

1 P R O C E E D I N G S

2 CO-CHAIRMAN GROSS: Okay. We're here
3 ready to go. Steven, where are you going right now?

4 CO-CHAIRMAN STOGEL: Zack, are you still
5 on the phone?

6 COMMISSIONER BOYERS: I am.

7 CO-CHAIRMAN STOGEL: Anybody else on the
8 phone?

9 (NO RESPONSE.)

10 CO-CHAIRMAN STOGEL: Thank you. Zack
11 has asked Tom Reeves who's on the HTC committee to
12 lead the discussion on the historic credits, and then
13 after that, we'll try to go back to low-income and
14 global issues. And we understand people have a plane
15 at 4:59 today.

16 CO-CHAIRMAN GROSS: Go ahead, Tom.

17 COMMISSIONER REEVES: Okay. Thank you,
18 Mr. Chairman. As probably everybody heard yesterday,
19 we had a very spirited discussion at the historic tax
20 credit subcommittee, and I want to say for the record
21 that I think this has been a very productive
22 exercise, and I think it's been a very good process
23 because I think there's -- what it's shown is that a
24 lot of hard work has gone into this.

25 And I want to say for the record that I

1 thank that subcommittee for everything that they've
2 put forth.

3 COMMISSIONER BOYERS: Steven, I can't
4 hear Tom too well.

5 CO-CHAIRMAN STOGEL: Tom, can you move
6 down just so that Zack can hear?

7 COMMISSIONER REEVES: Zack, does that
8 help?

9 COMMISSIONER BOYERS: Yes, very much.
10 Thank you.

11 COMMISSIONER REEVES: I want to say for
12 the record that I want to thank the subcommittee for
13 all the work that they put into this. This took a
14 lot of time, a lot of energy, and it is a very tough
15 subject. It draws out emotion, it draws out a lot of
16 personal involvement.

17 And the good part of this was we had a
18 great deal of expertise at the table. I don't think
19 you could have found a better group to really analyze
20 and review the tax credits to really bring forth the
21 expertise that was necessary in order to reach where
22 we are today. There has been a great deal of really
23 good work here.

24 So I want to say that in the majority
25 here as far as the report is concerned, there's a lot

1 of really good stuff that people really do agree on.
2 We do have a couple of issues that I'd like to
3 separate out as it relates to the cap and some other
4 transitional items, but in an effort to try to keep
5 us on track, we have in your reports -- the full
6 subcommittee report should be in the book and really
7 contains the text of all the prior meetings, and I
8 believe what was submitted to the November 5th
9 Commission where we all reviewed it and then
10 basically sent it back for a little bit more review
11 as it relates to the cap and some other issues.

12 So that is really the body of the
13 report. And then what has been passed out is a
14 motion to amend that final report in an effort to
15 take those items that we wanted to change, and it was
16 drafted in the form of a motion which you have before
17 you. This did not pass the subcommittee and was
18 also -- there were amended motions -- another amended
19 motion made that also did not pass.

20 So let me take this amended motion last
21 and go through some of the items from the back which
22 I think really are very good recommendations that we
23 probably should vote on individually and then we'll
24 come back to the issue of the cap.

25 Embodied in all of this are some very

1 good recommendations. Again, these are users of the
2 tax credits that have been around for a long time.
3 The committee really understood inefficiencies and
4 they also understood how this could be made more
5 powerful and more effective. So there are a number
6 of what I'll call and are listed here as program
7 efficiencies and these really fall under
8 "Administrative Category", not for formal
9 recommendation.

10 But for the record, I would like to see
11 if we could officially acknowledge these
12 administrative efficiencies and some of these
13 suggestions.

14 And Sallie, I don't want to put you on
15 the spot, but if I could get you and maybe Rex from
16 the administration to get together and go through
17 these and just really spend some time in the very
18 near future to see how we could put this into some
19 active category and just see where it works and where
20 it might need a little bit of tweaking.

21 But I think there's some good, basic
22 recommendations here that I think the Department of
23 Economic Development could utilize in order to make
24 this more effective in the program.

25 MS. HEMENWAY: And Tom, just for the

1 committee -- or the Commission's sake, the
2 administrative efficiencies that you're referring to
3 are located in the first full report in their
4 notebook. So if they refer back to the first full
5 report from the Commission, those administrative
6 efficiencies are listed there.

7 I will speak on behalf of the department
8 that we would entertain looking at and evaluating
9 each one of those recommended efficiencies in
10 responding to those in a meeting or in any format
11 that the Commission desires.

12 CO-CHAIRMAN STOGEL: I think --

13 MS. HEMENWAY: Rex, I don't know if you
14 want to add to that on behalf of the...

15 MR. BURLISON: Sure. Tom, as you know,
16 we're more than happy to talk about those
17 administrative efficiencies on tax credits or any
18 part of state government. And we have, in fact, had
19 meetings in our office in St. Louis where we
20 identified and we have been talking the last six or
21 eight weeks about these.

22 And on behalf of the Governor, we're
23 more than happy to continue that dialogue on tax
24 credits or any portion of government that can be made
25 more efficient.

1 COMMISSIONER WAGNER: Mr. Chairman, can
2 I offer a comment as well? Zack, can you hear me on
3 the phone? This is Ray Wagner.

4 COMMISSIONER BOYERS: You're a little
5 faint, Ray.

6 COMMISSIONER WAGNER: Ray Wagner here.
7 Zack, can you hear now?

8 COMMISSIONER BOYERS: That's better.
9 Thank you.

10 COMMISSIONER WAGNER: I participated in
11 this subcommittee and spent a considerable amount of
12 time as Commissioner Reeves suggested, and it was a
13 pleasure to work with all of the experts from the
14 tax -- the historic tax credit community, and I
15 sensed a large amount of frustration on the part of
16 the community and with DED and with the
17 administration on some of these, and I do think that
18 the list of process issues that they presented do
19 warrant serious consideration and attention.

20 And I'm grateful to you, Rex, for taking
21 the initiative to meet with the industry, and Sallie
22 as well. To the extent that I could be helpful or to
23 the extent that the industry can sit down and help
24 work through these one at a time, you know, I applaud
25 that and welcome that, and I think that would go a

1 long way toward addressing the mission of the
2 Commission here to deal with these credits and to
3 find the proper efficiencies and limitations and
4 accomplish our overall goal.

5 CO-CHAIRMAN STOGEL: Tom, I don't think
6 we need a Commission action. I just think the
7 concurrence of Rex and Sallie to have a meeting as
8 Ray and you had recommended.

9 COMMISSIONER REEVES: Yeah. I think
10 this subcommittee went beyond what most of the other
11 sub-committees did and they really got into a lot of
12 detail that was very good. So again, these are
13 administrative efficiencies that might --

14 CO-CHAIRMAN GROSS: And for the record,
15 the efficiencies they're talking about are in the
16 original report which is in the last tab of what you
17 received at our last meeting for historic, and they
18 start on page 9.

19 COMMISSIONER REEVES: Right. Page 9 and
20 category G, Cost Certification Review, is part of
21 that. So you've got G and H which are program
22 efficiencies, those are all falling under that
23 administrative category.

24 And maybe for continuity's sake, if
25 Steve, you or Chuck can also work together with the

1 administration and DED just to kind of keep this
2 going, I think that would really be powerful.

3 CO-CHAIRMAN STOGEL: Both Chuck and I
4 say yes.

5 COMMISSIONER REEVES: Okay. Thank you.
6 For actually this committee's action, we move up the
7 line on page 9 to "Owner-Occupied Cap", and this was
8 an effort to really lower the amounts of tax credit
9 eligibility for much more expensive homes, which in
10 the spirit of what we're all trying to do here, I
11 think does that.

12 We also, rather than eliminate it, we
13 recognized the importance of having owner-occupied
14 tax credits available to transitioning neighborhoods.
15 So while there's developers working, there also
16 should be some encouragement for owner-occupied
17 residents to also fix their own properties up.

18 So from a neighborhood revitalization
19 standpoint, we all thought that this was absolutely
20 critical, but we also recognize that there are some
21 very expensive homes that were also allowed to get
22 tax credits. So that cap had been prior --
23 previously reduced to 250,000, and this committee
24 recommendation said to take that to 50,000. And that
25 would be the cap on --

1 CO-CHAIRMAN STOGEL: Actually, Tom, what
2 happened was the original committee report was from
3 250 to 150.

4 COMMISSIONER REEVES: Right.

5 CO-CHAIRMAN STOGEL: The motion that
6 didn't pass yesterday was to have a different
7 calculus that said no original house that costs more
8 than 350. So a Gold Coast provision that would kick
9 in would be set, and then anything over that number
10 would not be eligible for the program at all based on
11 the acquisition price, and no house can get more than
12 50,000.

13 So there were two limitations suggested
14 over the weekend for the Commission, and at the
15 committee hearing yesterday that was discussed, and
16 so for the Commission, the latest version that's on
17 the table is for single-family residences --

18 CO-CHAIRMAN GROSS: Do you want to read
19 it?

20 CO-CHAIRMAN STOGEL: Yeah.

21 COMMISSIONER WOOD: Well, they have
22 this. They have this.

23 COMMISSIONER REEVES: Let's do this.
24 I'm gonna -- at the end of this, I'm gonna make a
25 motion to address what you-all are looking at here --

1 CO-CHAIRMAN GROSS: Okay.

2 COMMISSIONER REEVES: -- which really
3 packages up, I think, some of these other items. So
4 we can skip this one and come back to it.

5 CO-CHAIRMAN STOGEL: Let's do them one
6 at a time.

7 CO-CHAIRMAN GROSS: You can either do
8 them one at a time, or I'll make a motion to divide
9 it up and we'll do them one at a time.

10 COMMISSIONER REEVES: Okay. That's
11 fine. Well, let's do it one at a time, but the
12 motion that I would make on this is that the cap be
13 reduced again to \$50,000, and any purchase price that
14 exceeds \$350,000 on a residence is also not eligible
15 for any tax credits.

16 COMMISSIONER WAGNER: I'll second that.

17 CO-CHAIRMAN GROSS: Question. Tom, for
18 clarification, can members just refer to the wording
19 in the proposed amendment?

20 COMMISSIONER REEVES: Yes. Yes,
21 that's --

22 CO-CHAIRMAN GROSS: Which I want to
23 make sure I'm not putting words in your mouth, but
24 that's what you're talking about, and that's what
25 we'll be voting on? Okay. Discussion on the

1 motion? Mr. Van Matre.

2 COMMISSIONER VAN MATRE: Well, I mean,
3 at what point would it be appropriate to discuss
4 whether single-family residences ought to receive
5 credits at all?

6 CO-CHAIRMAN GROSS: Right now.

7 COMMISSIONER VAN MATRE: Right now.

8 COMMISSIONER BOYERS: All right. What
9 was that comment?

10 CO-CHAIRMAN GROSS: The question was
11 when is it appropriate to discuss whether
12 single-family residences should receive a credit at
13 all, and the answer that I gave was right now. That
14 was from Mr. Van Matre.

15 COMMISSIONER VAN MATRE: And I am
16 reiterating and I apologize for that, comments I made
17 at the last meeting. We have voted to remove the
18 renter's credit from the senior citizens Circuit
19 Breaker credit. We have removed other credits that
20 were basically helpful to people of low and modest
21 incomes because of our need to make this process more
22 efficient.

23 I think it is very difficult for me to
24 speak about this particular issue without becoming
25 probably a little hyperbolic, and so I say, I think

1 it's important first for us to understand what is the
2 true purpose of this credit, and it is not to help
3 wealthy people pay for expensive houses in any
4 fashion whatsoever. The true purpose of this credit
5 is probably best viewed, I think, as a mechanism to
6 help decaying downtowns become once again viable. It
7 is not a blanket priority that any old building in
8 the state be fixed up regardless.

9 The idea that there is some kind of
10 economic benefit to fixing up any old building is
11 bogus. Any kind of state expenditure for new
12 construction of any type will have exactly the same
13 type of economic effect as spending money on old
14 construction, new construction, middle-aged
15 construction.

16 What we are really talking about here is
17 a mechanism that allows municipalities to improve
18 decaying downtown areas. There is no way a
19 single-family residence has that effect. It doesn't
20 produce any kind of economic viability. We are
21 taking state tax dollars and giving them to wealthy
22 people if we allow this residential construction
23 component to remain in this credit. So it would be
24 my motion that no single-family residential be
25 allowed.

1 CO-CHAIRMAN GROSS: Okay. Keep going.

2 I'll second the motion.

3 COMMISSIONER BOYERS: Who was that?

4 CO-CHAIRMAN GROSS: Craig Van Matre made
5 the motion. Chuck Gross seconded the motion.

6 CO-CHAIRMAN STOGEL: And just so people
7 know the math involved over the last couple of years,
8 the amount of credits for single-family residences
9 has run between 3 and 6 million dollars a year.

10 COMMISSIONER GARDNER: How much?

11 CO-CHAIRMAN STOGEL: I'm sorry. The
12 amount of credits -- there's a chart floating around
13 somewhere that is directly related to single-family
14 residence has run between 3 and 6 million dollars a
15 year, just so everybody understands the bandwidth of
16 what we're talking about.

17 CO-CHAIRMAN GROSS: Representative Komo
18 had a question. Take that mic, if you would, and
19 give it to him.

20 COMMISSIONER KOMO: Mine's pretty much a
21 comment -- mine's pretty much a comment. A couple
22 years ago we put the cap on historic and talked about
23 these single-family. The reason why we didn't put a
24 cap there and kept it out of the cap was to make sure
25 it wasn't just a tax credit for -- we always hear

1 bigger business and stuff like that and single people
2 can't get any of the tax credits that we have in
3 Missouri. I agree with you on the statement of, you
4 know, rich people shouldn't be rehabbing houses, but
5 isn't there more than just people -- isn't there
6 smaller people that's doing that too?

7 I mean, it's just not somebody that has
8 a lot of money doing it. There's also, you know, I'm
9 not saying poor, but there's middle-income people
10 that are trying to rehab some homes, and I think that
11 was our intention a couple years ago, to make sure
12 that -- you know, we hear all the time that we're
13 creating tax credits in Missouri that only big
14 companies can utilize and it's -- taxpayers are the
15 ones that's footing the bill, yet there's no tax
16 credits for the small groups.

17 So I think -- I mean, correct me if I'm
18 wrong, Representative Flook, but I think that was our
19 intention, to make sure that not just the big
20 business, as you said, you know, the rich people, but
21 also, I mean, think of the developments. I mean,
22 these are people that have money too.

23 So how do we make sure that people --
24 the smaller people are getting it, the middle class
25 are able to utilize this, unless we just don't want

1 them to use it and just leave it all to the wealthy
2 developers or whatever you want to call it. I think
3 we need to make sure that other people can utilize
4 this too. Just my opinion.

5 COMMISSIONER FLOOK: Well, Sam, Tim
6 Flook speaking. I think, though, your motion is
7 directed at owner-occupied, right?

8 COMMISSIONER VAN MATRE: (Nodded head.)

9 COMMISSIONER FLOOK: Okay. So this
10 would not prevent a person who's in the business of
11 rehabbing homes, from going in and rehabbing a house
12 and then selling it in the marketplace as a rehabbed
13 house; am I right? You could still do that.

14 Sallie might be able to tell us. You
15 could still go do it as a real estate investment,
16 kind of a speculative investment project for sale; am
17 I right?

18 CO-CHAIRMAN GROSS: You're looking at
19 me?

20 COMMISSIONER FLOOK: Yeah. I have to go
21 pull the statute to look at it. There might be a
22 distinction in there.

23 COMMISSIONER VAN MATRE: Well, not in my
24 motion.

25 COMMISSIONER FLOOK: Okay. Your motion

1 is to pull all of it out?

2 COMMISSIONER VAN MATRE: Yeah.

3 COMMISSIONER FLOOK: All right. Just
4 making sure. Well, I will tell you, I actually agree
5 with your motion. I'd like to get the owner-occupied
6 piece completely out with that respect. I will say
7 it might be something of a different consideration to
8 say that -- reduce the -- reduce the purchase price.
9 I think the purchase price of 350 is still too high.
10 I think it needs to go down to something more like 50
11 or 70, and it should be only for those that are
12 gonna -- that are in the business of rehabbing and
13 reselling and not for just owner occupancy. That I
14 would treat differently.

15 Because there are some old houses that
16 simply become chopped up into rental units around
17 these old historic downtowns and end up actually --
18 and I'll just use my own home town as an example,
19 Liberty. We have a lot of nice, old Victorian homes.
20 Several of them have been chopped up into apartments
21 since the '60s. Little apartments that rent for a
22 couple hundred bucks a month.

23 I had a very startling, shocking meeting
24 with a constituent who took the Registered Sex
25 Offender list and did an overlay where they all lived

1 in my hometown, and shockingly enough, most of them
2 were around the old historic district because it's
3 cheap rent and those folks have a hard time finding
4 jobs obviously because of their records.

5 And I'm willing to cut this program
6 back. I'm willing to cut it back to 100 or 75 and
7 make real changes, but there might be an exception we
8 might draw out for these small projects on these
9 homes and just remove the owner-occupied.

10 If you're gonna do it, you can't live in
11 it. And then that gets us away from wealthy people
12 getting a bunch of tax credits directed to do things
13 and it makes it more of a -- focuses more on the
14 business of keeping these old homes from getting
15 dilapidated and turning into low-rent projects.

16 And if we're gonna have low-income
17 housing tax credits and everything else, we've got
18 ways of dealing with that. So anyway, that would be
19 my comment. Although, in part, I do agree with the
20 motion.

21 CO-CHAIRMAN GROSS: Mr. Stogel.

22 CO-CHAIRMAN STOGEL: We heard testimony
23 in St. Joseph, I believe, that there were some
24 neighborhoods where there were owner occupants, but
25 they felt the number could be significantly -- be 20

1 or less. I don't remember the exact number. So for
2 owner occupants there is a need. In that person's
3 mind was representing a neighborhood as well. So I
4 mean, the for-sale modification and then
5 owner-occupied do have a place.

6 In June of '05 I testified that we
7 should not have some sort of unlimited Gold Coast
8 provision so people in Westmoreland Place or
9 Kingsbury Place can get a couple hundred thousand
10 dollars in credits. And this owner-occupied -- this
11 singly-family residence one is one that is aimed
12 towards eliminating the Gold Coast in some form.

13 COMMISSIONER WAGNER: Mr. Chairman, may
14 I offer -- well, I think I'm opposed to this
15 particular motion. I think in a community, it may
16 take two to tango, to quote a phrase, I suppose.
17 You've got to have a vibrant commercial segment of a
18 community and I think a vibrant residential segment
19 of a community. So to me the total amount of these
20 credits, according to Chairman Stogel, in my opinion,
21 do not amount to all that much money to jump start
22 certain neighborhoods where higher-end single-family
23 residences exist.

24 So I think that this is not -- you know,
25 this is part of the full picture and it's a tool in

1 the toolbox that ought not go away at this stage;
2 although it should be limited from where it is today.

3 CO-CHAIRMAN GROSS: David Zimmerman had
4 a comment next.

5 COMMISSIONER ZIMMERMAN: Didn't we
6 discuss at the last meeting about if they were
7 owner-occupied, to have it where they had to live in
8 there at least ten years before they could turn them
9 over. I think that would help out a whole lot too.

10 CO-CHAIRMAN GROSS: Okay. Tom Reeves?

11 COMMISSIONER REEVES: Yeah. Again, I
12 want to add a little bit of perspective. The
13 subcommittee duly, I think, agrees with everything
14 that's been said here as far as giving tax credits to
15 the wealthy. And this was an attempt to reduce the
16 caps, the dollars in a significant fashion.

17 What we were trying to protect was the
18 fact that we do have developers that go into
19 distressed neighborhoods and into some of these
20 neighborhoods that really do need a turnaround, so
21 we're dealing with multiple properties block by
22 block, and the idea that certain people live within
23 those blocks also need to pitch in and fix their
24 properties as well.

25 So the concept really was the for-profit

1 developers are going in and they may take every other
2 house or five houses on a block, but the idea of
3 actually bringing a neighborhood back takes a total
4 effort.

5 So this was really targeted toward those
6 people that are living in these transitional
7 neighborhoods to encourage them to actually get on
8 and do some work on their homes alongside of the
9 developers. And really the effort was made to reduce
10 this down to a number that really exempts or keeps
11 out the giveaways.

12 COMMISSIONER GARDNER: I'd like to
13 raise -- I'm sorry. Go ahead.

14 CO-CHAIRMAN GROSS: Mark Gardner's
15 trying to get in here.

16 COMMISSIONER GARDNER: Just a quick
17 issue that we might contemplate, and that is, I can
18 understand the argument that what you're saying is
19 should upper-income people be using the tax credit
20 for homes, and then the idea that some of those homes
21 may need some involvement from the historic credit as
22 well as from the owner.

23 I mean, could you, for homes above a
24 certain level, rather than just no credit, a reduced
25 amount of credits maybe? It's just an idea that

1 might be some kind of compromise.

2 CO-CHAIRMAN GROSS: I want to ask a
3 question so we can have this on the table as well.
4 The neighborhood preservation tax credit, what are
5 its limitations and applicability to these situations
6 that Representative Flook brought up? Sallie, can
7 you...

8 MS. HEMENWAY: Yesterday you made a
9 motion and adopted improvements to the neighborhood
10 preservation tax credit program. And neighborhood
11 preservation allows for not only new construction of
12 owner-occupied, but it also allows for rehabilitation
13 and substantial rehabilitation of owner-occupied
14 houses in distressed areas.

15 So it's in the neighborhoods that you're
16 referring to right now, both of you. The -- the tax
17 credit, the amendments that you made to it were to
18 allow for neighborhood organizations to come in as
19 well as developers and as well as individual
20 homeowners to come in and present their proposals to
21 DED to rehab either whole blocks or neighborhoods or
22 individual homes, or in the case of developers, new
23 developments if they're doing new construction.

24 The current benefits that are derived do
25 not have an income qualification on them in

1 neighborhood preservation. So it doesn't matter what
2 your personal income is; if you are living in or
3 proposing to live in a distressed area, you may have
4 access to this tax credit.

5 The tax credits for substantial rehab --
6 now, remember, this is the tax credit that's divided
7 into two areas, which is essentially it's called
8 eligible and qualifying, but it's essentially rural
9 and urban.

10 In the eligible areas, you got 25
11 percent of the eligible cost for a minimum 10,000 in
12 cost, and your total credits cannot -- you cannot
13 exceed \$25,000 per residence. So it's already got
14 the established standards for minimums and maximums
15 in there.

16 For a substantial rehab in a qualifying
17 area, you get 35 percent of eligible costs. The
18 minimum cost would be the greater of 5,000 or 50
19 percent of the purchase price and the tax credits
20 cannot exceed \$70,000 per residence.

21 So the comparison is, in my mind, is
22 what you're describing is the neighborhood
23 preservation tax credit program.

24 CO-CHAIRMAN STOGEL: The neighborhood
25 preservation program -- people have to apply, Sallie,

1 is that right?

2 MS. HEMENWAY: Yes, they have to make an
3 application.

4 CO-CHAIRMAN STOGEL: But in the historic
5 program, if they meet the test for the historic
6 property, it's entitlement.

7 MS. HEMENWAY: Right.

8 CO-CHAIRMAN GROSS: Make them apply.

9 CO-CHAIRMAN STOGEL: We have to do
10 Craig's motion first, which is, should it be allowed
11 at all.

12 CO-CHAIRMAN GROSS: Okay. We have a
13 motion and second. Further discussion on the motion?
14 Craig?

15 COMMISSIONER VAN MATRE: I'd just like
16 to say that's exactly right. We've already got the
17 tool to help the distressed neighborhood on this
18 neighborhood association credit. We don't need this
19 also, A.

20 B, we're in a financially distressed
21 situation. When you're in a financially distressed
22 situation as a homeowner, you don't think, "I'm gonna
23 go out and buy jewelry." You think, "I'm gonna spend
24 it on necessities." And the question is, is spending
25 state money on residences in the historic credit

1 which are not limited -- that's the important thing
2 to understand is, this credit doesn't say you've got
3 to do this in a distressed neighborhood under the
4 supervision of or with the permission of the city
5 council that thinks this is gonna help your
6 neighborhood. It says, you've got an old house in
7 Ladue that meets the criteria; you can fix it up with
8 state money.

9 That, I submit, is not what we're
10 supposed to be looking at.

11 CO-CHAIRMAN GROSS: Further discussion?
12 Hearing none, all in favor of the motion --

13 COMMISSIONER BOYERS: Just a couple of
14 things. I do think the Gold Coast provision that's
15 included here does address the issue of the Ladue
16 home, first of all, and the Westmoreland home and so
17 on. I also think it's truly incorrect to believe
18 that a robust residential community, to raise the
19 point, does not contribute to the economic prosperity
20 of downtown and Main Streets around the country. And
21 so I do think there's an economic development
22 component that's derived from a robust residential
23 redevelopment effort in neighborhoods around Main
24 Street and urban cores.

25 CO-CHAIRMAN GROSS: Some members

1 couldn't hear you, Zack. I'm sorry. I'm just
2 finding that out. If you want to paraphrase and
3 repeat that.

4 COMMISSIONER BOYERS: Yeah, I'll try and
5 paraphrase. I think for the Gold Coast provision
6 that's included here does eliminate or largely
7 address the issues about Ladue homes and very wealthy
8 people getting too much tax credit. I also believe
9 that it's really incorrect, fundamentally incorrect
10 to believe that residential -- a robust residential
11 community around urban cores and Main Streets does
12 not contribute to the economic prosperity of that
13 Main Street or urban core.

14 So I think given the -- and this is very
15 much consistent with Ray's point -- given the size of
16 the expenditure here, the importance of a robust,
17 revitalized residential base around urban cores and
18 Main Street I think is fundamentally important and we
19 should continue and meet the modification so as not
20 to inappropriately in any way give too much to those
21 who don't need it.

22 CO-CHAIRMAN GROSS: Thank you. That's
23 really loud. In the scheme of relative need, I'm
24 gonna be comparing all of these kind of programs to
25 the transportation funding that is not available

1 after reductions were necessary in the budget this
2 year, I'm gonna be comparing it to mental health
3 services which were cut and will be cut again next
4 year, and compare that to the \$350,000 homeowner who
5 wants to put on a new roof.

6 CO-CHAIRMAN STOGEL: By way of fact, the
7 Neighborhood Preservation Act also allows stacking
8 with the historic preservation credit. And trying to
9 listen carefully to everybody in the room, the notion
10 for historic that you can do -- take an older
11 building with come space, fix it up for sale and sell
12 it has a place; the notion that somebody who's in a
13 house, lives there, fixes it up, stays there has a
14 place; but to allow stacking with neighborhood
15 preservation doesn't have a place, and let historic
16 sort of stand on their own but with different numbers
17 maybe, but take out historic at all from
18 neighborhood preservation because that stacking
19 clearly adds too much. Might be another way to look
20 at this.

21 CO-CHAIRMAN GROSS: Representative
22 Flook.

23 MS. HEMENWAY: Komo.

24 CO-CHAIRMAN GROSS: Komo. I'm sorry.
25 Sorry.

1 COMMISSIONER KOMO: I guess my own
2 comment is, I think we need to modify the program,
3 but at the same time I'm concerned about only
4 allowing this for big developers, not small
5 developers. The idea is that everybody can utilize
6 it, not just the big boys, if you want to say that.
7 So that's my only concern. Thanks.

8 CO-CHAIRMAN GROSS: Okay. David
9 Zimmerman.

10 COMMISSIONER ZIMMERMAN: Also on the
11 question, we talked about last time I think with the
12 motion that Tom has on the floor, bringing it down to
13 50,000 and \$350,000 cap. If you also put in there
14 that the owner had to live in there for ten years so
15 you're not having somebody come in out there and put
16 that in there too.

