BEFORE THE TAX CREDIT REVIEW COMMISSION
STATE OF MISSOURI

NOVEMBER 5, 2010
COMMISSION MEETING
held at the
Governor Office Building
200 Madison Street
Room 1010
Jefferson City, Missouri 65101

BEFORE:
Steven Stogel, Co-Chair
Senator Chuck Gross, Co-Chair
Senator Jolie Justus (Via telephone)
Senator Robin Wright-Jones
Representative Tim Flook (Via telephone)
Representative Sam Komo
Zack Boyers (Via telephone)
Mark Gardner
Luana Gifford
David Kendrick (Via telephone)
Bill Hall
Alan Marble
Troy Nash
Melissa Randol
Tom Reeves
Penney Rector
Craig Van Matre
Ray Wagner (Via telephone)
Shannon Weber
Mike Wood
David Zimmerman
Jim Anderson
Dee Joyner (Via telephone)

P R O C E E D I N G S

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

MR. PIEPER: Jim Anderson?

(NO RESPONSE.)

MR. PIEPER: Senator Bartle?

(NO RESPONSE.)

MR. PIEPER: Zack Boyers?

COMMISSIONER BOYERS: Yes, I'm here.

MR. PIEPER: Chuck Gross?

CO-CHAIRMAN GROSS: Here.

MR. PIEPER: Representative Flook?

(NO RESPONSE.)

MR. PIEPER: Mark Gardner?

COMMISSIONER GARDNER: Here.

MR. PIEPER: Luana Gifford?

(NO RESPONSE.)

MR. PIEPER: Bill Hall?

COMMISSIONER HALL: Here.

MR. PIEPER: Dee Joyner?

(NO RESPONSE.)

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

MR. PIEPER: Senator Justus?

COMMISSIONER JUSTUS: I'm here.
MR. PIEPER: David Kendrick?
(NO RESPONSE.)
MR. PIEPER: Representative Komo?
(NO RESPONSE.)
MR. PIEPER: Pete Levi?
COMMISSIONER LEVI: Here.
MR. PIEPER: Alan Marble?
COMMISSIONER MARBLE: Here.
MR. PIEPER: Troy Nash?
(NO RESPONSE.)
MR. PIEPER: Melissa Randol?
(NO RESPONSE.)
MR. PIEPER: Penney Rector?
COMMISSIONER RECTOR: Here.
MR. PIEPER: Tom Reeves?
COMMISSIONER REEVES: Here.
MR. PIEPER: Steven Stogel?
CO-CHAIRMAN STOGEL: Here.
MR. PIEPER: Russ Still?
(NO RESPONSE.)
MR. PIEPER: Craig Van Matre?
COMMISSIONER VAN MATRE: Here.
MR. PIEPER: Ray Wagner?
(NO RESPONSE.)

MR. PIEPER: Todd Weaver?

(NO RESPONSE.)

MR. PIEPER: Shannon Weber?

COMMISSIONER WEBER: Here.

MR. PIEPER: Mike Wood?

(NO RESPONSE.)

MR. PIEPER: Senator Robin Wright-Jones?

(NO RESPONSE.)

MR. PIEPER: And David Zimmerman?

COMMISSIONER ZIMMERMAN: Here.

MR. PIEPER: We have a quorum.

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

(NO RESPONSE.)

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

And as the -- as the memo described the process we're going to go through is to hear committee reports, take the issues that are outlined in those reports. And I guess I should go ahead and point everyone out -- everyone to their three-ring binder -- who just joined us, please?

(NO RESPONSE.)

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

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

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

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

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

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

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

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

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

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

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

The -- and as we go through this, there's also the privilege that the committees have to digest all of the materials from today plus the global issue conversations next week and to file supplemental or amended reports by a week from today or Saturday. So as Senator Gross indicated, it's an evolving, expanding document. So steps are in sequence, but they can be added to, subtracted from as we go forward in the process as we march towards the 17th of November. So it's a -- it's a process.

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

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

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

COMMISSIONER JUSTUS: This is Senator Justus.

CO-CHAIRMAN GROSS: Hi.

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

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

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

CO-CHAIRMAN GROSS: Great. Thank you.

COMMISSIONER JUSTUS: Thank you.

CO-CHAIRMAN STOGEL: One -- one opening remark on behalf of Senator Gross and myself is -- one was, we'd like to thank everybody for all their time, effort, energy, ingenuity and participation in this process. It's been an amazing effort and we hope that really productive, creative things come out of this Commission that -- and we can reach consensus. But with that opening note, I'll turn it back to the Senator for the agenda.

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

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

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

COMMISSIONER MARBLE: Thank you,

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

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

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

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

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

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

Now, this program, as you can look down, it flips over to about the third tab, the committee reports. You'll see the little box that we filled in that talks about cost benefit analysis. You'll see the boxes there. The objective is -- in box one, the family farm breeding livestock program is intended to promote family farms allowing a tax credit for lenders in lieu of first-year interest rate on breeding livestock on loans made to small farmers.

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

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

CO-CHAIRMAN GROSS: Questions?

(NO RESPONSE.)

CO-CHAIRMAN GROSS: No?

COMMISSIONER MARBLE: Okay. The recommendation is -- from the committee is the committee recommends that the family farm breeding livestock tax credit be modified during the 2011 legislative session, parentheses, prior to the 2012 sunset -- which is an important point that I should have brought up. It is the sunset anyway -- to better effectuate the purpose of the credit in promoting family farms by tying availability of credit to the price of the livestock rather than an amount borrowed and the interest rate applied in the amount is borrowed.

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

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

CO-CHAIRMAN GROSS: Are -- are you okay with the recommendation as it is in the salient point? Because I want to make sure we're -- we know we're dealing -- there might be some slight differences that we need to address. Maybe not on this one, but as we go along.

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

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

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

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

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

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

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

COMMISSIONER GARDNER: I didn't understand what just happened. There's a difference -- as I understood what you're saying, there was a slight difference in wording between the salient points and what the committee actually recommended?

CO-CHAIRMAN GROSS: Correct.

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

CO-CHAIRMAN GROSS: Correct.

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

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

CO-CHAIRMAN STOGEL: Have the committee chair speak.

CO-CHAIRMAN GROSS: -- the committee chair.

COMMISSIONER GARDNER: And are we going to make that analysis on a case-by-case basis as we work through this? In other words, are there going to be situations where we're going to recommend to the Commission as a general, someone's going to suggest that we go the salient point as opposed to --

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

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

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

COMMISSIONER MARBLE: Yeah. Move on through it?

CO-CHAIRMAN GROSS: Sure.

COMMISSIONER MARBLE: You don't want to --

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

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

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

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

COMMISSIONER FLOOK: Hello, Tim Flook joining in.

CO-CHAIRMAN GROSS: Hi, Representative. Glad you're here.

COMMISSIONER FLOOK: Thank you. Sorry I'm late. I just got back in from court.

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

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

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

The recommendation from the committee is that the committee recommends the wine and grape production tax credit be terminated during the 2011 legislative session because the credit has outlived its usefulness and has not created a benefit and is not justifiable in relation to the cost of the State of Missouri.

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

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

CO-CHAIRMAN GROSS: Questions, comments?

(NO RESPONSE.)

CO-CHAIRMAN GROSS: Proceed.

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

It may be a little too soon to know how it's going to work, but -- for sure. However, the recommendation of the committee would be that it be retained but modified slightly. The committee recommends that the qualified beef tax credit be modified during the 2011 legislative session to sunset on January 1st, 2013, and that prior to reauthorization, the General Assembly should fully evaluate the new program to determine the relationship of the credits of its goal of promoting beef production process in the state of Missouri. So just refocus it maybe a little bit.

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

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

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

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

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

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

COMMISSIONER MARBLE: No.

MS. HEMENWAY: -- are you referring to

qualified beef? There is a cap on qualified beef.

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

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

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

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

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

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

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

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

CO-CHAIRMAN GROSS: Are there questions or comments?

(NO RESPONSE.)

CO-CHAIRMAN GROSS: Go ahead. Thank you.

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

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

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

(NO RESPONSE.)

CO-CHAIRMAN GROSS: Okay.

COMMISSIONER MARBLE: Alternative -- alternative fuel stations, another tax credit that's administered by DNR. This one has -- is certainly economic, but also has a social component too, so we talked about that some as we went through it. There's really very little cost benefit analysis data available for this.

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

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

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

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

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

COMMISSIONER MARBLE: Oh, my mistake.

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

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

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

(NO RESPONSE.)

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

COMMISSIONER GARDNER: Just a point of clarification.

CO-CHAIRMAN GROSS: Sure.

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

COMMISSIONER VAN MATRE: Correct.

CO-CHAIRMAN GROSS: Right.

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

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

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

MS. HEMENWAY: No.

COMMISSIONER MARBLE: I knew there was an explanation.

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

MS. HEMENWAY: Yes.

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

COMMISSIONER MARBLE: The next -- the next credit is the wood energy tax credit. Also that belongs to the Department of Natural Resources. The wood energy tax credit was intended to promote the use of processed wood residue and byproducts in Missouri. Again, related to charcoal and wood products. Originally for all the old sawdust piles that we had around the state, to use those to make charcoal and do two things, you know, which has over time been accomplished to a great extent.

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

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

CO-CHAIRMAN GROSS: Questions? Comments?

(NO RESPONSE.)

CO-CHAIRMAN GROSS: Go ahead.

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

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

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

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

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

So the recommendation -- if you'll look

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

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

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

And those are two points that I should expand on just for a second. I wanted to make sure that not all the money was going to feasibility projects or projects that may have a 20 percent chance of survival. So squeeze it down as feasibly as possible and make sure that it's used in rural areas which is where it's intended to be in the first place, rather than investments made someplace and continued somewhere else.

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

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

COMMISSIONER MARBLE: Three million each.

CO-CHAIRMAN STOGEL: Three million each?

COMMISSIONER MARBLE: No?

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

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

MS. HEMENWAY: It -- it expires.

CO-CHAIRMAN STOGEL: Okay.

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

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

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

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

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

CO-CHAIRMAN GROSS: So in any given year

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

MS. HEMENWAY: Yeah.

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

MS. HEMENWAY: Yeah.

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

(NO RESPONSE.)

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

CO-CHAIRMAN STOGEL: No.

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

CO-CHAIRMAN GROSS: Thank you,

Mr. Kendrick. That's a motion. Do we have a second?
COMMISSIONER WRIGHT-JONES: Second.
CO-CHAIRMAN GROSS: And we have a second by Senator Jones. Further discussion?
(NO RESPONSE.)
CO-CHAIRMAN GROSS: Seeing none, all in favor of that motion say aye.
(AYE.)
CO-CHAIRMAN GROSS: Opposed, say no.
(NO RESPONSE.)
CO-CHAIRMAN GROSS: The ayes have it. The motion is adopted.
And we'll move on. Wonderful. Next report from distressed communities. And Troy Nash or Senator --
COMMISSIONER WRIGHT-JONES: Well, I'm going to start and he's going to come in and we're going to do a tandem.
CO-CHAIRMAN GROSS: Okay.
COMMISSIONER WRIGHT-JONES: First, I'd kind of like a moment of silence for the number of trees who gave up their substance and fiber in order to get this done and any fiberoptics that may have collapsed as we did our e-mails and our attachments, but we're here. So that's what makes this fun. This

is fun. Okay.

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

COMMISSIONER GIFFORD: Yeah, I'm here.

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

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

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

very good with this process as we work through.

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

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

COMMISSIONER NASH: Thank you, Senator Jones, and to the members of the Commission, just a few thank you's because I think it's important to point out those who gave their time, energy and effort. The Senator mentioned the DED staff. I'm a city person, I do city stuff, but I have fallen in love with State employees. Without Sallie and Chris and Ann, I don't want to forget Ann, and others because we would not have been able to do what was very important work that we were asked to do.

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

COMMISSIONER WRIGHT-JONES: Debra.

COMMISSIONER NASH: Debra and John --

COMMISSIONER WRIGHT-JONES: -- John Bolton.

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

COMMISSIONER WRIGHT-JONES: Van Matre.

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

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

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

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

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

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

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

The next credit --

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

COMMISSIONER NASH: Oh, please.

CO-CHAIRMAN GROSS: Go ahead, Steven.

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

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

I will tell you on the -- the average is less than -- much less than $10,000 per job that we are offering benefits for under business development programs. The -- so there -- there is -- we distinguish and differentiate between the ones that are tied to jobs versus the type of creditsthat are not necessarily tied to jobs that are preparing a -- you know, a facility for job creation.

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

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

MS. HEMENWAY: And the answer is yes.

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

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

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

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

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

COMMISSIONER NASH: Okay.

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

Friday on this one. Go ahead.

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

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

Our recommendation is as follows: The committee recommends that the General Assembly modify the Brownfield remediation tax credit during the 2011 legislative session to impose an annual cap on tax credit authorizations under the program equal to the average amount authorized under the program during the last three fiscal years or approximately $25 million.

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

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

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

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

CO-CHAIRMAN STOGEL: Right. So the way

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

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

CO-CHAIRMAN STOGEL: Has paid for 100 percent.

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

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

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

COMMISSIONER NASH: No, no. We had people speak to some of the issues associated with it, but not on that particular issue, that I recall. Senator?

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

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

COMMISSIONER WRIGHT-JONES: All right.

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

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

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

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

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

CO-CHAIRMAN STOGEL: Thank you, Senator.

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

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

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

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

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

COMMISSIONER NASH: Sure. And we can do that work. The other credit that we had an opportunity to review was the distressed land assemblage credit. The applicant that had incurred, within an eligible project area, acquisition cost for the acquisition of 50 acres and at least 75 acres of whom has been appointed by the local municipality as a redeveloper of a redeveloped area is entitled to a credit of 50 percent of the acquisition cost, 100 percent of the interest costs incurred for a period of five years after the acquisition of an eligible parcel.

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

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

COMMISSIONER NASH: That's right.

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

COMMISSIONER NASH: Right.

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

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

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

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

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

CO-CHAIRMAN GROSS: Yeah.

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

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

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

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

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

COMMISSIONER WRIGHT-JONES: How it could change.

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

COMMISSIONER WRIGHT-JONES: Absolutely.

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

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

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

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

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

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

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

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

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

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

COMMISSIONER WRIGHT-JONES: Okay.

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

CO-CHAIRMAN STOGEL: No, total program

cap.

COMMISSIONER GARDNER: Total program cap.

COMMISSIONER NASH: $20 million annual cap.

CO-CHAIRMAN STOGEL: Right.

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

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

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

CO-CHAIRMAN STOGEL: Yeah.

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

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

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

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

CO-CHAIRMAN GROSS: 16 million.

MS. HEMENWAY: Yes.

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

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

THE COURT REPORTER: To create what, sir?

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

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

CO-CHAIRMAN GROSS: This may be one of the first ones that we've had where we really need to decide whether we're going to be tightening up programs to save money for the State or whether we're going to advocate for programs to be maintained --

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

CO-CHAIRMAN GROSS: -- in our report.

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

MS. HEMENWAY: Essentially --

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

MS. HEMENWAY: Urban rural.

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

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

So across the state, the state is mapped out in areas that fit below I believe it's 70 percent of median income, and then 90 percent of median income are eligible for -- if they meet a population density criteria, they're eligible for access to the program.

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

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

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

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

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

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

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

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

COMMISSIONER REEVES: Good question.

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

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

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

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

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

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

I'll talk a little bit about our recommendations, then go back and give a few additional comments. The committee recommends no change to the existing new markets program which can no longer accept new equity investments after July 1st, 2010.

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

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

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

CO-CHAIRMAN STOGEL: From Advantage Capital.

COMMISSIONER NASH: What?

CO-CHAIRMAN STOGEL: Jeff from Advantage Capital.

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

actual businesses that benefited from the program.
And we have all of those notes, and I'm assuming
that's going to be part of the online testimony or
what have you, but --

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

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

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

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

COMMISSIONER NASH: I appreciate that.

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

(NO RESPONSE.)

CO-CHAIRMAN GROSS: No. Okay.

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

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

budget certainty for the State without jeopardizing
the availability of this worthwhile program.
With that, Chair, and if there's no
further questions, that concludes our report.
CO-CHAIRMAN GROSS: On that one, the
benefit cost ratio is .13. I think we should also in
there require that the improvements to the program
include requiring the average wage, insurance for
employees, basically the quality job requirements.
But we can -- we'll get the language from staff.
With that, thank you for the report.
Let me step back and see which --
COMMISSIONER WRIGHT-JONES: I think
we're all open.
CO-CHAIRMAN GROSS: They're all open?
COMMISSIONER WRIGHT-JONES: We had the
easiest committee potentially, I think.
COMMISSIONER NASH: I didn't want to say
that. I didn't want to make them think we had it
easy.
CO-CHAIRMAN GROSS: We'll park and come
back to it.
CO-CHAIRMAN STOGEL: I want to know you
guys did really good work. The co-chairs have seen
the spectrum of the reports and we're trying to move

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

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

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

CO-CHAIRMAN GROSS: Banking and insurance.

