



ENVIRONMENTAL QUALITY COUNCIL

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CHAS VINCENT
CRAIG WITTE

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CHRISTINE KAUFMANN
DANIEL MCGEE
JIM SHOCKLEY
ROBERT STORY JR

PUBLIC MEMBERS
JEFF PATTISON
BRIAN CEBULL
DIANE CONRADI
DOUG MCRAE

COUNCIL STAFF
TODD EVERTS, Lead Staff
JOE KOLMAN, Research Analyst
SONJA NOWAKOWSKI, Research Analyst
HOPE STOCKWELL, Research Analyst
CYNTHIA PETERSON, Secretary

MINUTES

Approved May 28, 2009

July 14, 2008

Room 102, State Capitol Building

Please note: These are summary minutes. Testimony and discussion are paraphrased and condensed. **Exhibits for this meeting are available upon request. Legislative Council policy requires a charge of 15 cents a page for copies of the document.**

Please note: These minutes provide abbreviated information about committee discussion, public testimony, action taken, and other activities. The minutes are accompanied by an audio recording. For each action listed, the minutes indicate the approximate amount of time in hours, minutes, and seconds that has elapsed since the start of the meeting. This time may be used to locate the activity on the audio recording.

An electronic copy of these minutes and the audio recording may be accessed from the Legislative Branch home page at <http://leg.mt.gov>. On the left-side column of the home page, select *Committees*, then *Interim*, and then the appropriate committee.

To view the minutes, locate the meeting date and click on minutes. To hear the audio recording, click on the Real Player icon. Note: You must have Real Player to listen to the audio recording.

COMMITTEE MEMBERS PRESENT

SEN. DAVID WANZENRIED, Chair
REP. CAROL LAMBERT, Vice Chair
SEN. BOB HAWKS
SEN. CHRISTINE KAUFMANN
SEN. JIM SHOCKLEY
SEN. ROBERT STORY JR
REP. NORMA BIXBY
REP. SUE DICKENSON
REP. JULIE FRENCH
REP. CHAS VINCENT
REP. CRAIG WITTE
MR. JEFF PATTISON
MR. DOUG McRAE
MR. HAL HARPER (for Mr. Mike Volesky)

MEMBERS EXCUSED

SEN. DANIEL MCGEE
MR. BRIAN CEBULL
MS. DIANE CONRADI

STAFF PRESENT

TODD EVERTS, Lead Staff
JOE KOLMAN, Research Analyst
SONJA NOWAKOWSKI, Research Analyst
HOPE STOCKWELL, Research Analyst
CYNTHIA PETERSON, Secretary

Visitors

Visitors' list ([Attachment 1](#))
Agenda ([Attachment 2](#))

COMMITTEE ACTION

There was no committee action taken.

CALL TO ORDER AND ROLL CALL

00:00:03 Rep. Carol Lambert, Vice Chairman of the Environmental Quality Council (EQC), called the meeting to order at 1:18 p.m. The secretary called the roll ([Attachment 3](#)). Hal Harper, Governor's Office, attended the EQC meeting on behalf of Mike Volesky.

AGENDA

ADMINISTRATIVE

EQC Budget Review

00:02:16 Mr. Everts reported the EQC budget is on track with a remaining balance of \$34,388.23.

STATUTORILY REQUIRED LAND BANKING REPORT

DNRC Staff

00:03:01 Director Sexton submitted and reviewed "Department of Natural Resources and Conservation's (DNRC) Land Banking Report" ([EXHIBIT 1](#)).

Public Comment

00:14:44 Mark Summer, a real estate consultant from Missoula, supports the land banking program because it adds a useful tool to the state land use program.

EQC Questions and Discussion

00:15:56 Sen. Wanzon asked whether the administration intended to wait until the 2011 legislative session to extend the program. Director Sexton replied the DNRC wanted to ensure it was on solid ground before making a proposal and verified there is no proposal at this time.

00:17:02 Mr. Pattison asked whether conservation easements are placed on the land that is sold, whether it is entirely private individuals who purchased the land, and whether conservation easements can be placed on federal land.

00:17:49 Director Sexton addressed Mr. Pattison's first question and responded deed restrictions can be placed on sold land, but for the most part, easements are already on the deed restrictions. In addressing federal conservation easements, Director Sexton explained the DNRC does not do federal conservation easements. Director Sexton clarified purchasers are private individuals and are, for the most part, the lessee.

00:19:34 Rep. French asked whether agricultural land has to remain in agriculture. Director Sexton responded that restriction is not in place. However, the DNRC does monitor the number of acres that are developed, and a real estate plan has to be followed.

