



ENVIRONMENTAL QUALITY COUNCIL

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July 1, 2008

To: Environmental Quality Council members
From: Sonja Nowakowski, EQC staff
Re: Climate Change Proposals

EQC members:

This memo is intended to serve as a brief overview of the attached draft legislation and reports. During the May meeting, members directed staff to develop a series of discussion drafts, letters and reports.

In completing the assignment, staff worked with various agencies in an effort to collect adequate background information for the Council, as well as to complete bill drafts that correspond with the Council's direction. Agency staff who provided information to assist staff also have been invited to the EQC's July 14-15 meeting to answer additional Council questions.

During the July meeting, the council will review and further refine the information. The discussion drafts that are revised and approved will then be put out for a formal public comment period in August. The council will make a final decision on the legislation at its meeting in September.

1. **LC6000.** Legislation to increase funding for Montana Manufacturing Extension Center (through Coal Severance) and request additional funds be used to promote and develop recycling technologies.

LC6000. Legislation to eliminate the sunset on funding (through Coal Severance) for Growth through Agriculture program and Montana Cooperative Development Centers.

- These two requests were combined into one discussion draft.
- The interest income from the coal severance tax permanent fund is set to expire in 2010.
- The discussion draft removes the sunset date, continuing the \$65,000 allocation to the Cooperative Development Center and \$1.25 million for the Growth through Agriculture program.
- In addition, the discussion draft increases the allocation to the Montana Manufacturing Extension Center from \$200,000 to \$300,000.

- The draft requires that 35% (\$105,000) of the Montana Manufacturing Extension Center funding be used in collaboration with the Department of Environmental Quality to encourage manufacturers and commercial business owners to recycle.
- A biennial report to the EQC on such activities also is required.

Additional notes: The Department of Agriculture has requested continued funding at these levels for the programs in its proposed budget, however, the request has not yet gone through the Governor's Office. The Department of Agriculture also has indicated to OBPP it will pursue a legislative request if it is not included in the budget. The \$1.25 million represents nearly 70% of the Growth through Agriculture budget. The coal severance funding provides 25% of the Montana Cooperative Development Center program budget, which uses the money to leverage federal dollars.

The Department of Commerce has requested continued funding at the \$200,000 level for the Montana Manufacturing Center in its budget request, which also has not yet gone through the Governor's Office.

MMEC uses the \$200,000 provided by the coal severance tax as a state contribution (match) to obtain \$512,000 per year from the National Institute of Standards and Technology's Manufacturing Extension Partnership (NIST MEP). Technically, this is not a grant; it is a Cooperative Agreement with NIST MEP. MMEC is required by Congress to match on a 2:1 ratio, so needs just over \$1 million in non-federal funds. MMEC also charges clients for services and has other non-federal sources of cash and in-kind match through a variety of partnerships and activities. MMEC's typical annual cash budget is about \$1 million, with the \$200,000 providing about 20% of the budget. The remaining \$500,000 is non-cash. The Manufacturing Center also provided **background information and comments on the draft**. The information is attached to the draft.

2. **LC6001.** Legislation creating a loan program to assist political subdivisions of the state, including local and tribal governments, in developing recycling technologies and equipment at local landfills.

- The draft creates a \$1 million recycling equipment revolving loan account to the credit of the DEQ. The money is a one-time transfer from the junk vehicle disposal fund into the new account.
- Loans can be provided to local governments, universities, tribes, and non-profit organizations. (For profit entities and private enterprise are not eligible.) The money must be used to assist in the purchase of equipment and machinery.
- The loan amount may not exceed \$50,000 and must be repaid in 10 years.
- DEQ is granted rulemaking in administering the low-interest loan program.
- Outcome measures include a loan loss ratio under 5%, tracking and reporting of loan amounts and purposes, an assessment of the loans impact on the amount and type of recycling, and an estimate of the amount of material diverted from the local landfill for the 3 years following the loan.

Additional notes: There is currently a \$4.2 million fund balance in the junk vehicle disposal account. The programs total appropriation is \$2.4 million, and about \$1.9 million has been spent to date. A portion of the program revenue, as required by 75-10-534, MCA, is returned to Montana counties for county junk vehicle programs.

The fund balance can be attributed to increased scrap metal prices. The program administrator indicated the additional revenue, however, has a flip side. For about the last 12 months, scrap metal prices have been on the rise. However, high metal prices also have reduced the number of vehicles being hauled and junked through the program. In Yellowstone County, for example, the lot usually holds between 600 and 700 junk vehicles. It currently sits with about 200 vehicles in the lot. Missoula County is in a similar position. Because of scrap metal prices, more people are choosing to strip down and junk their own vehicles, rather than have the county handle it. The increased revenue then is not expected to continue, according to program administrators.

3. **LC6002.** Legislation to eliminate sunsets on tax incentives for recycling. This includes the recycled materials tax deduction (Dec. 2011 sunset) and the credit against air permitting fees for certain uses of post-consumer glass (Dec. 2009 sunset). It also includes the tax credit for investments in property or equipment used to collect or process reclaimable materials. (Dec. 2011 sunset)

- The credit against air quality permitting fees for certain uses of post-consumer glass in recycled materials terminates in Dec. 2009. (75-2-224, MCA)
- The amount of the credit is \$8 for each ton of post-consumer glass used as a substitute for nonrecycled material. The maximum is \$2,000 or the total amount of fees, whichever is less.
- The discussion draft eliminates the termination date for the tax credit for investment in property used to collect or process reclaimable materials. (15-32-601, MCA) It expires in Dec. 2011.
- The amount of the credit is determined in accordance with a percentage of the investment cost, i.e. 5% of the cost of the property on the next \$500,000 invested.
- The deduction, 10% of the taxpayer's expenditures for the purchase of recycled materials, expires in January 2012. (15-32-610, MCA)

Additional Notes: The DEQ/Air Resources Management Bureau applied the postconsumer glass credit twice in the past five years: a.) Holcim US Inc. -- received a credit of \$581 in billing year 2002 and Holcim received a credit of \$1,500 in billing year 2003. The DEQ does not have a position for or against the credit. As a point of information, the credit is a benefit to recycling glass only to those businesses or industries that need an air permit. At one time, the credit was a benefit to a few companies that used glass and had an air quality permit, according to DEQ. Currently, the businesses that are using glass are not likely to be covered by air permits, so they do not receive a benefit. For example, glass is being used as an aggregate in concrete by a construction company, by a tile artist, and for bedding for pipes in construction. Use of the credit for investment in property used to collect or process reclaimable materials has increased, with 89 taxpayers claiming the credit for a total of \$797,243 in 2006. This is an

increase from \$431,512 in 2005. Purchasing equipment to collect, store, and process recycled materials is necessary to expanding recycling operations but can be cost prohibitive, according to the DEQ. The agency also added, "this tax credit assists with an ongoing need that is not likely to go away."

