



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

2 CO-CHAIRMAN GROSS: We'll call the  
3 meeting to order. First thing is if somebody could  
4 call the roll.

5 MR. PIEPER: Jim Anderson?

6 (NO RESPONSE.)

7 MR. PIEPER: Senator Bartle?

8 (NO RESPONSE.)

9 MR. PIEPER: Zack Boyers?

10 COMMISSIONER BOYERS: Yes, I'm here.

11 MR. PIEPER: Chuck Gross?

12 CO-CHAIRMAN GROSS: Here.

13 MR. PIEPER: Representative Flook?

14 (NO RESPONSE.)

15 MR. PIEPER: Mark Gardner?

16 COMMISSIONER GARDNER: Here.

17 MR. PIEPER: Luana Gifford?

18 (NO RESPONSE.)

19 MR. PIEPER: Bill Hall?

20 COMMISSIONER HALL: Here.

21 MR. PIEPER: Dee Joyner?

22 (NO RESPONSE.)

23 CO-CHAIRMAN STOGEL: She'll be joining  
24 late this afternoon.

25 MR. PIEPER: Senator Justus?

1 COMMISSIONER JUSTUS: I'm here.  
2 MR. PIEPER: David Kendrick?  
3 (NO RESPONSE.)  
4 MR. PIEPER: Representative Komo?  
5 (NO RESPONSE.)  
6 MR. PIEPER: Pete Levi?  
7 COMMISSIONER LEVI: Here.  
8 MR. PIEPER: Alan Marble?  
9 COMMISSIONER MARBLE: Here.  
10 MR. PIEPER: Troy Nash?  
11 (NO RESPONSE.)  
12 MR. PIEPER: Melissa Randol?  
13 (NO RESPONSE.)  
14 MR. PIEPER: Penney Rector?  
15 COMMISSIONER RECTOR: Here.  
16 MR. PIEPER: Tom Reeves?  
17 COMMISSIONER REEVES: Here.  
18 MR. PIEPER: Steven Stogel?  
19 CO-CHAIRMAN STOGEL: Here.  
20 MR. PIEPER: Russ Still?  
21 (NO RESPONSE.)  
22 MR. PIEPER: Craig Van Matre?  
23 COMMISSIONER VAN MATRE: Here.  
24 MR. PIEPER: Ray Wagner?  
25 (NO RESPONSE.)

1 MR. PIEPER: Todd Weaver?

2 (NO RESPONSE.)

3 MR. PIEPER: Shannon Weber?

4 COMMISSIONER WEBER: Here.

5 MR. PIEPER: Mike Wood?

6 (NO RESPONSE.)

7 MR. PIEPER: Senator Robin Wright-Jones?

8 (NO RESPONSE.)

9 MR. PIEPER: And David Zimmerman?

10 COMMISSIONER ZIMMERMAN: Here.

11 MR. PIEPER: We have a quorum.

12 CO-CHAIRMAN GROSS: Okay. Quorum being  
13 present, we can -- we can call the meeting to order.  
14 Did anybody else come on the phone that didn't hear  
15 their name called for the roll?

16 (NO RESPONSE.)

17 CO-CHAIRMAN GROSS: Okay. You-all  
18 received an e-mail describing the process we're going  
19 to go through today. This is where the rubber meets  
20 the road or whatever cliché you want, but we've got a  
21 lot of work to do in hopefully three days.

22 And as the -- as the memo described the  
23 process we're going to go through is to hear  
24 committee reports, take the issues that are outlined  
25 in those reports. And I guess I should go ahead and

1 point everyone out -- everyone to their three-ring  
2 binder -- who just joined us, please?

3 (NO RESPONSE.)

4 CO-CHAIRMAN GROSS: Maybe not. Point  
5 everybody to the three-ring binder that we received.  
6 What about the folks at -- on the phone? Okay. So  
7 an e-mail is going out to everybody that's on the  
8 phone that contains what we have in front of us in  
9 our three-ring binders which includes not only the  
10 agenda, list of committees, the process memo that I  
11 was just speaking of and then a tab called "Salient  
12 Points" which are the items that Chris and staff have  
13 pulled out of the committee reports that we'll be  
14 addressing, and then the committee reports  
15 themselves.

16 The thought is at the last meeting on  
17 the 16th, we will vote on all of the minutes that  
18 occurred from this meeting, the one on the 16th and  
19 any others that we might have had in the past that we  
20 haven't approved or disapproved yet. So we'll take  
21 care of that business on that day.

22 And Senator Jones, we're glad you're  
23 here.

24 COMMISSIONER WRIGHT-JONES: Glad to be  
25 here. Good morning.

1 CO-CHAIRMAN GROSS: Good morning. If  
2 there's not an objection, I'd like to -- and  
3 hopefully we don't get to this point, but we'll --  
4 we'll see just to be safe. Without objection, I'd  
5 like to appoint Chris to be the parliamentarian if  
6 there are questions on -- on the order, and he has  
7 his handy-dandy Robert's Rules of Order ready to go  
8 if -- if all that's necessary.

9 Each salient point -- I'm going to have  
10 to remember that term because I keep calling them  
11 voting -- voting items. Each salient point that is  
12 brought up I'd like to treat as an amendment to an  
13 ever-growing document. So when a recommendation is  
14 made to approve or disapprove or whatever it is of  
15 that salient point, then that would be an amendment.

16 And amendments to that would be in the  
17 second degree with the exception of the tax law  
18 committee and the global committee. When we get done  
19 with all the other reports and we take on tax law and  
20 global issues since they encompass others, we don't  
21 want to be knocked out of -- of the ball park by  
22 those being -- those motions being in the third  
23 degree and out of order.

24 So we'd like to take those as amendments  
25 in the first -- in the first degree, if that's --

1 that's okay. I'm thinking if, for example, somebody  
2 offers a motion to approve let's say one of the  
3 salient points that's in here. Say that motion is  
4 discussed and somebody says, you know, I want to  
5 tweak that a little bit and offer an amendment to  
6 that amendment, that's fine, that's second degree.  
7 And let's say that passes, everything's fine.

8                   When we get to tax law or the global  
9 committee, if there's a motion to -- to adopt a -- a  
10 change to any of the -- that language, someone could  
11 raise a point of order that's in the third degree  
12 and -- and out of order, and I don't want us to box  
13 ourselves out of being able to do that.

14                   CO-CHAIRMAN STOGEL: Two comments.  
15 Melissa, thanks for being here, Representative, and  
16 Luana. So we have more Commissioners in -- in  
17 attendance.

18                   The -- and as we go through this,  
19 there's also the privilege that the committees have  
20 to digest all of the materials from today plus the  
21 global issue conversations next week and to file  
22 supplemental or amended reports by a week from today  
23 or Saturday. So as Senator Gross indicated, it's an  
24 evolving, expanding document. So steps are in  
25 sequence, but they can be added to, subtracted from

1 as we go forward in the process as we march towards  
2 the 17th of November. So it's a -- it's a process.

3 CO-CHAIRMAN GROSS: And as we -- did  
4 somebody say something? As we -- as we reach points  
5 that are just obviously going to take too much time  
6 or maybe a little more research or a little more  
7 thought, if you will, we'll park those, come back to  
8 them.

9 Our goal today is to get through all the  
10 committee reports and vote and approve everything we  
11 possibly can. And we call it the low-hanging fruit,  
12 whatever you want to call it, things that are  
13 relatively easy. We might have one or two that we  
14 get through today that's a little more difficult, and  
15 that's -- that's great if we can. But not to get  
16 bogged down on one issue that takes us until four  
17 o'clock this afternoon or we'll never get this thing  
18 done. So we're going to try to get through that  
19 easy.

20 And Troy Nash is here. Questions or  
21 anything about the process before we begin from  
22 anyone?

23 COMMISSIONER JUSTUS: This is Senator  
24 Justus.

25 CO-CHAIRMAN GROSS: Hi.

1                   COMMISSIONER JUSTUS: I just wanted  
2 to -- hi. I just wanted to chime in. I'm down here  
3 in mid-Missouri. I'm on my way to Lake of the Ozarks  
4 for a previous commitment. I think that our  
5 subcommittee report is going to be coming up right  
6 about the time that I'm supposed to be delivering a  
7 speech, so if I'm not on the phone, I apologize. But  
8 as soon as I'm done, I'm going to join you-all in  
9 person back in Jeff City.

10                   CO-CHAIRMAN GROSS: Great. Would you,  
11 when you come on line, if you would tell us you're on  
12 line. If you don't, that's okay, but I think we'd  
13 kind of appreciate it so we know who's on line so we  
14 can point to you for questions maybe or -- or  
15 comments specifically. That would be great.

16                   COMMISSIONER JUSTUS: Sure. And I'm  
17 going to stay on the line until I have to go in and  
18 deliver the speech, and then I will let you know when  
19 I'm back on.

20                   CO-CHAIRMAN GROSS: Great. Thank you.

21                   COMMISSIONER JUSTUS: Thank you.

22                   CO-CHAIRMAN STOGEL: One -- one opening  
23 remark on behalf of Senator Gross and myself is --  
24 one was, we'd like to thank everybody for all their  
25 time, effort, energy, ingenuity and participation in

1 this process. It's been an amazing effort and we  
2 hope that really productive, creative things come out  
3 of this Commission that -- and we can reach  
4 consensus. But with that opening note, I'll turn it  
5 back to the Senator for the agenda.

6 CO-CHAIRMAN GROSS: Great. We'll just  
7 rifle through, then, each of the committee reports,  
8 and you probably -- in -- in the best ideal world,  
9 everybody read all the reports. I know that's not,  
10 A, possible because some of them came in very late,  
11 and B, some of them are just too thick, took too much  
12 time.

13 However, I don't think we want to read  
14 committee reports today. If the chairs could maybe  
15 describe the credit, you know, what it does, maybe  
16 who some of the main users, I'll -- I'll put it that  
17 way, of the credit are. You know, just kind of a  
18 brief description like that. And if there's not an  
19 understanding, those questions can be asked and  
20 answered by anybody, including the chairs or staff or  
21 anyone else, and -- and then get to the findings and  
22 recommendations.

23 So we'll start off with the ag and  
24 environment and Alan Marble.

25 COMMISSIONER MARBLE: Thank you,

1 Senator. The agriculture and environment committee  
2 is made up of six members. I think there are four of  
3 us in the room here: Dave Zimmerman, Representative  
4 Komo and Mr. Van Matre and myself. And there may be  
5 others on the phone, I'm not sure. I would invite  
6 any of the members to chime in on any discussion as  
7 we go through these individually.

8 To preface this, going through them one  
9 at a time, though, I'd like to say that there's eight  
10 separate tax credits administered by three different  
11 agencies. So we had a lot of information to absorb,  
12 a lot of information is provided in advance. And I'd  
13 like to compliment all of the agency personnel that  
14 helped. They were very candid and helpful in  
15 answering questions in a very timely manner, of  
16 course.

17 The committee has met twice by  
18 conference call on October 20th and October 22nd.  
19 Minutes of those meetings are on record if anyone  
20 would like to take a look at it. But anyway, I  
21 decided early on of the process we'd use to come to a  
22 consensus. We also determined that we would sort of  
23 use the Van Matre -- Van Matre matrix to decide  
24 whether it's A, B, C and D, with A being retained, B  
25 to retain but modify, C being to replace with direct

1 appropriation and D, to terminate. So that's kind of  
2 to guide us towards where we -- we've had it.

3 One other thing, I think, to note, I  
4 don't know if it's important or your thoughts on it.  
5 To my knowledge, no one spoke for or against any of  
6 these eight tax credits at any of the public  
7 hearings. And I didn't find in the literature  
8 anything that was submitted in writing. Perhaps I'm  
9 wrong, but at least the last time I checked, there  
10 was nothing in it.

11 So we -- we dealt with the -- the tax  
12 credits individually with all the information we had  
13 at hand. And I'd like to point out too that all the  
14 recommendations that we'll make on these salient  
15 points came as a unanimous vote of the group. So I  
16 guess if you just want to walk through one at a time.

17 The first one is the family farm  
18 breeding livestock program as administered by the  
19 Department of Agriculture. Actually, it's the MASBA,  
20 the Missouri Agriculture and Small Business  
21 Development Administration -- or Authority that  
22 oversees it.

23 Now, this program, as you can look down,  
24 it flips over to about the third tab, the committee  
25 reports. You'll see the little box that we filled in

1 that talks about cost benefit analysis. You'll see  
2 the boxes there. The objective is -- in box one, the  
3 family farm breeding livestock program is intended to  
4 promote family farms allowing a tax credit for  
5 lenders in lieu of first-year interest rate on  
6 breeding livestock on loans made to small farmers.

7 You can see the cost benefit analysis is  
8 relatively high. Fiscal impact is fairly low. After  
9 much discussion, if you want to just skip over on the  
10 recommendation on the next page, we determined that  
11 there should be a fee kept against some modifications  
12 because there was some concern about -- as you'll see  
13 in the recommendation, the program's driving people  
14 toward borrowing maybe more money than they should.

15 So the recommendation, if you just want  
16 me to read it here -- but the questions about the  
17 credit, there's probably someone in the room more  
18 able to answer than I. But we walk -- we did walk  
19 through it with the agency folks. Are there  
20 questions before we get to the recommendation?

21 CO-CHAIRMAN GROSS: Questions?

22 (NO RESPONSE.)

23 CO-CHAIRMAN GROSS: No?

24 COMMISSIONER MARBLE: Okay. The  
25 recommendation is -- from the committee is the

1 committee recommends that the family farm breeding  
2 livestock tax credit be modified during the 2011  
3 legislative session, parentheses, prior to the 2012  
4 sunset -- which is an important point that I should  
5 have brought up. It is the sunset anyway -- to  
6 better effectuate the purpose of the credit in  
7 promoting family farms by tying availability of  
8 credit to the price of the livestock rather than an  
9 amount borrowed and the interest rate applied in the  
10 amount is borrowed.

11 As currently structured, the tax credit  
12 creates a perverse incentive for an applicant to  
13 borrow more money at a higher rate of interest than  
14 they otherwise might in order -- they otherwise might  
15 in order to obtain a larger tax credit. This could  
16 potentially have a manipulation of the system.

17 So I think you can see the logic behind  
18 the -- if you want to go into more detail, members  
19 are welcome to weigh in on that one, how we got to  
20 that point. There could be a situation where lenders  
21 are inclined to have people borrow more than we need  
22 to, so it's just a slight modification.

23 CO-CHAIRMAN GROSS: Are -- are you okay  
24 with the recommendation as it is in the salient  
25 point? Because I want to make sure we're -- we know

1 we're dealing -- there might be some slight  
2 differences that we need to address. Maybe not on  
3 this one, but as we go along.

4 MR. PIEPER: This is Chris Pieper. Just  
5 as a background on what the co-chairs had asked was  
6 to pull out these salient points just what the actual  
7 recommendation was. The -- the rationale behind the  
8 recommendation that appears in the reports that may  
9 ultimately be included in the -- in the final  
10 document, but this was just to be able to extract  
11 just the recommendations. So there's -- there's no  
12 difference between what's in the salient point and  
13 the actual recommendation.

14 CO-CHAIRMAN GROSS: Two things. One is  
15 I'm not -- I don't believe -- I mean, it raises a  
16 good question. I don't believe that this should  
17 necessarily be the final language that goes in the  
18 report. I mean, it may be, but if we're voting on a  
19 recommendation -- I mean, I was hoping that the  
20 recommendation would be what was in the final report.  
21 The committee voted on the final recommendation,  
22 boom, it's in. But we've got this discrepancy here,  
23 so I want to make sure we know what we're approving  
24 to go in the report, is what I'm trying to say.  
25 Either what's here or what's not there.

1                   COMMISSIONER MARBLE: I know what the  
2 subcommittee approved and sent here. We talked about  
3 that.

4                   CO-CHAIRMAN GROSS: Okay. So then  
5 unless -- unless there's an objection, we're going to  
6 go with what the chair recommends, and what he  
7 recommends is what's on here. This will be a great  
8 assistance, I -- I hope and I think, to the  
9 Commissioners in understanding what -- what all that  
10 means. But what we're going to ultimately approve or  
11 disapprove, unless the chair of the committee likes  
12 what's on here better, is what they read to the  
13 Commission, okay? Are we good on that, then, just so  
14 we know what we're actually voting on?

15                   COMMISSIONER MARBLE: I prefer that  
16 because that's what the subcommittee voted on.

17                   CO-CHAIRMAN GROSS: And that's fine.  
18 Steven?

19                   CO-CHAIRMAN STOGEL: The only thing on  
20 your report, Dr. Marble, is -- if you could come back  
21 with some specific formula for how you tie it to  
22 livestock prices, that would be helpful in the next  
23 week.

24                   COMMISSIONER GARDNER: I didn't  
25 understand what just happened. There's a

1 difference -- as I understood what you're saying,  
2 there was a slight difference in wording between the  
3 salient points and what the committee actually  
4 recommended?

5 CO-CHAIRMAN GROSS: Correct.

6 COMMISSIONER GARDNER: And your  
7 suggestion is that we're going to go with the  
8 specific language of the committee recommendation as  
9 opposed to the salient points?

10 CO-CHAIRMAN GROSS: Correct.

11 COMMISSIONER GARDNER: I just wanted to  
12 make sure I was clear on that.

13 CO-CHAIRMAN GROSS: Yeah. Personally, I  
14 could go either way because they're so close, but  
15 just so we're all clear on what we're going to  
16 actually end up with --

17 CO-CHAIRMAN STOGEL: Have the committee  
18 chair speak.

19 CO-CHAIRMAN GROSS: -- the committee  
20 chair.

21 COMMISSIONER GARDNER: And are we going  
22 to make that analysis on a case-by-case basis as we  
23 work through this? In other words, are there going  
24 to be situations where we're going to recommend to  
25 the Commission as a general, someone's going to

1 suggest that we go the salient point as opposed to --

2 CO-CHAIRMAN STOGEL: We're just going to  
3 stick with the committee -- the chair's report.

4 CO-CHAIRMAN GROSS: Yeah, we'll go with  
5 the chair's report. If somebody wants to amend that  
6 chair's report, that's all fair game.

7 Okay. You want to go with the second  
8 one, then, Dr. Marble?

9 COMMISSIONER MARBLE: Yeah. Move on  
10 through it?

11 CO-CHAIRMAN GROSS: Sure.

12 COMMISSIONER MARBLE: You don't want  
13 to --

14 CO-CHAIRMAN STOGEL: No. We -- we  
15 want -- we want the chairs to finish the whole thing.

16 CO-CHAIRMAN GROSS: What would the --  
17 what would the Commission like? You want us to vote  
18 on each of these as they come up?

19 CO-CHAIRMAN STOGEL: Let's just -- let's  
20 go through or we'll never get through this.

21 COMMISSIONER KOMO: Let's see if there's  
22 a discussion on it, and if not, we can vote on the  
23 whole report.

24 COMMISSIONER FLOOK: Hello, Tim Flook  
25 joining in.

1 CO-CHAIRMAN GROSS: Hi, Representative.

2 Glad you're here.

3 COMMISSIONER FLOOK: Thank you. Sorry

4 I'm late. I just got back in from court.

5 CO-CHAIRMAN GROSS: Dr. Marble is  
6 reading his report. He's on to the wine and grape  
7 production tax credit. Go ahead.

8 COMMISSIONER MARBLE: I have no comment  
9 on that. The wine and grape production tax credit is  
10 one that's administered by the Department of Economic  
11 Development. It's been around for a while. In fact,  
12 if you'll look at the cost benefit analysis in box 2,  
13 it seems rather low. A few people are using it. And  
14 our fiscal impact is fairly low too on the State.

15 In our discussions, it was determined  
16 that the wine and grape tax production credit  
17 probably served its purpose over time and then at the  
18 time of the fiscal crisis with the State, we were  
19 going to probably terminate it. So we did put it in  
20 category D to be terminated.

21 The recommendation from the committee is  
22 that the committee recommends the wine and grape  
23 production tax credit be terminated during the 2011  
24 legislative session because the credit has outlived  
25 its usefulness and has not created a benefit and is

1 not justifiable in relation to the cost of the State  
2 of Missouri.

3 CO-CHAIRMAN GROSS: Do you -- so I take  
4 from your first discussion as we started this off,  
5 none of the grape growers, wineries, et cetera have  
6 made any comments on this?

7 COMMISSIONER MARBLE: I didn't hear from  
8 any that I'm aware of.

9 CO-CHAIRMAN GROSS: Questions, comments?

10 (NO RESPONSE.)

11 CO-CHAIRMAN GROSS: Proceed.

12 COMMISSIONER MARBLE: The third credit  
13 is the qualified beef tax credit. It's administered  
14 by the Department of Agriculture and Small Business  
15 Development Authority. It's a very new program,  
16 that's the first thing probably to bear in mind with  
17 this one. There are few participants, it has a low  
18 fiscal impact. The idea of the credit was to -- a  
19 lot of Missourians are shipping beef out of the state  
20 to be processed. Perhaps this could create  
21 processing plants in Missouri to help the industry.

22 It may be a little too soon to know how  
23 it's going to work, but -- for sure. However, the  
24 recommendation of the committee would be that it be  
25 retained but modified slightly. The committee

1 recommends that the qualified beef tax credit be  
2 modified during the 2011 legislative session to  
3 sunset on January 1st, 2013, and that prior to  
4 reauthorization, the General Assembly should fully  
5 evaluate the new program to determine the  
6 relationship of the credits of its goal of promoting  
7 beef production process in the state of Missouri. So  
8 just refocus it maybe a little bit.

9 CO-CHAIRMAN STOGEL: Is there a cap on  
10 this program?

11 COMMISSIONER MARBLE: You know, I don't  
12 think so. I don't think so. I didn't make that  
13 note. Do you know, Sallie?

14 MS. HEMENWAY: No, there's no cap on  
15 that one.

16 COMMISSIONER MARBLE: I didn't make the  
17 note here on what --

18 CO-CHAIRMAN STOGEL: Is it an  
19 application program or is it an entitlement program?

20 MS. HEMENWAY: I answered the question  
21 for wine and grape. There is no -- there is no cap  
22 on wine and grape. Are you referring to wine and  
23 grape or --

24 COMMISSIONER MARBLE: No.

25 MS. HEMENWAY: -- are you referring to

1 qualified beef? There is a cap on qualified beef.

2 CO-CHAIRMAN STOGEL: And what is the  
3 cap, Sallie? Three million dollars. Okay. Was that  
4 discussed in your committee?

5 COMMISSIONER MARBLE: Yeah, it was. I  
6 just don't have all those notes --

7 CO-CHAIRMAN STOGEL: No, I understand.  
8 Believe it or not, there are 61 of these things.

9 COMMISSIONER MARBLE: I had to get it  
10 small enough to talk about today.

11 CO-CHAIRMAN STOGEL: Okay. So there is  
12 a cap of three million for calculation purposes.

13 COMMISSIONER KOMO: There hasn't been a  
14 lot of people that redeemed those credits as of now,  
15 being a new tax credit. They probably figured we  
16 need more time to evaluate to see if this is  
17 something we need to continue.

18 CO-CHAIRMAN STOGEL: Sounds more than  
19 rational to me, but it's not something that's going  
20 to become uncontrolled, was my point.

21 COMMISSIONER MARBLE: Oh, yeah, there is  
22 a benefit. Some do -- some do, some don't.

23 CO-CHAIRMAN GROSS: Are there questions  
24 or comments?

25 (NO RESPONSE.)

1 CO-CHAIRMAN GROSS: Go ahead. Thank  
2 you.

3 COMMISSIONER MARBLE: The next one is  
4 charcoal producers tax credit. This one's  
5 administered out of DNR, the Department of Natural  
6 Resources. This one's been around for quite a while.  
7 I didn't write down the date. The charcoal producers  
8 tax credit continues to promote the charcoal industry  
9 of Missouri by helping to offset the costs incurred  
10 by charcoal producers to produce and install  
11 pollution control equipment which was a very large  
12 capital outlay a few years ago.

13 It seems apparently it's been  
14 accomplished, so you can see it's not being utilized  
15 much right now. We did recommend that the -- simply  
16 recommend that the -- committee recommended the  
17 charcoal producers tax credit not be reauthorized as  
18 it's outlived its usefulness.

19 Any other comments on that one? That  
20 one's fairly straightforward.

21 (NO RESPONSE.)

22 CO-CHAIRMAN GROSS: Okay.

23 COMMISSIONER MARBLE: Alternative --  
24 alternative fuel stations, another tax credit that's  
25 administered by DNR. This one has -- is certainly

1 economic, but also has a social component too, so we  
2 talked about that some as we went through it.  
3 There's really very little cost benefit analysis data  
4 available for this.

5 We did learn, though, that several  
6 fueling stations across the state have put in select  
7 pumps, you know, as a result of it. But there seems  
8 to be a -- there's a cap on this, a million dollars,  
9 by the way. A problem we felt -- and it's scheduled  
10 to sunset in 2012, I think, another point.

11 But one issue with the credit is that it  
12 seemed a little bit limited in scope since one of the  
13 things we could recommend were changes. It didn't  
14 take into consideration electric vehicles. So our  
15 recommendation is to cover that.

16 The committee recommends that if the  
17 alternative fuel infrastructure tax credit is  
18 reauthorized during the 2011 legislative session,  
19 it's currently set to sunset tax year 2012, the  
20 General Assembly should consider expanding it to  
21 include electric vehicle infrastructure and continue  
22 the annual cap of one million dollars for scheduled  
23 predictability.

24 CO-CHAIRMAN GROSS: I thought the cap  
25 was two million on it.

1 MS. HEMENWAY: It is two million for  
2 2010 and the recommendation is to take it to one  
3 million.

4 COMMISSIONER MARBLE: Oh, my mistake.

5 CO-CHAIRMAN GROSS: So you're staying  
6 with that recommendation, to lower the cap to one  
7 million?

8 COMMISSIONER MARBLE: Yes. That was the  
9 recommendation. I just stated it wrong.

10 CO-CHAIRMAN GROSS: Okay. That's fine.  
11 Comments or questions?

12 (NO RESPONSE.)

13 CO-CHAIRMAN GROSS: No? Thank you.  
14 Continue.

15 COMMISSIONER GARDNER: Just a point of  
16 clarification.

17 CO-CHAIRMAN GROSS: Sure.

18 COMMISSIONER GARDNER: So really, what  
19 we should be saying is that rather than the -- the  
20 recommendation is that it should be -- the annual cap  
21 should be reduced to one million, not continued?

22 COMMISSIONER VAN MATRE: Correct.

23 CO-CHAIRMAN GROSS: Right.

24 COMMISSIONER MARBLE: Should be. So  
25 we've got that modification reduced.

1 MS. HEMENWAY: It actually -- in 2000 --  
2 it's been reducing in the statute from three to two  
3 to one, so as 2011 occurs, it would have been one, so  
4 that's why it's written in continue the annual cap.

5 COMMISSIONER GARDNER: So the language  
6 does not need to be changed?

7 MS. HEMENWAY: No.

8 COMMISSIONER MARBLE: I knew there was  
9 an explanation.

10 COMMISSIONER GARDNER: It's a little bit  
11 misleading because it says "continue at one million,"  
12 so maybe it should just say the annual tax should be  
13 one million.

14 MS. HEMENWAY: Yes.

15 CO-CHAIRMAN GROSS: Okay. We'll leave  
16 it as it is. Go ahead.

17 COMMISSIONER MARBLE: The next -- the  
18 next credit is the wood energy tax credit. Also that  
19 belongs to the Department of Natural Resources. The  
20 wood energy tax credit was intended to promote the  
21 use of processed wood residue and byproducts in  
22 Missouri. Again, related to charcoal and wood  
23 products. Originally for all the old sawdust piles  
24 that we had around the state, to use those to make  
25 charcoal and do two things, you know, which has over

1 time been accomplished to a great extent.

2 There's no cost benefit analysis to look  
3 at. There's low participation, really, 16 people  
4 seem to be using it. It has some moderate impact, I  
5 would think, fiscal impact. It's set to sunset in  
6 2013 as it is.

7 The committee decided that we'd maybe  
8 get that to sunset sooner, so put it in category D  
9 with the recommendation that the committee recommends  
10 the wood energy tax credit be terminated during the  
11 2011 legislative session rather than waiting for the  
12 sunset in 2013 because the credit has outlived its  
13 usefulness and the cost outweighs the benefits in the  
14 state of Missouri.

15 CO-CHAIRMAN GROSS: Questions?

16 Comments?

17 (NO RESPONSE.)

18 CO-CHAIRMAN GROSS: Go ahead.

19 COMMISSIONER MARBLE: The final two  
20 are -- present just a little -- a little hard for us  
21 to take through because they're so closely related  
22 that we really had to consider them together, which  
23 was interesting, the agricultural product utilization  
24 tax credit and the new generation cooperative  
25 incentive tax credit program, both administered by

1 Department of Agriculture. We may have someone here  
2 that can help us work through this.

3 The programs both have caps. One  
4 program, the agriculture product utilization tax  
5 credit, intended to promote agricultural business  
6 concepts. The concept is important. It's for  
7 feasibility studies and those kinds of things, often  
8 used to decide, you know, if a project in a rural  
9 area can move forward.

10 The other tax credit, the New Generation  
11 Cooperative Incentive, then, is sort of a  
12 hand-in-hand program. It's intended to produce  
13 private investment. It leads to Missouri agriculture  
14 commodities and agricultural products, a value added  
15 to benefit the agricultural industry in general  
16 through job creation.

17 The problem with these two is that, one,  
18 it's funded with leftover funds from the other, and  
19 so it creates a budgeting problem even internally for  
20 the agency. Our recommendation really was to combine  
21 the authority of the two and put the cap at six  
22 million dollars which would cover both programs, and  
23 then let the agency decide how best to use the  
24 funding.

25 So the recommendation -- if you'll look

1 at both of these, the recommendation is identical  
2 because what we recommend is that they be combined.  
3 So with your indulgence, let me read the  
4 recommendation for one that actually applies to both  
5 credits.

6 "The committee recommends that the  
7 agricultural product utilization contributor and new  
8 generation co-op incentive tax credit program be  
9 combined into one program with an annual cap of six  
10 million dollars with discretion to the Missouri  
11 Agricultural and Small Business Development Authority  
12 to allocate credits under the project eligible to  
13 either former programs that provide the greatest  
14 return on investment for the State of Missouri  
15 including, but providing the least amount of state  
16 funding necessary to evaluate the feasibility for the  
17 project.

18 "In addition, the program should be  
19 modified explicitly to require that they are utilized  
20 in rural areas."

21 And those are two points that I should  
22 expand on just for a second. I wanted to make sure  
23 that not all the money was going to feasibility  
24 projects or projects that may have a 20 percent  
25 chance of survival. So squeeze it down as feasibly

1 as possible and make sure that it's used in rural  
2 areas which is where it's intended to be in the first  
3 place, rather than investments made someplace and  
4 continued somewhere else.

5 Any of the committee like to comment on  
6 that one? Those are confusing tax credits to work  
7 through, for me anyway.

8 CO-CHAIRMAN STOGEL: And just for the  
9 record, what's the current cap under each of the  
10 programs today?

11 COMMISSIONER MARBLE: Three million  
12 each.

13 CO-CHAIRMAN STOGEL: Three million each?

14 COMMISSIONER MARBLE: No?

15 MS. HEMENWAY: It is -- the cap is six  
16 million dollars; however, new generation co-op is  
17 always used first, and then if there's anything left  
18 over, it goes to the ag product utilization. And  
19 what the committee's recommendation was to keep the  
20 cap at six million dollars; however, let the Missouri  
21 Agricultural and Small Business Development Authority  
22 determine rather than have the new gen be the  
23 priority and then the ag utilization be the  
24 leftovers, have MASBDA be able to choose on an annual  
25 basis how much goes to each one.

1 CO-CHAIRMAN STOGEL: Does the -- does  
2 the unused capacity carry forward or is it -- does it  
3 expire at the end of the year?

4 MS. HEMENWAY: It -- it expires.

5 CO-CHAIRMAN STOGEL: Okay.

6 MS. HEMENWAY: The tax credits are  
7 annual -- well, they're annual tax credits.

8 CO-CHAIRMAN STOGEL: Okay. We  
9 understand, Dr. Marble. Thank you.

10 CO-CHAIRMAN GROSS: So -- so the  
11 statutory language gives them a combined cap? So  
12 statutorily there's a combined cap?

13 MS. HEMENWAY: But it's the -- but the  
14 statute also directs that the funding go to new gen  
15 and that ag product utilization only get what's left  
16 over. So there's no way on an annual basis to plan  
17 for ag product because you don't know until halfway  
18 or three-quarters of the way through the year whether  
19 or not there's going to be any money left over.

20 COMMISSIONER MARBLE: I was a little  
21 confused even when they determined to pull the  
22 trigger and say this is leftover money, let's use it  
23 now. It's sort of hard to -- it's really a hard ball  
24 to juggle.

25 CO-CHAIRMAN GROSS: So in any given year

1 now, you have a pile of applications including both  
2 new generation and ag product utilization credits,  
3 then they'll just treat them equally, see which ones  
4 are the most worthy, if you will --

5 MS. HEMENWAY: Yeah.

6 CO-CHAIRMAN GROSS: -- and work down  
7 through that pile as a matter of what type of  
8 application?

9 MS. HEMENWAY: Yeah.

10 CO-CHAIRMAN GROSS: Okay. I think  
11 that's summarized in here pretty well. Any questions  
12 or comments, changes?

13 (NO RESPONSE.)

14 CO-CHAIRMAN GROSS: No? Okay. Thank  
15 you very much, Dr. Marble. Hopefully this continues.  
16 Wow. I thought we'd be voting individually on each  
17 of the recommendations. Unless there's an objection,  
18 we can just approve all the recommendations by  
19 approving the report as stated today. Any problem  
20 with that?

21 CO-CHAIRMAN STOGEL: No.

22 COMMISSIONER KENDRICK: Chairman Gross,  
23 Dave Kendrick makes a motion to approve the  
24 committee's recommendation as presented.

25 CO-CHAIRMAN GROSS: Thank you,

1 Mr. Kendrick. That's a motion. Do we have a second?

2 COMMISSIONER WRIGHT-JONES: Second.

3 CO-CHAIRMAN GROSS: And we have a second  
4 by Senator Jones. Further discussion?

5 (NO RESPONSE.)

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

8 (AYE.)

9 CO-CHAIRMAN GROSS: Opposed, say no.

10 (NO RESPONSE.)

11 CO-CHAIRMAN GROSS: The ayes have it.  
12 The motion is adopted.

13 And we'll move on. Wonderful. Next  
14 report from distressed communities. And Troy Nash or  
15 Senator --

16 COMMISSIONER WRIGHT-JONES: Well, I'm  
17 going to start and he's going to come in and we're  
18 going to do a tandem.

19 CO-CHAIRMAN GROSS: Okay.

20 COMMISSIONER WRIGHT-JONES: First, I'd  
21 kind of like a moment of silence for the number of  
22 trees who gave up their substance and fiber in order  
23 to get this done and any fiberoptics that may have  
24 collapsed as we did our e-mails and our attachments,  
25 but we're here. So that's what makes this fun. This

1 is fun. Okay.

2 Distressed communities, Troy and I had  
3 tandem meetings -- first of all, let me mention our  
4 committee members. It would have been Mr. Bill Hall,  
5 Mr. Todd Weaver, Ms. Luana Gifford who I don't see  
6 this morning.

7 COMMISSIONER GIFFORD: Yeah, I'm here.

8 COMMISSIONER WRIGHT-JONES: Oh, there  
9 she is. Hello, hello. I'm sorry. Myself, Troy Nash  
10 and Russ Still, absolutely. Okay. We had two tandem  
11 phone conferences at the same time, one in St. Louis,  
12 one in Kansas City, October 19th, October 21st.

13 On the 19th we took care of Brownfield's  
14 distressed land assemblage, and on the 21st we did  
15 the balance of them which were the Neighborhood  
16 Preservation Act, new markets and rebuilding  
17 communities. In St. Louis we only had two people to  
18 come to the meeting; Mr. Sullivan, Tom Sullivan, who  
19 I think came in the room. On Thursday we had  
20 Ms. Cindy Bosman [phonetic spelling] from the YMCA.  
21 We had Mr. Mark Bryant on the other side I know on  
22 Tuesday.

23 On Thursday I had a funeral to attend  
24 and, of course, we had staff, and I'd like to thank  
25 Sallie Hemenway and Chris Pieper. They've been very,

1 very good with this process as we work through.

2 On our report we used Mr. Van Matre's  
3 models, although when we went through the discussion  
4 in our meetings, we went ahead and we did the first  
5 15 questions that we had which really kind of helped  
6 us kind of frame up where we were going to go. We  
7 also talked about the global issues with each of  
8 those. And from that, we were able to digest what we  
9 had.

