the best interest of the state, and what he has said



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1 in that executive order that only those that create jobs
2 will be in the best interest of the state and he will
3 sign. So that is -- or maintain with a compelling
4 reason for the maintenance of those jobs. So that falls
5 more under his right to determine best interest of the
6 state and not the constitutional language of
7 manufacturing establishment or manufacturing.

8 MR. ADLEY:

9 But if we chose, we could put it in the
10 rules or not?

11 MS. CLAPINSKI:

12 I need to -- I think it can go in the
13 rules, but whether it can go in the rules to outlive the
14 executive order is something I have to look into. I
15 think...

16 MR. ADLEY:

17 I'm going to make this suggestion to
18 you.

19 MS. CLAPINSKI:

20 Yes, sir.

21 MR. ADLEY:

22 As one that's kind of been through APA
23 before, once you change the rules, regardless of the
24 executive order, the rules stay until the rules are
25 changed. The good news from my perspective is the



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1 executive order lasts for about three and a half years
2 until another Governor.

3 MS. CLAPINSKI:

4 Yes, sir.

5 MR. ADLEY:

6 But when the rules are changed, they
7 cannot be changed again until you do what we're doing
8 today.

9 MS. CLAPINSKI:

10 That's correct.

11 MR. ADLEY:

12 Until there's a lot of sunshine and a
13 lot of transparency on any rule changes. I do believe
14 you can tie them to jobs if you see fit. I do believe
15 that, but I'd ask you to research it to be sure that
16 we're on sound footing there. But once you make this
17 administrative procedures change, it will be the rules
18 until it's changed again, and that's a very open,
19 transparent process as you look around the room full of
20 a lot of sunshine.

21 MS. CLAPINSKI:

22 Yes, sir.

23 MR. ADLEY:

24 Which, in my view, is a good thing.

25 MR. FABRA:



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1 Robby?

2 MR. ADLEY:

3 Yes?

4 MR. FABRA:

5 And I can tell you, I go through that
6 same process sitting on the State Plumbing Board going
7 through that process with the administrative procedures
8 where it's posted for public comment, and once it gets
9 adopted, then it's part of the rulemaking and that
10 becomes state bar.

11 You know, one of the things I just
12 wanted to bring up that when we talked about not getting
13 enough information in front of us to make a decision on
14 the applicant for approval, and one of the things I seen
15 where it was a capitalization upgrade and there was no
16 jobs, no permanent jobs, neither -- no construction
17 jobs. And my question would be, if it was doing an
18 upgrade and the executive order says that maintenance
19 was excluded from getting the tax exemption, then my
20 question would be is who is installing this stuff, this
21 equipment, if it's not creating any construction jobs on
22 the application?

23 MR. ADLEY:

24 Well, I assume that people can install
25 their own equipment with existing employees, I guess. I



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1 mean, that's the only way I can see that that can
2 happen.

3 MR. FABRA:

4 Okay. And that's what I assume, too,
5 but I would think that that would fall into the
6 maintenance piece of it, so I'm not really sure. I just
7 need some clarification -- just clarity on that.

8 MR. ADLEY:

9 No. I think that's a good point, and I
10 clearly think that's something we need to research. The
11 maintenance issue is something that concerns, I know,
12 the Governor greatly, that maintenance is not supposed
13 to be part of an ITEP exemption, at least in his eyes.

14 But those are all good points. I made a
15 list of that to add to what we're going to be digging
16 into so that we can gather all of this up. I will tell
17 y'all that once this meeting is over with -- obviously
18 we'll get through the 4th of July and the 4th of July
19 week -- I would ask the staff to send to everybody on
20 this committee that e-mail list of all of the members so
21 that if they want to communicate with each other,
22 whether it be by e-mail or telephone, that everybody's
23 got easy access to each other. You may have already
24 done that, but that will be helpful so that they can
25 visit with each other and ask each other questions. As



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1 long as they don't get together as a quorum, they're
2 fine.

3 So, Robby?

4 MR. MILLER:

5 I guess the -- I know there's a process
6 that we have to go through, but how fast we can compress
7 the time. I think if you go around this room with all
8 of these people that are representing companies, the
9 uncertainty of what we're going to do is probably more
10 frightening than if we took the whole thing away, not
11 that I advocate that by any means. But the idea --

12 MR. ADLEY:

13 Let me just get away from you.

14 MR. MILLER:

15 No kidding. I'll jump out that window.

16 But the idea that we have no -- I would
17 venture to say some of you probably have projects that
18 have either already moved or you just shut them down
19 completely till you know what's going on. Hopefully
20 they haven't moved, that they're not somewhere else
21 already. So, I mean, I would just encourage all of us
22 to get on this as quickly as we can and make this
23 process move as quickly as it can so that we know they
24 know what the rules are.

25 MR. ADLEY:



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1 I think time wise is -- to deal with
2 that for you, I think if we got through two, three, four
3 meetings and we finally got to a point where we had some
4 rules, by the time you go through the public hearing,
5 you publish it, it takes months to get it done. If we
6 can get it done, my goal is to get it done before the
7 close of this year, if that's possible.

8 MS. CLAPINSKI:

9 I think generally what has to happen is
10 that this committee will come up with a draft that they
11 are comfortable with. That draft will go to the full
12 Board for approval hopefully maybe in August. At that
13 point, then you have to do a fiscal note, and then -- so
14 I would think the earliest your notice of intent is
15 going to be published is probably October, and then you
16 have to wait 35 to 45 days to hold a public hearing. So
17 that's going to put that public hearing roughly around
18 Thanksgiving. After that, we have to give the
19 legislature up to 30 days to call their own hearing.
20 The two oversight committees, which are House and Senate
21 Commerce for this program, and so you are roughly
22 looking at January 20th as the earliest.