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

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

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

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

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

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

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

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

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

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

CO-CHAIRMAN STOGEL: They pay a premium tax.

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

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

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

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

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

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

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

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

COMMISSIONER MARBLE: It is.

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

COMMISSIONER REEVES: Insurance companies are even a little different.

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

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

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

COMMISSIONER REEVES: Right. And then,

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

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

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

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

But instead, they use this real

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

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

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

CO-CHAIRMAN STOGEL: You raise an interesting point. The charge of the Commission is to deal with tax credits. And I guess the sense of your committee is this really is tax policy and I mean, this is not a tax policy committee. And the original list was put together, as we'll hear, of anything that looked like or had the word credit in it. But I mean, it's the judgment of the committee that this is really a tax policy question.

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

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

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

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

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

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

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

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

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

COMMISSIONER VAN MATRE: The problem we got into with this credit was that for interstate insurance companies, we were advised that decreasing this credit would tend to make Missouri less competitive as a domicile for insurance companies than would otherwise be the case because of the interaction between the interstate compact on this taxation.

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

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

I mean, we've got the printout and it's this thick, and there's quite a few recipients of the credit. But again, it gets into if you push on one button here, do you make it less competitive for others to do business in this state, or coming the other way, do we hurt the insurance companies that are based in Missouri and actually chartered.

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

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

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

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

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

COMMISSIONER WRIGHT-JONES: I have a comment. I see Brian in the back of the room from the tax policy joint committee. We had this discussion some months ago, and I recall I had a concern that we were protecting the insurance companies at the cost of the State in my mind. I didn't feel that was necessary. But Brian, if you could kind of bring us up to speed on what we worked through on that, do you recall?

MR. SCHMIDT: Yeah, I do recall.

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

MR. SCHMIDT: Schmidt, S-c-h-m-i-d-t. And when the committee looked at this credit, what they had come up with as a recommendation was that the General Assembly consider why we allowed a personal property tax credit against the premium insurance tax. That was the recommendation that we eventually came up with.

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

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

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

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

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

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

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

COMMISSIONER REEVES: Okay. The next one was the Missouri health insurance pool which was adopted in 1990 and provides access to comprehensive medical insurance to Missouri residents who can't purchase coverage in the commercial market due to health conditions or lack of availability of commercial individual health insurance.

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

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

And I might also point out that the health insurance pool is basically its own entity. It is not the Department of Insurance, it is not the state government, it is a whole separate nonprofit that is administered by a separate board of directors as well. So this is really not under that jurisdiction.

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

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

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

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

COMMISSIONER REEVES: Right, right.

CO-CHAIRMAN GROSS: Questions or

comments?

(NO RESPONSE.)

CO-CHAIRMAN GROSS: Go ahead.

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

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

So again, our committee felt that this

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

CO-CHAIRMAN GROSS: Questions?

(NO RESPONSE.)

CO-CHAIRMAN GROSS: Thank you.

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

CO-CHAIRMAN GROSS: Okay.

COMMISSIONER REEVES: Sounds like we

didn't do much, but we --

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

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

CO-CHAIRMAN STOGEL: You have one more report.

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

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

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

CO-CHAIRMAN GROSS: Who can talk to this?

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

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

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

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

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

CO-CHAIRMAN STOGEL: The Department of Revenue folks that briefed Senator Gross and I on this -- at the outset of this have a lot of mechanical problems with this credit. So I guess if the recommendation is for termination, Tom, just a little stronger detail as to why would be helpful in the next week. But DOR can provide that information.

COMMISSIONER REEVES: Craig, anything else on that?

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

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

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

COMMISSIONER VAN MATRE: Yes.
CO-CHAIRMAN STOGEL: And so within the next week, if you could sharpen it, that would be appreciated.
COMMISSIONER REEVES: Sure.
CO-CHAIRMAN GROSS: Yeah. I think that recommendation pretty much embodies what he has said, though, that it should be -- the skew should be reversed or it should be eliminated.
COMMISSIONER VAN MATRE: I think that's probably what our subcommittee would say, don't you think, Tom?
COMMISSIONER REEVES: Yeah.
CO-CHAIRMAN STOGEL: Okay. So if there's an income reverse skewing, keep the program, and if there's not, terminate it.
CO-CHAIRMAN GROSS: Yeah, I think that's their recommendation.
CO-CHAIRMAN STOGEL: Fine. Then we can vote on this whole package then.
CO-CHAIRMAN GROSS: Okay. We can go back with credits that are parked are going to be the bank franchise and the S Corp. and the insurance exam fee and the health insurance pool assessment credit.
I'd like to make a motion on the Life

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

COMMISSIONER ZIMMERMAN: So moved.

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

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

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

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

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

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

CO-CHAIRMAN STOGEL: That except for the

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

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

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

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

CO-CHAIRMAN GROSS: I'm fine with the recommendations. That's not where I'm going. I'm fine with the recommendations. My question is if we adopt the report as is, which I think -- was there -- yeah, even the last one. If we adopt the report as is, then that's what people are voting on.

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

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

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

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

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

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

COMMISSIONER KOMO: I mean, it doesn't really matter if we vote on parts of the report or just wait till it's completely done and vote on the total report because even if we vote on part of the report today, we've still got to come back and vote on the complete report. So we might as well just table the report until we have it completely done and just come back and vote on it. And it would really just be that one issue we have to go to.

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

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

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

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

COMMISSIONER ZIMMERMAN: So moved.

CO-CHAIRMAN GROSS: We have a motion by

Commissioner Zimmerman. Do we have a second?

COMMISSIONER MARBLE: Second.

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

(AYE.)

CO-CHAIRMAN GROSS: All opposed say no.

(NO RESPONSE.)

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

CO-CHAIRMAN STOGEL: Tom, thank you.

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

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

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

COMMISSIONER LEVI: He has arrived.

CO-CHAIRMAN STOGEL: Timing is perfect.

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

(A RECESS WAS TAKEN.)

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

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

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

We also were very cognizant that there are a number of organizations around the state who rely on these tax credits in the way they do business, economic development around this community. And on at least two occasions, we've sent out by e-mail where we were in this process, asked for comment. I took that comment into account and proceeded on. So we had a -- gave the opportunity to the economic development community in the state to provide as much input as possible and we got some really, really good comments as we went along.

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

So we began by trying to set all this into some context. As you can see, we've developed kind of a preamble for what our work was going to entail. And we saw that this was really particularly important in today's competitive environment for business growth in times of very difficult economic growth around the country and in this part of the world as well, and understood that these tax credits needed to be easy to understand to promote and utilize, they needed to complement Missouri's friendly -- business-friendly environment by providing direct incentives to business to create jobs and capital investments in providing financing for public infrastructure that facilitates business growth.

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

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

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

And we asked Sallie to kind of tell us what an ideal toolkit would look like for tax credits for the State of Missouri that allowed the State to participate and to compete as strongly as possible for business growth within the state.

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

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

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

We also, as I said, kept in mind the competition from other states. And just as an anecdotal evidence, there was a little article I was sharing with Bill, there was in the paper in Kansas City this morning a report about the Kansas Bioscience Authority that was just issued. It's a program that's very similar to the MOSIRA legislation that was proposed over the last couple of years.

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

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

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

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

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

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

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

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

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

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

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

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

These tax credits also need to be flexible so it allows the State to be nimble. When one industry in the country is hot, to be able to go after that industry; when another is hot, to move over to go after the other industry. Or when we see there's a likelihood for a bombardier to come to the state or for a General Motors or a Ford expansion, that we're flexible enough to not have to wait for the legislature to act, but so that the department can go after those companies and have a set of flexible tools that allow them -- allow the State to meet the needs of those companies.

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

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

There are some constitutional issues, but we feel it is very important that some of these tax credits be reshaped so we're able to use upfront financing. That's what -- that's what consultants who are trying to attract companies to the state look for, that's the way you get flexibility and that's the way you can assure a company that they are going to get company upfront -- money upfront.

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

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

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

The other type of tax credits are discretionary ones where, based on certain criteria, the State may or may not award that tax credit. And they would be discretionary in order to be able to meet some of these high tech industries or hot jobs that could come along in a competitive way rather than first-come, first-serve.

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

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

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

The second, the chairs of the Commission asked us to think big and to look at new ideas for the use of tax credits. So what we've done is suggested the State consider combining a number of these tax credits, rolling them up into a new, more flexible and easy-to-use system of tax credits for the State.

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

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

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

Okay. The first is the BUILD program, and its purpose is to provide a financial incentive for the location in large business projects, and they're designed to reduce the infrastructure and equipment expenses if a project can demonstrate a need for funding.

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

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

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

CO-CHAIRMAN GROSS: If anybody wants to

interject or ask a question --

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

CO-CHAIRMAN GROSS: Okay.

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

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

But to make it so that companies will have to come in and show how they're going to create those new jobs in the areas, particularly the ones that are identified through the governor's strategic planning effort.

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

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

The enhanced enterprise zone provides tax credits to new or expanding businesses that are located in approved enterprise zones around the state. In a sense, this tax credit is used when quality jobs don't work. It does have -- it does have a pretty good applicability. It requires the local community to provide a ten-year tax abatement within that enterprise -- enterprise zone.

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

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

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

The next one is the incubator tax credit program. This is also another one that is currently administered on a first-come, first-serve basis. The purpose of it is to generate private funds to be used to establish a protective business environment, an incubator, in which a number of small businesses can collectively operate fostering growth and development during a business startup period.

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

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

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

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

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

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

The next one is the business facility program, and this is one that actually is being phased out of existence. It has been used, in particular, I can tell you, in the Kansas City area for a project that's been very important and created a number of new jobs that can be used for retention.

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

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

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

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

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

The rolling stock tax credit --

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

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

COMMISSIONER LEVI: But it gets limited usage at best.

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

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

But anyway, that's my response to that.

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

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

If we want to be a film industry, then we probably really need an emphasis on film industry and not look at some of the other ones. If we want to be, you know, other industries, then we need to emphasize those industries. Because as other states -- as we continue to compete with other states on other tax credits and on film tax credits, where do we want to draw the line and say this is where we want to compete at?

COMMISSIONER WRIGHT-JONES: I agree.

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

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

COMMISSIONER KOMO: And it was a hard discussion.

COMMISSIONER LEVI: It was a long

discussion.

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

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

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

We've had a conversation with Michael Beugg who was the producer for "Up In The Air," and he credits that tax credit with a significant reason for why "Up In The Air" was filmed in St. Louis and surrounding areas. And he thought -- and TRIM thought that this credit has value and really can be a tool to generate, you know, convention-like interest in St. Louis. So I guess two questions I have. One, I can get that report to the Commissioners if they want it. We had some report and some analysis.

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

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

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

COMMISSIONER LEVI: And it's been posted. But I think the distinction here was that the film industry, it comes and it does a film and it leaves. It doesn't provide long-term job opportunities to the state as opposed to some of these other tax credits that are there to help get a business started or to help an existing business and help it grow over a period of time that it's going to continue to provide a return to the state of Missouri, a positive return to tax revenues. It's not a knock on the film industry. I think it's a distinction between short- and long-term goals for the state.

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

But when you compare that and realize that we cannot get a tax credit passed for angel investor tax credit when we know from -- with some good data to support it that states like Oklahoma and some others, Kansas, some other states have been using tools like that to attract away our emerging industries and technology and science that lead to the next generation of manufacturing and production, we watch -- we're watching them leave -- at least I was watching them leave as George Clooney was shaking hands in St. Louis, and it dawned on me that -- that -- at that time that we have not committed to a vision of long-term growth in the primary job market.

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

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

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

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

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

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

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

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

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

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

So other things, the film industry, it's not just about films, it's also about television shows. There's many syndicated shows that will use a state or a city as their background which also creates a lot of jobs. So at least look at it. I mean, I understand -- I've got a issue with us being a Jack-of-all-trades as well. That is -- it's a problem for us. We're not focusing on anything.

CO-CHAIRMAN STOGEL: One more thought.

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

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

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

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

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

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

COMMISSIONER KOMO: -- you create a new

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

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

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

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

Maybe it's great for the local economy. Maybe a lot of those actors and film crew folks and all that come and they stay in hotels and they eat hamburgers and they do all that stuff while they're here, but once that film is gone, they're gone and there's not a dime left in the economy to continue.

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

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

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

COMMISSIONER FLOOK: This is Representative Flook. I think after we had our meeting it dawned on me what that was again. If I remember correctly -- and Sam, if you remember this, you might chime in. I believe this was an amendment on a bill that was put on -- put on a couple of years ago. It has to do with -- it has to do with these freight cars on these trains come into Missouri for repairs.

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

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

COMMISSIONER KOMO: I vaguely remember.

COMMISSIONER FLOOK: Okay. Well, I

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

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

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

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

COMMISSIONER LEVI: I went back and

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

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

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

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

CO-CHAIRMAN STOGEL: That makes it easier.

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

The concept was to take a number of the tax credits that are out there. The ones we listed here were BUILD, enhanced enterprise zone and the quality jobs program. It could be others, it could not include all of these. But to have the legislature study the concept of pooling all these together, keeping the same tax credit caps so it doesn't cost the State any more, but using our guiding principles that are listed here to create a unified tax credit that would have the flexibility, would have upfront financing, would be similar in the way it operates to the quality jobs program and allow the State to target particular industries that have been identified for this strategic planning growth of the state, put limits on stacking -- and all features are kind of listed there.

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

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

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

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

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

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

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

COMMISSIONER ANDERSON: It did.

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

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

COMMISSIONER LEVI: Right.

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

COMMISSIONER ANDERSON: No, they do not.

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

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

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

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

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

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

COMMISSIONER LEVI: Maybe before Sallie

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

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

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

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

The pros for discretionary credits, then, in the business development community is that it allows that flexibility and to measure the amount of the State's investment against the particular project and its project-owned qualifications. And they're not all apples. Some are oranges and some are bananas.

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

And the proposal was to meet everybody halfway by putting an entitlement base where a business who achieves a certain threshold could have access to X amount of withholding taxes or whatever the incentive turns out to be, but that the discretionary addition which allows the Department of Economic Development the ability to award additional tax credits, withholding, whatever the incentive ends up being, is there because it allows the focus toward the industries, it allows the measure to accomplish what is actually needed and not, quote/unquote, overpay. But it ends up answering both sides of the -- both critics in both camps and complements the other guiding principles that are included in the report, so...

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

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

The charge of the Commission is to respect the State budget and all the governor's charges, but also to figure out how to create jobs, and you've taken a huge step defining the parameters, and some more specifics I think would be helpful.

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

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

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

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

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

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

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

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

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

CO-CHAIRMAN GROSS: I understand, but

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

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

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

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

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

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

And job retention is very important in Kansas City. It's the same as creating a new job. Kansas is not in the same financial condition as Illinois. And they're taking folks out of Missouri and moving them over to Kansas aggressively, and it's very hard for a city to compete with a sovereign. So part of the charge here ought to be to help the western side of the state get some more flexibility to compete with the sovereign, not the -- it's the state of the -- it's a state of fact, we might as well deal with it.

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

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

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

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

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

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

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

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

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

stamina, would be appreciated.
COMMISSIONER LEVI: Sure.
CO-CHAIRMAN GROSS: Yeah, was there anything in there -- I think we just park everything and come back to it.
CO-CHAIRMAN STOGEL: We can make up some time because my tax law report will be particularly dull and particularly short.
CO-CHAIRMAN GROSS: Can you do it in eight minutes or less?
CO-CHAIRMAN STOGEL: I'll catch up some time. Do you want us to go now?
CO-CHAIRMAN GROSS: We're supposed to adjourn at 12:30 for lunch.
CO-CHAIRMAN STOGEL: We'll get it done in the next half an hour. One o'clock lunch.
CO-CHAIRMAN GROSS: Let's see how it goes. We're going to stop before one o'clock for lunch. Go ahead.
COMMISSIONER HALL: I'll move as quickly as I can. Thank you, Senator. Is Senator Justus on the phone? Well, she may be joining us. She is my co-chair and I want to thank my other committee members, Jim Anderson, Luana Gifford and Melissa Randol and Shannon Weber, several of them who were

down here.