The DEQ provided the following comments on the deduction: "In order to meet goals for recycling, it is necessary to create a complete loop. Goods must be collected for recycling, processed into new goods, and then purchased by consumers. The credit and deduction work together to assist in completing the loop. The deduction helps create the demand to purchase recycled products that helps to drive the demand for materials to be recycled."

The Department of Revenue provided the following information on the deduction for EQC use:

Deduction for Business Use of Recycled Material		
Tax year	Taxpayers claiming credit	Amount of credits
2005	62	\$13,049,514
2006	65	\$21,368,400

4. LC6003. Legislation that assists in creating more markets for recycled materials through research and education.

- The draft creates a recycling and waste reduction grant act.
- An advisory council, appointed by the DEQ director, assists the department in awarding the grants.
- The department is granted rulemaking authority to provide for grant application procedures and procedures for awarding grants on an annual basis through a competitive process.
- Two alternative funding mechanisms are offered in the draft to provide about \$440,000 for the grant program.
- Council expenses, administration costs and allocations to the department for statewide advertising and workshops related to recycling are limited to 15% of the total. The restriction leaves about \$375,000 to be awarded through the grant process.
- The first funding mechanism is a 35 cent per ton fee on solid waste. The second funding mechanism allocates 1.2% of the coal severance tax revenue to fund the program.
- If the fee is used as a funding mechanism, the draft requires the payees to have priority in the application process. If the second funding mechanism is pursued, the priority status would need to be reviewed.
- Grants would be used to purchase equipment, promote the expansion of waste reduction and recycling businesses, research and demonstrate how waste reduction and recycling can be applied to Montana markets, assist in market development activities that develop local uses for recycled materials, and to conduct educational activities.

Additional notes: The 35 cent per ton fee on solid waste would generate an estimated \$440,000

annually. The tonnage for FY 2009 is estimated to be 1,241,652 tons. In accordance with the state's Integrated Waste Management Plan, that tonnage is expected to decrease by about 2% annually due to increased recycling. The amount available for grants would then decrease over time.

The alternative funding mechanism allocates 1.2% of coal severance tax collections to the program. Based on LFD revenue projections of \$36.164 million for FY 2009, this funding mechanism would generate about \$434,000 for the program. This would decrease the percentage of coal severance tax revenues credited to the state general fund from 26.79% to 25.59%.

Number of tipping fee paying solid waste management facilities in Montana (Note: If the tipping fee were to increase, the following stakeholders would potentially be impacted: MACo, League of Cities & Towns, and those represented by the Solid Waste Advisory Council, according to DEQ)	
Classification	Number
Class II Major	11
Class II Intermediate	13
Class II Minor	9
Major Transfer Station	5
Minor Transfer Station	5
Large Composters	5
Major Soil Treatment Facility	4
Class III Major	16
Class III Minor	38
Class IV Major	1
Class IV Minor	1

5. Receive a **report** on potential legislation being pursued by the **Economic Affairs Interim Committee** concerning S.J. 13, a study of methods and recommendations to add value to Montana agricultural products through redevelopment of a food processing industry.

- The Economic Affairs Interim Committee was presented with four potential options for addressing value-added agriculture during their May meeting.
- Options include a.) increase the number of food innovation centers. b.) encourage in-state collaboration for value-added agricultural production. c.) increase funding for meat inspectors. d.) increase vocational technical college budgets to respond to local value-

added agriculture production needs.

- The EAIC did not act on the proposals, and they have not been scheduled for further consideration. The EAIC next meets July 17-18.

6. **LC6004.** Legislation to provide tax incentives or tax credits to use Montana raw materials for production of food in Montana.

- The draft provides a tri-phase tax abatement for food production facilities, based on the percentage of Montana grown raw materials used in their production.
- Greater use of Montana grown materials results in a larger tax abatement, up to 50% for a ten year period.
- Some of the technical structure of the abatement is similar to the "Clean and Green" proposal, HB 3, passed in the May 2007 Special Session.

Additional notes: The Department of Agriculture provided comments on the overall idea of legislation, and those comments are attached.

7. Send a **letter** to the Commissioner of Higher Education encouraging Montana universities to track, as economically as is feasible, the amount of locally grown food produced and consumed in Montana. Send a **letter** to the Commissioner of Higher Education asking Montana's universities to provide a report and recommendations on biomass, specifically the feasibility of the collection, processing, transportation, storage, and distribution of forestry and agricultural residues, as well as market development or expansion for these materials.

- Issues of biomass and tracking of locally produced and consumed food combined into one letter.
- Letter approved by Chair and Vice-chair and mailed May 20, 2008.
- Requests Montana University System for help in developing a formal tracking system of locally grown foods.
- Requests a report and recommendations from MUS in the next biennium on the feasibility of the collection, processing, transportation, storage, and distribution of forestry and agricultural residues, as well as ideas on expanding the market for biomass materials.

8. **LC6005.** Legislation requiring the Department of Transportation to provide a report to the **Revenue and Transportation Interim Committee** on measures that the Department is taking to conserve energy in the transportation sector and conservation measures specific to city street design each interim.

9. **LC6006.** Legislation to update and remove any restrictive statutes related to mass transit.

- The discussion draft increases the percentage of motor vehicle revenue directed to the

senior citizen and persons with disabilities transportation services account included in 15-1-122, MCA.

- The percentage increase would generate an estimated \$630,000 to \$660,000 for TransADE, Transportation Assistance for Disabled and Elderly, an amount similar to what was collected prior to the 2005 change in the allocation of motor vehicle registration revenues.

Additional notes:

In 2001, the Montana Legislature approved S.B. 448. The bill created a senior citizen and persons with disabilities transportation services account in the state special revenue fund, 7-14-112, MCA.

The Department of Transportation uses the account to award grants to counties, incorporated cities and towns, transportation districts, and nonprofit organizations for transportation services using guidelines established in the state management plan for the purposes described in 49 U.S.C. 5310 and 5311. (Providing services for persons 60 years of age or older, persons with disabilities and for public transportation in rural areas.)

A 25 cent vehicle license and registration fee was deposited into the account to sustain the program. In FY 2004 the fee generated \$629,442.

In 2005, the Montana Legislature approved S.B. 285, which revised how motor vehicle fees are collected and distributed. It eliminated the 25 cent fee and instead allocated .59% of the motor vehicle revenue deposited in the state general fund in fiscal year 2006 and 0.31% of the motor vehicle revenue deposited in the state general fund in each succeeding fiscal year to the account. In FY 2006 (at .59%) the fee generated \$665,891

Under the current statute, the program receives .30% of the motor vehicle revenue. Following the revision, the allocation to the account has substantially decreased. In FY2007, the allocation provided \$298,018 and to-date for FY 2008, it has generated \$307,812.