23 Now, I think companies or, you know,
24 consultants, whoever, will have an idea based upon that
25 notice of intent what the rules may look like, but I



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1 think your earliest final publication, you're looking at
2 January 20th of '17.

3 MR. MILLER:

4 So what's our message to the people that
5 have projects waiting? They're doing their return on
6 investment, their own return on investment today. They
7 can't do it; they don't know what their number is. They
8 don't know if there's going to be any break or what we
9 have today. And I'm not -- I'm trying to figure out, if
10 I'm one of them, I'm like...

11 MR. ADLEY:

12 If I'm one of them, I'm not very
13 concerned, Robby, because you've got a set of rules that
14 will stay in place until January 20th or whenever.

15 MR. MILLER:

16 Okay.

17 MR. ADLEY:

18 Those are in place. What I'm concerned
19 with -- is what the governor said in his executive
20 order. Regardless of what we do, that executive order
21 is giving them really good guidance of what he's going
22 to sign, and they've read it. They all got it. It's
23 not a secret. It's out there. And if I'm in their
24 shoes, that's what I'm following. I'm looking at that
25 executive order and saying, "Here it is. This is" --



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1 the Board may say one thing, but the final approval
2 rests with him, and he has clearly said, "This is what
3 I'm going to do." And so albeit they may not like what
4 he has said he is going to do, he has the constitutional
5 right to do that, and that's where he's at. So we're in
6 a position that time is not that -- his executive order
7 is going to be here for at least three years.

8 MS. CLAPINSKI:

9 And that's in effect without us ever
10 touching the rules.

11 MR. MILLER:

12 Whether we do anything.

13 MS. CLAPINSKI:

14 So we can do nothing with the rules and
15 that executive order is in effect.

16 MR. MILLER:

17 All right. So the information, the data
18 that was brought up earlier, that data that we get and
19 the data the company sent to us should be in more detail
20 about jobs, maintaining jobs. I mean, I could see an
21 example where they're replacing a piece of equipment to
22 be more competitive in the market and they go from 400
23 jobs to 475. Without doing it, they go to zero.

24 MS. COLA:

25 I think that would need to be



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1 articulated --

2 MR. MILLER:

3 That's what I'm saying, that needs to
4 come and go with their package that the Governor's
5 looking at, or to us to approve or not approve and then
6 the Governor decides to sign or not. So even without
7 any rules changes, these guys need to be more detailed
8 in what it does to jobs.

9 MS. COLA:

10 That's right. And one of the other
11 suggestions, in terms of suggestions for our business
12 partners here, is that there's usually a cost analysis
13 that's done, best or worst case analysis.

14 MR. ADLEY:

15 Say that again.

16 MS. COLA:

17 There's usually a cost analysis that
18 they'll run for any project, best and worst case
19 analysis, in terms of what funding sources will be
20 needed for the completion of the project will be. So in
21 the past, I'm sure that analysis may include 100 percent
22 of the exemption. So you may want to stress test the
23 project to see at what level, at worst case scenario,
24 say the Board makes the decision that we're not funding
25 100 percent. We'll do 80 percent based upon whatever



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1 measures they put place, they know what their business
2 can handle based upon that in their mind's eye.

3 The rules haven't changed. We know the
4 Governor said basically we need jobs. My one comment as
5 suggestions for our business partners is when we go
6 through this process again, we kind of was baptized by
7 fire, some of us, last time, just make sure that you
8 understand the key points that will come into play and
9 be ready to articulate in detailed fashion in terms of
10 how this will make or break a business.

11 My only other suggestion, in terms of
12 summary report -- and I'm sorry. I'm not sure who's on
13 the phone -- it was hard for us as commission members to
14 truly understand how this impacts a project in a summary
15 format. So maybe the summary itself can be beefed up a
16 little bit so that we can make really good decisions in
17 terms of how we want --

18 MS. CLAPINSKI:

19 If you guys want five or six binders
20 worth of paper, we will --

21 MS. COLA:

22 The summary report. Not the full
23 report.

24 MS. CLAPINSKI:

25 We'll send it. Okay.



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1 MR. ADLEY:

2 I think she's right, and in fairness,
3 y'all told me that the May/June meetings is where y'all
4 get most of the applications. The next one coming up,
5 you've got about 50 in now, probably some underlying
6 below that. But I think there are less, and albeit it's
7 time consuming to get as much material as they can get,
8 but it can save questions, to be honest with you.

9 MS. COLA:

10 Exactly.

11 MR. MILLER:

12 And I agree with you, but they're going
13 to do their return on investment before they do the job.
14 Basically they take that and take out any of the
15 competitive information that they wouldn't want anybody
16 to see, but give it to us in a way that they can
17 understand it and present it.

18 MR. SHEXNAYDRE:

19 So if a company is making an application
20 on the basis of retention, they really need to put some
21 data around it. You allow the consideration, but they
22 really need to qualify that because that can be real
23 important when it comes to retention.

24 MR. ADLEY:

25 We were very careful to put in the



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1 executive order, "Unless you can prove or make a
2 compelling case." I think that was the words he used.

3 MS. CLAPINSKI:

4 Compelling is the word, yes.

5 MR. ADLEY:

6 Make a compelling case that you're
7 saving jobs with what you're doing.

8 MR. MOLLER:

9 And I think that's going to be part of
10 our charge is defining "compelling case."

11 MR. ADLEY:

12 Well, I think that --

13 MR. MOLLER:

14 Is that something we're going to aim to
15 spell out in the rules?

16 MS. COLA:

17 I would think that it would be hard to
18 detail that. I think that each business will know what
19 would give them a competitive advantage. You know
20 what's going to make or break your market, and so I
21 think to detail what it means for one industry versus
22 the next might be --

23 MS. CLAPINSKI:

24 I also think that -- if I can speak
25 freely -- it depends, also, where you are. Compelling



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1 for a rural area may not be the same as compelling for
2 an urban area, so trying to lay that out in rules where
3 you cover every scenario I think may be difficult.
4 There may be a matrix y'all can devise just for your own
5 working purposes whether you actually want to drop that
6 into the rules I think may be another question.