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

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

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

Now, in terms of our recommendations, that begins behind that first tab. We think there is merit to sunsetting all the programs. About half the programs have a natural sunset. We think that probably revisiting the programs has merit. Not only might some of the programs not be as central as -- or maybe as effective as they might have been, but there are always chances to improve programs. And so we think that having a five- or ten-year horizon on all the programs probably makes sense. We recommend that there are certain programs that have limited impact --

CO-CHAIRMAN GROSS: On that issue --

COMMISSIONER HALL: Yeah.

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

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

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

MS. HEMENWAY: Six years.

CO-CHAIRMAN GROSS: Six years. So if we were going to go along with the rest of the required sunsets on all new programs, six years would be appropriate in this case? Thank you.

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

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

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

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

CO-CHAIRMAN GROSS: Chris has an idea.

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

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

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

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

COMMISSIONER VAN MATRE: Sorry.

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

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

Probably the most difficult recommendation we're making, because I know a number of us on the committee have been contacted by many in the not-for-profit community, is that we believe that there is the opportunity for the State to achieve greater leverage with their credits by lowering the value of those credits.

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

With regard to the 50 percent credits, a 50 percent credit in the same circumstances has an after-tax cost of about 28 cents. So by changing those limits, we think that you can get more for the same amount of credits so that, as an example, using NAAP which is the largest program that we look at here, NAAP has $10 million worth of 50 percent credits and it has $6 million worth of 70 percent credits.

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

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

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

They have different definitions of taxpayers. One is for businesses, although it's a broad definition of business, and the other one is for businesses and individuals. We don't know that there's any logic to having different taxpayers paying for what are both social service programs. We think that conforming that definition and broadening that definition can expand the pool and make up for the decrease in the value of the credits.

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

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

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

Well, $2,500 is probably not significant enough to induce some people to give, particularly if you were a large grocery store, a large restaurant chain. Is there a way to restructure that inducement, that credit to dramatically increase the amount of both food and/or cash that would go to food pantries? So that's another thing that we think should be looked at.

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

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

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

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

CO-CHAIRMAN GROSS: Anyone?

(NO RESPONSE.)

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

COMMISSIONER HALL: No.

CO-CHAIRMAN GROSS: Okay.

COMMISSIONER VAN MATRE: The answer was yes?

MS. HEMENWAY: The answer was no.

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

MS. HEMENWAY: We have such an infrastructure right now to transfer the majority of the credits. Adding the minority credits that are nontransferable to that structure is not going to add any significant cost to our administration. In other words, we do it so much already, adding the social and contribution credits to the transferability, we already have the FTE in place, we already have the computer system in place, we already have the process in place. I don't see it as an increased cost to the State.

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

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

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

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

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

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

MS. HEMENWAY: Yes.

COMMISSIONER HALL: Oh, sure.

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

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

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

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

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

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

CO-CHAIRMAN STOGEL: In listening to testimony around the state, there is a -- that the agencies that get these credits can go raise the money and they provide an enormous service to the State that the State doesn't have to. And just doing -- at $35 million if it were all expended but the efficiency is raised, instead of raising $70 million or $65 million, the State would be raising 95 to $100 million, so -- from private citizens.

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

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

COMMISSIONER HALL: Right. That was the idea.

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

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

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

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

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

COMMISSIONER GARDNER: Why do we care

about a limit period?

COMMISSIONER HALL: Right.

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

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

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

COMMISSIONER VAN MATRE: A food pantry --

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

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

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

But are there people out there that

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

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

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

COMMISSIONER HALL: Yeah, I think it

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

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

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

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

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

CO-CHAIRMAN STOGEL: Except for the food pantry item, is the Commission okay, want to support -- make a motion for this report and approach and just come back with more on the food pantry, Bill?

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

COMMISSIONER LEVI: Second.

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

That's basically one of our main sources of funding. And even at the current value of the credit, we find it very, very difficult to raise that money. Now, if this works, great. I'm wondering what happens if it doesn't work? I mean, do we just go back to the way -- I mean, we're not going to be around a year from now, so I guess the legislature's just encouraged to reexamine it in the hope that it generates more money instead of less, that it comes to fruition.

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

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

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

COMMISSIONER HALL: Make a big difference.

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

COMMISSIONER REEVES: I'm in a couple of organizations and it's the same thing, it's always a struggle to sell the NAAP credits at the end of the year so you can get more or -- but it seems to me the answer isn't the percentage as much as the broadening of the possibility of your donor base. At that point you reach a lot more folks.

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

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

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

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

MR. PIEPER: I could hazard somewhat of

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

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

(AYE.)

CO-CHAIRMAN GROSS: Opposed, say no.

(NO RESPONSE.)

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

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

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

COMMISSIONER LEVI: Second.

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

(NO RESPONSE.)

CO-CHAIRMAN GROSS: All in favor say aye.

(AYE.)

CO-CHAIRMAN GROSS: All those no?

(NO RESPONSE.)

CO-CHAIRMAN GROSS: That motion passes. I move we take a recess for lunch.

(THE LUNCH RECESS WAS TAKEN.)

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

COMMISSIONER BOYERS: Zack Boyers.

COMMISSIONER FLOOK: Tim Flook.

COMMISSIONER WAGNER: Ray Wagner.

CO-CHAIRMAN GROSS: Okay. Very good. We have three on the line, then, and 17 or 18 around the table here.

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

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

It basically outlines three approaches; plan 3 is the State plan and plan 1 and 2 are different federal plans to address the not-so-hidden burdens of the federal income tax incidence on State credits. If the best case -- and we could get federal legislation to allow State credits not to be taxed as income or to be fully deductible for State taxes paid which is not an overnight process, it would save on contribution credits, a 35 percent haircut on low income, a 35 percent haircut on State historics, not as much because there is a time factor and a tax delay.

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

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

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

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

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

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

CO-CHAIRMAN GROSS: Sure.

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

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

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

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

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

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

(NO RESPONSE.)

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

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

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

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

CO-CHAIRMAN GROSS: We have a motion.

UNIDENTIFIED SPEAKER: Second.

CO-CHAIRMAN GROSS: And second by --

COMMISSIONER HALL: You already had the --

CO-CHAIRMAN STOGEL: It's coming.

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

CO-CHAIRMAN STOGEL: Bill, take the motion -- please make the motion again with a modification for social credits. The AHAP credit which is also a transferable credit and the MDFB credit because the transferability feature that had been focused on could apply and plan 3 to those credits as well. And I'll supplement my report for social credits, the MDFB credit under Pete Levi's committee, and I want to hear Mark's. So I'll do all three.

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

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

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

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

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

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

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

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

CO-CHAIRMAN STOGEL: No.

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

CO-CHAIRMAN STOGEL: It's a straightforward pickup and you can make a mathematical correlation to the credit programs to effect the savings to the State. So it would tie back into the historic mathematics or the low income mathematics. But it's -- if the State adopts plan 3, then there would be corollary adjustments in the low income and the historic, and I'll think about the other three programs.

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

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

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

And this is a social welfare type tax

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

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

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

You can argue that the residential credit, the credit attributable to keeping your -- to property taxes you pay on the home is -- at least has an economic component as well because to the extent that it makes the difference of somebody keeping their home as opposed to selling it, it keeps a home off the market, particularly at this point in time in our nation's economy and our state's economy, the less single-family homes that are on a distressed market basis, the better off we are.

So we didn't see any reason to tinker with that component of the credit that was attributable to and benefits the property owner. However, we did recommend that the renter's portion of the credit be eliminated and replaced with something better targeted to address the needs of that particular component of our populous.

The renter's credit is limited to $750, and it's an arbitrary basis of 20 percent of rent paid on the theory that -- and I'm not sure what -- how the theory got established, that a renter's rent is 20 percent composed of that tenant's share of property taxes, which I think for almost any type of residential dwelling complex is much, much larger than the actual component that real estate taxes pay -- or contribute towards how much that person paid in rent, and we thought it's probably 10 percent or less, in fact.

And the other thing we thought was that the rent in those residential complexes is not dramatically influenced by real estate taxes paid, but it is much more likely to be influenced by lots of other economic considerations such as competition with other facilities.

Real estate taxes vary substantially throughout the state, and so this one-size-fits-all percentage of rent didn't seem to be terribly well reconciled with all the various appraisal methods and values throughout the state.

Also, the property tax for renters is claimable only if you are paying tax to a for-profit landlord. So if you are renting as a tenant from a nonprofit, which there's a good deal of that type of housing around, you don't get the credit.

The last thing that we considered to be of some significance in our recommendation was the fact that a good many of the tenants who are claimants of these credits appear to us, at least on the -- an admittedly cursory survey we did, already tenants in housing which is tax-favored. By that we mean housing which has already received a low-income housing tax credit or some other equivalent abatement.

And therefore, in the spirit of avoiding, for lack of a better description, double-dipping, but with the idea that the advantaged housing, the housing that has been constructed to provide a low rental structure, it didn't seem fair to us to grant another benefit to those tenants when other tenants in other relatively similar situations were not allowed that credit.

And finally, but certainly not last in order of importance, we took seriously the governor's admonition that we should look for savings in all of these areas and in this area particularly to help reduce the large deficit looming in front of us, because if we don't all do that, then A, the Commission's work is for naught; and B, the default setting is for the State to cut other areas that may result in much more harm to society.

So do we think that low-income tenants are undeserving? No, we absolutely do not believe that. But we do believe that if there is to be a State benefit afforded to those people in their demographic, that it ought to be targeted with that in mind as opposed to this sort of arbitrary and possibly very inefficient method of giving it just to people who are tenants in housing that is for-profit.

So our recommendation was that the renter component be -- be terminated and be replaced with some other more specifically targeted program. Failing in that, if that particular pill proves too bitter for the legislature to swallow, then we had some alternatives that we've listed over on page 7 of our report.

We could reduce the percentage of rent considered as attributable to property taxes to 10 percent and the maximum cap to $500 or the credit could be modified to prescribe that those tenants who live in already tax-advantaged or tax-subsidized or government-subsidized in some fashion, albeit for-profit housing, be ineligible to claim the credit, or the credit could be modified so that the credit claim was directly attributable by a formula to the real property tax actually paid by the landlord and apportioned to that particular tenant based on what's the ratio of that tenant's rent to gross rent in the entire complex multiplied times the actual real estate taxes paid.

The latter formula would be a little bit more difficult to administer and there might be some landlords who would be unwilling to give out the information, in effect, of what their gross rents were, but any combination of those three other alternatives might be more palatable perhaps than striking the credit altogether for a renter.

We rejected the idea that there would be a means test apart from just the mathematical tests associated with claiming the property tax credit for homeowners. The imaginary horrible being somebody with a very valuable house but nevertheless had a low adjusted gross income, would this be something that we wanted to say, well, you ought to do some kind of means testing here so if somebody's worth a lot and they really don't have much of adjusted gross income, they don't get the credit, decided that that was a way to -- much effort probably for the State to administer and investigate compared to the relatively small amount of money that would be involved.

Another approach that we considered was looking at whether actual cash refunds to claimants ought to be a certain threshold amount before a check was cut, but we discovered by talking to the Department of Revenue that it's relatively inexpensive to cut refund checks. They've got it automated so that that wasn't -- that wasn't considered viable or productive.

And we also looked at some kind of local contribution, but decided the money would run in a circle if we did that as the property tax. If the property tax recipient at the local level had to contribute to the cost of it, it would mean that much, much less money for them and the State would just have to make that up in some other fashion, and so that didn't seem very productive.

I guess with that, I do want to add that this is -- this introduces, I think, pretty effectively the task that I think the governor set before us, but I think it also introduces the need for us to prioritize among these various credits in terms of how they should rank in terms of first to be cut versus last. But we may have enough on our plates that we can't get to that particular issue. But with that, that's our report.

CO-CHAIRMAN GROSS: Good work in a short amount of time. The issue that was raised by some, and I think you touched on it in your report, that there were -- there are seniors and disabled folks in nursing homes that somehow they've -- I don't want to say forced, but the issue of them signing their checks over. I mean --

COMMISSIONER VAN MATRE: We have anecdotal evidence that has been communicated to us by legislators and others that there seems to be a much higher level of what we'd call participation in the credit by those who are in assisted living, nursing homes, those kind of facilities. And we don't know for a fact that the credit checks are signed over.

And so I think it's not necessarily fair to draw that inference, although I think it's also fair to say that it's probably unlikely that everybody in a particular facility is eligible for the credit. And if everybody in the facility is not eligible for the credit and pays the same rent, then that's one thing, but if they don't pay the same rent, that's something else.

And so we said to the Department of Revenue, you know, I think the legislature ultimately is going to want you to tease out from whatever your statistics are how many -- if you can discern how many people who claim, for example, a disabled renter's credit are from the types of facilities that we suspect they're from, which is for-profit, already tax-assisted.

And they said the only way we can do that would probably be to go through it one at a time and by hand. I think there's probably a better way; in other words, I think if you code it just by address so that the computer picked up and kicked out a report.

So I think in the future the DOR could do it, but right now if we asked them to do it retroactively, they don't have that ability. And obviously that's something if I were a legislator I'd want to know, whether, in effect, by giving this report, we're talking about something that does, in fact, exist or whether it's just a false rumor.

CO-CHAIRMAN GROSS: And the recommendations that you made, or alternate recommendations, any of those hit the target to try to stop that from happening?

COMMISSIONER VAN MATRE: Well, I think that if we say you cannot get the credit if you're a renter, that obviously stops it. If we say you can't get the credit if you are the resident of an already tax-advantaged facility, that hits the target. Because in all likelihood, most of the people would be -- the only people that wouldn't be in that demographic would be people who are in like nursing homes who weren't tax-advantaged for whatever reason.

But -- and there again, I don't know for a fact, but it's my understanding that most of these facilities have received various types of tax benefits. And so it just depends on how broadly you define a tax-advantaged home as to what kind of umbrella would...

COMMISSIONER WRIGHT-JONES: Are you finished?

COMMISSIONER VAN MATRE: I'm finished.

COMMISSIONER WRIGHT-JONES: Just addressing the issue about whether renters are receiving any benefit being in a low-income development or a nontax-paid development, unfortunately, they have been up until this year. And I imagine Senator Justus got calls as well as Representative Komo, it came to a screeching halt just last fall.

So there were no payments to many, many residents across the state because Revenue discovered their error and stopped it. And when you look at the application, it says quite clearly if you're in a property that's not paying taxes, you are not eligible, but nobody's told them that.

CO-CHAIRMAN GROSS: So Revenue had been paying them.

COMMISSIONER WRIGHT-JONES: Revenue had been paying them for many, many years. But that is now over. That will not happen again, and I don't know if there's anybody in here from Revenue who can say anything about that, but we got hundreds of phone calls about it and we were concerned. So we said what happened? Well, they shouldn't have been getting it anyway. So it just stopped cold without any notice whatsoever. So that's kind of off the table at this point.

CO-CHAIRMAN GROSS: Thoughts from anybody?

COMMISSIONER RECTOR: One of the things that I learned in this whole process was about half of the funds go toward those renter property taxes. It's $56.6 million that goes towards the renter, and that's almost half of the total cost of that credit which was a surprise to me because I thought the point going into it was to ensure that homeowners had an opportunity to remain in their homes, yet the renter seems to be taking it in a different direction.

CO-CHAIRMAN GROSS: And Craig, I missed

something if you said it. If we take just that 56 million, so we've got the money down to half now, do we have any idea what percentage of those folks are in -- I'll just call it tax-subsidized properties, for example?

COMMISSIONER VAN MATRE: We don't know that because Department of Revenue can't give us that statistic, not now. I think they could easily do that in the future, but as I note over -- or as we note over on page -- let's see. Let me find it here -- it's on page 3, paragraph 3, the number of persons who are disabled renters who claim the credit exceed the number of people who are seniors who are renters who claim the credit by a comfortable margin. And so it seems logical to assume that, you know, they are in these assisted living type facilities where the facilities already receive some type of subsidy to keep its rent down.

CO-CHAIRMAN GROSS: And that's in the case of renters. In the case of homeowners, the senior citizens outnumber the disabled by a huge margin. That's what your report says.

Okay. I was just wondering in the general population of senior citizens if there was a way to -- not just those receiving the credit, but

I'm saying senior citizens overall, what percentage are in tax-subsidized housing. And I don't know if there's any agency that collects that data or not. And then we could extrapolate it to this population maybe to see what the dollar amount would be.

CO-CHAIRMAN STOGEL: Did the committee give any -- have any discussion on the timing of the change? Would it be -- when it would be effective, would it be phased in if you did the complete elimination?

COMMISSIONER VAN MATRE: Well, we assume that that would -- you know, if you assume the legislature took it up this year, it would be effective in calendar year 2012, but --

CO-CHAIRMAN STOGEL: It could be effective for calendar year FY -- calendar year '11 because if the legislature took it up in January, the -- well, it would become --

COMMISSIONER VAN MATRE: Retroactive at the first of the year?