10 We did -- we had limited testimony on  
11 the Neighborhood Preservation Act, rebuilding  
12 communities and distressed land assemblage. We had  
13 more testimony on the Brownfields and the new  
14 markets, new markets are pretty hot -- pretty hot  
15 issue, actually. And with that, I think I'll turn it  
16 over to Troy and he can go through and comment and  
17 supplement wherever is necessary.

18 COMMISSIONER NASH: Thank you, Senator  
19 Jones, and to the members of the Commission, just a  
20 few thank you's because I think it's important to  
21 point out those who gave their time, energy and  
22 effort. The Senator mentioned the DED staff. I'm a  
23 city person, I do city stuff, but I have fallen in  
24 love with State employees. Without Sallie and Chris  
25 and Ann, I don't want to forget Ann, and others

1 because we would not have been able to do what was  
2 very important work that we were asked to do.

3 And so that's very important. And also,  
4 too, Senator, the two individuals from your office  
5 who were always on top of it. Diane, I believe?

6 COMMISSIONER WRIGHT-JONES: Debra.

7 COMMISSIONER NASH: Debra and John --

8 COMMISSIONER WRIGHT-JONES: -- John  
9 Bolton.

10 COMMISSIONER NASH: -- in your office.  
11 They were very good as well. And I want to make sure  
12 Craig -- how do I pronounce --

13 COMMISSIONER WRIGHT-JONES: Van Matre.

14 COMMISSIONER NASH: -- Van Matre. That  
15 memo provided us with a framework. And I obviously  
16 misinterpreted the memo because I started answering  
17 every single question, and which Chris said this is  
18 not an academic exercise. And I was having fun.

19 The Senator talked about the joint  
20 meetings in Kansas City and St. Louis. I want to  
21 recognize our friends at SNR Denton who so graciously  
22 opened their firm up to us and our friends at Swope  
23 Community Builders. They were also very active in  
24 terms of opening their building and participating.

25 With that, I'll move -- well, our

1 methodology I think is important. We answered the  
2 questions, we worked with our friends in DED, and our  
3 efforts focused in and around the return to the  
4 State, the REMI result. We thought that was very  
5 important. The value that the program is supposed to  
6 return and whether or not that there was a cap  
7 because that's very important ultimately. We wanted  
8 to see if we could return back to the State.

9           And so with that, I'll move right  
10 through the various tax credits. The first is the  
11 Brownfields job/investment credit. You can see in  
12 your report there the objective, and it provides a  
13 credit for business that creates at least two new  
14 jobs or retains at least 25 jobs in a formerly  
15 contaminated society. There's additional data there  
16 for you.

17           As the Senator said, we had an awful lot  
18 of discussion, and we thought that two jobs just  
19 simply was not enough. We believe that there should  
20 be more jobs created. So the committee recommends  
21 that the Brownfield jobs/investment tax credit be  
22 improved during the 2011 legislative session to  
23 encourage greater job creation by increasing the  
24 minimum number of jobs that must be created to be  
25 eligible for the credit.

1                   The current program, as I said earlier,  
2                   only requires the creation of two jobs to qualify.  
3                   We felt very strongly that more job creation was  
4                   needed. And Bill, we didn't think that that was an  
5                   unreasonable burden on the applicants.

6                   The next credit --

7                   CO-CHAIRMAN STOGEL: On -- on that  
8                   one --

9                   COMMISSIONER NASH: Oh, please.

10                  CO-CHAIRMAN GROSS: Go ahead, Steven.

11                  CO-CHAIRMAN STOGEL: Sallie, is there a  
12                  formula generally in other programs that says a job  
13                  should entitle you so much in credits? Are there  
14                  rules of thumb that you could help the Commission  
15                  understand so we can try to put some more definition  
16                  on the job requirement?

17                  MS. HEMENWAY: In other business  
18                  development programs, there are amounts or benefits  
19                  tied per job, so -- and -- but they run the gamut in  
20                  terms of percent of payroll or -- you know, or the --  
21                  the withholding, or in some cases, it's just a flat  
22                  dollar amount per job that's created.

23                  I will tell you on the -- the average is  
24                  less than -- much less than \$10,000 per job that we  
25                  are offering benefits for under business development

1 programs. The -- so there -- there is -- we  
2 distinguish and differentiate between the ones that  
3 are tied to jobs versus the type of credits that are  
4 not necessarily tied to jobs that are preparing a --  
5 you know, a facility for job creation.

6 In this particular case, job and  
7 investment is tied to job creation, but as Mr. Nash  
8 points out, it's very -- it's a very limited  
9 benchmark. The amount beyond that is the formula --  
10 and help me, the formula for jobs and investment is  
11 statutory in terms of what they get per job. It's --  
12 I think their -- the comment of the committee, as I  
13 heard it and as I read it in here, is literally just  
14 a benchmark to get there, is -- you know, the  
15 benchmark for eligibility is too low.

16 CO-CHAIRMAN STOGEL: Well, maybe between  
17 now and next Friday, we can put some definition on  
18 that. And my only other question is can this credit  
19 be used on top of the next Brownfield credit, and we  
20 can deal with that on the next report, but --

21 MS. HEMENWAY: And the answer is yes.

22 CO-CHAIRMAN STOGEL: The answer is yes.  
23 And so I would ask the question for next week is  
24 whether stacking should be allowed because that's a  
25 global issue that we're going to talk about.

1                   COMMISSIONER NASH: Mr. Chair, let me  
2 also mention that this -- that the REMI result here  
3 is 2.32. Now, this program, as I learned, it returns  
4 money to the -- to the --

5                   CO-CHAIRMAN STOGEL: I think it's fine.  
6 I'm just trying to understand where you want to go  
7 with your job requirements.

8                   COMMISSIONER NASH: Just giving you that  
9 additional information. And also with respect to the  
10 value, \$500 per job plus \$400 in excess of ten new  
11 jobs plus 400 for difficult-to-employ persons, a  
12 2 percent investment credit.

13                  CO-CHAIRMAN STOGEL: And I -- it's a  
14 good -- it's a good economic return -- stacking with  
15 other Brownfield credits, it's really obviously  
16 important in the urban areas. But just some more  
17 definition so the legislature can at least know the  
18 benchmark the Commission set.

19                  COMMISSIONER NASH: Okay.

20                  CO-CHAIRMAN GROSS: So just to be clear,  
21 the REMI model shows in the first year a .45 return,  
22 and then after 15 years, 2.32. Okay. I'm going to  
23 move that we leave this one open for the language  
24 that Steven is trying to get together for next  
25 Friday, or Sallie will try to get together for next

1 Friday on this one. Go ahead.

2 COMMISSIONER NASH: Thank you,  
3 Mr. Chair. The next credit that we reviewed was the  
4 Brownfield remediation credit. This provides an  
5 incentive for redeveloped property contaminated with  
6 hazardous waste with the Department of Natural  
7 Resources' voluntary cleanup program. One of the  
8 requirements here is that the project must create ten  
9 new jobs or retain 25 jobs to qualify for the credit.

10 One of the things to keep in mind as we  
11 went about our work discussing all six of these  
12 distressed communities credits, we kept in mind that  
13 we're talking about economically deprived and  
14 underserved areas where it's not a normal market for  
15 a variety of reasons. And I represented there, and I  
16 tried to disclose my biases up front. I know that  
17 Craig said, you know, do away with your biases, but  
18 it's a program that works and I think that that's --  
19 that's important.

20 Our recommendation is as follows: The  
21 committee recommends that the General Assembly modify  
22 the Brownfield remediation tax credit during the 2011  
23 legislative session to impose an annual cap on tax  
24 credit authorizations under the program equal to the  
25 average amount authorized under the program during

1 the last three fiscal years or approximately \$25  
2 million.

3 We believe that imposing a cap on this  
4 program provides greater budget certainty and control  
5 for the State without jeopardizing the effectiveness  
6 of this extremely valuable tool for redeveloping and  
7 returning to productive use of formerly contaminated  
8 properties.

9 In addition, the committee recommends  
10 that the Commission consider whether the amount of  
11 the credit could be reduced from 100 percent of  
12 eligible cost and expense to increase the return on  
13 the State investment. And so that's an effort for us  
14 to speak directly to what we believe the Governor's  
15 charge was, which was to find a way to more  
16 effectively and efficiently deliver the program and  
17 give the State some level of certainty.

18 CO-CHAIRMAN GROSS: With 100 percent  
19 credit, essentially the State is paying for the  
20 cleanup and the credit pays the interest on the loan  
21 for the cleanup?

22 MS. HEMENWAY: The credit pays for all  
23 of the eligible remediation costs, including hard and  
24 soft costs.

25 CO-CHAIRMAN STOGEL: Right. So the way

1 it works is if there's \$100,000 of eligible costs,  
2 there's a \$100,000 credit which is sold for 87 to 90  
3 cents, so the project applicant puts in 10 to 13  
4 cents of equity.

5 CO-CHAIRMAN GROSS: Right. But the  
6 State --

7 CO-CHAIRMAN STOGEL: Has paid for 100  
8 percent.

9 CO-CHAIRMAN GROSS: -- pays \$100,000,  
10 yeah.

11 CO-CHAIRMAN STOGEL: And so again, I  
12 would ask the committee to consider whether -- what  
13 that number should be or a recommendation so that we  
14 bring some specification to that by next Friday.

15 CO-CHAIRMAN GROSS: Did you-all have  
16 any -- any input on the -- where that percentage  
17 could go and still -- I mean, this is one I think the  
18 average person understands and generally supports, I  
19 would think because it's -- if you go down into those  
20 areas, that you can't find who did the polluting or  
21 they're long out of business and it's a good thing to  
22 clean up those areas and -- but any recommendations  
23 on that 100 percent?

24 COMMISSIONER NASH: No, no. We had  
25 people speak to some of the issues associated with

1 it, but not on that particular issue, that I recall.  
2 Senator?

3 COMMISSIONER WRIGHT-JONES: No, I don't  
4 recall. I don't remember any discussion on that.

5 CO-CHAIRMAN STOGEL: I'll give my  
6 personal opinion on this one.

7 COMMISSIONER WRIGHT-JONES: All right.

8 CO-CHAIRMAN STOGEL: Two -- two parts  
9 because I have some familiarity with the program.  
10 One is, it's impossible to finance these costs with  
11 banks because they don't want to go near  
12 environmental sites. And I looked at Tom Reeves  
13 who's a banker, so it's really needed to get projects  
14 started. So my recommendation to the committee would  
15 stay -- would be to stay at 100 percent because it's  
16 impossible to finance it otherwise.

17 And two, I would like some discussion  
18 about when the State does award a credit like this,  
19 that there be expanded powers to the Attorney General  
20 to seek recompense from the nonpolluters. There's no  
21 statutory basis that I know of that the Attorney  
22 General -- because now the State has invested dollars  
23 and can seek recoupment from others. There's some  
24 instances where that could have occurred, but there's  
25 no mechanism to do it.

1 CO-CHAIRMAN GROSS: Don't they have to  
2 be approved?

3 CO-CHAIRMAN STOGEL: That's beyond the  
4 Commission's authority, but that could be a footnote.

5 COMMISSIONER WRIGHT-JONES: Very  
6 interesting. We just had a big EPA hearing about it,  
7 and that's a very, very good comment.

8 CO-CHAIRMAN STOGEL: Thank you, Senator.

9 CO-CHAIRMAN GROSS: So do we need to  
10 leave that one --

11 CO-CHAIRMAN STOGEL: Oh, I think we can  
12 let the committee consider it and come back.

13 MS. HEMENWAY: That both open the cap  
14 and the -- and the percentage or just the --

15 CO-CHAIRMAN STOGEL: Just the percentage  
16 is open, and then the question of whether there  
17 should be a recommendation for intensified recovery  
18 mechanisms.

19 CO-CHAIRMAN GROSS: So for now, we're  
20 going to leave that credit open for further  
21 discussion, those points, and then --

22 COMMISSIONER NASH: Sure. And we can do  
23 that work. The other credit that we had an  
24 opportunity to review was the distressed land  
25 assemblage credit. The applicant that had incurred,

1 within an eligible project area, acquisition cost for  
2 the acquisition of 50 acres and at least 75 acres of  
3 whom has been appointed by the local municipality as  
4 a redeveloper of a redeveloped area is entitled to a  
5 credit of 50 percent of the acquisition cost, 100  
6 percent of the interest costs incurred for a period  
7 of five years after the acquisition of an eligible  
8 parcel.

9                   And I know a little bit about this from  
10 another life, not that I've used this program, but  
11 certainly can see and speak to the importance of  
12 having a program like this. We didn't -- we didn't  
13 have much data, and so our recommendation to the  
14 General Assembly is to evaluate the effectiveness of  
15 the relative -- relatively new distressed land  
16 assemblage program. And when additional data becomes  
17 available regarding the State and local return on  
18 investment as a result of the credit, we can -- in  
19 other words, we had no data to be able to objectively  
20 or subjectively --

21                   CO-CHAIRMAN GROSS: I think this one  
22 might fall into the -- into the area that we were  
23 asked not to go, and that is don't mess up -- my  
24 words -- any existing deals. This is still one --  
25 there's only one user of this, right?

1 COMMISSIONER NASH: That's right.

2 CO-CHAIRMAN GROSS: And that's -- that's  
3 a deal that's in the works in the courts --

4 COMMISSIONER NASH: Right.

5 CO-CHAIRMAN GROSS: -- wherever it may  
6 be, and maybe this one falls into that area where  
7 we're not supposed to mess up any current deal. But  
8 I think for future projects, that we should maybe  
9 address our comments towards future projects that  
10 might come after the one that's on the table now.

11 And back to which I agreed with your  
12 comment about the need for protection of the State's  
13 investment, what are the -- how strong are the  
14 claw-backs in this that we talked about? I don't  
15 have the language in front of me but they didn't seem  
16 to be...

17 MR. PIEPER: There's -- there's no  
18 statutory claw-back mechanism in this particular  
19 program.

20 CO-CHAIRMAN GROSS: I think for future  
21 projects, that that should be included. Actually,  
22 should be in all credits.

23 CO-CHAIRMAN STOGEL: That's -- that's  
24 almost a global issue in terms of claw-backs --

25 CO-CHAIRMAN GROSS: Yeah.

1 CO-CHAIRMAN STOGEL: -- but on this  
2 credit, I think there's -- I'd ask the committee to  
3 think about -- and there may be no answer. The one  
4 deal that's out there being in one column because you  
5 don't disrupt existing investments. And two, what --  
6 what should be the programmatic solution for this  
7 credit going forward and what changes might be  
8 recommended, and take a fresh look at that if it were  
9 a brand new piece of legislation for a tomorrow deal.

10 COMMISSIONER WRIGHT-JONES: I have two  
11 comments. Number one, all of this particular  
12 property falls within my district, number one.  
13 Number two, from a legislative perspective, I would  
14 expect some legislation that will come along to make  
15 amendments to those, actually. So that may occur,  
16 because this was kind of a hot issue and it is --  
17 well, right now as it relates to the courts, it's  
18 back in the hands of the city. I think they're going  
19 to try to come up with a new ordinance or something  
20 to get it done, so...

21 CO-CHAIRMAN STOGEL: But this Commission  
22 will carve out that transaction because it's  
23 underway.

24 COMMISSIONER WRIGHT-JONES: Oh,  
25 absolutely. I agree.

1 CO-CHAIRMAN STOGEL: But I would ask the  
2 committee to look at programmatically --

3 COMMISSIONER WRIGHT-JONES: How it could  
4 change.

5 CO-CHAIRMAN STOGEL: -- programmatically  
6 what could change for new transactions.

7 COMMISSIONER WRIGHT-JONES: Absolutely.

8 CO-CHAIRMAN GROSS: Didn't the court  
9 call for more detail?

10 CO-CHAIRMAN STOGEL: I think it's called  
11 for more detail, and we -- there's -- some more  
12 guidelines would be appreciated because there's a  
13 \$90 million cap on this program. And that's a real  
14 number and it should be looked at for tomorrow deals,  
15 not prior deals. Okay. That would be a request from  
16 the chairs, I think.

17 COMMISSIONER VAN MATRE: Can I just have  
18 a little bit of education on this? Did they consider  
19 any kind of a loan program instead or any kind of  
20 a -- like the State would require the property to  
21 lease it instead of selling it or furnishing the  
22 money for this to be required?

23 CO-CHAIRMAN STOGEL: Representative --  
24 Representative Flook, there's no legislative history  
25 per se in Missouri, but we do have --

1                   COMMISSIONER FLOOK: That's correct, but  
2     some of the more recent bills in the last decade,  
3     we've had a look at some of the summaries online and  
4     you get a little bit of the hearing testimony  
5     summarized. But otherwise, there's no official  
6     legislative history available.

7                   CO-CHAIRMAN STOGEL: So that would be a  
8     request to go back, and we'll let you continue with  
9     your report.

10                  COMMISSIONER KOMO: And there has been  
11     interest out there to use these other places.

12                  CO-CHAIRMAN STOGEL: And it may -- it  
13     may be a perfectly fine credit, but I want to  
14     distinguish yesterday and the one existing from  
15     tomorrow's and get some more.

16                  COMMISSIONER WRIGHT-JONES: You'd just  
17     like to see what else could occur?

18                  CO-CHAIRMAN STOGEL: And what you think  
19     about it, and if it were a brand new program, what  
20     could it look like and what should it be and should  
21     it be at all and whatever.

22                  COMMISSIONER WRIGHT-JONES: Okay.

23                  COMMISSIONER GARDNER: Did I understand  
24     you to say there's a \$90 million annual cap?

25                  CO-CHAIRMAN STOGEL: No, total program

1 cap.

2 COMMISSIONER GARDNER: Total program

3 cap.

4 COMMISSIONER NASH: \$20 million annual

5 cap.

6 CO-CHAIRMAN STOGEL: Right.

7 COMMISSIONER NASH: Well, I'm glad I  
8 have a Senator as a co-chair because it's more like a  
9 legislative type -- you know, forward.

10 COMMISSIONER WRIGHT-JONES: It is. And  
11 I have to be careful, I don't want to throw anything  
12 out there that will become legislation.

13 COMMISSIONER NASH: Yeah, I see. I can  
14 throw stuff, it just won't become anything. Okay.  
15 Is it okay to move forward?

16 CO-CHAIRMAN STOGEL: Yeah.

17 COMMISSIONER NASH: Okay. The other tax  
18 credit that was under our purview was the  
19 Neighborhood Preservation Act. It provides an  
20 incentive for homeowners in certain lower income  
21 areas to rehabilitate their home or extension for  
22 infield new construction or owner-occupied housing.  
23 Geographic eligibility descriptions, age of home  
24 descriptions must be resident intended for owner  
25 occupancy.

1           The committee recommends that the  
2   General Assembly modify the neighborhood preservation  
3   program during the 2011 legislative session to  
4   eliminate the first-come, first-serve requirement  
5   that creates a lottery process for selecting eligible  
6   applicants in favor of a more targeted  
7   neighborhood-based approach that allows the  
8   evaluation and funding for the most high-impact  
9   projects that provides a best return on investment.

10           The committee also recommends that the  
11   General Assembly modify the program to expand  
12   eligibility in neighborhood associations and other  
13   nonprofit neighborhood groups.

14           This one was an interesting program  
15   because if you look at the program on its face and --  
16   for example, note the REMI result of .16. At first  
17   blush, you'd say, well, it's not returning very much  
18   money for the State. But oftentimes it's used in  
19   conjunction with a broader development framework  
20   where it does impact return. We could argue money --  
21   that's that social aspect that we've been sort of  
22   talking about here. \$16 million annual cap. I think  
23   that's correct. Is it 16 million?

24           CO-CHAIRMAN GROSS: 16 million.

25           MS. HEMENWAY: Yes.

1 CO-CHAIRMAN GROSS: Did you-all consider  
2 lowering that cap to closer to actual usage?

3 COMMISSIONER NASH: Yeah, all those  
4 types of things came up, but when you're talking  
5 about a program like this that's geared toward an  
6 economically deprived area that's already having what  
7 we call subtracting capital, we needed all the ammo  
8 we could to use it as, again, part of a broader  
9 economic development framework. And I can give you a  
10 number of examples in my former district where it has  
11 been used in conjunction with other activities to  
12 create viable projects.

13 THE COURT REPORTER: To create what,  
14 sir?

15 COMMISSIONER NASH: Viable projects.  
16 But that's something we can talk about.

17 COMMISSIONER WRIGHT-JONES: Yeah, we  
18 can. St. Louis really in its entirety is eligible  
19 for this because of the way the statute is written.  
20 And of course, it has had broad impact in St. Louis.  
21 We've used it in many areas. So you know, it would  
22 be -- well, I mean, anything's possible. We can look  
23 at anything and see how it shakes out.

24 CO-CHAIRMAN GROSS: This may be one of  
25 the first ones that we've had where we really need to

1 decide whether we're going to be tightening up  
2 programs to save money for the State or whether we're  
3 going to advocate for programs to be maintained --

4 CO-CHAIRMAN STOGEL: Actually,  
5 there's --

6 CO-CHAIRMAN GROSS: -- in our report.

7 CO-CHAIRMAN STOGEL: -- this program has  
8 eight million for an eligible area and eight million  
9 for a qualifying area. Sallie --

10 MS. HEMENWAY: Essentially --

11 CO-CHAIRMAN STOGEL: -- what does  
12 that -- what does that translate to in English?

13 MS. HEMENWAY: Urban rural.

14 CO-CHAIRMAN STOGEL: So it is a  
15 geographic --

16 MS. HEMENWAY: It is. It is defined  
17 by -- in the statute by census -- by -- it's part of  
18 the distressed -- distressed areas original  
19 legislation that had about six or seven credits that  
20 spawned out of that. The definition for distressed  
21 areas is a combination of population and income  
22 levels, and it's measured by census tracts.

23 So across the state, the state is mapped  
24 out in areas that fit below I believe it's 70 percent  
25 of median income, and then 90 percent of median

1 income are eligible for -- if they meet a population  
2 density criteria, they're eligible for access to the  
3 program.

4 So the map is spotted all over the  
5 state, but there is in the language of the statute  
6 the ability for some whole cities to become eligible.  
7 So the whole city of St. Louis is eligible as well.  
8 So essentially, the two factors of eligible and  
9 qualifying, the eight million and the eight million,  
10 end up urban, eight million; rural, eight million.

11 CO-CHAIRMAN STOGEL: And just in terms  
12 of historical use?

13 MS. HEMENWAY: It has -- if you look on  
14 the Form 14, the last year, 2009, the authorized  
15 amount had dropped down to ten million. It typically  
16 had authorized the 16 million. It took a little  
17 while for the program to ramp up. It had not always  
18 been used in the rural areas. Just recently -- as  
19 recently as 2007 and '8 did the rural areas take  
20 advantage of the full eight million amount that they  
21 were allocated, and then it dipped back down again in  
22 2009.

23 But you can see -- and this is offset by  
24 construction, but you can see that the amounts issued  
25 and redeemed in those years is significantly less.

1 So the question would be if we could analyze on a  
2 broader term how many of these credits are actually  
3 being utilized.

4 CO-CHAIRMAN STOGEL: Right. Well, 16  
5 million statewide for this purpose is a better  
6 understanding, split urban/rural. I guess the  
7 question is, is the cap -- if there's a cap of eight  
8 million dollars for rural and it's all being used,  
9 that's one thing; if there's a cap for eight million  
10 dollars in the urban areas and it's all being used,  
11 but if the effective usage is 75 percent, does that  
12 lead the committee to a different conclusion? And I  
13 don't know the answer, but at least we understand the  
14 program better. Craig?

15 COMMISSIONER VAN MATRE: Does the  
16 program require occupancy by the applicant for the  
17 credit for any period of time after the credit's  
18 awarded?

19 MS. HEMENWAY: It's definitely  
20 owner-occupied, but there is no length of time that  
21 that owner occupant has to stay in the home after the  
22 rehab.

23 COMMISSIONER REEVES: Good question.

24 COMMISSIONER VAN MATRE: It seems like  
25 if you're encouraging -- just thinking out loud here.

1 It seems like if the encouragement is to fix up your  
2 home with the money, that you ought to have to stay  
3 in there for a period of time or refund the credit.  
4 But if you're just doing it to fix it up with more  
5 money and then sell it, I'm not sure I see that it  
6 functions like it's supposed to.

7 CO-CHAIRMAN STOGEL: Good question is,  
8 should there be a homesteading provision.

9 COMMISSIONER VAN MATRE: There ought to  
10 be a claw-back if you sell a home within an X period  
11 of time after the credit's awarded.

12 CO-CHAIRMAN GROSS: Let's park that one  
13 with those thoughts in mind and we'll come back to  
14 it. Next?

15 COMMISSIONER NASH: The next credit, the  
16 new markets tax credit. The new markets tax credit  
17 may be used either to attract significant amounts of  
18 capital into funds established for the purpose of  
19 providing financing to Missouri businesses located in  
20 targeted areas of the state or to close a funding gap  
21 on the specific business development deal.

22 I'll talk a little bit about our  
23 recommendations, then go back and give a few  
24 additional comments. The committee recommends no  
25 change to the existing new markets program which can

1 no longer accept new equity investments after  
2 July 1st, 2010.

3 The committee recommends that before the  
4 General Assembly considers reauthorizing the program,  
5 it require a complete report regarding the program's  
6 effectiveness including the list of companies  
7 receiving loans, the number of jobs created, the  
8 private investment made and the cost associated with  
9 fund management including all fees and professional  
10 services.

11 And I can tell you that that part -- I  
12 had an opportunity to work with this program when I  
13 was in office, and the biggest complaint was the fees  
14 associated with the administration of the program.  
15 And it wasn't good. There really wasn't much left  
16 for the -- for the program.

17 The other thing, we had a fella from  
18 St. Louis --

19 CO-CHAIRMAN STOGEL: From Advantage  
20 Capital.

21 COMMISSIONER NASH: What?

22 CO-CHAIRMAN STOGEL: Jeff from Advantage  
23 Capital.

24 COMMISSIONER NASH: Yes. He was very  
25 good and he was very helpful and he provided us with

1 actual businesses that benefited from the program.

2 And we have all of those notes, and I'm assuming  
3 that's going to be part of the online testimony or  
4 what have you, but --

5 CO-CHAIRMAN GROSS: He said it's posted  
6 already.

7 COMMISSIONER NASH: He did a fantastic  
8 job. But it's new, we don't have enough data to  
9 really recommend one way or another.

10 CO-CHAIRMAN STOGEL: I'll make two  
11 technical comments. The federal new markets tracking  
12 program to which the State new market program ties to  
13 hasn't been reauthorized by Congress, so a caveat to  
14 the report is we shouldn't do a state new market  
15 unless the federals continue the program.

16 And to address the fee issue, because  
17 the pricing is so inefficient today, a floor pricing  
18 of probably 75 cents or 70 cents ought to be put on  
19 the program, and technically that can work. So --  
20 you know, but some number like a minimum floor  
21 pricing and only condition it on the federal program,  
22 in fact, being extended. And whether that number is  
23 65 cents or 75 cents, I'll run the math, Troy, and  
24 give you a call.

25 COMMISSIONER NASH: I appreciate that.

1 CO-CHAIRMAN GROSS: So we'll park that  
2 one then too. Very good. Next? Unless there's more  
3 comments on that one?

4 (NO RESPONSE.)

5 CO-CHAIRMAN GROSS: No. Okay.

6 COMMISSIONER NASH: The final credit  
7 under the distressed communities sub-committees' work  
8 was the rebuilding communities credit. It provides a  
9 tax credit for eligible businesses locating,  
10 relocating or expanding within a distressed area. A  
11 business must have fewer than 100 full-time  
12 employees, 75 percent of which must be located in the  
13 distressed community primarily engaged in  
14 manufacturing, biomedical, medical devices,  
15 scientific research, animal research, computer  
16 software design and development, computer  
17 programming, including Internet, web hosting and  
18 other information technology, wireless or wired or  
19 other telecommunications of a professional firm.

20 Our recommendation was that the General  
21 Assembly modify the rebuilding communities program  
22 during the 2011 legislative session to lower the  
23 current eight million annual cap to reflect actual  
24 historic uses less than two and a half million  
25 annually. Lowering the cap will create greater

1 budget certainty for the State without jeopardizing  
2 the availability of this worthwhile program.

3 With that, Chair, and if there's no  
4 further questions, that concludes our report.

5 CO-CHAIRMAN GROSS: On that one, the  
6 benefit cost ratio is .13. I think we should also in  
7 there require that the improvements to the program  
8 include requiring the average wage, insurance for  
9 employees, basically the quality job requirements.  
10 But we can -- we'll get the language from staff.

11 With that, thank you for the report.  
12 Let me step back and see which --

13 COMMISSIONER WRIGHT-JONES: I think  
14 we're all open.

15 CO-CHAIRMAN GROSS: They're all open?

16 COMMISSIONER WRIGHT-JONES: We had the  
17 easiest committee potentially, I think.

18 COMMISSIONER NASH: I didn't want to say  
19 that. I didn't want to make them think we had it  
20 easy.

21 CO-CHAIRMAN GROSS: We'll park and come  
22 back to it.

23 CO-CHAIRMAN STOGEL: I want to know you  
24 guys did really good work. The co-chairs have seen  
25 the spectrum of the reports and we're trying to move

1 all the reports up to add more specificity. And  
2 another hour or two and I think you'll be spot-on  
3 there.

4 And for the record, the co-chairs have  
5 stayed away from most of the chairs' prerogatives in  
6 these committees, and we appreciate what you're  
7 doing, but we're trying to bring it to a more uniform  
8 platform.

9 COMMISSIONER WRIGHT-JONES: That's good.  
10 Thank you.

11 CO-CHAIRMAN GROSS: Banking and  
12 insurance.

13 COMMISSIONER REEVES: Yes. Our  
14 subcommittee found ourselves in some interesting  
15 waters that -- where a number of credits that we  
16 studied didn't necessarily fit into, you know, what  
17 everybody else was doing as far as economic  
18 development or incentives. And it really took us  
19 into some more complex waters than we originally  
20 thought.

21 On the surface it looked fairly  
22 straightforward, but I would liken it to in some  
23 cases to pulling a thread in a sweater, that once you  
24 keep pulling it and it starts unravelling, you get  
25 into deeper and deeper waters.

1                   So I want to thank Craig in particular  
2     for his focus on the process in keeping us on track  
3     and focused on what our mission was so that we really  
4     didn't get outside the boundaries of what we were  
5     charged with. So I appreciate that.

6                   And Senator Bartle and David and Dee  
7     Joyner were also the co-chairs. And I also want to  
8     thank Chris Pieper for his help and all those at DED  
9     for setting up conference calls with the Department  
10    of Revenue and the Department of Insurance so that we  
11    could work our way through this.

12                  So really, we ended up instead of the A,  
13    B, C, D structure, we almost ended up with an E which  
14    is not applicable and really kind of took it to the  
15    point where we were encroaching on tax law. And as  
16    you know, that's -- that gets pretty complex.

17                  So I'll kind of wade in. The first one  
18    that we had was the bank franchise tax credit, and  
19    basically this is a tax credit that the banks can use  
20    to offset their franchise tax. Franchise tax, in  
21    essence, is an alternative minimum tax to a regular  
22    corporate tax that all corporations pay. Since banks  
23    have interesting balance sheets and a lot of tax-free  
24    income -- or tax-free income in many cases and other  
25    types of offsets, it is possible for them to have no

1 corporate income tax.

2                   So we went through a lot of that  
3 process, but as you can see from our recommendation,  
4 we basically said that this has been in effect for a  
5 long period of time. The legislature should probably  
6 look at the overall tax structure, you know, for the  
7 industry to see if it all is still in sync, and  
8 whether this continues to be what it was intended to  
9 be, and that is an equalizer, so that banks that are  
10 taxed a little differently are not subject to an  
11 unfair tax relative to other corporations.

12                   So that's kind of my introduction. If  
13 there's questions on this one -- we actually ran into  
14 this on the next one as well which is for  
15 Subchapter S corporations. And --

16                   CO-CHAIRMAN GROSS: I've heard this one  
17 before, but I've got to run it by again to make sure.  
18 So banks pay a franchise tax to equalize --  
19 theoretically to equalize their tax burden compared  
20 to --

21                   COMMISSIONER REEVES: The banks actually  
22 pay the regular income tax under 140 A, and to the  
23 extent their investments allow them to not pay tax  
24 based on a lot of tax exempt type investments or  
25 other types of securities --

1 CO-CHAIRMAN STOGEL: They pay a premium  
2 tax.

3 COMMISSIONER REEVES: -- the bank  
4 franchise tax kicks in as, in essence, an alternative  
5 minimum tax, so they will always pay something.

6 CO-CHAIRMAN GROSS: Okay. And then the  
7 credit is used to lower that tax?

8 COMMISSIONER REEVES: That's correct.  
9 Steven, you have a question?

10 CO-CHAIRMAN STOGEL: It's not a  
11 question. It's a clarification.

12 COMMISSIONER REEVES: It gets very  
13 complicated. And then you can go back into a tax  
14 return if you want to go that far and say is this a  
15 deductible expense, does it come off of normal  
16 revenue and come down to a net line.

17 COMMISSIONER MARBLE: So they eliminate  
18 their income tax then and put a new tax in and that  
19 tax might be too high, so we've got a credit to take  
20 care of the...

21 CO-CHAIRMAN GROSS: That's the way I  
22 hear it, yeah.

23 CO-CHAIRMAN STOGEL: I think it's a  
24 little more complicated than that, but it's --

25 COMMISSIONER MARBLE: It is.

1 CO-CHAIRMAN STOGEL: And this really  
2 reaches back and there's a high probability this  
3 isn't precise, but I think banks and insurance  
4 companies pay 148 income tax or 148 (b) premium tax  
5 or whichever's greater. That's frozen, so they pay  
6 something. And then I think the purpose of this  
7 credit, based on what I was able to read, is to  
8 prevent not a double tax on the franchise tax when  
9 the premium tax is higher than the income tax. So I  
10 mean, it's --

11 COMMISSIONER REEVES: Insurance  
12 companies are even a little different.

13 CO-CHAIRMAN STOGEL: And insurance  
14 companies are even more complicated --

15 COMMISSIONER REEVES: Because they're  
16 taxed on the gross.

17 CO-CHAIRMAN STOGEL: Income tax here,  
18 premium tax here, and then if there's a franchise  
19 tax, they get a credit. If the income tax is here  
20 and the premium tax is here, they don't get a credit  
21 on the franchise tax, I think is how it works. So  
22 it's designed to smooth out tax liability, but we  
23 should check to make sure that that recollection is  
24 correct so then we can assess the credit, Tom.

25 COMMISSIONER REEVES: Right. And then,

1 you know, the Sub S is the same except now you have a  
2 different corporate structure which then translates  
3 into individuals that get taxed at the individual  
4 level based on the Sub S.

5 So they're both very similar attempts at  
6 trying to equalize the tax, but again, as you start  
7 pushing on the questions, all of which are very  
8 legitimate questions, you push yourself into the  
9 state tax law. And what might have been okay 15  
10 years ago, is it still the same today, and we can't  
11 really answer that.

12 COMMISSIONER VAN MATRE: Yeah, I mean, I  
13 think the problem with this tax is it doesn't really  
14 fit into the category of being something that's  
15 designed to be an economic stimulus or to meet a  
16 societal need. Instead, it's a relatively crude  
17 mechanism for adjusting the amount of tax that banks  
18 or financial institutions pay.

19 And I always thought that a good case  
20 could be made for both banks and insurance companies  
21 of just comparing balance sheets one year to the next  
22 and taxing the increase and the net worth, if any, as  
23 a much simpler method of getting to what a financial  
24 institution has really done year to year.

25 But instead, they use this real

1 complicated method of credits to sort of ameliorate  
2 the literal language of the franchise tax. And so  
3 the problem is, I don't think this is -- at least my  
4 understanding of our purview is to get into tax  
5 policy and how much particular types of institutions  
6 should pay in the form of income tax.

7 And so that's why we sort of kicked it  
8 off the table and said you need to look at this type  
9 of global package and how we should tax financial  
10 institutions.

11 COMMISSIONER REEVES: And again, how the  
12 tax is calculated and on what basis, you get into one  
13 60th of 1 percent of the total assets or surplus  
14 employed, again, a question in today's world of  
15 branch banking and interstate banking whether or not  
16 that's still valid. And that gets into a whole other  
17 area of how it's assessed and what its original  
18 intent was, and that's when we got into pulling the  
19 string on the sweater.

20 CO-CHAIRMAN STOGEL: You raise an  
21 interesting point. The charge of the Commission is  
22 to deal with tax credits. And I guess the sense of  
23 your committee is this really is tax policy and I  
24 mean, this is not a tax policy committee. And the  
25 original list was put together, as we'll hear, of

1 anything that looked like or had the word credit in  
2 it. But I mean, it's the judgment of the committee  
3 that this is really a tax policy question.