7 MR. ADLEY:

8 No, but, look, all of that is worth
9 discussing. It is. But regardless of what we do with
10 the current executive order, it's going to fall on his
11 shoulder what his interpretation of that is, but the
12 staff themselves have made it clear to us we've got
13 rules that administratively need to be cleaned up. And
14 I happen to be one of those that believe the same thing
15 as the Governor. Everybody in this state thought we
16 were giving these exemptions that create jobs. I think
17 that's going to be a big, important piece for these
18 rules.

19 MR. MOLLER:

20 Would it be possible to get detailed
21 information on how other states, particularly other
22 Southern states, deal with miscellaneous capital
23 additions.

24 MS. CLAPINSKI:

25 Yeah. I think we can do that.



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1 MR. MOLLER:

2 I would be very --

3 MS. CLAPINSKI:

4 And I think we need to clarify, because
5 we keep throwing the "miscellaneous capital additions"
6 term around, and I think you need to clarify what you
7 mean by that. For my purposes, just internally at LED,
8 when I think of an MCA, that's a process. That's the
9 non-advance, you just have to file your application
10 under 5-million. So if you're talking about the
11 process, that's one thing. If instead you're talking
12 about what I think a lot of people have put in that
13 category, which is maintenance, replacements and that
14 sort of thing, that's a different question.

15 MR. MOLLER:

16 Routine upgrade. Do other states give
17 10-year, 100-percent exemption on kind of routine
18 upgrades to a facility, and I don't think I know the
19 answer to that.

20 MS. CLAPINSKI:

21 Okay.

22 MR. ADLEY:

23 It's a little more difficult in that no
24 other state does it like we do. No other state controls
25 it at the state level. It's all controlled at the local



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1 level. So a lot of those discussions occur between
2 local officials and the industry, this is what we agreed
3 to and not agreed to. But they may have some overriding
4 guidelines for all of the locals to use, and so I think
5 that's a great idea. Check with the other states and
6 let's see what they've got in place that might give us
7 some guidelines for that.

8 MR. WINDHAM:

9 Robert, I don't know if I'm allowed to
10 ask any questions.

11 MR. ADLEY:

12 You can do whatever the hell you want to
13 do. You're the chairman.

14 MR. WINDHAM:

15 I think, since you brought up the
16 locals, one question that I thought of as I was, you
17 know, reading through the executive order, in the
18 executive order, I believe it specifically mentioned
19 three local entities, for lack of a better word.

20 MS. CLAPINSKI:

21 Three to four, yeah.

22 MR. WINDHAM:

23 Three to four?

24 MS. CLAPINSKI:

25 Depending. If you're in a city, I think



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1 the city comes in as well. If not, it's just the
2 parish.

3 MR. WINDHAM:

4 I think it's going to be -- I don't know
5 if it would be in the rules, appropriately in the rules,
6 that said if two of them are on board or if two of them
7 say, "I'll participate, but it's only going to be 80
8 percent," and the other one says, "Well, I'm only going
9 to give up half of mine," how -- where should that be
10 addressed?

11 MS. CLAPINSKI:

12 I believe, and we can check, because I
13 looked at that, the executive order language says the
14 CEA or other-type document must be all. It says, "This
15 entity, this entity, this entity and," so I think they
16 all have -- as I read the executive order, it's an
17 "and," not an "or."

18 MR. WINDHAM:

19 And I guess the reason I brought that up
20 is I just envision if there is a parish or group where
21 one of bodies is perfectly fine with their budget and
22 the amount of money that they get and the other two need
23 money. So one of them, you know, Entity A, may say,
24 "Well, we don't need anymore money because we can cover
25 everything that we're supposed to do that we're charged



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1 with already, so we are willing to give up 100 percent
2 of our tax benefit," but the other two say, "No, no. We
3 need some more money because we have kids to educate,"
4 blah, blah, blah, so what happens then?

5 MR. ADLEY:

6 Well, those that give up "X," when you
7 get your exemption, you get "X." The guy that says,
8 "I'm willing to give up 'Y' for that entity," you get
9 "Y." Just like when you pay your taxes back home, you
10 pay to multiple people based on different amounts. And
11 I don't see that as a problem. If it were a problem,
12 all of the other states in America would not do it that
13 way.

14 MR. WINDHAM:

15 I'm just saying should it be in the
16 rules?

17 MR. ADLEY:

18 I don't know. I think what needs to be
19 in the rules is something to deal with local involvement
20 and local approval possibly and how they go about doing
21 that is really their business.

22 MR. MILLER:

23 Each parish decides how to do it?

24 MR. ADLEY:

25 Huh?



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MR. MILLER:

Each parish decides how to do it?

MR. ADLEY:

Yeah. It creates a good thing.

MR. MILLER:

It would make some sense that it would go from LED to the economic development at the parish level and the parish's economic development then contacts all of the locals and comes back with one person going to the locals and one person comes back to LED.

MR. LEONARD:

May I have an opportunity to ask a question?

MR. ADLEY:

No, not just now.

MR. LEONARD:

Fair enough.

MR. ADLEY:

Not just now.

When I was on the city council in 1976, all of those projects came to us. That's the way it worked up in Bossier Parish. Same way it worked in St. James. I don't know how they did it, don't know how they got there, but St. James is that way now. They



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1 meet and decide as a group somehow whether or not they
2 want to participate and want to make a recommendation on
3 it.