In 2007, the Legislature approved S.B. 160, which allowed money in the account to be used for purposes in 49 U.S.C 5311. The change was prompted by a 240% increase in Federal Section 5311 funding beginning in 2006, which required a nonfederal match. However, because revenues in the senior citizen and persons with disabilities transportation services grant has declined, the department has been limited in its ability to maximize use of the 5311 funding.

Staff spoke with several transit providers in the state, inquiring about potentially restrictive statutes related to mass transit. Several noted that in 2005, the Legislature approved H.B. 273, which exempted rural transportation providers from Public Service Commission authority. That legislation addressed the most immediate issue. However, transit providers all discussed various concerns with funding. The change in the account mentioned above, more commonly referred to as TransADE, was mentioned by most providers. The Montana Transit Association (MTA) also mentioned:

- Excluding transit providers from the recovery of indirect costs, required by H.B. 21 of the 2002 Special Session. Indirect costs are applied to all federal funds provided to MDT grantees. An example of the impact, according to MTA, is as follows: Current match on

operating is 46%; administrative is 30%; Capital is 14%; the indirect cost rate will increase from 12.25% to 14.06%, reducing the amount available for program expenditures. MTA raises concerns about money going toward administrative costs (i.e. indirect or overhead costs) rather than capital and program expansions. MDT staff raises the issue that federal guidelines require federal funds be treated equally by MDT, unless prohibited by the federal government. Indirect costs are recovered from all highway, transit, aeronautics, and highway traffic safety funding, consistent with federal and state guidelines.

- Requiring a review of Urban Transit Districts every 5 years or in conjunction with the decennial census review/adjustment of urban area boundaries. MDT notes that it is currently involved in the review.

As a final note, the Legislative Finance Committee is working on LC 65, which eliminates the permanent general fund transfers included in 15-1-122, MCA. That includes the transfers of motor vehicle fee revenue. "In eliminating the permanent general fund transfers, the committee's intent was not to short the programs, but to replace the lost revenue from the general fund with general fund appropriations in H.B. 2," according to an overview of the proposal.

10. LC6007. Legislation providing additional funding for weatherization programs. Funding would come from a percentage of the increased oil and gas revenues realized in Montana.

- The estimate for the general fund allocation of the oil and gas production tax for 2009 is \$101.3 million, an increase of more than \$8 million from the actual amount collected in 2006.
- The bill creates a weatherization account by allocating 5% of the oil and natural gas production taxes. Based on the 2009 projected revenue, this would generate about \$5 million.
- The Department of Health and Human Services is required to spend the money for home weatherization programs.

Additional Notes: Another option may be to look at the coal bed methane protection account, which also receives oil and natural gas production taxes. The account now stands at about \$6 million. Since June 2005, the principal has been available for emergencies. None has been expended. After June 2011, funds maybe be expended for: a.) a loss of agricultural production or a loss in the value of land. b.) a reduction in the quantity or quality of water available from a surface water or groundwater source that affects the beneficial use of water. c.) the contamination of surface water or groundwater that prevents its beneficial use. At that time, the limit per landowner is \$50,000. (76-15-905, MCA)

One option may be to consider a one-time transfer of funds from the CBM account and/or redirecting some of the revenue flow to the weatherization account. For example, a transfer of \$3 million to the weatherization account and a reduction of 1 percentage point, would keep \$3 million in the CBM account plus an allocation of about \$230,000 annually through 2011, when

the flow terminates.

Under this option, the amount of tax revenue to the weatherization account would need to be increased after 2011 to keep up the funding level.

11. **LC6008.** Legislation to expand tax credits (similar to those proposed in **S.B. 210** in 2007) to create incentives for low-income property owners, landlords and/or renters to weatherize.

- The draft is identical to Senate Bill 210, as it was amended by the Senate Taxation Committee and approved by the Senate during the 2007 Legislative session. S. B. 210 was later tabled by House Taxation.
- The draft amends 15-32-109, MCA, which provides a credit for energy conservation investments in a building.
- It increases the limit on the credit from \$500 to \$800 and includes lighting in the investments that are eligible for the credit.
- The draft also makes the credit refundable for single taxpayers with adjusted gross incomes of \$12,590 or less and married taxpayers with adjusted gross income of \$14,590 or less, adjusted annually for inflation
- It also allows pass-through entities to claim the credit for investments in a residential rental building

Additional notes: The fiscal note for S.B. 210 indicated the increased credits would reduce general fund revenue by \$2.9 million in FY 2008, increasing to \$3.5 million in FY 2010. (S.B. 210 would have terminated in Jan. 2010. The discussion draft does not include a termination date.) As background, use of the credit has increased. On 2005 returns, 14,060 claimed the credit for a total of \$5.7 million. On 2006 returns, that increased to 19,041 taxpayers for \$8.1 million. The **fiscal note** for S.B. 210 is attached.

The income levels in the discussion draft are the income levels for the Earned Income Tax Credit that can be claimed on federal tax returns. At 100% of the 2008 federal poverty levels, those income levels would be \$10,400 for one person and \$14,000 for a couple. At 150% of the federal poverty level, the amount used for LIEAP, the corresponding income levels are \$15,600 and \$17,500.

The draft also does not address providing low income folks with the resources to pay the up front costs of installation. Based on the S.B. 210 fiscal note, on 2005 returns, taxpayers who met the income requirements to have the credit refunded claimed credits that were \$226,365 more than their tax liability. Under the draft, that amount would be refunded to taxpayers.

12. **LC6009.** Study bill requiring the EQC during the 2009-2010 interim to study biomass and provide specific direction on issues including, but not limited to, expanding the Alternative Energy Revolving Loan Program, better utilizing the Renewable Resource Grant Program, promoting pilot projects, source reduction, emissions research and characterization, and a spectrum of tax incentives.

Additional notes: The Department of Natural Resources and Conservation has provided the EQC with three specific suggestions related to advancing biomass. Those suggestions include: a.) revisions to the Alternative Energy Investment tax credit. b.) an income tax credit for removing and processing biomass for energy use. c.) modifications to Montana's Renewable Portfolio Standards. The **full memo** from the DNRC is attached.

13. **LC6010.** Resolution in support of the National Association of Counties stand in support of Congress enacting legislation granting a Governor authority to declare a crisis when the severity of fire danger from fuels on identified federal lands within that state pose a significant threat to public health and safety. Upon a declaration, responsible federal agencies would fast-track a mitigation plan to reduce forest fuels. The plan would be excluded under the NEPA appeal process, and any claimant filing a court action against the plant would be required to post a damage bond.

14. **LC6011.** Legislation to require all new state buildings to exceed current building codes or standards, potentially through an expansion of the State Building Energy Efficiency program.