4 COMMISSIONER REEVES: Yeah, I mean, it's  
5 termed a tax credit, but in essence it's a  
6 legislative attempt to fix tax inequities.

7 CO-CHAIRMAN STOGEL: To equalize taxes.  
8 Why don't you finish your report, Tom, and then we'll  
9 come back to the question of, you know, is this  
10 beyond the scope of the Commission and what we've  
11 heard the baseline logic...

12 CO-CHAIRMAN GROSS: Go ahead. Any other  
13 comments on that Sub S tax?

14 COMMISSIONER REEVES: The bank franchise  
15 and bank Sub S were basically the same, they're just  
16 dealing with two different types of corporate  
17 structures.

18 The third tax credit was the examination  
19 fee credit. And again, we came back to this is an  
20 insurance version of, in essence, the bank side of  
21 this. The examination fee is administered by the  
22 Department of Insurance and allows the cost of  
23 regulatory -- Missouri regulatory examinations and  
24 some other fees to be offset as a credit against the  
25 State's premium tax. These are not deductible

1 expenses.

2 We went through the tax return itself  
3 that was presented to us, and basically there's a 2  
4 percent premium tax right off the top. And so these  
5 are credits -- again, these are attempts to equalize  
6 the net effect as to what these institutions pay. So  
7 again, we concluded that this is really a legislative  
8 adjustment to attempt to equalize this industry's tax  
9 burden.

10 CO-CHAIRMAN GROSS: How much is that  
11 credit? 100 percent credit?

12 COMMISSIONER REEVES: Yes, it is. It's  
13 100 percent against the examination fees, and then  
14 there's some other minor fees that are also in there.  
15 I've got a copy of the applicable tax return here.

16 CO-CHAIRMAN STOGEL: I made two  
17 observations about this credit. It's -- one is, it's  
18 about \$40,000 an average user, and two, should there  
19 been a cap on it. Because it's been running pretty  
20 historically at four and a half million dollars.  
21 Does \$40,000 mean a lot to the insurance companies?  
22 I don't know. And two is, should it be capped?

23 COMMISSIONER VAN MATRE: The problem we  
24 got into with this credit was that for interstate  
25 insurance companies, we were advised that decreasing

1 this credit would tend to make Missouri less  
2 competitive as a domicile for insurance companies  
3 than would otherwise be the case because of the  
4 interaction between the interstate compact on this  
5 taxation.

6 And so it isn't that we couldn't raise  
7 more money, but we'd be potentially jeopardizing the  
8 relative tax status of Missouri vis-à-vis surrounding  
9 states. So again, we were thinking -- I hope I'm not  
10 misstating here -- that this is a little bit more  
11 complex topic than just, hey, are we spending too  
12 much money in an effort to accomplish some economic  
13 or societal goal here. This is more of how do we  
14 reconcile interstate taxation schemes for insurance  
15 companies, and that seemed like it was over our head.

16 COMMISSIONER REEVES: And there is  
17 actually a page in the tax form that's called  
18 retaliatory comparison. So there is an actual  
19 reconciliation, if you will, for the interstate  
20 businesses being done so that out-state -- out-state  
21 domicile insurance companies will still do it.

22 I mean, we've got the printout and it's  
23 this thick, and there's quite a few recipients of the  
24 credit. But again, it gets into if you push on one  
25 button here, do you make it less competitive for

1 others to do business in this state, or coming the  
2 other way, do we hurt the insurance companies that  
3 are based in Missouri and actually chartered.

4 CO-CHAIRMAN GROSS: Because on the face  
5 of it, it looks like it would be to just stop  
6 charging them and then not have the tax credit. But  
7 I know that's just too simplistic and there's a lot  
8 more to it.

9 COMMISSIONER REEVES: Well, I mean, the  
10 banks get charged a fee through their --

11 CO-CHAIRMAN GROSS: Right, but then they  
12 get a credit for it --

13 COMMISSIONER REEVES: I mean, there's a  
14 formula -- well, there isn't. But again, the banks  
15 are also taxed differently at the bottom line as  
16 opposed to at the gross level. So there's a whole  
17 different tax structure for the insurance agencies as  
18 well -- or companies.

19 CO-CHAIRMAN STOGEL: Tom, why don't you  
20 finish your report and then -- Senator?

21 COMMISSIONER WRIGHT-JONES: I have a  
22 comment. I see Brian in the back of the room from  
23 the tax policy joint committee. We had this  
24 discussion some months ago, and I recall I had a  
25 concern that we were protecting the insurance

1 companies at the cost of the State in my mind. I  
2 didn't feel that was necessary. But Brian, if you  
3 could kind of bring us up to speed on what we worked  
4 through on that, do you recall?

5 MR. SCHMIDT: Yeah, I do recall.

6 THE COURT REPORTER: Excuse me. Brian,  
7 could I have your last name?

8 MR. SCHMIDT: Schmidt, S-c-h-m-i-d-t.

9 And when the committee looked at this credit, what  
10 they had come up with as a recommendation was that  
11 the General Assembly consider why we allowed a  
12 personal property tax credit against the premium  
13 insurance tax. That was the recommendation that we  
14 eventually came up with.

15 CO-CHAIRMAN GROSS: So leave the other  
16 provisions intact, but question the personal  
17 property --

18 MR. SCHMIDT: Right. So the way --  
19 there's really two parts; there's the exam fee part  
20 and then there's the other fee in taxes. So they get  
21 credits for their other fees and taxes and they also  
22 get credits for the exams that the insurance --  
23 Department of Insurance charges the insurance  
24 companies and they get a credit for the cost of those  
25 exams. And so that's one part.

1                   And the other part is the other fees and  
2 the taxes and they get to deduct whatever other fees  
3 and taxes they pay. And I think there's things like  
4 income taxes, personal property taxes, income fees,  
5 that type.

6                   COMMISSIONER REEVES: Right. And so the  
7 bottom line was, our subcommittee did not feel  
8 qualified to really start passing judgment on the tax  
9 law and the complexities because, again, you push on  
10 one thing and you end up in a lot of different areas.

11                   CO-CHAIRMAN STOGEL: Also I would note  
12 that the federal government just went through a  
13 massive change, the Frank Dodd revamp of all  
14 financial institutions. And this -- you know, given  
15 in that alone may be -- this is -- I'll come back to  
16 where I guess the chair and the committee was that  
17 this is way beyond our scope. Congress is all over  
18 this.

19                   COMMISSIONER REEVES: We asked for a pay  
20 increase and we didn't get one.

21                   CO-CHAIRMAN GROSS: All right. We all  
22 right to move on to health insurance pool?

23                   COMMISSIONER REEVES: Okay. The next  
24 one was the Missouri health insurance pool which was  
25 adopted in 1990 and provides access to comprehensive

1 medical insurance to Missouri residents who can't  
2 purchase coverage in the commercial market due to  
3 health conditions or lack of availability of  
4 commercial individual health insurance.

5 All insurers issuing health insurance in  
6 the state are members of this pool and they pay a  
7 premium. The difference between those premiums and  
8 the actual costs of administering this program  
9 including claims, can -- or assessed at the end of  
10 each -- each year, and then those assessments are  
11 then credited, can be taken as a credit against the  
12 taxes. There were about 3,600 people in this --  
13 Missouri residents that were enrolled as of December  
14 of '09.

15 Now, again, we got into this and  
16 recognized that Missouri's program is very similar in  
17 scope to a number of other states, and really, this  
18 starts to implicate national policy issues. So we do  
19 recommend that the General Assembly evaluate whether  
20 this is the most effective way to do it, but at the  
21 same time, there are, I believe, 44 other states that  
22 are involved in this.

23 And I might also point out that the  
24 health insurance pool is basically its own entity.  
25 It is not the Department of Insurance, it is not the

1 state government, it is a whole separate nonprofit  
2 that is administered by a separate board of directors  
3 as well. So this is really not under that  
4 jurisdiction.

5 I also might point out that the Federal  
6 Affordable Healthcare Act might also have an impact  
7 which would serve to start reducing this as they're  
8 increasing their pool so that this might  
9 automatically just start coming down. It's certainly  
10 a worthwhile endeavor here. The question is, is it  
11 the most effective, but again, you're also dealing  
12 with a national network.

13 CO-CHAIRMAN STOGEL: Well -- so the  
14 legislature should be asked to look at or we could  
15 recommend they look at the impact of the Obama  
16 healthcare plan on stuff because you can't exclude  
17 for prior medical conditions now.

18 COMMISSIONER REEVES: Well, and that, in  
19 essence, might also serve to start reducing the pool  
20 of residents that are in this pool.

21 CO-CHAIRMAN STOGEL: Or the need for the  
22 program. That's clearly beyond the scope of this  
23 Commission.

24 COMMISSIONER REEVES: Right, right.

25 CO-CHAIRMAN GROSS: Questions or

1 comments?

2 (NO RESPONSE.)

3 CO-CHAIRMAN GROSS: Go ahead.

4 COMMISSIONER REEVES: The Life and  
5 Health Insurance Guarantee Association credit was  
6 adopted in 1988, and all insurers that are issuing  
7 health and life insurance in the state are members.  
8 This association pays Missouri policyholders for  
9 claims against insolvent life and health insurance  
10 companies. So to the extent you have insurance and  
11 that insurance company goes out of business, this  
12 pool is kind of that backstop. And the association  
13 assesses all the members in the state when this  
14 occurrence happens. So to the extent there is an  
15 insolvency of an insurance company, there is an  
16 assessment. All of the insurers that issue insurance  
17 in the state are assessed. And then that assessment  
18 is then credited -- is credit-eligible.

19 Again, we found that Missouri is part of  
20 a network nationwide that provides this type of  
21 backstop, and almost all of them appear to handle it  
22 in a similar fashion in some form. There's little  
23 nuances and differences, but again, there's a big  
24 similarity there.

25 So again, our committee felt that this

1 was outside our scope and mission and is really part  
2 of a national interdependent network of health  
3 insurers that backstop the industry. Again, this one  
4 was actually administered by the Missouri Life and  
5 Health Insurance Guarantee Association, again, a  
6 separate, nonprofit organization with its own  
7 separate board of directors. It is not the  
8 Department of Insurance, it is not the State, so  
9 again, this falls outside of the direct jurisdiction  
10 of the State.

11 CO-CHAIRMAN GROSS: Questions?

12 (NO RESPONSE.)

13 CO-CHAIRMAN GROSS: Thank you.

14 COMMISSIONER REEVES: Property and  
15 casualty insurance is basically the identical  
16 backstop and network that I just discussed with life  
17 and health insurance except this deals with property  
18 and casualty insurers. And again, to the extent that  
19 there's an insolvency, this is the backstop and the  
20 insurance companies are already assessed to back that  
21 up, and then they come back and they can take that as  
22 a credit-eligible expense. So our recommendation on  
23 this one was the same.

24 CO-CHAIRMAN GROSS: Okay.

25 COMMISSIONER REEVES: Sounds like we

1 didn't do much, but we --

2 CO-CHAIRMAN GROSS: But you're very  
3 organized.

4 COMMISSIONER REEVES: You have to.  
5 Okay. Any --

6 CO-CHAIRMAN STOGEL: You have one more  
7 report.

8 COMMISSIONER REEVES: I've got one more  
9 to go, and that's the self-employed healthcare -- or  
10 health insurance tax credit. And this is a credit  
11 that comes off the Missouri tax return to the extent  
12 a health insurance tax deduction is not available on  
13 a self-employed filer on the federal return.

14 We did have some issues with this one  
15 which was actually put into effect in 2007, so it's a  
16 fairly recent credit. And while the intent appears  
17 to be good, we believe it almost has the opposite  
18 effect based on how the tax credit is calculated and  
19 appears to benefit those that can afford it the most  
20 versus those that can afford it the least.

21 So we recommended that this be  
22 terminated and that -- again, we don't know where the  
23 national health policy's going to go, but if the  
24 intent is good, it should probably be reworked in  
25 some fashion that's more practical.

1 CO-CHAIRMAN GROSS: Who can talk to  
2 this?

3 MR. PIEPER: During the committee  
4 meetings, there were staff from the Department of  
5 Revenue who gave information on kind of the  
6 administration of the credit but not necessarily how  
7 the health insurance system works.

8 CO-CHAIRMAN GROSS: Why is it skewed to  
9 those who can most afford?

10 COMMISSIONER VAN MATRE: The bigger your  
11 income, the bigger your credit.

12 COMMISSIONER REEVES: Yeah. Real  
13 simply, it basically is a calculation based on your  
14 income bracket. So if you're at the 36 percent tax  
15 level, then you get a bigger credit than those that  
16 would be at a 10 percent tax income bracket. So it's  
17 really skewed toward somebody that has a bigger tax  
18 deduction.

19 There's also ways too that, you know, as  
20 a self-employed, you could be on somebody else's  
21 policy. There's a whole lot of ways that you can  
22 make this work in a profit manner, I think.

23 CO-CHAIRMAN STOGEL: The Department of  
24 Revenue folks that briefed Senator Gross and I on  
25 this -- at the outset of this have a lot of

1 mechanical problems with this credit. So I guess if  
2 the recommendation is for termination, Tom, just a  
3 little stronger detail as to why would be helpful in  
4 the next week. But DOR can provide that information.

5 COMMISSIONER REEVES: Craig, anything  
6 else on that?

7 COMMISSIONER VAN MATRE: No. I mean, I  
8 think to restate, it's just that if the goal is to  
9 encourage people who are self-employed to buy health  
10 insurance, it seems like you would phase that out as  
11 the payer's income rose. And this one, the way it  
12 works, it's just the opposite; the higher your  
13 income, the better the benefit under the tax credit.  
14 So what we're suggesting is that the legislature  
15 rethink how they want to target that demographic for  
16 assistance.

17 And the property tax -- senior citizen  
18 property tax credit is sort of the same thing at a  
19 much lower level, of course. There, your income  
20 rises, you get less credit. And we're suggesting  
21 that if you want to address this problem with a  
22 credit, then you ought to have some kind of inverse  
23 adjustment just like the property tax credit.

24 CO-CHAIRMAN STOGEL: So either that  
25 would be the recommendation, or termination?

1 COMMISSIONER VAN MATRE: Yes.

2 CO-CHAIRMAN STOGEL: And so within the  
3 next week, if you could sharpen it, that would be  
4 appreciated.

5 COMMISSIONER REEVES: Sure.

6 CO-CHAIRMAN GROSS: Yeah. I think that  
7 recommendation pretty much embodies what he has said,  
8 though, that it should be -- the skew should be  
9 reversed or it should be eliminated.

10 COMMISSIONER VAN MATRE: I think that's  
11 probably what our subcommittee would say, don't you  
12 think, Tom?

13 COMMISSIONER REEVES: Yeah.

14 CO-CHAIRMAN STOGEL: Okay. So if  
15 there's an income reverse skewing, keep the program,  
16 and if there's not, terminate it.

17 CO-CHAIRMAN GROSS: Yeah, I think that's  
18 their recommendation.

19 CO-CHAIRMAN STOGEL: Fine. Then we can  
20 vote on this whole package then.

21 CO-CHAIRMAN GROSS: Okay. We can go  
22 back with credits that are parked are going to be the  
23 bank franchise and the S Corp. and the insurance exam  
24 fee and the health insurance pool assessment credit.

25 I'd like to make a motion on the Life

1 and Health Insurance Guarantee Association credit  
2 recommendation. Didn't hear any changes needed on  
3 that one. Tom, I'm making a motion on the Life and  
4 Health Insurance Guarantee Association credit to  
5 accept your recommendation on that.

6 COMMISSIONER ZIMMERMAN: So moved.

7 CO-CHAIRMAN STOGEL: I thought we were  
8 taking the whole report.

9 CO-CHAIRMAN GROSS: If agreed to, then  
10 we can do the whole report, but we have some that we  
11 need to get more information on.

12 CO-CHAIRMAN STOGEL: I don't think so.  
13 I would --

14 CO-CHAIRMAN GROSS: Yeah, that's at  
15 least those that I made. I thought you wanted to get  
16 more information on like, for example, the bank  
17 insurance tax credit.

18 CO-CHAIRMAN STOGEL: Right, more  
19 information, yes, but I mean, accept the report but  
20 just add clarification. I mean, to me, this is --  
21 we're taking it off the table.

22 CO-CHAIRMAN GROSS: So what would the  
23 language be in the Commission's report, then, if  
24 we're going to get more information?

25 CO-CHAIRMAN STOGEL: That except for the

1 last one about the Self-Employed Health Insurance  
2 Act, that these are tax credits that relate to  
3 national policy for banks or insurance regulation or  
4 the Obama health information, then it has to be  
5 referred back to the legislature because they're not  
6 really --

7 CO-CHAIRMAN GROSS: I'm with you on it.  
8 I'm just talking about the process here.

9 CO-CHAIRMAN STOGEL: And then as to the  
10 self-employed health insurance credit, there's a  
11 clear rule that it should be the inverse income  
12 skewing or terminated with a little more precision so  
13 when we write the report up -- and basically it's  
14 beyond -- too much for this Commission in its limited  
15 life to get into tax policy or national insurance  
16 issues with 44 other states or banking rules that  
17 have just changed or health insurance rules that have  
18 just changed.

19 COMMISSIONER REEVES: Yeah. Each one of  
20 our recommendations, I think, captures the fact --

21 CO-CHAIRMAN GROSS: I'm fine with the  
22 recommendations. That's not where I'm going. I'm  
23 fine with the recommendations. My question is if we  
24 adopt the report as is, which I think -- was there --  
25 yeah, even the last one. If we adopt the report as

1 is, then that's what people are voting on.

2 CO-CHAIRMAN STOGEL: But we also have  
3 the process of supplementing it with a couple of  
4 edits between now and next week if the committee  
5 wants to deal with it. I mean --

6 CO-CHAIRMAN GROSS: That's fine too.  
7 We'll have to bring those back to the Commission,  
8 though. I just don't want a report and have stuff in  
9 it that these Commissioners don't know is in there  
10 when it comes to a final vote. No surprises.

11 COMMISSIONER REEVES: So the basic  
12 substance of what we have is acceptable, except there  
13 are a couple of edits on the self-employed health  
14 insurance recommendation.

15 COMMISSIONER KOMO: So as of right now,  
16 we're looking at tabling this report possibly.

17 COMMISSIONER VAN MATRE: I think what we  
18 could do is everything except the self-employed, vote  
19 on it, because I don't think there's anything --

20 COMMISSIONER REEVES: Yeah, because  
21 there are recommendations and I think --

22 COMMISSIONER KOMO: I mean, it doesn't  
23 really matter if we vote on parts of the report or  
24 just wait till it's completely done and vote on the  
25 total report because even if we vote on part of the

1 report today, we've still got to come back and vote  
2 on the complete report. So we might as well just  
3 table the report until we have it completely done and  
4 just come back and vote on it. And it would really  
5 just be that one issue we have to go to.

6 CO-CHAIRMAN GROSS: And if I could  
7 clarify, again, I think everything that was mentioned  
8 by Craig and Tom is in that recommendation. I mean,  
9 it's up to you-all, but I'm good with the  
10 recommendation as it's worded now. So we could adopt  
11 the whole report, in my opinion, but if anyone wants  
12 to change that last one -- because the stuff you said  
13 should be done I think is in there.

14 COMMISSIONER REEVES: Yeah, I mean, if  
15 you look at the first page, it is a category D which  
16 would recommend termination unless -- and the  
17 verbiage actually comes back and says it could be  
18 structured similar to the senior citizen tax credit.

19 CO-CHAIRMAN STOGEL: I'm okay with that.

20 CO-CHAIRMAN GROSS: We had a motion --  
21 I'll withdraw my motion to just take on one credit  
22 and change that motion to accept the entire report  
23 and the recommendations in that report.

24 COMMISSIONER ZIMMERMAN: So moved.

25 CO-CHAIRMAN GROSS: We have a motion by

1 Commissioner Zimmerman. Do we have a second?

2 COMMISSIONER MARBLE: Second.

3 CO-CHAIRMAN GROSS: And a second by Alan  
4 Marble. All in favor say aye.

5 (AYE.)

6 CO-CHAIRMAN GROSS: All opposed say no.

7 (NO RESPONSE.)

8 CO-CHAIRMAN GROSS: Okay. That's  
9 adopted. Thank you.

10 CO-CHAIRMAN STOGEL: Tom, thank you.

11 CO-CHAIRMAN GROSS: Next, economic  
12 development. Pete?

13 COMMISSIONER LEVI: Thank you,  
14 Mr. Chairman. My very able co-chair, Jim Anderson,  
15 called about 25 minutes ago and said he would arrive  
16 here sometime around 11:15 to help me out.

17 CO-CHAIRMAN STOGEL: We'll take social.  
18 Mr. Hall, if it's okay with you -- Mr. Levi.

19 COMMISSIONER LEVI: He has arrived.

20 CO-CHAIRMAN STOGEL: Timing is perfect.

21 CO-CHAIRMAN GROSS: Let's take a  
22 ten-minute break. We've got some folks who requested  
23 a potty break, so let's take ten minutes and come  
24 back at 11:20. We're recessed.

25 (A RECESS WAS TAKEN.)

1 CO-CHAIRMAN GROSS: Okay. We're back in  
2 order and we're going to get right back into economic  
3 development. We have both co-chairs here now, so  
4 whoever wants to head up.

5 COMMISSIONER LEVI: I'll give it a  
6 start, Senator. My co-chair, Jim Anderson, managed  
7 to arrive just in time. I appreciate that.

8 Our committee met at least four times.  
9 All the members of our committee are in attendance or  
10 on the phone here today which is really great. And  
11 as other people have done, I need to point out the  
12 really excellent staff work that we got from Chris  
13 and Sallie in helping us go through all of these tax  
14 credits and kind of understand how they fit into the  
15 context of economic development in the state of  
16 Missouri.

17 We also were very cognizant that there  
18 are a number of organizations around the state who  
19 rely on these tax credits in the way they do  
20 business, economic development around this community.  
21 And on at least two occasions, we've sent out by  
22 e-mail where we were in this process, asked for  
23 comment. I took that comment into account and  
24 proceeded on. So we had a -- gave the opportunity to  
25 the economic development community in the state to

1 provide as much input as possible and we got some  
2 really, really good comments as we went along.

3           These tax credits are a little  
4 different, and you'll see in the approach that we  
5 took in our report, our report is a little different  
6 than the other ones that the Commission has been  
7 discussing this morning. These are all economic  
8 development credits, and we approached this with a  
9 concept that these tax credits really are not a cost  
10 to the State, but they are really an investment in  
11 increasing the net tax revenue to the State by  
12 growing jobs, adding businesses, construction around  
13 the state. This is a major tool for economic  
14 development in the state.

15           So we began by trying to set all this  
16 into some context. As you can see, we've developed  
17 kind of a preamble for what our work was going to  
18 entail. And we saw that this was really particularly  
19 important in today's competitive environment for  
20 business growth in times of very difficult economic  
21 growth around the country and in this part of the  
22 world as well, and understood that these tax credits  
23 needed to be easy to understand to promote and  
24 utilize, they needed to complement Missouri's  
25 friendly -- business-friendly environment by

1 providing direct incentives to business to create  
2 jobs and capital investments in providing financing  
3 for public infrastructure that facilitates business  
4 growth.

5           And it was in that context that we saw  
6 that these really needed to be measurable, they had  
7 to show a return on investment to the State that  
8 actually did increase the tax revenues of the State  
9 of Missouri.

10           To accomplish this, we spent some time  
11 reviewing each one of those tax credits from an urban  
12 and from a rural perspective. We asked ourselves a  
13 lot of key strategic questions about what these tax  
14 credits were really designed to accomplish and what  
15 the State was missing.

16           We did some work in comparing the tax  
17 credits that Missouri offers to some of our  
18 neighboring states, and for us on the western side of  
19 the state of Missouri, that comes particularly into  
20 play for the competition across state lines in the  
21 state of Kansas.

22           And we asked Sallie to kind of tell us  
23 what an ideal toolkit would look like for tax credits  
24 for the State of Missouri that allowed the State to  
25 participate and to compete as strongly as possible

1 for business growth within the state.

2 We also said that the governor is in the  
3 process of developing a strategic planning initiative  
4 for economic growth that is going to identify  
5 targeted high industries, and that these tax credits  
6 needed to be available to implement that strategic  
7 plan after it gets -- after it is adopted.

8 Tax credits by their nature -- I'm on  
9 the second page of this report. Tax credits by their  
10 nature should be used to incentivize developments  
11 that would not otherwise occur. That is kind of the  
12 but-for in a general term that we kept in mind in  
13 looking at all these tax credits.

14 They had to give priority to measurable  
15 job growth and capital investment and bear  
16 relationship to both existing businesses in the state  
17 and emerging -- emerging businesses that could be  
18 attracted to the state of Missouri.

19 We also, as I said, kept in mind the  
20 competition from other states. And just as an  
21 anecdotal evidence, there was a little article I was  
22 sharing with Bill, there was in the paper in Kansas  
23 City this morning a report about the Kansas  
24 Bioscience Authority that was just issued. It's a  
25 program that's very similar to the MOSIRA legislation

1 that was proposed over the last couple of years.

2 And a study was done that showed over  
3 the past five years, it had produced \$9.41 return for  
4 every dollar spent for the Kansas economy. And it is  
5 a major investment fund that is easily, readily  
6 available to attract companies in the bioscience  
7 industry to the state of Kansas and has been used in  
8 a competitive basis against the state of Missouri.

9 We also talked about whether or not  
10 these tax credits should be subject to the  
11 appropriation by the Missouri General Assembly. And  
12 you'll see in the middle paragraph of our report, our  
13 feeling was that making these tax credits subject to  
14 annual appropriations would really hamstring the  
15 ability of Missouri to move flexibly and to be able  
16 to put together proposals to attract capital  
17 investment into the state of Missouri; that having to  
18 wait until the end of the season after the General  
19 Assembly's work is done to know whether or not a tax  
20 credit has an appropriation creates doubts in the  
21 mind of investors, it results in higher costs.

22 And what the State really needs to have  
23 is certainty as it approaches each of these potential  
24 investors in the state and potential businesses that  
25 are looking at the state of Missouri.

1                   So with that in mind, we said we needed  
2 to really -- just going through each one of these tax  
3 credits without having some principles to guide us  
4 through this process would make it very difficult  
5 because some of these tax credits are very old. They  
6 have -- some have outlived their usefulness, some are  
7 wonderful, some could be changed a little bit and  
8 made even better.

9                   So I want to spend a moment to go  
10 through those guiding principles because even though  
11 these were not included in the recommendations that  
12 are in the salient points, I think it would be  
13 important for the Commission to consider adopting  
14 these guiding principles because they really would be  
15 a message to the State that this is -- these are the  
16 kind of principles that the State ought to keep in  
17 mind as the legislature considers this, and use that  
18 to be able to substitute for worrying about direct  
19 appropriations every year.

20                   If the Department of Economic  
21 Development had a set of principles by which it could  
22 operate like these, it would make the process much  
23 easier. So the first principle was that there needed  
24 to be a positive return on investment. And there are  
25 various ways to measure this.

1           Most states, including Missouri, use the  
2 REMI model to show that there is a defined fiscal  
3 benefit to the State general fund net of the cost of  
4 incentive. In other words, tax revenues go up, they  
5 don't go down as a result of this investment.

6           Secondly, it needed to take place within  
7 a definite period of time. The return to the State  
8 couldn't linger over a long period, but really needed  
9 to be evaluated as it is awarded so that it would be  
10 for private investment ten years that the return had  
11 to be realized and for public investment like the  
12 public infrastructure fund, that could be 20 years.  
13 But it should be within a definite period of time  
14 that that return takes place.

15           On the next page, these tax credits  
16 should be focused on primary jobs. Primary jobs are  
17 jobs that bring new money into the state. It's not a  
18 hamburger -- a new hamburger restaurant at the end of  
19 the block. There's only so many hamburgers you can  
20 sell, unless the hamburgers are so good that it  
21 attracts people from Mississippi, California and New  
22 York, that that's not the kind of primary job that  
23 the state of Missouri should use these tax credits  
24 for. They should be used primarily for new money  
25 coming into the state.

1                   Next, that the tax credits should reward  
2 higher paying jobs. And recognizing that these --  
3 the level of wages around state are very different,  
4 rural, urban, suburban areas, that needs to be taken  
5 into account and it needs to be localized. But this  
6 should be about growing the economy with higher  
7 paying jobs wherever possible.

8                   We also said as is contained in some of  
9 these incentives, the tax credits are ready. There  
10 should be rewards given to companies that provide  
11 health insurance for their employees. That's  
12 something, as Steve said, that may change with the  
13 new healthcare -- affordable healthcare law that  
14 comes into place, but that should be something that  
15 the company offers to its employees as a result of  
16 this.

17                   Next, there should be some local  
18 participation and cost sharing, particularly in  
19 public infrastructure. That the more money that is  
20 put in this by the local areas, the better the final  
21 result would be and the more result -- the higher the  
22 return will be to the State.

23                   These tax credits also need to be  
24 flexible so it allows the State to be nimble. When  
25 one industry in the country is hot, to be able to go

1 after that industry; when another is hot, to move  
2 over to go after the other industry. Or when we see  
3 there's a likelihood for a bombardier to come to the  
4 state or for a General Motors or a Ford expansion,  
5 that we're flexible enough to not have to wait for  
6 the legislature to act, but so that the department  
7 can go after those companies and have a set of  
8 flexible tools that allow them -- allow the State to  
9 meet the needs of those companies.

10 As I mentioned before, we felt that the  
11 tax credits needed to be simple to understand and  
12 promote. Some of these are very -- have a lot of  
13 arcane language in them, they're cumbersome. They  
14 have a lot of requirements that really should be  
15 reviewed and reformatted.

16 One of the issues that has come up over  
17 and over, and we've heard from the economic  
18 development community was, this need for upfront  
19 financing to have a closing fund. There's been  
20 legislation that has been discussed for the last  
21 couple of years about having a fund like this in the  
22 state of Missouri.

23 There are some constitutional issues,  
24 but we feel it is very important that some of these  
25 tax credits be reshaped so we're able to use upfront

1 financing. That's what -- that's what consultants  
2 who are trying to attract companies to the state look  
3 for, that's the way you get flexibility and that's  
4 the way you can assure a company that they are going  
5 to get company upfront -- money upfront.

6 Most of the tax credits for the state  
7 are based on performance. In other words, after you  
8 do something and you show the state that you've hired  
9 X number of people, you come in and then you're  
10 allowed your financing, your tax credits over a  
11 period of time.

12 The opposite of that is to provide money  
13 upfront with claw-back provisions so if the State  
14 doesn't -- if a company does not hire a certain  
15 number of jobs as they've promised, that you can claw  
16 back that money and take it back. But that upfront  
17 financing was a very important piece.

18 Many of these programs are entitlement,  
19 particularly like the quality jobs as you'll see in a  
20 second. If a company meets the requirements, they're  
21 entitled to get those tax credits.

22 The other type of tax credits are  
23 discretionary ones where, based on certain criteria,  
24 the State may or may not award that tax credit. And  
25 they would be discretionary in order to be able to

1 meet some of these high tech industries or hot jobs  
2 that could come along in a competitive way rather  
3 than first-come, first-serve.

4 And we felt strongly that there should  
5 be a mix of both those entitlement and those  
6 discretionary grants so the State has the greatest  
7 flexibility possible.

8 And lastly, that they needed to be --  
9 tax credits need to be broadly applicable. They need  
10 to cover both urban and rural areas of the state,  
11 large and small, metropolitan areas, large and small  
12 businesses. It's all part of that flexibility.

13 So we took those criteria, those  
14 guidelines, and what we tried to do was apply them to  
15 each of the tax credits to which we were assigned.  
16 And as a result, we have actually come up with three  
17 sets of recommendations. The first that begin on  
18 page 4 are recommendations following the matrix --  
19 Van Matre -- difficult to say -- with A, B and C and  
20 D recommendations and some thoughts about how to  
21 improve the tax credits.

22 The second, the chairs of the Commission  
23 asked us to think big and to look at new ideas for  
24 the use of tax credits. So what we've done is  
25 suggested the State consider combining a number of

1 these tax credits, rolling them up into a new, more  
2 flexible and easy-to-use system of tax credits for  
3 the State.

4 And the third -- the third  
5 recommendation deals with -- we had the audacity to  
6 even recommend a new tax credit which is an angel tax  
7 credit that we'll recommend in a moment, but we tried  
8 our best to be revenue-neutral and fund that out of a  
9 subject you'll see in a minute.

10 So those are our three sets of  
11 recommendations. There are others in the room who  
12 are far more expert on how exactly these tax credits  
13 work. I'll kind of go through them quickly. Sallie,  
14 Jim, Representative Flook who chaired the economic  
15 development committee in the House and knows them  
16 backwards and forwards, and there are others who can  
17 talk about the technicalities here, but these were  
18 the nine that we were assigned.

19 And I apologize that we didn't put the  
20 little blurb in there that describes each of these  
21 tax credits the way the matrix designed it to be, but  
22 so be it, we'll revise it, Mr. Chairs.

23 Okay. The first is the BUILD program,  
24 and its purpose is to provide a financial incentive  
25 for the location in large business projects, and

1 they're designed to reduce the infrastructure and  
2 equipment expenses if a project can demonstrate a  
3 need for funding.

4 I should mention that the ranking that  
5 is in here, the high, medium and low, is based on the  
6 rate of return, the ROI that the State has -- the  
7 Department of Economic Development has computed for  
8 each one of these particular programs.

9 This one -- this one has been used  
10 somewhat in the state, and our suggestion to improve  
11 it is to lower the minimum threshold. Right now it  
12 requires a \$15 million investment and 100 new jobs,  
13 and we're suggesting to make it better to reduce both  
14 those thresholds to the minimum investment and the  
15 large number of jobs.

16 The second program is the MDFB bond  
17 guarantee program. And this is a program that is  
18 used to provide tax credits for purchasers of bonds  
19 that default from tax credits. It has a \$50 million  
20 cap. It is seldom used, but it is a really good  
21 tool, and our recommendation would be to lower that  
22 cap to a level that is more akin to the actual usage  
23 for the MDFB bond guarantee program. Do you want me  
24 to stop, Mr. -- or shall I just keep going?

25 CO-CHAIRMAN GROSS: If anybody wants to

1 interject or ask a question --

2 CO-CHAIRMAN STOGEL: Let's just go  
3 through them.

4 CO-CHAIRMAN GROSS: Okay.

5 COMMISSIONER LEVI: The next one is the  
6 quality jobs program, and this is a tax credit that  
7 is provided for the creation of new jobs in the  
8 state, and it's probably, I would guess, the most  
9 popular tax credit. It currently has an \$80 million  
10 cap, it operates on a first-come, first-serve basis.  
11 So whatever developer or business gets their  
12 application in first, if it meets the requirements  
13 that are set out in the statute, they are granted  
14 that tax credit.

15 It has no system for prioritizing those  
16 requests, so our recommendation is that it be amended  
17 to set aside at least a portion of that -- a portion  
18 of the quality jobs tax credit to include a  
19 discretionary program that would allow it to be  
20 targeted to industries that are on the list for the  
21 most important ones the State would like to attract  
22 at any given time.

23 But to make it so that companies will  
24 have to come in and show how they're going to create  
25 those new jobs in the areas, particularly the ones

1 that are identified through the governor's strategic  
2 planning effort.

3 It was also recommended to us, I think  
4 from St. Louis County, that during this period of  
5 economic recession, it would be good to lower the job  
6 threshold for quality jobs from 20 -- it's currently  
7 20 in the rural areas and 40 in urban areas, and to  
8 lower those thresholds to ten jobs for the next three  
9 years to create a greater sense of new job growth  
10 using those quality job tax credits.

11 And then also to take into account the  
12 fact that tax credits could be issued for capital  
13 investment, the jobs that take place in construction  
14 jobs. There's a lot of strong feelings about quality  
15 jobs potentially even increasing this. I believe the  
16 cap was lowered, wasn't it? The cap would have  
17 been -- it was increased from 60 to 80. And there  
18 was some request to do it even to 100, but it's a  
19 very popular program.

20 The enhanced enterprise zone provides  
21 tax credits to new or expanding businesses that are  
22 located in approved enterprise zones around the  
23 state. In a sense, this tax credit is used when  
24 quality jobs don't work. It does have -- it does  
25 have a pretty good applicability. It requires the

1 local community to provide a ten-year tax abatement  
2 within that enterprise -- enterprise zone.

3 Our recommendation here is to amend it  
4 to allow for some upfront financing in certain cases,  
5 one of our guidelines, and to make a more flexible  
6 definition of distressed communities that could take  
7 into account some extreme situations around the  
8 state.