CO-CHAIRMAN STOGEL: Well, it would become effective for -- in August of 2011 and people pay their property taxes in December, it would take --

COMMISSIONER VAN MATRE: Well, no. The

precise answer to your question is no, we did not discuss that. We just assumed that it would be the next calendar year after --

CO-CHAIRMAN STOGEL: 2012.

COMMISSIONER VAN MATRE: -- so 2012. But I mean, obviously that's something the legislature would have to address as well.

CO-CHAIRMAN GROSS: This is income tax deduction. It's both an income tax deduction --

COMMISSIONER VAN MATRE: But if you're a renter and you don't have any income, you can still claim it and get a refund. So even though you didn't have any income, you can get the money.

CO-CHAIRMAN GROSS: Right. It's refundable. Is that what you mean?

COMMISSIONER VAN MATRE: Yeah.

CO-CHAIRMAN GROSS: As opposed to the homestead exemption which was a property tax.

COMMISSIONER MARBLE: It's like earned income tax credit federally.

CO-CHAIRMAN GROSS: Yeah, yeah. So -- well, so we've got some options. To kick things off, I'll make a motion that we not -- that we recommend that the renter's provision be eliminated. Is there a second?

COMMISSIONER FLOOK: I second.

CO-CHAIRMAN GROSS: Okay. We have a motion and a second. Further discussion on that? The motion was -- could you identify that for us again, please? What page was that on?

COMMISSIONER VAN MATRE: It's on page 4, Roman Numeral II.

CO-CHAIRMAN GROSS: So the recommendation is that a portion of the credit which benefits renters be eliminated is the motion that's on the table. Discussion, Senator?

COMMISSIONER WRIGHT-JONES: This is the circuit breaker?

CO-CHAIRMAN STOGEL: Yes.

COMMISSIONER WRIGHT-JONES: But they use it to help with their utility bills because they do have a utility bill if they're renting. So if we're eliminating that, then they're losing a benefit actually. So the State won't lose money versus our constituents, it wouldn't be very popular. Get a lot of pushback on that one, I'm sure. But I'm just asking, is that where we're going with this?

CO-CHAIRMAN GROSS: Well, it's -- the whole thing is --

COMMISSIONER WRIGHT-JONES: Because

they're not homeowners?

CO-CHAIRMAN GROSS: My understanding is the whole program is designed to defer -- not defer -- to -- I'm lost on the word, but to pay for the cost of property tax in the case of homeowners pay a certain amount of property tax gives you a credit. In the case of renters, there's an assumed portion of your rent that's attributable to property tax. This gives you a credit. So whether that individual uses it for utilities or uses that for food or whatever it might be, just is an individual issue.

COMMISSIONER WRIGHT-JONES: So this is not circuit breaker. It's not the circuit breaker?

COMMISSIONER VAN MATRE: It is the circuit breaker, but it's only that portion of the circuit breaker that's allows the credit to be claimed by renters. We are recommending that we preserve the credit for homeowners.

And the theory that the credit for homeowners allows them to stay in their home -- they actually have property taxes.

COMMISSIONER FLOOK: Senator, this is Representative Flook. And the reason why I think this is the right approach, just to understand the way I see it, we have -- you know, we have other programs that provide assistance in the daily lives of seniors who are low-income. This is a property tax credit that's supposed to relate back to the burden of ever-increasing property taxes and keeping people in their homes so they don't have to sell or move from a home they love because the property taxes are too high now in their community.

Renters who need other assistance for other reasons -- you know, there's the senior citizens -- you know, the food stamp program, there's the utility assistance the State provides, there's whatever changes might come out of the legislature, there still will be a -- what I think will be a very sizeable low-income housing or affordable housing tax credit programs. There will be other kinds of assistance to cover those day-to-day needs from the state and federal and local government.

And what this proposal is doing is saying let's take this back to exactly what it's supposed to be which is property tax relief for those who are being burdened by property taxes on their homes.

Now, in there -- that's why this recommendation includes a commentary that there should be another alternative, they should seek a different alternative to provide aid to those people that are renters if they need aid for other reasons or -- you know, we're not saying we should shut off utility assistance. We have a program for that. We can ship the money -- the savings from this back into the budget and the budget, of course, will turn around and turn and fund utility assistance.

And you know, we've passed -- you know, we voted together on some of those emergency assistance packages ourselves. So I think what we're doing is going back to the true definition of what the intent of the program is and forcing, for lack of a better way of putting it, putting pressure to go back to the other programs that are there that provide direct aid for other purposes.

You know, if this is -- if one believes that a renter should get $600 or $700 a year, whatever the number is in financial aid from the State, that's fine. Let's just call it that and have a program and call it that. But funneling it under the guise of a property tax credit is a misnomer and it misleads us as to what we're really spending and what we're really doing. And I think this allows for a more accountable clear budgeting later.

COMMISSIONER WRIGHT-JONES: I recognize all that, Representative, but I'm talking about how it's billed. It's billed as a circuit breaker credit, all right?

COMMISSIONER FLOOK: Yes.

COMMISSIONER WRIGHT-JONES: And when you put this through the legislature, you know, you know what hell that's going to create when you tell the senior citizens or disabled person, you know what --

COMMISSIONER FLOOK: Senator, I know, you're right, and I -- and I said it to the subcommittee, this is going to be very, very -- it will be a political hot potato.

COMMISSIONER WRIGHT-JONES: It's going to be a political hot potato. And the other resources that are available would be those that would come when utility services have been discontinued or when they're looking to get utility services and don't have the best record and have to pay a deposit.

But it's billed as a portion of your rent is going to help amortize the building that you live in and help pay those taxes, and you're going to get a rebate based on that. But they think of it as a rebate on utilities. They don't care about property taxes, they know they're not doing it. And you know, I understand what you're saying, but I'm just looking at about how it's going to play, not --

COMMISSIONER FLOOK: You're right to look at it that way. We talked about a committee because we know that we'll have a group of people that as a philosophical belief think that this should stay intact. And then there will be another group of people that just see this as a great opportunity to make political hay about who really cares about seniors. But either way, you know, I -- of course, Senator, I'll say this, I'm about to leave office, so I'm more concerned about the right thing than my election.

COMMISSIONER WRIGHT-JONES: I know. You can afford to say that.

CO-CHAIRMAN STOGEL: I'd like to add a real estate observation. I'm looking at Craig's and the committee's report which was an amazing effort for the last-to-be-formed committee and we deeply appreciate it.

But if I understand the text on page 5, the -- it's 20 percent of the gross rent paid is the theoretical attribution to the property taxes from which this math derives. Now, Mark Gardner's in the room and others who own and operate apartments, and Tom's underwritten them, so everybody understands out of the dollar of rent, as a rule of thumb, 45 or 50 percent goes to debt service and 40 or 45 cents goes to all operating expenses of which real estate taxes are a single-digit percentage of those. So the notion that 20 percent of the gross rent being related to taxes is just --

COMMISSIONER VAN MATRE: It's bogus.

CO-CHAIRMAN STOGEL: But it's just not factually correct.

COMMISSIONER VAN MATRE: Right.

CO-CHAIRMAN STOGEL: So the predicate of the whole tax is based upon the way real estate apartments operate. It's just wrong. Taxes, if you look at it, could be 3, 4, 5, 6 percent of the dollar, but they're clearly not 20. So if there is to be logic and fact, it's not hard to just pull out operating statements and get the right percentage, but the whole predicate of the rental program is just mathematically from a real estate point of view way off.

COMMISSIONER REEVES: You know, from the standpoint of just getting perspective around that, RubinBrown in St. Louis comes out annually with an apartment analysis that has a very good in-depth study of a number of just those type of statistics. And it basically talks about all the operating statements in general. And I bet that's got its own little page and we could easily get a copy of that latest report which I think came out in the last 30 or 40 days. And that could give you the 8 percent or 6 percent or 2 percent that you're looking for, at least for discussion purposes. But I agree if that's what we're trying to relate to.

CO-CHAIRMAN STOGEL: I mean, if it's designed -- if it's out of whack as the program has evolved and it's designed to give real estate tax relief, there is a bandwidth as Tom has noted that we can define what the real estate portions are.

Let me use 5 percent by way of illustration. That might be tier 1, and tier 2 for projects that are getting other kinds of State assistance, what you call tax-advantaged, whether they're real estate tax abatement or low-income tax credits or historic credits or whatever, that could be an exclusion. Nonprofits that don't pay real estate taxes would be an exclusion. And you'd properly define the test to be for-profits with the right percentage that's attributable to gross rent.

COMMISSIONER VAN MATRE: But why are you subsidizing poor people who pay rent to for-profits but not subsidizing those who pay rent to nonprofits?

CO-CHAIRMAN STOGEL: Because presumably the rent in the nonprofit is a little lower because they don't pay real estate taxes.

COMMISSIONER FLOOK: But that isn't true as a matter of fact.

CO-CHAIRMAN STOGEL: Well, it's going to be true in some cases and not in others.

COMMISSIONER VAN MATRE: Right.

CO-CHAIRMAN STOGEL: And I'm just trying to grasp the breadth of your report which, again, I reiterate was just amazing in terms of taking such a complicated subject and distilling it down so -- with such clear thoughts. And so I can't state a bandwidth for how many people are involved, but the predicate of the program is just wrong. It's not anywhere near 20 percent of the gross rent. It might be 20 percent of that or 30 percent of that, and then you have the exclusions.

By the time you get done with that -- the first tier reduction, thinking out loud, and then trying to quantify the conclusions, you may be down to a small number, and you are talking about people's lives and income. But at that point, it may be hard to administer just who qualifies and who doesn't, what's required of landlords and all the additional reporting and who has to tell people what and how the leases would be in effect. Because it's just factually skewed and wrong in terms of the approach.

If the Commission votes to support the elimination, I think you ought to make -- I think we ought to let people adjust to it and let the legislature think about where the money might go but make it effective for 2012 as opposed to try to push it through for next year. But it's just so people can react to it.

That said, I can also see a strong argument for doing it in 2011 because it would help the FY '12 numbers a lot. So with all those confusing comments, I'm going to withdraw.

CO-CHAIRMAN GROSS: So were you suggesting that instead of eliminating that, that that 20 percent be reduced?

CO-CHAIRMAN STOGEL: No. I'm very persuaded that you can make it much more complicated and refine it, but we're supposed to be making recommendations to the legislature. And there are thoughtful alternatives here for the legislature to consider, but I sort of come out on the notion that it's just an out-of-whack program, and I'm going to vote for elimination.

CO-CHAIRMAN GROSS: Okay. Further discussion?

(NO RESPONSE.)

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

(AYE.)

CO-CHAIRMAN GROSS: Opposed say no.

COMMISSIONER WRIGHT-JONES: No.

CO-CHAIRMAN GROSS: We've got an appeal. The ayes appear to have it.

CO-CHAIRMAN STOGEL: Any abstentions of record from the legislators?

(NO RESPONSE.)

CO-CHAIRMAN GROSS: Thank you, Craig.

COMMISSIONER JOYNER: Mr. Chairman, this is Dee Joyner, and for the record, I joined the call about a half hour ago.

CO-CHAIRMAN GROSS: Thanks, Dee.

COMMISSIONER JOYNER: And I voted in favor of the motion.

CO-CHAIRMAN GROSS: Thank you. Glad you made it.

There was another item. Let's see. One of the areas was for the homeowners and one for the renters. You had no recommendations on changes on homeowners, correct?

COMMISSIONER VAN MATRE: Correct.

CO-CHAIRMAN GROSS: So that would be the totality of your report then?

COMMISSIONER VAN MATRE: (Nodded head.)

CO-CHAIRMAN GROSS: Great. Thank you very much. We'll move on, then, to low-income housing, one of the easier ones. Mr. Gardner.

COMMISSIONER GARDNER: Yeah, I was going to notice we're running behind on time. I'll do my best. We had a very active committee and actually we had a very good subcommittee. You'll note on the front of the report Steven Acree, Dee Joyner, Craig Van Matre, Shannon Weber, Representative Flook, Penney Rector, Todd Weaver and Senator Wright-Jones were on the committee.

We also had a number of people who offered input. Actually, I had a lot of people who offered input from the industry in general ranging anywhere from developers, syndicators, to people from not-for-profits who had participated in the program. So I felt like we got a very broad cross-section of people.

We also considered the testimony that came from the public hearings, and then we kind of sat back and looked at kind of what the big picture was of this program and what are some of the fundamental issues that we could effect.

And one of the -- this program is complicated more so than your average tax credit program which is why the combination of the low-income and the AHAP ends up being a 20-page report or a 22-page report, whatever it is. There are some tax issues that complicate it, as Steven knows. There are some structure issues that complicate it.

And so what we did is we stepped back and said what can we do? How can we impact this? And so we tried to focus on how to make -- the initial question is this, okay? The question that gets raised is, well, how can we provide budget relief now? Is there a way that this low-income housing tax credit can provide budget relief today or tomorrow or at least certainly by next year?

And one thing that's sometimes difficult to understand about a low-income housing tax credit program for those who are not all that familiar with it, is it's a ten-year program and that's the way it was established. You know, we look back today and with hindsight we can say, gosh, you know, look at the historic credit, it's a one-year credit, it's a far more efficient credit. You know, I think the historic credit cap is about 140 million and our credit cap is -- if you combine the 4 percent credit with the 9 percent credit, it's about 192 million. It's allocated only on the basis of 19 million a year, but over a period of ten years, it will add up to $192 million.

Well, we're only getting 40 cents for our credit because it's inherently inefficient both from a tax standpoint in that -- and we'll go through this in more detail later, but due to the loss of the federal deduction -- or the state tax deduction off your federal return, but also due to the time value of money, the fact that the people investing in these projects in some cases are getting their money return over a period of 12 to 13 years.

So the question what happens and what happened with that first year of credit, the first time a state low-income housing tax credit was issued -- just like it is on the federal because it's a matching credit and it works essentially the same way as a federal credit. If you issue, let's say, in an average year $15 million worth of credits annually, the 9 percent credit -- there are two credits -- the 9 percent credit, it's about 13.2 million a year. There's a 4 percent credit which is called the bond credit which is a 4 percent credit. That's got a cap of 60 million or 6 million a year.

Now, that's confusing because what you're really doing is you're issuing about $13.2 million worth of state tax credits on the 9 percent this year and you're issuing another 6 million of bond or 4 percent credits. So you're really only issuing about 19.2 million in next year, okay, but you're doing it for ten years. Every year you make an award, it's a ten-year award so that it's 19.2 million each year for the next ten years.

So although the total amount of credits in one year, the first year isn't particularly significant. They're going to go, we're only awarded $19.2 million per credits. The truth of the matter is, we awarded $192 million worth of the credits because we awarded 19.2 for each of the next ten years.

And were that -- when you start out the program in the first three or four years of the program, it's not a big problem, but once you get to year ten which is where we -- we're past year ten, then what's happened is you've got the cumulative effect of in the first year, let's say, you issued 15 million. In the second year you issued -- so 15 million for ten years. In the second year, you issued 15 million for ten years. In the third year you issued 15 million for ten years. After ten years, you've now got 150 million a year in credits that are being redeemed, not 15 million a year in credits that are being redeemed.

The problem -- what that did initially -- and I can tell you because I've read the background on why the federal program was done the way the federal program was done, they did it ten years for a couple reasons. Number one, it was a way of financing housing. You've got the housing built today and you paid for it over ten years, kind of like how people buy a house and they pay off the mortgage.

So the thought was, let's get the housing built today, let's get -- rather than doing it over -- you know, it was much less costly to issue -- initially to issue the credit over a ten-year period. However there's a pay day after ten years when the cumulative effect kicks in. So Missouri did the same thing.

Now, retrospect and using hindsight, we wouldn't do that today, I don't think. I think we're looking at this program and thinking about that, we'd all go that doesn't make any sense, that doesn't make good budget sense. Because if we had a much shorter term credit such as the historic credit which is a far more efficient credit and provides -- the historic credit actually is less per annum, you issue less credits annually than you do low-income and generate a lot more equity because -- when you're credit.

By definition, when you take a credit and make it a one-year credit, it's the most efficient credit you can have. So if you take that credit and make it a one-year credit, great. If you make it a three-year credit, it's a little bit less efficient. If you make it a five-year credit, it's a little bit less efficient. If you make it a ten-year credit, it's a pretty inefficient credit. So what we looked at is how can we improve the efficiency?