00:21:06 Sen. Story asked how many parcels had been sold. Director Sexton responded 35 parcels had been sold. Sen. Story asked whether the \$6.4 million for the Flathead parcel was the net or gross price. Director Sexton responded the \$6.4 million represented the gross price and added that the improvements were minimal.

00:22:26 Jeanne Holmgren, DNRC, clarified the \$6.4 million was the net price, and the \$6.4 million went into the land bank account.

00:23:02 Sen. Story noted the DNRC is required to get market value or highest value and asked whether restrictions would run contradictory to getting the highest price. Director Sexton explained the land is appraised at its highest and best use and as if the land has access, so deed restrictions have had no impact. Sen. Story asked for clarification that once the land goes on the market, it becomes a matter of who will pay the most. Sen. Story thought deed restrictions would reduce the number of interested persons, thereby limiting the land's value. Director Sexton thought that would run counter to the DNRC's fiduciary responsibility and stated the lessee has an opportunity to meet the high-bid price. Sen. Story requested the appraised value of the Flathead property. Director Sexton responded the Flathead property had an appraised value of \$3.7 million.

- 00:26:16 Sen. Shockley addressed the isolated parcels in eastern Montana and suggested there would probably only be one bidder. Director Sexton clarified there were other bidders on the isolated parcels.
- 00:26:56 Vice Chairman Lambert asked whether the DNRC was able to acquire access to many of the parcels. Director Sexton responded no and explained it is the policy of the Land Board that the land be appraised as if it does have access. Vice Chairman Lambert noted if someone other than the lessee purchased the land, they may not have access. Director Sexton agreed that could be the case, and that the DNRC does not guarantee access.

DEQ LEGISLATIVE PERFORMANCE AUDIT UPDATES

Legislative Performance Audit Staff

- 00:30:50 Kent Rice, Senior Performance Auditor, Legislative Audit Division, directed the EQC members to the Performance Audit, "Improving Montana's Opencut Mine Permitting Process, June 2008" ([EXHIBIT 2](#)); the Performance Audit "Program and Policy Issues Impacting State Superfund Operations, June 2008" ([EXHIBIT 3](#)); and "Audit Assessment - Water Protection Bureau" ([EXHIBIT 4](#)). Mr. Rice gave a PowerPoint presentation regarding the performance audit updates.

DEQ Staff Response

- 00:38:29 Richard Opper, Director, Department of Environmental Quality (DEQ), addressed the audit process and the bottlenecks facing the DEQ. Director Opper acknowledged the DEQ's resource issues, but stated there were also ways the DEQ could improve its internal processes and the way the DEQ does business. Director Opper thought the audit process was valuable. Director Opper took exception to information in the press that portrayed the DEQ as a department in disarray.
- 00:42:15 Tom Livers, Deputy Director, DEQ, agreed with the need for a long-term funding source to fund the state superfund program, which would enable the DEQ to direct its efforts to the highest priority sites. Mr. Livers explained that successful cost recovery tends to drive the sites that receive priority. Mr. Livers discussed the recommendation to redirect funding that is currently going into the Orphan Share Account and stated DEQ is interested in pursuing that recommendation, but was unable to submit a placeholder for that specific legislation. Mr. Livers was hopeful the recommendation could be incorporated into the placeholder for the superfund legislation. Mr. Livers also reported on the DEQ's dramatic progress in cost recovery and stated legislative placeholders are in place for both programs. Mr. Livers concurred with the recommendations regarding operation changes.

Public Comment

There was no public comment offered.