- The draft requires new state buildings to meet the LEED silver standard.
- Tracking of efficiencies attained is included.

Additional notes: The Department of Environmental Quality researched LEED standards in other states and provided **background information**. Instead of LEED standards, there is the possibility of requiring new buildings to use 20% to 30% less energy than allowed by the adopted International Building code. The Department of Administration is responsible for all building construction and the issue of advanced building requirements would likely need to be discussed with A&E.

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**** Bill No. ****

Introduced By *****

By Request of the *****

A Bill for an Act entitled: "An Act removing the sunset on interest income from the coal severance tax permanent fund appropriated to the Montana manufacturing extension center, the growth through agriculture program, and the Montana cooperative development centers; requiring a portion of the appropriation to the Montana manufacturing extension center be used in collaboration with the department of environmental quality to promote recycling, amending 15-35-108, MCA, amending Section 3, Chapter 481, Laws of 2003; and providing an effective date; and providing an applicability date."

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 15-35-108, MCA, is amended to read:

"15-35-108. (Temporary) Disposal of severance taxes.

Severance taxes collected under this chapter must, in accordance with the provisions of 17-2-124, be allocated as follows:

(1) Fifty percent of total coal severance tax collections is allocated to the trust fund created by Article IX, section 5, of the Montana constitution. The trust fund money must be deposited in the fund established under 17-6-203(6) and invested by the board of investments as provided by law.

(2) The amount of 12% of coal severance tax collections is

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allocated to the long-range building program account established in 17-7-205.

(3) The amount of 5.46% must be credited to an account in the state special revenue fund to be allocated by the legislature for provision of basic library services for the residents of all counties through library federations and for payment of the costs of participating in regional and national networking, conservation districts, and the Montana Growth Through Agriculture Act. Expenditures of the allocation may be made only from this account. Money may not be transferred from this account to another account other than the general fund. Any unreserved fund balance at the end of each fiscal year must be deposited in the general fund.

(4) The amount of 1.27% must be allocated to a permanent fund account for the purpose of parks acquisition or management. Income from this permanent fund account, excluding unrealized gains and losses, must be appropriated for the acquisition, development, operation, and maintenance of any sites and areas described in 23-1-102.

(5) The amount of 0.95% must be allocated to the debt service fund type to the credit of the renewable resource loan debt service fund.

(6) The amount of 0.63% must be allocated to a trust fund for the purpose of protection of works of art in the capitol and for other cultural and aesthetic projects. Income from this trust fund account, excluding unrealized gains and losses, must be appropriated for protection of works of art in the state capitol

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and for other cultural and aesthetic projects.

(7) The amount of 2.9% must be credited to the oil, gas, and coal natural resource account established in 90-6-1001.

(8) After the allocations are made under subsections (2) through (7), \$250,000 for the fiscal year must be credited to the coal and uranium mine permitting and reclamation program account established in 82-4-244.

(9) (a) Subject to subsection (9)(b), all other revenue from severance taxes collected under the provisions of this chapter must be credited to the general fund of the state.

(b) The interest income from \$140 million of the coal severance tax permanent fund that is deposited in the general fund is statutorily appropriated, as provided in 17-7-502, on an annual basis as follows:

(i) \$65,000 to the cooperative development center;

(ii) \$1.25 million for the growth through agriculture program provided for in Title 90, chapter 9;

(iii) \$3.65 million to the research and commercialization state special revenue account created in 90-3-1002;

(iv) to the department of commerce:

(A) \$125,000 for a small business development center;

(B) \$50,000 for a small business innovative research program;

(C) \$425,000 for certified regional development corporations;

(D) \$200,000 for the Montana manufacturing extension center at Montana state university-Bozeman; and

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(E) \$300,000 for export trade enhancement. (Terminates June 30, 2010--sec. 6, Ch. 481, L. 2003.)

15-35-108. (Effective July 1, 2010) Disposal of severance taxes. Severance taxes collected under this chapter must, in accordance with the provisions of 17-2-124, be allocated as follows:

(1) Fifty percent of total coal severance tax collections is allocated to the trust fund created by Article IX, section 5, of the Montana constitution. The trust fund money must be deposited in the fund established under 17-6-203(6) and invested by the board of investments as provided by law.

(2) The amount of 12% of coal severance tax collections is allocated to the long-range building program account established in 17-7-205.

(3) The amount of 5.46% must be credited to an account in the state special revenue fund to be allocated by the legislature for provision of basic library services for the residents of all counties through library federations and for payment of the costs of participating in regional and national networking, conservation districts, and the Montana Growth Through Agriculture Act. Expenditures of the allocation may be made only from this account. Money may not be transferred from this account to another account other than the general fund. Any unreserved fund balance at the end of each fiscal year must be deposited in the general fund.

(4) The amount of 1.27% must be allocated to a permanent fund account for the purpose of parks acquisition or management.

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Income from this permanent fund account, excluding unrealized gains and losses, must be appropriated for the acquisition, development, operation, and maintenance of any sites and areas described in 23-1-102.

(5) The amount of 0.95% must be allocated to the debt service fund type to the credit of the renewable resource loan debt service fund.

(6) The amount of 0.63% must be allocated to a trust fund for the purpose of protection of works of art in the capitol and for other cultural and aesthetic projects. Income from this trust fund account, excluding unrealized gains and losses, must be appropriated for protection of works of art in the state capitol and for other cultural and aesthetic projects.

(7) The amount of 2.9% must be credited to the oil, gas, and coal natural resource account established in 90-6-1001.

(8) After the allocations are made under subsections (2) through (7), \$250,000 for the fiscal year must be credited to the coal and uranium mine permitting and reclamation program account established in 82-4-244.

(9) ~~All~~ (a) Subject to subsection (9) (b), all other revenue from severance taxes collected under the provisions of this chapter must be credited to the general fund of the state.

(b) The interest income from \$140 million of the coal severance tax permanent fund that is deposited in the general fund is statutorily appropriated, as provided in 17-7-502, on an annual basis as follows:

(i) \$65,000 to the cooperative development center;

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(ii) \$1.25 million for the growth through agriculture program provided for in Title 90, chapter 9; and

(iii) to the department of commerce:

(A) Subject to subsection (9) (b) (iii) (B), \$300,000 for the Montana manufacturing extension center at Montana state university-Bozeman.

(B) At least 35% of the funding received under subsection (9) (b) (iii) (A) must be used in collaboration with the department of environmental quality to encourage manufacturers and commercial business owners to reduce their waste streams through source reduction, recycling, reuse, or use of recycled-content products or feedstocks.

(C) The department of commerce in coordination with the department of environmental quality shall submit a biennial report to the environmental quality council established in 5-16-101 outlining activities and expenditures required under subsection (9) (b) (iii) (B)."