9 The next one is the MDFB infrastructure  
10 tax credit. This is really a contribution tax credit  
11 program, and it assists in funding capital  
12 improvement costs for public facilities and public  
13 infrastructure projects around the state. This is  
14 the one that in the Kansas City area has been very  
15 helpful in the new performing arts center, I believe  
16 the post office in St. Louis. It has really caused  
17 some important projects to happen around the state.  
18 It provides the ability for local governments to help  
19 financing of these major facilities through  
20 contribution tax credits.

21 The recommendation here is that some  
22 administrative changes be made to make the program a  
23 little more efficient.

24 The next one is the incubator tax credit  
25 program. This is also another one that is currently

1 administered on a first-come, first-serve basis. The  
2 purpose of it is to generate private funds to be used  
3 to establish a protective business environment, an  
4 incubator, in which a number of small businesses can  
5 collectively operate fostering growth and development  
6 during a business startup period.

7 So there are, I believe, 13 -- Sallie,  
8 is that right, 13 -- 11, 12, 13 incubators like that  
9 around the state. Many of them are also eligible for  
10 funding under the Innovation Center's grant program  
11 that is an appropriated amount for the state.

12 Currently there is a \$500,000 cap on the  
13 incubator tax credit program. Our recommendation  
14 here is that this become an appropriated program to  
15 tie in with the Innovation Center's appropriation  
16 rather than to be a tax credit. One of the reasons  
17 that the incubators felt that tax credits were really  
18 important to them was because it created a sense of  
19 private investment to match the money from the State.

20 To account for that, we also recommended  
21 that any one of these programs -- that any of the  
22 grant programs that are done through the  
23 appropriation process should require a local match,  
24 so that would take into account the funds that  
25 private businesses or organizations would provide.

1           The next one is the development tax  
2     credit program, and its purpose is to facilitate a  
3     project to create new jobs, and it provides tax  
4     credits to taxpayers making contributions to a  
5     not-for-profit corporation that then leases the  
6     facilities, the manufacturing equipment, whatever it  
7     might be, back to a business. So the not-for-profit  
8     buys the machinery, tax credits are issued for that,  
9     and then it leases it back to a private business.

10           The recommendation here is that this is  
11    really a very cumbersome process that requires the  
12    title to be held by the not-for-profit, and that the  
13    General Assembly should try to find a more efficient  
14    design that retains this purpose but doesn't require  
15    all this administrative charge that goes into making  
16    it all happen.

17           Also to allow additional benefits for  
18    higher paying jobs to provide health benefits, but  
19    primarily to eliminate these unnecessary transaction  
20    costs which add to the cost of actually providing  
21    this tax credit.

22           The next one is the business facility  
23    program, and this is one that actually is being  
24    phased out of existence. It has been used, in  
25    particular, I can tell you, in the Kansas City area

1 for a project that's been very important and created  
2 a number of new jobs that can be used for retention.

3 But the way the tax credit is written,  
4 it is limited to a very narrow segment of businesses  
5 and is applicable only to companies that create 25  
6 new jobs with a minimum of a one million dollar  
7 investment. If this program is to be retained, our  
8 recommendation is that the focus is too limited and  
9 needs to be broadened and can really be a good tool  
10 to retain jobs. The eligibility requirements should  
11 be expanded to include, again, target industries and  
12 be more flexible.

13 It could also be modified to allow for  
14 incentives based on capital investment. But this one  
15 also is being phased out. If it is to continue, we  
16 would recommend these changes.

17 The film tax credit is a three and a  
18 half million dollar tax credit that has only been  
19 used once for the production of a movie whose name  
20 escapes me -- four and a half million, I'm sorry.  
21 Four and a half million dollars. It's been used  
22 once -- "Up In The Air" that was filmed in St. Louis.

23 Our recommendation was that this tax  
24 credit is very narrow, it doesn't -- it isn't really  
25 a long-term industry opportunity for the state of

1 Missouri. There could be other ways through other  
2 means to provide incentives to film companies to  
3 locate in the state of Missouri, but the return on  
4 investment to the State for having this four and a  
5 half million dollar tax credit that's only been used  
6 once doesn't meet the guidelines and the principles  
7 that we annunciated above. So that was our  
8 recommendation there.

9 The rolling stock tax credit --

10 COMMISSIONER GARDNER: I was just  
11 interrupting because I thought you were raising a  
12 question.

13 CO-CHAIRMAN GROSS: I was. I thought  
14 you were going to. But I think it's been used more  
15 than once to give credit.

16 COMMISSIONER LEVI: But it gets limited  
17 usage at best.

18 COMMISSIONER WRIGHT-JONES: Well, now,  
19 I'm on the Film Commission. It had a great return on  
20 investment with "Up In The Air," number one. Number  
21 two, the film industry in Missouri, Paramount is  
22 crazy about Missouri right now because, you know, our  
23 costs are not as high as it is in other parts of the  
24 country. They can bring a crew in, house them, feed  
25 them for reasonable amounts of money.

1                   Number three, I have written legislation  
2   last year and proposed that we do tandem work with  
3   states that surround us, like Illinois has a  
4   \$12 million film credit, and they are in dire  
5   straits. And because St. Louis and the region in  
6   Illinois, you've got Branson and the region in  
7   Oklahoma and Arkansas, you have Kansas City, we could  
8   work with film commissions in other states that  
9   border us to help attract more industry in. I  
10   wouldn't want to see it eliminated. I'd like to see  
11   it given a chance, if we can, to do its thing. It's  
12   a potential growth industry for us short of St. Louis  
13   bottling its water and sending it out for sale across  
14   the country which they all think about.

15                   But anyway, that's my response to that.

16                   COMMISSIONER LEVI: And as you'll see in  
17   a minute, we recommended another use for that four  
18   and a half million dollars.

19                   COMMISSIONER KOMO: Yeah, I mean, kind  
20   of when we had our discussion with that one, it's a  
21   matter of what do we want in Missouri, what is our --  
22   with the limited amount of money that we have, what  
23   do we want to shine.

24                   If we want to be a film industry, then  
25   we probably really need an emphasis on film industry

1 and not look at some of the other ones. If we want  
2 to be, you know, other industries, then we need to  
3 emphasize those industries. Because as other  
4 states -- as we continue to compete with other states  
5 on other tax credits and on film tax credits, where  
6 do we want to draw the line and say this is where we  
7 want to compete at?

8 COMMISSIONER WRIGHT-JONES: I agree.

9 COMMISSIONER KOMO: That's where we  
10 ended up coming up with the recommendation that the  
11 other states are continuing to increase those, trying  
12 to draw that money in. So do we want to continue to  
13 compete there or do we want to go into the angel  
14 investments and look at trying to draw those  
15 industries into Missouri and become that  
16 theoretically?

17 COMMISSIONER WRIGHT-JONES: I agree  
18 because we are a Jack-of-all-trades state. I agree  
19 with that. We have not focused on any one thing and  
20 do a lot of scatter shot. And I understand exactly  
21 what you're saying, and I'm willing to look at that.  
22 I just had to step up and say something.

23 COMMISSIONER KOMO: And it was a hard  
24 discussion.

25 COMMISSIONER LEVI: It was a long

1 discussion.

2 CO-CHAIRMAN GROSS: We've got somebody  
3 on the phone for you.

4 COMMISSIONER WAGNER: Pete, Ray Wagner  
5 here. I was on this subcommittee, as you may have  
6 mentioned, and I somewhat pushed back on eliminating  
7 or recommending that we terminate the film credit  
8 because I thought -- I remembered "Up In The Air" and  
9 I remember the articles in the newspaper about how  
10 much interest and economic development it generated  
11 and so that was sort of my position at the time.

12 But since then, unsolicited, I received  
13 an e-mail from Ray McCarty of the Taxpayer Research  
14 Institute of Missouri who lamented the recommendation  
15 to eliminate the film credit. He had done some  
16 study -- TRIM, the Taxpayer Research Institute, had  
17 done some studies, and I guess he'd been in  
18 consultation with the Film Commission that existed at  
19 the Department of Economic Development.

20 We've had a conversation with Michael  
21 Beugg who was the producer for "Up In The Air," and  
22 he credits that tax credit with a significant reason  
23 for why "Up In The Air" was filmed in St. Louis and  
24 surrounding areas. And he thought -- and TRIM  
25 thought that this credit has value and really can be

1 a tool to generate, you know, convention-like  
2 interest in St. Louis. So I guess two questions I  
3 have. One, I can get that report to the  
4 Commissioners if they want it. We had some report  
5 and some analysis.

6 But secondly, did we invite the Film  
7 Commission to react to this during our information  
8 gathering stage? And also there's people like Katy  
9 Radcliff from the convention center and her  
10 counterpart in Kansas City. I don't recall if they  
11 provided any input, but that might be helpful to the  
12 group.

13 COMMISSIONER LEVI: I don't recall  
14 exactly who we sent these out to. We sent them out  
15 to economic development organizations all around the  
16 state, but whether it went to the Film Commission  
17 community, Sallie, I really don't know.

18 MS. HEMENWAY: It went to our standard  
19 e-mail blasts.

20 COMMISSIONER LEVI: And it's been  
21 posted. But I think the distinction here was that  
22 the film industry, it comes and it does a film and it  
23 leaves. It doesn't provide long-term job  
24 opportunities to the state as opposed to some of  
25 these other tax credits that are there to help get a

1 business started or to help an existing business and  
2 help it grow over a period of time that it's going to  
3 continue to provide a return to the state of  
4 Missouri, a positive return to tax revenues. It's  
5 not a knock on the film industry. I think it's a  
6 distinction between short- and long-term goals for  
7 the state.

8 COMMISSIONER FLOOK: This is  
9 Representative Tim Flook here, and I'm glad you  
10 raised that point because it's never really been  
11 about was the one use of it -- did we get a good  
12 return on it. We did get a good return on it. But  
13 in the context of what we are losing to other states  
14 who have -- who are going after our emerging  
15 industries, if you compare it into that context, then  
16 you realized that -- you know, Ray McCarty worked  
17 real hard on that tax credit, made the case for it,  
18 got it passed. I voted for it when it happened.

19 But when you compare that and realize  
20 that we cannot get a tax credit passed for angel  
21 investor tax credit when we know from -- with some  
22 good data to support it that states like Oklahoma and  
23 some others, Kansas, some other states have been  
24 using tools like that to attract away our emerging  
25 industries and technology and science that lead to

1 the next generation of manufacturing and production,  
2 we watch -- we're watching them leave -- at least I  
3 was watching them leave as George Clooney was shaking  
4 hands in St. Louis, and it dawned on me that --  
5 that -- at that time that we have not committed to a  
6 vision of long-term growth in the primary job market.

7           And when I say "primary job market," I  
8 mean those white collar and blue collar jobs where  
9 the people earn the money to then turn around and go  
10 see a movie, you know. So the movie industry in its  
11 own right needs us to have that kind of primary job  
12 market.

13           So when I support this recommendation,  
14 it's in the context of making room to grow the areas  
15 that bring us the best results. If there's a way  
16 that we could have this tax credit while expanding  
17 those areas we need to be able to expand in or be  
18 more competitive in, I'd be all for it.

19           But you know, it's been my experience in  
20 the last six years that nobody's really willing to  
21 give up space in their own program to allow growth  
22 where apparent need is. So you know, that's why I  
23 support making basically the tough decision of  
24 picking one that we can reduce in order to have some  
25 ability to grow somewhere else.

1                   COMMISSIONER LEVI:  Maybe one of the  
2 things we could do is do a little bit of research to  
3 see if there aren't some other tools that the State  
4 could use to incent the film industry in Kansas  
5 City and the state of Missouri -- and Kansas City.

6                   CO-CHAIRMAN STOGEL:  I want to respond  
7 to Representative Flook's comment and some things  
8 Senator Jones said.  In knowing that the "Up In The  
9 Air" film was St. Louis-based, it seems to me that  
10 it's a distinctive, geographic, short-term boost  
11 convention-like, as Ray said.  By way of background  
12 and just to open up the thought process, if it were  
13 more revenue-neutral to the state because under  
14 section 148 B where insurance companies pay a premium  
15 tax, that tax is collected by the State, 2 percent is  
16 taken off for administration and the rest is remitted  
17 to municipalities all over the state.

18                   So if the State put out a dollar but the  
19 local municipalities that benefited put in two  
20 dollars by an offset to the 148 tax -- which was  
21 suggested, by the way, by somebody else to me, which  
22 I'm just not making this up at the moment -- the  
23 local municipalities could support the film credit to  
24 be participatory so the State would get a two-thirds  
25 reimbursement, and it would make it almost

1 revenue-neutral at the state level.

2 But if the city really wanted it, they  
3 could support the film commissions. And what --  
4 Branson could pay its fair share of the film that's  
5 being done in Branson. So it doesn't take away from  
6 the State and could still make room for the rest of  
7 your ideas there. But it would augment by region the  
8 participation on the film.

9 COMMISSIONER LEVI: Maybe if you'd give  
10 us a little time, we could take a look at that  
11 recommendation and add it in here together with --

12 CO-CHAIRMAN STOGEL: I'll write you  
13 something this weekend.

14 COMMISSIONER WRIGHT-JONES: And I think  
15 you should talk with the Film Commission because it's  
16 not just regional St. Louis. For instance --  
17 actually, there's a Film Commission conference in  
18 St. Louis later this month where "Winter's Bone" is  
19 going to be reviewed and "Winter's Bone" was filmed  
20 in the southern part of the state in the rural areas  
21 of the Ozarks and Branson.

22 So other things, the film industry, it's  
23 not just about films, it's also about television  
24 shows. There's many syndicated shows that will use a  
25 state or a city as their background which also

1 creates a lot of jobs. So at least look at it. I  
2 mean, I understand -- I've got a issue with us being  
3 a Jack-of-all-trades as well. That is -- it's a  
4 problem for us. We're not focusing on anything.

5 CO-CHAIRMAN STOGEL: One more thought.

6 CO-CHAIRMAN GROSS: Actually, there's  
7 another one coming, but go ahead.

8 CO-CHAIRMAN STOGEL: One more thought  
9 is -- and I've asked for some input from DED, Sallie  
10 on this, is maybe film could be part of quality jobs  
11 which has a great payback. Even though it's  
12 short-term, the quality jobs math, if I remember  
13 right under the REMI model, was a buck output, a buck  
14 68 back. So if it could pass that test, maybe it's  
15 eligible there.

16 COMMISSIONER LEVI: This was not a knock  
17 on the film industry, this was a question of  
18 priorities.

19 CO-CHAIRMAN STOGEL: It's a question of  
20 priorities, but it's also a question of mathematics.

21 COMMISSIONER KOMO: And we had a lot of  
22 discussion on quality jobs based on, you know, what  
23 can we roll into that program, so, you know --

24 CO-CHAIRMAN STOGEL: It's a very --

25 COMMISSIONER KOMO: -- you create a new

1 job, you get 50 percent of the employment tax. I  
2 mean, it's a great program. What can we utilize in  
3 all of these programs we're evaluating that can be  
4 rolled into it to where you eliminate and make them  
5 more efficient.

6 CO-CHAIRMAN GROSS: This credit violates  
7 one of the provisions that you brought forward, focus  
8 on primary jobs, number one. Number two, it brings  
9 in -- and I don't know -- I've heard two people say  
10 that "Up In The Air" was a -- had a great benefit to  
11 the state. I haven't seen that yet.

12 COMMISSIONER WRIGHT-JONES: \$12 million  
13 is what it brought back, yeah.

14 CO-CHAIRMAN GROSS: Okay. The REMI  
15 model says it gives back 32 cents on every buck  
16 that's invested, and it didn't do any better in 2009.  
17 Now, if this is about economic development, then it's  
18 got to be worth at least bringing in a dollar.  
19 Otherwise, it's only good for the local governments,  
20 and that's what Steven was alluding to and I  
21 completely agree.

22 Maybe it's great for the local economy.  
23 Maybe a lot of those actors and film crew folks and  
24 all that come and they stay in hotels and they eat  
25 hamburgers and they do all that stuff while they're

1 here, but once that film is gone, they're gone and  
2 there's not a dime left in the economy to continue.

3 Now, if a film company wanted -- and  
4 they wanted to come in and build a studio, that's a  
5 different matter. If they wanted a full-time crew  
6 here that's going to be hiring electricians and  
7 laborers and carpenters that are going to stay here  
8 in Missouri, that's a different matter. All we're  
9 doing is paying part-time help to produce these  
10 things and the return to the state of Missouri  
11 stinks.

12 CO-CHAIRMAN STOGEL: I'll make the  
13 following -- we've spent a lot of time on this one.  
14 And let Pete finish his report and let's try to put  
15 it all in context and then we'll continue the  
16 discussion on -- not just on the film credit, but on  
17 the whole process so that we can try to stay on  
18 schedule.

19 COMMISSIONER LEVI: Back to the last tax  
20 credit. Rolling stock we recommended eliminating.  
21 And nobody really knew what it was. There was no  
22 rolling stock -- no rolling stock lobby appeared  
23 before our committee.

24 COMMISSIONER FLOOK: This is  
25 Representative Flook. I think after we had our

1 meeting it dawned on me what that was again. If I  
2 remember correctly -- and Sam, if you remember this,  
3 you might chime in. I believe this was an amendment  
4 on a bill that was put on -- put on a couple of years  
5 ago. It has to do with -- it has to do with these  
6 freight cars on these trains come into Missouri for  
7 repairs.

8 We have a couple of locations or more  
9 where there's some service and repairs going on and  
10 they'll take the trailer, they'll redo the wheels,  
11 they'll grease them up, they'll do whatever kind of  
12 work and repair they have, and then it rolls right on  
13 back out to the client who's outside the state.

14 And if I can remember correctly,  
15 whenever that rolling stock shows up for repairs, it  
16 was being taxed and it was discouraging people from  
17 using -- using our repair companies or repair  
18 maintenance companies because if they sent -- if they  
19 sent the trailer into Missouri to get the repairs and  
20 maintenance, then they all of a sudden had to pay a  
21 tax. And it was -- Shannon Cooper was in the House  
22 at the time, and it was a amendment put on by Shannon  
23 Cooper. Sam, do you remember that?

24 COMMISSIONER KOMO: I vaguely remember.

25 COMMISSIONER FLOOK: Okay. Well, I

1 believe that's what this is. I didn't get a chance  
2 to call Shannon or -- and my economic development  
3 committee staffer's no longer working in the  
4 legislature, so she's taken a new job so I wasn't  
5 able to get her to pull it up. She would have known  
6 too.

7 COMMISSIONER KOMO: I think a lot of  
8 these are -- like you said, Tim, I think it's one  
9 that had a reasoning behind it when it was first  
10 proposed, but has never been utilized. Has either  
11 resolved itself or --

12 COMMISSIONER FLOOK: We need to  
13 double-check it because if it's the one that Shannon  
14 Cooper offered, then it had a specific reason, and we  
15 might have had information about whether it's  
16 utilized. If it's an older program that is out of  
17 use, then obviously I think we should get rid of it.

18 But it dawned on me that might be what  
19 this was, and you know, that's been a good four  
20 years, I imagine, since that amendment was out there.  
21 And unless somebody there today happens to know what  
22 bill this came out of and what year it was, that  
23 might answer the question. But I didn't get a chance  
24 to look it up for myself.

25 COMMISSIONER LEVI: I went back and

1 looked in our spiral book and couldn't find it, so  
2 Chris, do you --

3 MR. PIEPER: It was an amendment on  
4 Senate Bill 711 in 2008, and it's actually -- unlike  
5 almost all the other tax credits, it's subject to  
6 appropriation and there has not been an appropriation  
7 made to it yet. And so there haven't been any  
8 recipients of this credit yet.

9 COMMISSIONER FLOOK: Then this must be a  
10 different one than what Shannon Cooper had offered  
11 then, because it's been a while.

12 COMMISSIONER KOMO: So subject to  
13 appropriations, and we've never appropriated it, so  
14 therefore, it hasn't been utilized.

15 CO-CHAIRMAN STOGEL: That makes it  
16 easier.

17 COMMISSIONER LEVI: I'll try to finish  
18 up quickly, Mr. Chair. The second set of  
19 recommendations deals with our big ideas. This was  
20 on page 6. I won't go into it in any great detail  
21 because there really is no great detail.

22 The concept was to take a number of the  
23 tax credits that are out there. The ones we listed  
24 here were BUILD, enhanced enterprise zone and the  
25 quality jobs program. It could be others, it could

1 not include all of these. But to have the  
2 legislature study the concept of pooling all these  
3 together, keeping the same tax credit caps so it  
4 doesn't cost the State any more, but using our  
5 guiding principles that are listed here to create a  
6 unified tax credit that would have the flexibility,  
7 would have upfront financing, would be similar in the  
8 way it operates to the quality jobs program and allow  
9 the State to target particular industries that have  
10 been identified for this strategic planning growth of  
11 the state, put limits on stacking -- and all features  
12 are kind of listed there.

13 We had a number of kind of interesting  
14 comments from that. The Missouri Economic  
15 Development Council sent us a set of comments and  
16 said this really seems to be worth looking at,  
17 but it's going to take some study. It may need  
18 some financial analysis to see how it would really  
19 work.

20 We need to give some thought to what  
21 goes in and what does not go in. But seemingly, it  
22 would create the kind of flexible tools that would  
23 really be beneficial to the toolkit and back to these  
24 guiding principles that were announced by the  
25 committee. So that is our second big recommendation.

1                   The third one on page 7 deals with an  
2   angel tax credit program. And the angel tax credit  
3   program is a tax credit that is given to equity  
4   investors in technology-based early-stage companies.  
5   It's -- they are angel investors. By having a tax  
6   credit like this, you know, it gives a jump-start to  
7   businesses in the state and this kind of industry.

8                   Jim, you might want to talk about it a  
9   little bit. You've had more experience. Kansas has  
10  this, a number of other states has this.

11                  COMMISSIONER ANDERSON: This was  
12  mentioned by Tim. Wisconsin is another model we  
13  looked at. Literally they have a five million dollar  
14  credit range on investors. And Wisconsin has done  
15  tremendous in terms of attracting venture capital.  
16  And as the Senator mentioned, many times we are  
17  trying to be too diffused out there.

18                  And one of the real needs we have in  
19  this state is lack of venture capital, and it's an  
20  attempt to get venture capital. And again, just to  
21  trade off this issue with the film tax credit as  
22  talked about earlier.

23                  COMMISSIONER LEVI: I believe this  
24  passed the House at the five million dollar level.

25                  COMMISSIONER ANDERSON: It did.

1                   COMMISSIONER LEVI: And then it didn't  
2 make it through the Senate. So our recommendation,  
3 as Jim said, would be -- subject to all this other  
4 discussion about the Film Commission, is to take that  
5 four and a half million dollar tax credit as Jim said  
6 and use that for the formation of an angel tax  
7 credit.

8                   CO-CHAIRMAN GROSS: Question. The idea  
9 of combining those three programs, I assume, I guess,  
10 that you're going to take the caps that each of them  
11 have and combine those?

12                  COMMISSIONER LEVI: Right.

13                  CO-CHAIRMAN GROSS: When I looked at  
14 global caps a few years ago, because of the added  
15 flexibility that you would provide, I guess, DED in  
16 administering a combined program, we were actually  
17 able to lower the total cost because there's some  
18 that are used some years and others that are used in  
19 other years. And so you ended up, if you look back  
20 in history, not needing all of the combined cap. And  
21 I don't know about these three. If you just pull  
22 three, maybe all three of these use all their cap  
23 every year. If they do, then my point is --

24                  COMMISSIONER ANDERSON: No, they do not.

25                  CO-CHAIRMAN GROSS: So if they don't,

1 then you could maybe lower that cap. Again, because  
2 of the flexibility, you can still do what you need to  
3 do in year one with quality jobs and year two,  
4 enterprise zones, et cetera.

5 COMMISSIONER LEVI: I think that would  
6 be a great recommendation to head into here.

7 COMMISSIONER ANDERSON: And of course,  
8 inherent in that second recommendation is that  
9 entitlement and discretionary. And again, that's  
10 been reinforced. But that's really the crux of that  
11 second recommendation.

12 CO-CHAIRMAN GROSS: My concern that I  
13 had here which -- and I'm starting to come around to  
14 thinking it's not such a problem but I think it needs  
15 to be brought up, is -- I don't know any other way to  
16 say it. Maybe there's a DED term that's not quite so  
17 offensive than the Driskill effect. I don't know  
18 another way to describe it except for the concern  
19 that there would be too much power in the Department  
20 of Economic Development in the programs. And we have  
21 to be cognizant of the legislature's concern over  
22 that issue which I had when I was in your shoes.

23 COMMISSIONER ANDERSON: We called it the  
24 Hemenway effect, but --

25 COMMISSIONER LEVI: Maybe before Sallie

1 responds, I think the reason we put in these guiding  
2 principles is, as part of this package, the  
3 legislature should pass some kind of principles that  
4 say it's within the gamut of these items that the  
5 department would make its decision. So it just  
6 doesn't get a free hand to do whatever it wants at  
7 any time. But there's a prescribed set of rules as  
8 to how this kind of a tax credit would be used, okay?

9 CO-CHAIRMAN STOGEL: I'm very -- I'm  
10 sorry. Go ahead.

11 MS. HEMENWAY: I just wanted to offer  
12 up, you know, the discussion has been that there are  
13 pros and cons for entitlements and there are pros and  
14 cons for discretionary credits. The pros for  
15 entitlements are that the company comes in, they know  
16 if they meet the benchmark, they get the credit as  
17 long as they're in, within, under the cap.

18 The con to that is that we may be  
19 overpaying for something that we didn't need to  
20 overpay for. It eliminates -- entitlements eliminate  
21 the but-for concept in the use of economic  
22 development or business development tools.

23 The pros for discretionary credits,  
24 then, in the business development community is that  
25 it allows that flexibility and to measure the amount

1 of the State's investment against the particular  
2 project and its project-owned qualifications. And  
3 they're not all apples. Some are oranges and some  
4 are bananas.

5           The cons to discretionary tax credits  
6 are the perceived or real political issues with too  
7 much control vested in the arms of the Department of  
8 Economic Development. The conversation around  
9 trying -- the committee, and I'm not going to put  
10 words in the mouths of the committee, I was --  
11 attended every meeting -- but the conversation was  
12 how do you handle both? If you go one way, you've  
13 got those cons to deal with; if you go the other way,  
14 you've got the cons to deal with. How do you handle  
15 both?

16           And the proposal was to meet everybody  
17 halfway by putting an entitlement base where a  
18 business who achieves a certain threshold could have  
19 access to X amount of withholding taxes or whatever  
20 the incentive turns out to be, but that the  
21 discretionary addition which allows the Department of  
22 Economic Development the ability to award additional  
23 tax credits, withholding, whatever the incentive ends  
24 up being, is there because it allows the focus toward  
25 the industries, it allows the measure to accomplish

1 what is actually needed and not, quote/unquote,  
2 overpay. But it ends up answering both sides of  
3 the -- both critics in both camps and complements the  
4 other guiding principles that are included in the  
5 report, so...

6 CO-CHAIRMAN STOGEL: Everybody reads  
7 about it every day in the newspaper, the election on  
8 Tuesday. Everybody can draw their own conclusions.  
9 But this is a vital subject for this Commission and  
10 for the State, how to get primary jobs, sustainable  
11 jobs, jobs of all kinds. And your committee's done a  
12 terrific job trying to narrow the issue.

13 To make it more program-specific, what  
14 I'd like to do is ask the committee to spend another  
15 week, which we'll all help with, I think, and Sallie  
16 and Chris too, try to come up with really specific  
17 recommendations how to use this toolkit and create  
18 vehicles for upfront financing and create which  
19 programs should be combined. And take a stab at  
20 trying to create job growth balancing, discretionary  
21 versus entitlement credits.

22 The charge of the Commission is to  
23 respect the State budget and all the governor's  
24 charges, but also to figure out how to create jobs,  
25 and you've taken a huge step defining the parameters,

1 and some more specifics I think would be helpful.

2 I, for one, think this is where the  
3 State should spend more money particularly given the  
4 payback requirements, be it quality jobs or other  
5 things because it's our future. This is one where I  
6 think the Commission should think about expanding  
7 programs as opposed to cutting them because jobs are  
8 really important.

9 COMMISSIONER KOMO: And I just want to  
10 chime in on that. With quality jobs, really all  
11 quality jobs, sitting in a budgetary situation as I  
12 have in the past, you know, quality jobs, eight in a  
13 million is just a line item. We have to put that in  
14 there. But in reality, the State has to bring in 160  
15 in revenue to turn around and give back 80.

16 So in reality, quality jobs doesn't cost  
17 the State money, it brings in that money and then it  
18 makes that payment out, so we get -- I mean, quality  
19 jobs -- we get caught up in the cap like we do in  
20 some of the other programs, but it's not the same in  
21 my opinion because it is a budget. You have to put  
22 that -- and once you put that cap on there, you have  
23 to put it in the budget so you can budget for it out.

24 And technically, if you think about it,  
25 with that theory, if you didn't have a cap -- which

1 I'm not suggesting that to this committee, but if you  
2 didn't have a cap on it, you'd just save the State  
3 80 million dollars in theory.

4 COMMISSIONER ANDERSON: But another very  
5 important point I want to reinforce is the proposed  
6 amendment to quality jobs, were it not just be jobs  
7 but capital investment, which could get at certainly  
8 the film industry, certainly will get at information  
9 technology-based industry vis-à-vis data centers,  
10 which is something we've not had before. So I don't  
11 want us to lose sight of that important  
12 recommendation as well as quality jobs to be amended  
13 to also focus on capital investment.

14 COMMISSIONER KOMO: And I just wanted to  
15 throw that out as food for thought because I mean,  
16 really, it's just a line item that we've created.

17 CO-CHAIRMAN GROSS: But I have to take a  
18 little bit of different position on that because  
19 while it's true on paper you'd be saving the \$80  
20 million, you'd have a decrease in revenue still of 80  
21 or more without a cap. And so it's still costing you  
22 \$80 million.

23 COMMISSIONER KOMO: The State brings in  
24 100 and gives back 50.

25 CO-CHAIRMAN GROSS: I understand, but

1 there's still a cost. I'm saying you don't get rid  
2 of the cost by getting rid of -- you still have a  
3 cost. It's just decreased revenue, so it's on one  
4 end instead of the other in the budget.

5 CO-CHAIRMAN STOGEL: If the State's  
6 putting out a dollar but in that short bandwidth it's  
7 getting back \$1.68, the State's 68 cents ahead and we  
8 we've created a job base going forward. So if the  
9 measurement period is a year or 24 months because of  
10 the way quality jobs work, and I would defer to  
11 Sallie and Brian and other -- and the legislators, it  
12 seems to me that this is an area where it's making  
13 money and ought to spend -- raise the cap to create  
14 more jobs and combining some of these other programs  
15 into it on figuring out a way to get a working --  
16 what was the phrase, a closing fund built into it and  
17 putting research and development and data centers and  
18 make that the State's vehicle with some sort of  
19 upfront financing vehicle maybe through the  
20 development finance board that has those kind of  
21 financing powers to really give a model for the  
22 legislature to think about.

23 COMMISSIONER LEVI: That was kind of the  
24 philosophy behind that recommendation, and it needs  
25 more work. We'd be happy to go back and kind of do

1 that.

2 CO-CHAIRMAN STOGEL: So everybody who  
3 wants to chip in on this, if you would take more  
4 volunteers on your committee, Pete, to help in the  
5 next week to put some definition on it, we could  
6 use -- that would be really helpful.

7 COMMISSIONER LEVI: Okay. And I should  
8 mention too, there's a word that we kept saying that  
9 we couldn't solve, which was job retention. You  
10 know, there needs to be more attention given to  
11 retention of jobs in a competitive environment, and  
12 it's a very difficult thing to try to measure and to  
13 create in terms of a tax credit and incentives.

14 CO-CHAIRMAN STOGEL: As much as we want  
15 to work to create new jobs, I want to share with the  
16 Commission what the Kansas City Economic Development  
17 folks shared with Senator Gross and I. Which is that  
18 the State of Kansas is aggressively going into the  
19 Missouri side to take businesses away and move them  
20 to Kansas.

21 And job retention is very important in  
22 Kansas City. It's the same as creating a new job.  
23 Kansas is not in the same financial condition as  
24 Illinois. And they're taking folks out of Missouri  
25 and moving them over to Kansas aggressively, and it's

1 very hard for a city to compete with a sovereign. So  
2 part of the charge here ought to be to help the  
3 western side of the state get some more flexibility  
4 to compete with the sovereign, not the -- it's the  
5 state of the -- it's a state of fact, we might as  
6 well deal with it.

7 COMMISSIONER KOMO: But I think all  
8 states are in the business of pulling companies out  
9 of other states. I don't think anybody -- and I  
10 think Sallie brought that up before -- are not in for  
11 retention.

12 CO-CHAIRMAN STOGEL: And one of the  
13 things that we can look at is there are fiscal crises  
14 in lots of states. You can name others. We are  
15 feeling it too, but as the governor mentioned, we're  
16 one of the few triple A states. We ought to use that  
17 based stress retention as well as creation because  
18 other states' ability to fund pots of money are  
19 dwindling. They just don't have the resources.

20 COMMISSIONER KOMO: But they're in the  
21 same business. They're trying to pull ours, but then  
22 once they leave our state, then at that point we have  
23 the ability to try to draw them back because we're  
24 both at the front end. I don't think any state's  
25 really for the whole duration, and that's -- I think

1 everybody's at a disadvantage, because then you do  
2 that.

3 CO-CHAIRMAN STOGEL: A couple of years  
4 ago it was contested in the Supreme Court and I think  
5 on an Ohio case, and all that was found to be okay.  
6 This was way beyond the scope of the Commission, but  
7 to the extent we can expand the toolbox with some  
8 recommendations here, retention is just as important  
9 as job creation, at least as I'm thinking about it.  
10 Noting the Kansas City side special event, and that  
11 was shared with us and I wanted to share it with the  
12 Commission. That's all.

13 COMMISSIONER ZIMMERMAN: Well, Alton was  
14 just moved out which a lot of our people in Missouri  
15 worked at. Over 1,000 good paying jobs went away.

16 CO-CHAIRMAN STOGEL: But we can't help  
17 what Illinois does or doesn't do. We should -- it  
18 would have been nice to have brought some here.

19 COMMISSIONER ZIMMERMAN: That's just a  
20 similar...

21 CO-CHAIRMAN GROSS: We need to wrap it  
22 up. Good report and good work.

23 CO-CHAIRMAN STOGEL: It was a very good  
24 report, but I think another week of these kind of  
25 parameters, Pete, if we can -- if you have the

1 stamina, would be appreciated.

2 COMMISSIONER LEVI: Sure.

3 CO-CHAIRMAN GROSS: Yeah, was there  
4 anything in there -- I think we just park everything  
5 and come back to it.

6 CO-CHAIRMAN STOGEL: We can make up some  
7 time because my tax law report will be particularly  
8 dull and particularly short.

9 CO-CHAIRMAN GROSS: Can you do it in  
10 eight minutes or less?

11 CO-CHAIRMAN STOGEL: I'll catch up some  
12 time. Do you want us to go now?

13 CO-CHAIRMAN GROSS: We're supposed to  
14 adjourn at 12:30 for lunch.

15 CO-CHAIRMAN STOGEL: We'll get it done  
16 in the next half an hour. One o'clock lunch.

17 CO-CHAIRMAN GROSS: Let's see how it  
18 goes. We're going to stop before one o'clock for  
19 lunch. Go ahead.

20 COMMISSIONER HALL: I'll move as quickly  
21 as I can. Thank you, Senator. Is Senator Justus on  
22 the phone? Well, she may be joining us. She is my  
23 co-chair and I want to thank my other committee  
24 members, Jim Anderson, Luana Gifford and Melissa  
25 Randol and Shannon Weber, several of them who were

1 down here.

2 Let me begin by making sure everybody  
3 understands how the social credits work. They are  
4 contribution credits, so an agency is -- a State  
5 agency provides credits to a not-for-profit. That  
6 not-for-profit normally is dealing with at-risk or  
7 vulnerable populations in Missouri.

8 Those credits are then triggered by a  
9 private contribution so that if someone gives a  
10 dollar to a maternity home, they normally get a 50  
11 percent tax credit against that dollar contribution.  
12 So these are contribution tax credits that are  
13 triggered and are meant to induce private donations.

14 We looked at 16 credit programs. One of  
15 them has expired, one of them was the senior citizens  
16 program which we did senior citizens property tax  
17 which he didn't spend any time on. In total, we're  
18 talking about roughly \$35 million in the cap and \$25  
19 million that's used.