EQC Questions and Discussion

- 00:48:36 Rep. Dickenson addressed Mr. Livers and Sandi Olsen, DEQ, and commented that because of funding, it appears those sites that get top priority are the ones that have cost recovery, while other sites that are threatening public safety remain inactive.
- 00:50:10 Sandi Olsen, Remediation Division, DEQ, explained a preliminary risk assessment is required as part of the listing process, so there is an understanding of each site's risk. Rep. Dickenson thought the preliminary assessment seems like a shallow assessment and asked whether there was a way to do more to assess the impact to public health. Ms. Olsen stated the listing process is a very public process that involves the affected communities. Ms. Olsen stated there are 24 high-priority sites that are not currently being worked on. Ms. Olsen explained the DEQ has not had the resources to identify the responsible parties.
- 00:53:33 Michael Trombetta, Chief, Hazardous Waste Site Cleanup Bureau, explained how contaminated sites are prioritized and receptors for contamination are identified.
- 00:55:45 Sen. Shockley recalled one of the issues that came before the Agency Oversight Subcommittee was that site manager positions experience frequent turnover and asked whether the DEQ had done anything to improve the stability of the site managers through increased compensation. Mr. Livers responded site manager pay was increased to at least 80 percent of market. Sen. Shockley recalled industry wanted the pay for site managers increased, and that the DEQ was significantly below market. Mr. Livers agreed there was a past tendency to undervalue DEQ environmental specialists.
- 01:00:25 Rep. Bixby addressed the tribal superfund sites and asked about the process for getting those sites off the superfund list and whether there were resources for tribes to address superfund sites. Ms. Olsen addressed Rep. Bixby and identified jurisdictional issues and clarified the sites are not addressed by the DEQ. Ms. Olsen explained there is a delisting process outlined in the rules. Ms. Olsen offered to provide Rep. Bixby a copy of the rules regarding the delisting process.
- 01:02:54 Sen. Wanzenried addressed legislative concerns and stated those concerns that would require legislative approval came after the conclusion of Director Opper's input for the Executive Planning Process (EPP). Director Opper agreed. Sen. Wanzenried asked whether it was possible for the process to be altered to include the findings. Director Opper responded the DEQ is too late for the initial round of the EPP. However, if priorities emerge after the DEQ submits its bills, pieces of legislation can be added with permission from the Governor's Office. Sen. Wanzenried clarified that none of the information identified in the findings would be included in the EPP and any action taken would be up to an individual legislator. Mr. Livers added the DEQ anticipated some of the improvement recommendations that came out of the audit and submitted placeholders for a number of the improvements. Mr. Livers explained that redirection of the Orphan

share account needs to be thought through to determine whether there would be unintended consequences before legislation is drafted. Sen. Wanzenried noted there would need to be changes in the appropriation levels to support the findings. Mr. Livers responded the changes are being built into the budget, except for the orphan share redirection.

- 01:09:44 Mr. Pattison addressed Mr. Livers and the funding operations for the Superfund Program and HJR 34 and asked if there was a time line and implementation plan in place. Mr. Livers agreed and stated many of the recommendations had already been implemented.
- 01:12:15 Mr. Pattison applauded the DEQ's efforts. Mr. Pattison asked how benchmarks and accountability were progressing. Mr. Livers could not specifically respond. Ms. Olsen submitted a graph indicating benchmarks and milestones for each site ([EXHIBIT 5](#)).
- 01:15:08 Mr. Pattison asked whether the pay increases outlined in HB 13 (2007) were working. Mr. Livers noted the DEQ is less than 10 percent general funded but believed steady and progressive steps had been made to increase the DEQ staff salaries.
- 01:17:51 Sen. Story recalled suggestions that statutory adjustments were needed to aid with cost recovery, but the audit showed 97 percent recovery. Mr. Livers stated the audit had indicated needed improvements. Sen Story addressed the table on page 14, Exhibit 3, and asked what was causing the program to grow. Mr. Livers identified a strong effort to recover costs and legislation which provided two specific infusions of cash that influenced the overall numbers. Mr. Livers was hoping to stabilize the revolving fund at a higher level. Sen. Story asked where money in the orphan share account comes from. Mr. Livers identified money received from the ground water assessment tax and oil and gas revenues. The orphan share account covers the responsibility of a company if the company is no longer in existence. Mr. Livers explained the fund balance is usually in excess of \$8 million, and the account is historically underutilized.
- 01:25:52 Vice Chairman Lambert noticed the DEQ had not had timely collections because it was not sending out timely bills, and some of the projects were not pre-approved. Vice Chairman Lambert asked whether any internal changes had been made. Mr. Livers explained DEQ's changed billing procedures and changes in the DEQ's staff.
- 01:27:27 Rep. Witte addressed the Orphan share account and asked where the money comes from. Barbara Smith, Legislative Fiscal Analyst, responded the revenue stream is from 2.96 percent of oil and gas production taxes and a portion of the ground water assessment tax. Rep. Witte commented the orphan share is coming from private individual taxes, and recalled it was implied that part of the DNRC's responsibility for the Kalispell Pole and Treating Plant (KPTP) site would come from the orphan share account.

01:29:15 Sen. Story recalled one of the problems the Petroleum Tank Release Compensation Board had with collections is that it ran into problems with the statute of limitations and wondered whether those same considerations could be problematic for the DEQ.

01:30:32 Mr. Livers responded that he was not aware of any statute of limitation problems, but stated companies that go out of business can be problematic. Mr. Livers clarified legislation passed in 2007 allowed the state to access orphan share funds. Ms. Olsen explained how the six-year applicable statute of limitations contained in CECRA is tied to final remediation.

Legislative Performance Audit Staff (Cont'd)

01:31:21 Mr. Rice continued his PowerPoint presentation and addressed the opencut mine permitting process audit.

01:36:51 Director Opper explained the controversial status of gravel pits due to their close location to new developments. Director Opper identified the voluminous amount of public comment received regarding permits for gravel pits and the impact the public comment has had on the DEQ's resources.