{ Internal References to 15-35-108:

2-17-805 X	17-7-205 X	17-7-502 X	17-7-502 X
22-2-301 X	22-2-304 X	22-2-321 X	23-1-108 X
76-15-530 X	82-4-244 X	90-6-1001 X	

Section 2. Section 3, Chapter 481, Laws of 2003, is amended to read:

"Section 10. Termination. (1) [Section 1] terminates June 30, 2001.

(2) ~~[Sections 2 through 4]~~ [Sections 2 and 4] terminate June 30, 2005.

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~~(3) [Section 3] terminates June 30, 2010.~~

NEW SECTION. **Section 3. {standard} Effective date.** [This act] is effective July 1, 2009.

NEW SECTION. **Section 4. Applicability.** [This act] applies to severance tax collections from coal produced after June 30, 2009.

- END -

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Montana Manufacturing Extension Center comments

Provided by Director Steve Holland, 406.994.3812

Background

The Montana Manufacturing Extension Center (MMEC) is an outreach center in the College of Engineering at Montana State University whose mission is to help manufacturers succeed. The Center carries out this mission by providing information, training, decision support, and implementation assistance to Montana's manufacturers. MMEC assists manufacturers in adopting new, more advanced manufacturing technology, techniques, and business practices.

One of the core services MMEC offers is LEAN Manufacturing which seeks to reduce waste of all kinds. Examples of waste include: time, materials, energy, scrap, and by-products. Less waste also means less air and water contaminates, and less solid waste going to landfills.

While manufacturing represents only 4% of Montana's total employment, it is an important industry segment accounting for more than 20% of Montana's economic base. According to the Bureau of Business and Economic Research at UM, there are over 3,500 manufacturing establishments (including approximately 1,700 self employed) in Montana directly employing close to 24,400 workers, and paying over \$1.2 billion in annual wages. Manufacturing wages average over 26% more than the average Montana wage. Montana's manufacturers produce more than \$8 billion in output annually.

Started in 1996, MMEC is a member of the US Department of Commerce National Institute of Standards and Technology Manufacturing Extension Partnership (NIST MEP). Since that time, MMEC services have resulted in nearly \$110 million of increased sales and over 500 new jobs according to a stringent, independent survey conducted quarterly by the National Institute of Standards and Technology.

Measure	1/1/96 – 3/31/08 MMEC inception to date
Clients Served	582
Counties Served	46
Projects Conducted	1226
Jobs Created	507
Jobs Retained	671
Increased Sales	\$109,251,200
Retained Sales	\$65,632,150
Client Investment in Property, Plant/Equipment, Workforce, Information Systems, etc.	\$51,966,093
Client Satisfaction	4.63 out of 5

In an effort to efficiently deliver services to Montana's manufacturers, MMEC partners with other Montana organizations and agencies including: Montana Department of Commerce; Montana Department of Agriculture; Montana Department of Labor and Industry; and Montana Department of Environmental Quality. For more information on the Montana Manufacturing Center visit <http://www.mtmanufacturingcenter.com/>

Comments on draft bill

The draft takes a different direction than the bill the Schweitzer Administration been working with us on. Because of that, we would not be able to support the current version of your draft bill. Our specific concerns are listed below:

- MMEC provides non-biased engineering consulting services to achieve our mission to "Help Manufacturers Succeed". We have never performed any sort of regulatory function because doing so would erode client trust. We are concerned that requiring us to work on a specific regulatory function with a regulatory agency would move us in that direction and put our ability to achieve our mission at risk.
- We do not have an adequate measurement system in place that would allow us to demonstrate results specific to your bill. Our existing measurement system is mandated by Congress and is the result of an independent survey of our clients. It measures increased and retained sales; increased and retained jobs; capital investment; and cost savings clients experienced as a result of our services.
- While we appreciate the suggestion of funding behind the requirement, \$100,000 would not provide a full time engineer plus the travel and administrative expenses necessary to achieve and document the results.

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As of: June 19, 2008 (11:03am)

LC6001

**** Bill No. ****

Introduced By *****

By Request of the *****

A Bill for an Act entitled: "An Act providing a revolving loan program to finance machinery and equipment used for recycling; providing that motor vehicle recycling and disposal program funds be deposited in the revolving fund; amending section 75-10-532, MCA, and providing an effective date."

Be it enacted by the Legislature of the State of Montana:

NEW SECTION. **Section 1. Recycling equipment revolving loan account.** (1) There is a special revenue account called the recycling equipment revolving loan account to the credit of the department of environmental quality.

(2) The recycling equipment revolving loan account consists of \$1 million deposited into the account from the motor vehicle recycling and disposal program pursuant to 75-10-532 and money from any other source. Any interest earned by the account and any interest that is generated from a loan repayment must be deposited into the account and used to sustain the recycling equipment revolving loan program. Any appropriated funds in the account that are not loaned must remain in the account.

(3) Funds from the recycling equipment revolving loan account may be used to provide loans to units of local government, units of the university system, tribal governments,

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As of: June 19, 2008 (11:03am)

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and nonprofit organizations to assist in the purchase of machinery and equipment used to increase the diversion of solid waste from Montana landfills and to expand recycling opportunities.

(4) The amount of a loan may not exceed \$50,000 and must be repaid within 10 years.

NEW SECTION. Section 2. Administration of revolving loan account -- rulemaking authority. (1) The department of environmental quality shall adopt rules establishing:

(a) eligibility criteria and other matters that the department considers necessary to ensure repayment of loans and to encourage maximum use of the account for recycling uses;

(b) processes and procedures for disbursing loans, including the agencies or organizations that are allowed to process the loan application for the department; and

(c) terms and conditions for the loans, including repayment schedules and interest.

(2) Administrative costs charged to the account may not exceed 10% of the total loans or \$75,000 a year, whichever is greater. Legal fees and costs associated with collection of debt on principal are not considered administrative costs.

(3) The loan repayment period may not exceed 10 years. The loans must be made at a low interest rate. The department may set the interest rate at an amount that will cover its administrative costs, but the rate may not be less than 1% a year. The department may seek recovery of the amount of principal loaned in

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the event of default.

NEW SECTION. **Section 3. Outcome measures.** The department of environmental quality shall develop reasonable outcome measures by which the success of the recycling equipment revolving loan program provided for in [sections 1 through 3] must be measured on an annual basis. Minimal outcome that must be measured includes:

- (1) a loan loss ratio of under 5%;
- (2) a listing of the loans made, including the amounts and purpose of the loans;
- (3) an assessment of the impact of the loans on the amount and type of recycling in the local area where the loan was made; and
- (4) an estimate of the amount of material diverted from the landfill because of the loan for the 3 years following disbursement of the loan.