Now, I want to go backwards just a moment to the initial question which is how can we have a budget impact? Well, the reason I just gave you that history is so you can understand that if we quit building affordable housing today, if we voted as a Commission and the legislature acted as a legislature to eliminate this credit today, the first savings you're going to see in the budget will be about four years from now. That's the first time it will have an impact on the budget.

Because how this program works is an award will be made in February, let's say, of next year. The credits aren't earned until the project is built, number one. Then unit by unit, as the project is leased up, each individual unit starts earning credits. So a unit that's leased in January earns full credits. A unit at least in June earns half credits.

So as you lease -- and if the project comes online in November, you may delay taking -- it's complicated, but you may delay taking credit until the following year altogether. So the lapse in time between when that credit is actually authorized and when it is redeemed can easily be -- probably is on average I'm going to say three years. Can be as much as four years.

And then frequently, the first year is only a partial year, and so then that partial --

what's left of the partial year could go to year 11. And so now you've got a credit being redeemed over 11 years. Point being if we stopped it today, the credits that have already been authorized aren't going to start coming in for three years, so -- or two at the earliest, two years. So we can't -- and that's one of the things that is so unique and different about this credit is there's nothing to be done today to have an immediate budget impact.

So what we started doing is -- and I've had a number of conversations with a number of people about this, what's our real mission here? Well, we've got to make this credit more efficient. From a long-term budgeting standpoint -- Representative Flook and I had a long conversation about this. You know, just because we can't have immediate budget impact doesn't mean we shouldn't engage in responsible, long-term planning.

And so anything we can do to bring the cost of this program down or make the credit more efficient is something that's very good for the State of Missouri and for budgets in the future, okay?

Now, there's a whole separate issue -- so now you have the efficiency issue, can we make this credit more efficient, reduce its cost? The answer is I believe yes, we can. We've worked in some detail with the tax committee for possibilities -- which Steven has already discussed -- possible changes being made in the tax audit would make the credits much more efficient and allow us to reduce it substantially.

So anyway, that's kind of the goal we looked at. The secondary issue is the size of the program. What do we say about the size of the program? And we had some fairly extensive discussions about, well, should we -- should we try to set a cap, a hard cap on this program? And we decided -- and I'll explain some of the deliberations on that in a moment. We decided ultimately no, not to vote to do that.

One of the reasons is depending on which of these tax policies that Steven has identified in the tax committee, subcommittee's report, depending on what happens with the tax law, it could dramatically impact the efficiency of the credit. We don't know how efficient this credit can or will become. It may become no more efficient or it may become dramatically more efficient based simply on two changes in the tax law.

One, which would allow you to treat a

State tax reduction, okay? The way the law currently provides, if I take a Missouri State housing tax credit, reduce my taxes with it, I've reduced my taxes, I haven't paid my State taxes, so I lose reduction off the federal return.

Secondly, there's the issue of basis. Do I have basis in that tax credit? And so when syndicators try to sell the tax credit, there are a couple of ways it can be sold. It can be sold as a partnership interest or it can be sold as a credit.

CO-CHAIRMAN STOGEL: Certificate.

COMMISSIONER GARDNER: If we can get some tax changes -- and this can be done on a state level, we think perhaps, then maybe we can claim basis in the credit itself. That improves the efficiency of the overall operation, the efficiency of the credit and we can then reduce it, okay? We can reduce the amount of the credit and generate the same equity, build the same housing. Those are a couple of things.

Third thing that could be done is simply take the credit down and we can take the credit, make a one-, three- or five-year credit. Any one of those three actions is going to increase the efficiency of the credit and reduce the amount of credits we need to build the same amount of housing, okay?

That again, begs the point of -- let's assume we can do all those things or some of those things, okay? And we can improve the efficiency. Should there still be after that efficiency is determined -- let's say we can build the same amount of housing that we're currently building and do it for 85 million. Well, does that mean necessarily we ought to be spending 85 million?

That's a separate issue and we debated whether we should go to try to establish some kind of a cap on the credit. The general discussion -- the general consensus was no. Number one, there were too many complexities, too many unknowns as to whether or not we were going to be able to generate efficiencies and the extent to which we were going to be able to generate efficiencies. And the belief was to some extent, we'd be pulling a number out of the air.

And I think to a great extent, that is true, we would have been pulling a number out of the air. And perhaps what should be done if the legislature or this Commission needs to look at the program and make recommendations with respect to that. I think ultimately it gets resolved probably by the legislature. And unfortunately, based on my conversations with the tax review committee, I don't know that we're going to have the answers to these questions before the end of the year, before the legislature goes into session to consider this.

So to some extent it makes it very difficult for us either as a subcommittee or as the entire Commission to really know what action we should take. And after I'm done, I would love to have the input of the tax review committee for their thoughts and their consensus and to see if they agree or disagree.

Now, those are some of the big issues that are out there. Let's talk a little bit about what this program is and what this program does. The program is designed to provide housing for low-income to moderate-income people.

CO-CHAIRMAN GROSS: I think Troy wanted to interject something.

COMMISSIONER NASH: Mark, I have a question because I know a little bit about this, or at least I should. You say we will not or we cannot know the answer to the question until next year. When you say this, I'm thinking in my mind why not -- I'm not trying to give you more work because we had distressed communities and at some levels there was insufficient data. But we can create a series of assumptions and say if the tax laws were to do X, Y and Z, this is what it conceivably could look like, if we changed the term from ten to --

(DISCUSSION HELD OFF THE RECORD.)

COMMISSIONER NASH: So what I was going to respectfully suggest is if we were to create alternatives based on a series of assumptions, I think that would certainly give me an idea, right? I mean, we wouldn't necessarily know what the answer to the question is because assumptions can change, right, but, you know, X amount of years, this is the end result, X amount of years coupled with the tax laws, this is the result. Just an idea. A lot of work.

CO-CHAIRMAN STOGEL: I think it's possible if Mark's report -- there are no changes as a baseline, and then we can footnote what the impact would be of the other changes. I'd be glad to work with Mark. So we would have more information next week on -- take Mark's report with assumed no tax law changes and then we could certainly dial in a paragraph saying this would be the impact. But Mark and I can probably work to...

COMMISSIONER GARDNER: I think we can do

that.

CO-CHAIRMAN STOGEL: Craig?

COMMISSIONER VAN MATRE: And I apologize to Mark for not bringing this up at the time of the subcommittee meetings, but I had this thought over the weekend, and I thought it's probably dumb and there's probably a reason why it doesn't work.

But we're sort of going into the housing analysis by reference to the program structure instead of deciding how many square feet of housing we need or want to budget for. I mean, if the legislature every year announced how many square feet of low-income housing they wanted to budget for and then sort of backed into the cost that way.

CO-CHAIRMAN STOGEL: There is a governor -- no pun intended but I'll try it different. There is a statutory mechanism at MHDC to regulate how much credits go out for production. The statute technically reads that the Commission, which has representatives from public and private sectors, can award up to 100 percent of the federal credit.

So the Commission can determine whether that level of subsidy is needed in a particular deal or not as they choose projects. And I don't know the current mathematics, but there's usually multiples,

three or four times the request for the available
credits.

COMMISSIONER GARDNER: Probably more
like five or maybe even six.

CO-CHAIRMAN STOGEL: So there's the
demand -- I see head-shaking at five or six. So
there's five dollars or six dollars of requests for a
dollar of capacity. But MHDC is the one who can
regulate the amount of State credit on that up to 100
percent.

So I mean, there is a vehicle to assess
what the production level would be. I think Mark has
talked about the issue that we've seen in other
states -- I mean, in other -- in some of the
testimony, is what the cost of some of these units
are. And Tom had a situation where he was looking at
a cost of more than $300,000 of the unit. And that's
also embedded in Mark's report.

I think the point, well, Mark will get
to is that the State credit is an effective
utilization of a federal program. We in Missouri use
the state credit, other states find other ways to
help make the math work.

COMMISSIONER GARDNER: That's true.

CO-CHAIRMAN STOGEL: And Missouri chose

to do it with credit, California chooses to do it with cash. I think Massachusetts does the same thing. I'm not as current as I once was.

COMMISSIONER GARDNER: There are a variety of ways in which -- and, you know, Steven raises a good point because the question has come up and it does periodically come up, well, what do other states do? And in fact, right now, Staff at MHDC is trying to put together some data so we can do a supplemental report to let the committee know what other states do do.

But I can tell you just from my knowledge of the industry and going to conferences and things of that nature, that there are a variety of ways which they provide housing. Some states have a matching state tax credit. Georgia for example, has a program very similar to ours. It's a 100 percent matching state tax credit. Other states have a partial matching tax credit. Some states do it through grants, some do it through other means of providing a layering of financing. Some states simply don't do as good a job of providing for low-income housing as we do.

But there are a variety of ways to skin the cat, and not everybody does it the same. So when you say what do other states do as far as housing tax credits, that's not really the question. The real question is what do other states do with respect to housing? Because they use a variety of means to -- Kansas, for example, doesn't have a state tax credit, so they have to find other ways. They have to find grants and things of that nature to supplement the federal credit to provide housing.

Iowa, for example, is considered a state tax credit. Kansas, I talked to a group of legislators in Kansas who said we want to do a state tax credit like Missouri. But unfortunately, while we have a recession, it's not a good time to be authorizing additional expenditures. So that's on hold. But anyway, there are a number of ways of skinning the cat and providing subsidization for housing.

One of the things I would point out is we considered the testimony at the public hearings, we had a number of studies that are identified and I think they're all probably on the online site now, that we considered that discussed the economics of the program. Those are fairly detailed studies. They were originally done on behalf of MHDC. We tried to incorporate some of the summary information.

Otherwise, the report would have grown far beyond the 20 pages that it already is.

But the conclusions we reached is that the program is accomplishing the goal that it was intended to accomplish, and that is to provide affordable housing for people who have an income that is 60 percent or less of the area median income.

And a growing percentage of those people each year are seniors. These are people who are living on, a lot of them Social Security and maybe a small pension in addition. And that puts them at 60 percent or below the area median income. And there's also some other criteria.

But the goal is to provide housing for people who are below that 60 percent target and also to try to provide housing at rents where these people are not spending more than 30 percent of their income on housing. A number of studies nationwide -- in fact, there's -- if you go on the Internet, you could find almost an unlimited number of studies that talk about the consequences of spending more than 30 percent of your income on housing.

I mean, quite frankly, if you're spending more than 30 percent on housing -- in fact, a lot of people in America are spending 50 percent on housing. When the housing cost becomes over 30 percent, you're considered burdened. If you're up to 50 percent, you're severely burdened. And what that really means is you're not spending money on healthcare, you're not spending money on medicine, clothing, other essential items, food. They just literally start getting cut out of the budget.

And so this program was really designed to serve the people who are the low- to moderate-income people and to make sure they're not spending more than 30 percent of their income on housing so they can spend it on other things.

CO-CHAIRMAN STOGEL: Can I make a suggestion, Mark? Will you go to your recommendations? Just walk through your recommendations remembering Troy Nash's suggestion that -- let's say based on no change in the tax law, and then you and I can supplement the report for changes in the tax law because this one -- my sense is there won't be a motion today because the committee needs more time to read this one and digest it.

But let's put the issues out on the table because I heard we're going to lose Zack at 4:15 and we do want to get to historic today.

COMMISSIONER GARDNER: Well, our recommendations are that -- the first recommendation was one that really goes to the idea of the efficiency of the credit and that we reduce it to one, three or five years. We discussed that previously. The shorter we can get the time frame, the more efficient the credit.

CO-CHAIRMAN STOGEL: And that's the section that we'll add to dialing in the different levels of tax changes to show how much more efficient it can be.

COMMISSIONER GARDNER: Yes, that's absolutely true. Depending on the particular tax changes that are made, it makes a dramatic difference.

CO-CHAIRMAN STOGEL: I'll take that one on with you so there can be no Commission action today on that one.

COMMISSIONER GARDNER: Now, the second item that we considered was eliminating the recapture provision from the State credit. Currently the State credit has a recapture provision that basically matches the federal provision. And I think that that kind of gets tied up into that whole issue of whether you have a one-, three- or five-year credit. We had some internal debate about whether or not the recapture provision should be removed. And it's a policing mechanism so that if a developer isn't using -- it either violates the law or ceases to use the housing as low-income, you can claw back and take the credit back. I think that really ties into one -- it's a question of whether we really need it in view of the fact that there's a federal recapture provision. So I would assume we will --

CO-CHAIRMAN GROSS: What's the effect of the federal recapture provision on the Missouri credit?

CO-CHAIRMAN STOGEL: If there's federal recapture, Senator, it's really severe. And because there's so much more dollars involved based on what investors put in because they pay much more for it.

CO-CHAIRMAN GROSS: How much does Missouri get back based on the federal recapture?

COMMISSIONER GARDNER: It matches it.

CO-CHAIRMAN STOGEL: It tracks it. It's basically the same, but since 2000, there's only been $47,000 of recapture collected in the whole program.

COMMISSIONER GARDNER: It's virtually nonexistent.

CO-CHAIRMAN STOGEL: It's a policing

mechanism and an enforcement mechanism, but it's not a -- it hasn't produced any large dollars because recapture doesn't happen. The federal cost to the developer is so severe they just -- they don't let projects default.

COMMISSIONER GARDNER: But to answer your question, as a general rule, the federal credit is earned over a period of 15 years. It's earned over 15, it's taken over ten. So roughly a third of that credit each year through the ten-year period is accelerated, kind of like accelerated depreciation. And so if after year three you would have a default, you'd go back into years one and two and recapture a third credit that's already taken. Again, it's a very rare occurrence. I mean, I could go on to a 15-minute explanation of why it's rare.

CO-CHAIRMAN STOGEL: Next week when we come back, just we'll put more facts in but also talk about pricing, what the impact would be on pricing and efficiency.

COMMISSIONER GARDNER: Our third recommendation was simply that the tax law subcommittee continue the efforts it's making to reform the tax law. Recommendation four was the attempt to maintain current levels, not credit levels. And people need to understand there's a difference. We're not suggesting the tax credits remain the same. We're suggesting that you improve efficiencies so you can reduce the number of tax credits and hopefully maintain the equity that goes into the projects at or near existing numbers. We also recognize that may not be possible.

See, if you improve -- let's say we could improve the credit by 30 percent, the efficiency of it. You could actually reduce the number of credits by 30 percent and still generate the same number -- amount of equity to the project. If you can increase the efficiency by 50 percent, you could reduce the credit by 50 percent and generate the same amount of equity.

CO-CHAIRMAN GROSS: So you'd increase the efficiency by shortening the --

COMMISSIONER GARDNER: And also which Steven talked about which may or may not have happened.

CO-CHAIRMAN GROSS: And we're assuming it's not going to happen for this discussion. I thought that's what you said, that we're moving forward on these assuming that the tax law changes won't happen. Isn't that what you said?

CO-CHAIRMAN STOGEL: We're going to assume for the purpose of Mark's report next week that none of the changes happen with -- in italics, if it happens -- plan one, two or three happens, this would be the impact and the additional efficiency.

CO-CHAIRMAN GROSS: Yeah. So anyway, you'd get the efficiency by shortening the program and tax law change, and that would allow for a reduction in the size of the program?

COMMISSIONER GARDNER: Substantially, substantially.

CO-CHAIRMAN GROSS: By the same amount, by 30 percent or 50?

COMMISSIONER GARDNER: If you could reduce the number of credits by shortening it to a five-year credit, you could probably reduce the number of credits by a third or close --

CO-CHAIRMAN GROSS: Dumb question here. Why wasn't this done before if you're going to improve efficiency, reduce the cost of the program by shortening the length of the credit, tell me -- somebody, tell me why this wasn't done before.

COMMISSIONER GARDNER: I'd like to ask the question why the historic credit was made a one-year credit so that it is inherent --

CO-CHAIRMAN GROSS: There's got to be an answer. Somebody in here --

COMMISSIONER GARDNER: -- inherently efficient and the long-term credit is a ten-year credit which is inherently inefficient. And you raise a point that has bothered me for years because the low-income credit has been criticized for its inefficiency. And I can show you the numbers, I can say well, give me a one-year credit and I will cost you less than the historic credit. I'll cost less than the historic credit to you.

CO-CHAIRMAN GROSS: But does it cost more money up front?

COMMISSIONER GARDNER: It costs more money up front.

CO-CHAIRMAN GROSS: And that's the reason the legislature has streamed it out over ten years so that the first year wasn't as severe.

CO-CHAIRMAN STOGEL: Well, both the federal credit and the -- for historic and the federal credit for low-income track the State credits. The federal historic is a one-year credit earned over five. The State credit is a one-year credit, the federal low-income is a ten-year -- 15-year credit, but you can take it over ten, and the

State low-income is a ten-year credit. What the legislature did is simply track --

COMMISSIONER GARDNER: They patterned their --

CO-CHAIRMAN STOGEL: The federal credits, the question is why continue that tracking?