20 Now, in terms of our recommendations,  
21 that begins behind that first tab. We think there is  
22 merit to sunseting all the programs. About half the  
23 programs have a natural sunset. We think that  
24 probably revisiting the programs has merit. Not only  
25 might some of the programs not be as central as -- or

1 maybe as effective as they might have been, but there  
2 are always chances to improve programs. And so we  
3 think that having a five- or ten-year horizon on all  
4 the programs probably makes sense. We recommend that  
5 there are certain programs that have limited  
6 impact --

7 CO-CHAIRMAN GROSS: On that issue --

8 COMMISSIONER HALL: Yeah.

9 CO-CHAIRMAN GROSS: I'm not sure who to  
10 best ask this question. We passed a statute,  
11 you-all, they passed, whoever passed a statute in  
12 2003, '4, somewhere in there, that requires a sunset  
13 on all new programs. Do new Economic Development  
14 programs fall into that? I know these are existing,  
15 but would new ones fall under that sunset?

16 MS. HEMENWAY: New fall under it, but  
17 there are a lot of existing programs that do not  
18 have --

19 CO-CHAIRMAN GROSS: I understand. What  
20 is the sunset that's imposed by that statute on a new  
21 program?

22 MS. HEMENWAY: Six years.

23 CO-CHAIRMAN GROSS: Six years. So if we  
24 were going to go along with the rest of the required  
25 sunsets on all new programs, six years would be

1 appropriate in this case? Thank you.

2 COMMISSIONER HALL: Of the 14 programs  
3 that we have, five have sunsets, nine do not.

4 COMMISSIONER VAN MATRE: Could I just  
5 ask a quick question here? On the corollary to  
6 sunseting everything is that there is a repository  
7 of information that you can consult so you don't  
8 continually reinvent the wheel every five to ten  
9 years.

10 But we don't really have that in this  
11 state. It seems like along with sunseting, there  
12 would have to be some kind of attempt to develop the  
13 database of knowledge that went into the program in  
14 the first place so that when people look at the  
15 program of renewal or cancellation, they've at least  
16 got something like on those programs. When we were  
17 doing the research on our program -- and I think  
18 you-all had the same experience -- you know, what was  
19 in their mind when they passed the law in the first  
20 place.

21 And so I think if we're going to  
22 recommend that, I'd like to see added to that that  
23 there be some kind of effort to have the history  
24 behind the legislation and why different aspects of  
25 it were accepted and rejected so that you'd have that

1 benefit of...

2 CO-CHAIRMAN GROSS: Chris has an idea.

3 MR. PIEPER: Under the Sunset Act, there  
4 is a requirement that Legislative Oversight produce a  
5 report related to that program. Typically, that  
6 report will go through some of the legislative  
7 history of the program as it was enacted.

8 There's also the benefit of because the  
9 Sunset Act only applies to the new programs, it's  
10 usually only been six years. So you do have some  
11 living memory within the legislature; whereas, for  
12 some of these existing programs, it's more difficult  
13 to go back to 1970 when they were enacted. So I  
14 think if the recommendation were to tie it to the  
15 existing Sunset Act, there is the requirement that  
16 Legislative Oversight prepares that report.

17 COMMISSIONER VAN MATRE: And that  
18 includes all of the legislative history of what was  
19 accepted or rejected or is it just --

20 MR. PIEPER: The reports that  
21 Legislative Oversight prepares for sunsetted programs  
22 vary, and because that Sunset Act was only enacted,  
23 you know, five or six years ago, there hasn't been  
24 many of those reports yet. So you know, there could  
25 be a direction from this Commission to indicate that

1 legislative history and other things be considered in  
2 those reports.

3 COMMISSIONER VAN MATRE: Sorry.

4 COMMISSIONER HALL: There are several  
5 programs that we think do not have a wide impact, and  
6 those are listed. The family development account tax  
7 credit act, the healthcare access fund on that next  
8 page, the commercial and residential disabled access  
9 and the Public Safety Surviving Spouse Act. I think  
10 in the recommendations in the front here, it talks  
11 about perhaps eliminating those in 2011. It is  
12 certainly possible that some of those programs are  
13 politically sensitive enough that it would be better  
14 to let them go to their sunset provision, and they're  
15 not substantial in terms of the amount of money it's  
16 costing the State. They're very small programs.

17 You'll also see that we are suggesting  
18 that under the Special Needs Adoption and Children in  
19 Crisis Act that we do away with the adoption credit  
20 for international children. There's a strong feeling  
21 that there are plenty of special needs children in  
22 Missouri who need adoption and that's where the  
23 credit should be focused.

24 Probably the most difficult  
25 recommendation we're making, because I know a number

1 of us on the committee have been contacted by many in  
2 the not-for-profit community, is that we believe that  
3 there is the opportunity for the State to achieve  
4 greater leverage with their credits by lowering the  
5 value of those credits.

6 We're suggesting -- and these are just  
7 kind of numbers. We're suggesting they can be --  
8 certainly can be adjusted. But adjusting the 70  
9 percent rural credits to 50 percent credits and the  
10 50 percent credits to 35 percent credits. To put up  
11 a 70 percent credit in context, you know, it is  
12 difficult to know how a credit affects every  
13 taxpayer. But for a taxpayer who's in the highest  
14 tax bracket or for a Missouri corporation, the  
15 after-tax cost of a 70 percent credit is 15 cents.  
16 And there was a feeling on the committee that that  
17 probably could be raised and still be a significant  
18 inducement to the donor.

19 With regard to the 50 percent credits, a  
20 50 percent credit in the same circumstances has an  
21 after-tax cost of about 28 cents. So by changing  
22 those limits, we think that you can get more for the  
23 same amount of credits so that, as an example, using  
24 NAAP which is the largest program that we look at  
25 here, NAAP has \$10 million worth of 50 percent

1 credits and it has \$6 million worth of 70 percent  
2 credits.

3 So the \$10 million in credits, let's use  
4 that as an example, the 50 percent credits gets you  
5 \$20 million of donations. If you were to change to  
6 35 percent, that would get you roughly \$28 million  
7 worth of donations to generate the \$10 million worth  
8 of credits.

9 So what we see as a difficult situation  
10 financially for the State going forward, this may be  
11 an opportunity to increase the leverage of the  
12 credits and, in fact, get more money into the -- into  
13 the not-for-profits who are providing the services.

14 As kind of the flip side of that, what  
15 we're suggesting is that if we lower the value of the  
16 credit, we can expand the donor base by doing three  
17 things: First is to conform and broaden the  
18 definition of taxpayer. We have two particularly  
19 large programs within this social service area, the  
20 NAAP program, Neighborhood Assistance Act Program,  
21 and the Youth Opportunity Program, the YOP program.

22 They have different definitions of  
23 taxpayers. One is for businesses, although it's a  
24 broad definition of business, and the other one is  
25 for businesses and individuals. We don't know that

1 there's any logic to having different taxpayers  
2 paying for what are both social service programs. We  
3 think that conforming that definition and broadening  
4 that definition can expand the pool and make up for  
5 the decrease in the value of the credits.

6 The second idea is one of  
7 transferability. The State has transferable tax  
8 credits. In most of the cases of the credits we're  
9 talking about here, they are not transferable.

10 If you were to expand the transferable  
11 credits, that allows you to have foundations.  
12 Out-of-state donors have a way they can make a  
13 contribution and still benefit from it. And also  
14 people who don't pay Missouri taxes can make a  
15 donation and get the benefit of the credits. That  
16 would be a significant expansion of the donor base  
17 and the pool of people who can make donations.

18 Then we think there ought to be a hard  
19 look at some of the individual limits, the  
20 per-contribution limits. To give you an example,  
21 there's a \$2 million tax credit for food pantries.  
22 Great program. It's used about \$500,000. Well,  
23 that's because there's a limit of \$2,500 per donor.

24 Well, \$2,500 is probably not significant  
25 enough to induce some people to give, particularly if

1 you were a large grocery store, a large restaurant  
2 chain. Is there a way to restructure that  
3 inducement, that credit to dramatically increase the  
4 amount of both food and/or cash that would go to food  
5 pantries? So that's another thing that we think  
6 should be looked at.

7 We also think there can be a transfer  
8 charge for transferable credits. The State benefits  
9 from credits that are issued but sometimes not  
10 redeemed. This is a way to lower the cost to the  
11 State but still to induce the foundations and the  
12 corporations that don't make a profit or out-of-state  
13 individuals and lower the cost to the State by  
14 lowering the value of the transferable credit.

15 The -- and I think the last item is, one  
16 thing that we noticed is that there seems to be a  
17 significant difference in the level of oversight  
18 between departments. Some exercise significant  
19 oversight, very much involved; some go through what  
20 is almost a mathematical allocation.

21 And I think our belief was that the  
22 credits should all receive significant oversight and  
23 that the legislature would be wise to insist that all  
24 programs be given a significant degree of oversight,  
25 not just a mathematical allocation.

1 I'd ask if my committee members or if  
2 Senator Justus has joined the conversation, if they  
3 have any suggestions or comments?

4 CO-CHAIRMAN GROSS: Anyone?

5 (NO RESPONSE.)

6 CO-CHAIRMAN GROSS: Couple questions I  
7 had. On the transferability issue, does that raise  
8 the cost for administering the program?

9 COMMISSIONER HALL: No.

10 CO-CHAIRMAN GROSS: Okay.

11 COMMISSIONER VAN MATRE: The answer was  
12 yes?

13 MS. HEMENWAY: The answer was no.

14 CO-CHAIRMAN GROSS: Which I thought that  
15 was always one of the issues that you had with the  
16 transferability sell.

17 MS. HEMENWAY: We have such an  
18 infrastructure right now to transfer the majority of  
19 the credits. Adding the minority credits that are  
20 nontransferable to that structure is not going to add  
21 any significant cost to our administration. In other  
22 words, we do it so much already, adding the social  
23 and contribution credits to the transferability, we  
24 already have the FTE in place, we already have the  
25 computer system in place, we already have the process

1 in place. I don't see it as an increased cost to the  
2 State.

3 COMMISSIONER VAN MATRE: I mean, I  
4 understand what Sallie's saying, but it seems to me  
5 that the more you make them transferable, the more  
6 likely they're going to be used and therefore the  
7 delta or the increased cost to the State is the  
8 increased utilization that otherwise would lapse. So  
9 is there a way of measuring that?

10 MS. HEMENWAY: And Mr. Hall, I think --  
11 let me remind you of the conversation the committee  
12 had in regard to the fundraising period now which is  
13 typically a year or two-year period to get the -- to  
14 garner the contributions because they are from  
15 contributors who either have to have tax liability or  
16 are willing to forego that because they don't have it  
17 and won't be able to use the credit.

18 The cost of that process of garnering  
19 contributions is when you compare it with a  
20 transferable credit, the project could get underway  
21 that much faster, and so the cost to the nonprofit is  
22 reduced. But for the State's participation, while  
23 they most likely would be all redeemed, the cap  
24 hasn't changed and the amount per project has  
25 actually been lowered.

1                   So the -- you would see additional  
2 redemptions from the State's perspective that you  
3 haven't seen now, but you'd also see project and  
4 program efficiencies that you also hadn't seen  
5 before.

6                   COMMISSIONER HALL: See, I don't think  
7 we know because you're lowering the value of the  
8 credit. So is that going to mean that certain people  
9 who are induced at 70 percent won't be induced at 50  
10 or 50 at 35? So to make up for that by expanding the  
11 donor pool, which transferability would do, are you  
12 going to make up for those people who don't have the  
13 same inducement as they had before?

14                  COMMISSIONER VAN MATRE: But I mean, if  
15 your only variable is transferability or not, I mean,  
16 do we know -- I think we do know, don't we, how much  
17 of these credits lapse, are not used?

18                  MS. HEMENWAY: Yes.

19                  COMMISSIONER HALL: Oh, sure.

20                  MR. PIEPER: It varies from program to  
21 program, but we have amounts that are issued and then  
22 an amount that's redeemed that's typically smaller  
23 than the amount issued.

24                  COMMISSIONER VAN MATRE: Isn't it like  
25 80 percent or 60 percent?

1                   COMMISSIONER HALL: Well, of the 35 in  
2 this category, roughly 25 are used. So you know,  
3 that would be that that \$10 million is not redeemed.  
4 Whether or not if you went to a 50 percent credit and  
5 a 35 percent credit, that 25 would drop. We don't  
6 know how much it would drop, but it would drop. Does  
7 this transferability make up for it? I've seen an  
8 awful lot of people from the not-for-profit community  
9 who do not believe that it will make up the  
10 difference. I think it probably will, but that's --  
11 you know, we don't know.

12                   COMMISSIONER REEVES: Yeah, I'm trying  
13 to reconcile the two conversations. I think you-all  
14 took an approach of not how to reduce overall the  
15 cost, but how to get a bigger bang for the existing  
16 buck --

17                   COMMISSIONER HALL: That's right.  
18 That's exactly right.

19                   COMMISSIONER REEVES: -- and make it  
20 more effective and even better utilized so that the  
21 money flows to the organizations but not necessarily  
22 look at what's not being used and just eliminated.

23                   CO-CHAIRMAN STOGEL: In listening to  
24 testimony around the state, there is a -- that the  
25 agencies that get these credits can go raise the

1 money and they provide an enormous service to the  
2 State that the State doesn't have to. And just  
3 doing -- at \$35 million if it were all expended but  
4 the efficiency is raised, instead of raising \$70  
5 million or \$65 million, the State would be raising 95  
6 to \$100 million, so -- from private citizens.

7 So all these groups who are providing  
8 all these services have increased fundraising in  
9 difficult times, and the quid pro quo is expanding  
10 the base and expanding transferability.

11 And the legislature can look at it  
12 again, but if you take \$30 million or \$35 million a  
13 year and you think about it for five years, that's  
14 private citizens putting \$150 million back into  
15 social services that the State doesn't have to. It's  
16 a vast payback for a tiny amount of money. So it's  
17 probably the one case where by freezing, you create  
18 more for the State, so...

19 COMMISSIONER HALL: Right. That was the  
20 idea.

21 COMMISSIONER VAN MATRE: Right. I mean,  
22 I'm not -- I think all of these programs are  
23 excellent programs, I wouldn't want to see them  
24 suffer, but just in terms of the cost to the State,  
25 that's why I ask that question.

1                   But the second question I had is would  
2 we achieve maybe something along those same lines if  
3 the State were to market a last resort that said we  
4 will buy your credit back if it's unused at 50 cents  
5 on the dollar?

6                   CO-CHAIRMAN STOGEL: When we talk about  
7 global issues and the Dutch auction, I'd like to  
8 defer that subject for next week. You know, it's a  
9 totally different approach, Bill, that your committee  
10 took which is freeze the credits and raise another  
11 \$30 million for all the organizations by changing  
12 definitions. To me, it's clearly out-of-the-box,  
13 big-time thinking, so thank you.

14                  CO-CHAIRMAN GROSS: I need to ask on the  
15 issue of individual limits, that's something I hadn't  
16 really thought much about on these credits.

17                  COMMISSIONER HALL: Yeah, they're all  
18 over the map, you know. I mean, they're all the way  
19 from \$2,500 to \$200,000. And you know, I just think  
20 there are some of them -- and you'd have to go kind  
21 of through on each one where the \$2,500 just doesn't  
22 make any sense. The food pantry, \$2,500 to the food  
23 pantry, why don't we want to see more money go to  
24 food pantries? I mean, wouldn't you raise --

25                  COMMISSIONER GARDNER: Why do we care

1 about a limit period?

2 COMMISSIONER HALL: Right.

3 COMMISSIONER GARDNER: I guess that's  
4 just the basic question is why --

5 CO-CHAIRMAN GROSS: I didn't know there  
6 was a limit, quite honestly.

7 CO-CHAIRMAN STOGEL: If somebody wants  
8 to give essentially three dollars to get a dollar  
9 under your proposal for 50 cents, we should encourage  
10 that fellow or that person --

11 COMMISSIONER VAN MATRE: A food  
12 pantry --

13 CO-CHAIRMAN STOGEL: -- or that  
14 foundation. Why have limits at all.

15 COMMISSIONER VAN MATRE: -- worry about  
16 grocery stores dumping day-old food.

17 COMMISSIONER HALL: Yeah. And what I  
18 was suggesting is that we need to get with the food  
19 pantry people and find out exactly what it would take  
20 to induce cash and what does it really take to induce  
21 additional people to give food? It may be the  
22 grocery stores are already giving without the -- and  
23 the 2,500 isn't even material. And we don't want to  
24 induce the grocery stores to do any more.

25 But are there people out there that

1 we're not getting or if you tiered the credit in some  
2 way that encouraged people to do more, would you then  
3 have achieved something by increasing both the food  
4 donations and the cash donations?

5 I don't think it's as simple as saying  
6 the 2,500 should be -- you know, just let it alone.  
7 I think there ought to be a limit on the food side  
8 because you could have -- Schnuck's could probably  
9 take the whole thing. And I don't think that's what  
10 we want. So -- and I don't know what the answer to  
11 it is, and I had written Steve and Senator a note  
12 that said I do think we need to get the food pantry  
13 people in, sit down with them and say how can we make  
14 this the most effective for you?

15 COMMISSIONER GARDNER: Why don't you  
16 just on the donation pull the limits for cash  
17 donations as opposed to food donations? I mean, if  
18 you've got an individual over here who wants to make  
19 a \$10,000 donation and you've got a \$2,500 limit,  
20 he's probably going to donate \$2,500. And why does  
21 the State care whether I've got five people donating  
22 50,000 or 100 people donating a much smaller amount?  
23 I mean, I don't see the logic of particularly that  
24 small of a limit.

25 COMMISSIONER HALL: Yeah, I think it

1 needs to be raised, but you could have a geographic  
2 situation where you have somebody who took it all in  
3 St. Louis or Kansas City.

4 COMMISSIONER GARDNER: Oh, no, no, no.  
5 Okay, okay. Well -- yeah.

6 COMMISSIONER HALL: So you've got to  
7 have some kind of an individual cap, but it's not  
8 \$2,500.

9 COMMISSIONER RECTOR: On that credit  
10 particularly that you-all looked at expanding beyond  
11 the food pantry, because I know there are lots of  
12 not-for-profit organizations that provide that same  
13 service but they're not actually designated food  
14 pantries and so that tax credit's not available. And  
15 if you looked at those who are eligible, those  
16 entities that were eligible for donations, if you  
17 donated to those entities, you could claim that  
18 credit, that might be another way that you could  
19 further utilize funds under that cap.

20 COMMISSIONER HALL: We didn't look at  
21 that. We certainly could and see if there are other  
22 organizations that would fit under that umbrella,  
23 same purpose.

24 CO-CHAIRMAN STOGEL: Except for the food  
25 pantry item, is the Commission okay, want to

1 support -- make a motion for this report and approach  
2 and just come back with more on the food pantry,  
3 Bill?

4 CO-CHAIRMAN GROSS: I would like to  
5 amend the sunset item to make it a six-year sunset  
6 with a requirement that legislative history through  
7 the Division of Oversight be included when that  
8 sunset report goes to the legislature. I'll make  
9 that in the form of a motion.

10 COMMISSIONER LEVI: Second.

11 COMMISSIONER GARDNER: I just have to  
12 raise one question, and I know you guys -- this is  
13 the danger of opening your mouth when you don't  
14 really know what you're talking about. And I know  
15 you guys have looked at this, I'm sure, very  
16 thoroughly. I just -- I have one board I sit on,  
17 Main Street Missouri, that is a beneficiary of NAAP  
18 credits. And we have -- I mean, it is a struggle  
19 every year to get those credits sold. I mean, it's  
20 tough to raise the donations, to raise the money.

21 That's basically one of our main sources  
22 of funding. And even at the current value of the  
23 credit, we find it very, very difficult to raise that  
24 money. Now, if this works, great. I'm wondering  
25 what happens if it doesn't work? I mean, do we just

1 go back to the way -- I mean, we're not going to be  
2 around a year from now, so I guess the legislature's  
3 just encouraged to reexamine it in the hope that it  
4 generates more money instead of less, that it comes  
5 to fruition.

6 CO-CHAIRMAN STOGEL: Well, if the  
7 legislature enacts this and it works, great, and if  
8 it doesn't work, I'm sure there will be lots of  
9 people who exercise their legislative -- their  
10 prerogative to call their legislator.

11 COMMISSIONER HALL: You're talking about  
12 a seven cent per dollar differential between 50 and  
13 35. And if this were enacted, you expand your donor  
14 pool to individuals which you don't have now.

15 COMMISSIONER GARDNER: And I agree, that  
16 helps. And that may make up -- and the  
17 transferability, both of those things are going to  
18 help.

19 COMMISSIONER HALL: Make a big  
20 difference.

21 COMMISSIONER GARDNER: And I know you  
22 guys have thought about it a lot more than I have,  
23 so --

24 COMMISSIONER REEVES: I'm in a couple of  
25 organizations and it's the same thing, it's always a

1 struggle to sell the NAAP credits at the end of the  
2 year so you can get more or -- but it seems to me the  
3 answer isn't the percentage as much as the broadening  
4 of the possibility of your donor base. At that point  
5 you reach a lot more folks.

6 CO-CHAIRMAN STOGEL: NAAP credits are  
7 very hard to use. If you expand the definition of  
8 taxpayer, you basically make it as broad as any of  
9 the other statutes, it will be a lot easier to sell  
10 them on it.

11 COMMISSIONER REEVES: Sure. Individuals  
12 have to have a partnership interest or some kind of a  
13 business interest to even claim it. If you take that  
14 out of there, you open the door.

15 CO-CHAIRMAN STOGEL: And the  
16 transferability feature, you know, out of state or  
17 private foundations or public foundations  
18 particularly could all be included. And maybe some  
19 specific language, Bill, could be worked up next week  
20 to take that definition of taxpayer and include it in  
21 the report as a subset.

22 COMMISSIONER MARBLE: Why was that  
23 definition included in the first place? I was just  
24 curious.

25 MR. PIEPER: I could hazard somewhat of

1 a guess. Each of these programs are sort of built  
2 kind of piecemeal, and the Neighborhood Assistance  
3 Program is a relatively old program. There are more  
4 recent programs that have been more expansive with  
5 the definition of taxpayer. So I think it's really a  
6 historical thing more than anything.

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

9 (AYE.)

10 CO-CHAIRMAN GROSS: Opposed, say no.

11 (NO RESPONSE.)

12 CO-CHAIRMAN GROSS: And everything else,  
13 Steven, your recommendation was to go ahead with it?

14 CO-CHAIRMAN STOGEL: Go ahead with it,  
15 refine the definition of taxpayer, do a little more  
16 with the food pantry over the next week.

17 CO-CHAIRMAN GROSS: So as amended, we're  
18 going to accept the committee report? I'll make that  
19 motion. Do we have a second?

20 COMMISSIONER LEVI: Second.

21 CO-CHAIRMAN GROSS: We have a second by  
22 Pete Levi. Any questions, comments?

23 (NO RESPONSE.)

24 CO-CHAIRMAN GROSS: All in favor say  
25 aye.

1 (AYE.)

2 CO-CHAIRMAN GROSS: All those no?

3 (NO RESPONSE.)

4 CO-CHAIRMAN GROSS: That motion passes.

5 I move we take a recess for lunch.

6 (THE LUNCH RECESS WAS TAKEN.)

7 CO-CHAIRMAN GROSS: Okay. Let's come  
8 back to order. If those on the phone would just  
9 identify themselves so we know who's on the line,  
10 please?

11 COMMISSIONER BOYERS: Zack Boyers.

12 COMMISSIONER FLOOK: Tim Flook.

13 COMMISSIONER WAGNER: Ray Wagner.

14 CO-CHAIRMAN GROSS: Okay. Very good.

15 We have three on the line, then, and 17 or 18 around  
16 the table here.

17 The next report is going to be from the  
18 tax law committee. Mr. Stogel.

19 CO-CHAIRMAN STOGEL: We had a conference  
20 call with Ray Wagner, Russ Still and Penney Rector.  
21 I got great assistance from the Husch law firm, Bryan  
22 Cave, the Rosenthal law firm and Mike Novogradac  
23 accounting firm.

24 It basically outlines three approaches;  
25 plan 3 is the State plan and plan 1 and 2 are

1 different federal plans to address the not-so-hidden  
2 burdens of the federal income tax incidence on State  
3 credits. If the best case -- and we could get  
4 federal legislation to allow State credits not to be  
5 taxed as income or to be fully deductible for State  
6 taxes paid which is not an overnight process, it  
7 would save on contribution credits, a 35 percent  
8 haircut on low income, a 35 percent haircut on State  
9 historic, not as much because there is a time factor  
10 and a tax delay.

11 But it would be a significant savings to  
12 the structure of the program, and if that happened,  
13 we'd have to come back to the legislature and -- not  
14 as a Commission, but advise them to incorporate that  
15 law, but as an outgrowth and a postscript to the  
16 Commission that this could be continued after the  
17 Commission expires by DED. That would be a form of  
18 recommendation.

19 The second plan is a very technical one  
20 to define whether the historic and low-income is  
21 transferable credits or capital assets or ordinary  
22 income assets, and this will take an IRS ruling on a  
23 project-specific basis. If we can find a prospective  
24 transaction that has both historic and low income,  
25 I've got volunteers to -- law firms to help write a

1 ruling. That would be a significant pickup.

2 And the last plan is a State-only plan  
3 which the legislature can adopt which would eliminate  
4 the need for loss partners on low income and  
5 historic. It's a very technical area, but it saves  
6 the State about \$40 million, by my mathematics, a  
7 year. And in all events, that could and should be  
8 done.

9 So I won't bore you with the appendices,  
10 but if you have technical questions, we can chat  
11 about those next week. But that's the outline of the  
12 plan. I got great input from some tax practitioners  
13 and Mark Gardner on the low income and some folks on  
14 the historic and an awful lot of professional input  
15 time from the noted law firms. So that's my report.

16 CO-CHAIRMAN GROSS: Is it your  
17 recommendation that we -- that we recommend in our  
18 report, item No. 3 and then No. 2 -- numbers 1 and 2  
19 will be something that's pursued outside of our  
20 report or you want all three of them in or...

21 CO-CHAIRMAN STOGEL: Well, this is sort  
22 of an out-of-the-box. It's -- on the federal ruling  
23 and the federal legislation, if there could be some  
24 sort of continuation, that's something all the law  
25 firms and I would like to continue to work on because

1 it's such an ultimate home run.

2 CO-CHAIRMAN GROSS: Sure.

3 CO-CHAIRMAN STOGEL: And for the  
4 legislature, plan 3 must be worked on because it's a  
5 first-step resolution and a significant amount of  
6 money. And then as you go into next year, if it all  
7 worked perfectly, we could maybe get plan 1 or 2 done  
8 too.

9 CO-CHAIRMAN GROSS: On No. 3 which  
10 includes the transferable tax credits, does that  
11 apply actually to all transferable tax credits or  
12 just low income and historic?

13 CO-CHAIRMAN STOGEL: It was intended for  
14 low income and historic, but given the action on the  
15 social committee --

16 CO-CHAIRMAN GROSS: Right, that's what I  
17 was thinking.

18 CO-CHAIRMAN STOGEL: -- we'll go back  
19 and rethink that and do a supplement to my own report  
20 because it could be a pickup there too to make  
21 credits more efficient, so good point.

22 CO-CHAIRMAN GROSS: Any questions on  
23 this from anybody? Any tax law experts out there  
24 that want to opine on this?

25 (NO RESPONSE.)

1 CO-CHAIRMAN GROSS: Okay. Very good,  
2 Steven. Thank you. And next, the senior citizen  
3 property tax credit, Mr. Van Matre.

4 COMMISSIONER VAN MATRE: The senior  
5 citizen's tax credit subcommittee was composed of  
6 myself and Dee Joyner and Penney Rector here to my  
7 left, and Alan Marble and Representative --

8 CO-CHAIRMAN GROSS: Hey, Craig, I erred.  
9 So did we table it or did we pass it, Steven, the tax  
10 law report? I'd move that we approve it.

11 CO-CHAIRMAN STOGEL: Allow me to do a  
12 supplement on the social credits before it's finally  
13 filed because it might have applicability. I just  
14 need --

15 CO-CHAIRMAN GROSS: We have a motion.

16 UNIDENTIFIED SPEAKER: Second.

17 CO-CHAIRMAN GROSS: And second by --

18 COMMISSIONER HALL: You already had  
19 the --

20 CO-CHAIRMAN STOGEL: It's coming.

21 THE COURT REPORTER: I'm sorry. I  
22 didn't hear who motioned.

23 CO-CHAIRMAN STOGEL: Bill, take the  
24 motion -- please make the motion again with a  
25 modification for social credits. The AHAP credit

1 which is also a transferable credit and the MDFB  
2 credit because the transferability feature that had  
3 been focused on could apply and plan 3 to those  
4 credits as well. And I'll supplement my report for  
5 social credits, the MDFB credit under Pete Levi's  
6 committee, and I want to hear Mark's. So I'll do all  
7 three.

8 CO-CHAIRMAN GROSS: Why don't we go  
9 ahead and just park it.

10 CO-CHAIRMAN STOGEL: Let's table it and  
11 do it for next week.

12 CO-CHAIRMAN GROSS: That will give you a  
13 little more time. So we'll table that. Is there a  
14 question on the phone?

15 COMMISSIONER WAGNER: Chuck, this is Ray  
16 Wagner. A question for Steve. Steve, the report is  
17 great and I agree with the suggestion, but do you  
18 have for the Commission sort of a likelihood for  
19 realizing some of the savings that are there or  
20 how -- it seems to me that, you know, if we assume  
21 they passed and the IRS did what it was to do, then  
22 these would obviously be incredible savings.

23 But you know, how likely is the federal  
24 law change and the IRS ruling and so on? Do you have  
25 any sense of that? We're talking to the outside law

1 firms?

2 CO-CHAIRMAN STOGEL: The federal law  
3 change is a toss-up. You know, the best answer is  
4 who knows what's going to happen in the next Congress  
5 let alone this lame duck session. The IRS ruling,  
6 some of the law firms feel it's got a 50 percent  
7 chance or better chance, and some feel it has 50  
8 percent or less chance, but that's the beauty of  
9 having lots of law firms involved. And the State law  
10 stuff I'm very sure about.

11 So it's clearly worth tugging at because  
12 it's not zero, and if it's 100 percent, it's an  
13 enormous amount of money on a capitalized basis for  
14 the State.

15 CO-CHAIRMAN GROSS: That reminds me,  
16 what's the downside on the State recommendation? I  
17 mean, is there one?

18 CO-CHAIRMAN STOGEL: No.

19 CO-CHAIRMAN GROSS: I mean, it looks  
20 like it's really straightforward.

21 CO-CHAIRMAN STOGEL: It's a  
22 straightforward pickup and you can make a  
23 mathematical correlation to the credit programs to  
24 effect the savings to the State. So it would tie  
25 back into the historic mathematics or the low income

1 mathematics. But it's -- if the State adopts plan 3,  
2 then there would be corollary adjustments in the low  
3 income and the historic, and I'll think about the  
4 other three programs.

5 CO-CHAIRMAN GROSS: Very good. Sorry,  
6 Craig.

7 COMMISSIONER VAN MATRE: As I was  
8 saying, our subcommittee consisted of Alan and Penney  
9 and Dee Joyner and Representative Tim Flook, and I  
10 thank them a great deal for their input and  
11 assistance. I think we had some good meetings and a  
12 good discussion, but I think what we've ultimately --  
13 I'm going to recommend to you is going to be met with  
14 some consternation and it's going to be somewhat  
15 controversial.

16 First, our job was to look at the senior  
17 citizen circuit breaker tax credit which is defined  
18 by Sections 135.010 through 030 of the Revised  
19 Statutes of Missouri, and the circuit breaker idea is  
20 the idea that when taxes become too -- when property  
21 taxes, real estate taxes become too burdensome, the  
22 circuit breaker allows for a reduction in the form of  
23 a tax credit which is refundable to the individual  
24 involved.

25 And this is a social welfare type tax

1 credit, it's a tax credit that is for the less  
2 financially advantaged among us, to put it mildly,  
3 and the credit phases out basically from about  
4 \$14,000 to \$30,000 depending on whether you're  
5 talking about the renter credit or the property  
6 owner's credit so that as your income rises between  
7 14,000 to \$30,000, you get less and less credit  
8 benefit until after \$30,000 of adjusted income, you  
9 get zero credit as a property owner. And after  
10 twenty-seven-five, you get zero credit as a renter.

11 I'm going to skip ahead to what our  
12 ultimate recommendation was and then come back to the  
13 rationale. We did our best to detail our thinking in  
14 our report, but what we have recommended is that the  
15 property tax credit for property owners for  
16 residential owners be preserved in its present form.

17 It's a well-designed credit, it seems  
18 like it's being administered well, it produces the  
19 type of benefit that we believe the credit was  
20 addressed at, which is to allow people who are  
21 elderly or disabled to stay in their home even though  
22 property taxes have risen. It allows them -- or  
23 perhaps helps allow them to keep their home and not  
24 sell it even though it is difficult to do so because,  
25 as everybody knows, property taxes go up fairly

1 persistently.

2           You can argue that the residential  
3 credit, the credit attributable to keeping your -- to  
4 property taxes you pay on the home is -- at least has  
5 an economic component as well because to the extent  
6 that it makes the difference of somebody keeping  
7 their home as opposed to selling it, it keeps a home  
8 off the market, particularly at this point in time in  
9 our nation's economy and our state's economy, the  
10 less single-family homes that are on a distressed  
11 market basis, the better off we are.

12           So we didn't see any reason to tinker  
13 with that component of the credit that was  
14 attributable to and benefits the property owner.  
15 However, we did recommend that the renter's portion  
16 of the credit be eliminated and replaced with  
17 something better targeted to address the needs of  
18 that particular component of our populous.

19           The renter's credit is limited to \$750,  
20 and it's an arbitrary basis of 20 percent of rent  
21 paid on the theory that -- and I'm not sure what --  
22 how the theory got established, that a renter's rent  
23 is 20 percent composed of that tenant's share of  
24 property taxes, which I think for almost any type of  
25 residential dwelling complex is much, much larger

1 than the actual component that real estate taxes  
2 pay -- or contribute towards how much that person  
3 paid in rent, and we thought it's probably 10 percent  
4 or less, in fact.

5           And the other thing we thought was that  
6 the rent in those residential complexes is not  
7 dramatically influenced by real estate taxes paid,  
8 but it is much more likely to be influenced by lots  
9 of other economic considerations such as competition  
10 with other facilities.

11           Real estate taxes vary substantially  
12 throughout the state, and so this one-size-fits-all  
13 percentage of rent didn't seem to be terribly well  
14 reconciled with all the various appraisal methods and  
15 values throughout the state.

16           Also, the property tax for renters is  
17 claimable only if you are paying tax to a for-profit  
18 landlord. So if you are renting as a tenant from a  
19 nonprofit, which there's a good deal of that type of  
20 housing around, you don't get the credit.

21           The last thing that we considered to be  
22 of some significance in our recommendation was the  
23 fact that a good many of the tenants who are  
24 claimants of these credits appear to us, at least on  
25 the -- an admittedly cursory survey we did, already

1 tenants in housing which is tax-favored. By that we  
2 mean housing which has already received a low-income  
3 housing tax credit or some other equivalent  
4 abatement.

5 And therefore, in the spirit of  
6 avoiding, for lack of a better description,  
7 double-dipping, but with the idea that the advantaged  
8 housing, the housing that has been constructed to  
9 provide a low rental structure, it didn't seem fair  
10 to us to grant another benefit to those tenants when  
11 other tenants in other relatively similar situations  
12 were not allowed that credit.

13 And finally, but certainly not last in  
14 order of importance, we took seriously the governor's  
15 admonition that we should look for savings in all of  
16 these areas and in this area particularly to help  
17 reduce the large deficit looming in front of us,  
18 because if we don't all do that, then A, the  
19 Commission's work is for naught; and B, the default  
20 setting is for the State to cut other areas that may  
21 result in much more harm to society.

22 So do we think that low-income tenants  
23 are undeserving? No, we absolutely do not believe  
24 that. But we do believe that if there is to be a  
25 State benefit afforded to those people in their

1 demographic, that it ought to be targeted with that  
2 in mind as opposed to this sort of arbitrary and  
3 possibly very inefficient method of giving it just to  
4 people who are tenants in housing that is for-profit.

5           So our recommendation was that the  
6 renter component be -- be terminated and be replaced  
7 with some other more specifically targeted program.  
8 Failing in that, if that particular pill proves too  
9 bitter for the legislature to swallow, then we had  
10 some alternatives that we've listed over on page 7 of  
11 our report.

12           We could reduce the percentage of rent  
13 considered as attributable to property taxes to 10  
14 percent and the maximum cap to \$500 or the credit  
15 could be modified to prescribe that those tenants who  
16 live in already tax-advantaged or tax-subsidized or  
17 government-subsidized in some fashion, albeit  
18 for-profit housing, be ineligible to claim the  
19 credit, or the credit could be modified so that the  
20 credit claim was directly attributable by a formula  
21 to the real property tax actually paid by the  
22 landlord and apportioned to that particular tenant  
23 based on what's the ratio of that tenant's rent to  
24 gross rent in the entire complex multiplied times the  
25 actual real estate taxes paid.