Section 4. Section 75-10-532, MCA, is amended to read:

"75-10-532. Disposition of money collected. (1) Except as provided in subsection (2), ~~All~~ money received from the sale of junk vehicles or from recycling of the material and all motor vehicle wrecking facility license fees must be remitted to the state, as provided in 15-1-504. The money must be used for the control, collection, recycling, and disposal of junk vehicles and

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component parts and for the removal of abandoned vehicles.

(2) For the 2009 biennium, \$1 million must be transferred to the recycling equipment revolving loan account established in [section 1]."

{ Internal References to 75-10-532:
15-1-122 X }

NEW SECTION. Section 5. {standard} Codification

instruction. [Sections "1 through 3"] are intended to be codified as an integral part of Title 75, and the provisions of Title 75 apply to [sections "1 through 3"].

NEW SECTION. Section 6. {standard} Effective date. [This act] is effective July 1, 2009.

- END -

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As of: June 19, 2008 (11:04am)

LC6002

**** Bill No. ****

Introduced By *****

By Request of the *****

A Bill for an Act entitled: "An Act repealing the termination date of recycling tax incentives; repealing the termination date for credit against air quality permitting fees for certain uses of postconsumer glass in recycled material; repealing the termination date for the tax credit for investment in property used to collect or process reclaimable materials; repealing the termination date for the tax deduction for the purchase of recycled materials, amending sections 75-2-225 and 75-2-226, MCA; repealing section 9, Chapter 712, Laws of 1991, sections 4 and 5, Chapter 542, Laws of 1995, section 1, Chapter 411, Laws of 1997, sections 4, 5, 6, and 7, Chapter 398, Laws of 2001, section 8, Chapter 516, Laws of 2001, sections 3 and 5, Chapter 129, Laws of 2005, and sections 1, 2, 3, 4, 5, 6, 7, and 8, Chapter 569, Laws of 2005; and providing an effective date."

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 75-2-225, MCA, is amended to read:

"75-2-225. ~~(Temporary)~~ Amount and duration of credit -- how claimed. (1) An applicant may receive a credit against the fees imposed in 75-2-220 for using postconsumer glass in recycled material if the applicant qualifies under 75-2-226.

(2) ~~Subject to 75-2-226(2),~~ an An applicant qualifying for

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As of: June 19, 2008 (11:04am)

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a credit under 75-2-226 is entitled to claim a credit, as provided in subsection (3) of this section, for using postconsumer glass in recycled material in the calendar year subsequent to the calendar year in which the postconsumer glass was used in recycled material.

(3) (a) The amount of the credit that may be claimed under this section is \$8 for each ton of postconsumer glass that was used as a substitute for nonrecycled material in the calendar year prior to the calendar year for which the applicant is paying fees for permits under 75-2-220.

(b) The maximum credit allowable in any calendar year for fees payable under 75-2-220 is \$2,000 or the total amount of fees due, whichever is less. ~~(Terminates December 31, 2009--secs. 3, 5, Ch. 129, L. 2005.)~~"

{Internal References to 75-2-225:

75-2-220 A 75-2-220 A 75-2-220 A 75-2-224* X }

Section 2. Section 75-2-226, MCA, is amended to read:

"75-2-226. ~~(Temporary)~~ Credit for use of postconsumer glass. (1) The following requirements must be met for an applicant to be entitled to a credit for the use of postconsumer glass:

(a) The postconsumer glass must have been used in recycled material in the calendar year prior to the calendar year in which the applicant is applying for and paying for permits under 75-2-220.

(b) (i) The applicant claiming a credit must be a person

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who, as an owner, including a contract purchaser or lessee, or who pursuant to an agreement owns, leases, or has a beneficial interest in a business that uses postconsumer glass in recycled materials. The use of postconsumer glass as recycled material may be a minor or nonprofit part of a business otherwise engaged in a business activity.

(ii) The applicant may but need not operate or conduct a business that uses postconsumer glass as recycled material. If more than one person has an interest in a business with qualifying uses of postconsumer glass, they may allocate all or any part of the allowable credit among themselves and their successors or assigns.

(c) The business must have been owned or leased by the applicant claiming the credit during the calendar year prior to the calendar year for which the permit fees are due under 75-2-220, except as otherwise provided in subsection (1)(b), and must have used postconsumer glass in recycled material during the calendar year prior to the calendar year for which the credit is claimed.

(d) The postconsumer glass used in recycled material may not be an industrial waste generated by the person claiming the credit unless:

(i) the person generating the waste historically has disposed of the waste onsite or in a licensed landfill; and

(ii) standard industrial practice has not generally included the reuse of the waste in the manufacturing process.

~~(2) A credit under this section may be claimed by an~~

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~~applicant for a business only if the qualifying postconsumer glass was used in recycled material before January 1, 2010.~~

~~(3)~~(2) The credit provided by this section is not in lieu of any other incentive to which the applicant otherwise may be entitled under Title 15 or this chapter.

~~(4)~~(3) A credit otherwise allowable under this section that is not used by the applicant in the calendar year for which the permits are applied may not be:

(a) carried forward to offset an applicant's permit fees for any succeeding calendar year; or

(b) carried back to offset an applicant's permit fees for any preceding calendar year. ~~(Terminates December 31, 2009--secs. 3, 5, Ch. 129, L. 2005.)"~~

{ Internal References to 75-2-226:

75-2-224*X 75-2-225 A 75-2-225 A 75-2-225 A
75-2-227X }

NEW SECTION. **Section 3. {standard} Repealer.** Section 9, Chapter 712, Laws of 1991, sections 4 and 5, Chapter 542, Laws of 1995, section 1, Chapter 411, Laws of 1997, sections 4, 5, 6, and 7, Chapter 398, Laws of 2001, section 8, Chapter 516, Laws of 2001, sections 3 and 5, Chapter 129, Laws of 2005, and sections 1, 2, 3, 4, 5, 6, 7, and 8, Chapter 569, Laws of 2005, are repealed.

NEW SECTION. **Section 4. {standard} Effective date.** [This act] is effective July 1, 2009.

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As of: June 19, 2008 (11:04am)

LC6002

- END -

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As of: June 19, 2008 (11:07am)

LC6003

**** Bill No. ****

Introduced By *****

By Request of the *****

A Bill for an Act entitled: "An Act creating the recycling and waste reduction grant act; creating an advisory council to assist the department of environmental quality in administering the act; requiring the department to establish rules for administering the act; establishing grant criteria; establishing the recycling and waste reduction account; authorizing a fee on solid waste to fund the program; OR ALLOCATING COAL SEVERANCE TAX REVENUE TO FUND THE PROGRAM; amending sections 75-10-115 and 75-10-117, MCA; and providing an effective date."

Be it enacted by the Legislature of the State of Montana:

NEW SECTION. **Section 1. Short title.** [Sections 1 through 5] may be cited as the "Recycling and Waste Reduction Grant Act."