COMMISSIONER GARDNER: Yeah, was that really smart? And as I point out in my report, there's a transitional cost here. If we go from a ten-year credit to a five-year credit, it's going to cost us more short-term. And Representative Flook and I had a thoroughly extensive conversation about this.

And so we get into another issue which we'll get into in a minute which is a buy-back idea. But there is a transitioning cost, but for the long-term, you earn a much more efficient credit and you do cost the State substantially less.

CO-CHAIRMAN GROSS: I think that hits the nail on the head for me. I got the general idea. Shorten the length of the credit, it costs you more up front, you're going to take that whatever the millions of dollars are, 1990 or whatever it is and compress that down into a shorter period of time so each year it's going to cost more money by -- right?

Am I good so far?
COMMISSIONER GARDNER: Each year it's going to cost more money -- each year it's going to cost less money until you factor in the fact that you've got outstanding credits that still have to be redeemed --
CO-CHAIRMAN GROSS: Right, but it's going to push them all into a shorter period of time.
COMMISSIONER GARDNER: Yeah, but you will spend a third less each year ignoring that fact, ignoring -- and I just want to make sure we're talking the same language. You will -- if you ignore the fact that we've got this outstanding inventory of credits, you will be saving the State a third each year. The cost of the program goes down by a third.
CO-CHAIRMAN STOGEL: Just by shortening the credit period.
COMMISSIONER GARDNER: Yeah, Mark.
CO-CHAIRMAN GROSS: So would this proposal affect the existing credits or just the --
CO-CHAIRMAN STOGEL: No. Mark, go to the buy-back -- I've been working with Mark on this because of the interrelationship with the tax issues with Mark's low-income. But talk about the buy-back

and how you could do more smoothing that way.

COMMISSIONER GARDNER: One of the recommendations we have in here is that the State consider buying back some of the outstanding inventory of credits. If we buy back, for example, particularly the outstanding credits that are going to be redeemed in the next three to five years, then you could ease the transition from a ten- to a five-year credit and save the State money because -- you know, you can run the numbers, I think, and make a number of assumptions about what we can buy in that, but I think depending on the vehicle by which you raise the money to buy the credit back, I think under any scenario you're going to save substantial money by buying back credits that are outstanding as opposed to simply letting them be redeemed over the next ten years.

CO-CHAIRMAN STOGEL: Mark, why don't you finish for a few minutes because there's obviously more to do yet on this and we're going to lose Zack and I do want to get through the rest of the agenda today.

COMMISSIONER GARDNER: All right. We have made a recommendation that credits -- we changed the way credits are earned, okay? Credits will be earned -- if you would adopt this recommendation, credits will be earned when the building is placed in service and the first unit leased. As I explained to you earlier, there's a phase-in. Every unit has to be leased, nobody knows how many credits are going to be issued in the first year.

It creates an uncertainty in the investor who is trying to buy these credits because he's going well, how many credits am I going to get in the first year that the building's placed in service? And nobody can tell him because nobody can tell him what the lease-up is going to be. And are some of these credits going to be deferred to year 11?

It would be a very simplified process if we simply said when the building is placed in service, the credits are earned unless there's a recapture. That would increase the pricing of the credit. By increasing the pricing of the credit, you're going to reduce the total number of credits you need to fund the same amount of housing. It's all about, once again, improving the efficiency of the credit.

Our recommendation No. 6 was tied -- when we finally arrived at a hard number for the credit, let's say we arrived at a hard number, and said this is the amount of credits that we think should be issued, then we tie that -- our next proposal is tie it to State revenues.

You know, one of the points that the governor made in his speech was that the tax credit programs have outgrown the budget. They've increased at a faster rate and they're consuming a larger percentage of the State budget than they were five years ago. We're recommending that you tie the size of the program to State revenues. If State revenues go down, the program automatically goes down. You don't have to cut it. It's an automatic reduction.

If the revenues go back up the next year, then we rise back up to where we were. But that way it remains at the same percentage of State revenues regardless of what's happening to State revenues without the legislature or anybody even having to take any action.

We recommend that if you're layering low-income housing tax credits and historic tax credits, that the qualified -- currently you're able to earn 25 percent of the qualified rehabilitation expenditures for the historic credit. We're saying cut that to 20 percent if you're layering the credit if you're using both low-income and historic. That was an issue that's been raised and there have been objections periodically to the layering of the credit, and we felt that that was something that we could do. And I think the historic Supreme Court made the same recommendation.

The next item we dealt with was carryback/carryforward, understanding that the legislature is concerned about budgeting. You know, these credits are currently -- the historic credit was one where it could be carried forward ten years. The low-income can be only carried forward five, it can be carried back three.

I have to tell you we would prefer as a committee to see the carryback or the carryforward be at five. We realize it creates a little bit of budget uncertainty, but the more you narrow those numbers, you're going to start impacting the pricing of the credit and you're actually going to start taking away from its efficiency instead of actually improving its efficiency.

Because when somebody buys these credits, one of the things they look at is I'm making a ten-year commitment, okay? I have to be profitable for the next ten years. If I get to year three and I have a bad year and I lose money, at least I can carry them back or I can carry them forward. But if you start condensing the carryforward/carryback time frames, investors are going to look at this credit and it's going to -- it's going to be even less attractive to them. So we prefer the carryback/carryforward stay the same. If you're going to affect anything, affect only the carryback and only shorten it by a year. That's the recommendation.

Now, with the AHAP credit --

CO-CHAIRMAN GROSS: Representative Komo has a question.

COMMISSIONER KOMO: You said something about tying it to a revenue budget, so are you saying that whatever percentage it is at the 140 mark, be it, you know, 1 percent or 10 percent, whatever that is, are you saying you leave it so there really wouldn't be a cap, more like --

COMMISSIONER GARDNER: No, no, no, I'm not suggesting that. Well, maybe I am. I'm not sure. I'm saying whatever the number is that we came up with for this year, then that number would be your baseline number.

CO-CHAIRMAN GROSS: So if it's 2 percent right now, then going forward, it ought to be 2 percent of whatever general revenue is?

COMMISSIONER GARDNER: Yeah. And so if revenues go down, you're going to go down; if they go up, you go up.

COMMISSIONER KOMO: So then there wouldn't really be a need for the 140 cap, is what you're saying?

COMMISSIONER GARDNER: It wouldn't be a hard cap. It would be a floating cap. Today -- what happens today is it's tied to the number of federal credits that are issued. And the federal credits are adjusted by population, but there's also an inflation factor. I think it's tied to CPI, if I remember right. Isn't it tied to CPI? There's an inflation factor and a population factor.

And so it goes every year and because we're a matching credit, we go up each year regardless of what's happening to State revenues. So State revenues can go down, but the amount of the authorized State tax credit goes up. And as Steven pointed out, it's -- the statute is not -- it's not -- it doesn't command or automatically entitle you to credits. There's an application process you go through. And the Commission has ultimate authority. I mean, the Commission could say we're not going to issue all the credits. We can have authority to issue X million, but we're going to issue something less.

So there are really two controls over the credit, one being the maximum amount that can be issued by law which is the authorized credit, and then the amount that the Commission would ultimately approve. They could be different numbers.

COMMISSIONER KOMO: I'm just thinking of the budgetary side of it, that line item could be just -- it could change every year.

COMMISSIONER GARDNER: One of the things that people have been concerned about in the past is growth and the fact that there is no hard cap. And I've talked to legislators who have said, well, we're in the low cap, the tax rate goes up every year regardless of what happens to State revenues.

And so we came up with the idea of taking it to State revenues to remove that concern. It floats with the State revenues, it automatically moves with it. The way it works today is it moves independent of State revenues and I think it's a bad idea.

CO-CHAIRMAN GROSS: Steven, do you want to --

CO-CHAIRMAN STOGEL: Mark, if it's okay with you, because more work has to be done, maybe we'll come back to the AHAP since we're going to lose Zack who's chair of the historic committee. We'd like to do that one for 45 minutes and then maybe we'll come back to AHAP or we'll just pick it up next week.

COMMISSIONER GARDNER: The AHAP is pretty direct and straightforward. I could do it in five minutes if you wanted.

CO-CHAIRMAN STOGEL: Yeah, at the end.

CO-CHAIRMAN GROSS: Appreciate your work, though, Mark.

CO-CHAIRMAN STOGEL: I will say, because Mark and I have been talking, that Mark has reached out to people who are highly invested in the low-income community and spent a lot of time talking with developers and syndicators and bankers and people who are actually in the field every day, so...

CO-CHAIRMAN GROSS: Steven, do you want to point him to this too, the beginning of his report?

CO-CHAIRMAN STOGEL: Yeah, and Chuck -- Senator Gross and I have chatted about Mark's introductory remarks to his report, and we jointly as co-chairs would suggest everybody on the Commission read it because it really captured the flavor of the governor's remarks at the outset of the session about what this Commission's all about. And we found that to be a particularly well written introduction. It states the mission pretty clearly. So ask everybody to take a look at that. Chairman Boyers.

COMMISSIONER BOYERS: Sir.

CO-CHAIRMAN STOGEL: Are you still with us? And Co-Chair Gifford? Okay. Your co-chair is here, Zack, and between you, we'll turn over the floor. I also note Greg Smith is here who's been on the committee and has served as a counsel to us on a lot of this tax stuff that I've done. So Zack?

COMMISSIONER BOYERS: Okay. Well, I would jump right in and at least try to get to the meat of the report which ends up being in the recommendation section.

But first, let me just thank everybody who did serve on the subcommittee. This subcommittee was represented broadly by a total of 21 members including nonprofits, interested citizens, bankers, consultants, city and state officials, developers and a very broad spectrum of interested participants. And I want to thank everybody for their time. Also want to thank Husch Blackwell for their support and DED's involvement as needed, and we appreciate it.

What I thought I'd do is give a very brief background on the program, very brief, a very quick discussion of at least some of the considerations related to impact in particular of the program, and then launch into the recommendation section for consideration.

So since 1976, federal law has provided tax incentives for historic preservation. The Missouri program was passed in September '97, became effective in January '98 for the purpose of providing an incentive for the redevelopment of commercial and residential historic structures in Missouri.

As many of you know, DED administers this program and is responsible for the issuance of all tax credits based upon -- all these tax credits based upon final certification of the rehabilitation project by the Department of Natural Resources and State Historic Preservation Office.

The program was initially designed to mirror the federal program, and it provides State tax credits equal to 25 percent of eligible costs and expenses of the rehabilitation of improved historic structures. These credits can be applied to State income taxes under Chapter 143 and to taxes under Chapter 148 including the bank tax, insurance premium tax and other financial institution tax, any taxpayer that's eligible to participate in the program. Nonprofit and governmental entities are ineligible. These credits are efficient in that they can be sold or transferred in accord with Missouri law.

Notably and for the Commission's consideration, this program has been substantially scrutinized over the past several years and the program has very recently undergone some change. In 2009 the General Assembly passed House Bill 191 and made significant changes to the program in an effort consistent, perhaps broadly with this overall effort, to address growing concerns over the fiscal impact of the program on the State budget.

These changes impose new annual limits on the amount of historic tax credits approved by DED. So effective as of July 1 of 2010, just this last summer, the annual cap became $140 million for projects receiving historic tax credits over $275,000. Owner-occupied residential projects have a per-project cap based on this new legislation of $250,000 in tax credits. And any project other than these owner-occupied residential projects receiving less than $275,000 in credits are exempted from the program caps.

The tax credits issued under the program accomplish a clearly discernible outcome; namely, to encourage the preservation and restoration of Missouri's historic structures and to foster economic development through employment, capital investments directly and indirectly involved with the rehabilitation of these buildings.

There is a recognizable cause and effect relationship between the use of credits under the program and the desired outcome of economic development. I do also note that this program is especially crucial for the areas that drive a disproportionate share of the State's revenue and economics; namely, its urban cores as main streets throughout the state.

In terms of what this subcommittee did, we convened a series of six public meetings. We looked during one of them in-depth at the operational effectiveness of the program and discussed areas of concern or areas to improve. We studied, where possible, the measurable economic impact, first as presented by Sarah Coffin, Ph.D., of St. Louis University and then by -- discussed with DED, Sallie

Hemenway and Alan Spell, and the methodology applied by DED using the REMI model.

What we have ascertained is included in the report, but I think it's relevant to quickly at least summarize some of the findings. Dr. Coffin noted during her presentation that a minimum -- a minimum of 43,000 jobs and approximately $670 million in state and local sales and income taxes were generated from projects receiving historic tax credits from 2000 to 2008.

These numbers are minimums because Dr. Coffin's economic modeling does not fully or accurately reflect the added economic impact on local entrepreneurial enterprises or the so-called induced or indirect economic effects of the program.

I also mentioned that the economic outcome of the program is measured by DED using the REMI Missouri economic model of economic impact. However, as Ms. Hemenway and Mr. Spell acknowledged in their presentations to the subcommittee, the REMI model also doesn't present a complete measurement of the economic impact of the program. It does not measure output other than the direct return to the State general revenues over time from the projects receiving tax credits.

So some of what gets created as a result of this is not captured in the REMI model, and that was acknowledged, I think, by the presenters as well.

So the subcommittee does note in its report that the consensus unanimity was absolutely not always present and the consensus was not always achieved but I think widely believed by members of the subcommittee that the program is a successful program as it's designed. It is acknowledged as the model program for states around the nation.

We did spend some considerable time, probably not as much as many of us wish, but analyzing and observing the programs of other states, particularly states adjacent or nearby to Missouri. And still, the subcommittee will propose modifications to certain aspects of the program in an effort to address the legitimate concerns that all of us have.

Again, I want to make sure and properly represent all members of the subcommittee in asserting and articulating that not all of the recommendations come with unanimous support from the subcommittee, although the broad majority of those voting were in support of the recommendations included.

And so with that, Steven, I was expecting or intending to go right into those recommendations and conversations.

CO-CHAIRMAN GROSS: Well, I need to raise an issue that was -- that's been brought up that needs to get out -- we need to deal with, and that is the votes that were taken. There's been some e-mail controversy surrounding who voted and who should have voted and what the result of those votes were, both amendments as well as the final vote on the report.

The final vote on the report shows 13 -- I think it was 13 in favor and three opposed. If you look at just Commission members, it was three in favor and three opposed for that report. Now, amendments I still don't have the transcripts for, but were any of those amendments that were offered and defeated, defeated because of non-Commission members voting?

CO-CHAIRMAN STOGEL: Well, let's step back one step. This is -- the historic committee proceeded to expand their folks on that committee to include people who had direct interest, had historical interests, represented coalitions, and at least I went to one of those first meetings --

CO-CHAIRMAN GROSS: I did too.

CO-CHAIRMAN STOGEL: You were there at the first meeting. And -- to get as much possible buy-in as possible. The Commission -- the historic committee did a very clear job of recording who voted for which items on which issues, and we can sort out who were Commission members and who were not, but the theory that this committee operated on because it's gone through a legislative change in 2009 and is now part of the Tax Credit Review Commission's review, wanted to get as much broad-based input and buy-back.

The low-income committee, on the other hand, added Steve Acree who's not a Commission member, but Mark Gardner reached out to all sorts of people in the field to try to build some sort of, you know, if you will, agreed bandwidth. So the, I mean, ultimate vote will be held by the Commission. And I, for one, am glad that the committee was as broad as it was just so that we can get people who are invested.

I'm talking about what the changes should be, because for once, if we can build consensus for some of these recommendations, the legislature can then follow the report as it's written and people will accept it as opposed to do the normal free-for-all that always occurs. Some legislations draft it, and others there's a big piling-on effect.

So this Commission's report ultimately will hopefully lead to legislation and hopefully be enacted. So broadening the committee was the thought process. And...

CO-CHAIRMAN GROSS: I just don't want the wrong impression to be out there that a subcommittee of this Commission supported a recommendation when, in fact, that is not the case.

CO-CHAIRMAN STOGEL: The -- it's a fair comment, Senator, and to the extent that there's a final, final report a week from now, we'll segregate the votes for who were Commission members and who were not just so that the record is a little clearer.

CO-CHAIRMAN GROSS: Okay.

CO-CHAIRMAN STOGEL: I applaud the way the committee's proceeded because buy-in is critical so that ultimately it leads to legislative change in an agreed package. So Zack, with that obviously open side bar now on record, we'll let you continue your report.

COMMISSIONER BOYERS: Sure. Okay. The report ends up addressing basically seven recommendations, and then -- in a set, then, of additional items that we would urge to be discussed and considered perhaps by DED separately. And I'm not going to go too far into that last section of consideration, so just to the recommendations first.