01:39:35 Sen. Shockley suggested if the DEQ is going to be required to provide a service to the industry and the state, the DEQ should be adequately funded. Sen. Shockley asked how much the DEQ is charging for a permit. Director Opper responded that, generally, the DEQ does not charge a fee for the permit. Sen. Shockley suggested the DEQ should charge a fee. Director Opper responded that the DEQ had tried unsuccessfully to pass permit-fee legislation during the past two legislative sessions.

Public Comment

01:43:33 Cary Hegreberg, Montana Contractors' Association, supported legislation in 2005 and 2007 to impose a fee to assist with the DEQ's administrative costs and backlog. Mr. Hegreberg explained that the DEQ had been unable to release reclamation bonds due to staffing shortages. Mr. Hegreberg believed the DEQ needs additional resources. Mr. Hegreberg also emphasized that over half of the opencut permits are publicly owned.

01:45:46 Gary Amestoy offered a historic perspective on the Montana Open Cut Mining Program and depicted the program as the "black sheep" of the mine permitting program. Mr. Amestoy emphasized that his comments were not solicited by anyone in the DEQ.

01:51:06 Jody Gryder, Gallatin County, outlined her problems with gravel pits that were permitted in her neighborhood. Ms. Gryder was concerned about negative environmental consequences and declining property values.

01:54:43 Rich Morris, a geologist and land and resource consultant in Bozeman, agreed with the recommendation of the DEQ audit regarding opencut mining. Mr. Morris

believed the program was underfunded, understaffed, and under-enabled. Mr. Morris believed there were too many issues in the high-growth areas for the DEQ to perform a meaningful environmental assessment within 30 days and suggested the period should be extended when necessary. Mr. Morris explained the system is designed to grant approval within 30 days and suggested the DEQ should have the ability to deny permits.

EQC Questions and Discussion

- 01:58:19 Rep. Dickenson asked Director Opper to comment on the concerns of local governments regarding increasing the open pit mining fees. Director Opper explained how counties and local governments operate their pits differently than private operators and are concerned about having to pay an annual fee. Director Opper stated the DEQ is attempting to work with local governments. Rep. Dickenson asked Director Opper to comment on the suggestion of linking open pit mining to the Montana Environmental Policy Act (MEPA). Director Opper explained how the time lines contained in MEPA and the Open Pit Mining Act conflict.
- 02:03:52 Sen. Wanzenried addressed Mr. Rice and asked about the conclusion that there was not enough information to determine whether more staff was needed. Mr. Rice explained there was a lack of management information to determine how long it takes to do an environmental assessment or to issue a permit. Sen. Wanzenried next addressed Director Opper and asked whether the DEQ will have sufficient management tools in place by the time the Legislature convenes to make the case that more FTEs are needed. Director Opper responded the DEQ would be able to justify the need for more staff and provide data indicating that need.

Legislative Performance Audit Staff (Cont'd)

- 02:07:13 Mr. Rice continued his PowerPoint presentation.
- 02:09:37 Director Opper added the auditors were directed to the Water Protection Bureau because the DEQ had concerns about the program. Director Opper stated improvements were being made to the process. Director Opper assured the EQC that there was no threat to public health from the backlog in the permitting program for water discharge permits.

Public Comment

- 02:12:10 Cary White, President, Gallatin County Planning Board, clarified the City of Bozeman is running on a temporary out-of-compliance permit. Mr. White believed there was a public environmental safety problem that was not being addressed. Mr. White thought private industry needed incentives--not more government.

EQC Questions and Discussion

- 02:15:25 Mr. Pattison asked whether it would be possible to utilize outside sources, such as watershed groups, that have already collected data if that data was made available to the DEQ. Director Opper responded the DEQ is open to using any credible data. Mr. Pattison requested formatting information the DEQ would require for the data.
- 02:18:11 Mr. Harper asked for clarification from Mr. White as to his official position. Mr. White clarified that he is President of the Gallatin County Planning Board. Mr. White believed government cannot solve all the problems and that assistance would also be needed from private industry. Mr. Harper asked Mr. White whether he believes that subdivision standards should be voluntary or whether there should be set standards. Mr. White agreed standards should be set but reiterated the City of Bozeman is operating on a temporary out-of-compliance discharge permit.
- 02:23:18 Sen. Hawks addressed Mr. White and asked for his estimation of the effects of unlimited well and septic tank development in the Gallatin Valley and whether development is a factor in water quality. Mr. White spoke about the Best Available Control Technology and the various processes that can be used to alleviate issues with septic tanks.
- 02:26:04 Rep. Dickenson was appreciative that the audits were requested by the DEQ. Rep. Dickenson commended the DEQ for being cooperative and open with the auditors and being receptive to the audit's recommendations.
- 02:27:34 Vice Chairman Lambert commended Mr. Rice and his department for conducting the audit and agreed the DEQ was very cooperative and is implementing most of the recommendations.