17 I think that addresses some of the
18 issues that Craig is bringing up and concerns about
19 somebody turning it over just to make a profit off
20 the State.

21 CO-CHAIRMAN GROSS: Right now we have a
22 substitute motion offered by Craig, seconded by me.
23 Further discussion?

24 CO-CHAIRMAN STOGEL: Say the motion.

25 CO-CHAIRMAN GROSS: The motion is -- the

1 substitute motion is that we eliminate residential --
2 single-family owner-occupied residential -- no.

3 COMMISSIONER VAN MATRE: My motion is we
4 eliminate all historic credits for single-family
5 homes regardless of who owns them.

6 CO-CHAIRMAN GROSS: Okay. Right. All
7 in favor of that motion, signify by saying aye.

8 (AYE.)

9 CO-CHAIRMAN GROSS: Opposed?

10 (NO.)

11 CO-CHAIRMAN GROSS: Okay. We'll have a
12 show of hands on this. Raise your hand if you are in
13 favor of the motion, please.

14 One, two, three, four, five, six. We
15 have six in favor. Raise your hand if you're opposed
16 to the motion. One, two, three, four, five, six,
17 seven, eight, nine, ten. So far we're six to ten.
18 On the phone who would like to vote?

19 COMMISSIONER MARBLE: Yes. Marble.

20 COMMISSIONER BOYERS: No. Boyers.

21 CO-CHAIRMAN GROSS: Anybody else?

22 (NO RESPONSE.)

23 CO-CHAIRMAN GROSS: Okay. Motion fails.

24 We're back to the base motion offered by Mr. Reeves.

25 Would you repeat that motion for us?

1 COMMISSIONER REEVES: The motion was to
2 reduce the current cap which exists from \$250,000 to
3 \$50,000, and also disallow homes with a purchase
4 price of \$350,000 or more.

5 CO-CHAIRMAN GROSS: Okay. And that
6 motion was seconded by Jim Anderson.

7 COMMISSIONER WAGNER: I seconded it.

8 CO-CHAIRMAN GROSS: I'm sorry. It was
9 seconded by Ray Wagner. David?

10 COMMISSIONER ZIMMERMAN: I'd like to
11 amend it that we'll put the ten-year clause in there
12 also, that they have to live in there for ten years.

13 CO-CHAIRMAN GROSS: Okay. We have an
14 amendment to the motion to require that the owner
15 live in the property for ten years. I'll second that
16 for discussion. Discussion, Steven?

17 CO-CHAIRMAN STOGEL: Ten years is just
18 too long. It's just not functional in a rural or
19 urban environment. People don't own their homes for
20 ten years.

21 COMMISSIONER ZIMMERMAN: Five years?

22 CO-CHAIRMAN STOGEL: And it doesn't
23 apply at all when there's a for-sale -- a person
24 takes a shell and sells it to someone, that's -- I
25 don't think it's a good idea, David, to have any sort

1 of residency at all, and it's too hard to regulate.

2 It's just an administrative nightmare for the State.

3 COMMISSIONER ZIMMERMAN: Yeah. And --

4 COMMISSIONER REEVES: And I think there
5 can be a lot of gray area between a developer that
6 wants to live in a house for nine months and flip it.
7 We've already kind of accepted that. And whether a
8 resident is in a neighborhood like that and is really
9 committed to that neighborhood, and to tie them to
10 the house for ten years I think goes a little bit too
11 far.

12 CO-CHAIRMAN GROSS: Further discussion
13 on the amendment to the motion?

14 COMMISSIONER GARDNER: So the amendment
15 to the motion is that you be required to live in it
16 for ten years?

17 CO-CHAIRMAN GROSS: Right. The
18 amendment to the motion is that you're required to
19 live there for ten years. All in favor of that
20 motion, say aye.

21 (AYE.)

22 CO-CHAIRMAN GROSS: Opposed, no?

23 (NO.)

24 CO-CHAIRMAN GROSS: The no's appear to
25 have it. The no's have it. We're back to --

1 COMMISSIONER WOOD: Mr. Chairman, I have
2 an amendment.

3 CO-CHAIRMAN GROSS: Mr. Wood.

4 COMMISSIONER WOOD: This is Mike Wood.
5 I would like to reduce the original purchase price
6 that is currently in this amendment at 350,000 to
7 150,000.

8 COMMISSIONER FLOOK: I second that.

9 CO-CHAIRMAN GROSS: We have a motion and
10 a second to lower the purchase price from 350 to 150.
11 Discussion?

12 (NO RESPONSE.)

13 CO-CHAIRMAN GROSS: Seeing none, all in
14 favor of that motion, say aye.

15 (AYE.)

16 CO-CHAIRMAN GROSS: Opposed, say no.

17 (NO.)

18 CO-CHAIRMAN GROSS: The ayes appear to
19 have it. The ayes do have it. We're at 350 and 50
20 now as the base motion. Further discussion on that?

21 MANY SPEAKERS: 150.

22 CO-CHAIRMAN GROSS: I'm sorry. 150.

23 CO-CHAIRMAN STOGEL: I'd like to make a
24 motion that you can't use neighborhood preservation
25 and historic credits together. You can't stack the

1 two.

2 COMMISSIONER HALL: Second.

3 CO-CHAIRMAN STOGEL: People can choose
4 door A or door B.

5 CO-CHAIRMAN GROSS: We have a motion and
6 a second, no stacking with neighborhood preservation.
7 Further discussion on that?

8 (NO RESPONSE.)

9 CO-CHAIRMAN GROSS: Seeing none, all in
10 favor, say aye.

11 (AYE.)

12 CO-CHAIRMAN GROSS: Opposed, no.

13 COMMISSIONER GARDNER: I'd like -- are
14 we open for discussion or are we closed for
15 discussion? I mean, are you cutting off -- I mean, I
16 did have a point I'd like to raise.

17 CO-CHAIRMAN GROSS: Okay. I didn't call
18 it yet, so we'll let the discussion. Go ahead.

19 COMMISSIONER GARDNER: And I don't know,
20 I've never been involved in either one of those
21 programs. Do we have anybody here who has anybody
22 expertise?

23 COMMISSIONER BOYERS: In which program?

24 COMMISSIONER GARDNER: The neighborhood
25 preservation and stacking low-income with

1 neighborhood --

2 CO-CHAIRMAN STOGEL: No, it's historic.

3 MS. HEMENWAY: Using NPA and historic
4 together.

5 COMMISSIONER BOYERS: Okay. Thanks.

6 COMMISSIONER GARDNER: And the question
7 is, is that necessary? And the only reason I raise
8 the question is, if you have more of the houses that
9 Representative Flook was talking about in Liberty,
10 that you got a core of houses that are somewhat
11 historic that are surrounding your downtown and you
12 need to rebuild your downtown, is the Neighborhood
13 Preservation Act alone gonna be sufficient to do
14 that? I'm just asking the question. I don't use
15 either program. Never have used those two programs
16 together or used the neighborhood preservation. I'm
17 just asking the question.

18 COMMISSIONER FLOOK: Neighborhood
19 preservation has a distressed community component,
20 right?

21 COMMISSIONER GARDNER: Right.

22 REPRESENTATIVE FLOOK: Liberty wouldn't
23 qualify. Even though you could go to downtown and
24 there would be a high density in terms of the number
25 of people below certain income levels, there's still

1 so much income level dispersed in there, we could
2 never really fit in that, so in --

3 COMMISSIONER GARDNER: That answered
4 my -- that was my question.

5 CO-CHAIRMAN GROSS: Thank you. Further
6 discussion? Otherwise, I'll call for the vote on
7 Mr. Stogel's motion to prevent that stacking.

8 All in favor, say aye.

9 (AYE.)

10 CO-CHAIRMAN GROSS: Opposed, say no.

11 (NO RESPONSE.)

12 CO-CHAIRMAN GROSS: The ayes have it.

13 Now we're back again --

14 COMMISSIONER BARTLE: I have a motion.

15 CO-CHAIRMAN GROSS: An amendment? Go
16 ahead.

17 COMMISSIONER BARTLE: Yeah. I would
18 like to move that we not allow stacking of low-income
19 and historic preservation.

20 CO-CHAIRMAN GROSS: Okay. The motion is
21 to prohibit stacking of low-income and historic
22 preservation.

23 CO-CHAIRMAN STOGEL: That's two items
24 up, Senator. Can we get to it --

25 COMMISSIONER BARTLE: Oh, yeah. Sure.

1 I don't mind waiting.

2 CO-CHAIRMAN STOGEL: Can you wait about
3 four minutes?

4 COMMISSIONER FLOOK: He's been waiting
5 for 12 years.

6 COMMISSIONER BARTLE: Yeah. 12 years,
7 four minutes.

8 CO-CHAIRMAN GROSS: Would you withdraw
9 the motion?

10 COMMISSIONER BARTLE: Yeah, I'll
11 withdraw the motion.

12 CO-CHAIRMAN GROSS: Further discussion
13 on the motion by Mr. Reeves as amended?

14 (NO RESPONSE.)

15 CO-CHAIRMAN GROSS: Seeing none, all
16 those in favor, say aye.

17 (AYE.)

18 CO-CHAIRMAN GROSS: Opposed, no.

19 (NO RESPONSE.)

20 CO-CHAIRMAN GROSS: The ayes have it.
21 Back to Mr. Reeves.

22 COMMISSIONER REEVES: Okay. Thank you.
23 Now we'll move up the page to E, which is a reduction
24 in the percentage of the credit. There was a great
25 deal of discussion about this, and the subcommittee

1 felt that the most appropriate way to do this was to
2 eliminate the developer fee and qualified expenses
3 that relate the 25 percent it's attributed to, and
4 this is a very easy-to-administer adjustment, and it
5 does have an effect of reducing the credit.

6 So I'd like to make a motion that the
7 committee adopt this provision --

8 COMMISSIONER BOYERS: Tom, I can't hear
9 you. I'm sorry.

10 COMMISSIONER REEVES: It's provision E
11 in the report.

12 CO-CHAIRMAN STOGEL: Zack, the issue is
13 for the reduction of the credit for the deferred
14 developer fee portion post completion.

15 COMMISSIONER BOYERS: Got it. Thank
16 you.

17 COMMISSIONER REEVES: Zack, do you have
18 any discussion on that at all?

19 COMMISSIONER WOOD: I have a question.
20 Does this motion include going back and extending
21 those that have already been done that may be before
22 the AG? Because I have a real heartburn with that.

23 CO-CHAIRMAN STOGEL: No.

24 COMMISSIONER WOOD: Okay. If we're just
25 moving forward with eliminating the developer fees

1 from the QREs, I'm okay with that.

2 COMMISSIONER REEVES: My motion is
3 limited to just what's right here in E in the
4 category on page 9 at this point.

5 CO-CHAIRMAN GROSS: Do we have a second
6 on the motion?

7 CO-CHAIRMAN STOGEL: Second.

8 CO-CHAIRMAN GROSS: Second. Yeah.

9 COMMISSIONER VAN MATRE: The motion is
10 to completely eliminate obtaining credits on deferred
11 developer fees?

12 CO-CHAIRMAN STOGEL: After completion --
13 not paid by completion of construction.

14 COMMISSIONER VAN MATRE: Not paid by
15 completion of construction.

16 COMMISSIONER WOOD: They have to be
17 upfront development fees.

18 COMMISSIONER GARDNER: This is kind of a
19 technical issue, but I think on some of those your
20 deferred developer fee could be paid -- it's actually
21 probably gonna be paid after completion of
22 construction. It's probably gonna be paid following
23 your cost certification with the state and the sale
24 of the credits that the project's gonna generate.

25 CO-CHAIRMAN STOGEL: Let's make it --

1 that's a fair comment. Let's make it as of the time
2 of submission of cost certification.

3 COMMISSIONER GARDNER: Or how about paid
4 within so many days after DED approves the issuance
5 of the historic credits?

6 COMMISSIONER BOYERS: I don't want to
7 get too bogged down, but I want to make it clear that
8 I think the intention of the subcommittee was that
9 this exclusion of the deferred developer fee does not
10 mean -- is to -- is cash flow fee, right, for a fee
11 that's to be paid out of cash flow.

12 The developer fee that is capitalized
13 upfront but paid out perhaps as benchmarks, like debt
14 coverage ratios and so on, is eligible as a QRE.
15 It's the fee that is cash-flow driven.

16 COMMISSIONER GARDNER: Right. That part
17 of the developer fee that is dependent upon future
18 cash flow from operations --

19 COMMISSIONER BOYERS: That's correct.

20 COMMISSIONER GARDNER: -- would be
21 excluded from QRE.

22 COMMISSIONER BOYERS: That's right.

23 CO-CHAIRMAN GROSS: I want to make sure
24 we're reading the same thing and voting on the right
25 thing. E on page 9 of the original committee report

1 talks about reduction of percentage of credit. Well,
2 you said E on page 9, and that's why -- and he says
3 that's different. What are we talking about here?

4 COMMISSIONER REEVES: Well, it's the
5 same thing. It says "reduction of percentage of
6 credit," but the actual recommendation was the
7 removal of the deferred developer fee from the
8 definition of QRE.

9 COMMISSIONER WAGNER: Tom, if I might
10 add --

11 CO-CHAIRMAN STOGEL: And it's the
12 noncapitalized developer fees.

13 CO-CHAIRMAN GROSS: We need more
14 specific language than just this discussion. You
15 point me what paragraph, what page and what wording
16 you're talking about, and I'll be fine.

17 COMMISSIONER REEVES: Are we looking at
18 the same thing?

19 CO-CHAIRMAN GROSS: That's the problem.
20 Because on this document, on -- item No. C says
21 "deferred developer fees" and yet there's a whole lot
22 more in there than what you've outlined in this
23 discussion.

24 COMMISSIONER WAGNER: Mr. Chairman, let
25 me add that during the course of the subcommittee

1 there was discussion, a specific bullet point about
2 reducing the credit from 25 percent down to 20 or
3 some number. That didn't go over well with the
4 overall subcommittee.

5 A way to effectively get at that was to
6 back out some of the deferred fees. So I think the
7 two became morphed into the one subject here, so the
8 labeling is perhaps wrong. It really pertains to
9 developer fees at this moment, even though it's
10 labeled reduction of the tax credit.

11 CO-CHAIRMAN GROSS: Okay. And that's
12 all fine, but I just need to know what's on the table
13 right now is what I'm trying to figure out.

14 COMMISSIONER JOYNER: Look at the
15 handout that we saw this morning, the letter C called
16 "Developer Fees," I think that better describes --

17 CO-CHAIRMAN GROSS: That's what I
18 thought we were going to, but you said E, and I
19 wanted to make sure we're on the right one. So for
20 the Commission, then, we're on item C on the handout
21 from this morning. Did people on the phone get this
22 handout?

23 COMMISSIONER BOYERS: What handout was
24 that?

25 MR. PIEPER: No. We'll send it to them

1 now.

2 CO-CHAIRMAN GROSS: Since the people on
3 the phone did not get this handout, we're gonna have
4 to read the motion, and then we can be in order to
5 vote on this. I've got to make sure people know what
6 we're voting on.

7 COMMISSIONER BOYERS: I appreciate that.

8 CO-CHAIRMAN GROSS: We're on this. This
9 is not what's on page 9.

10 MR. PIEPER: It's page 8.

11 COMMISSIONER REEVES: Somehow it came
12 out of order.

13 COMMISSIONER VAN MATRE: Our confusion
14 is that it's addressed in both C and E.

15 CO-CHAIRMAN GROSS: We've got to have
16 language so we know what we're talking about.

17 MS. HEMENWAY: So this needs to be
18 forwarded to them, this exact document.

19 CO-CHAIRMAN GROSS: On the phone, just
20 hold for a second. We've got some discussion about
21 trying to get this straightened out.

22 COMMISSIONER BOYERS: Okay. Thank you.

23 COMMISSIONER VAN MATRE: It's in both C
24 and E, and it probably -- you can't really vote on
25 either paragraph because it incorporates stuff that's

1 not really --

2 CO-CHAIRMAN GROSS: Then let's do some
3 bracketing.

4 CO-CHAIRMAN STOGEL: Let Tom read it.

5 CO-CHAIRMAN GROSS: Okay. Tom's gonna
6 read what the motion is.

7 COMMISSIONER REEVES: Okay. On C --
8 because I think this does combine, quite frankly -- I
9 just saw this for the first time -- it's some
10 administrative items as well, so we can shorten this.
11 As Dee says, C, which is deferred developer fees on
12 what was passed out this morning.

13 "This program currently permits
14 developer fees to be included as a QRE. These fees
15 are often deferred and paid over a number of years
16 from cash flow of a completed project. The
17 subcommittee recommends removal of the definition of
18 QRE deferred developer fees paid out of future cash
19 flow beyond the qualifying construction period. This
20 modification will eliminate the risk that credits are
21 issued for costs not incurred due to defaults of
22 projects and will reduce the cost to the State."

23 And I will end my motion there. And the
24 rest of that paragraph is administrative and it can
25 be handled --

1 COMMISSIONER BOYERS: Tom, I can barely
2 hear you, but can I make one clarification from what
3 I understood you to say?

4 CO-CHAIRMAN GROSS: Go ahead, Zack.

5 COMMISSIONER BOYERS: We mentioned
6 deferred developer fees to be paid out of cash
7 flow -- I think those were the words -- and paid
8 beyond the period of construction -- the construction
9 period, beyond the construction period.

10 CO-CHAIRMAN GROSS: Right, yes.

11 COMMISSIONER BOYERS: I just -- it has
12 to be both of those. So in other words, a developer
13 fee that is capitalized, there's a source for it
14 that's not cash-flow-based but that gets held back by
15 a bank until various benchmarks are achieved, would
16 still remain a qualified cost?

17 CO-CHAIRMAN STOGEL: So long as it's
18 paid at some point.

19 COMMISSIONER BOYERS: Understood. Or
20 the funds are used for other qualified costs rather
21 than a developer fee.

22 COMMISSIONER GARDNER: Zack, a point of
23 clarification. I think what you're talking about are
24 developer fees that are earned and the project
25 actually has the cash to pay that fee, but a

1 benchmark -- for example, a debt coverage benchmark
2 has not been achieved and therefore the fee is being
3 withheld by whoever the buyer of the credit is until
4 that benchmark has been satisfied. Is that what
5 you're talking about?

6 COMMISSIONER BOYERS: That's exactly
7 right.

8 COMMISSIONER GARDNER: Okay. So we're
9 talking about situations where funding is in place or
10 has been committed to pay the developer fee. It
11 simply has not been paid because certain specific
12 benchmarks have not been met.

13 So that's a different issue than the one
14 which we're concerned about which has been, you have
15 a historic project and the cash flow's never there to
16 pay that fee and therefore the fee is never paid.

17 Now, one way to maybe address a concern
18 about, well, what happens if you never meet the
19 benchmarks, would be to have a drop-dead date and say
20 the fee has to be paid under any -- a condition
21 within three years of completion of construction.

22 COMMISSIONER VAN MATRE: Yeah. I mean,
23 my question is, what happens if the condition
24 precedent to the payment is achieving certain minimum
25 cash flow? Haven't you just sort of backed into the

1 same situation?

2 COMMISSIONER GARDNER: That's what I'm
3 saying. You could have that situation, and that's
4 why I'm saying under no circumstances could the fee
5 be paid -- must be paid within three years of
6 completion of construction or you would -- the
7 problem is, how do you recapture it? I mean, you'd
8 have to have a recapture of that credit. And so --

9 COMMISSIONER VAN MATRE: Now, I think
10 what -- is your motion then, which I will second --

11 COMMISSIONER GARDNER: The issue we're
12 trying to address here and I'm not sure we're getting
13 it addressed is, you've received credits, you've
14 already received the credits; how do you get them
15 back?

16 COMMISSIONER VAN MATRE: I guess my
17 motion would be that, A, the credit has to be -- the
18 payment has to be made no later than three years
19 following the completion of construction, and if it
20 is not, the developer is liable to the State for the
21 recaptured credit attributable --

22 COMMISSIONER GARDNER: The developer is
23 already liable, and I think we've got cases where --

24 COMMISSIONER WOOD: Why are we issuing
25 them then?

1 COMMISSIONER GARDNER: They won't pay
2 it.

3 COMMISSIONER VAN MATRE: The fundamental
4 issue, I guess, is whether there ought to be a credit
5 at all for something that's not paid at the time of
6 completion of construction, and that is a whole lot
7 cleaner than giving some period of time.

8 COMMISSIONER WOOD: That is the motion.

9 COMMISSIONER BOYERS: I think that is
10 the content of the motion. I don't know that it's
11 perfectly written.

12 CO-CHAIRMAN STOGEL: Zack, are you okay
13 with -- if it said and paid -- and it was paid -- it
14 paid within the year the cost certification was
15 completed so there's a time clock, or paid within 30
16 days after the cost certification is finished so
17 that -- because sometimes the capital isn't released
18 until the cost certification is in.

19 COMMISSIONER BOYERS: It doesn't really
20 address those performance holdbacks, right?

21 CO-CHAIRMAN STOGEL: Yeah. And that may
22 not get covered.

23 COMMISSIONER VAN MATRE: Well, but we
24 need to know whether the performance holdbacks you're
25 talking about constitutes payment or not, because, I

1 mean, I think my preference would be if it's not
2 actually paid, there is no contingency, then you
3 don't get the credit for it. That's how I understand
4 Tom's motion, but --

5 COMMISSIONER GARDNER: It would be more
6 complicated, but you could say the law could provide
7 that if there were a deferred developer fee, under no
8 circumstances could it be paid more than three years
9 after completion of construction, and the historic
10 credits you'd have to go through a certain
11 certification process and certify the developer fee
12 was paid before you get the credits.

13 CO-CHAIRMAN STOGEL: There is a plane
14 leaving at 4:59. We need to finish historic by
15 about 11. So this is -- the salmi is too fine here.
16 So Craig and Tom or Rex?

17 MR. BURLISON: I am just not sure that
18 everybody understands what the problem is here, and
19 just if we could take a couple of minutes and let --

20 COMMISSIONER BOYERS: Rex, I can't hear
21 you. I'm sorry.

22 MR. BURLISON: I'm sorry, Zack. I just
23 want to ask DED to give us a thumbnail sketch of what
24 this problem is right now that's underlying this
25 paragraph C.

1 MR. PIEPER: This is Chris Pieper from
2 DED. The issue that's arisen with deferred developer
3 fees has been that the way the program works, if the
4 expense is simply incurred, which means it doesn't
5 have to be paid and it is accrued, then credits can
6 be issued, as long as there's an agreement that the
7 Department of Economic Development has approved
8 between the developer and the applicant for credits
9 saying that the credits -- that the payment specified
10 under the agreement's gonna be paid within a specific
11 period of time.

12 Under the early part of the program that
13 was a ten-year period. We have regulations now --
14 the current regulations now set it at six years.
15 What has happened for the earlier projects, that in
16 2000 or 1999, entered into agreements saying that
17 there was going to be a payment of this developer fee
18 based on certain benchmarks to happen in the future.
19 Those payments haven't been made, or we have not
20 received proof that those payments were actually made
21 or that that payment was reported as income by
22 anyone.

23 So we have referred a number of cases
24 over to the Attorney General's office to basically
25 ask for or demand repayment of that portion of the

1 tax credits that were issued to those projects for
2 developer fees that were, you know, pursuant to this
3 agreement that was approved by DED that were supposed
4 to be paid.

5 I think the numbers in terms of the
6 scope of the issue, based on what developer fees
7 currently today we do not have proof of payment on,
8 it's close to 15 million dollars, which is -- 25
9 percent of that is the amount of credits that the
10 State has issued, so 3.6 million dollars that the
11 State has issued on QREs, developer fee agreements
12 that have not been approved.

13 MS. HEMENWAY: It's larger. This is
14 what went to the AG, 30 million dollars.

15 MR. PIEPER: I have some updated numbers
16 that have been handed to me. These were the numbers
17 as of June when we did the first round of referrals
18 over at the AG's office. Currently the numbers are
19 closer to 29 million which is 7.3 million dollars in
20 tax credits that have been issued on -- based on an
21 agreement this said payment was going to occur at
22 some point in the future that have not been paid.

23 MS. HEMENWAY: This is the total
24 universe and not necessarily outstanding.

25 MR. PIEPER: Now, the second issue is

1 what we have been trying to do is identify how much
2 in outstanding developer fees do we have that are
3 coming due based on an agreement in the future. That
4 number is 337 million dollars, and 25 percent of that
5 would be 84 million dollars in developer fees that
6 are currently outstanding that have not been paid.

7 Now, some of those aren't going to be
8 coming due for several years, but at the same time
9 that these numbers -- that this amount of developer
10 fees is outstanding, we have -- the same developers
11 come to ask for more tax credits and to ask for more
12 accrued developer fees.

13 So what we have begun to do when there's
14 been a request for additional tax credits based on
15 accrued developer fees, is we've begun to ask
16 developers to provide us information to demonstrate
17 that that amount will actually be paid at some point
18 and that they actually have the ability to pay at
19 some point, because we don't believe that we as the
20 State can issue tax credits, state tax dollars on an
21 agreement that we don't believe will be honored
22 because of the sheer amount of outstanding fees that
23 a particular developer might have.

24 So if you come to DED and you have 30
25 million dollars worth of accruals that are sitting

1 out there and we have no proof of payment on those
2 and some are coming due in 2012 and some are coming
3 due in 2013, we are going to be reluctant to allow
4 you to get more state tax credits based on more
5 accrued developer fees.

6 So, I mean, that -- from the DED
7 taxpayer perspective, that's how we're viewing the
8 developer fee issue, which is why it's become an
9 issue with this group.

10 MR. BURLISON: And also -- Rex Burlison.
11 Also on the back side of this is that the State is
12 entitled to income tax on this developer fee when
13 they're paid, so the State's given credit on a
14 promise upfront, and when these things aren't paid,
15 the State's out a considerable amount of money in
16 income tax which is a substantial part of the State's
17 income that it collects each year.

18 COMMISSIONER REEVES: So from a
19 practical standpoint, now that we've outlined it from
20 a DED perspective, is there a suggestion from the
21 timetable -- is it 90 days, 120 days, six months --
22 so that it is a very definable period of time that we
23 could add to this?

24 MR. PIEPER: I mean, from a compliance
25 standpoint, you're paid during the construction

1 period, and that mirrors how almost every other
2 program that we administer works, which is --

3 COMMISSIONER BOYERS: I'm sorry?

4 MR. PIEPER: We issue credits based on
5 the work being performed and payment being made for
6 that work. And so if developer fees were treated
7 like any other hard construction costs that have to
8 occur during the construction period, that is the --
9 that is the cleanest way from a compliance standpoint
10 for the developer fees to be permitted, which is
11 essentially not allowing them to be accrued beyond
12 the period -- beyond the construction period.

13 COMMISSIONER REEVES: Okay. And I
14 believe my motion says that, based --

15 CO-CHAIRMAN GROSS: Do we have a second
16 on that?

17 COMMISSIONER REEVES: -- on developer
18 fees paid during the qualifying construction period.

19 CO-CHAIRMAN GROSS: Okay. Tom Reeves
20 had made the motion and Steven had seconded the
21 motion for -- as a reminder. The question to you,
22 Zack, was from Tom Reeves.

23 COMMISSIONER BOYERS: I'm sorry. I
24 didn't hear the question.

25 COMMISSIONER REEVES: Okay. We're back

1 to the original motion that I made that basically
2 eliminates the developer fees that are paid beyond
3 the qualified construction period.