Obviously there was considerable conversation around the idea of reducing the annual cap, and that cap, again, as legislated and effective this July 1st, 2009 is $140 million for any fiscal year. The subcommittee recommended that the annual cap on the tax credit allocations stay at the current level in consideration of the compromise resulting in the imposition of the cap in 2009, again, just in the last legislative session.

Acknowledging too that a reduction in the cap would not result in any significant impact to the State budget, because quite organically, as the -- well, first of all, because the impact of the cap would be felt down the road, but also because the cap quite organically -- or, sorry -- the authorization and then issuance of credits quite organically goes down or is correlated to economic reality of the state.

So we can get into more discussion around that, but it is very clear that new authorization and issuance of credits in the current year, for example, won't come anywhere near to the cap as it was legislated in that prior legislative session.

CO-CHAIRMAN STOGEL: And just so people are clear, it's $140 million of authorizations, not all credits that are authorized ultimately get issued. And there's probably a pretty high redemption factor of the ones who are issued on historics. It's an authorization test, it's not a redemption test that this cap applies to. I'm sorry, Zack, please.

COMMISSIONER BOYERS: And in a time of economic distress such as this where the State is feeling the squeeze just as everyone else is, the authorizations will be down because capital is not slowing for economic development including real estate, including historic rehabilitation.

And again, the cap was just imposed last year, so again, that's the first recommendation.

Going to recommendation B or the second one, we looked -- currently the program includes a three-year carryback period for tax credits; in other words, a credit can be applied to taxes of a taxpayer for any tax year up to three years prior to the year of issuance.

It also includes, the program does, a ten-year carryforward period so that an issued tax credit can be applied to taxes of a taxpayer for any tax year up to ten years following the issuance. This has caused concern related particularly to budget predictability, knowing when these credits, to what year these credits will be applied.

And in consideration of that, the subcommittee recommends the reduction of the carryback to one year, one year only from the year of issuance, and that the carryforward will be reduced to five years as opposed to ten, except for any credit that's retained, not sold or transferred, so retained by the party to whom it was originally issued.

And this will have an impact particularly, we believe, on the smaller deals. So we would recommend that we allow a ten-year carryforward for those credits that are not transferred or sold but are retained by the original party.

The third recommendation is around deferred developer fees. The program currently permits developer fees as a qualified cost, a qualified rehabilitation expenditure upon which tax credit percentage is based. These fees, these deferred developer fees are often deferred and paid over a number of years out of projected or expected project cash flows.

The subcommittee recommends removal of the developer fee from the definition of QREs, qualified rehabilitation expenditures. This modification will do a couple things. One, it will effectively reduce the amount of the credit because a deferred developer fee is often included as a qualified cost upon which the credits are based, but it will also eliminate the risk that credits are issued in a particular year for costs that won't be incurred because such a projected deferred developer fee never gets paid. So this will have a material impact and reduce the cost to the State of the program.

Additionally on this topic and in consideration of the difficult economic environment, the subcommittee recommends that DED administratively extend the period for payment of deferred developer fee from six to 12 years for those projects that are already approved and have had tax credits issued as a recognition of the difficulty of the current economic environment.

As it relates to credit stacking, our next recommendation, this stacking issue allows for credits to be claimed on projects which also receive other State tax credits or incentives. This has led to some scrutiny and criticism, the projects that either aren't commercially viable are being undertaken or are getting just too much by way of overall incentives.

The subcommittee articulated that this is an overarching concern that really does reach beyond the historic program alone. However, to demonstrate support for this concern and to recognize its legitimacy, we do recommend that the percentage of the total QREs of an eligible project be reduced from the current 25 percent to 20 percent for a project which is also receiving low-income housing tax credits which tends to be the one where this is most applicable.

We -- we did look at the potential to reduce the percentage of the credit from 25 percent to some other number. We, as the subcommittee, recommend the percentage remain 25 percent, acknowledging that the effective impact of taking the deferred fee out and also the recommendation as it relates to stacking with other low-income credits -- other State credits, sorry, particularly low-income, that that has the same essential effect as reducing the percentage. And to do anything additional would be arbitrary and likely could compromise the effectiveness of the program as an economic -- economic development tool motivating new economic development. So we're recommending that we keep it at 25 percent.

The program currently, as I mentioned, provides that no more than $250,000 in credits be issued to a single rehabilitation project which is a nonincome-producing single family or owner-occupied residential property. We recommend a reduction of that maximum by 40 percent to $150,000 in tax credits for those particular -- for those particular projects.

Moving -- moving ahead, then, to the last recommendation, the Department of Economic Development currently audits the cost certifications on which taxpayers submit their final accounting of QREs, qualified rehab expenditures. The subcommittee recommends that DED consider implementing a neutral third-party review process for review of all final cost certifications. Ideally, this would get done within 30 days of the submission.

And we also recommend the cost of this would be paid from the collective two and a half percent application fee currently imposed by the program.

As I mentioned at the beginning, there are some other program efficiency areas that we would like to discuss. I don't know that this is necessarily the time to do so, but with that, I will conclude and open up for conversation.

CO-CHAIRMAN GROSS: Thank you. Comments, questions?

COMMISSIONER RECTOR: I have two questions/comments.

CO-CHAIRMAN GROSS: Zack, this is Penney Rector.

COMMISSIONER RECTOR: One, I think Mr. Van Matre raised in response to an earlier credit a question about length of time that an individual should stay in the home after rehabilitation. If we were to maintain the single-family owner-occupied residences, should we consider there being a time frame placed on that for those owners to maintain ownership and reside in that home and not turn around and sell that home for a substantial profit at the

State's cost? So that's one concern that I have.

And my other is, I question whether we should retain that single-family homeowner-occupied residence tax credit, particularly in light of having just earlier discussed elimination on the low-income property tax credit for renters. How can we then turn around and justify maintaining a credit for those who are the more affluent in our state?

CO-CHAIRMAN STOGEL: Good questions. Others?

COMMISSIONER FLOOK: This is Representative Flook. Penney raises a good point. You know, with regard to the time period within which a homeowner must remain, I've got to confess, I haven't -- I can't remember looking at that. I don't remember what the rule is, if there was anything. So I'll assume for the sake of this comment that there is no time limit.

But in the MHDC first-time home-buyer grant program that used to be around years ago and it may still be in effect now, you know, I think there was a limit in there that you had to stay in your home something in the nature of nine years or own it for nine years or something like that. So you know, I think Penney's on to something. I think if we were to maintain -- legislatively if they were to maintain the single homeowner's ability to get these credits to remodel their home, I don't think it would be all that unfair to put a very, very strict requirement on how long they have to remain in the home so that we could avoid a larger -- you know, the entire reason for creating the small project exemption in the 2009 reform was because it allows the small projects in rural areas -- rural areas and frankly, some of these individual homeowners to go ahead and rehab some of these properties.

And the predicted impact on that annually was expected to be in the 10 to 15 million range of issuances. So that would have rounded out the entire historic tax credit program to a value of roughly 150 to 155 million in issuances which was the bottom line number the industry really wanted as we were trying to work out a change in the program.

So I think what Penney points out is a good one. If we put a rule in there about the amount of time you have to stay in the home, that will ensure that the people that do partake of the program for the purposes of a home are really serious and really are going to live there, and it's just not -- it's just not a real estate investment venture for immediate profit.

And secondly, I always felt that the limitation on what you could do in a single-family residence that you're going to live in was too high. It would allow a pretty sizeable nice home to be built. And I think we could lower that a little bit. And mindful that those kind of rehab projects are very expensive, we could lower it a little bit more, I think, and be doing the taxpayer justice without sacrificing the chance to get some of these older homes in rougher areas remodeled.

CO-CHAIRMAN STOGEL: I would -- everybody in the room knows that I'm pro the historic credit, it's vital to St. Louis. If the St. Louis core, that two square miles that's the Arch to I think it's Wells Fargo now, between the -- that's changed names so many times -- between the stadiums which drives a third of, I'm told, of the City's revenue isn't vibrant, it hurts the City. And, you know, probably 25 percent of the city, counting the BJC area and the riverfront, supports all the neighborhoods.

And so if you don't have a vibrant downtown, you're not going to have a vibrant St. Louis where all the conventioners come. So I'm all for the historic credit, and that's not news to anybody in the room. With that said, in June of '05, I testified before the joint committee. I remember Brian was there that day and some of the other Senators and Reps were there. On the single-family resident, not the condo project downtown or in Kansas City or in Cape, but the single-family residents, there ought to be a gold coast provision. People who live on Kingsbury Place and West Moreland ought not to get $150,000 of tax credits.

I live on Kingsbury Place. It's just wrong if you spend $600,000 fixing up your kitchen and your interior that people support it. The testimony we heard all over the state was it's an important credit in St. Joe and in Cape, but a number that would be 20 or $25,000 would work for that single family for that neighborhood. And so I mean, that's just a personal thing with me.

CO-CHAIRMAN GROSS: Two people who want to comment also, Representative Komo and then Commissioner Zimmerman.

CO-CHAIRMAN STOGEL: So I mean, the geography's important, the owner occupancy is important, and I do note that this report assumes there were no tax law changes, so like the low-income report to the extent there are tax law changes under plan 1, 2 or 3, there may be some additional efficiencies that could be studied and footnoted so it could be considered during the next week.

COMMISSIONER BOYERS: Steve, absolutely, and the subcommittee did discuss that -- the possibility that if tax law changes were enacted, it would be, of course, prudent and responsible to blend those changes into the consideration overall.

CO-CHAIRMAN GROSS: We have two Commissioners who wanted to make questions or comments. Representative Komo.

COMMISSIONER KOMO: Mine is on the cost of certification review. The recommendation was to use the existing 2.5 percent. I guess where does that money -- where is that being utilized for now if it's already in the budget? I know I've seen it in the budget.

MS. HEMENWAY: It's appropriated right now to the Missouri Partnership for Business Recruitment Activities, and a portion of it is appropriated to the Department of Natural Resources and the Department of Economic Development's staff that evaluates not only the historic tax credit program, but all of the tax credit programs. So part of it is for business recruitment, part of it's to offset personal service and E&E costs by two agencies: DNR's SHPO office and DED.

COMMISSIONER KOMO: So, I mean, I guess that would be my question is, are you talking about using the entire two and a half percent? Because I know I've sat on the appropriations committee in the past, and I mean, you know, I've been hard on the partnerships and stuff like that, but at the same time, without site selectors looking at Missouri because of our lack of a closing fund, I think it's important that we have somebody out there selling Missouri. So I guess -- so my question is, is that two and a half percent?

COMMISSIONER BOYERS: I have to say this is an area that we don't have 100 percent transparency into in terms of where all of those funds have gone, but there was some conversation on the subcommittee about the fact that it is a fee that is being generated specifically out of the historic tax credit community, if you will, and that it should be disproportionately used to administer therefore the historic tax credit program. So that was the sort of general flavor of the conversation. And so yes, it was looking to that, if you will, pot of funds to help support the processing, if you will, of the administration of the program.

COMMISSIONER KOMO: Yeah, that was just a concern of mine because I think the intent of when that was put on there was so that we could have that partnership funded to be able to have that.

CO-CHAIRMAN GROSS: Commissioner Zimmerman?

COMMISSIONER ZIMMERMAN: Sallie, do you know off the top of your head how many houses on average per year apply for the historic tax of single residences?

MS. HEMENWAY: I don't have the split, but I can get you that split.

COMMISSIONER ZIMMERMAN: I think that would be --

MS. HEMENWAY: But between commercial property, income-producing like multifamily property and then single-family property, we can provide the split.

COMMISSIONER ZIMMERMAN: I think that would be good to have for our next meeting. And also I've heard a lot of comments about this for the last couple of years, and I'd be all in favor of limiting it to $25,000 and also put it on a pro rata square footage basis.

CO-CHAIRMAN STOGEL: For single-family residents, that's my recommendation. I'm not proposing a reduction in the new project, downtowns taking an old building and converting them to rental or condo.

There was a woman from St. Joe -- I can't remember her name at the moment -- who was very passionate about what the credit was meant for -- in smaller numbers for the community and the restoration that had occurred.

COMMISSIONER KOMO: When we did that, I guess, last year when we put the cap on and had that provision put in there, that was a compromise to take that group out of the cap so the cap would be still big enough that we could work under but then take that other group out of it and we just put that 250 was the idea. That would be the compromise.

CO-CHAIRMAN STOGEL: But 25 percent of 275, Representative, is still $62,000 of assistance for a single-family home. And given the action of the Commission earlier, conversations about claw-backs and renters, I think $62,000 of assistance for anybody's private residence is --

COMMISSIONER ZIMMERMAN: And I would

concur.

CO-CHAIRMAN STOGEL: -- kind of a lot --

COMMISSIONER BOYERS: I'm sorry. I can't hear the other --

COMMISSIONER ZIMMERMAN: I would put a time limit on it too that they had to stay in the residence for at least ten years or something.

COMMISSIONER KOMO: We just didn't want the bigger projects to get all the money and then all the smaller projects wouldn't get any.

CO-CHAIRMAN GROSS: Mr. Van Matre?

COMMISSIONER VAN MATRE: I'd like to stake out the very far extreme position on these credits so that everybody will at least have this to react against and rebut by the next time. But I don't see how we can take $750 away from people that make $14,000 a year and give $25,000 a year to people to fix up their house. I just don't think that there is any sense of proportion there.

What I'd like to see for this credit myself personally, not speaking for anybody but me, is that it be recognized for what it is, which is a method of repairing downtown areas that have decayed. You cannot justify this on an economic basis any more than any other state expenditure.

You get exactly the same economic effect if the State builds a new building as opposed to rehabbing an old building. The only difference in economic effect is who gets to do the work. What this credit really is, is designed to help fix up decaying downtown areas. And that makes sense if the area that you're fixing up is retail or commercial or something that adds to the job base.

It makes no sense to do it -- to apply it with respect to residential of any type. Otherwise, it's just a subsidy to wealthy people to fix up things that they can fix up with their own money and not the State's money.

COMMISSIONER WOOD: You're talking on the owner-occupied, though. I think we've seen some neighborhoods, though, that developers have gone in and rehabbed and helped neighborhoods and they don't own those. So I think -- I agree with you on the owner-occupied, but I'm not going to go as far as you're going to go on the developer that goes in --

COMMISSIONER VAN MATRE: I don't expect anybody to go as far as I'm going to go. But I don't think it ought to be applied to residential at all as a way of saving the State some money. And I think there ought to be a Commission that decides whether, in fact, this is going to be contributory to the rehabilitation of the downtown area and it ought not to be a grant of right as opposed to a discretionary grant so that some Commission, e.g., the city council, says, yes, this project will help our downtown and it will add jobs as opposed to saying somebody fills out the form and gets the money and it doesn't do the State any good discernibly, or you could at least get a few people to sign on who have vested interest on that money. So to summarize, my position is, it ought not to be applied to residential at all, it ought to be discretionary in the eyes of the local city council, and it ought to be something that is proportionate.

CO-CHAIRMAN GROSS: Craig, I agree with you. Actually, maybe I could swing the pendulum just a little further in your direction.

COMMISSIONER BOYERS: Who was speaking --

CO-CHAIRMAN GROSS: Chuck Gross.

COMMISSIONER BOYERS: -- before? Sorry.

CO-CHAIRMAN GROSS: That was Craig Van Matre. This is Chuck Gross speaking now. Actually, I think your comments apply across the board on the credit because 200 square feet of Class A office space is 200,000 square feet of Class A office space, whether it was built from the ground up or whether it's a building that is 100 years old and was rehabbed.

As a matter of fact, the utility of that new structure I would argue is probably higher than the rehabbed structure because of the inherent size and space and architectural limitations that existed when that 100-year-old building was completed.

Now, on the other hand, I recognize that there is more intrinsic value to that historic building in terms of -- I don't know what you'd call it -- the esoteric benefits of people who want to be in those structures because of the way they look and because of the history.

But in terms of flat-out, the way I look at it, economic development or economic benefit of the structures, $200,000 -- 200,000 square feet of Class A office space is just what it is, and it's a whole lot cheaper in a lot of cases to build new than it is to rehab and without using these credits.

COMMISSIONER MARBLE: Can I ask a question about how --

CO-CHAIRMAN STOGEL: This is Dr. Marble, Zack.

COMMISSIONER MARBLE: Yeah. -- about how historic is determined? I'm just really basic here. Is there a building that -- do I understand it can be whole districts and maybe in that district there are nonhistoric structures that would qualify also?

CO-CHAIRMAN STOGEL: Not really. You can get historic credit for an individually nominated building or if it's a district, but the State credit is limited to buildings that are contributing to that district, which is a special definition in the National Park Rules.