(BREAK)

CLIMATE CHANGE DISCUSSION DRAFTS AND BACKGROUND

Presentation of discussion drafts - staff

- 02:46:47 Sonja Nowakowski, Legislative Research Analyst, directed the EQC to her Memorandum Re: Climate Change Proposals dated July 1, 2008, and the 11 bill drafts regarding climate change ([EXHIBIT 6](#)).

LC 6006

- 02:50:11 Rep. Vincent addressed LC 6006 and the fact that federal guidelines required federal funds to be treated equally, so there is no way around indirect cost requests. Ms. Nowakowski agreed that was her understanding, but stated the League of Cities and Towns and transit providers could have a different interpretation. Rep. Vincent asked for clarification from the Montana Department of Transportation (MDT).

- 02:52:14 Dick Turner, MDT, clarified the Legislature directed all state agencies to recover the full amount of indirect costs from federal programs. Additionally, the federal Office of Management and Budget informed the MDT, through the Federal Highway Administration, that if it did apply indirect costs to any program or project, it had to apply the costs to every program or project and could not be selective.
- 02:53:30 Rep. French addressed transportation services in rural areas and stated it was her understanding that less money is received because of the federal match. Mr. Turner clarified Montana received a 240 percent increase, which dramatically increased Montana's public transit system and the number of providers. Rep. French stated the amount of money individual transit services receive is down. Mr. Turner responded it would depend on the agency. Rep. French expressed grave concern with Big Sky Airlines going away and not having any services for northeastern Montana. Mr. Turner agreed with Rep. French's concern.
- 02:58:06 Jim Helgeson, General Manager, Great Falls Transit District, and President of the Montana Transit Association, agreed fuel costs are impacting everyone.
- 03:00:18 Sen. Story addressed cost recovery and asked if when the MDT applies for federal funds, the federal funds turn into match money. Mr. Turner agreed, but did not have the exact figures. Sen. Story pointed out that changing will affect the amount of projects that can be handled because the state will not have the match for federal highway funds.

LC 6005

- 03:02:19 Rep. Dickenson addressed LC 6005 and stated she would like to add language indicating the report will contain more than it did previously to conserve energy. Rep. Dickenson suggested adding the language "additional annual measures that conserve energy." Rep. Dickenson would like to see the clarification made both in the title and in the bill draft. Rep. Dickenson stated she would like to see a little more energy conservation done every year.
- 03:04:37 Sen. Story suggested identifying what energy conservation was done last year.

LC 6002

- 03:05:19 Rep. Vincent addressed LC 6002 and asked for input from the EQC regarding not removing the sunset of December 2009 for the credit for air quality permitting fees. Rep. Vincent questioned the need for a credit that had only been used twice in five years.
- 03:06:46 Rep. Dickenson suggested adding language that would make the tax incentives applicable for other things besides air quality permits.
- 03:07:42 Sen. Story identified parking lot resurfacing as one potential use for glass.

- 03:08:42 Sen. Kaufmann agreed with Rep. Vincent and suggested not keeping a tax credit that is not used. Sen. Kaufmann suggested addressing how to make the tax credit more applicable and useful.
- 03:09:28 Sen. Hawks believed there are businesses that can make decorative walls out of broken glass, and noted glass is a major problem since it falls out of recycling.
- 03:10:14 Ms. Nowakowski directed the EQC to LC 6003 which provides a different option for promoting recyclable materials and creates the Recycling Grant Act.

LC 6000

- 03:11:25 Ms. Nowakowski provided an explanation of LC 6000, which would remove the sunset date on funding from the Coal Severance Tax Permanent Fund that is appropriated to the Montana Manufacturing Extension Center, the Growth through Agriculture Program, and the Montana Cooperative Development Centers.

Public Comment

No public comment was offered.

EQC Questions and Discussion

- 03:14:07 Mr. Pattison expressed difficulty understanding how the DEQ would encourage owners to recycle.
- 03:14:39 Ms. Nowakowski clarified no money would be given directly to the DEQ, and the additional \$100,000 would go to the Montana Manufacturing Extension Center, which would work in conjunction with the DEQ.
- 03:16:17 Sen. Story pointed out the difference in the amount of money gained from the interest and the amount actually utilized and suggested a need to think about rolling the remaining interest money down. Ms. Nowakowski agreed and clarified the EQC directed her to just look at the three specific programs and stated the remaining interest would revert to the General Fund. Ms. Nowakowski stated the Governor's Office is attempting to assure that all programs receiving Coal Severance Tax money continue to receive the money through 2010.
- 03:18:08 Mr. Harper stated the Governor's Office is cautious in making increases to programs since the budget forecasts may be going down in the future.
- 03:18:56 Rep. Dickenson noted the Montana Manufacturing Extension Center comments that it does not want to be connected to the DEQ because it might hurt their image. Ms. Nowakowski agreed with Rep. Dickenson's summary. Rep. Dickenson suggested the Montana Manufacturing Extension Center is already providing core services, but LC 6000 will provide additional services.