4 COMMISSIONER BOYERS: It does articulate
5 that -- that of cash flow, right?

6 COMMISSIONER JOYNER: Yes, it does.

7 COMMISSIONER WOOD: Yes.

8 COMMISSIONER BOYERS: Okay.

9 CO-CHAIRMAN GROSS: Okay. Further
10 discussion? Craig?

11 COMMISSIONER VAN MATRE: Then what about
12 the escrowed fee? Is that -- if you escrow the fee
13 and say it's contingent on cash flow, do you get the
14 credit or not? I mean, as I understand Tom's motion,
15 it has to be paid to the developer by the end of
16 construction period or there's no credit. That means
17 any kind of escrow would defeat your ability to claim
18 that fee as part of your credit base. That's what we
19 need clarification on.

20 CO-CHAIRMAN STOGEL: Zack, the question
21 on the floor is, are escrowed fees in an account part
22 of the QRE for this purpose?

23 CO-CHAIRMAN GROSS: Zack, did you hear
24 that?

25 COMMISSIONER BOYERS: I did, yes. So in

1 other words, the developer fee gets funded into an
2 account and held there, right, does it qualify?

3 COMMISSIONER REEVES: Let me clarify.
4 And I could see where that would qualify because the
5 way it would probably be done is a bank would fund
6 it, put it in a collateral account, hold it back for
7 whatever reason, but to the extent the bank would end
8 up taking that money and foreclosing, or taking it
9 back, it would then be -- have to be recognized as
10 income.

11 At that point it's on the official
12 chart, and it is paid, and someone has received the
13 developer fee. So either it goes back to the
14 developer or it goes to the financial institution in
15 part or in whole, so it has been officially
16 recognized and would be taxable income at that stage.

17 I'm looking for confirmation there. So
18 that actually could qualify if you get a financial
19 institution. Otherwise, put it in an escrow account.

20 COMMISSIONER VAN MATRE: It has to be
21 funded --

22 COMMISSIONER WOOD: I just want to make
23 sure that we're not issuing tax credits on something
24 that is not paid.

25 MR. PIEPER: And the question that

1 occurs is what would be the proof of payment on the
2 escrow?

3 CO-CHAIRMAN STOGEL: Can I make a
4 suggestion? There's this plane leaving. This is a
5 really fine point. Let's leave it up to DED to write
6 regs so that they can deal with the stuff that's an
7 escrow issue.

8 MR. PIEPER: The one issue is that the
9 definition of a QRE, it cites the IRS code which
10 allows for certain soft costs to be included even if
11 they're not paid, and that's developer fees.

12 CO-CHAIRMAN GROSS: Okay. I'm gonna
13 park this issue. We're gonna move on. You guys talk
14 about it throughout the morning, and we'll come back
15 to deferred developer fees.

16 COMMISSIONER REEVES: Okay. I'll move
17 on to the next easy one. We've got credit stacking,
18 which is D I think both in the book and on the
19 two-page summary that is there. And in an effort to
20 abide by the spirit of what we're all working on
21 here, the recommendation is to reduce the 25 percent
22 tax credit to 20 percent of QRE for any project which
23 also receives the state low-income housing tax
24 credits.

25 CO-CHAIRMAN GROSS: Make that in the

1 form of a motion.

2 COMMISSIONER REEVES: I'll make that in
3 the form of a motion --

4 CO-CHAIRMAN GROSS: Second.

5 COMMISSIONER REEVES: -- as written on
6 this page.

7 CO-CHAIRMAN GROSS: Right.

8 COMMISSIONER BARTLE: Okay. I have a
9 substitute motion.

10 CO-CHAIRMAN GROSS: We have a second
11 from -- who wants to second that? From Steven.

12 COMMISSIONER BARTLE: I have a
13 substitute motion to eliminate stacking of low-income
14 and historic preservation.

15 COMMISSIONER FLOOK: I second that
16 motion.

17 CO-CHAIRMAN GROSS: We have a motion and
18 a second to prohibit the stacking of low-income and
19 historic. Discussion?

20 COMMISSIONER BARTLE: I don't know that
21 we need a lot of discussion. We talked about it
22 yesterday.

23 COMMISSIONER WOOD: Can I ask one
24 question? What about Brownfield? Are you okay with
25 stacking historic and Brownfield?

1 COMMISSIONER BARTLE: Well, my motion
2 relates only to low-income and historic.

3 COMMISSIONER WOOD: Well, my question
4 is, should we stack historic with anything statewide?

5 COMMISSIONER FLOOK: With Brownfield,
6 yes.

7 COMMISSIONER WOOD: Okay. That was my
8 question. I can see a need for that one.

9 COMMISSIONER FLOOK: Yes. Brownfield is
10 one that should be stacked on several occasions,
11 yeah.

12 CO-CHAIRMAN GROSS: We have a motion and
13 a second to prohibit the stacking of low-income and
14 historic. Steven?

15 CO-CHAIRMAN STOGEL: Do we have any
16 sense of how many projects that is?

17 COMMISSIONER BARTLE: If it's one, we
18 have perception problems. So I do not -- I do not
19 know how many we're talking about. But I'll just
20 tell you, stacking is one of those radioactive
21 issues, and I think if our Commission takes action on
22 stacking, that it increases the credibility of
23 everything else we say.

24 One of my worries about our report is
25 none of this happens unless the legislature embraces

1 it. And there are certain things that I think are
2 gonna -- where we're gonna be judged as to whether
3 we've dealt with tough issues. Stacking is one and a
4 vote on the appropriations process is another. And I
5 think we ought to have a recorded vote and show the
6 public what we think on that issue, and then overall,
7 bringing down the caps on l-inc. and historic.

8 Those are the biggies that I think
9 others will look to us to determine whether we were
10 credible or not.

11 CO-CHAIRMAN GROSS: Further discussion?
12 Mark Gardner.

13 COMMISSIONER GARDNER: Yeah. And I
14 understand Representative Flook's statement that this
15 is kind of a toxic issue, and I agree -- Representative
16 Flook -- I'm sorry. Senator Bartle -- it is somewhat
17 of a toxic issue. And I raised the issue yesterday.

18 I said, you know, I think under certain
19 circumstances, stacking is good, under limited
20 circumstances. And the example I will give you is
21 the Dream Initiative where you stack -- where
22 frequently a Dream city is designated by DED, and you
23 pick a project that is important and central to a
24 downtown in out-state Missouri, whether it's Hannibal
25 or Kirksville or wherever, Excelsior Springs, and the

1 only way you can get that economic revitalization is
2 through a project that stacks both of those credits.

3 Because the historic credit, folks, it
4 just does not work in out-state Missouri for the most
5 part, it just doesn't unless you stack. And so there
6 might be isolated circumstances where you look at it
7 and say does this make sense.

8 And in those situations what I would
9 recommend is you have DED make that determination.
10 And DED, not MHDC make that determination. Yes.

11 CO-CHAIRMAN GROSS: Steven.

12 CO-CHAIRMAN STOGEL: Senator, to be
13 clear, the federal law allows federal historic and
14 federal low-income to be stacked. That's not what
15 we're talking about. That can still occur. We're
16 talking about just the State, twinning of state
17 historic and state low-income. So if there was a
18 project, whether it be Dream or in a first class city
19 or Main Street Missouri, the project could still use
20 federal historic, federal low-income and either state
21 historic or state low-income. It could be either/or?

22 COMMISSIONER BARTLE: (Nodded head.)

23 CO-CHAIRMAN STOGEL: Would that be your
24 understanding? In other words, on Main Street
25 Missouri or in urban, you could use federal historic,

1 federal low-income and either state historic or state
2 low-income?

3 COMMISSIONER BARTLE: That's right.

4 CO-CHAIRMAN STOGEL: Okay. I understand
5 the motion.

6 COMMISSIONER BARTLE: And let me -- I
7 think Mark's point -- Mark makes -- I don't deny that
8 there will be projects that will not happen, and
9 maybe most or all of those projects will be in rural
10 Missouri. But we just need to bear in mind that all
11 of these credits are incenting deals that the market
12 would not deliver.

13 By definition, we are having to incent
14 economic activity that would not happen but for
15 government intervention. If we get so far out of
16 plumb with the market that it takes two generous
17 credits to make it work, I just think there's a point
18 at which you've got to say, you know, that's probably
19 a project that should never happen if it takes that
20 much government money to make it happen.

21 That's really my philosophical problem
22 with all of this. We're basically saying we're
23 smarter than the market, or we want something that
24 the market won't give us. And there are times when
25 government does that. I mean, we do a lot of that.

1 But I think the fact that it's really
2 tough when policymakers start saying we know more
3 than the market about what ought to happen.

4 CO-CHAIRMAN GROSS: Okay. Let's get to
5 a vote. You heard the motion and the second. All in
6 favor of that motion, say aye.

7 (AYE.)

8 CO-CHAIRMAN GROSS: Opposed?

9 COMMISSIONER BOYERS: No.

10 COMMISSIONER WRIGHT-JONES: No.

11 CO-CHAIRMAN GROSS: The ayes appear to
12 have it. The ayes do have it. The motion carries.
13 Tom?

14 COMMISSIONER REEVES: Okay. One more
15 and then we'll get to the cap issue. On your sheet
16 there at B, which is carryback/carryforward
17 provision, and the committee recommends a
18 modification in the current carryback and
19 carryforward provision; reducing the carryback from
20 three years to one year, and the carryforward
21 provision from ten years to five years on those that
22 are sold tax credits.

23 This obviously is geared toward better
24 budget predictability and I think goes a long way
25 with that. The carryforward provision would stay at

1 ten years for those owners that keep the tax credits
2 themselves and don't sell them. That's what
3 basically this covers.

4 So I would make a motion to approve item
5 B on the two-page sheet as stated.

6 COMMISSIONER WOOD: Second.

7 CO-CHAIRMAN GROSS: We have a motion and
8 a second to -- as written on -- as item B.

9 COMMISSIONER REEVES: Item B, the first
10 page under "Commission Action."

11 CO-CHAIRMAN GROSS: Okay. Discussion?
12 Craig?

13 COMMISSIONER VAN MATRE: Why does it
14 need to carry back at all?

15 CO-CHAIRMAN GROSS: That's a question
16 that's debated and we have under our global issues
17 committee. If we want, we can just park this and
18 take up carrybacks when we get to global committee.

19 COMMISSIONER REEVES: I'm okay. Zack,
20 do you have any comment on that?

21 COMMISSIONER BOYERS: Well, I mean, I
22 think the comment is that it compromises the
23 potential value the State gets for its credit. So to
24 the extent that a particular taxpayer in a particular
25 year cannot carry back, then that -- or carry

1 forward, depending, and I know that's two different
2 things, but the fact is that the value of the credit
3 goes down, and so the State's value of the dollar is
4 likely less if you restrict it even more than what's
5 being proposed.

6 CO-CHAIRMAN GROSS: Okay. Let's take
7 that one to our global issues discussion. Next?

8 COMMISSIONER REEVES: Okay. Final item
9 is the issue of the reduction in the annual cap. And
10 before you, you also have a revised -- the
11 modification which is a motion to amend the final
12 report. That's what it is there.

13 And basically the base modification that
14 I will propose for discussion is page 1 and page 2
15 down to where it says, "Owner-occupied cap" and then
16 just draw a line there, because we've already covered
17 those items. They either fall under the program
18 efficiencies or we've just taken care of those
19 items.

20 So basically this proposal recommends
21 that the cap that's currently in place of 140
22 million dollars be modified to 90 million dollars
23 per year for the next three state fiscal periods
24 which would be effective July 1st, 2011 and
25 thereafter.

1 After that period the annual cap would
2 then be adjusted and would float with a percentage of
3 one and a half percent of the State's general
4 revenue.

5 So again, this goes a long way toward
6 self-budgeting, if you will, in the future, but it
7 does put a -- impose a cap of 90 million dollars for
8 the next three state fiscal periods.

9 Now, part of this also -- you'll see
10 under "Transition Rules" there are one, two and three
11 items there which are fairly straightforward but are
12 in there from -- under the global guidance tenet of
13 do no harm.

14 There are obviously a number of projects
15 that would be caught by all of this and needed time
16 to transition. There are some special circumstances
17 that we don't want caught up into this reduction.

18 So the motion is page 1 and page 2 down
19 to "Owner-occupied cap", to reduce the cap from 140
20 million to 90 million dollars a year.

21 CO-CHAIRMAN GROSS: Okay. We have a
22 motion and we have a second. Discussion on that?
23 Steven?

24 CO-CHAIRMAN STOGEL: No.

25 CO-CHAIRMAN GROSS: Discussion, Senator

1 Bartle.

2 COMMISSIONER BARTLE: I have a
3 substitute motion.

4 CO-CHAIRMAN GROSS: Okay.

5 COMMISSIONER BARTLE: My motion is to
6 take the cap to 75 million, and let me explain my
7 rationale. Missouri's historic preservation tax
8 credit is dramatically out of plumb with anything
9 else in the United States. We are spending more than
10 double the second highest state.

11 The second-highest state is Virginia.
12 They authorized 70 million last year. I would
13 propose that if we went to 75 million, we're still
14 gonna be the most generous state in the union at 75
15 million. And I think it's a move that needs to
16 happen in light of where we are financially.

17 CO-CHAIRMAN GROSS: I will second that.
18 But are you gonna go -- are you suggesting 75 for
19 three years or 75 permanently?

20 COMMISSIONER BARTLE: 75 permanently.

21 CO-CHAIRMAN GROSS: Okay. I'll second
22 the motion. And the reason that I was gonna propose
23 this was 90 million for three years would do nothing
24 because the current usage is at what now?

25 MS. HEMENWAY: Where are we?

1 MR. PIEPER: FY '11, it's probably gonna
2 be close to 60.

3 CO-CHAIRMAN GROSS: And so in terms of
4 impact, it would do nothing. I was gonna even
5 suggest maybe 50 so we actually have some impact, but
6 I'll go with 75, and that's my reason for seconding
7 the motion.

8 COMMISSIONER MARBLE: Is this Senator
9 Gross?

10 CO-CHAIRMAN GROSS: Yes.

11 COMMISSIONER MARBLE: Okay. Discussion?
12 Mike? This is Mike Wood.

13 COMMISSIONER WOOD: Well, I just want to
14 make sure. We're going 75 total, right?

15 COMMISSIONER BARTLE: Mine is a flat cap
16 and has no cost-of-living adjustment or --

17 COMMISSIONER WOOD: So it's a cap
18 forever. Okay.

19 CO-CHAIRMAN GROSS: What about the
20 transition rules? Are you affecting those?

21 COMMISSIONER BARTLE: No.

22 CO-CHAIRMAN STOGEL: Are you okay --

23 COMMISSIONER BARTLE: I'm okay with the
24 transition rules.

25 CO-CHAIRMAN GROSS: So your amendment

1 would affect the first paragraph of the motion.

2 Instead of 140 to 90, it would be 140 to 75

3 throughout all of that, taking out the percentage and

4 a half --

5 COMMISSIONER WOOD: You can end it right

6 after "90 million annual cap, 75 million dollar

7 annual cap," and the rest of the paragraph is out.

8 CO-CHAIRMAN GROSS: And leave the

9 transition rules in place. Further discussion?

10 Representative Flook?

11 COMMISSIONER BOYERS: Yeah, this is Zack

12 Boyers. I think that the premise for this action and

13 for this motion is flawed, and I'd just like to

14 explain why I think that for just a moment. You

15 know, fundamentally, whether people give lip service

16 or actually agree to it, the words spoken are that

17 this credit works, it works from the perspective of

18 sort of a social mission and also economic

19 development and job creation.

20 It's not perfect and we as the

21 subcommittee have made -- have made efforts to find

22 efficiency in it and to address administrative

23 changes that might make it better, and there's some

24 global issues too that may also create value that we

25 should pursue and pursue actively.

1 I guess the premise that I suffer from
2 is reducing the credit is fine if we have a
3 substitute for the lost economic development activity
4 that will ensue three, four, five years later when
5 the economy rebounds. And I wonder how it is that we
6 intend to address that without -- and why 75 or 50 or
7 90 is the appropriate number.

8 What's the basis for those numbers other
9 than what seems to me arbitrary, and what are the
10 choices that we're making instead? And I don't have
11 the benefit of, frankly, the information about what
12 other choices we might make instead. There may be
13 very good ones, but lacking that information, it
14 seems that we're only -- we're only looking at one
15 very specific side of the coin.

16 I would also note that while Missouri
17 does lead the nation in rehabilitation, it is a model
18 for other states that are more coming towards us than
19 moving away from us. That's a fact and you can look
20 at Minnesota as an example of that.

21 And the other thing very broadly is, is
22 there a sense that the State is moving sort of in the
23 right direction from an economic development
24 perspective and it's present in the rest of the
25 country and lacking -- at least I'll say this: From

1 my perspective, we are significantly diminishing our
2 profile if we were to take on a 50, 75-million-dollar
3 cap at this time. I think it's bad for the State.

4 CO-CHAIRMAN GROSS: Thanks, Zack.
5 Representative Flook?

6 COMMISSIONER FLOOK: I'm gonna support
7 this motion. And I spent the last six years working
8 on the job creation and economic development
9 committee. First part I was generally supportive of
10 historic tax credits, but the more I learned about
11 our economy and growth and what other states and
12 other nations do that are successful to create real
13 jobs that last a long period of time and sustained
14 real growth, it didn't take very long to realize that
15 we have a very small segment of our economy, which is
16 rehabbing old buildings, that is the largest
17 commitment our state makes in economic development.
18 And, you know, it's a massive commitment.

19 You know, we just passed a Manufacturing
20 Jobs Act. Because of the impact on other programs on
21 the budget, we could only do 15 million annually and
22 only do it for the automotive industry, even though
23 we have an aircraft industry and other manufacturing
24 industries that all create decent paying blue-collar
25 jobs and white-collar jobs that enable people to buy

1 the condos and the houses that come up through these
2 other programs. We can make small commitments to
3 them, but we cannot make the commitments to the
4 larger parts of our gross domestic product.

5 And standing in our way is a program
6 that's vastly larger than it was ever anticipated to
7 be as the day it was adopted. And if I remember
8 correctly, the original -- the original expectation
9 was about 20 million annually. It morphed into 170
10 million.

11 And I'm looking at on my committee for
12 job creation opportunities, job training
13 opportunities, incentives. We need to compete with
14 other states, and we've made rehabbing old buildings
15 our largest objective in economic development, even
16 larger than the Quality Jobs Act and all these other
17 places.

18 And I was willing and I worked to get
19 this number from no cap to 100 million two years ago,
20 and I ran into a buzz saw on that. You would have
21 thought that I was -- I was committing sacrilege.
22 And now I say 75 million isn't too much to ask.
23 Let's go to 75 million. We're gonna be back -- or I
24 won't say I'll be back, but the legislature next year
25 is gonna be looking at education cuts, they're gonna

1 be looking at all kinds of cuts. And long-term
2 recovery is what it's gonna take. It's gonna take
3 years before our economy fully recovers from
4 everything that's gone on.

5 We're gonna need years worth of change
6 out of this program. And my comment would be, is the
7 historic preservation community needs to recognize a
8 friend when they see one, and we're being their
9 friends at 75 million.

10 It is a large program, and we're gonna
11 try to promote an economy that will create a
12 marketplace for their product. And the legislature
13 can come back and revisit this later. If the need is
14 there and the economy is there, they can come back
15 and revisit it later. But now is the time for this
16 community to say we're gonna take a very significant
17 part in righting the ship economically and righting
18 the budget.

19 I think this is the right thing to do.

20 COMMISSIONER BOYERS: I'd like to
21 respond. This is Zack. I think that, again, the
22 premise is what I struggle with. I don't disagree
23 that perhaps a better use of the funds could be
24 towards other economic development tools. I just
25 don't know what they are, and I'm not allowed to

1 discuss them because we're not being presented with
2 that other choice. So I believe, again, that the
3 premise is a little bit faulty.

4 I would also say that it's not just
5 fixing up old buildings that is an economic
6 development driver, and frankly, the amount of funds
7 that that program, this program leverages is
8 substantial, and we'll just go elsewhere in the
9 country and we'll leave Missouri.

10 If the state is effective at doing other
11 kinds of -- creating other kinds of incentives that
12 leverage dollars, then that will be great, but in the
13 meantime you're sacrificing in some ways one of the
14 only really large economic drivers.

15 I'll also say that the programs that are
16 in existence for other economic development are
17 flawed in certain ways and really could be improved.
18 And, you know, again, there's something a little bit
19 myopic about the way we're looking at a cap on
20 historic preservation, which, again, is fine. It's
21 just that it lacks -- it lacks sort of the integrity
22 of what the choices are that are being made instead.

23 COMMISSIONER BARTLE: I want to make one
24 last point. You don't have to read the financial
25 press even once a week to understand that we have

1 dramatically overbuilt in this country. And one of
2 the reasons I believe that we have more -- we have
3 more retail and commercial space than we can consume
4 is the government has incented the marketplace to
5 give us more than we need. And now we're gonna
6 spend -- we've already spent three years working
7 through excess.

8 From what I understand in talking to
9 people in commercial real estate -- in real estate in
10 general, we're five years away from reaching any kind
11 of true equilibrium. And we don't need now to make
12 bringing on more development our number one economic
13 development priority in this state, which is what we
14 have been doing over the past five years and will
15 continue to do unless we take action.

16 CO-CHAIRMAN GROSS: Okay.

17 COMMISSIONER BOYERS: I'd like to
18 respond to that very briefly. The historic
19 preservation has a built-in -- has a built-in
20 reduction when the economy is slow, and that's clear
21 from the amount of authorizations this year and what
22 are projected for next year.

23 And so the excesses of commercial real
24 estate, I'm sure you don't mean to suggest, Senator
25 Bartle, are tied to tax credits. They're new

1 construction in Nevada, Florida and everywhere else
2 in the country has nothing specifically to do with
3 the credits, A; and B, when the economy's soft and
4 real estate is down, historic preservation and other
5 forms of real estate development slows down too.

6 CO-CHAIRMAN GROSS: Craig Van Matre.

7 COMMISSIONER VAN MATRE: The thing of it
8 is, is that statement by Zack, I think, illustrates
9 exactly the Senator's point. You don't get any
10 economic stimulus when the economy's down, and when
11 the economy's back up, that's when you get the
12 historic rehab like crazy and you don't need it then.

13 So I guess my question to the Senator
14 is, and Senator Gross's comment that we ought to --
15 Senator Gross's comment that perhaps we ought to make
16 the cap 50 million dollars instead. Is there any
17 sentiment for doing 50 million?

18 CO-CHAIRMAN GROSS: No.

19 COMMISSIONER VAN MATRE: Okay. Just
20 asking the question.

21 CO-CHAIRMAN GROSS: Discussion? Hearing
22 none --

23 COMMISSIONER BOYERS: I just want to say
24 one more thing. If the goal of this is to come out
25 with any level of consensus voice, I think -- I'm

1 concerned that going to 50 or 75 million is probably
2 going to fail to achieve that.

3 CO-CHAIRMAN GROSS: It is what it is.

4 COMMISSIONER BOYERS: I understand.

5 CO-CHAIRMAN GROSS: Okay. All in favor
6 of the motion, signify by saying aye.

7 COMMISSIONER BOYERS: What's the motion?

8 CO-CHAIRMAN GROSS: The motion is to go
9 to \$75,000. No, no. Do you want to repeat the
10 motion?

11 COMMISSIONER BARTLE: It's to 75 million
12 with the same phase-in as Tom's motion with an -- and
13 excluding the 1.5 percent.

14 COMMISSIONER WOOD: It's an annual cap.

15 CO-CHAIRMAN GROSS: Right. But keeping
16 the transition rules. Right. And it's a permanent,
17 not a three-year dollar amount? Okay. All in favor
18 of that motion, signify by saying aye.

19 (AYE.)

20 CO-CHAIRMAN GROSS: Opposed, no.

21 (NO.)

22 CO-CHAIRMAN GROSS: Okay. The ayes
23 appear to have it. At the table, raise your hand if
24 you're in favor of the motion.

25 THE COURT REPORTER: I'm not going to

1 get an accurate record of who is voting. I just want
2 you to know.

3 CO-CHAIRMAN GROSS: No, I understand
4 you're not getting names. That's fine.

5 One, two, three, four, five, six, seven,
6 eight, nine, ten at the table voted aye. Did I count
7 myself? Do it again. One, two, three, four, five,
8 six, seven, eight, nine, ten.

9 And at the table voting no? One, two,
10 three, four, five, six, seven, eight at the table
11 voting no. On the phone, please vote.

12 COMMISSIONER MARBLE: Marble votes aye.

13 COMMISSIONER BOYERS: Boyers votes no.

14 CO-CHAIRMAN GROSS: 11 aye, nine no's.
15 The motion passes. We are back to if we can please
16 try to finish this report. Because that was your
17 last item, wasn't it?

18 COMMISSIONER REEVES: Yes. I gladly
19 give the floor back.

20 CO-CHAIRMAN GROSS: Well, no. We need
21 to go back to one that we tabled, the deferred
22 developer fee issue. Any minds come to a way to --

23 COMMISSIONER WOOD: I think we're in
24 agreement that we shouldn't issue a tax credit on
25 something that's not paid. So I think what came out

1 of the committee was that it has to be -- has to be
2 proven to be paid during the construction period in
3 order to get a tax credit issued on it. Proof of
4 payment. I mean, Chris has better words than I do
5 for that, but...

6 MR. PIEPER: I mean, I guess it would be
7 proof that any developer fee submitted as a QRE,
8 proof that it was paid during the construction
9 period.

10 COMMISSIONER BOYERS: I can't hear the
11 people speaking.

12 MR. PIEPER: I mean, we would -- we
13 would -- DED would, from an administrative
14 standpoint, like to have proof of payment by -- that
15 there was proof of payment during the construction
16 period. But understanding what I'm hearing about the
17 cost certification and, you know, there may be some
18 period after the construction period where it's at
19 the time of the submission of the cost certification
20 that could also work.

21 COMMISSIONER WOOD: I'm fine. I just
22 don't want a tax credit issued on something that
23 hasn't been paid.

24 CO-CHAIRMAN GROSS: Okay. So we have a
25 motion before us and it was seconded. The record

1 will show who that was. I've forgotten now, but it
2 was seconded. Further discussion?

3 (NO RESPONSE.)

4 CO-CHAIRMAN GROSS: Hearing none, all in
5 favor of the motion, say aye.

6 (AYE.)

7 CO-CHAIRMAN GROSS: Opposed, no.

8 (NO RESPONSE.)

9 CO-CHAIRMAN GROSS: The ayes have it.
10 Thank you very much. And we're going to take just a
11 very short break and time to stretch our legs. Be
12 back here -- try to be back here at five minutes till
13 11, please. We're in recess.

14 (A RECESS WAS TAKEN.)

15 CO-CHAIRMAN GROSS: Okay. Let's come
16 back to order, and we're gonna go back to low-income
17 report. I'm sorry. Craig Van Matre, question?

18 COMMISSIONER VAN MATRE: Could we just
19 briefly discuss, if you don't mind, the idea that for
20 a larger historic project, the city council of the
21 city in which the project is located has to approve
22 the project previous to the economic -- the economy.

23 CO-CHAIRMAN GROSS: Yeah, we can discuss
24 that.

25 COMMISSIONER VAN MATRE: Does anybody

1 but me think that there ought to be some kind of
2 local buy-in to a large project?

3 COMMISSIONER BARTLE: Craig, if it's the
4 local government voting to approve the state tax
5 relief, that's a meaningless step. Yeah, they're
6 gonna do that all the time. Now, if you made them
7 throw their own money into it --

8 COMMISSIONER VAN MATRE: Well, that's
9 the ultimate objective, is that maybe ten cents of
10 every dollar come from the local municipality in
11 order to get the appropriate buy-in and supervision,
12 and that's sort of where I'm headed. Is that beyond
13 the scope of today's discussion?

14 COMMISSIONER BARTLE: That's a meatier
15 idea; probably a good one too.

16 CO-CHAIRMAN STOGEL: Actually most
17 cities throw in real estate tax abatement that would
18 be the equivalent of a dime, so...