1                   The latter formula would be a little bit  
2 more difficult to administer and there might be some  
3 landlords who would be unwilling to give out the  
4 information, in effect, of what their gross rents  
5 were, but any combination of those three other  
6 alternatives might be more palatable perhaps than  
7 striking the credit altogether for a renter.

8                   We rejected the idea that there would be  
9 a means test apart from just the mathematical tests  
10 associated with claiming the property tax credit for  
11 homeowners. The imaginary horrible being somebody  
12 with a very valuable house but nevertheless had a low  
13 adjusted gross income, would this be something that  
14 we wanted to say, well, you ought to do some kind of  
15 means testing here so if somebody's worth a lot and  
16 they really don't have much of adjusted gross income,  
17 they don't get the credit, decided that that was a  
18 way to -- much effort probably for the State to  
19 administer and investigate compared to the relatively  
20 small amount of money that would be involved.

21                   Another approach that we considered was  
22 looking at whether actual cash refunds to claimants  
23 ought to be a certain threshold amount before a check  
24 was cut, but we discovered by talking to the  
25 Department of Revenue that it's relatively

1 inexpensive to cut refund checks. They've got it  
2 automated so that that wasn't -- that wasn't  
3 considered viable or productive.

4           And we also looked at some kind of local  
5 contribution, but decided the money would run in a  
6 circle if we did that as the property tax. If the  
7 property tax recipient at the local level had to  
8 contribute to the cost of it, it would mean that  
9 much, much less money for them and the State would  
10 just have to make that up in some other fashion, and  
11 so that didn't seem very productive.

12           I guess with that, I do want to add that  
13 this is -- this introduces, I think, pretty  
14 effectively the task that I think the governor set  
15 before us, but I think it also introduces the need  
16 for us to prioritize among these various credits in  
17 terms of how they should rank in terms of first to be  
18 cut versus last. But we may have enough on our  
19 plates that we can't get to that particular issue.  
20 But with that, that's our report.

21           CO-CHAIRMAN GROSS: Good work in a short  
22 amount of time. The issue that was raised by some,  
23 and I think you touched on it in your report, that  
24 there were -- there are seniors and disabled folks in  
25 nursing homes that somehow they've -- I don't want to

1 say forced, but the issue of them signing their  
2 checks over. I mean --

3 COMMISSIONER VAN MATRE: We have  
4 anecdotal evidence that has been communicated to us  
5 by legislators and others that there seems to be a  
6 much higher level of what we'd call participation in  
7 the credit by those who are in assisted living,  
8 nursing homes, those kind of facilities. And we  
9 don't know for a fact that the credit checks are  
10 signed over.

11 And so I think it's not necessarily fair  
12 to draw that inference, although I think it's also  
13 fair to say that it's probably unlikely that  
14 everybody in a particular facility is eligible for  
15 the credit. And if everybody in the facility is not  
16 eligible for the credit and pays the same rent, then  
17 that's one thing, but if they don't pay the same  
18 rent, that's something else.

19 And so we said to the Department of  
20 Revenue, you know, I think the legislature ultimately  
21 is going to want you to tease out from whatever your  
22 statistics are how many -- if you can discern how  
23 many people who claim, for example, a disabled  
24 renter's credit are from the types of facilities that  
25 we suspect they're from, which is for-profit, already

1 tax-assisted.

2 And they said the only way we can do  
3 that would probably be to go through it one at a time  
4 and by hand. I think there's probably a better way;  
5 in other words, I think if you code it just by  
6 address so that the computer picked up and kicked out  
7 a report.

8 So I think in the future the DOR could  
9 do it, but right now if we asked them to do it  
10 retroactively, they don't have that ability. And  
11 obviously that's something if I were a legislator I'd  
12 want to know, whether, in effect, by giving this  
13 report, we're talking about something that does, in  
14 fact, exist or whether it's just a false rumor.

15 CO-CHAIRMAN GROSS: And the  
16 recommendations that you made, or alternate  
17 recommendations, any of those hit the target to try  
18 to stop that from happening?

19 COMMISSIONER VAN MATRE: Well, I think  
20 that if we say you cannot get the credit if you're a  
21 renter, that obviously stops it. If we say you can't  
22 get the credit if you are the resident of an already  
23 tax-advantaged facility, that hits the target.  
24 Because in all likelihood, most of the people would  
25 be -- the only people that wouldn't be in that

1 demographic would be people who are in like nursing  
2 homes who weren't tax-advantaged for whatever reason.

3 But -- and there again, I don't know for  
4 a fact, but it's my understanding that most of these  
5 facilities have received various types of tax  
6 benefits. And so it just depends on how broadly you  
7 define a tax-advantaged home as to what kind of  
8 umbrella would...

9 COMMISSIONER WRIGHT-JONES: Are you  
10 finished?

11 COMMISSIONER VAN MATRE: I'm finished.

12 COMMISSIONER WRIGHT-JONES: Just  
13 addressing the issue about whether renters are  
14 receiving any benefit being in a low-income  
15 development or a nontax-paid development,  
16 unfortunately, they have been up until this year.  
17 And I imagine Senator Justus got calls as well as  
18 Representative Komo, it came to a screeching halt  
19 just last fall.

20 So there were no payments to many, many  
21 residents across the state because Revenue discovered  
22 their error and stopped it. And when you look at the  
23 application, it says quite clearly if you're in a  
24 property that's not paying taxes, you are not  
25 eligible, but nobody's told them that.

1 CO-CHAIRMAN GROSS: So Revenue had been  
2 paying them.

3 COMMISSIONER WRIGHT-JONES: Revenue had  
4 been paying them for many, many years. But that is  
5 now over. That will not happen again, and I don't  
6 know if there's anybody in here from Revenue who can  
7 say anything about that, but we got hundreds of phone  
8 calls about it and we were concerned. So we said  
9 what happened? Well, they shouldn't have been  
10 getting it anyway. So it just stopped cold without  
11 any notice whatsoever. So that's kind of off the  
12 table at this point.

13 CO-CHAIRMAN GROSS: Thoughts from  
14 anybody?

15 COMMISSIONER RECTOR: One of the things  
16 that I learned in this whole process was about half  
17 of the funds go toward those renter property taxes.  
18 It's \$56.6 million that goes towards the renter, and  
19 that's almost half of the total cost of that credit  
20 which was a surprise to me because I thought the  
21 point going into it was to ensure that homeowners had  
22 an opportunity to remain in their homes, yet the  
23 renter seems to be taking it in a different  
24 direction.

25 CO-CHAIRMAN GROSS: And Craig, I missed

1 something if you said it. If we take just that 56  
2 million, so we've got the money down to half now, do  
3 we have any idea what percentage of those folks are  
4 in -- I'll just call it tax-subsidized properties,  
5 for example?

6 COMMISSIONER VAN MATRE: We don't know  
7 that because Department of Revenue can't give us that  
8 statistic, not now. I think they could easily do  
9 that in the future, but as I note over -- or as we  
10 note over on page -- let's see. Let me find it  
11 here -- it's on page 3, paragraph 3, the number of  
12 persons who are disabled renters who claim the credit  
13 exceed the number of people who are seniors who are  
14 renters who claim the credit by a comfortable margin.  
15 And so it seems logical to assume that, you know,  
16 they are in these assisted living type facilities  
17 where the facilities already receive some type of  
18 subsidy to keep its rent down.

19 CO-CHAIRMAN GROSS: And that's in the  
20 case of renters. In the case of homeowners, the  
21 senior citizens outnumber the disabled by a huge  
22 margin. That's what your report says.

23 Okay. I was just wondering in the  
24 general population of senior citizens if there was a  
25 way to -- not just those receiving the credit, but

1 I'm saying senior citizens overall, what percentage  
2 are in tax-subsidized housing. And I don't know if  
3 there's any agency that collects that data or not.  
4 And then we could extrapolate it to this population  
5 maybe to see what the dollar amount would be.

6 CO-CHAIRMAN STOGEL: Did the committee  
7 give any -- have any discussion on the timing of the  
8 change? Would it be -- when it would be effective,  
9 would it be phased in if you did the complete  
10 elimination?

11 COMMISSIONER VAN MATRE: Well, we assume  
12 that that would -- you know, if you assume the  
13 legislature took it up this year, it would be  
14 effective in calendar year 2012, but --

15 CO-CHAIRMAN STOGEL: It could be  
16 effective for calendar year FY -- calendar year '11  
17 because if the legislature took it up in January,  
18 the -- well, it would become --

19 COMMISSIONER VAN MATRE: Retroactive at  
20 the first of the year?

21 CO-CHAIRMAN STOGEL: Well, it would  
22 become effective for -- in August of 2011 and people  
23 pay their property taxes in December, it would  
24 take --

25 COMMISSIONER VAN MATRE: Well, no. The

1 precise answer to your question is no, we did not  
2 discuss that. We just assumed that it would be the  
3 next calendar year after --

4 CO-CHAIRMAN STOGEL: 2012.

5 COMMISSIONER VAN MATRE: -- so 2012.

6 But I mean, obviously that's something the  
7 legislature would have to address as well.

8 CO-CHAIRMAN GROSS: This is income tax  
9 deduction. It's both an income tax deduction --

10 COMMISSIONER VAN MATRE: But if you're a  
11 renter and you don't have any income, you can still  
12 claim it and get a refund. So even though you didn't  
13 have any income, you can get the money.

14 CO-CHAIRMAN GROSS: Right. It's  
15 refundable. Is that what you mean?

16 COMMISSIONER VAN MATRE: Yeah.

17 CO-CHAIRMAN GROSS: As opposed to the  
18 homestead exemption which was a property tax.

19 COMMISSIONER MARBLE: It's like earned  
20 income tax credit federally.

21 CO-CHAIRMAN GROSS: Yeah, yeah. So --  
22 well, so we've got some options. To kick things off,  
23 I'll make a motion that we not -- that we recommend  
24 that the renter's provision be eliminated. Is there  
25 a second?

1 COMMISSIONER FLOOK: I second.

2 CO-CHAIRMAN GROSS: Okay. We have a  
3 motion and a second. Further discussion on that?  
4 The motion was -- could you identify that for us  
5 again, please? What page was that on?

6 COMMISSIONER VAN MATRE: It's on page 4,  
7 Roman Numeral II.

8 CO-CHAIRMAN GROSS: So the  
9 recommendation is that a portion of the credit which  
10 benefits renters be eliminated is the motion that's  
11 on the table. Discussion, Senator?

12 COMMISSIONER WRIGHT-JONES: This is the  
13 circuit breaker?

14 CO-CHAIRMAN STOGEL: Yes.

15 COMMISSIONER WRIGHT-JONES: But they use  
16 it to help with their utility bills because they do  
17 have a utility bill if they're renting. So if we're  
18 eliminating that, then they're losing a benefit  
19 actually. So the State won't lose money versus our  
20 constituents, it wouldn't be very popular. Get a lot  
21 of pushback on that one, I'm sure. But I'm just  
22 asking, is that where we're going with this?

23 CO-CHAIRMAN GROSS: Well, it's -- the  
24 whole thing is --

25 COMMISSIONER WRIGHT-JONES: Because

1 they're not homeowners?

2 CO-CHAIRMAN GROSS: My understanding is  
3 the whole program is designed to defer -- not  
4 defer -- to -- I'm lost on the word, but to pay for  
5 the cost of property tax in the case of homeowners  
6 pay a certain amount of property tax gives you a  
7 credit. In the case of renters, there's an assumed  
8 portion of your rent that's attributable to property  
9 tax. This gives you a credit. So whether that  
10 individual uses it for utilities or uses that for  
11 food or whatever it might be, just is an individual  
12 issue.

13 COMMISSIONER WRIGHT-JONES: So this is  
14 not circuit breaker. It's not the circuit breaker?

15 COMMISSIONER VAN MATRE: It is the  
16 circuit breaker, but it's only that portion of the  
17 circuit breaker that's allows the credit to be  
18 claimed by renters. We are recommending that we  
19 preserve the credit for homeowners.

20 And the theory that the credit for  
21 homeowners allows them to stay in their home -- they  
22 actually have property taxes.

23 COMMISSIONER FLOOK: Senator, this is  
24 Representative Flook. And the reason why I think  
25 this is the right approach, just to understand the

1 way I see it, we have -- you know, we have other  
2 programs that provide assistance in the daily lives  
3 of seniors who are low-income. This is a property  
4 tax credit that's supposed to relate back to the  
5 burden of ever-increasing property taxes and keeping  
6 people in their homes so they don't have to sell or  
7 move from a home they love because the property taxes  
8 are too high now in their community.

9 Renters who need other assistance for  
10 other reasons -- you know, there's the senior  
11 citizens -- you know, the food stamp program, there's  
12 the utility assistance the State provides, there's  
13 whatever changes might come out of the legislature,  
14 there still will be a -- what I think will be a very  
15 sizeable low-income housing or affordable housing tax  
16 credit programs. There will be other kinds of  
17 assistance to cover those day-to-day needs from the  
18 state and federal and local government.

19 And what this proposal is doing is  
20 saying let's take this back to exactly what it's  
21 supposed to be which is property tax relief for those  
22 who are being burdened by property taxes on their  
23 homes.

24 Now, in there -- that's why this  
25 recommendation includes a commentary that there

1 should be another alternative, they should seek a  
2 different alternative to provide aid to those people  
3 that are renters if they need aid for other reasons  
4 or -- you know, we're not saying we should shut off  
5 utility assistance. We have a program for that. We  
6 can ship the money -- the savings from this back into  
7 the budget and the budget, of course, will turn  
8 around and turn and fund utility assistance.

9           And you know, we've passed -- you know,  
10 we voted together on some of those emergency  
11 assistance packages ourselves. So I think what we're  
12 doing is going back to the true definition of what  
13 the intent of the program is and forcing, for lack of  
14 a better way of putting it, putting pressure to go  
15 back to the other programs that are there that  
16 provide direct aid for other purposes.

17           You know, if this is -- if one believes  
18 that a renter should get \$600 or \$700 a year,  
19 whatever the number is in financial aid from the  
20 State, that's fine. Let's just call it that and have  
21 a program and call it that. But funneling it under  
22 the guise of a property tax credit is a misnomer and  
23 it misleads us as to what we're really spending and  
24 what we're really doing. And I think this allows for  
25 a more accountable clear budgeting later.

1                   COMMISSIONER WRIGHT-JONES: I recognize  
2 all that, Representative, but I'm talking about how  
3 it's billed. It's billed as a circuit breaker  
4 credit, all right?

5                   COMMISSIONER FLOOK: Yes.

6                   COMMISSIONER WRIGHT-JONES: And when you  
7 put this through the legislature, you know, you know  
8 what hell that's going to create when you tell the  
9 senior citizens or disabled person, you know what --

10                  COMMISSIONER FLOOK: Senator, I know,  
11 you're right, and I -- and I said it to the  
12 subcommittee, this is going to be very, very -- it  
13 will be a political hot potato.

14                  COMMISSIONER WRIGHT-JONES: It's going  
15 to be a political hot potato. And the other  
16 resources that are available would be those that  
17 would come when utility services have been  
18 discontinued or when they're looking to get utility  
19 services and don't have the best record and have to  
20 pay a deposit.

21                  But it's billed as a portion of your  
22 rent is going to help amortize the building that you  
23 live in and help pay those taxes, and you're going to  
24 get a rebate based on that. But they think of it as  
25 a rebate on utilities. They don't care about

1 property taxes, they know they're not doing it. And  
2 you know, I understand what you're saying, but I'm  
3 just looking at about how it's going to play, not --

4 COMMISSIONER FLOOK: You're right to  
5 look at it that way. We talked about a committee  
6 because we know that we'll have a group of people  
7 that as a philosophical belief think that this should  
8 stay intact. And then there will be another group of  
9 people that just see this as a great opportunity to  
10 make political hay about who really cares about  
11 seniors. But either way, you know, I -- of course,  
12 Senator, I'll say this, I'm about to leave office, so  
13 I'm more concerned about the right thing than my  
14 election.

15 COMMISSIONER WRIGHT-JONES: I know. You  
16 can afford to say that.

17 CO-CHAIRMAN STOGEL: I'd like to add a  
18 real estate observation. I'm looking at Craig's and  
19 the committee's report which was an amazing effort  
20 for the last-to-be-formed committee and we deeply  
21 appreciate it.

22 But if I understand the text on page 5,  
23 the -- it's 20 percent of the gross rent paid is the  
24 theoretical attribution to the property taxes from  
25 which this math derives. Now, Mark Gardner's in the

1 room and others who own and operate apartments, and  
2 Tom's underwritten them, so everybody understands out  
3 of the dollar of rent, as a rule of thumb, 45 or 50  
4 percent goes to debt service and 40 or 45 cents goes  
5 to all operating expenses of which real estate taxes  
6 are a single-digit percentage of those. So the  
7 notion that 20 percent of the gross rent being  
8 related to taxes is just --

9 COMMISSIONER VAN MATRE: It's bogus.

10 CO-CHAIRMAN STOGEL: But it's just not  
11 factually correct.

12 COMMISSIONER VAN MATRE: Right.

13 CO-CHAIRMAN STOGEL: So the predicate of  
14 the whole tax is based upon the way real estate  
15 apartments operate. It's just wrong. Taxes, if you  
16 look at it, could be 3, 4, 5, 6 percent of the  
17 dollar, but they're clearly not 20. So if there is  
18 to be logic and fact, it's not hard to just pull out  
19 operating statements and get the right percentage,  
20 but the whole predicate of the rental program is just  
21 mathematically from a real estate point of view way  
22 off.

23 COMMISSIONER REEVES: You know, from the  
24 standpoint of just getting perspective around that,  
25 RubinBrown in St. Louis comes out annually with an

1 apartment analysis that has a very good in-depth  
2 study of a number of just those type of statistics.  
3 And it basically talks about all the operating  
4 statements in general. And I bet that's got its own  
5 little page and we could easily get a copy of that  
6 latest report which I think came out in the last 30  
7 or 40 days. And that could give you the 8 percent or  
8 6 percent or 2 percent that you're looking for, at  
9 least for discussion purposes. But I agree if that's  
10 what we're trying to relate to.

11 CO-CHAIRMAN STOGEL: I mean, if it's  
12 designed -- if it's out of whack as the program has  
13 evolved and it's designed to give real estate tax  
14 relief, there is a bandwidth as Tom has noted that we  
15 can define what the real estate portions are.

16 Let me use 5 percent by way of  
17 illustration. That might be tier 1, and tier 2 for  
18 projects that are getting other kinds of State  
19 assistance, what you call tax-advantaged, whether  
20 they're real estate tax abatement or low-income tax  
21 credits or historic credits or whatever, that could  
22 be an exclusion. Nonprofits that don't pay real  
23 estate taxes would be an exclusion. And you'd  
24 properly define the test to be for-profits with the  
25 right percentage that's attributable to gross rent.

1                   COMMISSIONER VAN MATRE: But why are you  
2 subsidizing poor people who pay rent to for-profits  
3 but not subsidizing those who pay rent to nonprofits?

4                   CO-CHAIRMAN STOGEL: Because presumably  
5 the rent in the nonprofit is a little lower because  
6 they don't pay real estate taxes.

7                   COMMISSIONER FLOOK: But that isn't true  
8 as a matter of fact.

9                   CO-CHAIRMAN STOGEL: Well, it's going to  
10 be true in some cases and not in others.

11                  COMMISSIONER VAN MATRE: Right.

12                  CO-CHAIRMAN STOGEL: And I'm just trying  
13 to grasp the breadth of your report which, again, I  
14 reiterate was just amazing in terms of taking such a  
15 complicated subject and distilling it down so -- with  
16 such clear thoughts. And so I can't state a  
17 bandwidth for how many people are involved, but the  
18 predicate of the program is just wrong. It's not  
19 anywhere near 20 percent of the gross rent. It might  
20 be 20 percent of that or 30 percent of that, and then  
21 you have the exclusions.

22                                By the time you get done with that --  
23 the first tier reduction, thinking out loud, and then  
24 trying to quantify the conclusions, you may be down  
25 to a small number, and you are talking about people's

1 lives and income. But at that point, it may be hard  
2 to administer just who qualifies and who doesn't,  
3 what's required of landlords and all the additional  
4 reporting and who has to tell people what and how the  
5 leases would be in effect. Because it's just  
6 factually skewed and wrong in terms of the approach.

7 If the Commission votes to support the  
8 elimination, I think you ought to make -- I think we  
9 ought to let people adjust to it and let the  
10 legislature think about where the money might go but  
11 make it effective for 2012 as opposed to try to push  
12 it through for next year. But it's just so people  
13 can react to it.

14 That said, I can also see a strong  
15 argument for doing it in 2011 because it would help  
16 the FY '12 numbers a lot. So with all those  
17 confusing comments, I'm going to withdraw.

18 CO-CHAIRMAN GROSS: So were you  
19 suggesting that instead of eliminating that, that  
20 that 20 percent be reduced?

21 CO-CHAIRMAN STOGEL: No. I'm very  
22 persuaded that you can make it much more complicated  
23 and refine it, but we're supposed to be making  
24 recommendations to the legislature. And there are  
25 thoughtful alternatives here for the legislature to

1 consider, but I sort of come out on the notion that  
2 it's just an out-of-whack program, and I'm going to  
3 vote for elimination.

4 CO-CHAIRMAN GROSS: Okay. Further  
5 discussion?

6 (NO RESPONSE.)

7 CO-CHAIRMAN GROSS: Okay. All in favor  
8 of the motion say aye.

9 (AYE.)

10 CO-CHAIRMAN GROSS: Opposed say no.

11 COMMISSIONER WRIGHT-JONES: No.

12 CO-CHAIRMAN GROSS: We've got an appeal.  
13 The ayes appear to have it.

14 CO-CHAIRMAN STOGEL: Any abstentions of  
15 record from the legislators?

16 (NO RESPONSE.)

17 CO-CHAIRMAN GROSS: Thank you, Craig.

18 COMMISSIONER JOYNER: Mr. Chairman, this  
19 is Dee Joyner, and for the record, I joined the call  
20 about a half hour ago.

21 CO-CHAIRMAN GROSS: Thanks, Dee.

22 COMMISSIONER JOYNER: And I voted in  
23 favor of the motion.

24 CO-CHAIRMAN GROSS: Thank you. Glad you  
25 made it.

1                   There was another item. Let's see. One  
2 of the areas was for the homeowners and one for the  
3 renters. You had no recommendations on changes on  
4 homeowners, correct?

5                   COMMISSIONER VAN MATRE: Correct.

6                   CO-CHAIRMAN GROSS: So that would be the  
7 totality of your report then?

8                   COMMISSIONER VAN MATRE: (Nodded head.)

9                   CO-CHAIRMAN GROSS: Great. Thank you  
10 very much. We'll move on, then, to low-income  
11 housing, one of the easier ones. Mr. Gardner.

12                   COMMISSIONER GARDNER: Yeah, I was going  
13 to notice we're running behind on time. I'll do my  
14 best. We had a very active committee and actually we  
15 had a very good subcommittee. You'll note on the  
16 front of the report Steven Acree, Dee Joyner, Craig  
17 Van Matre, Shannon Weber, Representative Flook,  
18 Penney Rector, Todd Weaver and Senator Wright-Jones  
19 were on the committee.

20                   We also had a number of people who  
21 offered input. Actually, I had a lot of people who  
22 offered input from the industry in general ranging  
23 anywhere from developers, syndicators, to people from  
24 not-for-profits who had participated in the program.  
25 So I felt like we got a very broad cross-section of

1 people.

2 We also considered the testimony that  
3 came from the public hearings, and then we kind of  
4 sat back and looked at kind of what the big picture  
5 was of this program and what are some of the  
6 fundamental issues that we could effect.

7 And one of the -- this program is  
8 complicated more so than your average tax credit  
9 program which is why the combination of the  
10 low-income and the AHAP ends up being a 20-page  
11 report or a 22-page report, whatever it is. There  
12 are some tax issues that complicate it, as Steven  
13 knows. There are some structure issues that  
14 complicate it.

15 And so what we did is we stepped back  
16 and said what can we do? How can we impact this?  
17 And so we tried to focus on how to make -- the  
18 initial question is this, okay? The question that  
19 gets raised is, well, how can we provide budget  
20 relief now? Is there a way that this low-income  
21 housing tax credit can provide budget relief today or  
22 tomorrow or at least certainly by next year?

23 And one thing that's sometimes difficult  
24 to understand about a low-income housing tax credit  
25 program for those who are not all that familiar with

1 it, is it's a ten-year program and that's the way it  
2 was established. You know, we look back today and  
3 with hindsight we can say, gosh, you know, look at  
4 the historic credit, it's a one-year credit, it's a  
5 far more efficient credit. You know, I think the  
6 historic credit cap is about 140 million and our  
7 credit cap is -- if you combine the 4 percent credit  
8 with the 9 percent credit, it's about 192 million.  
9 It's allocated only on the basis of 19 million a  
10 year, but over a period of ten years, it will add up  
11 to \$192 million.

12 Well, we're only getting 40 cents for  
13 our credit because it's inherently inefficient both  
14 from a tax standpoint in that -- and we'll go through  
15 this in more detail later, but due to the loss of the  
16 federal deduction -- or the state tax deduction off  
17 your federal return, but also due to the time value  
18 of money, the fact that the people investing in these  
19 projects in some cases are getting their money return  
20 over a period of 12 to 13 years.

21 So the question what happens and what  
22 happened with that first year of credit, the first  
23 time a state low-income housing tax credit was  
24 issued -- just like it is on the federal because it's  
25 a matching credit and it works essentially the same

1 way as a federal credit. If you issue, let's say, in  
2 an average year \$15 million worth of credits  
3 annually, the 9 percent credit -- there are two  
4 credits -- the 9 percent credit, it's about 13.2  
5 million a year. There's a 4 percent credit which is  
6 called the bond credit which is a 4 percent credit.  
7 That's got a cap of 60 million or 6 million a year.

8 Now, that's confusing because what  
9 you're really doing is you're issuing about \$13.2  
10 million worth of state tax credits on the 9 percent  
11 this year and you're issuing another 6 million of  
12 bond or 4 percent credits. So you're really only  
13 issuing about 19.2 million in next year, okay, but  
14 you're doing it for ten years. Every year you make  
15 an award, it's a ten-year award so that it's 19.2  
16 million each year for the next ten years.

17 So although the total amount of credits  
18 in one year, the first year isn't particularly  
19 significant. They're going to go, we're only awarded  
20 \$19.2 million per credits. The truth of the matter  
21 is, we awarded \$192 million worth of the credits  
22 because we awarded 19.2 for each of the next ten  
23 years.

24 And were that -- when you start out the  
25 program in the first three or four years of the

1 program, it's not a big problem, but once you get to  
2 year ten which is where we -- we're past year ten,  
3 then what's happened is you've got the cumulative  
4 effect of in the first year, let's say, you issued 15  
5 million. In the second year you issued -- so 15  
6 million for ten years. In the second year, you  
7 issued 15 million for ten years. In the third year  
8 you issued 15 million for ten years. After ten  
9 years, you've now got 150 million a year in credits  
10 that are being redeemed, not 15 million a year in  
11 credits that are being redeemed.

12 The problem -- what that did  
13 initially -- and I can tell you because I've read the  
14 background on why the federal program was done the  
15 way the federal program was done, they did it ten  
16 years for a couple reasons. Number one, it was a way  
17 of financing housing. You've got the housing built  
18 today and you paid for it over ten years, kind of  
19 like how people buy a house and they pay off the  
20 mortgage.

21 So the thought was, let's get the  
22 housing built today, let's get -- rather than doing  
23 it over -- you know, it was much less costly to  
24 issue -- initially to issue the credit over a  
25 ten-year period. However there's a pay day after ten

1 years when the cumulative effect kicks in. So  
2 Missouri did the same thing.

3 Now, retrospect and using hindsight, we  
4 wouldn't do that today, I don't think. I think we're  
5 looking at this program and thinking about that, we'd  
6 all go that doesn't make any sense, that doesn't make  
7 good budget sense. Because if we had a much shorter  
8 term credit such as the historic credit which is a  
9 far more efficient credit and provides -- the  
10 historic credit actually is less per annum, you issue  
11 less credits annually than you do low-income and  
12 generate a lot more equity because -- when you're  
13 credit.

14 By definition, when you take a credit  
15 and make it a one-year credit, it's the most  
16 efficient credit you can have. So if you take that  
17 credit and make it a one-year credit, great. If you  
18 make it a three-year credit, it's a little bit less  
19 efficient. If you make it a five-year credit, it's a  
20 little bit less efficient. If you make it a ten-year  
21 credit, it's a pretty inefficient credit. So what we  
22 looked at is how can we improve the efficiency?

23 Now, I want to go backwards just a  
24 moment to the initial question which is how can we  
25 have a budget impact? Well, the reason I just gave

1 you that history is so you can understand that if we  
2 quit building affordable housing today, if we voted  
3 as a Commission and the legislature acted as a  
4 legislature to eliminate this credit today, the first  
5 savings you're going to see in the budget will be  
6 about four years from now. That's the first time it  
7 will have an impact on the budget.

8           Because how this program works is an  
9 award will be made in February, let's say, of next  
10 year. The credits aren't earned until the project is  
11 built, number one. Then unit by unit, as the project  
12 is leased up, each individual unit starts earning  
13 credits. So a unit that's leased in January earns  
14 full credits. A unit at least in June earns half  
15 credits.

16           So as you lease -- and if the project  
17 comes online in November, you may delay taking --  
18 it's complicated, but you may delay taking credit  
19 until the following year altogether. So the lapse in  
20 time between when that credit is actually authorized  
21 and when it is redeemed can easily be -- probably is  
22 on average I'm going to say three years. Can be as  
23 much as four years.

24           And then frequently, the first year is  
25 only a partial year, and so then that partial --

1 what's left of the partial year could go to year 11.  
2 And so now you've got a credit being redeemed over 11  
3 years. Point being if we stopped it today, the  
4 credits that have already been authorized aren't  
5 going to start coming in for three years, so -- or  
6 two at the earliest, two years. So we can't -- and  
7 that's one of the things that is so unique and  
8 different about this credit is there's nothing to be  
9 done today to have an immediate budget impact.

10 So what we started doing is -- and I've  
11 had a number of conversations with a number of people  
12 about this, what's our real mission here? Well,  
13 we've got to make this credit more efficient. From a  
14 long-term budgeting standpoint -- Representative  
15 Flook and I had a long conversation about this. You  
16 know, just because we can't have immediate budget  
17 impact doesn't mean we shouldn't engage in  
18 responsible, long-term planning.

19 And so anything we can do to bring the  
20 cost of this program down or make the credit more  
21 efficient is something that's very good for the State  
22 of Missouri and for budgets in the future, okay?

23 Now, there's a whole separate issue --  
24 so now you have the efficiency issue, can we make  
25 this credit more efficient, reduce its cost? The

1 answer is I believe yes, we can. We've worked in  
2 some detail with the tax committee for  
3 possibilities -- which Steven has already  
4 discussed -- possible changes being made in the tax  
5 audit would make the credits much more efficient and  
6 allow us to reduce it substantially.

7 So anyway, that's kind of the goal we  
8 looked at. The secondary issue is the size of the  
9 program. What do we say about the size of the  
10 program? And we had some fairly extensive  
11 discussions about, well, should we -- should we try  
12 to set a cap, a hard cap on this program? And we  
13 decided -- and I'll explain some of the deliberations  
14 on that in a moment. We decided ultimately no, not  
15 to vote to do that.

16 One of the reasons is depending on which  
17 of these tax policies that Steven has identified in  
18 the tax committee, subcommittee's report, depending  
19 on what happens with the tax law, it could  
20 dramatically impact the efficiency of the credit. We  
21 don't know how efficient this credit can or will  
22 become. It may become no more efficient or it may  
23 become dramatically more efficient based simply on  
24 two changes in the tax law.

25 One, which would allow you to treat a

1 State tax reduction, okay? The way the law currently  
2 provides, if I take a Missouri State housing tax  
3 credit, reduce my taxes with it, I've reduced my  
4 taxes, I haven't paid my State taxes, so I lose  
5 reduction off the federal return.

6 Secondly, there's the issue of basis.  
7 Do I have basis in that tax credit? And so when  
8 syndicators try to sell the tax credit, there are a  
9 couple of ways it can be sold. It can be sold as a  
10 partnership interest or it can be sold as a credit.

11 CO-CHAIRMAN STOGEL: Certificate.

12 COMMISSIONER GARDNER: If we can get  
13 some tax changes -- and this can be done on a state  
14 level, we think perhaps, then maybe we can claim  
15 basis in the credit itself. That improves the  
16 efficiency of the overall operation, the efficiency  
17 of the credit and we can then reduce it, okay? We  
18 can reduce the amount of the credit and generate the  
19 same equity, build the same housing. Those are a  
20 couple of things.

21 Third thing that could be done is simply  
22 take the credit down and we can take the credit, make  
23 a one-, three- or five-year credit. Any one of those  
24 three actions is going to increase the efficiency of  
25 the credit and reduce the amount of credits we need

1 to build the same amount of housing, okay?

2 That again, begs the point of -- let's  
3 assume we can do all those things or some of those  
4 things, okay? And we can improve the efficiency.  
5 Should there still be after that efficiency is  
6 determined -- let's say we can build the same amount  
7 of housing that we're currently building and do it  
8 for 85 million. Well, does that mean necessarily we  
9 ought to be spending 85 million?

10 That's a separate issue and we debated  
11 whether we should go to try to establish some kind of  
12 a cap on the credit. The general discussion -- the  
13 general consensus was no. Number one, there were too  
14 many complexities, too many unknowns as to whether or  
15 not we were going to be able to generate efficiencies  
16 and the extent to which we were going to be able to  
17 generate efficiencies. And the belief was to some  
18 extent, we'd be pulling a number out of the air.

19 And I think to a great extent, that is  
20 true, we would have been pulling a number out of the  
21 air. And perhaps what should be done if the  
22 legislature or this Commission needs to look at the  
23 program and make recommendations with respect to  
24 that. I think ultimately it gets resolved probably  
25 by the legislature. And unfortunately, based on my

1 conversations with the tax review committee, I don't  
2 know that we're going to have the answers to these  
3 questions before the end of the year, before the  
4 legislature goes into session to consider this.

5           So to some extent it makes it very  
6 difficult for us either as a subcommittee or as the  
7 entire Commission to really know what action we  
8 should take. And after I'm done, I would love to  
9 have the input of the tax review committee for their  
10 thoughts and their consensus and to see if they agree  
11 or disagree.

12           Now, those are some of the big issues  
13 that are out there. Let's talk a little bit about  
14 what this program is and what this program does. The  
15 program is designed to provide housing for low-income  
16 to moderate-income people.

17           CO-CHAIRMAN GROSS: I think Troy wanted  
18 to interject something.

19           COMMISSIONER NASH: Mark, I have a  
20 question because I know a little bit about this, or  
21 at least I should. You say we will not or we cannot  
22 know the answer to the question until next year.  
23 When you say this, I'm thinking in my mind why not --  
24 I'm not trying to give you more work because we had  
25 distressed communities and at some levels there was

1 insufficient data. But we can create a series of  
2 assumptions and say if the tax laws were to do X, Y  
3 and Z, this is what it conceivably could look like,  
4 if we changed the term from ten to --

5 (DISCUSSION HELD OFF THE RECORD.)

6 COMMISSIONER NASH: So what I was going  
7 to respectfully suggest is if we were to create  
8 alternatives based on a series of assumptions, I  
9 think that would certainly give me an idea, right? I  
10 mean, we wouldn't necessarily know what the answer to  
11 the question is because assumptions can change,  
12 right, but, you know, X amount of years, this is the  
13 end result, X amount of years coupled with the tax  
14 laws, this is the result. Just an idea. A lot of  
15 work.

16 CO-CHAIRMAN STOGEL: I think it's  
17 possible if Mark's report -- there are no changes as  
18 a baseline, and then we can footnote what the impact  
19 would be of the other changes. I'd be glad to work  
20 with Mark. So we would have more information next  
21 week on -- take Mark's report with assumed no tax law  
22 changes and then we could certainly dial in a  
23 paragraph saying this would be the impact. But Mark  
24 and I can probably work to...

25 COMMISSIONER GARDNER: I think we can do

1 that.

2 CO-CHAIRMAN STOGEL: Craig?

3 COMMISSIONER VAN MATRE: And I apologize  
4 to Mark for not bringing this up at the time of the  
5 subcommittee meetings, but I had this thought over  
6 the weekend, and I thought it's probably dumb and  
7 there's probably a reason why it doesn't work.

8 But we're sort of going into the housing  
9 analysis by reference to the program structure  
10 instead of deciding how many square feet of housing  
11 we need or want to budget for. I mean, if the  
12 legislature every year announced how many square feet  
13 of low-income housing they wanted to budget for and  
14 then sort of backed into the cost that way.