COMMISSIONER MARBLE: So not a newer building in that district?

CO-CHAIRMAN STOGEL: It's -- just because it was built 40 years ago, it doesn't qualify. It has to be contributing based on the standards of the National Park Service. Is that right?

MS. HEMENWAY: It may not be individually listed on the National Register, but if it's recognized as contributing to the district because it has a majority of the features of that historic significance, but not to the degree of getting on the National Register itself, it still is eligible for the credit.

CO-CHAIRMAN STOGEL: So the -- anybody else? Because we're going to lose Zack in three minutes, and this is obviously --

COMMISSIONER WOOD: When you break that down, would you also break down the amount of the credits we're given as well, not just the 15 credits here but the dollar amount of the credits?

MS. HEMENWAY: Yeah.

COMMISSIONER WAGNER: May I offer a couple of comments? Okay. I know it's getting late and I've listened in on this. I wanted to say that I was a member of this particular subcommittee, and it was a privilege to be a part of it, and I have great admiration for all of the professionals who were on the committee. But after the report was finalized, I was somewhat underwhelmed by the recommendations that the committee has made.

And I would urge the broader Commission to perhaps send this report back to the committee to take a more critical look now that we have some perspective on what all the other subcommittees were doing. I believe that this tax credit is going to continue to cost, if you will, the State far more than was originally intended when the credit was authorized by the legislature.

There's no doubt that the credits have led to economic development and have been hugely successful and have perhaps been the most successful program in the country. We did take a look to some limited degree of what else is being offered across the country, but I don't think that we captured in the subcommittee report the spirit of what our mission in this broader overview of the tax credits was to be.

So I think we should revisit this, look at the overall cap, revisit perhaps some of the discussions that occurred in the legislation of two years ago and just take a more critical look at this. And I wanted to raise that for the Commission to see if others had similar thoughts on the matter.

MR. BURLISON: Zack, are you still there? Are you still there?

COMMISSIONER BOYERS: I am.

MR. BURLISON: This is Rex. I had a question on this developer's fee. Am I taking that the recommendation is that essentially that developer fee agreements that are already in effect right now that have been referred because they're out of compliance would now be modified?

COMMISSIONER BOYERS: Not that they would be modified, but that the approach to determining by what point the deferred developer fee should have been paid would be modified and expanded to a 12-year period as opposed to a six.

MR. BURLISON: So you are saying that those would be modified?

COMMISSIONER BOYERS: The agreement itself -- I mean, I guess the developer agreement within each transaction wouldn't necessarily be modified. I'm not sure if I'm following you, Rex, but the oversight, if you will, by DED or the State would be modified to accept, if you will, a 12-year period during which it could get paid rather than a six.

COMMISSIONER REEVES: Hey, Zack, you might want to clarify that the State's shorter period is -- the federal is 12.

COMMISSIONER BOYERS: Yeah, the federal guidance is 12 years and the State is shorter than the federal, and so we're just trying to match them up.

COMMISSIONER REEVES: Yeah, and I think the discussion was that there's a number of projects in today's economic world that are not doing so well, and -- to say the least, in that the developer fee is probably by, you know, lenders or others continuing to be subordinated and withheld. So it probably won't be paid on time according to this original six-month -- or six-year window, so the discussion was to extend it to match the federal the way it is and give us more time to get some of those paid as opposed to putting these deals in default.

MR. BURLISON: But as I read this, there are developer fee agreements that are being looked at because they're not in compliance. And as I read the recommendation, it says --

COMMISSIONER WOOD: And the credit was issued on -- on -- and never got paid. So as a taxpayer, I have concern that I issued a tax credit on something that never ended up being paid, and I think where I see the problem with the committee report is we want to shorten or take that out in future deals because we're concerned they may not be paid, but yet the ones that are out there that are in trouble, we want to extend it. And I think there's real -- I think that it's a real disagreement or, you know, real controversy or opposites -- we're showing our opposites within our committee reports.

COMMISSIONER REEVES: It's a tough pill, but I think some of the original discussion or some of the original charge of this committee was be careful on deals that are in process or --

MR. BURLISON: And that's my point.

COMMISSIONER REEVES: -- so that you don't get anybody caught in the middle.

MR. BURLISON: Well, that's my point. All along, the discussion is no harm on existing, and yet, I see a recommendation, let's modify these for the guys that are already in trouble. And I think it's just so inconsistent with everything that's been put into this.

COMMISSIONER BOYERS: I think it's consistent entirely. What we're acknowledging is, is that this is, if you will, nebulous, difficult to predict and also subject to a lot of unexpected economic volatility that deals -- that have been approved and on which credits have been issued to date.

We're trying to address that issue by extending the administrative period from six to 12 years and make it consistent with federal. In the meantime, going forward, in order to, A, lighten the load on DED or anyone else in having to track this, and B, acknowledging that it's subject perhaps to future abuse, we will eliminate deferred developer fee from consideration as a QRE. And I think they're very consistent and we're solving both problems in that recommendation.

CO-CHAIRMAN STOGEL: Bill Hall.

COMMISSIONER HALL: Senator, with regard to the question of a $200,000 square foot new building or $200,000 square foot old building, I think there are two things to consider there. I think there is great advantage to recycling today, and environmentally, I think that's going to be very important and going to be increasingly important. And secondly, there are places where there is a sense of place, whether it's the town square in a small town or whether it's the Country Club Plaza which we have a big controversy going on about right now which Pete's in the middle of, or whether or not it's things in downtown St. Louis, that there is a sense of place which is important and sets those places apart and makes them more attractive to individuals.

So I don't think you can say, well, there's a 200,000 square foot historic building, let's take it down and put up a 200,000 square foot suburban office building without damaging that sense of greater place in some of those locations.

CO-CHAIRMAN GROSS: But my point is, what is the value of that sense of place? And that's the part that is more of a social than it is economic.

COMMISSIONER BOYERS: I think it's an economic driver, and I think that places that have successfully revitalized their urban quarters, including their historic fabric, have proven that there are economic drivers for the reason and the states that they're in. I mean, that's pretty well established if you look at other cities around the country that have done so. They tend to be more vibrant than those that don't.

CO-CHAIRMAN STOGEL: I'll only add one thing to Bill's comment which is part of the sense of place is putting people there, and given these old buildings and given the fact that there's commercial office vacancies there, the only way you're going to fill up these buildings and protect the economics of the cities and hopefully do something on Main Street, Mark's on that board and Main Streets everywhere needs help, is to allow residential to occur in them because in a thousand square feet of office building, you'll put three people, maybe four, and a thousand square feet of residential you'll put an apartment.

So it fills the volume of these buildings and puts life back in the city which is the driver of the whole state's economics. So Craig, you and I are just on opposites on that one.

COMMISSIONER VAN MATRE: We're pretty far apart.

CO-CHAIRMAN STOGEL: There are 31 favors of Baskin & Robbins just for that reason.

COMMISSIONER BOYERS: I'm more than happy to bring this report back to the subcommittee and acknowledging and embracing the conversations throughout the day.

I would just -- I want to just point out or articulate that the -- the reality of lowering the cap or the effect of lowering the cap in the current economic environment would have very little or no impact on the current budget. And in fact, the authorizations for credits will be down very, very far below the cap.

And that is what in part drove the subcommittee's recommendation; in other words, acknowledging that the State's economic constraints are greater today than they were four years ago. In fact, the cost of this program will be substantially less than it was three or four years ago. So it's just not inconsistent, I guess. I wanted to make sure that we sincerely did embrace, I think, the charge of the Commission and try to at least acknowledge it openly and with sincerity.

CO-CHAIRMAN STOGEL: We appreciate that, Zack. We have one last question, Zack, and we'll let you go.

COMMISSIONER ZIMMERMAN: I think it would be interesting to get the question answered that I asked about before because we might be getting excited about a lot of nothing.

CO-CHAIRMAN STOGEL: We're going to get more facts and we're going to give them to Zack and the committee is going to revisit it.

COMMISSIONER ZIMMERMAN: Because it might be a small percentage.

CO-CHAIRMAN STOGEL: Right. And everybody's had a clear, robust discussion, Zack. We know you're ten minutes behind your departure point, so thanks for sticking with us.

COMMISSIONER BOYERS: Okay. Thank you all.

CO-CHAIRMAN STOGEL: And thanks for your report and all the good work.

CO-CHAIRMAN GROSS: So we're going to

table the entire committee report and come back to it next week without objection. Let's table it. Mark, do you want to do the AHAP next week?

COMMISSIONER GARDNER: We can do it very very quickly. The AHAP is a donation credit, and what it's intended to do is produce donations so we can have --

THE COURT REPORTER: I'm having trouble hearing. I'm sorry, Mr. Gardner.

CO-CHAIRMAN STOGEL: Five more minutes. We'll talk about process going forward and we'll get you out of here 35 minutes late, but not bad for Amtrak.

COMMISSIONER GARDNER: The AHAP credit applies -- it's a donation credit -- it's an incentive for businesses and individuals to make donations for not-profit organizations, okay? The purpose of the donation is to either produce low-income housing where nonprofits earn some way of producing low-income housing for operating expenses for the nonprofits.

There's a cap of one million on operating assistance and ten million on production, the production relating to the housing. Now, I'm going to jump straight to our recommendation. This is administered through MHDC, it's an application process. Our recommendations are number one, to give some flexibility to MHDC to shift its cap -- effectively, it's $11 million cap -- to be able to move it around a little bit.

Right now there's a tremendous need for operating expenses. These not-for-profits need more operating money than perhaps production money. But right now it's capped at ten for production, one for operating. The suggestion was made we might reduce -- increase the operating cap to two to three million and reduce the production credit by the same amount. It is, by the way, 55 cents credit. So I mean, if you make the donation, you have 55 cents.

Secondly, we want to expand it so that it applies -- should be very noncontroversial. Expand it to include individuals without business income. Currently it does not apply to individuals without business income.

The third recommendation -- and this is the one that really we struggled with a lot more, and I personally worry about it a lot, and that is -- and I know you-all came up with a different conclusion, but we were concerned about trying to be consistent with what the other committees were doing.

We looked at it and said okay, it is a 55 percent, you know, everybody has to feel the pain and we have to do something too, you know, we have to cooperate, we have to make a cut or make some concession. We suggested we go from a 55 to a 45 on the donation, the amount of credit, or preferably just take a one million dollar cut in the size of the program because we're more concerned that by reducing the amount of the credit, that we're not going to raise more money, we're going to raise less money.

I mean, we have a real fear of being able to raise the donations. And we'd rather take a one million dollar reduction in the size of the program than we would to take a reduction in the percentage of the credit.

And that's pretty much it. But we're not married -- I mean, I'm going to tell you we're not married to either one of those, but that's the preference of the committee.

CO-CHAIRMAN GROSS: Anybody have an opinion on that which way you'd like to go?

(NO RESPONSE.)

CO-CHAIRMAN GROSS: No? In that case, we'll leave it tabled and come back to it.

CO-CHAIRMAN STOGEL: Next week there's a

dial-in number on Tuesday for global issues, and if we need to, we'll go over to Wednesday. There's supplemental reports due from --

COMMISSIONER MARBLE: Is that next week or the following week?

MR. BURLISON: The following week.

COMMISSIONER MARBLE: You keep saying next week.

CO-CHAIRMAN GROSS: Next week is global.

CO-CHAIRMAN STOGEL: Next week is global, global issues. On the 9th is --

COMMISSIONER MARBLE: I don't remember receiving anything.

COMMISSIONER WOOD: For everybody or just that subcommittee?

CO-CHAIRMAN GROSS: The committee.

COMMISSIONER WOOD: The full committee?

MS. HEMENWAY: It's just the subcommittee --

CO-CHAIRMAN GROSS: The global issues committee.

COMMISSIONER WOOD: Okay. We didn't get the notice for that. All right.

CO-CHAIRMAN STOGEL: The input today will be discussed on that global issue, and to the extent other Commissioners want to join in on that, I think today's learning would be we should invite everybody. So Chris, if you can include everybody and just expand your committee, Senator. There's obviously interactions between the global issues here.

The final report, supplemental reports, global issue report would be due next Friday to get everybody packages, and we're all going to caucus again to try to do final final's on the 16th and 17th.

Senator Gross and I have talked a little bit about trying to get a start on an overall report. It would be our goal to try to get something in your hands to put a framework on what the report is before the 16th so to bring more definition to that.

I've had a question that two days is an awful long time to ask people to commit, so maybe on the 16th we can take up certain credits and the 17th others, or do some more by conference calls. But the logistics of the 16th and the 17th are sort of open at the moment for people's attendance. So if you could look at your schedules and give us your best thoughts about what works for you, that would be helpful.

COMMISSIONER GIFFORD: In this same room?

CO-CHAIRMAN GROSS: Can I ask Sallie?

MS. HEMENWAY: We have quite a few hours for --

CO-CHAIRMAN GROSS: How is the 16th and the 17th?

MR. PIEPER: I'll find that.

CO-CHAIRMAN GROSS: Just around the table.

MR. PIEPER: So far I think we have an RSVP for the 16th from Jim Anderson, Zack Boyers on the 17th, Representative Flook?

COMMISSIONER FLOOK: Yes?

MR. PIEPER: Will you be available on the 16th or the 17th?

COMMISSIONER FLOOK: I can be available certainly on the 17th. Let me pull up my calendar real quick again. I've been invited to a seminar on the 16th, but I will forego that for this committee because I want to make sure we meet our timeline. I've already got it blocked out for you-all, so I just need to know the time.

CO-CHAIRMAN GROSS: 16th and 17th.

COMMISSIONER FLOOK: Both days are

blocked out.
MR. PIEPER: Representative Komo, David Kendrick.
(NO RESPONSE.)
CO-CHAIRMAN GROSS: Mr. Kendrick, are you on the phone?
(NO RESPONSE.)
COMMISSIONER WAGNER: Steve, Ray Wagner here. I plan to be here both days.
COMMISSIONER LEVI: The 16th is far better for me than the 17th. I have the 16th blocked out. The 17th is the more problematic.
CO-CHAIRMAN STOGEL: Well, it sounds like economic development could be the 16th and the 17th would be historic.
CO-CHAIRMAN GROSS: Any others, Chris?
MR. PIEPER: Alan Marble.
COMMISSIONER MARBLE: The 16th and 17th at least a half a day.
MR. PIEPER: Melissa Randol?
COMMISSIONER RANDOL: Yeah, I can make it.
MR. PIEPER: Penney Rector?
COMMISSIONER RECTOR: 16th.
MR. PIEPER: Craig?

COMMISSIONER VAN MATRE: Both days.

MR. PIEPER: Shannon?

COMMISSIONER JOYNER: Hello?

CO-CHAIRMAN GROSS: We'll get back to you in just a second.

MR. PIEPER: Is that Dee Joyner?

CO-CHAIRMAN GROSS: Is that Dee?

COMMISSIONER JOYNER: Yeah.

CO-CHAIRMAN GROSS: How are you looking for the 16th and 17th?

COMMISSIONER JOYNER: I plan to be there for both days.

CO-CHAIRMAN GROSS: Thank you. And then Senator Wright-Jones?

COMMISSIONER WRIGHT-JONES: Just for the 16th.

MR. PIEPER: Then I have RSVPs for everybody else.

COMMISSIONER FLOOK: This is Representative Flook. I have to sign off so I can make a phone call before the close of business hours, but you'll be sending out your notices, I'm sure?

CO-CHAIRMAN GROSS: I think we already have, but yeah, you'll get -- we'll confirm all that.

COMMISSIONER FLOOK: I have notice on

the 16th and 17th. I just want to make sure you're going to do an updated one.

CO-CHAIRMAN GROSS: Anything else for the good of the cause? Chris, you've got something to say?

MR. PIEPER: Just the motion.

CO-CHAIRMAN GROSS: Yeah, anything else before we adjourn? A lot of work to do between now and a week and a half from now. Motion to adjourn. Do we have a second?

COMMISSIONER LEVI: Second.

CO-CHAIRMAN GROSS: All in favor?

(AYE.)

(PROCEEDINGS CONCLUDED.)

C E R T I F I C A T E

STATE OF MISSOURI)
) ss.
COUNTY OF COLE)

I, Pamela Fick, Registered Merit Reporter and Certified Shorthand Reporter do hereby certify that I was personally present at the proceedings had in the above-entitled cause at the time and place set forth in the caption sheet thereof; that I then and there took down in Stenotype the proceedings had; and that the foregoing is a full, true and correct transcript of such Stenotype notes so made at such time and place.

Given at my office in the City of Jefferson, County of Cole, State of Missouri.

____

PAMELA FICK, RMR, CCR #447, CSR

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