4 But it's important to know, if you could
5 put in the rules those requirements, I want to make sure
6 that legally and under current law, you can do that, and
7 I'd ask you to look at that carefully just to make sure.

8 And, look, I'm not trying to cut you
9 off, but we're in a committee meeting. When we get
10 through, I'll give y'all a minute to do that, but I'm a
11 strong believer in meetings lasting about an hour, and
12 I'm getting close, but I want them to get it amongst
13 themselves.

14 MR. LEONARD:

15 Yes, sir.

16 MR. WINDHAM:

17 I just didn't know how that would work,
18 so I was curious. Like I say, in the rules, outside the
19 rules, where would it be? And I guess the other
20 question is, after all of these rules are done, does
21 that mean the executive order is null and void or --

22 MR. ADLEY:

23 There ain't but one person can do that.

24 MR. WINDHAM:

25 Okay. I didn't know.



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1 MR. ADLEY:

2 And I can't answer that. I can't.

3 My guess is if you've got rules together
4 that he felt like was doing what his executive order as
5 requested, there probably wouldn't be any need for it
6 anymore. That's just my assumption.

7 MR. WINDHAM:

8 Thank you.

9 MR. FABRA:

10 Hey, Robby?

11 MR. ADLEY:

12 Yes, sir.

13 MR. FABRA:

14 This is Rickey Fabra, again. Just for
15 the participants at this meeting, the PowerPoint that
16 was sent as a followup to the workshops that we
17 attended, I'm just looking at the LED ITEP presentation
18 that was sent to us, and if you go to Slide 5, it does a
19 comparison of the discretionary county exemptions and
20 compares them to our state with Alabama, Arkansas,
21 Mississippi and Texas. So just for information
22 purposes, if y'all want to go back in the archives and
23 look at that slide, it will give you a little snapshot
24 of what our neighboring states are doing.

25 MR. ADLEY:



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1 That's a good point, Rickey. Thank you.

2 MR. FABRA:

3 You're welcome.

4 MR. MILLER:

5 The executive order only mentions those
6 three or four local entities, so what happens with the
7 rec districts, the fire boards, the health units that
8 have property taxes also? Do they not have a voice, or
9 is that up to the locals?

10 MR. ADLEY:

11 That's a decision you're going to have
12 to make. I think he reached in his mind that if you
13 reached out to the sheriffs, the police jurors, and the
14 school boards, most cities aren't really impacted
15 because, then, they don't rely a great deal, as I
16 understand it. Homestead doesn't apply to them. They
17 don't -- property tax is not a major issue to them. So
18 we reached out to the parishes, the sheriffs and the
19 school boards.

20 MS. CLAPINSKI:

21 It does say municipal council by
22 resolution as well, so I think if it is --

23 MR. MILLER:

24 All of those others that...

25 MS. CLAPINSKI:



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1 That's correct. I think they, perhaps,
2 pick those that are the biggest tax recipients because,
3 I guess, trying to catch up with 20 different groups
4 would be...

5 MR. ADLEY:

6 The other thing that he pointed out, I
7 can tell you from sitting in those meetings when he was
8 drafting that thing, what he thought is -- and I think
9 he's right to a degree, it will create competition
10 between parishes.

11 MR. MILLER:

12 No doubt. Good regionalism.

13 MR. ADLEY:

14 But we'll have to decide. You're just
15 going to have to decide what you want to put in there,
16 and I think after you listen and you talk and we discuss
17 back and forth, you figure out what was the best
18 approach.

19 MAJOR COLEMAN:

20 Okay. This is Major Coleman with a
21 comment --

22 MR. ADLEY:

23 Before we go on, let me say, when you
24 check with the other states, ask them, let's find out
25 they how they do it. Do they stick with three or four



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1 major taxing bodies in the county? Do they go to all?
2 How do they do that? That will be important.

3 MAJOR COLEMAN:

4 That's all I was going to say right
5 there.

6 MR. ADLEY:

7 I'm sorry. I apologize.

8 MAJOR COLEMAN:

9 No problem. That's what I was going to
10 say.

11 MR. FABRA:

12 Robert, I have one other question, if I
13 may.

14 MR. ADLEY:

15 Yes.

16 MR. FABRA:

17 Okay. I'm looking at the three-ring
18 binder that they had given us when we came for the
19 orientation, and under the tax exemption program,
20 there's Chapter 5. Is that the rules right now?

21 MS. CLAPINSKI:

22 Yes, sir. Those are the rules as they
23 stand. That's correct.

24 MR. FABRA:

25 Okay. Because, I guess, my question



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1 would be is, I'm going through these three or four pages
2 here and I don't see anything that spells anything out
3 in the rulemaking on eligibility requirements, and I was
4 just curious, does that -- I mean, when we looked at
5 that slide where it said job creation or retention is
6 not part of the requirement, and it doesn't spell
7 anything out in the rulemaking as it stands now. Am I
8 correct on that?

9 MS. CLAPINSKI:

10 That's correct. The constitutional
11 requirement is that it be a manufacturing establishment
12 or addition thereto, and that's where the constitutional
13 provision stops. And so the Governor has taken a step
14 beyond that in his executive order to add some
15 additional requirements such as job creation. So you
16 will not see the job creation-type language anywhere
17 right now.

18 MR. FABRA:

19 Okay. Okay. Thank.

20 MR. ADLEY:

21 Okay. That's why we call this an
22 organizational meeting. There's a whole lot of stuff at
23 the table that we need to think about and go back home
24 and put your thoughts together. If you have a specific
25 thought or a specific suggestion, I'm going to ask you



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1 to contact the staff, give them that information so that
2 we can start gathering that up, and then when we come
3 together again to sit down and try to, you know, take
4 that next step. It's going to be a process. It's going
5 to take several months, y'all. It's not one of those
6 things you just step in and overnight it happens. It's
7 not. The government moves very slowly. It does.