15 CO-CHAIRMAN STOGEL: There is a  
16 governor -- no pun intended but I'll try it  
17 different. There is a statutory mechanism at MHDC to  
18 regulate how much credits go out for production. The  
19 statute technically reads that the Commission, which  
20 has representatives from public and private sectors,  
21 can award up to 100 percent of the federal credit.

22 So the Commission can determine whether  
23 that level of subsidy is needed in a particular deal  
24 or not as they choose projects. And I don't know the  
25 current mathematics, but there's usually multiples,

1 three or four times the request for the available  
2 credits.

3 COMMISSIONER GARDNER: Probably more  
4 like five or maybe even six.

5 CO-CHAIRMAN STOGEL: So there's the  
6 demand -- I see head-shaking at five or six. So  
7 there's five dollars or six dollars of requests for a  
8 dollar of capacity. But MHDC is the one who can  
9 regulate the amount of State credit on that up to 100  
10 percent.

11 So I mean, there is a vehicle to assess  
12 what the production level would be. I think Mark has  
13 talked about the issue that we've seen in other  
14 states -- I mean, in other -- in some of the  
15 testimony, is what the cost of some of these units  
16 are. And Tom had a situation where he was looking at  
17 a cost of more than \$300,000 of the unit. And that's  
18 also embedded in Mark's report.

19 I think the point, well, Mark will get  
20 to is that the State credit is an effective  
21 utilization of a federal program. We in Missouri use  
22 the state credit, other states find other ways to  
23 help make the math work.

24 COMMISSIONER GARDNER: That's true.

25 CO-CHAIRMAN STOGEL: And Missouri chose

1 to do it with credit, California chooses to do it  
2 with cash. I think Massachusetts does the same  
3 thing. I'm not as current as I once was.

4 COMMISSIONER GARDNER: There are a  
5 variety of ways in which -- and, you know, Steven  
6 raises a good point because the question has come up  
7 and it does periodically come up, well, what do other  
8 states do? And in fact, right now, Staff at MHDC is  
9 trying to put together some data so we can do a  
10 supplemental report to let the committee know what  
11 other states do do.

12 But I can tell you just from my  
13 knowledge of the industry and going to conferences  
14 and things of that nature, that there are a variety  
15 of ways which they provide housing. Some states have  
16 a matching state tax credit. Georgia for example,  
17 has a program very similar to ours. It's a 100  
18 percent matching state tax credit. Other states have  
19 a partial matching tax credit. Some states do it  
20 through grants, some do it through other means of  
21 providing a layering of financing. Some states  
22 simply don't do as good a job of providing for  
23 low-income housing as we do.

24 But there are a variety of ways to skin  
25 the cat, and not everybody does it the same. So when

1 you say what do other states do as far as housing tax  
2 credits, that's not really the question. The real  
3 question is what do other states do with respect to  
4 housing? Because they use a variety of means to --  
5 Kansas, for example, doesn't have a state tax credit,  
6 so they have to find other ways. They have to find  
7 grants and things of that nature to supplement the  
8 federal credit to provide housing.

9 Iowa, for example, is considered a state  
10 tax credit. Kansas, I talked to a group of  
11 legislators in Kansas who said we want to do a state  
12 tax credit like Missouri. But unfortunately, while  
13 we have a recession, it's not a good time to be  
14 authorizing additional expenditures. So that's on  
15 hold. But anyway, there are a number of ways of  
16 skinning the cat and providing subsidization for  
17 housing.

18 One of the things I would point out is  
19 we considered the testimony at the public hearings,  
20 we had a number of studies that are identified and I  
21 think they're all probably on the online site now,  
22 that we considered that discussed the economics of  
23 the program. Those are fairly detailed studies.  
24 They were originally done on behalf of MHDC. We  
25 tried to incorporate some of the summary information.

1 Otherwise, the report would have grown far beyond the  
2 20 pages that it already is.

3 But the conclusions we reached is that  
4 the program is accomplishing the goal that it was  
5 intended to accomplish, and that is to provide  
6 affordable housing for people who have an income that  
7 is 60 percent or less of the area median income.

8 And a growing percentage of those people  
9 each year are seniors. These are people who are  
10 living on, a lot of them Social Security and maybe a  
11 small pension in addition. And that puts them at 60  
12 percent or below the area median income. And there's  
13 also some other criteria.

14 But the goal is to provide housing for  
15 people who are below that 60 percent target and also  
16 to try to provide housing at rents where these people  
17 are not spending more than 30 percent of their income  
18 on housing. A number of studies nationwide -- in  
19 fact, there's -- if you go on the Internet, you could  
20 find almost an unlimited number of studies that talk  
21 about the consequences of spending more than 30  
22 percent of your income on housing.

23 I mean, quite frankly, if you're  
24 spending more than 30 percent on housing -- in fact,  
25 a lot of people in America are spending 50 percent on

1 housing. When the housing cost becomes over 30  
2 percent, you're considered burdened. If you're up to  
3 50 percent, you're severely burdened. And what that  
4 really means is you're not spending money on  
5 healthcare, you're not spending money on medicine,  
6 clothing, other essential items, food. They just  
7 literally start getting cut out of the budget.

8 And so this program was really designed  
9 to serve the people who are the low- to  
10 moderate-income people and to make sure they're not  
11 spending more than 30 percent of their income on  
12 housing so they can spend it on other things.

13 CO-CHAIRMAN STOGEL: Can I make a  
14 suggestion, Mark? Will you go to your  
15 recommendations? Just walk through your  
16 recommendations remembering Troy Nash's suggestion  
17 that -- let's say based on no change in the tax law,  
18 and then you and I can supplement the report for  
19 changes in the tax law because this one -- my sense  
20 is there won't be a motion today because the  
21 committee needs more time to read this one and digest  
22 it.

23 But let's put the issues out on the  
24 table because I heard we're going to lose Zack at  
25 4:15 and we do want to get to historic today.

1                   COMMISSIONER GARDNER: Well, our  
2 recommendations are that -- the first recommendation  
3 was one that really goes to the idea of the  
4 efficiency of the credit and that we reduce it to  
5 one, three or five years. We discussed that  
6 previously. The shorter we can get the time frame,  
7 the more efficient the credit.

8                   CO-CHAIRMAN STOGEL: And that's the  
9 section that we'll add to dialing in the different  
10 levels of tax changes to show how much more efficient  
11 it can be.

12                   COMMISSIONER GARDNER: Yes, that's  
13 absolutely true. Depending on the particular tax  
14 changes that are made, it makes a dramatic  
15 difference.

16                   CO-CHAIRMAN STOGEL: I'll take that one  
17 on with you so there can be no Commission action  
18 today on that one.

19                   COMMISSIONER GARDNER: Now, the second  
20 item that we considered was eliminating the recapture  
21 provision from the State credit. Currently the State  
22 credit has a recapture provision that basically  
23 matches the federal provision. And I think that that  
24 kind of gets tied up into that whole issue of whether  
25 you have a one-, three- or five-year credit. We had

1 some internal debate about whether or not the  
2 recapture provision should be removed. And it's a  
3 policing mechanism so that if a developer isn't  
4 using -- it either violates the law or ceases to use  
5 the housing as low-income, you can claw back and take  
6 the credit back. I think that really ties into  
7 one -- it's a question of whether we really need it  
8 in view of the fact that there's a federal recapture  
9 provision. So I would assume we will --

10 CO-CHAIRMAN GROSS: What's the effect of  
11 the federal recapture provision on the Missouri  
12 credit?

13 CO-CHAIRMAN STOGEL: If there's federal  
14 recapture, Senator, it's really severe. And because  
15 there's so much more dollars involved based on what  
16 investors put in because they pay much more for it.

17 CO-CHAIRMAN GROSS: How much does  
18 Missouri get back based on the federal recapture?

19 COMMISSIONER GARDNER: It matches it.

20 CO-CHAIRMAN STOGEL: It tracks it. It's  
21 basically the same, but since 2000, there's only been  
22 \$47,000 of recapture collected in the whole program.

23 COMMISSIONER GARDNER: It's virtually  
24 nonexistent.

25 CO-CHAIRMAN STOGEL: It's a policing

1 mechanism and an enforcement mechanism, but it's not  
2 a -- it hasn't produced any large dollars because  
3 recapture doesn't happen. The federal cost to the  
4 developer is so severe they just -- they don't let  
5 projects default.

6 COMMISSIONER GARDNER: But to answer  
7 your question, as a general rule, the federal credit  
8 is earned over a period of 15 years. It's earned  
9 over 15, it's taken over ten. So roughly a third of  
10 that credit each year through the ten-year period is  
11 accelerated, kind of like accelerated depreciation.  
12 And so if after year three you would have a default,  
13 you'd go back into years one and two and recapture a  
14 third credit that's already taken. Again, it's a  
15 very rare occurrence. I mean, I could go on to a  
16 15-minute explanation of why it's rare.

17 CO-CHAIRMAN STOGEL: Next week when we  
18 come back, just we'll put more facts in but also talk  
19 about pricing, what the impact would be on pricing  
20 and efficiency.

21 COMMISSIONER GARDNER: Our third  
22 recommendation was simply that the tax law  
23 subcommittee continue the efforts it's making to  
24 reform the tax law. Recommendation four was the  
25 attempt to maintain current levels, not credit

1 levels. And people need to understand there's a  
2 difference. We're not suggesting the tax credits  
3 remain the same. We're suggesting that you improve  
4 efficiencies so you can reduce the number of tax  
5 credits and hopefully maintain the equity that goes  
6 into the projects at or near existing numbers. We  
7 also recognize that may not be possible.

8           See, if you improve -- let's say we  
9 could improve the credit by 30 percent, the  
10 efficiency of it. You could actually reduce the  
11 number of credits by 30 percent and still generate  
12 the same number -- amount of equity to the project.  
13 If you can increase the efficiency by 50 percent, you  
14 could reduce the credit by 50 percent and generate  
15 the same amount of equity.

16           CO-CHAIRMAN GROSS: So you'd increase  
17 the efficiency by shortening the --

18           COMMISSIONER GARDNER: And also which  
19 Steven talked about which may or may not have  
20 happened.

21           CO-CHAIRMAN GROSS: And we're assuming  
22 it's not going to happen for this discussion. I  
23 thought that's what you said, that we're moving  
24 forward on these assuming that the tax law changes  
25 won't happen. Isn't that what you said?

1 CO-CHAIRMAN STOGEL: We're going to  
2 assume for the purpose of Mark's report next week  
3 that none of the changes happen with -- in italics,  
4 if it happens -- plan one, two or three happens, this  
5 would be the impact and the additional efficiency.

6 CO-CHAIRMAN GROSS: Yeah. So anyway,  
7 you'd get the efficiency by shortening the program  
8 and tax law change, and that would allow for a  
9 reduction in the size of the program?

10 COMMISSIONER GARDNER: Substantially,  
11 substantially.

12 CO-CHAIRMAN GROSS: By the same amount,  
13 by 30 percent or 50?

14 COMMISSIONER GARDNER: If you could  
15 reduce the number of credits by shortening it to a  
16 five-year credit, you could probably reduce the  
17 number of credits by a third or close --

18 CO-CHAIRMAN GROSS: Dumb question here.  
19 Why wasn't this done before if you're going to  
20 improve efficiency, reduce the cost of the program by  
21 shortening the length of the credit, tell me --  
22 somebody, tell me why this wasn't done before.

23 COMMISSIONER GARDNER: I'd like to ask  
24 the question why the historic credit was made a  
25 one-year credit so that it is inherent --

1 CO-CHAIRMAN GROSS: There's got to be an  
2 answer. Somebody in here --

3 COMMISSIONER GARDNER: -- inherently  
4 efficient and the long-term credit is a ten-year  
5 credit which is inherently inefficient. And you  
6 raise a point that has bothered me for years because  
7 the low-income credit has been criticized for its  
8 inefficiency. And I can show you the numbers, I can  
9 say well, give me a one-year credit and I will cost  
10 you less than the historic credit. I'll cost less  
11 than the historic credit to you.

12 CO-CHAIRMAN GROSS: But does it cost  
13 more money up front?

14 COMMISSIONER GARDNER: It costs more  
15 money up front.

16 CO-CHAIRMAN GROSS: And that's the  
17 reason the legislature has streamed it out over ten  
18 years so that the first year wasn't as severe.

19 CO-CHAIRMAN STOGEL: Well, both the  
20 federal credit and the -- for historic and the  
21 federal credit for low-income track the State  
22 credits. The federal historic is a one-year credit  
23 earned over five. The State credit is a one-year  
24 credit, the federal low-income is a ten-year --  
25 15-year credit, but you can take it over ten, and the

1 State low-income is a ten-year credit. What the  
2 legislature did is simply track --

3 COMMISSIONER GARDNER: They patterned  
4 their --

5 CO-CHAIRMAN STOGEL: The federal  
6 credits, the question is why continue that tracking?

7 COMMISSIONER GARDNER: Yeah, was that  
8 really smart? And as I point out in my report,  
9 there's a transitional cost here. If we go from a  
10 ten-year credit to a five-year credit, it's going to  
11 cost us more short-term. And Representative Flook  
12 and I had a thoroughly extensive conversation about  
13 this.

14 And so we get into another issue which  
15 we'll get into in a minute which is a buy-back idea.  
16 But there is a transitioning cost, but for the  
17 long-term, you earn a much more efficient credit and  
18 you do cost the State substantially less.

19 CO-CHAIRMAN GROSS: I think that hits  
20 the nail on the head for me. I got the general idea.  
21 Shorten the length of the credit, it costs you more  
22 up front, you're going to take that whatever the  
23 millions of dollars are, 1990 or whatever it is and  
24 compress that down into a shorter period of time so  
25 each year it's going to cost more money by -- right?

1 Am I good so far?

2 COMMISSIONER GARDNER: Each year it's  
3 going to cost more money -- each year it's going to  
4 cost less money until you factor in the fact that  
5 you've got outstanding credits that still have to be  
6 redeemed --

7 CO-CHAIRMAN GROSS: Right, but it's  
8 going to push them all into a shorter period of time.

9 COMMISSIONER GARDNER: Yeah, but you  
10 will spend a third less each year ignoring that fact,  
11 ignoring -- and I just want to make sure we're  
12 talking the same language. You will -- if you ignore  
13 the fact that we've got this outstanding inventory of  
14 credits, you will be saving the State a third each  
15 year. The cost of the program goes down by a third.

16 CO-CHAIRMAN STOGEL: Just by shortening  
17 the credit period.

18 COMMISSIONER GARDNER: Yeah, Mark.

19 CO-CHAIRMAN GROSS: So would  
20 this proposal affect the existing credits or just  
21 the --

22 CO-CHAIRMAN STOGEL: No. Mark, go to  
23 the buy-back -- I've been working with Mark on this  
24 because of the interrelationship with the tax issues  
25 with Mark's low-income. But talk about the buy-back

1 and how you could do more smoothing that way.

2 COMMISSIONER GARDNER: One of the  
3 recommendations we have in here is that the State  
4 consider buying back some of the outstanding  
5 inventory of credits. If we buy back, for example,  
6 particularly the outstanding credits that are going  
7 to be redeemed in the next three to five years, then  
8 you could ease the transition from a ten- to a  
9 five-year credit and save the State money because --  
10 you know, you can run the numbers, I think, and make  
11 a number of assumptions about what we can buy in  
12 that, but I think depending on the vehicle by which  
13 you raise the money to buy the credit back, I think  
14 under any scenario you're going to save substantial  
15 money by buying back credits that are outstanding as  
16 opposed to simply letting them be redeemed over the  
17 next ten years.

18 CO-CHAIRMAN STOGEL: Mark, why don't you  
19 finish for a few minutes because there's obviously  
20 more to do yet on this and we're going to lose Zack  
21 and I do want to get through the rest of the agenda  
22 today.

23 COMMISSIONER GARDNER: All right. We  
24 have made a recommendation that credits -- we changed  
25 the way credits are earned, okay? Credits will be

1 earned -- if you would adopt this recommendation,  
2 credits will be earned when the building is placed in  
3 service and the first unit leased. As I explained to  
4 you earlier, there's a phase-in. Every unit has to  
5 be leased, nobody knows how many credits are going to  
6 be issued in the first year.

7 It creates an uncertainty in the  
8 investor who is trying to buy these credits because  
9 he's going well, how many credits am I going to get  
10 in the first year that the building's placed in  
11 service? And nobody can tell him because nobody can  
12 tell him what the lease-up is going to be. And are  
13 some of these credits going to be deferred to  
14 year 11?

15 It would be a very simplified process if  
16 we simply said when the building is placed in  
17 service, the credits are earned unless there's a  
18 recapture. That would increase the pricing of the  
19 credit. By increasing the pricing of the credit,  
20 you're going to reduce the total number of credits  
21 you need to fund the same amount of housing. It's  
22 all about, once again, improving the efficiency of  
23 the credit.

24 Our recommendation No. 6 was tied --  
25 when we finally arrived at a hard number for the

1 credit, let's say we arrived at a hard number, and  
2 said this is the amount of credits that we think  
3 should be issued, then we tie that -- our next  
4 proposal is tie it to State revenues.

5           You know, one of the points that the  
6 governor made in his speech was that the tax credit  
7 programs have outgrown the budget. They've increased  
8 at a faster rate and they're consuming a larger  
9 percentage of the State budget than they were five  
10 years ago. We're recommending that you tie the size  
11 of the program to State revenues. If State revenues  
12 go down, the program automatically goes down. You  
13 don't have to cut it. It's an automatic reduction.

14           If the revenues go back up the next  
15 year, then we rise back up to where we were. But  
16 that way it remains at the same percentage of State  
17 revenues regardless of what's happening to State  
18 revenues without the legislature or anybody even  
19 having to take any action.

20           We recommend that if you're layering  
21 low-income housing tax credits and historic tax  
22 credits, that the qualified -- currently you're able  
23 to earn 25 percent of the qualified rehabilitation  
24 expenditures for the historic credit. We're saying  
25 cut that to 20 percent if you're layering the credit

1 if you're using both low-income and historic. That  
2 was an issue that's been raised and there have been  
3 objections periodically to the layering of the  
4 credit, and we felt that that was something that we  
5 could do. And I think the historic Supreme Court  
6 made the same recommendation.

7 The next item we dealt with was  
8 carryback/carryforward, understanding that the  
9 legislature is concerned about budgeting. You know,  
10 these credits are currently -- the historic credit  
11 was one where it could be carried forward ten years.  
12 The low-income can be only carried forward five, it  
13 can be carried back three.

14 I have to tell you we would prefer as a  
15 committee to see the carryback or the carryforward be  
16 at five. We realize it creates a little bit of  
17 budget uncertainty, but the more you narrow those  
18 numbers, you're going to start impacting the pricing  
19 of the credit and you're actually going to start  
20 taking away from its efficiency instead of actually  
21 improving its efficiency.

22 Because when somebody buys these  
23 credits, one of the things they look at is I'm making  
24 a ten-year commitment, okay? I have to be profitable  
25 for the next ten years. If I get to year three and I

1 have a bad year and I lose money, at least I can  
2 carry them back or I can carry them forward. But if  
3 you start condensing the carryforward/carryback time  
4 frames, investors are going to look at this credit  
5 and it's going to -- it's going to be even less  
6 attractive to them. So we prefer the carryback/  
7 carryforward stay the same. If you're going to  
8 affect anything, affect only the carryback and only  
9 shorten it by a year. That's the recommendation.

10 Now, with the AHAP credit --

11 CO-CHAIRMAN GROSS: Representative Komo  
12 has a question.

13 COMMISSIONER KOMO: You said something  
14 about tying it to a revenue budget, so are you saying  
15 that whatever percentage it is at the 140 mark, be  
16 it, you know, 1 percent or 10 percent, whatever that  
17 is, are you saying you leave it so there really  
18 wouldn't be a cap, more like --

19 COMMISSIONER GARDNER: No, no, no, I'm  
20 not suggesting that. Well, maybe I am. I'm not  
21 sure. I'm saying whatever the number is that we came  
22 up with for this year, then that number would be your  
23 baseline number.

24 CO-CHAIRMAN GROSS: So if it's 2 percent  
25 right now, then going forward, it ought to be 2

1 percent of whatever general revenue is?

2 COMMISSIONER GARDNER: Yeah. And so if  
3 revenues go down, you're going to go down; if they go  
4 up, you go up.

5 COMMISSIONER KOMO: So then there  
6 wouldn't really be a need for the 140 cap, is what  
7 you're saying?

8 COMMISSIONER GARDNER: It wouldn't be a  
9 hard cap. It would be a floating cap. Today -- what  
10 happens today is it's tied to the number of federal  
11 credits that are issued. And the federal credits are  
12 adjusted by population, but there's also an inflation  
13 factor. I think it's tied to CPI, if I remember  
14 right. Isn't it tied to CPI? There's an inflation  
15 factor and a population factor.

16 And so it goes every year and because  
17 we're a matching credit, we go up each year  
18 regardless of what's happening to State revenues. So  
19 State revenues can go down, but the amount of the  
20 authorized State tax credit goes up. And as Steven  
21 pointed out, it's -- the statute is not -- it's  
22 not -- it doesn't command or automatically entitle  
23 you to credits. There's an application process you  
24 go through. And the Commission has ultimate  
25 authority. I mean, the Commission could say we're

1 not going to issue all the credits. We can have  
2 authority to issue X million, but we're going to  
3 issue something less.

4 So there are really two controls over  
5 the credit, one being the maximum amount that can be  
6 issued by law which is the authorized credit, and  
7 then the amount that the Commission would ultimately  
8 approve. They could be different numbers.

9 COMMISSIONER KOMO: I'm just thinking of  
10 the budgetary side of it, that line item could be  
11 just -- it could change every year.

12 COMMISSIONER GARDNER: One of the things  
13 that people have been concerned about in the past is  
14 growth and the fact that there is no hard cap. And  
15 I've talked to legislators who have said, well, we're  
16 in the low cap, the tax rate goes up every year  
17 regardless of what happens to State revenues.

18 And so we came up with the idea of  
19 taking it to State revenues to remove that concern.  
20 It floats with the State revenues, it automatically  
21 moves with it. The way it works today is it moves  
22 independent of State revenues and I think it's a bad  
23 idea.

24 CO-CHAIRMAN GROSS: Steven, do you want  
25 to --

1 CO-CHAIRMAN STOGEL: Mark, if it's okay  
2 with you, because more work has to be done, maybe  
3 we'll come back to the AHAP since we're going to lose  
4 Zack who's chair of the historic committee. We'd  
5 like to do that one for 45 minutes and then maybe  
6 we'll come back to AHAP or we'll just pick it up next  
7 week.

8 COMMISSIONER GARDNER: The AHAP is  
9 pretty direct and straightforward. I could do it in  
10 five minutes if you wanted.

11 CO-CHAIRMAN STOGEL: Yeah, at the end.

12 CO-CHAIRMAN GROSS: Appreciate your  
13 work, though, Mark.

14 CO-CHAIRMAN STOGEL: I will say, because  
15 Mark and I have been talking, that Mark has reached  
16 out to people who are highly invested in the  
17 low-income community and spent a lot of time talking  
18 with developers and syndicators and bankers and  
19 people who are actually in the field every day, so...

20 CO-CHAIRMAN GROSS: Steven, do you want  
21 to point him to this too, the beginning of his  
22 report?

23 CO-CHAIRMAN STOGEL: Yeah, and Chuck --  
24 Senator Gross and I have chatted about Mark's  
25 introductory remarks to his report, and we jointly as

1 co-chairs would suggest everybody on the Commission  
2 read it because it really captured the flavor of the  
3 governor's remarks at the outset of the session about  
4 what this Commission's all about. And we found that  
5 to be a particularly well written introduction. It  
6 states the mission pretty clearly. So ask everybody  
7 to take a look at that. Chairman Boyers.

8 COMMISSIONER BOYERS: Sir.

9 CO-CHAIRMAN STOGEL: Are you still with  
10 us? And Co-Chair Gifford? Okay. Your co-chair is  
11 here, Zack, and between you, we'll turn over the  
12 floor. I also note Greg Smith is here who's been on  
13 the committee and has served as a counsel to us on a  
14 lot of this tax stuff that I've done. So Zack?

15 COMMISSIONER BOYERS: Okay. Well, I  
16 would jump right in and at least try to get to the  
17 meat of the report which ends up being in the  
18 recommendation section.

19 But first, let me just thank everybody  
20 who did serve on the subcommittee. This subcommittee  
21 was represented broadly by a total of 21 members  
22 including nonprofits, interested citizens, bankers,  
23 consultants, city and state officials, developers and  
24 a very broad spectrum of interested participants.  
25 And I want to thank everybody for their time. Also

1 want to thank Husch Blackwell for their support and  
2 DED's involvement as needed, and we appreciate it.

3 What I thought I'd do is give a very  
4 brief background on the program, very brief, a very  
5 quick discussion of at least some of the  
6 considerations related to impact in particular of the  
7 program, and then launch into the recommendation  
8 section for consideration.

9 So since 1976, federal law has provided  
10 tax incentives for historic preservation. The  
11 Missouri program was passed in September '97, became  
12 effective in January '98 for the purpose of providing  
13 an incentive for the redevelopment of commercial and  
14 residential historic structures in Missouri.

15 As many of you know, DED administers  
16 this program and is responsible for the issuance of  
17 all tax credits based upon -- all these tax credits  
18 based upon final certification of the rehabilitation  
19 project by the Department of Natural Resources and  
20 State Historic Preservation Office.

21 The program was initially designed to  
22 mirror the federal program, and it provides State tax  
23 credits equal to 25 percent of eligible costs and  
24 expenses of the rehabilitation of improved historic  
25 structures. These credits can be applied to State

1 income taxes under Chapter 143 and to taxes under  
2 Chapter 148 including the bank tax, insurance premium  
3 tax and other financial institution tax, any taxpayer  
4 that's eligible to participate in the program.

5 Nonprofit and governmental entities are ineligible.  
6 These credits are efficient in that they can be sold  
7 or transferred in accord with Missouri law.

8 Notably and for the Commission's  
9 consideration, this program has been substantially  
10 scrutinized over the past several years and the  
11 program has very recently undergone some change. In  
12 2009 the General Assembly passed House Bill 191 and  
13 made significant changes to the program in an effort  
14 consistent, perhaps broadly with this overall effort,  
15 to address growing concerns over the fiscal impact of  
16 the program on the State budget.

17 These changes impose new annual limits  
18 on the amount of historic tax credits approved by  
19 DED. So effective as of July 1 of 2010, just this  
20 last summer, the annual cap became \$140 million for  
21 projects receiving historic tax credits over  
22 \$275,000. Owner-occupied residential projects have a  
23 per-project cap based on this new legislation of  
24 \$250,000 in tax credits. And any project other than  
25 these owner-occupied residential projects receiving

1 less than \$275,000 in credits are exempted from the  
2 program caps.

3 The tax credits issued under the program  
4 accomplish a clearly discernible outcome; namely, to  
5 encourage the preservation and restoration of  
6 Missouri's historic structures and to foster economic  
7 development through employment, capital investments  
8 directly and indirectly involved with the  
9 rehabilitation of these buildings.

10 There is a recognizable cause and effect  
11 relationship between the use of credits under the  
12 program and the desired outcome of economic  
13 development. I do also note that this program is  
14 especially crucial for the areas that drive a  
15 disproportionate share of the State's revenue and  
16 economics; namely, its urban cores as main streets  
17 throughout the state.

18 In terms of what this subcommittee did,  
19 we convened a series of six public meetings. We  
20 looked during one of them in-depth at the operational  
21 effectiveness of the program and discussed areas of  
22 concern or areas to improve. We studied, where  
23 possible, the measurable economic impact, first as  
24 presented by Sarah Coffin, Ph.D., of St. Louis  
25 University and then by -- discussed with DED, Sallie

1 Hemenway and Alan Spell, and the methodology applied  
2 by DED using the REMI model.

3           What we have ascertained is included in  
4 the report, but I think it's relevant to quickly at  
5 least summarize some of the findings. Dr. Coffin  
6 noted during her presentation that a minimum -- a  
7 minimum of 43,000 jobs and approximately \$670 million  
8 in state and local sales and income taxes were  
9 generated from projects receiving historic tax  
10 credits from 2000 to 2008.

11           These numbers are minimums because  
12 Dr. Coffin's economic modeling does not fully or  
13 accurately reflect the added economic impact on local  
14 entrepreneurial enterprises or the so-called induced  
15 or indirect economic effects of the program.

16           I also mentioned that the economic  
17 outcome of the program is measured by DED using the  
18 REMI Missouri economic model of economic impact.  
19 However, as Ms. Hemenway and Mr. Spell acknowledged  
20 in their presentations to the subcommittee, the REMI  
21 model also doesn't present a complete measurement of  
22 the economic impact of the program. It does not  
23 measure output other than the direct return to the  
24 State general revenues over time from the projects  
25 receiving tax credits.

1           So some of what gets created as a result  
2 of this is not captured in the REMI model, and that  
3 was acknowledged, I think, by the presenters as well.

4           So the subcommittee does note in its  
5 report that the consensus unanimity was absolutely  
6 not always present and the consensus was not always  
7 achieved but I think widely believed by members of  
8 the subcommittee that the program is a successful  
9 program as it's designed. It is acknowledged as the  
10 model program for states around the nation.

11           We did spend some considerable time,  
12 probably not as much as many of us wish, but  
13 analyzing and observing the programs of other states,  
14 particularly states adjacent or nearby to Missouri.  
15 And still, the subcommittee will propose  
16 modifications to certain aspects of the program in an  
17 effort to address the legitimate concerns that all of  
18 us have.

19           Again, I want to make sure and properly  
20 represent all members of the subcommittee in  
21 asserting and articulating that not all of the  
22 recommendations come with unanimous support from the  
23 subcommittee, although the broad majority of those  
24 voting were in support of the recommendations  
25 included.

1                   And so with that, Steven, I was  
2     expecting or intending to go right into those  
3     recommendations and conversations.

4                   CO-CHAIRMAN GROSS: Well, I need to  
5     raise an issue that was -- that's been brought up  
6     that needs to get out -- we need to deal with, and  
7     that is the votes that were taken. There's been some  
8     e-mail controversy surrounding who voted and who  
9     should have voted and what the result of those votes  
10    were, both amendments as well as the final vote on  
11    the report.

12                   The final vote on the report shows 13 --  
13    I think it was 13 in favor and three opposed. If you  
14    look at just Commission members, it was three in  
15    favor and three opposed for that report. Now,  
16    amendments I still don't have the transcripts for,  
17    but were any of those amendments that were offered  
18    and defeated, defeated because of non-Commission  
19    members voting?

20                   CO-CHAIRMAN STOGEL: Well, let's step  
21    back one step. This is -- the historic committee  
22    proceeded to expand their folks on that committee to  
23    include people who had direct interest, had  
24    historical interests, represented coalitions, and at  
25    least I went to one of those first meetings --

1 CO-CHAIRMAN GROSS: I did too.

2 CO-CHAIRMAN STOGEL: You were there at  
3 the first meeting. And -- to get as much possible  
4 buy-in as possible. The Commission -- the historic  
5 committee did a very clear job of recording who voted  
6 for which items on which issues, and we can sort out  
7 who were Commission members and who were not, but the  
8 theory that this committee operated on because it's  
9 gone through a legislative change in 2009 and is now  
10 part of the Tax Credit Review Commission's review,  
11 wanted to get as much broad-based input and buy-back.

12 The low-income committee, on the other  
13 hand, added Steve Acree who's not a Commission  
14 member, but Mark Gardner reached out to all sorts of  
15 people in the field to try to build some sort of, you  
16 know, if you will, agreed bandwidth. So the, I mean,  
17 ultimate vote will be held by the Commission. And I,  
18 for one, am glad that the committee was as broad as  
19 it was just so that we can get people who are  
20 invested.

21 I'm talking about what the changes  
22 should be, because for once, if we can build  
23 consensus for some of these recommendations, the  
24 legislature can then follow the report as it's  
25 written and people will accept it as opposed to do

1 the normal free-for-all that always occurs. Some  
2 legislations draft it, and others there's a big  
3 piling-on effect.

4 So this Commission's report ultimately  
5 will hopefully lead to legislation and hopefully be  
6 enacted. So broadening the committee was the thought  
7 process. And...

8 CO-CHAIRMAN GROSS: I just don't want  
9 the wrong impression to be out there that a  
10 subcommittee of this Commission supported a  
11 recommendation when, in fact, that is not the case.

12 CO-CHAIRMAN STOGEL: The -- it's a fair  
13 comment, Senator, and to the extent that there's a  
14 final, final report a week from now, we'll segregate  
15 the votes for who were Commission members and who  
16 were not just so that the record is a little clearer.

17 CO-CHAIRMAN GROSS: Okay.

18 CO-CHAIRMAN STOGEL: I applaud the way  
19 the committee's proceeded because buy-in is critical  
20 so that ultimately it leads to legislative change in  
21 an agreed package. So Zack, with that obviously open  
22 side bar now on record, we'll let you continue your  
23 report.

24 COMMISSIONER BOYERS: Sure. Okay. The  
25 report ends up addressing basically seven

1 recommendations, and then -- in a set, then, of  
2 additional items that we would urge to be discussed  
3 and considered perhaps by DED separately. And I'm  
4 not going to go too far into that last section of  
5 consideration, so just to the recommendations first.

6 Obviously there was considerable  
7 conversation around the idea of reducing the annual  
8 cap, and that cap, again, as legislated and effective  
9 this July 1st, 2009 is \$140 million for any fiscal  
10 year. The subcommittee recommended that the annual  
11 cap on the tax credit allocations stay at the current  
12 level in consideration of the compromise resulting in  
13 the imposition of the cap in 2009, again, just in the  
14 last legislative session.

15 Acknowledging too that a reduction in  
16 the cap would not result in any significant impact to  
17 the State budget, because quite organically, as  
18 the -- well, first of all, because the impact of the  
19 cap would be felt down the road, but also because the  
20 cap quite organically -- or, sorry -- the  
21 authorization and then issuance of credits quite  
22 organically goes down or is correlated to economic  
23 reality of the state.

24 So we can get into more discussion  
25 around that, but it is very clear that new

1 authorization and issuance of credits in the current  
2 year, for example, won't come anywhere near to the  
3 cap as it was legislated in that prior legislative  
4 session.

5 CO-CHAIRMAN STOGEL: And just so people  
6 are clear, it's \$140 million of authorizations, not  
7 all credits that are authorized ultimately get  
8 issued. And there's probably a pretty high  
9 redemption factor of the ones who are issued on  
10 historic. It's an authorization test, it's not a  
11 redemption test that this cap applies to. I'm sorry,  
12 Zack, please.

13 COMMISSIONER BOYERS: And in a time of  
14 economic distress such as this where the State is  
15 feeling the squeeze just as everyone else is, the  
16 authorizations will be down because capital is not  
17 slowing for economic development including real  
18 estate, including historic rehabilitation.

19 And again, the cap was just imposed last  
20 year, so again, that's the first recommendation.

21 Going to recommendation B or the second  
22 one, we looked -- currently the program includes a  
23 three-year carryback period for tax credits; in other  
24 words, a credit can be applied to taxes of a taxpayer  
25 for any tax year up to three years prior to the year

1 of issuance.

2 It also includes, the program does, a  
3 ten-year carryforward period so that an issued tax  
4 credit can be applied to taxes of a taxpayer for any  
5 tax year up to ten years following the issuance.

6 This has caused concern related particularly to  
7 budget predictability, knowing when these credits, to  
8 what year these credits will be applied.

9 And in consideration of that, the  
10 subcommittee recommends the reduction of the  
11 carryback to one year, one year only from the year of  
12 issuance, and that the carryforward will be reduced  
13 to five years as opposed to ten, except for any  
14 credit that's retained, not sold or transferred, so  
15 retained by the party to whom it was originally  
16 issued.

17 And this will have an impact  
18 particularly, we believe, on the smaller deals. So  
19 we would recommend that we allow a ten-year  
20 carryforward for those credits that are not  
21 transferred or sold but are retained by the original  
22 party.

23 The third recommendation is around  
24 deferred developer fees. The program currently  
25 permits developer fees as a qualified cost, a

1 qualified rehabilitation expenditure upon which tax  
2 credit percentage is based. These fees, these  
3 deferred developer fees are often deferred and paid  
4 over a number of years out of projected or expected  
5 project cash flows.

6 The subcommittee recommends removal of  
7 the developer fee from the definition of QREs,  
8 qualified rehabilitation expenditures. This  
9 modification will do a couple things. One, it will  
10 effectively reduce the amount of the credit because a  
11 deferred developer fee is often included as a  
12 qualified cost upon which the credits are based, but  
13 it will also eliminate the risk that credits are  
14 issued in a particular year for costs that won't be  
15 incurred because such a projected deferred developer  
16 fee never gets paid. So this will have a material  
17 impact and reduce the cost to the State of the  
18 program.