03:21:15 Sen. Shockley requested clarification that the bill drafts would not be committee bills. Vice Chairman Lambert agreed. Ms. Nowakowski clarified the EQC would decide which proposals would move forward as EQC bills, be put out for public comment, and how those proposals will look.

LC 6001

03:23:24 Ms. Nowakowski explained LC 6001 would create a loan program to assist cities, towns, tribal governments, and non-profit entities in developing recycling technologies or obtaining recycling equipment to be used at local landfills.

Public Comment

No public comment was offered.

EQC Questions and Discussion

03:26:26 Sen. Story commented that no proposal had ever been successful in raiding the Junk Vehicle Fund. Sen. Story commented on the value of junk cars.

03:27:04 Sen. Shockley provided a narrative about people trucking cars back to southern California from eastern Montana.

03:27:45 Rep. Vincent requested Mr. Harper to comment on LC 6001.

03:28:05 Mr. Harper could not immediately comment on taking \$1 million from the Junk Vehicle Fund and creating a loan program and stated he would need further information.

LC 6002

03:28:56 Ms. Nowakowski provided an explanation of LC 6002, which would eliminate the sunset on three tax incentives currently in place for recycling.

EQC Questions and Discussion

03:30:35 Vice Chairman Lambert requested clarification on making changes to the bill drafts. Ms. Nowakowski stated the EQC could make proposed changes. Sen. Wanzenried stated there would also be an opportunity for changes before the EQC's September meeting based upon public input and comments.

03:31:08 Rep. Witte added the bill drafts could also be amended during the legislative process. Sen. Wanzenried agreed.

Public Comment

03:31:52 Lou Moore, DEQ, pointed out LC 6002 makes permanent a tax deduction and tax credit that impacts the recycling of glass in Montana. Ms. Moore commented the Solid Waste Advisory Council is aware of the proposal.

03:33:08 Sen. Kaufmann addressed eliminating the connection between air quality and glass while still providing some benefit to the smaller users of glass. Ms. Moore agreed.

LC 6003

03:33:53 Ms. Nowakowski reviewed discussion draft LC 6003, which would create more markets for recycled materials through research and education.

Public Comment

No public comment was offered.

Options for addressing Value-Added Agriculture under SJR 13

03:36:51 Hope Stockwell, Legislative Research Analyst, addressed the options for addressing value-added agriculture under SJR 13.

03:38:40 Mr. Pattison asked what factors would be used to estimate costs. Ms. Stockwell did not readily have the requested information and stated further research would be required.

LC 6004

03:40:26 Ms. Stockwell reviewed LC 6004, the tax abatement to promote the use of raw materials in food production that are grown in Montana.

Public Comment

03:42:14 Cary White requested clarification on what type of verification would be used to determine the taxable value, how it would be tracked, and what kind of Department of Revenue (DOR) personnel would be required. Ms. Stockwell stated purchasing and delivery receipts could be easily used.

EQC Questions and Discussion

03:44:08 Sen. Hawks asked whether there was any sense about the potential impact on schools. Ms. Stockwell responded that Pasta Montana believed it would make a sizeable impact. Sen. Hawks envisioned a need to know what the potential fiscal impact would be.

03:45:57 Sen. Story wondered whether there was a definition in statute of what constitutes a food production facility. Ms. Stockwell stated "food production facility" would need to be defined either by statute or in DOR's rulemaking. Sen. Story thought a production facility could include farmers' markets. Sen. Story suggested moving forward with the proposal and being cognizant of potential pyramids.

03:48:37 Rep. French asked whether LC 6004 would apply to existing or new facilities. Ms. Stockwell clarified LC 6004 would apply to everyone. Rep. French thought some

communities could benefit from the proposal and that it could lure businesses into rural areas.

- 03:49:43 Rep. Witte commented on how truck gardens and personal gardens could qualify.
- 03:50:32 Sen. Kaufmann stated the idea of the proposal is to stimulate people to consume food that is grown in Montana.
- 03:51:25 Vice Chairman Lambert asked whether farmers' market participants would be eliminated.
- 03:51:46 Sen. Story responded there were policy decisions to be made and the idea came from a desire to reduce transportation costs and resulting emissions from shipping products out of state and shipping finished products back.
- 03:53:17 Mr. Harper identified the real incentive as providing incentives to state institutions for purchasing local food.
- 03:54:11 Sen. Shockley stated there would be a problem with the federal government if universities were required to purchase food grown in state.