8 And I'm going give a lot of latitude.
9 You had one question. I'm going to go ahead and take
10 it, but generally I won't do that when we're in a
11 committee meeting, so if you have a question.

12 MR. LEONARD:

13 Yes, sir. Real quick. As we're going
14 through the rules related to the current ITEP program,
15 there are very specific additional documents, and as we
16 read the executive order, procedures that must be
17 followed. Who -- like, when do we go to the locals?
18 What form are we going to the locals with? Is it an LED
19 form? Is it a local form? As we try to run projects
20 through the approval process related to the executive
21 order, we read it to see that there are very specific
22 documents and timelines, policies and procedures that
23 must be followed. Is that part of this rules committee
24 or is that going to be an internal LED? How is that
25 going to be addressed? Because I sense two different



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1 processes. Like, these current rules approve and a
2 board makes a decision, but there's an executive order
3 that has to have certain ducks in row to get a governor
4 approval. So I'm trying to understand, as I advise our
5 clients, how do we accomplish both to get both
6 approvals?

7 MR. ADLEY:

8 You want to try to deal with that or...

9 MS. CLAPINSKI:

10 Sure. I'll muddle through.

11 I believe, as it relates to the local
12 resolutions, that LED will put something like a sample
13 resolution together so that what we get all looks
14 similar because those will have to come in from all of
15 those local bodies.

16 As far as I know, and we can obviously
17 get clarification from LED, I do not believe LED has
18 taken on the task of going out to the locals. That will
19 be to the company and their representative to negotiate
20 with the locals how they see fit. Where that needs to
21 fall in the process, the current process of, you know,
22 advance, application, board approval, that, I think
23 we're working on that and we'll have something hopefully
24 sooner rather than later.

25 MR. ADLEY:



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1 And I would suggest that you get with
2 the staff, and I know Don, when we met with him early
3 on, gave the example that when he was just getting
4 started in this business, how he and the executive
5 director for a region or area or parish would go before
6 these governing bodies and say, "You know, we've got
7 this project, we've got this job, we'd like to get your
8 approval," and we all pass resolutions for that kind of
9 stuff. But I think he has some ideas about how he did
10 it before and I really suggest that's who you get with.

11 MR. LEONARD:

12 But does that go through APA process as
13 well? That's my question.

14 MS. CLAPINSKI:

15 You mean how you get the local approval?
16 No. I --

17 MR. LEONARD:

18 No. I interpret our current set of
19 rules for ITEP to be both a guidance on qualifications,
20 but it also lays out very specific procedures and very
21 specific timelines that are flowcharted that I have to
22 accomplish A and then B and then C and use very specific
23 forms for that process. So I understand --

24 MR. ADLEY:

25 Is that process going to be in the



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1 rules? I think you're right. I think we ought to have
2 for you that process that you need to follow. I do.

3 MR. LEONARD:

4 I mean, we just want to do it -- we want
5 to do it right. That's our goal here.

6 MR. ADLEY:

7 My suggestion to you right now while
8 you're living strictly under an executive order and
9 these things are being worked under -- I can't speak for
10 the Governor, but I can tell you I think that if you
11 have taken those reasonable steps and gotten that
12 approval, I mean, you know what you've got to do.
13 You're going to have to go see him.

14 MR. LEONARD:

15 Oh, absolutely. Yes, sir. But can I
16 have --

17 MR. ADLEY:

18 And that's what he's going to want to
19 see.

20 MS. CLAPINSKI:

21 Can you have a -- what was your
22 question, Jimmy?

23 MR. LEONARD:

24 Well, there's an existing endorsement
25 resolution concept at LED for local sales tax rebates



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1 and restoration tax abatement, and restoration tax
2 abatement is a property tax exemption. I mean, if we
3 follow that general process and that sample resolution
4 that each of the entities mentioned in the executive
5 order, could those be made as the exhibits?

6 MS. CLAPINSKI:

7 I think the draft resolution, so to
8 speak, that LED's going to come up with, because I think
9 what we want to ensure is are certain things like terms
10 of contract the locals could decide or other things
11 based on jobs or whatever else. I know that the
12 executive order tells LED to give the locals guidance,
13 and I think that's currently being worked on as they
14 don't have to take it, but it's basically, you know, if
15 someone's creating this, then this is the general type
16 of benefit you should look at. That will come out and
17 that will -- now, it won't go in rules. I think that's
18 just guidance that's publicly available. But I think
19 that sample resolution will lay out what it's supposed
20 to look like. And I think if you get something similar
21 to that coming in from everybody, that's going to meet,
22 as far as I'm concerned at LED, the requirement as
23 Exhibit B.

24 MS. VILLA:

25 Right. That's the two key things is



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1 Exhibit A and Exhibit B.

2 MR. MILLER:

3 And they need to do that for existing
4 projects?

5 MS. CLAPINSKI:

6 With advances filed after the executive
7 order issuance, I believe is how it reads.

8 MR. WINDHAM:

9 And does that include the CEAs? Because
10 the CEAs, as I understand the executive order, is
11 between LED --

12 MS. CLAPINSKI:

13 There's two. There's an Exhibit A and
14 an Exhibit B.

15 MR. WINDHAM:

16 Right.

17 MS. CLAPINSKI:

18 I don't know which is which. One is the
19 resolutions from the locals. The other is a CEA with
20 the state. So if you have a big project that is a
21 normal LED CEA project, I think our normal CEA will
22 suffice for that. If this is not an LED big
23 announcement-type project, I think we are working
24 internally on some form of an ITEP-specific CEA, but it
25 will -- still does require State of Louisiana approval,



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1 so that will still have to go over to the division and
2 Mr. Dardenne will have to approve those as well.