19 Additionally on this topic and in  
20 consideration of the difficult economic environment,  
21 the subcommittee recommends that DED administratively  
22 extend the period for payment of deferred developer  
23 fee from six to 12 years for those projects that are  
24 already approved and have had tax credits issued as a  
25 recognition of the difficulty of the current economic

1 environment.

2           As it relates to credit stacking, our  
3 next recommendation, this stacking issue allows for  
4 credits to be claimed on projects which also receive  
5 other State tax credits or incentives. This has led  
6 to some scrutiny and criticism, the projects that  
7 either aren't commercially viable are being  
8 undertaken or are getting just too much by way of  
9 overall incentives.

10           The subcommittee articulated that this  
11 is an overarching concern that really does reach  
12 beyond the historic program alone. However, to  
13 demonstrate support for this concern and to recognize  
14 its legitimacy, we do recommend that the percentage  
15 of the total QREs of an eligible project be reduced  
16 from the current 25 percent to 20 percent for a  
17 project which is also receiving low-income housing  
18 tax credits which tends to be the one where this is  
19 most applicable.

20           We -- we did look at the potential to  
21 reduce the percentage of the credit from 25 percent  
22 to some other number. We, as the subcommittee,  
23 recommend the percentage remain 25 percent,  
24 acknowledging that the effective impact of taking the  
25 deferred fee out and also the recommendation as it

1 relates to stacking with other low-income credits --  
2 other State credits, sorry, particularly low-income,  
3 that that has the same essential effect as reducing  
4 the percentage. And to do anything additional would  
5 be arbitrary and likely could compromise the  
6 effectiveness of the program as an economic --  
7 economic development tool motivating new economic  
8 development. So we're recommending that we keep it  
9 at 25 percent.

10           The program currently, as I mentioned,  
11 provides that no more than \$250,000 in credits be  
12 issued to a single rehabilitation project which is a  
13 nonincome-producing single family or owner-occupied  
14 residential property. We recommend a reduction of  
15 that maximum by 40 percent to \$150,000 in tax credits  
16 for those particular -- for those particular  
17 projects.

18           Moving -- moving ahead, then, to the  
19 last recommendation, the Department of Economic  
20 Development currently audits the cost certifications  
21 on which taxpayers submit their final accounting of  
22 QREs, qualified rehab expenditures. The subcommittee  
23 recommends that DED consider implementing a neutral  
24 third-party review process for review of all final  
25 cost certifications. Ideally, this would get done

1 within 30 days of the submission.

2 And we also recommend the cost of this  
3 would be paid from the collective two and a half  
4 percent application fee currently imposed by the  
5 program.

6 As I mentioned at the beginning, there  
7 are some other program efficiency areas that we would  
8 like to discuss. I don't know that this is  
9 necessarily the time to do so, but with that, I will  
10 conclude and open up for conversation.

11 CO-CHAIRMAN GROSS: Thank you.  
12 Comments, questions?

13 COMMISSIONER RECTOR: I have two  
14 questions/comments.

15 CO-CHAIRMAN GROSS: Zack, this is Penney  
16 Rector.

17 COMMISSIONER RECTOR: One, I think  
18 Mr. Van Matre raised in response to an earlier credit  
19 a question about length of time that an individual  
20 should stay in the home after rehabilitation. If we  
21 were to maintain the single-family owner-occupied  
22 residences, should we consider there being a time  
23 frame placed on that for those owners to maintain  
24 ownership and reside in that home and not turn around  
25 and sell that home for a substantial profit at the

1 State's cost? So that's one concern that I have.

2 And my other is, I question whether we  
3 should retain that single-family homeowner-occupied  
4 residence tax credit, particularly in light of having  
5 just earlier discussed elimination on the low-income  
6 property tax credit for renters. How can we then  
7 turn around and justify maintaining a credit for  
8 those who are the more affluent in our state?

9 CO-CHAIRMAN STOGEL: Good questions.  
10 Others?

11 COMMISSIONER FLOOK: This is  
12 Representative Flook. Penney raises a good point.  
13 You know, with regard to the time period within which  
14 a homeowner must remain, I've got to confess, I  
15 haven't -- I can't remember looking at that. I don't  
16 remember what the rule is, if there was anything. So  
17 I'll assume for the sake of this comment that there  
18 is no time limit.

19 But in the MHDC first-time home-buyer  
20 grant program that used to be around years ago and it  
21 may still be in effect now, you know, I think there  
22 was a limit in there that you had to stay in your  
23 home something in the nature of nine years or own it  
24 for nine years or something like that. So you know,  
25 I think Penney's on to something. I think if we were

1 to maintain -- legislatively if they were to maintain  
2 the single homeowner's ability to get these credits  
3 to remodel their home, I don't think it would be all  
4 that unfair to put a very, very strict requirement on  
5 how long they have to remain in the home so that we  
6 could avoid a larger -- you know, the entire reason  
7 for creating the small project exemption in the 2009  
8 reform was because it allows the small projects in  
9 rural areas -- rural areas and frankly, some of these  
10 individual homeowners to go ahead and rehab some of  
11 these properties.

12 And the predicted impact on that  
13 annually was expected to be in the 10 to 15 million  
14 range of issuances. So that would have rounded out  
15 the entire historic tax credit program to a value of  
16 roughly 150 to 155 million in issuances which was the  
17 bottom line number the industry really wanted as we  
18 were trying to work out a change in the program.

19 So I think what Penney points out is a  
20 good one. If we put a rule in there about the amount  
21 of time you have to stay in the home, that will  
22 ensure that the people that do partake of the program  
23 for the purposes of a home are really serious and  
24 really are going to live there, and it's just not --  
25 it's just not a real estate investment venture for

1 immediate profit.

2                   And secondly, I always felt that the  
3 limitation on what you could do in a single-family  
4 residence that you're going to live in was too high.  
5 It would allow a pretty sizeable nice home to be  
6 built. And I think we could lower that a little bit.  
7 And mindful that those kind of rehab projects are  
8 very expensive, we could lower it a little bit more,  
9 I think, and be doing the taxpayer justice without  
10 sacrificing the chance to get some of these older  
11 homes in rougher areas remodeled.

12                   CO-CHAIRMAN STOGEL: I would --  
13 everybody in the room knows that I'm pro the historic  
14 credit, it's vital to St. Louis. If the St. Louis  
15 core, that two square miles that's the Arch to I  
16 think it's Wells Fargo now, between the -- that's  
17 changed names so many times -- between the stadiums  
18 which drives a third of, I'm told, of the City's  
19 revenue isn't vibrant, it hurts the City. And, you  
20 know, probably 25 percent of the city, counting the  
21 BJC area and the riverfront, supports all the  
22 neighborhoods.

23                   And so if you don't have a vibrant  
24 downtown, you're not going to have a vibrant  
25 St. Louis where all the conventioners come. So I'm

1 all for the historic credit, and that's not news to  
2 anybody in the room. With that said, in June of '05,  
3 I testified before the joint committee. I remember  
4 Brian was there that day and some of the other  
5 Senators and Reps were there. On the single-family  
6 resident, not the condo project downtown or in Kansas  
7 City or in Cape, but the single-family residents,  
8 there ought to be a gold coast provision. People who  
9 live on Kingsbury Place and West Moreland ought not  
10 to get \$150,000 of tax credits.

11 I live on Kingsbury Place. It's just  
12 wrong if you spend \$600,000 fixing up your kitchen  
13 and your interior that people support it. The  
14 testimony we heard all over the state was it's an  
15 important credit in St. Joe and in Cape, but a number  
16 that would be 20 or \$25,000 would work for that  
17 single family for that neighborhood. And so I mean,  
18 that's just a personal thing with me.

19 CO-CHAIRMAN GROSS: Two people who want  
20 to comment also, Representative Komo and then  
21 Commissioner Zimmerman.

22 CO-CHAIRMAN STOGEL: So I mean, the  
23 geography's important, the owner occupancy is  
24 important, and I do note that this report assumes  
25 there were no tax law changes, so like the low-income

1 report to the extent there are tax law changes under  
2 plan 1, 2 or 3, there may be some additional  
3 efficiencies that could be studied and footnoted so  
4 it could be considered during the next week.

5 COMMISSIONER BOYERS: Steve, absolutely,  
6 and the subcommittee did discuss that -- the  
7 possibility that if tax law changes were enacted, it  
8 would be, of course, prudent and responsible to blend  
9 those changes into the consideration overall.

10 CO-CHAIRMAN GROSS: We have two  
11 Commissioners who wanted to make questions or  
12 comments. Representative Komo.

13 COMMISSIONER KOMO: Mine is on the cost  
14 of certification review. The recommendation was to  
15 use the existing 2.5 percent. I guess where does  
16 that money -- where is that being utilized for now if  
17 it's already in the budget? I know I've seen it in  
18 the budget.

19 MS. HEMENWAY: It's appropriated right  
20 now to the Missouri Partnership for Business  
21 Recruitment Activities, and a portion of it is  
22 appropriated to the Department of Natural Resources  
23 and the Department of Economic Development's staff  
24 that evaluates not only the historic tax credit  
25 program, but all of the tax credit programs. So part

1 of it is for business recruitment, part of it's to  
2 offset personal service and E&E costs by two  
3 agencies: DNR's SHPO office and DED.

4 COMMISSIONER KOMO: So, I mean, I guess  
5 that would be my question is, are you talking about  
6 using the entire two and a half percent? Because I  
7 know I've sat on the appropriations committee in the  
8 past, and I mean, you know, I've been hard on the  
9 partnerships and stuff like that, but at the same  
10 time, without site selectors looking at Missouri  
11 because of our lack of a closing fund, I think it's  
12 important that we have somebody out there selling  
13 Missouri. So I guess -- so my question is, is that  
14 two and a half percent?

15 COMMISSIONER BOYERS: I have to say this  
16 is an area that we don't have 100 percent  
17 transparency into in terms of where all of those  
18 funds have gone, but there was some conversation on  
19 the subcommittee about the fact that it is a fee that  
20 is being generated specifically out of the historic  
21 tax credit community, if you will, and that it should  
22 be disproportionately used to administer therefore  
23 the historic tax credit program. So that was the  
24 sort of general flavor of the conversation. And so  
25 yes, it was looking to that, if you will, pot of

1 funds to help support the processing, if you will, of  
2 the administration of the program.

3 COMMISSIONER KOMO: Yeah, that was just  
4 a concern of mine because I think the intent of when  
5 that was put on there was so that we could have that  
6 partnership funded to be able to have that.

7 CO-CHAIRMAN GROSS: Commissioner  
8 Zimmerman?

9 COMMISSIONER ZIMMERMAN: Sallie, do you  
10 know off the top of your head how many houses on  
11 average per year apply for the historic tax of single  
12 residences?

13 MS. HEMENWAY: I don't have the split,  
14 but I can get you that split.

15 COMMISSIONER ZIMMERMAN: I think that  
16 would be --

17 MS. HEMENWAY: But between commercial  
18 property, income-producing like multifamily property  
19 and then single-family property, we can provide the  
20 split.

21 COMMISSIONER ZIMMERMAN: I think that  
22 would be good to have for our next meeting. And also  
23 I've heard a lot of comments about this for the last  
24 couple of years, and I'd be all in favor of limiting  
25 it to \$25,000 and also put it on a pro rata square

1 footage basis.

2 CO-CHAIRMAN STOGEL: For single-family  
3 residents, that's my recommendation. I'm not  
4 proposing a reduction in the new project, downtowns  
5 taking an old building and converting them to rental  
6 or condo.

7 There was a woman from St. Joe -- I  
8 can't remember her name at the moment -- who was very  
9 passionate about what the credit was meant for -- in  
10 smaller numbers for the community and the restoration  
11 that had occurred.

12 COMMISSIONER KOMO: When we did that, I  
13 guess, last year when we put the cap on and had that  
14 provision put in there, that was a compromise to take  
15 that group out of the cap so the cap would be still  
16 big enough that we could work under but then take  
17 that other group out of it and we just put that 250  
18 was the idea. That would be the compromise.

19 CO-CHAIRMAN STOGEL: But 25 percent of  
20 275, Representative, is still \$62,000 of assistance  
21 for a single-family home. And given the action of  
22 the Commission earlier, conversations about  
23 claw-backs and renters, I think \$62,000 of assistance  
24 for anybody's private residence is --

25 COMMISSIONER ZIMMERMAN: And I would

1 concur.

2 CO-CHAIRMAN STOGEL: -- kind of a lot --

3 COMMISSIONER BOYERS: I'm sorry. I

4 can't hear the other --

5 COMMISSIONER ZIMMERMAN: I would put a

6 time limit on it too that they had to stay in the

7 residence for at least ten years or something.

8 COMMISSIONER KOMO: We just didn't want

9 the bigger projects to get all the money and then all

10 the smaller projects wouldn't get any.

11 CO-CHAIRMAN GROSS: Mr. Van Matre?

12 COMMISSIONER VAN MATRE: I'd like to

13 stake out the very far extreme position on these

14 credits so that everybody will at least have this to

15 react against and rebut by the next time. But I

16 don't see how we can take \$750 away from people that

17 make \$14,000 a year and give \$25,000 a year to people

18 to fix up their house. I just don't think that there

19 is any sense of proportion there.

20 What I'd like to see for this credit

21 myself personally, not speaking for anybody but me,

22 is that it be recognized for what it is, which is a

23 method of repairing downtown areas that have decayed.

24 You cannot justify this on an economic basis any more

25 than any other state expenditure.

1           You get exactly the same economic effect  
2 if the State builds a new building as opposed to  
3 rehabbing an old building. The only difference in  
4 economic effect is who gets to do the work. What  
5 this credit really is, is designed to help fix up  
6 decaying downtown areas. And that makes sense if the  
7 area that you're fixing up is retail or commercial or  
8 something that adds to the job base.

9           It makes no sense to do it -- to apply  
10 it with respect to residential of any type.

11 Otherwise, it's just a subsidy to wealthy people to  
12 fix up things that they can fix up with their own  
13 money and not the State's money.

14           COMMISSIONER WOOD: You're talking on  
15 the owner-occupied, though. I think we've seen some  
16 neighborhoods, though, that developers have gone in  
17 and rehabbed and helped neighborhoods and they don't  
18 own those. So I think -- I agree with you on the  
19 owner-occupied, but I'm not going to go as far as  
20 you're going to go on the developer that goes in --

21           COMMISSIONER VAN MATRE: I don't expect  
22 anybody to go as far as I'm going to go. But I don't  
23 think it ought to be applied to residential at all as  
24 a way of saving the State some money. And I think  
25 there ought to be a Commission that decides whether,

1 in fact, this is going to be contributory to the  
2 rehabilitation of the downtown area and it ought not  
3 to be a grant of right as opposed to a discretionary  
4 grant so that some Commission, e.g., the city  
5 council, says, yes, this project will help our  
6 downtown and it will add jobs as opposed to saying  
7 somebody fills out the form and gets the money and it  
8 doesn't do the State any good discernibly, or you  
9 could at least get a few people to sign on who have  
10 vested interest on that money. So to summarize, my  
11 position is, it ought not to be applied to  
12 residential at all, it ought to be discretionary in  
13 the eyes of the local city council, and it ought to  
14 be something that is proportionate.

15 CO-CHAIRMAN GROSS: Craig, I agree with  
16 you. Actually, maybe I could swing the pendulum just  
17 a little further in your direction.

18 COMMISSIONER BOYERS: Who was  
19 speaking --

20 CO-CHAIRMAN GROSS: Chuck Gross.

21 COMMISSIONER BOYERS: -- before? Sorry.

22 CO-CHAIRMAN GROSS: That was Craig Van  
23 Matre. This is Chuck Gross speaking now. Actually,  
24 I think your comments apply across the board on the  
25 credit because 200 square feet of Class A office

1 space is 200,000 square feet of Class A office space,  
2 whether it was built from the ground up or whether  
3 it's a building that is 100 years old and was  
4 rehabbed.

5 As a matter of fact, the utility of that  
6 new structure I would argue is probably higher than  
7 the rehabbed structure because of the inherent size  
8 and space and architectural limitations that existed  
9 when that 100-year-old building was completed.

10 Now, on the other hand, I recognize that  
11 there is more intrinsic value to that historic  
12 building in terms of -- I don't know what you'd call  
13 it -- the esoteric benefits of people who want to be  
14 in those structures because of the way they look and  
15 because of the history.

16 But in terms of flat-out, the way I look  
17 at it, economic development or economic benefit of  
18 the structures, \$200,000 -- 200,000 square feet of  
19 Class A office space is just what it is, and it's a  
20 whole lot cheaper in a lot of cases to build new than  
21 it is to rehab and without using these credits.

22 COMMISSIONER MARBLE: Can I ask a  
23 question about how --

24 CO-CHAIRMAN STOGEL: This is Dr. Marble,  
25 Zack.

1                   COMMISSIONER MARBLE: Yeah. -- about  
2 how historic is determined? I'm just really basic  
3 here. Is there a building that -- do I understand it  
4 can be whole districts and maybe in that district  
5 there are nonhistoric structures that would qualify  
6 also?

7                   CO-CHAIRMAN STOGEL: Not really. You  
8 can get historic credit for an individually nominated  
9 building or if it's a district, but the State credit  
10 is limited to buildings that are contributing to that  
11 district, which is a special definition in the  
12 National Park Rules.

13                   COMMISSIONER MARBLE: So not a newer  
14 building in that district?

15                   CO-CHAIRMAN STOGEL: It's -- just  
16 because it was built 40 years ago, it doesn't  
17 qualify. It has to be contributing based on the  
18 standards of the National Park Service. Is that  
19 right?

20                   MS. HEMENWAY: It may not be  
21 individually listed on the National Register, but if  
22 it's recognized as contributing to the district  
23 because it has a majority of the features of that  
24 historic significance, but not to the degree of  
25 getting on the National Register itself, it still is

1 eligible for the credit.

2 CO-CHAIRMAN STOGEL: So the -- anybody  
3 else? Because we're going to lose Zack in three  
4 minutes, and this is obviously --

5 COMMISSIONER WOOD: When you break that  
6 down, would you also break down the amount of the  
7 credits we're given as well, not just the 15 credits  
8 here but the dollar amount of the credits?

9 MS. HEMENWAY: Yeah.

10 COMMISSIONER WAGNER: May I offer a  
11 couple of comments? Okay. I know it's getting late  
12 and I've listened in on this. I wanted to say that I  
13 was a member of this particular subcommittee, and it  
14 was a privilege to be a part of it, and I have great  
15 admiration for all of the professionals who were on  
16 the committee. But after the report was finalized, I  
17 was somewhat underwhelmed by the recommendations that  
18 the committee has made.

19 And I would urge the broader Commission  
20 to perhaps send this report back to the committee to  
21 take a more critical look now that we have some  
22 perspective on what all the other subcommittees were  
23 doing. I believe that this tax credit is going to  
24 continue to cost, if you will, the State far more  
25 than was originally intended when the credit was

1 authorized by the legislature.

2           There's no doubt that the credits have  
3 led to economic development and have been hugely  
4 successful and have perhaps been the most successful  
5 program in the country. We did take a look to some  
6 limited degree of what else is being offered across  
7 the country, but I don't think that we captured in  
8 the subcommittee report the spirit of what our  
9 mission in this broader overview of the tax credits  
10 was to be.

11           So I think we should revisit this, look  
12 at the overall cap, revisit perhaps some of the  
13 discussions that occurred in the legislation of two  
14 years ago and just take a more critical look at this.  
15 And I wanted to raise that for the Commission to see  
16 if others had similar thoughts on the matter.

17           MR. BURLISON: Zack, are you still  
18 there? Are you still there?

19           COMMISSIONER BOYERS: I am.

20           MR. BURLISON: This is Rex. I had a  
21 question on this developer's fee. Am I taking that  
22 the recommendation is that essentially that developer  
23 fee agreements that are already in effect right now  
24 that have been referred because they're out of  
25 compliance would now be modified?

1                   COMMISSIONER BOYERS: Not that they  
2 would be modified, but that the approach to  
3 determining by what point the deferred developer fee  
4 should have been paid would be modified and expanded  
5 to a 12-year period as opposed to a six.

6                   MR. BURLISON: So you are saying that  
7 those would be modified?

8                   COMMISSIONER BOYERS: The agreement  
9 itself -- I mean, I guess the developer agreement  
10 within each transaction wouldn't necessarily be  
11 modified. I'm not sure if I'm following you, Rex,  
12 but the oversight, if you will, by DED or the State  
13 would be modified to accept, if you will, a 12-year  
14 period during which it could get paid rather than a  
15 six.

16                   COMMISSIONER REEVES: Hey, Zack, you  
17 might want to clarify that the State's shorter period  
18 is -- the federal is 12.

19                   COMMISSIONER BOYERS: Yeah, the federal  
20 guidance is 12 years and the State is shorter than  
21 the federal, and so we're just trying to match them  
22 up.

23                   COMMISSIONER REEVES: Yeah, and I think  
24 the discussion was that there's a number of projects  
25 in today's economic world that are not doing so well,

1 and -- to say the least, in that the developer fee is  
2 probably by, you know, lenders or others continuing  
3 to be subordinated and withheld. So it probably  
4 won't be paid on time according to this original  
5 six-month -- or six-year window, so the discussion  
6 was to extend it to match the federal the way it is  
7 and give us more time to get some of those paid as  
8 opposed to putting these deals in default.

9 MR. BURLISON: But as I read this, there  
10 are developer fee agreements that are being looked at  
11 because they're not in compliance. And as I read the  
12 recommendation, it says --

13 COMMISSIONER WOOD: And the credit was  
14 issued on -- on -- and never got paid. So as a  
15 taxpayer, I have concern that I issued a tax credit  
16 on something that never ended up being paid, and I  
17 think where I see the problem with the committee  
18 report is we want to shorten or take that out in  
19 future deals because we're concerned they may not be  
20 paid, but yet the ones that are out there that are in  
21 trouble, we want to extend it. And I think there's  
22 real -- I think that it's a real disagreement or, you  
23 know, real controversy or opposites -- we're showing  
24 our opposites within our committee reports.

25 COMMISSIONER REEVES: It's a tough pill,

1 but I think some of the original discussion or some  
2 of the original charge of this committee was be  
3 careful on deals that are in process or --

4 MR. BURLISON: And that's my point.

5 COMMISSIONER REEVES: -- so that you  
6 don't get anybody caught in the middle.

7 MR. BURLISON: Well, that's my point.

8 All along, the discussion is no harm on existing, and  
9 yet, I see a recommendation, let's modify these for  
10 the guys that are already in trouble. And I think  
11 it's just so inconsistent with everything that's been  
12 put into this.

13 COMMISSIONER BOYERS: I think it's  
14 consistent entirely. What we're acknowledging is, is  
15 that this is, if you will, nebulous, difficult to  
16 predict and also subject to a lot of unexpected  
17 economic volatility that deals -- that have been  
18 approved and on which credits have been issued to  
19 date.

20 We're trying to address that issue by  
21 extending the administrative period from six to 12  
22 years and make it consistent with federal. In the  
23 meantime, going forward, in order to, A, lighten the  
24 load on DED or anyone else in having to track this,  
25 and B, acknowledging that it's subject perhaps to

1 future abuse, we will eliminate deferred developer  
2 fee from consideration as a QRE. And I think they're  
3 very consistent and we're solving both problems in  
4 that recommendation.

5 CO-CHAIRMAN STOGEL: Bill Hall.

6 COMMISSIONER HALL: Senator, with regard  
7 to the question of a \$200,000 square foot new  
8 building or \$200,000 square foot old building, I  
9 think there are two things to consider there. I  
10 think there is great advantage to recycling today,  
11 and environmentally, I think that's going to be very  
12 important and going to be increasingly important.  
13 And secondly, there are places where there is a sense  
14 of place, whether it's the town square in a small  
15 town or whether it's the Country Club Plaza which we  
16 have a big controversy going on about right now which  
17 Pete's in the middle of, or whether or not it's  
18 things in downtown St. Louis, that there is a sense  
19 of place which is important and sets those places  
20 apart and makes them more attractive to individuals.

21 So I don't think you can say, well,  
22 there's a 200,000 square foot historic building,  
23 let's take it down and put up a 200,000 square foot  
24 suburban office building without damaging that sense  
25 of greater place in some of those locations.

1 CO-CHAIRMAN GROSS: But my point is,  
2 what is the value of that sense of place? And that's  
3 the part that is more of a social than it is  
4 economic.

5 COMMISSIONER BOYERS: I think it's an  
6 economic driver, and I think that places that have  
7 successfully revitalized their urban quarters,  
8 including their historic fabric, have proven that  
9 there are economic drivers for the reason and the  
10 states that they're in. I mean, that's pretty well  
11 established if you look at other cities around the  
12 country that have done so. They tend to be more  
13 vibrant than those that don't.

14 CO-CHAIRMAN STOGEL: I'll only add one  
15 thing to Bill's comment which is part of the sense of  
16 place is putting people there, and given these old  
17 buildings and given the fact that there's commercial  
18 office vacancies there, the only way you're going to  
19 fill up these buildings and protect the economics of  
20 the cities and hopefully do something on Main Street,  
21 Mark's on that board and Main Streets everywhere  
22 needs help, is to allow residential to occur in them  
23 because in a thousand square feet of office building,  
24 you'll put three people, maybe four, and a thousand  
25 square feet of residential you'll put an apartment.

1 So it fills the volume of these buildings and puts  
2 life back in the city which is the driver of the  
3 whole state's economics. So Craig, you and I are  
4 just on opposites on that one.

5 COMMISSIONER VAN MATRE: We're pretty  
6 far apart.

7 CO-CHAIRMAN STOGEL: There are 31 favors  
8 of Baskin & Robbins just for that reason.

9 COMMISSIONER BOYERS: I'm more than  
10 happy to bring this report back to the subcommittee  
11 and acknowledging and embracing the conversations  
12 throughout the day.

13 I would just -- I want to just point out  
14 or articulate that the -- the reality of lowering the  
15 cap or the effect of lowering the cap in the current  
16 economic environment would have very little or no  
17 impact on the current budget. And in fact, the  
18 authorizations for credits will be down very, very  
19 far below the cap.

20 And that is what in part drove the  
21 subcommittee's recommendation; in other words,  
22 acknowledging that the State's economic constraints  
23 are greater today than they were four years ago. In  
24 fact, the cost of this program will be substantially  
25 less than it was three or four years ago. So it's

1 just not inconsistent, I guess. I wanted to make  
2 sure that we sincerely did embrace, I think, the  
3 charge of the Commission and try to at least  
4 acknowledge it openly and with sincerity.

5 CO-CHAIRMAN STOGEL: We appreciate that,  
6 Zack. We have one last question, Zack, and we'll let  
7 you go.

8 COMMISSIONER ZIMMERMAN: I think it  
9 would be interesting to get the question answered  
10 that I asked about before because we might be getting  
11 excited about a lot of nothing.

12 CO-CHAIRMAN STOGEL: We're going to get  
13 more facts and we're going to give them to Zack and  
14 the committee is going to revisit it.

15 COMMISSIONER ZIMMERMAN: Because it  
16 might be a small percentage.

17 CO-CHAIRMAN STOGEL: Right. And  
18 everybody's had a clear, robust discussion, Zack. We  
19 know you're ten minutes behind your departure point,  
20 so thanks for sticking with us.

21 COMMISSIONER BOYERS: Okay. Thank you  
22 all.

23 CO-CHAIRMAN STOGEL: And thanks for your  
24 report and all the good work.

25 CO-CHAIRMAN GROSS: So we're going to

1 table the entire committee report and come back to it  
2 next week without objection. Let's table it. Mark,  
3 do you want to do the AHAP next week?

4 COMMISSIONER GARDNER: We can do it very  
5 very quickly. The AHAP is a donation credit, and  
6 what it's intended to do is produce donations so we  
7 can have --

8 THE COURT REPORTER: I'm having trouble  
9 hearing. I'm sorry, Mr. Gardner.

10 CO-CHAIRMAN STOGEL: Five more minutes.  
11 We'll talk about process going forward and we'll get  
12 you out of here 35 minutes late, but not bad for  
13 Amtrak.

14 COMMISSIONER GARDNER: The AHAP credit  
15 applies -- it's a donation credit -- it's an  
16 incentive for businesses and individuals to make  
17 donations for not-profit organizations, okay? The  
18 purpose of the donation is to either produce  
19 low-income housing where nonprofits earn some way of  
20 producing low-income housing for operating expenses  
21 for the nonprofits.

22 There's a cap of one million on  
23 operating assistance and ten million on production,  
24 the production relating to the housing. Now, I'm  
25 going to jump straight to our recommendation. This

1 is administered through MHDC, it's an application  
2 process. Our recommendations are number one, to give  
3 some flexibility to MHDC to shift its cap --  
4 effectively, it's \$11 million cap -- to be able to  
5 move it around a little bit.

6 Right now there's a tremendous need for  
7 operating expenses. These not-for-profits need more  
8 operating money than perhaps production money. But  
9 right now it's capped at ten for production, one for  
10 operating. The suggestion was made we might  
11 reduce -- increase the operating cap to two to three  
12 million and reduce the production credit by the same  
13 amount. It is, by the way, 55 cents credit. So I  
14 mean, if you make the donation, you have 55 cents.

15 Secondly, we want to expand it so that  
16 it applies -- should be very noncontroversial.  
17 Expand it to include individuals without business  
18 income. Currently it does not apply to individuals  
19 without business income.

20 The third recommendation -- and this is  
21 the one that really we struggled with a lot more, and  
22 I personally worry about it a lot, and that is -- and  
23 I know you-all came up with a different conclusion,  
24 but we were concerned about trying to be consistent  
25 with what the other committees were doing.

1                   We looked at it and said okay, it is a  
2   55 percent, you know, everybody has to feel the pain  
3   and we have to do something too, you know, we have to  
4   cooperate, we have to make a cut or make some  
5   concession. We suggested we go from a 55 to a 45 on  
6   the donation, the amount of credit, or preferably  
7   just take a one million dollar cut in the size of the  
8   program because we're more concerned that by reducing  
9   the amount of the credit, that we're not going to  
10  raise more money, we're going to raise less money.

11                   I mean, we have a real fear of being  
12  able to raise the donations. And we'd rather take a  
13  one million dollar reduction in the size of the  
14  program than we would to take a reduction in the  
15  percentage of the credit.

16                   And that's pretty much it. But we're  
17  not married -- I mean, I'm going to tell you we're  
18  not married to either one of those, but that's the  
19  preference of the committee.

20                   CO-CHAIRMAN GROSS: Anybody have an  
21  opinion on that which way you'd like to go?

22                   (NO RESPONSE.)

23                   CO-CHAIRMAN GROSS: No? In that case,  
24  we'll leave it tabled and come back to it.

25                   CO-CHAIRMAN STOGEL: Next week there's a

1 dial-in number on Tuesday for global issues, and if  
2 we need to, we'll go over to Wednesday. There's  
3 supplemental reports due from --

4 COMMISSIONER MARBLE: Is that next week  
5 or the following week?

6 MR. BURLISON: The following week.

7 COMMISSIONER MARBLE: You keep saying  
8 next week.

9 CO-CHAIRMAN GROSS: Next week is global.

10 CO-CHAIRMAN STOGEL: Next week is  
11 global, global issues. On the 9th is --

12 COMMISSIONER MARBLE: I don't remember  
13 receiving anything.

14 COMMISSIONER WOOD: For everybody or  
15 just that subcommittee?

16 CO-CHAIRMAN GROSS: The committee.

17 COMMISSIONER WOOD: The full committee?

18 MS. HEMENWAY: It's just the  
19 subcommittee --

20 CO-CHAIRMAN GROSS: The global issues  
21 committee.

22 COMMISSIONER WOOD: Okay. We didn't get  
23 the notice for that. All right.

24 CO-CHAIRMAN STOGEL: The input today  
25 will be discussed on that global issue, and to the

1 extent other Commissioners want to join in on that, I  
2 think today's learning would be we should invite  
3 everybody. So Chris, if you can include everybody  
4 and just expand your committee, Senator. There's  
5 obviously interactions between the global issues  
6 here.

7 The final report, supplemental reports,  
8 global issue report would be due next Friday to get  
9 everybody packages, and we're all going to caucus  
10 again to try to do final final's on the 16th and  
11 17th.

12 Senator Gross and I have talked a little  
13 bit about trying to get a start on an overall report.  
14 It would be our goal to try to get something in your  
15 hands to put a framework on what the report is before  
16 the 16th so to bring more definition to that.

17 I've had a question that two days is an  
18 awful long time to ask people to commit, so maybe on  
19 the 16th we can take up certain credits and the 17th  
20 others, or do some more by conference calls. But the  
21 logistics of the 16th and the 17th are sort of open  
22 at the moment for people's attendance. So if you  
23 could look at your schedules and give us your best  
24 thoughts about what works for you, that would be  
25 helpful.

1 COMMISSIONER GIFFORD: In this same  
2 room?

3 CO-CHAIRMAN GROSS: Can I ask Sallie?

4 MS. HEMENWAY: We have quite a few hours  
5 for --

6 CO-CHAIRMAN GROSS: How is the 16th and  
7 the 17th?

8 MR. PIEPER: I'll find that.

9 CO-CHAIRMAN GROSS: Just around the  
10 table.

11 MR. PIEPER: So far I think we have an  
12 RSVP for the 16th from Jim Anderson, Zack Boyers on  
13 the 17th, Representative Flook?

14 COMMISSIONER FLOOK: Yes?

15 MR. PIEPER: Will you be available on  
16 the 16th or the 17th?

17 COMMISSIONER FLOOK: I can be available  
18 certainly on the 17th. Let me pull up my calendar  
19 real quick again. I've been invited to a seminar on  
20 the 16th, but I will forego that for this committee  
21 because I want to make sure we meet our timeline.  
22 I've already got it blocked out for you-all, so I  
23 just need to know the time.

24 CO-CHAIRMAN GROSS: 16th and 17th.

25 COMMISSIONER FLOOK: Both days are

1 blocked out.

2 MR. PIEPER: Representative Komo, David  
3 Kendrick.

4 (NO RESPONSE.)

5 CO-CHAIRMAN GROSS: Mr. Kendrick, are  
6 you on the phone?

7 (NO RESPONSE.)

8 COMMISSIONER WAGNER: Steve, Ray Wagner  
9 here. I plan to be here both days.

10 COMMISSIONER LEVI: The 16th is far  
11 better for me than the 17th. I have the 16th blocked  
12 out. The 17th is the more problematic.

13 CO-CHAIRMAN STOGEL: Well, it sounds  
14 like economic development could be the 16th and the  
15 17th would be historic.

16 CO-CHAIRMAN GROSS: Any others, Chris?

17 MR. PIEPER: Alan Marble.

18 COMMISSIONER MARBLE: The 16th and 17th  
19 at least a half a day.

20 MR. PIEPER: Melissa Randol?

21 COMMISSIONER RANDOL: Yeah, I can make  
22 it.

23 MR. PIEPER: Penney Rector?

24 COMMISSIONER RECTOR: 16th.

25 MR. PIEPER: Craig?

1 COMMISSIONER VAN MATRE: Both days.

2 MR. PIEPER: Shannon?

3 COMMISSIONER JOYNER: Hello?

4 CO-CHAIRMAN GROSS: We'll get back to  
5 you in just a second.

6 MR. PIEPER: Is that Dee Joyner?

7 CO-CHAIRMAN GROSS: Is that Dee?

8 COMMISSIONER JOYNER: Yeah.

9 CO-CHAIRMAN GROSS: How are you looking  
10 for the 16th and 17th?

11 COMMISSIONER JOYNER: I plan to be there  
12 for both days.

13 CO-CHAIRMAN GROSS: Thank you. And then  
14 Senator Wright-Jones?

15 COMMISSIONER WRIGHT-JONES: Just for the  
16 16th.

17 MR. PIEPER: Then I have RSVPs for  
18 everybody else.

19 COMMISSIONER FLOOK: This is  
20 Representative Flook. I have to sign off so I can  
21 make a phone call before the close of business hours,  
22 but you'll be sending out your notices, I'm sure?

23 CO-CHAIRMAN GROSS: I think we already  
24 have, but yeah, you'll get -- we'll confirm all that.

25 COMMISSIONER FLOOK: I have notice on

1 the 16th and 17th. I just want to make sure you're  
2 going to do an updated one.

3 CO-CHAIRMAN GROSS: Anything else for  
4 the good of the cause? Chris, you've got something  
5 to say?

6 MR. PIEPER: Just the motion.

7 CO-CHAIRMAN GROSS: Yeah, anything else  
8 before we adjourn? A lot of work to do between now  
9 and a week and a half from now. Motion to adjourn.  
10 Do we have a second?

11 COMMISSIONER LEVI: Second.

12 CO-CHAIRMAN GROSS: All in favor?

13 (AYE.)

14 (PROCEEDINGS CONCLUDED.)

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