19 COMMISSIONER VAN MATRE: I mean, I guess
20 my idea would be that there would be some kind of
21 condition precedent to a larger project getting some
22 kind of local buy-in in that fashion.

23 CO-CHAIRMAN STOGEL: If we open up local
24 buy-in, I'm trying the film credit again.

25 COMMISSIONER WOOD: You have to vote on

1 the prevailing side.

2 CO-CHAIRMAN GROSS: Okay. On to
3 low-income. Mr. Gardner.

4 COMMISSIONER GARDNER: On the --

5 CO-CHAIRMAN GROSS: Where did we leave
6 off?

7 COMMISSIONER GARDNER: I'm not sure
8 which specific issues you want me to address?

9 CO-CHAIRMAN GROSS: I'm gonna ask Sallie
10 or somebody to get us back onto the right page on
11 open items for low-income.

12 MS. HEMENWAY: If you look in the packet
13 that you received yesterday, which was the supplement
14 to your notebook, and you go to the tab that has the
15 open items and you turn to page 26, you will get to
16 where we were yesterday on the low-income housing
17 recommendation.

18 COMMISSIONER JOYNER: Did we finish
19 everything except cap? Is that the only outstanding
20 item?

21 CO-CHAIRMAN GROSS: I don't believe.
22 The question was -- I know that we parked --

23 COMMISSIONER JOYNER: We did 1.

24 CO-CHAIRMAN GROSS: We parked stacking.
25 Carryback and carryforward we parked for global.

1 MS. HEMENWAY: No. 4 is an item you're
2 going to take up.

3 CO-CHAIRMAN GROSS: Okay. No. 4 we have
4 to do still.

5 MS. HEMENWAY: Yes. If you just want to
6 run through it. No. 1 you had a recommendation on;
7 No. 2 you decided that the Commission didn't need to
8 take a position; No. 3 -- or No. 2 actually was the
9 recapture provision; No. 3 you decided you didn't
10 have to take a position by the Commission; No. 4 is
11 still to be discussed; No. 5 was adopted; No. 6 was
12 tabled to go to global issues, so it doesn't have to
13 be taken back up now; No. 7 was tabled. However, the
14 recent motion on the historic now makes that a null
15 issue -- or an adopted or final issue. No. 8 you
16 moved to the global issues. And that's it, so...

17 CO-CHAIRMAN GROSS: Did we finish AHAP?

18 MS. HEMENWAY: Yes, all three.

19 CO-CHAIRMAN GROSS: Okay. So the first
20 one is No. 4 on equity levels.

21 CO-CHAIRMAN STOGEL: I don't think we
22 resolved No. 1.

23 COMMISSIONER WOOD: Yeah, we did. We
24 said we're gonna go to five and try to get it down
25 to --

1 COMMISSIONER JOYNER: We recommended
2 that we go to a five-year tax credit with the idea of
3 looking at the feasibility of phasing it down to
4 three and then one based on the impact on state
5 budgets.

6 COMMISSIONER GARDNER: Okay. Great.

7 COMMISSIONER WOOD: But what did we do
8 on the recapture provision? No. 2. I'm sorry.

9 COMMISSIONER JOYNER: We just said leave
10 it like it currently is.

11 COMMISSIONER WOOD: Okay. So we're not
12 going to eliminate the recapture provision, correct?

13 COMMISSIONER JOYNER: Right.

14 COMMISSIONER WOOD: Okay. Good.

15 COMMISSIONER GARDNER: We didn't really
16 make a recommendation.

17 CO-CHAIRMAN GROSS: We said no position.

18 COMMISSIONER WOOD: So that leaves it
19 the same.

20 MS. HEMENWAY: We leave it at current
21 status. No. 3 you decided that there was really no
22 action to take by this subcommittee; No. 4 was
23 maintain the equity levels and the -- my notes just
24 say "No vote today."

25 COMMISSIONER GARDNER: It tied up with a

1 cap really.

2 COMMISSIONER WOOD: Let's just get to
3 the cap.

4 MS. HEMENWAY: No. 5 was adopted; No. 6
5 was tabled for global issues; No. 7 was resolved by a
6 previous vote; No. 8 was moved to the global issues,
7 and that's it. So I still show your discussion as
8 No. 4 because it relates to the overall cap of the
9 program.

10 COMMISSIONER GARDNER: So is that what
11 we're ready to talk about?

12 CO-CHAIRMAN GROSS: Well, okay. 4 and 6
13 are the two that we -- even though 6 was referred to
14 global, I think Mark wanted to try to address that
15 one today, and we'll see if we get there or if we
16 have to refer it again to global. But Mark, do you
17 want to go ahead with 4, just to refresh our memory
18 on that?

19 COMMISSIONER GARDNER: Issue No. 4 is
20 really tied closely to an issue of a cap. The idea
21 there was that what we would try to do -- let me have
22 that other microphone because this thing isn't
23 working very well. Is this one working?

24 The specific recommendation was that we
25 try to preserve the equity levels that are going into

1 the projects currently and that we achieve those
2 equity -- and you can't confuse that with the amount
3 of credits, okay? If you've authorized 192 million
4 dollars worth of credits, that generates a certain
5 level of equity.

6 What we're saying is, let's make the
7 credit more efficient and try to preserve the same
8 level of equity by having a more efficient credit.
9 If you go to a five-year credit, the credit sells for
10 substantially more, you need substantially fewer
11 credits.

12 So we discussed yesterday, I believe
13 it's somewhere around -- I don't recall the exact
14 number -- but it's probably 115 million of five-year
15 credits would give you roughly the same amount of
16 equity if we could achieve the changes that are
17 proposed from a tax law standpoint. If we can't
18 obtain those changes, then the credit's not worth
19 quite as much and you save about 35 percent by going
20 to a five-year credit, so you could reduce the size
21 of the program by 35 percent straight off the top.

22 And I think I've got, after thinking
23 about this last night and working through some of the
24 numbers, I kind of have a proposal, and that proposal
25 would be that it's not too far off of what

1 Representative -- or what Senator Bartle was talking
2 about yesterday.

3 I think his -- and if I misquote you,
4 tell me. I'm sure you will. I think when I was
5 talking about the five-year credit, you said, "Why
6 not go to a 19.2 for five years?" And what I would
7 like to see us do is go to 20 for five years. That's
8 a 100-million-dollar credit as opposed to 190-million-
9 dollar credit.

10 If we went to 100 million for five years
11 and then allocated 80 percent of that to the 9
12 percent credit and 20 percent to the 4 percent
13 credit, that would keep the ratio of
14 9 percent and 4 percent credits approximately the
15 same as they are today. And that would be my motion.

16 CO-CHAIRMAN GROSS: I'll second the
17 motion for discussion. Discussion? Senator Bartle?

18 COMMISSIONER BARTLE: Yeah. I have a
19 substitute motion, and my motion is that we go to 15
20 million -- so 15 and five years.

21 CO-CHAIRMAN GROSS: 75 million then?

22 COMMISSIONER BARTLE: Yeah. And
23 basically I'm borrowing Senator Gross's point. In
24 revenue, if you look at where the State is, we've
25 stepped back steadily over the last three years in

1 our revenue, and we will again this year, take
2 another step back. The low-income credit was 15
3 million in 2006, so it's basically, you know, pulling
4 it back.

5 I think Zack made a good point when he
6 said these numbers are random. That's exactly right.
7 Caps are random. But I think we've now voted to move
8 historic preservation back. Low-income is another
9 big, big program for us, and I believe that we should
10 similarly vote for a substantial cut in the cap
11 there.

12 CO-CHAIRMAN STOGEL: I'd like to -- I'd
13 like to add just some facts as I'm thinking about the
14 motion, Senator. Mark, correct me if I'm wrong, but
15 I think the current federal allocation for low-income
16 that the State gets is 13.2 million a year.

17 COMMISSIONER GARDNER: That's correct.

18 CO-CHAIRMAN STOGEL: The --

19 COMMISSIONER GARDNER: Over ten years,
20 though.

21 CO-CHAIRMAN STOGEL: That would be a
22 subset of what you described as 15 and Mark described
23 as 20. The delta becomes what's capable of being
24 financed with bonds. Given the earlier vote of the
25 Commission about not allowing stacking for state

1 historic and state low-income, you're going to impair
2 bond deals. So I think they're going to be harder to
3 do and the bond deals will be done for new
4 construction.

5 So it may not -- I'm just sort of
6 thinking out loud -- it may not have a great current
7 impact because bond deals are very hard to finance.
8 So we're passing up a federal resource which does
9 allow 4 percent credits with the effect of the
10 emotion. So it's probably too tight because there
11 are some bond deals in suburban St. Louis and Kansas
12 City that may get done, may not, but my point is, I
13 guess you're foreclosing the federal resource and
14 forcing all the stuff to a 9 percent credit.

15 COMMISSIONER BARTLE: We're in a spot
16 now with our state budget where the federal
17 government incents the state government to spend lots
18 of money with federal drawdowns. And we're in a
19 painful spot right now where states, not just
20 Missouri, but certainly Missouri, are going to have
21 to forego federal monies.

22 Even programs that pay two dollars for
23 every dollar we spend because we don't have the
24 dollar to spend. So, you know, I don't think we
25 ought to allow the fact that we may forego federal

1 help prevent us from taking this vote. The federal
2 government has basically incented states to spend
3 money they don't have, and that's part of why states
4 are in the crisis situation they are now.

5 Now, I realize that Medicaid is a very
6 different issue, but I'm just saying that in general,
7 the fact that we may forego some federal largess, I
8 think we're at a spot where we're gonna have to.

9 CO-CHAIRMAN GROSS: Dee Joyner.

10 COMMISSIONER JOYNER: As a member of the
11 low-income housing subcommittee, I'd like to speak
12 against Senator Bartle's amendment and in favor of
13 Mr. Gardner's motion. We struggled with this very
14 much in the committee, and I think as I said
15 yesterday, one of the issues that we have to
16 recognize is, in the state of Missouri, affordable
17 housing is a very, very important issue. And it's
18 probably more important now in this economic time as
19 ever.

20 And the fact of the matter is, it's hard
21 enough to get housing built anyway. And without the
22 support of a state credit, we are going to see a
23 reduction in the amount of housing that we can
24 produce. And I think the way the committee looked at
25 this was to say, we can impact the state budget in a

1 positive way by tightening up the program and moving
2 to a shorter term of credit. And in doing that, you
3 know, Mark has now proposed an addition, a cap that
4 would still allow us to be able to invest enough
5 equity in the program to continue the construction of
6 the housing.

7 And I think we also have to recognize
8 that not only is it an issue in terms of providing
9 affordable housing, but it also provides construction
10 jobs, and it also serves to help preserve and
11 revitalize communities.

12 So to me, this is one that is worth
13 investing in and that we've tried to find a way to be
14 able to do that and still have a positive impact on
15 the state budget.

16 COMMISSIONER BOYERS: This is Zack
17 Boyers. I'd also like to comment that the fact that
18 caps are being made in an arbitrary fashion I don't
19 think is really, frankly, something to tout. I think
20 it should be done in the context of other choices,
21 and we in some respects are lacking, again, that
22 color and that information as we make these
23 recommendations or have to vote on them.

24 CO-CHAIRMAN STOGEL: I'm concerned
25 mathematically that we're going to -- if the number

1 were 15 million, I'm not sure five years is the right
2 goal for the credit. It's now at ten. I'm not that
3 mathematically quick to understand whether -- if --
4 if the sense of the committee and Senator Bartle's
5 motion is for 15 million or 16 million -- 15 million,
6 whether the credit shouldn't then be seven years so
7 that same net equity could be raised and the same
8 number of units produced and still get the savings
9 you want.

10 Because five years was the
11 recommendation. To take ten years down to five and
12 if we're looking for mathematical equivalency, I
13 defer to Mark, but I'd put out there that instead of
14 going from five to three to one, we go from seven to
15 four to two to one and view this as a ten-year
16 phase-in, but still try to get the same net equity to
17 the projects.

18 COMMISSIONER GARDNER: At 15 over seven
19 years, you're not gonna get the same net equity. You
20 might get the same net equity as my proposal, but my
21 proposal was a reduction in net equity off of what we
22 would have had, so we're now working off of the
23 reduction.

24 I mean, seven years -- I mean, 15 at
25 seven years might be okay. It would take me a few

1 minutes to probably figure that out.

2 CO-CHAIRMAN GROSS: If you can try to do
3 that. I mean, if you get the math worked out, that's
4 fine and dandy, but, again, for me, it's do I want to
5 put the money into low-income housing through the use
6 of a tax credit or do I want to provide direct
7 services to -- well, these are all budget issues.
8 And that's what we're trying to decide, is how much
9 money is there to spend in the budget, and this
10 reduces the amount of money there is to spend in the
11 budget, and therefore, you're deciding that you want
12 to build low-income housing, which I don't know
13 exactly what the demand is on that. I heard what Dee
14 said and you said you had a lot of discussion in the
15 committee on that issue.

16 But I know there's huge demand and a
17 first commitment by our Constitution to fund
18 education, and that is not also being met. Maybe by
19 the letter of the law it is, but it is being
20 drastically cut and threatened as are other vital
21 services in the state.

22 COMMISSIONER BOYERS: Is that Senator
23 Gross?

24 CO-CHAIRMAN GROSS: It is.

25 COMMISSIONER BOYERS: Senator, it's

1 Zack. I guess are we -- how are we supposed to
2 appropriately address all the other budget needs
3 without having any information about them all?

4 CO-CHAIRMAN GROSS: Well, I have a
5 suggestion that will come later on in this meeting
6 that would allow all of that to be ironed out, and
7 that's to take all these social programs and put them
8 through appropriations and let the legislature
9 decide.

10 COMMISSIONER BOYERS: Yeah. I guess
11 my -- my question, though, ends up being, if we're
12 talking about education, should we talk about
13 education and the funding and how that works and
14 where it goes and what the resources are for that or
15 what they ought to be and what the other sources of
16 those would be?

17 COMMISSIONER WOOD: We don't get into
18 issuing tax credits.

19 COMMISSIONER BOYERS: It's hard to make
20 decisions on housing financing.

21 CO-CHAIRMAN GROSS: My Co-Chair reminds
22 me that's beyond the scope to talk about education.

23 COMMISSIONER BOYERS: Exactly. Except
24 that we are. We're talking about all of these other
25 constraints, except we don't have any information

1 about any of them.

2 COMMISSIONER BARTLE: Zack, you make
3 probably the most persuasive argument I've heard for
4 an appropriations process.

5 COMMISSIONER BOYERS: Well, that's
6 certainly not the intent.

7 COMMISSIONER BARTLE: I know it isn't,
8 but thank you for making it. Because trying to
9 figure out what a cap on a tax credit is without
10 thinking about education, without thinking about
11 Medicaid spending, is very difficult, and you put
12 your finger right on it. Very difficult.

13 And yet, that's exactly what we're
14 doing, unless we choose to go a different direction
15 and say this is crazy, because they're all
16 interconnected. It's state revenue we're talking
17 about. Whether it's foregone tax revenue because
18 you've given a tax credit or it's a dollar spent on
19 Medicaid or K through 12, it's the same dollar bill.

20 COMMISSIONER BOYERS: That's not true
21 because some is an investment that generates all
22 kinds of additional --

23 COMMISSIONER BARTLE: Zack, you're gonna
24 have a hard time convincing me that a dollar spent
25 educating a child does not have positive economic

1 benefit for the people of the state.

2 CO-CHAIRMAN GROSS: Okay. Ray Wagner.

3 COMMISSIONER WAGNER: Mr. Chairman, one
4 of the things that's been important to me during this
5 process is what was the original legislative intent
6 of some of these credits and where there was clear
7 legislative intent. As I understand it, when this
8 low-income housing tax credit was created in 1990,
9 what was it, 10 percent -- the state credit was 10
10 percent of the federal housing -- 20? It started at
11 20? And then in '97 it was amended to 40.

12 Has the amount spent on these tax
13 credits, has it surpassed what was intended in 1997
14 and thereafter much like the historic tax credits?

15 CO-CHAIRMAN STOGEL: I don't know the
16 fiscal note that was assigned to that original
17 legislation.

18 MR. BURLISON: Sallie, any read on that?

19 MS. HEMENWAY: Schmittty, do you know the
20 fiscal note?

21 MR. SCHMIDT: My name is Brian Schmidt.
22 And originally they projected that it would be around
23 50 percent right now. In 1997 it went to 100 percent
24 of the federal credit is allowed to be issued by the
25 state. In the fiscal note it said that on average,

1 they would issue about 50 percent of the federal
2 credit. The reason being was that they would issue
3 100 percent of the federal credit in rural areas and
4 about 20 percent of the federal credit in nonrural
5 areas.

6 And so I think on average, since --
7 between the ten-year period that I looked at between
8 1997 and -- well, 1998 and 2008, it was about 96
9 percent average issuance of the federal credit.

10 COMMISSIONER WAGNER: So what is the
11 interplay of that expectation with the motion that
12 Senator Bartle has presented vis-a-vis Mark, what you
13 have offered to this Commission in terms of overall
14 cost, overall addressing the low-income house needs
15 that Commissioner Joyner mentioned?

16 COMMISSIONER GARDNER: I'm not sure
17 exactly how to answer your question. The cost, what
18 I had proposed was a five-year 100-million-dollar
19 credit, which -- 20 million a year which over the
20 course of five years would cost 100 million as
21 opposed to what we currently have which is a ten-year
22 credit which, as a practical matter, at some point
23 costs the State 192 million. So we've cut the cost
24 to the State in half roughly.

25 You know, here's the issue that you get

1 into, and it was just raised here. Particularly
2 with the rural projects, if you're in out-state
3 Missouri -- and DED has done the analysis and we
4 talked about it extensively in our report, there are
5 a couple of issues.

6 Number one, if you're in out-state
7 Missouri and you don't have 100 percent match, I
8 don't think your projects are gonna work. They just
9 aren't gonna work. You're not gonna get your rents
10 low enough that people who qualify, legally qualify
11 for the housing, can pay the rent.

12 You get caught in a catch 22. The staff
13 at MHDC's perfectly aware of this situation. If you
14 get into the more metropolitan areas, you could have
15 less subsidy and get away with it. You get into a
16 real political issue there, though. I mean, you
17 know, here I am, I'm in out-state Missouri, but the
18 truth of the matter is, as was originally anticipated
19 with the program, out-state area would -- out-state
20 areas would deem more subsidy because the wages are
21 lower in out-state Missouri and the workforce
22 housing -- people who need workforce housing simply
23 can't pay as much rent.

24 It's just -- it's a question of how much
25 I think we're gonna reduce overall the number of

1 housing units. And I wish I could do a quick
2 analysis and tell you what I propose will result in a
3 reduction of the number of units being built each
4 year.

5 What Senator Bartle has proposed would
6 result in a, I can tell you, a substantial reduction.
7 I can't give you total, but a substantial reduction
8 in the number of units we're building.

9 And I understand the need -- the budget
10 concerns. I really do. And I'm trying to help. I
11 mean, I really am. I'm trying by saying going for
12 192 down to 100 is a pretty big cut, and I'm trying
13 to buy in and help.

14 What I am concerned about -- and if
15 you'll read the report, those of you that have read
16 the report -- is when you go into a recession,
17 everybody suffers in a recession, but it's
18 interesting that the lower you go on the economic
19 ladder, the more people suffer. The tendency is for
20 those who are lower to -- low to moderate income
21 people that suffer the most. They have the most
22 difficult time finding housing. They're paying a
23 higher percentage of their gross income for housing
24 which means they can't afford other basic services,
25 they can't -- they may have to make choices between

1 housing and medicine, housing and clothing, housing
2 and school supplies for their children.

3 I mean, there are all kinds of social
4 impacts you have by not having enough housing. So --
5 and then I look at it, and I'm not trying to -- I
6 mean, if you -- if you give us 75 million over five
7 years, I mean, that's -- what is that? I could give
8 you the present value of that, but it's probably
9 about 65 percent of that. So we're substantially
10 below the funding for the historic credit. And.

11 I'm a fan of the historic credit, but
12 our funding falls substantially below the funding for
13 the historic credit, and we're doing that at the
14 worst possible time for the people who need
15 low-income housing. And that's my point.

16 CO-CHAIRMAN GROSS: Discussion? Senator
17 Bartle.

18 COMMISSIONER BARTLE: We have oversupply
19 of housing. Rents are tied to value. Value has
20 dropped. We have -- and this is anecdotal, but, I
21 mean, everybody reads the same stuff I do. We have
22 lots and lots of people who cannot sell homes. They
23 are renting them out now. The market is taking
24 care -- this is not a time when we need to incent the
25 marketplace to give us more housing.

1 COMMISSIONER WRIGHT-JONES: So wrong.

2 COMMISSIONER BARTLE: Tell me how I'm
3 wrong.

4 COMMISSIONER WRIGHT-JONES: Because
5 you're talking about single-family housing. We're
6 talking about multifamily rental units for families
7 who cannot afford to purchase a home and who are very
8 likely not able to afford to rent a two-bedroom,
9 three-bedroom, two-bathroom home. That's why you're
10 wrong about that.

11 It is not about those who have homes and
12 lost them. It is about those who have not had the
13 opportunity or even the ability to purchase a home.
14 It's just like I said, affordable housing rental
15 market, Senator.

16 COMMISSIONER BARTLE: I have not read
17 one single article indicating we have too few
18 apartment complexes in the state of Missouri
19 available. In fact, if you talk to people who have
20 apartment complexes for low-income, there is a --
21 there is a problem with vacancy now. Not --

22 COMMISSIONER WRIGHT-JONES: Talk with
23 Mr. Gardner.

24 COMMISSIONER GARDNER: I don't know
25 where you're getting your information, but I have not

1 seen anything to support that. Nothing. And I will
2 tell you, there's the other issue that the Senator
3 mentioned, and that is that as the economy goes into
4 recession, you have people who work, full-time
5 employed people who are now part-time employed
6 people.

7 You have families where one member has
8 lost a job, and so you have families that were once
9 middle-income which are now low-income. One member
10 of the family's working. Maybe you had --

11 I mean, there are articles which I have
12 cited in my paper, and there are studies in fact that
13 have talked about the impact of the recession and the
14 fact that you would think that some of this housing,
15 because of foreclosures and stuff, that this would
16 become affordable housing. It's not affordable
17 housing as the Senator pointed out.

18 It seems counterintuitive, but it's not.
19 It's not available for those people, and that the
20 housing need has, in fact, worsened and it's worsened
21 substantially during the recession because you have
22 people where the unemployment rate has risen, and you
23 have people that have slid down the economic ladder
24 and it created a greater demand, not a lesser demand
25 for affordable housing.

1 So the need is greater. The data
2 documents it.

3 CO-CHAIRMAN GROSS: Craig?

4 COMMISSIONER VAN MATRE: I think that
5 maybe it's -- the fundamental issue in a vacuum,
6 there's no doubt about it, we need housing for
7 low-income people. And it's a good credit and in a
8 sense, it accomplishes that goal.

9 In the macro sense of how it fits in
10 priorities, well, we really aren't at that issue yet.
11 I suspect that Senator Bartle's objection would be
12 much less if the credit were subject to the
13 appropriation process. It's only if the credit's not
14 subject to the appropriation process that the cap
15 becomes more important than it otherwise would be.

16 So I guess one way of resolving this
17 particular impasse would be to defer that until we
18 decide how we're gonna take our stand on
19 appropriations or not, because that may influence how
20 people set the cap. I mean, for me, if we've got
21 appropriation, then I'm fine with exactly what Mark's
22 proposed.

23 CO-CHAIRMAN GROSS: Well, I think we
24 should vote on this and then we'll see where the
25 appropriations issue goes. And maybe it will drop

1 it. We'll just see how that goes. Further
2 discussion on the motion? Senator Bartle?

3 CO-CHAIRMAN STOGEL: Can you hang on?

4 COMMISSIONER GARDNER: Well, the
5 other -- we're looking at comparable numbers here, I
6 think. If you went back to 132 million which is what
7 it was I think back in the year we were looking at
8 the other day and stated a ten-year credit, you're
9 providing essentially the same funding as what you're
10 suggesting now with a five-year credit.

11 The difference is, there's no budget --
12 in fact, there's a positive budget impact over time,
13 but there is no transition or cost. So I guess an
14 alternative motion would be to do a 132-million-
15 dollar -- just reduce the cap to 132 million.

16 CO-CHAIRMAN STOGEL: And keep it as a
17 ten-year credit?

18 COMMISSIONER GARDNER: And keep it as a
19 ten-year credit at least for the time being.

20 CO-CHAIRMAN STOGEL: But if it's an
21 allocation, Mark, that's one thing. If it's a
22 certificate, isn't it another? I mean, isn't
23 mathematically about 16 million a year for five years
24 as a certificate the same as 132 as an allocation
25 over ten years?

1 COMMISSIONER GARDNER: Well, I -- it --
2 they're reasonably close numbers.

3 CO-CHAIRMAN STOGEL: So if we get away
4 from an allocation system and we go to a transferable
5 credit system and if the number were 16 million, not
6 15 million, it's reasonably close to the net equity,
7 because everybody's heard consistent testimony that
8 the 132, which is the 9 percent credit, times ten
9 years yields 40 cents to the project for about 52
10 million dollars?

11 COMMISSIONER GARDNER: Right.

12 CO-CHAIRMAN STOGEL: At 16 million a
13 year for five years as a transferable certificate, at
14 about a 65 percent value, you're at 52 million
15 dollars, so it works out the same.

16 COMMISSIONER GARDNER: 48.

17 CO-CHAIRMAN STOGEL: That's at 15. At
18 16, it would be 80 million dollars.

19 COMMISSIONER GARDNER: Oh, at 16. Okay.

20 CO-CHAIRMAN STOGEL: At 16, it would be
21 about 52 million dollars.

22 COMMISSIONER GARDNER: You're right. It
23 would be the same.

24 CO-CHAIRMAN STOGEL: So if you go from
25 allocation to certificate on 9 percent credits from

1 132 to 80, or 16 a year, Senator, the math's about
2 the same. I'm doing it really fast, but I'm not that
3 far off.

4 COMMISSIONER GARDNER: Well, the 16 at
5 five years basically funds the 9 percent credit.

6 CO-CHAIRMAN STOGEL: And no bond deals.

7 COMMISSIONER GARDNER: And you wouldn't
8 have any bond deals. I guess the way to handle that
9 would be, bond deals you would have to find
10 another -- I mean, the bond deals I guess could be
11 funded -- and one thing that needs to be understood
12 here is if we took -- if we did what the Senator's
13 talking about, what you're talking about, made it 16
14 for five years, we'd be pretty close to being there.

15 CO-CHAIRMAN STOGEL: But also I make the
16 note that if it's a bond deal, the bond deal still
17 has the federal bond exemption, the federal historic,
18 if it's historic, the federal low-income and --

19 COMMISSIONER GARDNER: No, they wouldn't
20 have the federal low-income.

21 CO-CHAIRMAN STOGEL: Yeah, you have the
22 federal low-income.

23 COMMISSIONER GARDNER: Well, they would,
24 but the --

25 CO-CHAIRMAN STOGEL: We're only talking

1 about the state credit.

2 COMMISSIONER GARDNER: Okay.

3 CO-CHAIRMAN STOGEL: So I'm clear on
4 what the math is --

5 COMMISSIONER BARTLE: Okay. Help me
6 understand, what's the net budget impact?

7 CO-CHAIRMAN STOGEL: Right now we're at
8 192 million of authorizations and we would go to 80.

9 COMMISSIONER BARTLE: Yeah. I'll amend
10 my motion. I mean, do you think that that's gonna
11 pick up some support here?

12 CO-CHAIRMAN STOGEL: Well, here's what
13 we did earlier, just so we're all in logical context.
14 What we said earlier is you can't stack -- because
15 the Commission voted by a majority, you can't stack
16 state historic with state low-income.