NEW SECTION. **Section 2. Recycling and waste reduction advisory council -- membership -- allocation.** (1) The director of the department of environmental quality shall appoint a recycling and waste reduction advisory council. The membership of the council must include the following:

- (a) one member representing the recycling industry;
- (b) three members representing solid waste facilities that pay fees for the management and regulation of solid waste at

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facilities subject to regulation pursuant to Title 75, chapter 10, part 2, with at least one representing a publicly owned municipal solid waste landfill and one representing a privately owned municipal solid waste landfill;

(c) one member representing a nonprofit recycling organization; and

(d) two members of the public with an interest in waste reduction and recycling.

(2) The members of the council must be appointed with consideration given to waste reduction and recycling facilities of small, medium, and large size and to geographic distribution.

(3) The members shall serve staggered 5-year terms, except that members shall be initially appointed so that no more than two terms expire in any year.

(4) The council shall:

(a) advise the department of environmental quality in awarding grants offered under [sections 1 through 5];

(b) promote the establishment of waste reduction and recycling businesses in Montana; and

(c) assist the department in implementing the requirements of the state solid waste management plan pursuant to 75-10-807.

(5) The council is allocated to the department for administrative purposes only as provided in 2-15-121.

NEW SECTION. **Section 3. Rulemaking authority.** The department shall adopt rules to:

(1) provide for grant application procedures; and

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(2) develop procedures for awarding grants and determining grant awards pursuant to the criteria provided in [section 4].

NEW SECTION. Section 4. Purpose -- allocation of funds -- grant eligibility. (1) The department, in collaboration with the council, shall:

(a) allocate money collected pursuant to 75-10-115(2) in the form of grants to local governments, state agencies, community organizations, schools, nonprofit and for-profit entities, and any other entity, or collaboration of entities, engaged in waste reduction or recycling efforts;

(b) in accordance with subsection (4), allocate money collected pursuant to 75-10-115(2) for activities that promote statewide recycling opportunities including, but not limited to, advertising, educational materials, or workshops;

(c) develop priorities for awarding grants, pursuant to subsection (2); and

(d) award grants at least annually through a competitive process.

(2) The department shall give priority to applications from entities paying the fee pursuant to 75-10-115(2) for projects that:

(a) expand the recycling of household hazardous waste, electronic waste, or other special wastes;

(b) promote local waste reduction and recycling efforts; or

(c) educate local citizens and businesses about waste

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reduction and recycling.

(3) Grants may be used to:

(a) purchase equipment used in the collection or processing of materials for waste reduction or recycling by nonprofit organizations, businesses or industries, state or local governments, or a combination of these entities;

(b) promote the expansion of waste reduction and recycling businesses in Montana;

(c) research and demonstrate how waste reduction and recycling can be applied to Montana markets;

(d) assist in market development activities that develop local uses for recycled materials or increase consumer acceptance of recycled goods and business use of used materials; or

(e) conduct educational activities, including workshops, conferences, and general consumer education about the benefits of recycling.

(3) The department shall have the final authority in awarding grants offered under [sections 1 through 5]

(4) Council expenses, administration costs, allocations pursuant to subsection (1)(b), and costs associated with collecting the fee provided for in 75-10-115(2) may not exceed 15% of the total amount of fees collected.

(5) The department shall issue an annual report of its activities pursuant to [section 1 through 5] to the environmental quality council.

NEW SECTION. Section 5. Recycling and waste reduction

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account created -- source of funding -- use of account. (1) There is an account in the state special revenue fund established by 17-2-102 to be known as the recycling and waste reduction account.

(2) There must be deposited in the account:

(a) fees collected pursuant to 75-10-115(2) OR COAL SEVERANCE TAX FUNDS PURSUANT TO 15-35-108;

(b) any gifts or donations received for the purposes of [section 1 through 5]; and

(c) interest or other income earned on the money in the account.

(3) The fund may be used only pursuant to [sections 1 through 5].

(4) Money in the account following the [termination date of this act] must be distributed within the fiscal year following the [termination date of this act].

Section 6. Section 75-10-104, MCA, is amended to read:

"75-10-104. Duties of department. The department shall:

(1) prepare, adopt, and implement a state solid waste management and resource recovery plan as required by 75-10-111 and 75-10-807;

(2) prepare rules necessary for the implementation of this part for submission to the board, including but not limited to rules:

(a) governing the submission of plans for a solid waste management system;

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(b) establishing, for the purpose of determining the tonnage or volume-based solid waste management fee that a facility is subject to under 75-10-115(1)(c) and 75-10-115(2), methods for determining or estimating the amount of solid waste incinerated or disposed of at a facility;

(c) establishing the license application fee that a facility is subject to under 75-10-115(1)(a);

(d) establishing the flat annual license renewal fee that a facility is subject to under 75-10-115(1)(b);

(e) establishing the tonnage or volume-based annual-renewal fee that a facility is subject to under 75-10-115(1)(c); and

(f) providing procedures for the quarterly collection of the solid waste management fee provided for in 75-10-204(6);

(3) provide technical assistance to persons within the state for planning, designing, constructing, financing, and operating:

(a) a solid waste management system in order to ensure that the system conforms to the state plan;

(b) integrated waste management programs; and

(c) collection, disposal, reduction, and educational programs for household hazardous waste and small quantities of hazardous waste that are exempt from regulation under Title 75, chapter 10, part 4;

(4) enforce and administer the provisions of this part;

(5) approve plans for a proposed solid waste management system submitted by a local government; and

(6) serve as a clearinghouse for information on waste

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reduction and reuse, recycling technology and markets, composting, and household hazardous waste disposal, including chemical compatibility."

{*Internal References to 75-10-104:*

75-10-106X

75-10-111X

75-10-115A

75-10-221X}

Section 7. Section 75-10-115, MCA, is amended to read:

"75-10-115. Solid waste management fee. (1) The department may prepare rules for adoption by the board, pursuant to 75-10-104 and 75-10-106, that set fees for the management and regulation of solid waste at facilities subject to regulation pursuant to part 2 of this chapter. Upon adoption by the board, the department may collect the fees. These fees may include:

(a) a license application fee that reflects the cost of reviewing a new solid waste management system or a substantial change to an existing facility;

(b) a flat annual license renewal fee that reflects a minimal base fee related to the fixed costs of an annual inspection and license renewal and that is based upon the categorization of solid waste management systems into separate classes identified by the following criteria:

(i) the quantity of solid waste received by the solid waste management system;

(ii) the nature of the solid waste received; and

(iii) the nature of the waste management occurring within the solid waste management system;

and

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(c) a tonnage or volume-based fee on solid waste disposal.

(2) For the purpose of implementing [sections 1 through 5], the department shall collect, starting in 2010, a fee of 35 cents a ton based on solid waste received by the solid waste management system.