3 MR. MILLER:

4 So that CEA will be initiated by LED?

5 MS. CLAPINSKI:

6 Uh-huh.

7 MS. VILLA:

8 I would think so, it's Exhibit A.

9 MS. CLAPINSKI:

10 Well, we won't -- if they're not an
11 LED-announced project, we're not going to know to go to
12 every one of those and say, "Hey, you got B, an ITEP
13 CEA?" So I think in those instances, the company is
14 going to have to come into the department.

15 MR. ADLEY:

16 Give me an example where it's not the
17 LED that you're talking about.

18 MR. WINDHAM:

19 I'd look to the consultants to give you
20 a specific project, because I haven't been involved in
21 it more recently to be able to tell you, but when I did
22 economic develop as a marketing person, sometimes the
23 projects will come in and the locals would call on me to
24 come in and explain something. So because of the way I
25 approached economic develop, any projects that I brought



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1 from the state was wide open, but if Bill brings -- Bill
2 here; right?

3 MR. MILLER:

4 Yeah. Bill's one, or Stacy, yeah.

5 MR. WINDHAM:

6 Okay. If Bill brought me a project, I
7 didn't have the right to go shopping in Ascension Parish
8 because it was his project, his community, so I wasn't
9 the lead. State projects, I'd be the load. Local
10 projects, they're the lead. You know, that's the way I
11 approached it.

12 MR. ADLEY:

13 I think the issue for the Governor has
14 been local involvement. If they got the lead on it, I
15 don't know whether he's going to be that concerned or
16 not.

17 MR. WINDHAM:

18 But if the executive order requires a
19 CEA --

20 MS. CLAPINSKI:

21 They require an A and B according to
22 this --

23 MR. WINDHAM:

24 So I just want to make sure that if I'm
25 the state guy, his project, the local's project, am I



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1 now responsible to get this CEA or is --

2 MS. CLAPINSKI:

3 Somebody's going to have to approach LED
4 at that point in time to get that Exhibit A.

5 MS. VILLA:

6 Right.

7 MS. CLAPINSKI:

8 I don't know that necessarily LED cares
9 where it comes from, that initiation. We will just have
10 to set up a process for who that goes to and where it
11 goes from there.

12 MR. LEONARD:

13 Senator, historically the term CEA,
14 cooperative endeavor agreement, has been issued by the
15 Department of Economic Development to companies that are
16 receiving incentives in addition to the statutory
17 benefits, such as the Industrial Property Tax Exemption
18 or the Quality Jobs Program, Enterprise Zone,
19 Restoration. You know, LED-administered programs
20 typically have their own independent contract that a
21 company enters into with the Governor, the Department of
22 Economic Development.

23 When the State of Louisiana has
24 evaluated a project and determined that that project
25 warrants additional incentives, whether they're in a



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1 competitive nature with other states, at that point in
2 time, a cooperative endeavor agreement is entered into
3 between that company and the state listing the various
4 incentives that are going to be, I would say, supported
5 by the Department, plus additional incentives --

6 MS. CLAPINSKI:

7 Could be grants, could be EDAPs.

8 MR. LEONARD:

9 -- could be grants, could be
10 monitored --

11 MS. CLAPINSKI:

12 Monitored historically.

13 MR. LEONARD:

14 So historically, the cooperative
15 endeavor agreement concept is when the state providing
16 additional incentives over and above the ITEP, QJ or
17 Enterprise Zone. So with the executive order
18 implementing the concept of a CEA, in my layman's
19 thoughts, that's the Department of Economic Development
20 now working with the existing ITEP contract, but adding
21 the features that the Governor would like to see, such
22 as the term of the contract, the benefit percentage, the
23 et cetera, et cetera, because those are the types of
24 things that were historically seen when, I would call,
25 discretionary incentives.



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1 MR. ADLEY:

2 Yeah. I think his main emphasis on a
3 CEA is insuring that you've got that local involvement
4 and the corporate endeavor agreement. That's what I
5 think it is. I assume the Department can come up with
6 some form of agreement. I think you're clearly going to
7 have to walk through the process, but, I mean, at the
8 end of the day, that's what's got to happen, somebody's
9 going to have to sign something that says, "We're for
10 this."

11 MR. WINDHAM:

12 Would they have to do that prior to
13 submitting an application so it can be part of the
14 contract?

15 MR. ADLEY:

16 That's right.

17 MR. LEONARD:

18 I would expect going before the Board of
19 Commerce and Industry, I would have my client with the
20 approvals from the various local governing authorities
21 that are included in the executive order.

22 MR. ADLEY:

23 Well, we would like very much that
24 whatever you come to the Board with not be any different
25 than what he's going to get his hands on.



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1 MR. ALLISON:

2 Absolutely. So the process and
3 procedures of the executive order must align with the
4 process and procedures in the Industrial Tax Exemption
5 program. That's kind of --

6 MS. CLAPINSKI:

7 Yes.

8 MR. LEONARD:

9 -- kind of where I'm trying to go. Not
10 just on the qualification concepts and the policy
11 statements, but, I mean, I'm on the ground hands-on. I
12 just -- what do I specifically need to do to make
13 everybody happy?

14 MS. CLAPINSKI:

15 Well, I think, and you can correct me if
16 I'm wrong, but there is some requirement of jobs, and
17 then there is some potential penalty for not creating
18 what -- you know, creating what you've stated, so I
19 think that the LED state, whatever you want to call it,
20 CEA is also going to have to lay out those terms as
21 well, how many jobs and at what point there is some
22 notification to the Board that you are below a certain
23 percentage, whether it's any below or 10 percent. So I
24 think, yeah, there will be something prior to the actual
25 contract that's blessed that will have to happen here at



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1 LED.