17 COMMISSIONER BARTLE: Right.

18 CO-CHAIRMAN STOGEL: So you can still do
19 a bond deal maybe with federal historic, federal
20 low-income and either state historic or state
21 low-income. But if you put a 16-million-dollar cap
22 on it, you're only logically going to be able to do
23 state historic.

24 So if we cap 16 million -- the 16
25 million but you open up the historic cap to be -- for

1 bond deals, then the bond deals have a chance to
2 work.

3 COMMISSIONER BARTLE: Okay. I'm gonna
4 withdraw my motion.

5 COMMISSIONER GARDNER: Okay. Based on
6 that, let me change my motion, withdraw my earlier
7 motion --

8 CO-CHAIRMAN GROSS: Okay. Motion
9 withdrawn.

10 COMMISSIONER GARDNER: -- and make a new
11 motion that the state low-income housing tax credit
12 be made into a five-year credit at 16 million dollars
13 per year, which is 80 million, and that in the case
14 of bond deals, 4 percent deals, they -- that the
15 State permit the stacking of the historic credit --
16 the use of the historic credit with a -- well,
17 actually -- I'm gonna mess this motion up. Let me
18 talk through it.

19 The bond deal would -- with a bond deal,
20 you would have the federal low-income, federal
21 historic and state historic would be all permitted on
22 bond deals, and the state historic would count
23 against the cap of the historic, I'm assuming.

24 CO-CHAIRMAN STOGEL: No. Can I try the
25 motion?

1 COMMISSIONER GARDNER: Yeah. Can you
2 make that motion?

3 CO-CHAIRMAN STOGEL: Senator, can I try
4 making a motion?

5 COMMISSIONER BARTLE: Yes, please.

6 CO-CHAIRMAN STOGEL: That for
7 low-income, the motion as proposed by Senator Bartle
8 is the 132 million of 9 percent federal credits over
9 ten years be converted to 16 million a year over five
10 years for 9 percent credits. There be no more state
11 low-income credits on bond deals. Bond deals are
12 permitted using federal low-income, if applicable,
13 federal historic, and outside the state historic cap
14 of 75 million voted earlier, you can add bond deals
15 to it.

16 So that in St. Louis and Kansas City and
17 Main Street, you can get some housing on -- in those
18 places done. So the cap on historic would be
19 increased only if there's an approved MHDC bond deal,
20 which will be few and far between in this market.

21 COMMISSIONER BARTLE: We're beyond my
22 knowledge base substantially, and I don't know that
23 we're gonna get within my knowledge base. I need to
24 ask the department, are we talking about a
25 substantial net reduction in overall tax credit

1 liability and low-income under this proposal?

2 MS. HEMENWAY: Yes.

3 CO-CHAIRMAN STOGEL: You're talking
4 about two levels of reduction. The current cap for
5 bond deals on the low-income, Senator, is 6 million a
6 year. We've reduced that in this motion to zero.

7 The current law allows state historic
8 and state low-income to be twinned on a bond deal.
9 So to the extent state historic existed now, they
10 would still exist after, but the 6-million-dollar cap
11 for low-income for bond deals would be gone.

12 In addition, the second -- that's 6
13 million a year for forever, which becomes 60 million
14 over a ten-year period. That is .1.

15 The second point is by taking the often
16 discussed ten-year stream and shrinking it from 13.2
17 times ten years to 16 million times five years, 132
18 becomes 80. So each year the State saves 52 there
19 and 60. That's the proposal on the table, but to
20 give -- less the cost, which won't be a lot,
21 relatively speaking, for the few bond deals that do
22 have historic and it helps raise the cap on historic.

23 COMMISSIONER BARTLE: I second your
24 motion.

25 CO-CHAIRMAN GROSS: Further discussion?

1 CO-CHAIRMAN STOGEL: I'm gonna treat it
2 as your motion, Senator, and I'm gonna second it.

3 CO-CHAIRMAN GROSS: Okay. Between two
4 or three we've got a deal. Further discussion?

5 (NO RESPONSE.)

6 CO-CHAIRMAN GROSS: All in favor of the
7 motion, say aye.

8 (AYE.)

9 CO-CHAIRMAN GROSS: Opposed, no.

10 COMMISSIONER JOYNER: No.

11 CO-CHAIRMAN GROSS: So noted and the
12 motion passes.

13 CO-CHAIRMAN STOGEL: Go to lunch?

14 CO-CHAIRMAN GROSS: Lunch? No. I mean,
15 I can be overruled, but I think we need to try to
16 roll.

17 What else do we have in low-income?
18 Any -- oh, No. 6. You said you wanted to go back
19 into No. 6. That was the only other thing. So let's
20 try to rifle through that. Which we said had been
21 referred to the global committee, but Steven said you
22 wanted to go back into that?

23 COMMISSIONER GARDNER: If it's part of
24 the global, let's deal with it as part of the global.

25 CO-CHAIRMAN GROSS: All right. We'll

1 deal with that as part of the global. I would only
2 like to add one thing that I would hope and ask. I
3 guess this isn't a motion, it's a discussion, if we
4 can put it in the report.

5 I think we've dealt pretty effectively
6 with the efficiency issue of bringing these ten-year
7 credits down to now five, and that's good. I think
8 we've done well on the overall cost of the program
9 through that and other issues.

10 But there's an issue hanging out there
11 which I'm not gonna try to tackle, but I think we
12 have to have this discussion, because it's gonna be
13 one of those that's gonna be dealt with at the
14 Governor's level and at the legislative level when
15 they read the report: What did we do about the
16 discussion of the size of the subsidy per project,
17 the per-square-foot issue?

18 COMMISSIONER GARDNER: How much cost you
19 can have per unit.

20 CO-CHAIRMAN GROSS: How much cost, how
21 much does the developer have in the project, those
22 kind of things. We have not addressed that, and I
23 don't -- I don't believe we have. We certainly
24 haven't done it effectively in my mind, and I think
25 we have to at a minimum ask that -- or ask that MHDC

1 hear that that is a concern, that they need to be
2 looking at in each of their -- in each of the
3 proposals that come before them that there's a
4 concern that some of these deals are -- I keep saying
5 too rich, and I'm sorry to be trite with that -- with
6 that term, but that there's not enough developer
7 money into it and...

8 CO-CHAIRMAN STOGEL: I'll make -- I'll
9 make the observation that given the earlier vote
10 about no stacking, state historic with state
11 low-income, the amount of state investment in these
12 projects like we've -- we know exists will come down
13 dramatically, and MHDC can run the numbers on a
14 per-project basis --

15 CO-CHAIRMAN GROSS: Yeah. I just wanted
16 to --

17 CO-CHAIRMAN STOGEL: -- and the state
18 investment for --

19 CO-CHAIRMAN GROSS: -- just tell -- I --

20 CO-CHAIRMAN STOGEL: -- some of these
21 units will drop precipitously.

22 CO-CHAIRMAN GROSS: Yeah. I'm sorry for
23 interrupting, Steve.

24 CO-CHAIRMAN STOGEL: That's all right.

25 CO-CHAIRMAN GROSS: Well said, but I

1 just want to make sure that there's a statement in
2 our report that says we want them to maximize the
3 deal, maximize the deal, and -- and I'll be fine then
4 and I'll shut up on that issue.

5 Any problem with that general theme? Of
6 course, everybody will get the report and have their
7 commentary on it and approval, everything.

8 Okay. Anything else on low-income?

9 (NO RESPONSE.)

10 CO-CHAIRMAN GROSS: Ready to go to
11 global? He's grumbling or was that your stomach
12 grumbling? 45 minutes, we'll come back at 12:30.
13 We're at recess.

14 (THE LUNCH RECESS WAS TAKEN.)

15 CO-CHAIRMAN GROSS: The Commission will
16 come back to order. It is just now right now about
17 12:30, so we're good to go.

18 CO-CHAIRMAN STOGEL: 12:30. I don't
19 think so.

20 CO-CHAIRMAN GROSS: And we're going to
21 jump right into our last real area which is the
22 global issues. Steven?

23 CO-CHAIRMAN STOGEL: Who do we have on
24 the phone?

25 CO-CHAIRMAN GROSS: Who's on the line,

1 please?

2 (NO RESPONSE.)

3 CO-CHAIRMAN GROSS: Anybody?

4 COMMISSIONER KENDRICK: David Kendrick.

5 COMMISSIONER JUSTUS: Jolie Justus.

6 CO-CHAIRMAN GROSS: Anybody else?

7 (NO RESPONSE.)

8 CO-CHAIRMAN GROSS: Okay. Thank you.

9 CO-CHAIRMAN STOGEL: In an effort to try
10 to treat global issues globally and recognizing
11 there's this mythical airplane --

12 CO-CHAIRMAN GROSS: It's a real
13 airplane.

14 CO-CHAIRMAN STOGEL: A real airplane.
15 That --

16 CO-CHAIRMAN GROSS: On Highway 70 at
17 five o'clock.

18 CO-CHAIRMAN STOGEL: That -- to start
19 the conversation, the two biggest clearly
20 interconnected global issues are should any of these
21 credits be subject to appropriation and should --
22 should any of these credits be subject to
23 appropriation and should -- should any of these
24 credits be sunsetted. And they're clearly at least
25 in my mind linked.

1 So to start the conversation, I would
2 make a motion, hope I get a second, expect there to
3 be other motions to sharpen some of the issues, that
4 all the credits -- no credit program is subject to
5 any appropriation process, but all credits are
6 subject to a sunset.

7 The sunsets would be categorized as
8 follows: For issues and credits that did not come
9 before the Commission, banking and insurance, and
10 there was a couple of others -- credits that -- like
11 the insurance pool credits that we couldn't come to
12 grips with, would be first up in the two-year cycle.
13 All business credits, distressed community credits
14 would be a four-year cycle and the social credits --
15 oh, and ag and environment would be four years. And
16 the social credits, historic and low-income, would be
17 six years.

18 As to the historic and low-income, to
19 keep deals that are in process under the do-no-harm
20 umbrella, the transition rule proposed and actually
21 enacted in House Bill 191, could be a standard --
22 would be a standard, and that rule said for projects
23 that had on the historic side a federal part two
24 approval, meaning plans and specifications are done,
25 or by -- secures being, I guess, 2017 -- or if

1 there's not a part two, there was a miniature
2 expenditure test. And I think the test in Bill 191
3 was 5 percent of development cost or a million
4 dollars. And for low-income deals, it would be an
5 MHDC approval and an expenditure test.

6 So at some point in an orderly way,
7 every credit program will get reviewed, will be
8 subject to discussion and continued dialogue and
9 testing by both the administration and the
10 legislature as it proceeds from time to time. And --
11 I'm sorry for the complexity of the motion, but
12 that's the opening bandwidth.

13 CO-CHAIRMAN GROSS: Okay. I'll second
14 it. For discussion, Senator Bartle.

15 COMMISSIONER BARTLE: I'm going to ask
16 for a division of the question.

17 COMMISSIONER WOOD: I was going to do
18 the same thing.

19 COMMISSIONER BARTLE: Because I don't
20 see them as completely interrelated. I think we
21 ought to have a straight up or down vote on it
22 subject to appropriation and then look at the sunsets
23 next.

24 CO-CHAIRMAN GROSS: There will be a
25 division of the question. Mr. Van Matre.

1 COMMISSIONER VAN MATRE: I've got an
2 alternate motion to propose whenever it's convenient.

3 CO-CHAIRMAN GROSS: It's up to you. You
4 can do it now.

5 COMMISSIONER VAN MATRE: I wrote it up.
6 I'll pass it out. Just take a second, I think, for
7 them to hand that out. The dichotomy as I see it
8 that we've discussed during our entire time here is
9 the idea that the legislature needs to prioritize how
10 much is spent on these credits, but on the other
11 hand, there's a substantial body of thought that
12 there needs to be certainty and that, in effect, the
13 political process shouldn't come to bear every year
14 for every credit so that there is, in fact,
15 continuity.

16 And so to a bridge that gap, I've got
17 this waterfall proposal that's been passed out that
18 would in a sense allocate each credit to three
19 categories. I've just arbitrarily picked three
20 categories: The priority credits which would be the
21 first in line, the beneficial credits that would be
22 second in line and the luxury credits, if you want to
23 look at it that way, or surplus credits, are third in
24 line.

25 And then the legislature, instead of

1 addressing how much should go to each credit, once
2 the credits were assigned those categories, they
3 would appropriate a fixed amount every year and it
4 would waterfall down through those categories. And
5 I've suggested a manner in which it would
6 waterfall -- well, obviously that could be tweaked,
7 but the legislature would by law establish which
8 category each credit fell.

9 And then the mechanics of the
10 appropriation would be limited just to the dollar
11 amount, how much can the state afford, but we would
12 then leave to the mechanics of the statute how that
13 fell to every particular credit. And each credit
14 within each category would share equally or prorated,
15 rather, based on their respective cap. And so the
16 idea here is to compromise between those two
17 positions. And so I make that as an alternate
18 motion.

19 CO-CHAIRMAN GROSS: Okay. So is that
20 going to be a substitute motion for part one which
21 is --

22 COMMISSIONER VAN MATRE: Yes.

23 CO-CHAIRMAN GROSS: Okay. Substitute
24 motion for part one. Do we have a second?

25 COMMISSIONER BARTLE: Second.

1 CO-CHAIRMAN GROSS: Motion and a second.
2 Discussion on the motion, on Craig's motion?

3 COMMISSIONER JUSTUS: Senator, could you
4 please restate his motion?

5 CO-CHAIRMAN GROSS: Sure. His motion is
6 a substitute to part one of Mr. Stogel's motion, and
7 that part, Steven's motion was to not have any
8 credits subject to appropriation.

9 And Mr. Van Matre, his motion is an
10 amendment which he distributed which will -- he calls
11 it a waterfall appropriation proposal which puts the
12 credits into three categories. And depending on
13 funding availability -- I'm trying to make sure I get
14 this right, Craig -- depending on funding
15 availability, the legislature would appropriate money
16 to the first category. If there was more money, it
17 would go to the second category and so on down the
18 line.

19 And Steven has the floor to ask a
20 question right now.

21 CO-CHAIRMAN STOGEL: I'm going to
22 emphatically ask everybody to deny this motion. All
23 it will do is wreak massive uncertainty on everything
24 and everybody associated with any part of all the
25 businesses' social programs and activities that

1 are -- have been reviewed by this Commission.

2 It puts six months of uncertainty ahead
3 of everybody. Nobody knows what class A, B or C will
4 be, no one knows how A, B and C will be changed from
5 year to year, no one knows the amount. And whether
6 it's in this form or appropriation generally, it
7 takes away any and all sense of any business
8 certainty across the board for anything in this
9 category.

10 So for the overlapping reasons, I would
11 ask the Commission not to approve Craig's motion and
12 not approve any appropriation process.

13 CO-CHAIRMAN GROSS: Was that Senator
14 Justus that wanted to make a comment?

15 COMMISSIONER JUSTUS: No. I just wanted
16 a clarification what the substitute amendment was and
17 I have it now. Thank you.

18 CO-CHAIRMAN GROSS: Sure.
19 Representative Komo was next then.

20 COMMISSIONER KOMO: I guess my only
21 concern is what could happen is a couple things: You
22 could have -- I mean you're literally putting tax
23 credit against tax credit. So every year when it
24 comes to the appropriations process, which we have
25 seen in the past when we look at capping, you will

1 have for days a roomful of people, you know, saying
2 why their tax credit is better than the other ones.

3 Which is fine, but you're also
4 empowering -- I mean, that budget committee is going
5 to have to have -- they're going to get hit really
6 hard by putting tax credit -- you know, the social
7 programs are going to say, well, why -- why is the,
8 you know, economic development more important than
9 ours?

10 I mean, those are some hard -- that's a
11 really hard position to be in being they're dealing
12 with it in the past. I don't know if that's going to
13 be doable is my big concern.

14 CO-CHAIRMAN GROSS: Senator Bartle?

15 COMMISSIONER BARTLE: I've always --
16 Zack is correct that there will be uncertainty where
17 now certainty exists, but what I don't understand is
18 why the recipients of tax credits deserve more
19 certainty than a school superintendent in Braymer,
20 Missouri or a nursing home that has to care for one
21 120 elderly people or -- and the list goes on. The
22 president of the University of Missouri system.

23 It is the same sort of uncertainty that
24 any recipient of a benefit from the government has
25 now. And our problem is that we have a system that

1 sets aside recipients of tax credits and puts them in
2 a preferential position to all other recipients of
3 benefit -- of government benefits. It says you're
4 sacrosanct, you don't have to come in and make your
5 case for why a dollar invested in historic
6 preservation, we should pull a dollar away from
7 schools to do that.

8 When you have scarce resources, they're
9 going to compete against each other. And when you
10 say here is a certain group that -- or a certain
11 group of people or entities that receive government
12 benefit and you treat -- you're treated differently
13 than everybody else that receives government benefit,
14 you get bad decision-making. I think if a tax credit
15 can prove itself, then they ought to stand in the
16 same line as any other recipient of government
17 benefit and make their case for why investment ought
18 to happen in this area.

19 I think that after a period of
20 uncertainty, the marketplace will adjust and they'll
21 figure out how to take advantage. If we appropriate
22 150 million or 300 million of tax credits in any
23 given year, I have no doubt that the market will find
24 a way to deploy that -- to deploy those tax credits
25 or that benefit.

1 So I don't long-term worry that the
2 uncertainty will prevent people from utilizing tax
3 credits. I think they will. But in my mind, it's
4 not fair that we would treat schools and everything
5 else -- roads and everything else that we spend money
6 on differently than the tax credits.

7 CO-CHAIRMAN GROSS: Further discussion?

8 COMMISSIONER FLOOK: Yes.

9 CO-CHAIRMAN GROSS: Sorry.

10 Representative Flook.

11 COMMISSIONER FLOOK: The point I'd like
12 to make sure the body considers is that -- two parts.
13 First part is, the thing about this motion I do like
14 is this issue of prioritizing, which I feel -- I feel
15 very strongly our state really needs to do.

16 Prioritizing what parts -- what things we can do to
17 grow the economy in the best way, that's important.

18 And I think lack of priority is part of
19 the reason why some programs have expanded much
20 larger than they truly need to be or represent
21 compared to the rest of the gross domestic product.

22 Now, that being said, I'm going to vote
23 no on the motion because it goes after the
24 appropriation issue. If you put these things into
25 appropriation -- this is where I disagree with

1 Senator Bartle. If you put these things in
2 appropriation, what you're going to have is our DED
3 staff going out and trying to compete in the
4 marketplace for retaining jobs and attracting new
5 companies and having to explain to people that every
6 year that there could be some sort of moving target
7 on what's available in a program.

8 And that year delay -- that delay could
9 be the difference between a company leaving or
10 staying or coming to Missouri and being involved in
11 one of our programs. So it creates, I think, a
12 competition problem. It's akin to a form of
13 unilateral disarmament. The other states aren't
14 going this direction, and I highly doubt they will.
15 So that's one issue.

16 The other issue is this: Right now the
17 budget committee has a lot of pressure and a lot of
18 people trying to influence them like any other
19 committee, but the budget gets a lot of attempts to
20 influence where they're going for good or bad.

21 If we put these things into budget
22 process as part of the regular appropriation process,
23 you're going to have the development community at
24 every level having to show up every single year with
25 their checkbooks at fundraisers feeling like that if

1 they don't throw some serious dough around at
2 legislators, they may not get through the
3 appropriations process. And you know, fundraising is
4 necessary to run campaigns. I've done it, other
5 campaigns will do it.

6 But that being said, the temptation to
7 do the wrong thing for the wrong reason gets worse
8 when we create a scenario where we're going to
9 encourage more of it. And I think that that could
10 have an unforeseen consequence on these budget
11 committees that we should be fearful of.

12 CO-CHAIRMAN GROSS: I think David's
13 trying to get in also.

14 COMMISSIONER ZIMMERMAN: I would concur.
15 If we were going to turn this all over to
16 appropriations, why don't we do what we did over the
17 last two months, all this work and that? I would
18 strongly object to turning this over to appropriation.

19 CO-CHAIRMAN GROSS: Steven?

20 CO-CHAIRMAN STOGEL: Senator Bartle, I
21 want to respond to your position. What we have is a
22 current system of 61 tax credit programs that are in
23 place under the massive, you know, principle of do no
24 harm.

25 I think it is totally appropriate and

1 logical that with the changes we made when the
2 Commission finally votes their stuff to tally,
3 which we're -- going forward is over \$200 million,
4 that it's been a responsible approach and linking it
5 to sunset so that everybody can, over a period of
6 time, adjust and have the debates in an orderly
7 cycle, not all at once, is a logical outcome for
8 something that's been in existence for in some cases
9 15 or 20 or more years.

10 So I submit in that if it's not part of
11 the appropriations process and everything's part of
12 sunsets, that in two years -- just using my grouping
13 for examples -- stuff we didn't get to yet is looked
14 at; in four years another group of credits get looked
15 at, the legislature can have its say and all the
16 committees can look at it and assess where they are
17 and how effective these programs are then.

18 And at the legislative level build from
19 a platform that puts the very questions you're asking
20 for in a six-year period on the table in an orderly
21 way, but people can plan for it as they go forward.
22 And that seems to me to be a much better result than
23 to have annual chaos and total complete uncertainty
24 all the time.

25 CO-CHAIRMAN GROSS: Tom Reeves.

1 COMMISSIONER REEVES: Yeah, I am
2 speaking in support of an orderly and strategic
3 sunset plan versus appropriation. I cannot imagine
4 doing what we tried to do over the last number of,
5 you know, several months going on times 100 up the
6 street. I mean, I think it would be total chaos.

7 And I personally can't figure out how I
8 would judge a food pantry or a senior citizen tax
9 credit versus a job. I don't know how I'd do an A, B
10 or C.

11 CO-CHAIRMAN GROSS: Well, if you run for
12 the Missouri House or the Missouri Senate and get on
13 the budget appropriations committee, you'll do that
14 every single year. You'll take 20-some billion
15 dollars and you'll divide that into how many pennies
16 go to which kids and go to which old folks and which
17 go to the disabled, et cetera, et cetera, and then
18 all the motion here is, you're going to have to also
19 decide how much goes to historic and how much goes to
20 low-income and how much goes to the other.

21 Now, I can't offer an amendment because
22 I'd be in the third degree here, I think. We have
23 the base amendment offered by Mr. Stogel, Senator
24 Bartle divided the question which is not an
25 amendment, but then Mr. Van Matre has offered an

1 amendment to that amendment. So I can't offer one,
2 but I'd like to throw out an alternate discussion
3 item which may come up if this amendment does not
4 pass, which I do support.

5 For me, I've always said that the social
6 programs, the NAP credits and those continue on.
7 Those kind of credits really took the place of
8 government employees providing government services.
9 If we didn't incent those Youth in Needs and Catholic
10 Charities and those kind of organizations to do those
11 things where they match it with some private dollars
12 to go out and provide services to those folks, then
13 we would just end up hiring a whole lot more
14 bureaucrats in state government to go out and provide
15 those services to those people.

16 So it was, I hope, and I think it's a
17 fairly efficient use of dollars. But it is a -- it's
18 a service that could be provided by the State. As
19 such, I think those are the ones that should be most
20 perfectly in the appropriations process.

21 Because again, in that process every
22 single year, they decide how many dollars go to help
23 a mental health client or whatever the service might
24 be. And so if I had the opportunity, I would say
25 that we should subject all of those social credits to

1 the appropriations process. And I would include in
2 that category -- and I give you the exhaustive
3 list -- but I would include in that category
4 low-income and historic with this provision, because
5 I've heard now hundreds of thousands -- hundreds of
6 times from almost as many different people about the
7 difficulty of ensuring that a deal is going to occur.

8 I can't say that I 100 percent believe
9 it. You would think after 100 times, somebody would
10 convince me. And Steven has tried at least 50 of
11 those 100 times to convince me that if you subject
12 those deals to the appropriations process, the
13 certainty is gone to the point that the deals won't
14 happen. I'm not so sure I believe it, but I just
15 don't know enough about that.

16 So I would say that if the General
17 Assembly can't find a way to put together a program
18 that ensures those two -- the low-income and historic
19 credits can continue to incent the development that
20 they're intended to develop, then those be pulled out
21 of the subject-to-appropriations category and have an
22 automatic two-year sunset.

23 Now, that is for thought, and we'll see
24 where the amendment before us goes, but I think that
25 division between the social and -- and by the way,

1 that would leave the economic development credits not
2 under appropriation at all would be the effect of
3 that amendment -- or of that idea. It's not an
4 amendment.

5 CO-CHAIRMAN STOGEL: That idea is not an
6 amendment. What we have is a motion modification
7 by --

8 CO-CHAIRMAN GROSS: I know what we have
9 before us right now. Further discussion on the
10 motion by Mr. Van Matre?

11 COMMISSIONER GARDNER: I would just echo
12 what Mr. Stogel had to say. No reason to repeat
13 every word of it. I agree with what he said, though.

14 COMMISSIONER VAN MATRE: Well, I may not
15 have done a good enough job to communicate here, but
16 what you're saying is, that the category A credits
17 really would almost always, barring some state fiscal
18 emergency, be fully funded. So if the particular
19 credits you were worried about was in category A, it
20 would always get funded.

21 And category B would be funded to some
22 extent depending, again, upon state revenues. But
23 the idea here is not that every single credit
24 justifies its existence. Once it's in a category,
25 then you fund that category in whole or in part based

1 on what the legislature thinks you can afford to
2 allocate the credits in general.

3 And so you're not talking about every
4 credit lobby lobbying every year for a particular
5 appropriation to a particular credit. Rather, once
6 the credits were in these categories, you would
7 eliminate that. And so I guess I am not persuaded
8 that this process wouldn't work better than the
9 setting which is being advocated by Steve, which is
10 appropriations on auto pilot where they are, in
11 effect, the most favored appropriations because they
12 cannot change, as opposed to ones which are, in fact,
13 subject to whatever the exigent needs of the State
14 are that year.

15 So I understand that there are concerns
16 that there would be undue political pressure brought
17 to bear, but if all they're doing is looking at how
18 much we're putting into the budget pile this year to
19 be waterfalled down, once your credit is in a
20 particular category, you know how much you've got to
21 advocate for in order to get money into that
22 category. But that's about all you can do.

23 And you know you're going to share it
24 with other categories of that same categorization --
25 I mean other credits of that same categorization. I

1 don't see that that produces uncertainty.

2 CO-CHAIRMAN STOGEL: I think it produces
3 such massive uncertainty in just the next six months
4 and it's repeated every year because credit program X
5 could be moved to a C category when it had been A.
6 And what you're going to do is create for the
7 legislature and for everybody in the state, total,
8 complete, annual chaos every time under Craig's plan,
9 and under the appropriation process, it's virtually
10 the same result.

11 CO-CHAIRMAN GROSS: Further discussion?
12 Ray?

13 COMMISSIONER WAGNER: My thoughts on
14 this are that it's confusing. And after months of
15 sitting here and sorting this out, this would wipe it
16 away in one fell swoop. I don't know which credits
17 are going to be in which class, and I don't know
18 who's going to decide that or how that's going to be
19 decided.

20 And I don't think that I might not want
21 Class A to at some point take a haircut on the amount
22 of funding available and give Class C an equal
23 discount on what otherwise might be the funded
24 amount -- fully funded amount.

25 So I'm going to vote no because it's

1 just confusing and it's almost too little, too late
2 in terms of detail.

3 By the way, it might be something to
4 discuss in a year or two from now, particularly if
5 there is a sunset discussion in place or it could be
6 thoughtfully discussed at that point in time and
7 phased in, in the years two, four and/or six.

8 CO-CHAIRMAN GROSS: Further discussion?

9 COMMISSIONER HALL: Senator?

10 CO-COMMISSIONER GROSS: Yeah,
11 Commissioner Hall.

12 COMMISSIONER HALL: With regard to your
13 issue on the social credits being an annual review by
14 appropriations, if I understand how that would work,
15 I assume that in the down time, then they would take
16 100 percent of the hit. You'd have certain credits
17 that weren't reviewed, so they're a fixed amount.