Letter to MUS

- 03:55:07 Ms. Stockwell addressed the letter dated May 20, 2008, to Sheila Stearns, Commissioner of Higher Education, requesting assistance from the Montana University System in tracking the production and consumption of locally grown foods and advancing biomass technologies.
- 03:56:09 Rep. French asked whether the EQC had received a response from Commissioner Stearns. Sen. Wanzonried replied no response had been received.

LC 6005

- 03:56:40 Mr. Everts addressed LC 6005, which would require the MDT to report biennially to the Revenue and Transportation Interim Committee on conservation measures, and offered to answer questions.

Public Comment

No public comment was offered.

EQC Questions and Discussion

- 03:57:26 Mr. Harper commented the Governor had issued the 20/10 initiative that directs all state agencies to save 20 percent by the end of 2010. The initiative also contained a challenge to MDT to save money. Additionally, legislation was passed encouraging fuel efficiency for the motor pool. Mr. Harper spoke about a

recent directive from the Governor advancing the use of technology as a way to promote energy conservation for Montana boards, councils, and commissions. Mr. Harper pointed out that the majority of the state owned vehicles are not part of the motor pool and that various state agencies also own vehicles. Mr. Harper also directed the EQC to the car pooling schedule available on the motor pool website.

04:01:56 Sen. Story commented on the broadness of the language in LC 6005.

LC 6006

04:04:27 Ms. Nowakowski provided an explanation of LC 6006, which would update and remove any restrictive statutes related to mass transit.

Public Comment

04:07:15 Lyn Hellegaard, State Coordinator for the Montana Transit Association, identified the Indirect Cost Allocation Program (ICAP) on transit providers as also being a hardship. Ms. Hellegaard explained how fuel costs are causing transit associations to lose volunteers. Ms. Hellegaard explained that Montana's senior population will soon be the fourth largest in the nation. Ms. Hellegaard also identified veterans returning from Iraq as having an impact on the transit system. In addition, proposed federal legislation will prohibit transit providers from being able to seek medicaid reimbursement for non-emergency medical travel. Ms. Hellegaard stated that during the past 11 years, the van pool has saved over 19 million trips and prevented in excess of 600 tons of emissions.

EQC Questions and Discussion

04:10:17 Rep. French wanted to know what the charge was per fare. Ms. Hellegaard explained fares are charged on a sliding scale, and the more a person travels, the less the fare.

04:11:54 Rep. Dickenson asked whether the proposed allocation of .59 percent would be adequate. Ms. Hellegaard responded .59 would not be adequate, but it would be helpful. Rep. Dickenson asked whether .25 a vehicle would be better than .59 percent. Ms. Helgeson could not say with any specificity.

04:13:59 Sen. Story provided background information on the motor vehicle money. Sen. Story asked whether there were any impediments in statute keeping the private sector from starting public transportation services. Ms. Nowakowski responded the 2005 Legislature passed HB 273, which exempted rural transportation providers from Public Service Commission authority.

04:17:14 Mr. Harper explained Pam Cote was part of a car pooling system out of Butte and the impediment was the discrepancy in times people need to be picked up and dropped off. Mr. Harper explained a state ID card will allow state employees to ride free on the Helena trolley and bus system.

04:18:34 Sen. Shockley commented that when a state agency digs into its pocket, it is digging into taxpayer pockets. Sen. Shockley also believed non-profits make a profit, but do not pay taxes.

LC 6007

04:19:53 Mr. Kolman provided an explanation of LC 6007, which would provide additional funding from oil and gas revenues for residential weatherization programs.

Public Comment

No public comment was offered.

LC 6008

04:23:59 Ms. Nowakowski provided an overview of LC 6008, which would expand tax credits and provide more incentives for low-income property owners to weatherize.

Public Comment

No public comment was offered.

EQC Questions and Discussion

04:25:54 Rep. Witte addressed the eligibility requirement for the credit being set at a Montana adjusted gross income of less than \$12,590 and recalled on the Montana State Income Tax form the amount is \$13,900. Ms. Nowakowski stated the number came from the 2007 Earned Income Tax Credit. Rep. Witte was concerned whether an individual with such a limited income would be able to commit \$800 toward weatherization.

04:27:49 Mr. Pattison posed a hypothetical question regarding Section 8 housing recipients and asked whether those individuals would qualify. Ms. Nowakowski explained the proposal is aimed at providing an incentive for renters.