2 MR. ADLEY:

3 Any other suggestions you've got for
4 them, once you're out of here, feel free to give it to
5 them.

6 MR. LEONARD:

7 Thank you very much.

8 MR. ADLEY:

9 I don't know whether we're going to take
10 it, but you can give it to them.

11 MR. LEONARD:

12 I understand that's the process.

13 MR. WINDHAM:

14 I see where Jimmy's coming from related
15 to this because a lot of this, for all of the people in
16 this room, as well as me as a former administrator, the
17 devil is in the details. I mean, the goal of the
18 Governor is very good, to go out and do good things, but
19 all of these people need to know, you know, how do I do
20 it?

21 MR. ADLEY:

22 Well, I've got to tell you, after
23 spending 40 years in that building over there, I
24 understand that, and we get it done.

25 MR. WINDHAM:



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1 Yes.

2 MR. ADLEY:

3 And they get it done at the local level,
4 and we'll get it done here.

5 MR. ALLISON:

6 Can I add something that might add a
7 little clarity?

8 MR. ADLEY:

9 No. I don't want to listen to you.

10 MR. ALLISON:

11 Well, public meeting. I'm going to
12 talk. Y'all can listen if you want to.

13 MR. ADLEY:

14 I want clarify that for you. Just
15 because it's a public meeting, doesn't mean everybody
16 can talk when you're in the committee. I'm going to
17 hear from you, but I don't want that to get out of hand
18 early.

19 MR. ALLISON:

20 Okay.

21 MR. ADLEY:

22 You're not members of the committee and
23 you're welcome to listen and everything's public and
24 everything gets published, but I want to make -- the
25 statement that you just made is not necessarily true,



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1 Don. Whatever you've got to say, you better say it and
2 get it over with, but I don't want us to get to a point,
3 until we get something in front of us where we've got a
4 little more specific and you've got questions, I want to
5 hear them, we want to know as we move forward. But
6 there's, as you heard from the very beginning of our
7 meeting, there's a whole lot of pieces out there we've
8 got to get in front of us yet before we can probably
9 even answer what you've got, but I'll be glad to try.

10 MR. ALLISON:

11 Thank you.

12 On the executive order, it talks about
13 cooperative endeavor agreement in terms of the job
14 creation requirements that the company is going to
15 commit to, and it's a CEA between the state, the company
16 and LED regarding the jobs. And the next part talks
17 about the approval of the local government. That's not
18 really a CEA. That's just some Exhibit B that documents
19 and something signed by different local governing bodies
20 that they have approved it and maybe the terms and
21 conditions that they approved it under. So the CEA is
22 actually regarding the job requirement of the executive
23 order and not regarding the local government requirement
24 of the executive order. I think that's how it actually
25 mechanically reads.



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1 MS. CLAPINSKI:

2 Unless the locals decide as part of
3 their approval that they are going to tie some job
4 requirement to it, because they get to just -- I mean,
5 as it states, after they determine the parameters under
6 which they approve.

7 MR. ALLISON:

8 Yeah. But the requirement is that some
9 evidence of the local approval has got to be attached to
10 the contract, and the CEA between the state and company
11 and LED is regarding the job commitment.

12 MR. ADLEY:

13 That sounds right.

14 MR. ALLISON:

15 I thought it might clarify something. I
16 appreciate it.

17 MR. ADLEY:

18 Anybody else? Anybody on the committee,
19 anything else?

20 MR. FABRA:

21 I just wanted to bring up one thing,
22 Robert. This is Rickey Fabra, again. And I keep
23 referring back to the orientation that we all attended,
24 the four programs that LED administers, and if you look
25 at the ITEP program, they list out the process. So, you



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1 know, pretty much it looks like they kind of extracted
2 all of the information out of the rules, and I guess the
3 areas that we really need to concentrate on, I would
4 think personally, would be review of the application by
5 LED, which is, you know, we're at, some more dependable
6 data part of that application process for the Board's
7 review.

8 And then I guess the next question I
9 would have on that process would be where it says,
10 "Submit affidavit of final cost," and then -- didn't we
11 have raised some questions on that to where -- is the
12 Department of Revenue Involved with that process?

13 MS. CLAPINSKI:

14 No. That's submitted directly to the
15 Department of Economic Development.

16 MR. FABRA:

17 Okay. And I was just wondering if that
18 was part of the executive order or -- because, like I
19 said, I don't have that document in front of me.

20 MR. ADLEY:

21 What happens if the -- let's say you
22 entered in -- you changed all of the rules and you
23 entered into an ITEP that required so many jobs and then
24 you had a method for following it and you found out that
25 they didn't comply with the jobs and they had been



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1 exempted from ad valorem tax, I assume our Department of
2 Revenue would not come into play because it's all local
3 tax now.

4 MS. CLAPINSKI:

5 That's correct. The assessor --

6 MR. ADLEY:

7 But ours would come into play if we add
8 state tax; is that fair?

9 MS. CLAPINSKI:

10 Yes, sir, that's correct. The local
11 assessor has the right to go back three years. So they
12 could be back up to three years and collect tax for
13 prior years of the exemption if they did not --

14 MR. ADLEY:

15 When you say he can go back three years,
16 under the current rule, they can go back three years for
17 what?

18 MS. CLAPINSKI:

19 For instance, let's say we cancel a
20 contract because the site is no longer manufacturing and
21 we don't find out until 2015 and that site shut down in
22 2013 and we decide to cancel that contract as of the end
23 of manufacturing, which was 2013, they have no exemption
24 contract for '14 and '15. The assessor has the right to
25 go back and collect those taxes for those years up to



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1 three years, but that's a local action, not at the state
2 level.