18 You have the social credits that are
19 reviewed annually. So if you have a downturn in
20 revenue and you're looking for additional revenues,
21 then it would be the social credits that you'd look
22 to in order to save that revenue. And I'm not sure
23 that you want to put the social credits in the
24 position of being in a different situation than the
25 other credits would be in.

1 CO-CHAIRMAN STOGEL: I'm going to add to
2 Bill's comment. I think --

3 CO-CHAIRMAN GROSS: That's not what
4 we're on.

5 CO-CHAIRMAN STOGEL: Let's vote Craig's
6 motion up or down, but I'm going to echo this thought
7 when we get back to social credits. What I learned
8 was it's one of the best deals the State has greatly
9 improved by this Commission's recommendation because
10 it brings so many private dollars to the table,
11 actually reduced the required State employees and
12 workforce.

13 But let's stay with the motion on
14 Craig's A, B, C stuff and let's vote that one and
15 then go back to Senator Bartle's amendment.

16 CO-CHAIRMAN GROSS: Further discussion
17 on Mr. Van Matre's amendment?

18 (NO RESPONSE.)

19 CO-CHAIRMAN GROSS: All in favor say
20 aye.

21 (AYE.)

22 CO-CHAIRMAN GROSS: Opposed, say no.

23 (NO.)

24 CO-CHAIRMAN GROSS: The no's appear to
25 have it. The no's have it. I'd like to offer a

1 substitute amendment as I described earlier. And to
2 your point, Mr. Hall, actually, they wouldn't be
3 zeroed out, they would be in the same category or
4 level of priority as any other State expenditure.

5 So when they're deciding whether to put
6 additional or how much a reduction should be in
7 Medicaid or education or anything else, they would
8 decide how many dollars to not put into -- into the
9 NAP credit program. But they wouldn't be zero,
10 they'd be whatever the legislature appropriates.

11 COMMISSIONER HALL: It seems to me that
12 they would be -- they would be at risk compared to
13 other credit programs.

14 CO-CHAIRMAN GROSS: Compared to economic
15 development, they would be at risk, yes.

16 COMMISSIONER HALL: Right. And it seems
17 to me that's kind of, you know, unfair. You also
18 have a situation where you have a clientele that is
19 probably the most unsophisticated in their ability to
20 work with the legislature. I don't see -- I don't
21 think food pantries have quite the same power in
22 terms of dealing with the legislature that economic
23 development -- or that low-income tax people do or
24 historic tax credit people do.

25 I doubt there are a lot of contributions

1 coming from the people who run food pantries. So I
2 think their ability to have the same voice in the
3 legislature is at a different level than some of the
4 other people who benefit from credit programs, and
5 they'll be disadvantaged because of that.

6 CO-CHAIRMAN GROSS: Same could be said
7 for a lot of the other smaller appropriation items or
8 mental health services, but I understand your point.

9 COMMISSIONER HALL: And I think it is
10 unlikely to say that you're going to compare them to
11 education or higher education. You're not going to
12 zero out education. I mean, the State has a certain
13 duty to education. You could zero out -- I'll pick
14 food pantries -- zero out food pantries in one year.

15 CO-CHAIRMAN GROSS: Sure.

16 COMMISSIONER JUSTUS: Senator Gross?

17 CO-CHAIRMAN GROSS: Yes, Senator Justus.

18 COMMISSIONER JUSTUS: Whenever you have
19 the opportunity, I'd like to make one comment on
20 this.

21 CO-CHAIRMAN GROSS: Yeah, go ahead.

22 COMMISSIONER JUSTUS: With the first
23 part of your proposition that the State has made a
24 shift in our policy decision on who takes care of
25 the sort of safety net services when you've shifted

1 it away from the appropriations process and we've
2 asked the basically private sector to pick up the
3 slack and provide these services, that's a decision
4 we've made in the state. But I think because we have
5 done that, that's why we have to keep these
6 particular tax credits out of the appropriations
7 process.

8 So I would argue that the first part of
9 your premise is accurate, but the second part means
10 that these programs in particular need special
11 protection because this is the tool that these
12 private sector folks have in order to go out there
13 and raise the money to pay for the safety net
14 services that the State no longer pays for.

15 And then I would also just conclude with
16 I agree with Bill that these folks who are advocating
17 for these tax credits are the most -- or the least
18 sophisticated folks we have out there. Most of them
19 cannot afford lobbyists to do the heavy lifting that
20 need to be done to get these things taken care of.
21 And I have agreed with Bill that we should sunset
22 these, and I stick by that, but I don't think that we
23 should run them through the appropriation process.

24 CO-CHAIRMAN GROSS: Fair enough.

25 CO-CHAIRMAN STOGEL: I don't know that

1 you ever got a second, Chuck.

2 CO-CHAIRMAN GROSS: Can I get a second
3 on my motion?

4 COMMISSIONER WAGNER: I'll second it.

5 CO-CHAIRMAN GROSS: Thank you. Further
6 discussion on the motion?

7 (NO RESPONSE.)

8 CO-CHAIRMAN GROSS: Seeing none, all in
9 favor of the motion, say aye.

10 (AYE.)

11 CO-CHAIRMAN GROSS: All opposed, say no.

12 (NO.)

13 CO-CHAIRMAN GROSS: The ayes appear to
14 have it. No, the no's have it.

15 COMMISSIONER BARTLE: This isn't the
16 House.

17 CO-CHAIRMAN GROSS: Now we're back on
18 the divided question. The first part of the question
19 is --

20 CO-CHAIRMAN STOGEL: -- should any of
21 these credits be subject to appropriation.

22 CO-CHAIRMAN GROSS: Right.

23 COMMISSIONER WOOD: Should all. Not
24 any, all.

25 CO-CHAIRMAN STOGEL: Senator Bartle,

1 your motion was precisely?

2 COMMISSIONER BARTLE: Mine's not a
3 motion.

4 CO-CHAIRMAN GROSS: This is a division
5 of your motion.

6 CO-CHAIRMAN STOGEL: My motion was no
7 credit should be subject to appropriation.

8 COMMISSIONER BARTLE: Okay. Well, I
9 think that's been dealt with. We've voted that down
10 now twice.

11 CO-CHAIRMAN STOGEL: We voted social
12 credits and we voted Craig's proposal. We have to
13 do --

14 COMMISSIONER FLOOK: This is a different
15 motion.

16 CO-CHAIRMAN STOGEL: A different motion.

17 CO-CHAIRMAN GROSS: It is slightly
18 different and it's not dilatory, I don't think. So
19 is there a question down here someone? No.

20 Okay. So on the first part which is
21 should any credits be subject to appropriation.

22 CO-CHAIRMAN STOGEL: My motion was no
23 credits should be subject to appropriation.

24 CO-CHAIRMAN GROSS: The motion is that
25 no credit should be subject to appropriation.

1 COMMISSIONER HALL: I'll second that.

2 CO-CHAIRMAN GROSS: And we have a
3 second. Thank you. Representative Komo?

4 COMMISSIONER KOMO: Wasn't your original
5 motion to sunset them?

6 CO-CHAIRMAN STOGEL: My second part of
7 the motion was Senator Bartle asked for it to be
8 divided.

9 COMMISSIONER KOMO: So the first part of
10 the motion is should they be subject to
11 appropriation.

12 CO-CHAIRMAN STOGEL: Right. And then we
13 go back to the second part which is everything is
14 subject to sunset and we'll discuss that.

15 CO-CHAIRMAN GROSS: Right. But staying
16 with the first part, David?

17 COMMISSIONER ZIMMERMAN: Let's make the
18 motion clear before we vote on it.

19 CO-CHAIRMAN GROSS: State your motion
20 again.

21 CO-CHAIRMAN STOGEL: The motion as
22 divided is no tax credit program should be subject to
23 appropriation. The second part will follow.

24 COMMISSIONER BARTLE: How about if I
25 make this nice and simple. I withdraw my request for

1 a division.

2 CO-CHAIRMAN GROSS: Senator Bartle has
3 withdrawn his request for a division, and so now go
4 ahead and state your whole motion.

5 CO-CHAIRMAN STOGEL: Thank you, Senator
6 Bartle. I'll state my whole motion. No credits be
7 subject to appropriation, all credits be subject to
8 sunset.

9 COMMISSIONER WOOD: Yeah. If he's going
10 to withdraw, I'm going to ask for a division because
11 I think they're two different issues that we really
12 do need to address because I may support one and not
13 the other.

14 CO-CHAIRMAN GROSS: Okay. So back to a
15 divided question.

16 COMMISSIONER WOOD: Yeah.

17 COMMISSIONER FLOOK: So the motion is --

18 CO-CHAIRMAN STOGEL: -- no credits --

19 COMMISSIONER FLOOK: -- no credit --

20 CO-CHAIRMAN STOGEL: -- are subject to
21 appropriation.

22 COMMISSIONER FLOOK: Okay. Now we get
23 our up or down vote.

24 CO-CHAIRMAN GROSS: All in favor of that
25 motion signify by saying aye.

1 (AYE.)

2 CO-CHAIRMAN GROSS: Opposed, no.

3 (NO.)

4 CO-CHAIRMAN GROSS: No. The ayes appear
5 to have it. The ayes have it and the motion carries.
6 Now we're on part two of that motion.

7 CO-CHAIRMAN STOGEL: Part two of the
8 motion is all credits should be sunsetted. A
9 proposal to divide -- if I could see that list so I
10 get it correctly -- by committees, I would suggest
11 the two-year review be banking and insurance because
12 I believe the Commission passed on those. That would
13 include the credits that are on all of this original
14 assignment chart.

15 The four-year credits be agricultural
16 and environment, economic development, distressed tax
17 credit programs, year six credits be low-income,
18 historic and social. There's no need to have a
19 sunset on either the tax law or the global.

20 And my logic is as follows: For clearly
21 legitimate reasons on the banking and insurance and
22 the property and casualty pool and the life insurance
23 pool and all the health insurance programs, it was
24 beyond the scope of the Commission, but the
25 legislature was urged to look at it, and sometime in

1 the next two years would be time enough because
2 they're very complicated issues.

3 And I note that like on the health
4 stuff, there's a change that was made under --
5 earlier this year and there's much dialogue about
6 change occurring again next year at the federal
7 level. On the four-year grouping --

8 CO-CHAIRMAN GROSS: I think you're good
9 to go.

10 CO-CHAIRMAN STOGEL: Okay. Senator
11 Gross wants the microphone back.

12 CO-CHAIRMAN GROSS: No, I don't. No, I
13 don't.

14 CO-CHAIRMAN STOGEL: On the four-year
15 grouping, let's see how all these economic
16 development programs work, let them be measured. And
17 as I understand a four-year recommended sunset, two
18 years from now, the legislature will start talking
19 about it.

20 A six-year program would affect
21 historic, low-income and social programs because four
22 years from now, everybody would start talking about
23 it. There would be plenty of surprise -- there would
24 be no surprises, plenty of dialogue and they're in
25 digestible bites.

1 And the last part of the motion is as to
2 historic and low-income, that the transition roles
3 modeled after 191 be engrafted so that if somebody in
4 your year five actually gets a federal part two
5 historic or an award from MHDC, the project can
6 proceed. And if the law has sunsetted, then
7 going-forward deals, at least there's no harm for the
8 people who were in the process along the way. That's
9 my motion.

10 CO-CHAIRMAN GROSS: Okay. And we have a
11 motion. Have a second? Representative Komo. And
12 then --

13 COMMISSIONER FLOOK: I'll second it.

14 CO-CHAIRMAN GROSS: Thank you.

15 COMMISSIONER KOMO: Let me clarify.
16 Anything that is awarded through ED or the -- that
17 gets awarded the credit and it goes to the process,
18 they will not get, for whatever reason, the sunset
19 hits, they will not lose that credit because they've
20 already been awarded, correct?

21 CO-CHAIRMAN STOGEL: Correct. So if in
22 year five a group gets a NAP program or a maternity
23 program credit or a developer gets an award of a
24 low-income from MHDC, the fact that the donation
25 wasn't received for a social credit or a project --

1 project construction or a project wasn't completed to
2 earn the low-income credit, that would proceed as if
3 the law was in effect. But once the sunset hits, no
4 more credits can be authorized under that program.

5 COMMISSIONER KOMO: Nothing will be
6 awarded from then on.

7 CO-CHAIRMAN STOGEL: Unless the
8 legislature re-ups the program.

9 COMMISSIONER KOMO: But anything in the
10 pipeline will get the tax credit to be able to -- so
11 you still have your certainty in the market?

12 CO-CHAIRMAN STOGEL: Yes.

13 CO-CHAIRMAN GROSS: A question I have is
14 procedurally, I think under the existing sunset
15 legislation, a -- which has up to a six-year sunset,
16 and let's say that a new program was in place, it's
17 approaching four years of existence since
18 authorization anyway, that is when I believe the
19 review begins.

20 And then -- because it takes that time
21 to get that recommendation to the legislature on year
22 six. If we're going to follow that same procedure,
23 then I'm good with it. Okay.

24 CO-CHAIRMAN STOGEL: That's exactly the
25 procedure that's been explained to me, Senator, and

1 to the Commission. And so I think it's very fair
2 that three years from now, people who have a
3 Brownfield credit or a quality jobs credit can go in
4 and make their case and have it done orderly.

5 And over a reasonable period of time,
6 every one of these things come up, and the decision
7 could be renewal, it could be termination, it could
8 be modification. But the legislature and the
9 administration can deal with what's been built up
10 over 25 years in an orderly way addressing what we
11 didn't do first.

12 CO-CHAIRMAN GROSS: Any further
13 discussion on the motion? Tom Reeves?

14 COMMISSIONER REEVES: Yeah, I just
15 wanted to clarify on the banking side. We didn't
16 pass or punt, we basically decided that we were
17 moving into tax law at the state level so we didn't
18 really consider it a tax credit per se under our
19 jurisdiction. We just kind of said it was a
20 legislative fix to a tax issue.

21 So I mean, how do we want to handle
22 that? And the other one was really based -- I mean,
23 the insurance side was on the national. It kind of
24 goes into a whole national network of complexity.

25 CO-CHAIRMAN STOGEL: I appreciate the

1 modification, but everything under banking and
2 insurance for that committee, all the credits that
3 you looked at, Tom, would go into the year two
4 category.

5 CO-CHAIRMAN GROSS: Okay. Further
6 discussion on the motion?

7 COMMISSIONER VAN MATRE: Are you
8 proposing that these sunsets replace whatever may be
9 existing sunsets?

10 CO-CHAIRMAN STOGEL: Yes.

11 CO-CHAIRMAN GROSS: Yep. Further
12 discussion?

13 (NO RESPONSE.)

14 CO-CHAIRMAN GROSS: All in favor of the
15 motion say aye.

16 (AYE.)

17 CO-CHAIRMAN GROSS: Opposed, no.

18 (NO RESPONSE.)

19 CO-CHAIRMAN GROSS: The ayes have it.
20 The motion is adopted.

21 Let's go back to our global issues
22 document and take a look and see what we have to do
23 here. The first recommendation was that the
24 committee recommends that a statutory cap be imposed
25 on the total amount of each tax credit program in

1 order to gain budget certainty. We're taking a look
2 to see which programs don't have caps right now.

3 CO-CHAIRMAN STOGEL: Okay. Caps on the
4 program. I'm not sure what the most time-effective
5 way to do this. I guess the question is --

6 MS. HEMENWAY: I can list them for you.

7 MR. PIEPER: I can run them through.

8 MS. HEMENWAY: I can list them for you.

9 CO-CHAIRMAN STOGEL: Sallie, you'll do
10 this way better than I will.

11 MS. HEMENWAY: Okay.

12 CO-CHAIRMAN STOGEL: And what question
13 are we dealing with? Should we go back and add caps
14 to any of these programs?

15 CO-CHAIRMAN GROSS: Right. That's the
16 question.

17 CO-CHAIRMAN STOGEL: If you want to talk
18 about -- Bill's just raised what's the overall cap?
19 Right now there is not in the current law an overall
20 cap. A lot of work with this Commission has been to
21 reduce caps or put in caps, and the question we're
22 dealing with is should we continue to add caps to
23 programs that are not yet capped? I think that's the
24 exact issue.

25 CO-CHAIRMAN GROSS: Agreed. That's it.

1 CO-CHAIRMAN STOGEL: So we only to want
2 deal with the programs that don't have caps. And
3 this morning we put caps on certain programs and we
4 did yesterday, so it's what's left and do we want to
5 cap those programs.

6 CO-CHAIRMAN GROSS: Sallie?

7 MS. HEMENWAY: Okay. And I may call on
8 the committee chairs to help me remember the
9 particular actions that we took during the committee
10 process that were previously approved by the full
11 Commission. Wine and grape was eliminated. Okay.
12 The shared care tax credit which fell under social
13 and contribution, there was no action taken on a cap,
14 if I recall.

15 COMMISSIONER HALL: That's right.

16 CO-CHAIRMAN STOGEL: Okay. Let's find
17 out -- go to the next one, Sallie. I'll find out how
18 much shared care --

19 MS. HEMENWAY: Charcoal producers was
20 recommended for elimination, wood energy was
21 recommended for elimination, bank franchise.

22 CO-CHAIRMAN GROSS: No recommendation.

23 COMMISSIONER REEVES: Yeah, again, I'm
24 not sure how you could cap that because it really
25 does get into tax law.

1 MS. HEMENWAY: Okay. Bank tax credit
2 for S-corps.

3 CO-CHAIRMAN STOGEL: Shared care, the
4 usage -- the authorization in '07 was 164,000 and in
5 2008 it was 157,000 and FY '09 it was 173,000. It's
6 projected for this year at 190,000.

7 CO-CHAIRMAN GROSS: Let me say
8 something. I don't think we need to get into how
9 much the caps should be. This is a statement of what
10 we recommend to the General Assembly that they should
11 or should not have caps on all programs. Some
12 already have caps. Those that don't -- I believe
13 that this recommendation was whether they should or
14 shouldn't have caps on all programs.

15 CO-CHAIRMAN STOGEL: And I'm saying
16 we've gone through every program and ten more minutes
17 we can deal with the ones that we've missed. And we
18 ought to say should this program have a cap and, if
19 so, how much.

20 CO-CHAIRMAN GROSS: Okay. I agree --
21 oh, how much?

22

23 CO-CHAIRMAN STOGEL: And how much.

24 CO-CHAIRMAN GROSS: Oh, we're going to
25 get bogged down on some of them on the how-much

1 question.

2 CO-CHAIRMAN STOGEL: Well, there's
3 historical usage and we can decide to pass or not,
4 but shared care is under \$200,000 a year. So your
5 call, Senator.

6 CO-CHAIRMAN GROSS: I'd prefer we not do
7 it because here's an example of what we're going to
8 get into with shared care. Let's say between 164 and
9 209, is where they're at. If we set it above 209,
10 then we've raised the total potential cost of the
11 program. If we go less than 209, somebody's going to
12 say we kicked them and cut them. And that's going to
13 be the debate across the table.

14 CO-CHAIRMAN STOGEL: But one of the
15 clear issues before the Commission is budget
16 certainty. I'd like to hear from other folks about
17 whether we should go program by program and try to
18 get a cap. Senator Bartle?

19 COMMISSIONER BARTLE: Basically 1-inc.
20 and historic are so gargantuan, this is, in my
21 mind -- I shouldn't say this, but trifling over small
22 potatoes. If you cap what is probably, I don't know,
23 60, 70 percent of our overall tax credit liability or
24 even 50, I don't know what the exact --

25 CO-CHAIRMAN GROSS: I have a motion,

1 that.

2 CO-CHAIRMAN STOGEL: Let him --

3 CO-CHAIRMAN GROSS: We're friends. He
4 doesn't mind me interrupting.

5 COMMISSIONER BARTLE: No, I don't mind
6 because I interrupted the other day.

7 CO-CHAIRMAN GROSS: I remember one night
8 until about four o'clock in the morning. The motion
9 is that we recommend that where appropriate and
10 feasible, the General Assembly put caps on all
11 programs that don't have caps.

12 COMMISSIONER WOOD: Second.

13 CO-CHAIRMAN GROSS: Discussion?

14 (NO RESPONSE.)

15 CO-CHAIRMAN GROSS: All in favor say
16 aye.

17 (AYE.)

18 CO-CHAIRMAN GROSS: Opposed, no.

19 (NO RESPONSE.)

20 CO-CHAIRMAN GROSS: Okay. So we're done
21 with number one.

22 Number two -- number two is the global
23 cap issue, and that is whether there should be a
24 global cap on all the credits. And my feelings --
25 personally, my feelings have fallen off of this issue

1 as difficult to implement. I like it, but I can't
2 come up with a good way to do it. Tom, do you want
3 to say something?

4 COMMISSIONER REEVES: No. I actually
5 was going to come back -- I need to make a motion on
6 the last deal, but keep going on your overall cap.

7 CO-CHAIRMAN GROSS: Now, that's how I
8 feel about it, that we shouldn't do anything on
9 global caps at this time, but I'm not going to make a
10 motion on that. I'll just let it die if nobody else
11 wants to do anything on global caps. Discussion?

12 (NO RESPONSE.)

13 CO-CHAIRMAN GROSS: Okay. Now we'll go
14 back to you.

15 COMMISSIONER REEVES: Yeah, I'm coming
16 back to banking and insurance because I'm not sure
17 it's at all feasible or possible to include those in
18 a cap of any kind because you just can't --

19 COMMISSIONER WOOD: But that's what the
20 motion was. If it's feasible, the legislature -- we
21 recommend if it's feasible, they put a cap on it.

22 COMMISSIONER REEVES: Okay.

23 COMMISSIONER WOOD: I think that it's
24 doable.

25 CO-CHAIRMAN GROSS: Correct. So I'm

1 going to say recommendation two, there's no
2 recommendation on global caps.

3 COMMISSIONER WAGNER: Mr. Chairman, I
4 have a question about the global caps. We spent a
5 lot of time talking about savings and what -- how
6 much money's going to be saved, we're keeping a
7 running tally. Just what if all of those projections
8 don't come to be? You know, would a global cap
9 address that one way or the other as controversial as
10 it might be? If we don't save the \$200,000 to get it
11 down to \$350,000, would a cap not address that with
12 some sort of escalator or something tied to future
13 general revenues? I'm not advocating for it, I'm
14 just throwing that out there for additional
15 discussion.

16 COMMISSIONER BARTLE: Can I throw this?
17 To me, going through setting individual caps is
18 probably tedious and not worth our while. Setting a
19 peg to overall general revenue is a different issue.

20 COMMISSIONER WAGNER: That's what I'm
21 talking about.

22 COMMISSIONER BARTLE: And I think, Ray,
23 it probably would be helpful to take a vote on that
24 and give the legislature some guidance on that
25 question right there. I think it's going to be a far

1 less helpful to go in and set individual caps on
2 little programs. But overall establishing a peg to
3 revenue collection, that's an important issue.

4 COMMISSIONER WAGNER: Well, that's what
5 I think, because a lot of the savings to me, may be
6 speculative. And this would be a backstop to that.
7 So I...

8 COMMISSIONER WOOD: Are you saying you
9 want us to establish the cap or do you want us just
10 to make a recommendation that the legislature should
11 establish a global cut?

12 COMMISSIONER WAGNER: Perhaps they
13 should establish a global cap --

14 COMMISSIONER WOOD: I'll make that as a
15 motion.

16 COMMISSIONER WAGNER: -- just to be
17 consistent with the projected savings that this
18 committee comes up with or some metric, something
19 measurable.

20 COMMISSIONER BARTLE: But Steve, you've
21 been running the numbers in your head, and every time
22 I've talked to you, I don't think -- I mean, you
23 wouldn't be uncomfortable -- I mean, you're thinking
24 about, okay, percentage on general revenue. Why
25 don't we just actually take a vote on a number.

1 CO-CHAIRMAN STOGEL: Well, here's -- let
2 me see if I can step one -- step back in the logic
3 process. By way of background, in all the materials
4 I read and Brian, don't mean to put you on the spot,
5 but I think it was one of Brian Schmidt's early
6 reports to one of the joint committees.

7 And I'm pretty sure I'm right on the
8 bandwidth, that as a running average from 2000 to
9 2007, the amount of tax credits were 5.6 to 6.2
10 percent of the general revenue. Credits went up and
11 general revenue went up and there was a relatively
12 even bandwidth. Rex, of course, has the material
13 right here, but if that's a parameter, a bandwidth
14 from what I'm recalling, the Commission's work has
15 tallied with the votes of this morning and votes
16 prior, in answer to your question, Senator Bartle, of
17 yesterday or this morning about do we have a tally,
18 the answer is yes.

19 The concept of -- assuming the
20 legislature enacts it all, can we get to a
21 recommendation? But the trick bag that any specific
22 number that comes out of here could be is, the
23 legislature doesn't enact it all; for instance, let's
24 assume that one of the low-income folks come in and
25 don't support this and there's -- and they move the

1 number back to \$132 million.

2 So the predicate for any vote I would
3 suggest is, sure, we can try to get back to the
4 historical bandwidth, assuming everything were done,
5 but if things aren't done, it's hard to put a number
6 like 350 or \$450 million out there and start working
7 on presumptions that the Commission's not here to do
8 which is, we're here to make a recommendation to the
9 legislature. And if the recommendation is if you do
10 all of this, the aggregate number might be \$400
11 million or something, that's a fair baseline and can
12 be discussed obviously.

13 But to simply -- 6 percent of \$7 billion
14 is \$420 million, but that presumes the action that
15 was taken on senior circuit, caps on all the
16 programs, the vote this morning on historic, a vote
17 this morning on low-income, all fits in, the
18 aggregate of all of those actions could fit within
19 the 420 cap at 6 percent, by way of illustration, not
20 by way of recommendation. Okay.

21 CO-CHAIRMAN GROSS: Tom Reeves.

22 CO-CHAIRMAN STOGEL: And it takes
23 banking and insurance out of the equation entirely
24 because we haven't done any action on that.

25 COMMISSIONER REEVES: That's what I was

1 going to say. No, what I was going to say is if you
2 start bumping up against a cap or you start to exceed
3 that cap, however it is, you know, then you back
4 yourself into the A, B, C, D waterfall, don't you?
5 Because then you are then prioritizing among all of
6 the tax credits as to where you're going to make
7 those adjustments.

8 COMMISSIONER GARDNER: Is there anything
9 wrong with just linking them all to revenue, I mean,
10 individually?

11 CO-CHAIRMAN STOGEL: Yes. It's too
12 complicated, not business certainty. I'd be for
13 capping if historic and low-income which are -- and
14 senior citizen Circuit Breaker are 67 percent of the
15 total, which they are. The other 33 percent, if they
16 all had reasonable caps, the legislature would know
17 what the number is.

18 So you can get there individually rather
19 than try to do it on a complicated formula that
20 changes every year and it just adds uncertainty. And
21 as programs burn off either -- the cap for that
22 program would -- and the program burns off and it's
23 not renewed, then by definition, the sum of the
24 capped programs comes down.

25 So if we're looking for mathematical and

1 budget certainty, capping each program would be a
2 better exercise than trying to tie it to some
3 amorphous number, I think, because the math's easier.

4 CO-CHAIRMAN GROSS: If you have a cap on
5 every program, which is what we're recommending
6 except for those that don't qualify, I'm not so sure
7 the need for the global cap exists any longer.

8 COMMISSIONER BARTLE: Well, it does
9 because if you've got all of these caps -- let's say
10 the total is a half a billion dollars and you have a
11 catastrophic revenue year, that cap is still a half a
12 billion dollars.