04:28:53 Jim Nolan, Department of Public Health and Human Services (DPHHS), explained Section 8 housing is primarily for renters, and the renters would need permission from the landlord to do any work. Mr. Nolan did not believe many Section 8 housing recipients would utilize the tax credit.

04:29:36 Mr. Pattison imagined most landlords would not have a problem with the upgrades, and the renter would see the benefit. Mr. Nolan commented it is extremely difficult to get landlords to participate.

04:30:47 Sen. Hawks recently attended an energy conference through the National Council of State Legislators (NCSL) and learned about another funding scenario for weatherization. Sen. Hawks explained the program allows the energy supplier

to provide a program of payment for the installation of energy-efficient provisions in a home.

04:32:31 Sen. Story stated the Department of Revenue is bringing a similar bill.

04:33:19 Rep. Dickenson explained other grant and loan programs available for weatherization.

LC 6009

04:34:13 Mr. Everts reviewed LC 6009, which would require the EQC to conduct an interim study on biomass, and offered to answer any questions.

Public Comment

04:35:05 Mr. White depicted LC 6009 and LC 6010 as critical to Montana. Mr. White stated there are 900,000 acres of beetle kill in Montana and suggested the Governor should declare a disaster or emergency to address federal land. Mr. White explained that the cost of a firewood permit is \$15 and is limited to five tons. Mr. White was also concerned about the Forest Service limiting motor vehicle access to federal land. Mr. White did not understand why Montana would spend millions of dollars to protect a resource that is not used. Mr. White encouraged the EQC to address biomass.

04:39:05 Ellen Simpson, Montana Wood Products Association, supported a study for utilization of biomass. Ms. Simpson cautioned against unintended consequences and noted some mills use only residuals and biomass. Ms. Simpson explained that finding markets could be difficult.

04:41:33 Sen. Shockley believed the DEQ is decreasing the use of biomass for heat through air quality standards. Sen. Shockley believed the wood could either burn in a wood stove in January or burn in the forest in August.

LC 6010

04:42:53 Mr. Everts reviewed LC 6010, a resolution in support of the National Association of Counties' regarding hazardous fuels emergencies.

Public Comment

04:43:27 Mr. White supported LC 6010.

04:43:42 Ms. Simpson, Montana Wood Products Association, supported LC 6010.

EQC Questions and Discussion

04:44:15 Rep. Dickenson expressed concern about excluding the protections of the National Environmental Policy Act (NEPA) and taking away individual rights. Rep. Dickenson requested more information.

LC 6011

04:46:36 Mr. Everts provided an explanation of LC 6011 and recalled past proposed legislation. Mr. Everts provided an explanation of the Leadership in Energy and Environmental Design (LEED) standards.

Public Comment

04:49:34 Ms. Moore stated the DEQ supports energy efficiency standards for new building construction and would be proposing additions to the proposed legislation.

04:50:49 Ms. Simpson opposed LC 6011 relating to the LEED standards for state buildings. Ms. Simpson submitted information entitled "Montana's Wood Products and LEED, July 14, 2008" ([EXHIBIT 7](#)).

EQC Questions and Discussion

04:59:15 Rep. Witte asked whether there were other standards that should be considered. Ms. Simpson agreed there were other standards and certifications and identified the American Tree Farm System and the Sustainable Forest Initiative.

05:00:40 Rep. Dickenson asked whether the source of wood used in a building was only one place where points could be accumulated. Rep. Dickenson also wanted to know if there were other standards that accomplished the goal of energy efficiency and conservation. Ms. Moore agreed there are no systems in Montana that have wood certified to qualify for the point. Ms. Moore stated there are other building performance standards available, and noted other states use standards that are LEED or LEED equivalent. Ms. Moore agreed that LEED is not a perfect system.

05:02:33 Sen. Hawks addressed LEED and stated there is a recognition of the weakness and that part of the weakness is referred to as the "imbedded factor" and includes the cost of transporting materials and the cost of producing materials. Sen. Hawks commented the LEED certification test is very difficult, and there would be a need for certification of builders if they are going to be involved in green buildings. Sen. Hawks informed the EQC that 50 percent of Montana's energy is consumed by buildings. Sen. Hawks envisioned a need to educate the public and provide incentives. Sen. Hawks suggested asking builders to agree to become voluntarily certified. Sen. Hawks agreed to include qualifying statements that reference LEED equivalent standards.

05:06:18 Sen. Story suggested expanding the proposal to include newly constructed leased facilities.

05:07:17 Mr. Harper stated the Governor's Office is in the process of auditing all the major state buildings and will be submitting specific proposals to the Legislature.

The EQC recessed until 8:00 a.m., July 15, 2008.