3 MR. WINDHAM:

4 And that's because of the prescriptive
5 period?

6 MS. CLAPINSKI:

7 That's correct. It's because of the
8 prescriptive period.

9 MR. WINDHAM:

10 Can't that be extended by contract?

11 MS. CLAPINSKI:

12 I'd have to look into that.

13 MR. FABRA:

14 I've got a legal question, just to kind
15 of, I guess, since you explained that if the local
16 government has a cooperative endeavor agreement in place
17 and the tax assessor goes -- or let's just say LED
18 cancels the contract; okay, and then they still have
19 this cooperative endeavor agreement in place, with LED
20 canceling that contract, does that do anything with the
21 agreement that's in place at the local level?

22 MS. CLAPINSKI:

23 Well, I don't think that the locals
24 actually have a CEA. What the locals have is a board
25 resolution or a resolution of whatever body saying, "We



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1 agree to allow ITEP exemption for X amount of time for,
2 you know, the following types of things under these
3 circumstances," and --

4 MR. FABRA:

5 Okay.

6 MS. CLAPINSKI:

7 -- so at the point that they don't meet
8 these circumstances or there's not an exemption contract
9 in place, then I think the assessor has all of the
10 rights granted to under law, which would be to collect
11 any taxes for those periods where an exemption is not in
12 place.

13 MR. FABRA:

14 All right. That clears the air for me.
15 Thank you.

16 MR. ADLEY:

17 All right. We are sitting on a little
18 over an hour. Is there anything else?

19 (No response.)

20 MR. ADLEY:

21 Then I'm going to suggest to y'all,
22 let's go home, give you some time just go through what
23 you've got here. Any ideas you have, if you would
24 communicate them directly back to the staff, or
25 questions. Let's get everybody through the 4th of July,



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1 probably through next week and then sit down and try to
2 figure out when the next date's going to be. Now, I
3 will ask y'all as a committee, is there days of the week
4 or anything that's better for any of y'all or something
5 that's really bad? I know how to get --

6 MS. CLAPINSKI:

7 And can I clarify something, just so --
8 it's fine to have people here on teleconference for
9 organizational meetings and when we're just having
10 discussions, but for purposes of voting, when we get to
11 a point where we have to vote, we do have to have a
12 quorum of the members present, and only those members
13 present are allowed to vote. So I just wanted to make
14 that clear as we move forward with the process.

15 MR. MILLER:

16 Does the committee actually vote on
17 these things?

18 MS. CLAPINSKI:

19 Well, the committee has to pass a draft
20 of rules out and send that to the full Board for
21 approval, yes.

22 MR. MILLER:

23 Okay.

24 MR. ADLEY:

25 That's a drawn-out process.



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1 MR. FABRA:

2 You know, Rob, I have to tell you, when
3 I first volunteered for the committee, I had a flexible
4 schedule, then I shot myself in the foot today. But I
5 will say that, you know, I'm pretty open, but the next
6 two weeks, I'm going to be tied up, and I hate to say
7 that up front, but, you know, I'm going to be in Texas
8 all next week after the 4th, and then the week after
9 that, I will be in Alabama for a week. But I can still
10 call in.

11 MR. ADLEY:

12 You're going to Orange Beach? Where are
13 you going, Rickey? Tell us where the condo is.

14 MR. FABRA:

15 Well, honestly, I am going to Orange
16 Beach.

17 MR. ADLEY:

18 I'm looking at my calendar now, y'all,
19 to find out something, and if that's the case, maybe
20 sometime in the first part of August to meet again.
21 Does that work better for all of y'all?

22 MS. COLA:

23 August is fine.

24 MAJOR COLEMAN:

25 The first part of August?



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1 MS. COLA:
2 Mondays are extremely hard to be here
3 physically, but...

4 MR. ADLEY:
5 What days?

6 MS. COLA:
7 Mondays and Fridays.

8 MR. FABRA:
9 Can we do the second week in August, if
10 that's okay with everybody?

11 MR. ADLEY:
12 Rickey, I'm going to try to find a date
13 sometime between the 1st and the 11th of August.

14 MS. CLAPINSKI:
15 The second week is perfect, just not the
16 first.

17 MR. ADLEY:
18 Does that work for you guys? Give you
19 time to go home and go through your stuff, ask your
20 questions and give all of us two or three weeks and
21 y'all some time to work. And then at that point, I
22 would expect we're going to be moving, hopefully as fast
23 as we can, Robby, to get something over to that building
24 in some kind of final rule.

25 MS. CLAPINSKI:



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1 Yes, sir.

2 MR. ADLEY:

3 Okay? So we'll shoot to do that
4 sometime between the 1st and 11th, somewhere in that
5 area. I'll get a notice out to y'all and I'll make sure
6 it's not on a Friday.

7 All right. So do we have any further
8 business? Is there anything else with staff? That's
9 it?

10 (No response.)

11 MR. ADLEY:

12 If we have no further business, this
13 meeting is adjourned.

14 (Meeting concludes at 12:10 p.m.)

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MEETING MINUTES

1 REPORTER'S CERTIFICATE:

2 I, ELICIA H. WOODWORTH, Certified Court
3 Reporter in and for the State of Louisiana, as the
4 officer before whom this meeting for the Policy and
5 Rules Committee of the Board of Commerce and Industry of
6 the Louisiana Economic Development Corporation, do
7 hereby certify that this meeting was reported by me in
8 the stenotype reporting method, was prepared and
9 transcribed by me or under my personal direction and
10 supervision, and is a true and correct transcript to the
11 best of my ability and understanding;

12 That the transcript has been prepared in
13 compliance with transcript format required by statute or
14 by rules of the board, that I have acted in compliance
15 with the prohibition on contractual relationships, as
16 defined by Louisiana Code of Civil Procedure Article
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 7th day of July, 2016.

22
23 _____
24 ELICIA H. WOODWORTH, CCR
25 CERTIFIED COURT REPORTER



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