13 CO-CHAIRMAN GROSS: Yeah, but --

14 COMMISSIONER BARTLE: Or if you have a
15 particularly good revenue year --

16 CO-CHAIRMAN STOGEL: But the cap is
17 still what it is.

18 COMMISSIONER BARTLE: -- the cap is what
19 it is.

20 CO-CHAIRMAN STOGEL: And I think the
21 work of this Commission, if it's strictly adopted by
22 the legislature, which is an obvious if, that -- and
23 supported by the administration, which is an obvious
24 if, the \$640 million based on the -- or the pre-lunch
25 time break was down about 247.

1 So if other programs can get capped and
2 you're moving down, there can be some additional
3 subtractions. And the 247 bouncing around, we're in
4 about a \$10 million bandwidth based on what I was
5 looking at over lunch.

6 COMMISSIONER BARTLE: Well, Ray, do you
7 have a motion?

8 COMMISSIONER WAGNER: Well, I think Mike
9 made the motion.

10 COMMISSIONER WOOD: I'll withdraw my
11 motion.

12 COMMISSIONER WAGNER: Well, I'll make
13 the motion. We ought to have a cap. I think it is
14 something to discuss and vote upon and let the
15 legislature say that we did it. I mean, I still have
16 concerns. I think back, I said it a while ago, that
17 I've tied some of my thinking back to legislative
18 history. And I know historic tax credits are vastly
19 greater than what they were projected back when they
20 first passed, \$20 million a year to \$190 million.

21 Low-income housing has more from a
22 program with certain expectations and something
23 substantially more. And I realize there's a cap of
24 sorts there, but I think it's tied to some sort of
25 moving federal formula number, as I understood it.

1 CO-CHAIRMAN STOGEL: No, not after
2 today's vote.

3 COMMISSIONER WAGNER: It's an absolute
4 definitive --

5 CO-CHAIRMAN STOGEL: It's set. The
6 motion is \$16 million.

7 COMMISSIONER WAGNER: Okay. Okay.
8 Well, then, good. But all said, it can't hurt to
9 take the vote on the motion if someone wants to
10 second.

11 CO-CHAIRMAN GROSS: Let's hear the
12 motion, though. I've got to hear the motion.

13 COMMISSIONER WAGNER: Well, I guess the
14 motion is that there would be an overall cap on the
15 State tax credit programs that are subject to --
16 might be subject to caps in an amount consistent with
17 the spirit of the overall cuts tallied here today and
18 through this process, which -- consistent with our
19 running total. If we're talking about a 20 percent
20 reduction or a \$200 million reduction based upon what
21 they were quashed in this current fiscal year, then I
22 would -- that that is my cap for discussion purposes.

23 CO-CHAIRMAN GROSS: Second for
24 discussion.

25 CO-CHAIRMAN STOGEL: Thank you.

1 COMMISSIONER JOYNER: Point of
2 clarification. Are you saying that the global cap is
3 the sum of all of the caps of the programs that we've
4 capped? Is that what you're saying, Ray?

5 COMMISSIONER WAGNER: Yes, Dee.

6 COMMISSIONER JOYNER: Okay. Which is
7 what this recommendation in the book is saying as
8 well.

9 CO-CHAIRMAN STOGEL: I'm not sure I
10 understand the motion, Ray. Are you taking banking
11 and insurance, Tom's -- all the credits in his
12 committees out of this equation?

13 COMMISSIONER WAGNER: I think so, based
14 upon what Tom has asserted.

15 CO-CHAIRMAN STOGEL: I still believe
16 picking a number, A, without the quiet time to really
17 do the tally is really a mistake. I really believe
18 that capping each of the individual programs is a
19 better policy to get to the number.

20 COMMISSIONER GARDNER: I agree. I agree
21 totally.

22 CO-CHAIRMAN STOGEL: And I'd like to
23 amend -- I don't know how to do this procedure --
24 amend Ray's motion, if I can get a second, that we
25 try to get caps on the individual programs, as

1 tedious as that may be.

2 COMMISSIONER WOOD: We already did that.

3 CO-CHAIRMAN STOGEL: We did that?

4 COMMISSIONER WOOD: Well, we requested
5 the legislature establish the caps. We weren't going
6 to establish the caps, but we requested the
7 legislature.

8 CO-CHAIRMAN STOGEL: Okay. I withdraw
9 that.

10 COMMISSIONER WAGNER: What I'm trying to
11 get with my motion is a sense of this Commission as
12 to whether or not a global cap would assist in the
13 legislative process and assist in controlling,
14 managing some of the cost of all of these tax
15 credits. I can't offer an absolute specific because
16 I would have to study the overall caps a bit more. I
17 think I picked up from Senator Bartle that that could
18 be helpful to the legislative debate, to peg it, and
19 if it's not, then I certainly accept that.

20 CO-CHAIRMAN STOGEL: If the vote is to
21 put a cap on it, I would request that we hold that
22 insertion of the number for the final report so that
23 at least we can do the tally correctly, put out how
24 we got there --

25 COMMISSIONER WOOD: He doesn't want a

1 number.

2 COMMISSIONER WAGNER: I've not projected
3 a number in there. I sense --

4 CO-CHAIRMAN STOGEL: No? Okay.

5 COMMISSIONER WAGNER: -- proportionate
6 to what the spirit of these discussions and the
7 outcome of these discussions.

8 COMMISSIONER BARTLE: This is a concept
9 that I think it's important for us to weigh in on.

10 CO-CHAIRMAN STOGEL: The concept is one
11 thing, but I thought we were trying to get a number
12 today.

13 CO-CHAIRMAN GROSS: No. Bill Hall wants
14 to get in.

15 COMMISSIONER HALL: To me, the problem
16 with setting the hard cap is that once you bump up
17 against it, then the stronger are going to get
18 stronger and the weak are going to get weaker. The
19 people who have the greatest voice in the legislature
20 will maintain their credits, and those that have the
21 weakest voice in the legislature will lose their
22 credits in order to stay under the cap.

23 So I'm not sure that that is exactly
24 what we would want to achieve, but I think that
25 ultimately would be what would happen.

1 COMMISSIONER WAGNER: Does that not
2 happen on individual credits where the strong get
3 stronger up to their individual credit limit and the
4 weak get trampled upon?

5 COMMISSIONER HALL: Well, I don't think
6 it would happen the same way. It wouldn't be forced
7 in the same way. This would force that to happen as
8 opposed to -- I mean, I don't think the -- let's take
9 the historic people. They seem to be a good target.

10 I think if the historic people have to
11 go up against the social credits, at the end of the
12 day, there are going to be fewer social credits and
13 they're going to be more historic credits. And is
14 that really what we want to achieve? If the social
15 credit people are on their own and just vying for
16 their own, why, they'll probably do all right.

17 COMMISSIONER VAN MATRE: I really enjoy
18 this debate and I enjoy the level of this debate
19 because I think what's interesting to me is that Ray
20 and I probably aren't very far apart notwithstanding
21 the fact that he opposed my waterfall motion. But so
22 did everybody else, so I'm used to being out in left
23 field on most things.

24 But a hard cap is the same thing as sort
25 of an appropriation on auto pilot, isn't it? I mean,

1 you have exactly the same problem with a hard cap
2 that you do with setting the appropriation except
3 that you've used a mathematical formula to set your
4 cap instead of the legislature setting it.

5 So either you trust the legislature to
6 do right by the people when they make that
7 appropriation, or you build in some kind of mechanism
8 that says you can't go over this limit. But as soon
9 as you do or as soon as you make that decision, you
10 can't go over this limit, then somebody's got to
11 prioritize these things.

12 I guess I interpreted that no
13 appropriation vote as saying that these credits are
14 not going to be subject to the appropriation process
15 directly or indirectly.

16 CO-CHAIRMAN GROSS: Further discussion?
17 Tom Reeves?

18 COMMISSIONER REEVES: Yeah. I think
19 we've all gone to great lengths to set caps on major
20 programs. We've also indexed in addition to a cap
21 the historic program.

22 CO-CHAIRMAN STOGEL: No.

23 COMMISSIONER REEVES: To GR, it goes to
24 one and a half.

25 CO-CHAIRMAN STOGEL: No, no. The vote

1 on the historic, Tom, was a flat 75 million.

2 COMMISSIONER REEVES: Okay. Okay. But
3 we have capped those programs, and my concern is the
4 same as Bill's is that we're down to the smaller,
5 weaker parts of our community that I'm not sure --
6 you know, I think we're going to get back to the A,
7 B, C, D grading if we need to, but if we set the
8 sunset at staggered intervals as well as caps in the
9 interim, I think we've really put a lot of controls
10 on this program without having to layer on one more
11 suspender on top of the belts, I think.

12 CO-CHAIRMAN GROSS: Further discussion
13 on the motion?

14 (NO RESPONSE.)

15 CO-CHAIRMAN GROSS: All in favor of the
16 motion --

17 CO-CHAIRMAN STOGEL: No, what's the
18 motion, please?

19 CO-CHAIRMAN GROSS: Ray, do you want to
20 restate your motion?

21 COMMISSIONER WAGNER: Can I ask the
22 court reporter to read it back, please? I think the
23 motion is to recommend a cap on all of the tax credit
24 programs, less the banking programs that Commissioner
25 Reeves has articulated that would, in spirit,

1 recognize and pay respect to the overall savings that
2 is contemplated in our recommendation to the
3 legislature from this process.

4 CO-CHAIRMAN GROSS: That's what I
5 understand it to be. And there was a second on that
6 earlier.

7 CO-CHAIRMAN STOGEL: There should be a
8 cap.

9 COMMISSIONER WAGNER: Pardon me?

10 CO-CHAIRMAN STOGEL: There should be a
11 cap.

12 COMMISSIONER WAGNER: That there should
13 be a cap. Perhaps I forgot to state that.

14 CO-CHAIRMAN GROSS: Okay. Further
15 discussion?

16 (NO RESPONSE.)

17 CO-CHAIRMAN GROSS: Seeing none, all in
18 favor of the motion say aye.

19 (AYE.)

20 CO-CHAIRMAN GROSS: Opposed, say no.

21 (NO.)

22 CO-CHAIRMAN GROSS: That's very close.

23 Let's have a show of hands. All in favor of the
24 motion raise your hand, please. One, two, three,
25 four, five, six, seven, eight.

1 Opposed? One, two, three, four, five,
2 six, seven, eight, nine. Eight in favor, nine
3 opposed. On the phone who would like to vote?

4 COMMISSIONER BOYERS: I'm sorry. I
5 could not -- this is Zack Boyers. I couldn't hear
6 the motion.

7 CO-CHAIRMAN GROSS: The motion was to
8 recommend the legislature impose a global cap on all
9 credit programs except for the banking and insurance
10 credits, and that cap would equate to the total
11 amount after this Commission's work has been
12 accomplished.

13 COMMISSIONER BOYERS: Okay. This is
14 Zack Boyers. No.

15 CO-CHAIRMAN GROSS: Okay. Anybody else?

16 (NO RESPONSE.)

17 CO-CHAIRMAN GROSS: Okay. The motion
18 fails, eight to ten.

19 Okay. Where are we at? We're on to the
20 moratorium which was recommended No. 5, and the
21 committee said that we recommend that there be no
22 limitation imposed on the General Assembly's ability
23 to enact new tax credit programs. I'll make that in
24 the form of a motion.

25 CO-CHAIRMAN STOGEL: Second.

1 CO-CHAIRMAN GROSS: And we have a
2 second. Discussion?

3 (NO RESPONSE.)

4 CO-CHAIRMAN GROSS: All in favor say
5 aye.

6 (AYE.)

7 CO-CHAIRMAN GROSS: Opposed, no.

8 COMMISSIONER BOYERS: No.

9 CO-CHAIRMAN GROSS: Two no's noted, but
10 the motion passes.

11 Next is that the -- oh, the next is just
12 kind of housekeeping. The following programs
13 outlived the usefulness, been terminated. This is --
14 this happens periodically. The General Assembly just
15 goes into the statutes and takes out programs that
16 have already expired, were gone, deleted, and that's
17 our recommendation is that they just do that. I'll
18 make that in terms of a motion.

19 COMMISSIONER WOOD: Second.

20 CO-CHAIRMAN GROSS: Motion and a second.
21 Discussion?

22 (NO RESPONSE.)

23 CO-CHAIRMAN GROSS: All in favor say
24 aye.

25 (AYE.)

1 CO-CHAIRMAN GROSS: Opposed?

2 (NO RESPONSE.)

3 CO-CHAIRMAN GROSS: That motion passes.

4 Next one is No. 7 on AMT. Steven? We
5 recommend that no AMT be applied to credits.

6 CO-CHAIRMAN STOGEL: Even though there's
7 quite a few folks, individuals and corporations that
8 zero out their tax liability, after some thought, I
9 came to the conclusion there should not be an AMT
10 because it's a tax increase and that's better for
11 some Commission on tax policy, not for the tax credit
12 world. So we aren't in the business -- this
13 Commission, doing tax increases. So I support this
14 recommendation.

15 CO-CHAIRMAN GROSS: Okay. We have a
16 motion. I'll second it. Discussion?

17 (NO RESPONSE.)

18 CO-CHAIRMAN GROSS: All in favor say
19 aye.

20 (AYE.)

21 CO-CHAIRMAN GROSS: Opposed, no?

22 (NO RESPONSE.)

23 CO-CHAIRMAN GROSS: That motion passes.

24 No. 8 is Dutch auction.

25 CO-CHAIRMAN STOGEL: This will take

1 about -- this will take a few minutes to explain this
2 idea. It's really in two parts. Someone suggested
3 early on in the process that the State look at buying
4 back some credits. As the idea progressed, there
5 were two doors that opened up in terms of the buyback
6 program.

7 One is exclusively for the low-income
8 tax credit and one is for all other credits. The --
9 dealing with the low-income first, we have looked at
10 Mark's charts and know that there's approximately a
11 billion dollars streaming in of low-income credits
12 that have already been issued between FY '11 and FY
13 '22.

14 Those credits are approved -- authorized
15 and not at issue for -- in an allocation format where
16 credits are allocated which automatically includes
17 the 35 percent federal tax hit. If the Commission
18 would recommend the notion in two or three parts,
19 that the prior allocation systems be optionally
20 allowed to be converted on a project-by-project basis
21 to be administered by MHDC to a transferable credit,
22 the mathematics that Mark and I --

23 COMMISSIONER GARDNER: Certificated?

24 CO-CHAIRMAN STOGEL: Transferable

25 certificated credits. The mathematics that Mark

1 Gardner and I worked up is that approximately,
2 subject to more mathematics to be done if the
3 Commission thinks it's a good idea, you could take a
4 dollar of allocated credits and exchange it for 80
5 cents or less of a certificate.

6 The certificate could then go to the
7 taxpayer that once had the allocation and the State
8 would save 20 cents for every allocation that was
9 swapped out. We know at least 20 cents is a safe
10 number. Further mathematics may drive that down.
11 Not all projects will avail themselves of this.

12 It will take an act of the legislature
13 to change this to make it optional in the hands of
14 the folks who hold the credits, but there are logical
15 reasons somebody would want to do a swap-out.
16 Credits in a certificate form are far more beneficial
17 than an allocation. If the State were to adopt plan
18 three of the tax law committee, they become further
19 beneficial. If a congressional law were changed, it
20 would still be more beneficial.

21 But one of the pathways to reduce the
22 streaming in credits is to focus in on just
23 low-income and swap out the -- what we know is an
24 antiquated allocation system for a credit system.
25 And it would be a work in process over a year or two,

1 but there's no harm, in my judgment, of approving it
2 and asking the legislature to do it and implementing
3 it because MHDC is the logical party to try to do the
4 buyback once numbers are established and let MHDC
5 review the mathematics, but it could result in a
6 substantial pickup by way of a reduction in the
7 streaming in credits. So that's door one.

8 So Mark, did I -- Mark Gardner, who's
9 worked an extraordinary amount of hours on this idea
10 since just last Sunday. And we talked about it at
11 some length with all the law firms that have
12 volunteered, and we have to spend some more time to
13 figure out how to draft the legislation, but it's a
14 concept that I think and Mark thinks has some real
15 legs if the legislature would work with the
16 Commission and we'd be led to continue. That's not
17 even the Dutch auction. This is just strictly the
18 MHDC. Yes, sir.

19 COMMISSIONER FLOOK: And I want to make
20 sure I clarify conceptually for the group and anybody
21 listening in what you're saying. You're basically
22 saying in simple terms, this is -- this is buying
23 ourselves out of a contract, basically. We're -- by
24 doing this, we're effectively getting out of a deal
25 early and saving money.

1 If I were going to compare it to
2 something -- because what I want to make clear that's
3 understood is this isn't bailing out somebody from a
4 bad project.

5 CO-CHAIRMAN STOGEL: Nope.

6 COMMISSIONER FLOOK: We are not paying
7 somebody money who would -- otherwise was going to
8 fail in what they were doing.

9 CO-CHAIRMAN STOGEL: Correct.

10 COMMISSIONER FLOOK: So we're not doing
11 that. What we are is, is we would be effectively
12 paying to get out of a long-term deal that would cost
13 us more money for an early exit to get out. And I
14 know I'm over-simplifying it, but I think it needs to
15 be simplified in order for not just members of the
16 committee, but for the public to understand what
17 we're saying here.

18 Because I've conceptually looked at it
19 like buying out your senior employees with big
20 contracts like Ford did to reduce their payroll. You
21 know, I kind of conceptually see it like that. Am I
22 wrong if I break it down that simply?

23 CO-CHAIRMAN STOGEL: The concept is
24 right, but I would cast it in slightly different
25 words. The State may have an opportunity to change

1 an inefficient federal tax-driven system to a more
2 efficient one so the State saves money. And true, we
3 are buying out a dollar for 80 cents or less, but it
4 saves the taxpayer money. Doesn't particularly help
5 Uncle Sam, but that's not what this Commission is
6 here to do.

7 COMMISSIONER GARDNER: All it's really
8 doing is saying I've got a piece of paper here which
9 is a tax credit that under the current law is not
10 particularly efficient. By assigning certain tax
11 attributes to that tax credit, I can make those
12 outstanding tax credits worth more -- I can make
13 those outstanding tax credits worth more than they
14 are today and therefore, I'll swap them out with
15 whoever owns them, whether that be a syndicator or an
16 investor, because I've now made your credit worth
17 more. Let's say I've made it worth 20 percent more.
18 You should give it back to me for a new credit, and
19 instead of having me give you 100 credits, I only
20 give you 80 credits.

21 Now, what I've done is I've reduced the
22 total cost to the State. And the whole idea behind
23 this, Steve and I have been crunching numbers and
24 trying to figure out what that exchange rate is
25 because there's an exchange rate.

1 The idea is not for anybody to make
2 money off of this, but rather, if we're going to let
3 outstanding syndicators or investors receive a more
4 valuable credit, then we're probably going to give
5 them a little incentive to go through the brain
6 damage of exchanging them. So there's going to have
7 to be a small profit allowed.

8 But you need to ignore that and focus on
9 the fact that hopefully we can save the State 20
10 percent.

11 COMMISSIONER FLOOK: But what I'm trying
12 to say is, is that these are credits that are -- that
13 could be redeemed.

14 COMMISSIONER GARDNER: Right.

15 COMMISSIONER FLOOK: They're in line to
16 be redeemed.

17 COMMISSIONER GARDNER: Yeah, these
18 aren't forfeited credits or we're not bailing anybody
19 out.

20 COMMISSIONER FLOOK: So we have, let's
21 say, 20 million in redeemable credits lined up at the
22 gate. This is a way to basically buy our way out of
23 the 20 million and reduce our actual cost.

24 CO-CHAIRMAN STOGEL: To 16. I should
25 have just answered. I got too technical.

1 CO-CHAIRMAN GROSS: Yes. Say yes.

2 CO-CHAIRMAN STOGEL: I apologize to
3 everyone. When you said it correctly the first time,
4 I should have just said yes.

5 COMMISSIONER FLOOK: The reason I'm
6 trying to make sure and clarify that is because when
7 I go -- and I say this all the time -- when I go back
8 to Trails End cafe Coffee Shop in Liberty, and I'm a
9 legislator and I'm telling people why did I this, it
10 needs to be simplified so they understand exactly
11 what it means. And what we're doing is, is what
12 private companies have done across this nation. In
13 fact, Ford doing a version of this, it kept Ford from
14 needing a bailout from the federal government. And I
15 think Ford is the easiest example.

16 So what we're doing is, is -- in my
17 view, at least, is we're borrowing an idea from the
18 private sector which is an efficiency move to reduce
19 our liability and we're spending a little money to do
20 it, but we're saving a lot of money. I think it's an
21 excellent idea.

22 And assuming we can get around our
23 constitutional questions, which is a whole other
24 debate, I think it's a tried and true method that's
25 worked in private industry and if we can take that

1 philosophy and make it work here, I think it's
2 fantastic.

3 CO-CHAIRMAN STOGEL: Thank you.

4 CO-CHAIRMAN GROSS: Can you encapsulate
5 your motion into something we can put down on paper?

6 CO-CHAIRMAN STOGEL: Mark has it as a
7 recommendation as a low-income report in essentially
8 one paragraph which is -- I'll see if I can state it.

9 COMMISSIONER GARDNER: And
10 distinguish -- make sure we distinguish from the
11 buyback, because those are two different concepts,
12 and in all due respect, you're kind of mixing the
13 two.

14 COMMISSIONER FLOOK: I'll leave it to
15 you to kind of clear that up.

16 CO-CHAIRMAN STOGEL: I'll see if I can
17 state it. For the low-income credits that are
18 streaming in that are already issued and the State's
19 already obligated to pay regardless, the request to
20 the Commission would be to continue to work -- to
21 have the legislature pass laws authorizing MHDC on an
22 annual basis to exchange a transferable tax credit
23 certificate in lieu of the allocation already
24 committed.

25 And the amount of the credit would be 80

1 cents of the dollar of allocation or less to then
2 exchange with the holder of that allocation so the
3 State saves at least 20 cents allowing MHDC to work
4 through the model because 80 cents is a safe number
5 but an improvement might be made on it. So that's
6 the recommendation.

7 CO-CHAIRMAN GROSS: That's a motion.

8 COMMISSIONER HALL: That's an easy
9 second, buying a dollar for 80 cents.

10 CO-CHAIRMAN GROSS: All in favor --

11 COMMISSIONER GARDNER: I would just
12 modify your motion to say approximately 80 cents
13 because we are still working on the numbers. And if
14 it turns out to be 19 cents, I don't want to have
15 this whole thing go down the tube because it was 19
16 cents instead of 20.

17 CO-CHAIRMAN GROSS: Make it
18 approximately 20. So the motion is approximately 20
19 instead of 20.

20 CO-CHAIRMAN STOGEL: Fair enough.

21 CO-CHAIRMAN GROSS: Okay. All in favor
22 of the motion say aye.

23 (AYE.)

24 CO-CHAIRMAN GROSS: Opposed, say no.

25 (NO RESPONSE.)

1 CO-CHAIRMAN GROSS: The ayes have it,
2 the motion's adopted.

3 CO-CHAIRMAN STOGEL: Okay. The second
4 door for a buyback, again, it was one of the good
5 ideas that came to the Commission. Bryan Cave has a
6 memo which is two pages that outline in your book the
7 notion of a buyback.

8 On Wall Street they call it a Dutch
9 auction, various states call it a reverse auction.
10 It's the notion that if cash -- unlike the
11 low-income, but for these credits, cash can be set
12 aside, the process is one where an independent board
13 set up by the legislature with folks appointed by the
14 Governor and the House majority and minority leaders
15 can run an arms-length auction where they say -- and
16 I'll come to where the sources might come from --
17 here's X dollars, ten million. How much will you let
18 us buy back of your credits? Will you let us buy
19 back -- here's a dollar. Would you let us buy back
20 \$1.50, would you -- \$1.75, \$2.00?

21 And some people, you'll be surprised,
22 just need cash. And it's my instinct that if a pot
23 can be found, there will be a great deal of credits
24 that are already issued and outstanding, can be
25 bought back. So people -- excluding low-income,

1 there's approximately -- Sallie, you know, correct
2 me -- in the bandwidth of two to \$300 million of
3 credits out there -- there might be more -- that are
4 issued and not yet redeemed.

5 And if you could take a fraction of
6 that, let's say, mythical at \$300 million and buy it
7 back for half or a third, it's another version of
8 this. The money might come from an appropriation,
9 the money might come from the federal stimulus money
10 subject to the legislature's appropriation or subject
11 to further review, some sort of debt financing, all
12 to be determined.

13 But the notion is should the legislature
14 look at doing a reverse auction -- other states have
15 that model -- to use some cash to buy back part of
16 this \$300 million that's out there issued and not yet
17 redeemed.

18 Seems to me it can do no harm to explore
19 it. Lots of details need to be done, but it's one of
20 the big ideas that has -- Senator Gross and I have
21 chatted about a little. And it needs a lot more
22 work, but the Bryan Cave memo is a starter.

23 CO-CHAIRMAN GROSS: How do you want to
24 do that in terms of a motion?

25 CO-CHAIRMAN STOGEL: To re-recommend to

1 the legislature that the notion of a reverse auction
2 for nonlow-income credits be looked at to be
3 purchased more or less to build from the two-page
4 Bryan Cave memo that sort of outlines how it might be
5 done.

6 CO-CHAIRMAN GROSS: Okay. I'll second
7 the motion. Discussion?

8 COMMISSIONER VAN MATRE: Why are you
9 excluding low-income credits?

10 CO-CHAIRMAN STOGEL: Because the
11 low-income credits -- good question, Craig. I put
12 low-income in the certificate category for the
13 exchange. I guess it could also be option for cash
14 too, and that would be a very fair comment. The
15 amount of cash you have, but to the extent low-income
16 people didn't want to do the credit but wanted to do
17 cash, that might even get a better number. If they
18 want to modify the motion, I think that's a good one.

19 COMMISSIONER VAN MATRE: I mean, the way
20 I look at it, the credits are just loan payments, and
21 so what we're doing with this is we're saying we're
22 going to refinance this at a lower interest rate.
23 That's really the best analogy. And the more credits
24 we can redeem under this circumstance, it seems like
25 the better off the State is ultimately.

1 CO-CHAIRMAN STOGEL: I really appreciate
2 that. It was in my logical door one and door two.

3 CO-CHAIRMAN GROSS: Okay. As amended,
4 further discussion?

5 (NO RESPONSE.)

6 CO-CHAIRMAN GROSS: Seeing none, all in
7 favor say aye.

8 (AYE.)

9 CO-CHAIRMAN GROSS: Opposed, no.

10 (NO RESPONSE.)

11 CO-CHAIRMAN GROSS: That motion is
12 adopted.

13 Now we're on recommendation No. 9 which
14 is the carryback feature. The committee recommended
15 that carrybacks be eliminated for all credits except
16 low-income and historic preservation. I'll make that
17 in terms of a motion. Second?

18 COMMISSIONER GIFFORD: Second.

19 CO-CHAIRMAN GROSS: Second by Luana
20 Gifford. Discussion?

21 COMMISSIONER WOOD: I'd like to amend
22 the motion that historic have a one-year carryback
23 feature only, which came out of the subcommittee,
24 which was the recommendation from the subcommittee,
25 is a one-year carryback only.

1 CO-CHAIRMAN GROSS: Mike has an
2 amendment to the motion. I'll second that motion
3 that historic have a one-year carryback.

4 CO-CHAIRMAN STOGEL: And what's
5 low-income?

6 CO-CHAIRMAN GROSS: What is low-income?

7 CO-CHAIRMAN STOGEL: Sallie?

8 MS. HEMENWAY: The low-income carryback
9 feature -- and I will check -- but I believe was
10 moved forward to this global issue committee. It was
11 not addressed in the low-income report.

12 CO-CHAIRMAN GROSS: Three.

13 CO-CHAIRMAN STOGEL: The low-income
14 currently is three. And Mark, did you address it.

15 CO-CHAIRMAN GROSS: That one got punted
16 to us.

17 COMMISSIONER WOOD: Yeah.

18 CO-CHAIRMAN STOGEL: I thought the...

19 COMMISSIONER WOOD: I don't know what
20 the recommendation was. I can include low-income to
21 a one-year carryback too. I just don't know what
22 recommendation came out of their subcommittee.

23 COMMISSIONER JOYNER: It's on page 27
24 and it says, "If says if the Commission feels the
25 need to shorten either period, the committee would

1 recommend shortening the carryback to two years, but
2 only on credit issued on a going-forward basis."

3 CO-CHAIRMAN GROSS: Okay. So it looks
4 like the committee said if they were going to do it,
5 they'd make it two years, but they've punted to this
6 Commission to make a final decision on that issue.
7 Tom?

8 COMMISSIONER REEVES: Under the do no
9 harm, this is for credits issued going forward?

10 CO-CHAIRMAN GROSS: Absolutely.

11 COMMISSIONER REEVES: Not for those that
12 are out --

13 CO-CHAIRMAN GROSS: Right.

14 CO-CHAIRMAN STOGEL: Yeah, so low-income
15 goes from -- going forward goes from three to two and
16 historic go from two to one.

17 CO-CHAIRMAN GROSS: That's right.

18 COMMISSIONER KOMO: That wasn't the
19 recommendation, was it?

20 CO-CHAIRMAN GROSS: Well, if we do
21 this --

22 COMMISSIONER WOOD: Okay. I'll withdraw
23 that motion and make that motion that low-income go
24 to two and historic go to one on a carryback.

25 CO-CHAIRMAN GROSS: Okay. Now we have a

1 motion and I'll second that.

2 COMMISSIONER WOOD: Going -- yeah,
3 right. Do no harm.

4 CO-CHAIRMAN GROSS: Okay. Any
5 questions?

6 (NO RESPONSE.)

7 CO-CHAIRMAN GROSS: Seeing none, all in
8 favor of the motion say aye.

9 (AYE.)

10 CO-CHAIRMAN GROSS: Opposed, no.

11 (NO RESPONSE.)

12 CO-CHAIRMAN GROSS: Thank you very much.
13 That's No. 9.

14 No. 10. I'm going to recommend that 10
15 go away because of dealing already with carryforwards
16 and carryback with historic and low-income. So we
17 just -- well, we didn't do anything on carryforwards.

18 COMMISSIONER WOOD: Tom, help me here.

19 COMMISSIONER REEVES: Yeah, we did.

20 COMMISSIONER ANDERSON: Yeah, we did.

21 COMMISSIONER WOOD: Or sub -- right,
22 globally, did we punt that to the subcommittee -- or
23 I mean to the overall?

24 COMMISSIONER WAGNER: It will be in the
25 report.

1 COMMISSIONER REED: I can't recall if we
2 formally did this or whether we --

3 MR. PIEPER: I thought it was referred
4 to this --

5 COMMISSIONER REEVES: I think we
6 referred it up to this committee and moved it to
7 five.

8 MR. PIEPER: Yeah, so five-year
9 carryforward.

10 MS. HEMENWAY: Yes, it was referred to
11 global issues committee from the historic committee.

12 COMMISSIONER WOOD: So I move we accept
13 the recommendation from the historic committee as far
14 as carrybacks -- -- carryforwards, I'm sorry.

15 CO-CHAIRMAN GROSS: To go to five years.

16 CO-CHAIRMAN STOGEL: Second.

17 CO-CHAIRMAN GROSS: We have a motion and
18 a second on that. Discussion?

19 (NO RESPONSE.)

20 CO-CHAIRMAN GROSS: Seeing none, all in
21 favor say aye.

22 (AYE.)

23 CO-CHAIRMAN GROSS: Opposed, no.

24 (NO RESPONSE.)

25 CO-CHAIRMAN GROSS: Okay. So that takes

1 care of carryforwards, then.

2 CO-CHAIRMAN STOGEL: Do you want to go
3 carryforwards for low-income?

4 CO-CHAIRMAN GROSS: Sure.

5 COMMISSIONER JOYNER: It's currently a
6 five.

7 CO-CHAIRMAN STOGEL: Mark, what did you
8 recommend for carryforwards on low-income?

9 COMMISSIONER GARDNER: Five, which I
10 think is what it's already set at, like five and
11 three.

12 CO-CHAIRMAN GROSS: Motion?

13 CO-CHAIRMAN STOGEL: So moved.

14 MS. HEMENWAY: You don't have to change
15 it.

16 COMMISSIONER JOYNER: It is at five
17 right now.

18 CO-CHAIRMAN GROSS: So no change.

19 COMMISSIONER GARDNER: We recommend no
20 change.

21 CO-CHAIRMAN GROSS: They're already at
22 five and they want to stay there and nobody else
23 wants to change it. Okay.

24 No. 9, refundable. The committee -- the
25 committee recommended that senior citizen, quality

1 jobs, BUILD, EEC, business facility and Brownfield
2 job and investment remain refundable, while other
3 credits that are refundable be made nonrefundable.

4 Mr. Hall, did you have a comment on that?

5 COMMISSIONER HALL: No, no, I don't.

6 CO-CHAIRMAN GROSS: Okay.

7 MS. HEMENWAY: It's a moot point in this
8 issue.

9 CO-CHAIRMAN STOGEL: We should just
10 clarify the motion.

11 CO-CHAIRMAN GROSS: Okay. So Brownfield
12 jobs and investment is gone, so that will be out --

13 COMMISSIONER ANDERSON: Consolidated
14 into enhanced enterprises.

15 CO-CHAIRMAN GROSS: Consolidated, you're
16 right. Sorry. But either way as far as the motion
17 goes, it's not in here any longer. I'll make that
18 motion as the refundable credits currently are the
19 senior citizen property tax, the BUILD program, the
20 enhanced enterprise zone, self-employed health --

21 CO-CHAIRMAN STOGEL: Delete that one.

22 COMMISSIONER WOOD: Yeah, that was under
23 banking.

24 CO-CHAIRMAN GROSS: What did you hand it
25 to me for, then? Residential dwelling accessibility.

1 CO-CHAIRMAN STOGEL: That's one that's
2 going to sunset.

3 CO-CHAIRMAN GROSS: This is good to
4 update this anyway. Peace officer surviving spouse.

5 CO-CHAIRMAN STOGEL: That was on the
6 sunset list.

7 CO-CHAIRMAN GROSS: Brownfield job and
8 investment is off the list. Quality jobs and new and
9 expanded business facility.

10 CO-CHAIRMAN STOGEL: On the list.

11 CO-CHAIRMAN GROSS: So the motion
12 then --

13 COMMISSIONER ANDERSON: Did you mention
14 enhanced --

15 COMMISSIONER WOOD: Uh-huh.

16 MS. HEMENWAY: I just need to make you
17 understand something. On the residential dwelling
18 accessibility, this is a credit that is used by
19 low-income to rehab their homes, and it is a
20 refundable credit because they typically don't have
21 tax liability to pay to use the credit.

22 So if you take -- and it's not -- it's
23 not information that was made available to the global
24 issues committee at the time that the recommendation
25 was made, so I want you to be -- I want you to

1 understand that if you eliminate the refundability
2 portion of the residential access -- residential
3 dwelling access, you are in effect making it
4 ineffective for the users.

5 CO-CHAIRMAN STOGEL: I think that was
6 one that was on the list to be sunsetted, and all
7 we're saying is it stays refundable until it sunsets.

8 MS. HEMENWAY: That's not -- and if you
9 clarify your amendment that way, then that -- but
10 your current amendment is to turn this into a
11 nonrefundable credit.

12 CO-CHAIRMAN STOGEL: Let me state it if
13 I may. Refundable credits should exist for senior
14 citizen property tax, the BUILD program, enhanced
15 enterprise, residential dwelling, peace officer, the
16 last two being subject to the social committee's
17 recommendation on sunset, Missouri quality jobs and
18 new and expanded business facility. They should
19 remain as refundable.

20 CO-CHAIRMAN GROSS: I thought those were
21 all -- I thought that was the list of all that were
22 currently refundable.

23 CO-CHAIRMAN STOGEL: And we're just
24 saying we'll keep them.

25 CO-CHAIRMAN GROSS: So there's no change

1 then?

2 COMMISSIONER WOOD: Right.

3 CO-CHAIRMAN STOGEL: Right.

4 CO-CHAIRMAN GROSS: Wow, that was --

5 CO-CHAIRMAN STOGEL: You're going to
6 make the plane, though, Senator.

7 CO-CHAIRMAN GROSS: Took a big step
8 there.

9 MS. HEMENWAY: Would you say no action
10 necessary?

11 CO-CHAIRMAN GROSS: I think that's a
12 no-action-necessary.

13 Okay. And now 12, we recommended that
14 DED and MHDC monitor projects for costs,
15 reasonableness, promulgate rules. Have you heard
16 that enough yet? Okay. So we don't need to do
17 anything with that, we've already done that.

18 Looking for No. 13.

19 MS. HEMENWAY: This will be enough to
20 have an adopted motion on.

21 CO-CHAIRMAN GROSS: I'm getting hammered
22 by staff. Okay. Since I just said it and we didn't
23 do it as an official motion, I'd just like to repeat
24 what I said. The committee recommends DED and MHDC
25 monitor all projects for cost and reasonableness to

1 promulgate rules to create standards and guidelines
2 to cost reasonableness. I'll make that in terms of a
3 motion.

4 COMMISSIONER REEVES: Second.

5 CO-CHAIRMAN GROSS: We have a second.

6 All in favor say aye.

7 (AYE.)

8 CO-CHAIRMAN GROSS: Opposed, no.

9 (NO RESPONSE.)

10 CO-CHAIRMAN GROSS: Thank you. Now, on
11 13, return on investment.

12 CO-CHAIRMAN STOGEL: I'll make a motion.
13 Given where the committee has gone and accepting with
14 caveats that -- you know, we all sort of have been
15 taught something about REMI and IMPLAN, it's become
16 clear to me that the return on investment measurement
17 which the Governor charged us to think about is
18 clearly appropriate for items that would be in
19 economic development, distressed community and not on
20 the other extreme, social credits.

21 It clearly -- the economic model, REMI
22 or IMPLAN, has no applicability to senior citizens,
23 has no applicability to banking and insurance by
24 definition. And low-income and historic which have
25 had separate actions today are clearly acknowledged

1 because of the volumes of the reports and everybody's
2 positions to be both social and investment.

3 And I think the REMI model just ought
4 not to be part of the conversation anymore given the
5 caps that were put on it. So the motion would be
6 REMI and IMPLAN, whichever is more appropriate, would
7 apply to economic and distressed and not to any other
8 program, with the logic being it doesn't apply to
9 banking and insurance or senior citizens. It
10 shouldn't apply to Social Services, and historic and
11 low-income are in between, and that would be a motion
12 to discuss on return on investment.

13 COMMISSIONER BARTLE: Why would we want
14 to -- why would we want to -- I'm not getting why we
15 would dispense with REMI on historic and low-income.

16 CO-CHAIRMAN STOGEL: There's --

17 COMMISSIONER BARTLE: Or really, any of
18 it, because in a -- the REMI is a gauge, okay? It
19 shows a number. And the legislature is quite willing
20 to ignore the gauge. And for us to tell them we
21 think you ought to ignore the gauge, I don't think
22 really -- REMI's just a mechanical -- it's a way of
23 measuring something. And I think that people
24 understand that social tax credits, probably the REMI
25 would say are not very cost-effective but we'll

1 ignore them anyway because we want to help people
2 who -- you know, senior citizens with their electric
3 bills. So I'm not sure -- I guess I don't think we
4 need to say this.

5 CO-CHAIRMAN STOGEL: Okay. I have to
6 defer to your legislative experience, but the
7 Governor's -- one of his charges is state some form
8 of measurement as to each tax credit for a return on
9 investment.

10 COMMISSIONER BARTLE: For better or
11 worse, REMI has taken hold not just in Missouri but
12 elsewhere. And it's not flawless, but it's -- until
13 something better comes along, I think we have to use
14 it.

15 CO-CHAIRMAN STOGEL: I have no strong
16 feelings about this one, but it's on the global
17 issues list because Governor Nixon put it there
18 September 8th.

19 COMMISSIONER HALL: I think so long as
20 the report is written with the recognition that REMI
21 is more applicable to certain areas than other areas,
22 seems to me that that's reasonable and I think that's
23 what the Senator said.

24 MR. BURLISON: And I think the
25 Governor's desire was that if there is a better mouse

1 trap to be created, let's try to create it. But
2 within the time constraints that we've had in the
3 last two months, there's just not -- and we looked at
4 that.

5 If everybody remembers when we first
6 started out, we looked at and scoured for different
7 gauges, and I came to the conclusion, I thought a
8 number of folks did, that you just -- within this
9 time period, we're just not going to be able to
10 recreate a gauge to fall into that.

11 CO-CHAIRMAN GROSS: And we might want to
12 reiterate that for those programs where there is not
13 a model that clearly shows you a benefit cost ratio,
14 that it requires tighter administrative controls on
15 the program to make sure that we're not wasting tax
16 dollars. And we did that through some of the
17 commentary with MHDC, and I think any other place the
18 legislature can do that, it's a good idea. Jim?

19 COMMISSIONER ANDERSON: Yeah, I think
20 each committee was pretty serious about looking at
21 ROI, and some were more applicable than others. And
22 to your point, most committees talked about some
23 administrative efficiencies too which I think get
24 into cost benefit analysis and return on investment.
25 So as Bill said, I think it's how we write that

1 general summary that will address this issue.

2 CO-CHAIRMAN STOGEL: I withdraw my
3 motion.

4 CO-CHAIRMAN GROSS: Okay. I think we
5 won't have a recommendation on No. 13. It will be
6 addressed in the report which everybody will see and
7 be able to comment on.

8 14 is stacking. We already dealt with
9 stacking, I do believe. And 15 is claw-backs. The
10 recommendation was that there be strict statutory
11 claw-backs that can be enforced in cases of
12 noncompliance with program requirements, and -- oh,
13 sorry. Let me read that over again. Recommends that
14 strict statutory claw-backs that can be enforced by
15 the State in cases of noncompliance with program
16 requirements be included in all tax credit programs
17 currently lacking such provisions. I'll make that in
18 terms of a motion. I think it's just good
19 government. And a second?

20 COMMISSIONER ANDERSON: Second.

21 CO-CHAIRMAN GROSS: Further discussion.

22 (NO RESPONSE.)

23 CO-CHAIRMAN GROSS: All those in favor
24 say aye.

25 (AYE.)

1 CO-CHAIRMAN GROSS: Opposed, no.

2 (NO RESPONSE.)

3 CO-CHAIRMAN GROSS: That's passed.

4 Thank you. No. 16.

5 COMMISSIONER ANDERSON: Pretty similar
6 to 15 I think.

7 CO-CHAIRMAN GROSS: Huh?

8 COMMISSIONER ANDERSON: 16 is very
9 comparable to 15.

10 CO-CHAIRMAN GROSS: Yeah, it is. I
11 forget who added that, but I thought it was a good
12 idea that -- it says --

13 MS. HEMENWAY: Adding a contract allows
14 for the expression of the claw-back in an agreement,
15 in a formal agreement that is currently not available
16 in every tax credit program.

17 CO-CHAIRMAN GROSS: So I'll make that
18 recommendation as a motion.

19 COMMISSIONER ANDERSON: Second.

20 CO-CHAIRMAN GROSS: There's been a
21 second. Discussion?

22 (NO RESPONSE.)

23 CO-CHAIRMAN GROSS: All those in favor
24 say aye.

25 (AYE.)

1 CO-CHAIRMAN GROSS: Opposed, no.

2 (NO RESPONSE.)

3 CO-CHAIRMAN GROSS: The motion passes.

4 That's it.

5 CO-CHAIRMAN STOGEL: One minor -- one of
6 the -- the only donation credit program that has not
7 had a reduction from 50 percent to the lower number
8 which had occurred to affordable housing and all the
9 social credits is the MDFB credits. So just for
10 consistency, when the broadest definition of taxpayer
11 is applied under the social credit program, the MDFB
12 credit, to be consistent, should be a three-to-one
13 credit at 35 percent, not a two-to-one at 50 percent.

14 CO-CHAIRMAN GROSS: Okay. Do you want
15 to make a motion?

16 CO-CHAIRMAN STOGEL: Yeah.

17 COMMISSIONER HALL: I'll second.

18 CO-CHAIRMAN GROSS: Motion and second by
19 Bill Hall. Further discussion?

20 (NO RESPONSE.)

21 CO-CHAIRMAN GROSS: Seeing none, all in
22 favor say aye.

23 (AYE.)

24 CO-CHAIRMAN GROSS: Opposed, no.

25 (NO RESPONSE.)

1 CO-CHAIRMAN GROSS: Motion passes. Now
2 what do we do?

3 COMMISSIONER WOOD: Write a report.

4 CO-CHAIRMAN STOGEL: Well, I think the
5 Governor set us all out on a charge. And over the --
6 Senator Gross and I will huddle and figure out how to
7 write a report and get it to you promptly.

8 COMMISSIONER FLOOK: Well, actually, I
9 was going to say I was going to make one motion to
10 add to the report.

11 CO-CHAIRMAN STOGEL: Okay.

12 COMMISSIONER FLOOK: A, because I
13 believe in it, and B, I just like to see how the vote
14 would go. You heard me say it several times, so I'll
15 just be concise. There is an existing problem in
16 interstate competition manipulating the marketplace
17 with incentives and cannibalizing each other's
18 industries.

19 And I think it is the appropriate thing
20 that the legislature send a resolution to Congress
21 and say, hey, somebody look at this. Because what
22 we've got here is an arms race in incentives and
23 nobody can ever really -- it's created -- it's
24 created kind of a chaotic result.

25 I would think it would be appropriate

1 for us to recommend that the legislature consider
2 that resolution to ask Congress to analyze the impact
3 of the incentives on interstate commerce and whether
4 or not it's really actually impeding growth --

5 CO-CHAIRMAN GROSS: Second.

6 COMMISSIONER FLOOK: -- rather than
7 helping it and harming the states financially.

8 COMMISSIONER BARTLE: I'll just make
9 this one global comment. It is kind of a race to the
10 bottom. You know, as soon as we come up with a
11 program, a new innovative program, Oklahoma or Kansas
12 will one-up us. And it's a race that we cannot win
13 long-term without burning down the house.

14 You couple that with a taxpayer that
15 will not increase revenues and you have the making of
16 long-term diminution in overall public commitment to
17 funding education. Basically what state government
18 does pretty much, if you look across the land, we
19 spend most of the money on Medicaid and on K through
20 12. And eventually, as we continue to give away
21 revenue for economic development, there's no new
22 revenue coming in from the taxpayers because nobody's
23 voting for any tax increases. The squeeze starts
24 happening to higher ed and to K through 12.

25 And I think that unless Congress steps

1 in and says to the states, stop it, we're going to
2 continue to see a situation where we're going to get
3 less competitive with China, less competitive with
4 India because we're not making the kind of investment
5 in education. And education, I would argue, is the
6 number one economic development tool.

7 CO-CHAIRMAN GROSS: We have a motion and
8 a second. Further discussion?

9 COMMISSIONER GIFFORD: I'll second it.

10 CO-CHAIRMAN GROSS: We've got a second.

11 COMMISSIONER WAGNER: What would you
12 expect Congress to be able to do?

13 COMMISSIONER FLOOK: I would think that
14 for once, we would start asking the question of what
15 kind of stability are we losing and what kind of
16 impact is it really having on state budgets? If a
17 company comes in and does a 15-year run on a program
18 in one state and is ready for another growth phase,
19 and then they leave, then the long-term investment
20 goal of the state is now gone because the company's
21 left or chose to expand somewhere else.

22 So that causes the State to kind of --
23 to have to come up and keep upping the ante with more
24 incentive. And there is an argument, a legitimate
25 argument can be made that too much incentive

1 negatively impacts the marketplace, you know. And
2 you know, low-income housing is an industry that
3 literally survives off the subsidy. And there's a
4 belief it cannot exist but for the subsidy. And now
5 we have a long-term program. That's one example of
6 it.

7 Another example would be incentives
8 have -- also can cause inflation in price and, in
9 effect, create inflation. There's a lot of economic
10 experts that will tell you that. Inflation can
11 backfire on you. We saw that happen in the '70s.

12 So there's things out there going on
13 that impact our budgets and our ability to maintain
14 stability, and we have not, I don't think as a
15 nation, asked that question. A couple hundred years
16 ago, we asked that question -- when the states had --
17 the colonies had their own currency and manipulated
18 it to compete with each other, they asked the
19 question and formed a constitution that had
20 interstate commerce laws and went with a single
21 currency for the entire country.

22 I think it's that kind of fundamental
23 question, and I don't think it's being asked. But I
24 come across a lot of people from different states,
25 other state legislators, economic development

1 directors, and they're all saying the same thing.

2 It's this never-ending race, and we keep running out
3 of gas here.

4 And we're having trouble trying to
5 stabilize our budgets and half of our state budget
6 comes from the federal government and they're
7 borrowing that from China. And we have a national
8 security problem when it comes to borrowing that kind
9 of money from abroad, not -- getting beyond the debt
10 question, just owing somebody who now can leverage
11 you with it, that is a national security problem.

12 And I think that there's a connection in
13 here between our budgets and incentives and the
14 federal government having the role the intended -- or
15 framers intended them to have a role on interstate
16 commerce. I think this is the kind of role that
17 they're supposed to take on and ask these questions.

18 The World Trade Organization, the WTO,
19 those of you that worked on the Bombardier project a
20 few years ago, one of the issues we had to address
21 was the WTO -- as part of that treaty, you couldn't
22 do the kinds of incentives that we're doing now -- we
23 do right now in intrastate. And they had determined
24 at the WTO level that it was destructive to the
25 international marketplace.

1 So therefore, you could do a loan or
2 something to that effect, but you couldn't give out
3 free money. And so you can see there's -- there has
4 been some sort of discussion about this very kind of
5 thing, but we're just not seeing it here in the U.S.,
6 and I think that Missouri could take the lead, truly
7 take the lead if we were to say to Congress, we want
8 you to look into this. We want you to ask the
9 question of what is this really doing.

10 And they need to ask the question
11 because they can no longer sustain our budgets the
12 way they've been doing. We cannot -- I cannot
13 perceive how this Congress, especially with the way
14 the Republicans campaigned -- and I agreed with their
15 campaign pledge -- I don't see how they can go back
16 and ratchet up more money out of China or Europe --
17 or not Europe -- Asia, ratchet up more loans in order
18 to fund the failing state budgets. I don't know how
19 they can keep doing that.

20 They're going to have to ask these
21 questions, and I think this is part of that debate.
22 And we would be, I think, setting a -- frankly, we
23 would be -- we would be doing something that I don't
24 think anybody else in any other state has yet stepped
25 up to do. We'd be on the cutting edge of the right

1 question, in my view.

2 CO-CHAIRMAN GROSS: David?

3 COMMISSIONER ZIMMERMAN: I would concur,
4 but remember, we're guilty as charged too.

5 COMMISSIONER FLOOK: We are all sinners.
6 I'm asking for reconciliation is what I'm doing.

7 CO-CHAIRMAN GROSS: Okay. You heard the
8 motion and we have a second. All in favor of the
9 motion say aye.

10 (AYE.)

11 CO-CHAIRMAN GROSS: Opposed, no.

12 (NO RESPONSE.)

13 CO-CHAIRMAN GROSS: Motion passes.

14 Anything else to bring before the Commission, anyone?

15 COMMISSIONER WOOD: Do we have a next
16 meeting date set?

17 CO-CHAIRMAN GROSS: I'm hoping and
18 asking this, as I say it, that we don't have a
19 meeting, but that draft report goes out to all the
20 Commission members to get back by, you know, a
21 deadline and then the final report be issued.

22 MR. PIEPER: If there's any changes that
23 need to happen to that report, there would have to be
24 a meeting.

25 CO-CHAIRMAN GROSS: But it could be by

1 phone.

2 MR. PIEPER: We'd have a conference call
3 at some time. But if there's no changes to the
4 report, then there's no need for a meeting.

5 CO-CHAIRMAN STOGEL: We'll put out a
6 schedule after we get a chance to caucus about when
7 the report will be out to all of you and then we'll
8 set a meeting vote. So take whatever edits and get a
9 vote. We'll work on that schedule next.

10 COMMISSIONER WAGNER: Mr. Chairman, once
11 the report is issued, then what is the expectation of
12 this Commission? Are we disbanded at that point?

13 CO-CHAIRMAN STOGEL: I think -- Ray, I
14 really don't know. I think the expectation is we've
15 given the report to the Governor and we're done with
16 our assignment. To the extent there are trailing
17 items and follow-up, I'm sure the Governor and the
18 legislature will not be bashful in terms of asking us
19 for continuation and I'm sure we'll all continue.

20 CO-CHAIRMAN GROSS: I think one thing is
21 clear, that political careers are now over for
22 everybody on the Commission.

23 COMMISSIONER BARTLE: I want to say on
24 the record and thank the two of you for the enormous
25 amount of time that you put in, and I feel guilty

1 because the kind of time that the committee subchairs
2 put in compared to me, and I'm really grateful to
3 those of you that put so much time in and took this
4 very, very seriously.

5 And you know, the legislature may take
6 up none of what we offer, but I do think that the
7 Governor endeavored to put together a group of people
8 who he knew what our views were, probably a lot of us
9 or where we were coming from, and I see -- I saw a
10 lot of people that were advocating or conceding on
11 positions that were directly contrary to what -- when
12 they go back to their office, they're going to have
13 an e-mail in-box full of people saying why in the
14 world did you do that, and you were making moves
15 against your personal interest and the interest of
16 your -- of people you talk to regularly. And I want
17 you to know just personally I'm grateful for that,
18 and I've been impressed with the amount -- the good
19 work that so many have put in.

20 CO-CHAIRMAN GROSS: I would like to say
21 a primary thanks to Steven because I know how many
22 hours you put in on this. And we've always had not a
23 perfect symbiotic relationship or whatever with each
24 other in terms of agreement on issues, but we've
25 always gotten along even when we disagreed, and

1 smiled about it as we walked away from a difficult
2 discussion.

3 So I appreciate that and all the -- all
4 the other Commission members for the great amount of
5 time and effort that you put into this. Your
6 knowledge of these issues continues to help me. But
7 I have to also thank the staff. I mean, you guys
8 don't know how many times I said oops, doggone it or
9 worse than that, didn't get to that issue, Sallie
10 bailed me out again on either getting this out to
11 the Commission members or researching or whatever it
12 was. I mean, massive amounts of time from all of you
13 with Governor staff and DED staff as well. Thank
14 you.

15 CO-CHAIRMAN STOGEL: Senator Bartle,
16 thank you for your comments. Senator, thank you for
17 yours. Sallie, Chris, Rex and for all the other
18 folks from all the other agencies' staff who are
19 here, I personally want to thank each and every one
20 of you. I feel it's been an honor to be on this
21 group to work through extraordinarily complex issues.

22 Everybody kept working harder and
23 harder, and I've learned a lot and it's been a
24 pleasure to work on this Commission. And everybody's
25 been terrific, and we hope the legislature and the

1 Governor build on this so we can make Missouri a
2 better place because of it. So I want to thank you
3 all. We'll get the report done, we'll vote, and
4 thank you.

5 CO-CHAIRMAN GROSS: I make a motion to
6 adjourn.

7 CO-CHAIRMAN STOGEL: I second it.

8 CO-CHAIRMAN GROSS: All those in favor,
9 say aye.

10 (AYE.)

11 CO-CHAIRMAN GROSS: Opposed?

12 (NO RESPONSE.)

13 CO-CHAIRMAN GROSS: We're adjourned.

14 (PROCEEDINGS CONCLUDED.)

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