(3) Except as provided in 75-10-117(4), all ~~All~~ fees collected must be deposited in the solid waste management account provided for in 75-10-117."

{ Internal References to 75-10-115:

7-13-231 X	75-10-104 A	75-10-104 A	75-10-104 A
75-10-104 A	75-10-105 X	75-10-106 X	75-10-116 X
75-10-117A			

Section 8. Section 75-10-117, MCA, is amended to read:

"75-10-117. Solid waste management account. (1) There is a solid waste management account in the state special revenue fund provided for in 17-2-102.

(2) There must be deposited in the account:

(a) except as provided in subsection (4), all revenue from the solid waste management fees provided for in 75-10-115; and

(b) money received by the department in the form of legislative appropriations, reimbursements, gifts, federal funds, or appropriations from any source that is intended to be used for the purposes of the account.

(3) The account may be used by the department only for the administration of 75-2-215, part 2 of this chapter, and this part.

(4) Fees collected pursuant to 75-10-115(2) must be

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deposited in the recycling and waste reduction account established in [section 5]."

{ *Internal References to 75-10-117:*
75-10-115 A 75-10-228 X 75-10-910 X }

Section 9. Section 15-35-108, MCA, is amended to read:

"ALTERNATIVE FUNDING MECHANISM FOR PROGRAM: 15-35-

108. (Temporary) Disposal of severance taxes. Severance taxes collected under this chapter must, in accordance with the provisions of 17-2-124, be allocated as follows:

(1) Fifty percent of total coal severance tax collections is allocated to the trust fund created by Article IX, section 5, of the Montana constitution. The trust fund money must be deposited in the fund established under 17-6-203(6) and invested by the board of investments as provided by law.

(2) The amount of 12% of coal severance tax collections is allocated to the long-range building program account established in 17-7-205.

(3) The amount of 5.46% must be credited to an account in the state special revenue fund to be allocated by the legislature for provision of basic library services for the residents of all counties through library federations and for payment of the costs of participating in regional and national networking, conservation districts, and the Montana Growth Through Agriculture Act. Expenditures of the allocation may be made only from this account. Money may not be transferred from this account to another account other than the general fund. Any unreserved

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fund balance at the end of each fiscal year must be deposited in the general fund.

(4) The amount of 1.27% must be allocated to a permanent fund account for the purpose of parks acquisition or management. Income from this permanent fund account, excluding unrealized gains and losses, must be appropriated for the acquisition, development, operation, and maintenance of any sites and areas described in 23-1-102.

(5) The amount of 0.95% must be allocated to the debt service fund type to the credit of the renewable resource loan debt service fund.

(6) The amount of 0.63% must be allocated to a trust fund for the purpose of protection of works of art in the capitol and for other cultural and aesthetic projects. Income from this trust fund account, excluding unrealized gains and losses, must be appropriated for protection of works of art in the state capitol and for other cultural and aesthetic projects.

(7) The amount of 2.9% must be credited to the oil, gas, and coal natural resource account established in 90-6-1001.

(8) The amount of 1.2% must be allocated to the recycling and waste reduction account established by [section 5].

~~(8)~~(9) After the allocations are made under subsections (2) through (7), \$250,000 for the fiscal year must be credited to the coal and uranium mine permitting and reclamation program account established in 82-4-244.

~~(9)~~(10) (a) Subject to subsection ~~(9)~~(b) ~~(10)~~(b), all other revenue from severance taxes collected under the provisions of

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this chapter must be credited to the general fund of the state.

(b) The interest income from \$140 million of the coal severance tax permanent fund that is deposited in the general fund is statutorily appropriated, as provided in 17-7-502, on an annual basis as follows:

(i) \$65,000 to the cooperative development center;

(ii) \$1.25 million for the growth through agriculture program provided for in Title 90, chapter 9;

(iii) \$3.65 million to the research and commercialization state special revenue account created in 90-3-1002;

(iv) to the department of commerce:

(A) \$125,000 for a small business development center;

(B) \$50,000 for a small business innovative research program;

(C) \$425,000 for certified regional development corporations;

(D) \$200,000 for the Montana manufacturing extension center at Montana state university-Bozeman; and

(E) \$300,000 for export trade enhancement. (Terminates June 30, 2010--sec. 6, Ch. 481, L. 2003.)

15-35-108. (Effective July 1, 2010) Disposal of severance taxes. Severance taxes collected under this chapter must, in accordance with the provisions of 17-2-124, be allocated as follows:

(1) Fifty percent of total coal severance tax collections is allocated to the trust fund created by Article IX, section 5, of the Montana constitution. The trust fund money must be

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deposited in the fund established under 17-6-203(6) and invested by the board of investments as provided by law.

(2) The amount of 12% of coal severance tax collections is allocated to the long-range building program account established in 17-7-205.

(3) The amount of 5.46% must be credited to an account in the state special revenue fund to be allocated by the legislature for provision of basic library services for the residents of all counties through library federations and for payment of the costs of participating in regional and national networking, conservation districts, and the Montana Growth Through Agriculture Act. Expenditures of the allocation may be made only from this account. Money may not be transferred from this account to another account other than the general fund. Any unreserved fund balance at the end of each fiscal year must be deposited in the general fund.

(4) The amount of 1.27% must be allocated to a permanent fund account for the purpose of parks acquisition or management. Income from this permanent fund account, excluding unrealized gains and losses, must be appropriated for the acquisition, development, operation, and maintenance of any sites and areas described in 23-1-102.

(5) The amount of 0.95% must be allocated to the debt service fund type to the credit of the renewable resource loan debt service fund.

(6) The amount of 0.63% must be allocated to a trust fund for the purpose of protection of works of art in the capitol and

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for other cultural and aesthetic projects. Income from this trust fund account, excluding unrealized gains and losses, must be appropriated for protection of works of art in the state capitol and for other cultural and aesthetic projects.

(7) The amount of 2.9% must be credited to the oil, gas, and coal natural resource account established in 90-6-1001.

(8) The amount of 1.7% must be allocated to the recycling and waste reduction account established by [section 5].

~~(8)~~(9) After the allocations are made under subsections (2) through ~~(7)~~ (8), \$250,000 for the fiscal year must be credited to the coal and uranium mine permitting and reclamation program account established in 82-4-244.

~~(9)~~(10) All other revenue from severance taxes collected under the provisions of this chapter must be credited to the general fund of the state."

{ Internal References to 15-35-108:

2-17-805X	17-7-205X	17-7-502X	17-7-502X
22-2-301X	22-2-304X	22-2-321X	23-1-108X
76-15-530X	82-4-244X	90-6-1001X	

NEW SECTION. **Section 10.** {standard} Codification instruction. [Sections 1 through 5] are intended to be codified as an integral part of Title 75, chapter 10, and the provisions of Title 75, chapter 10, apply to [sections 1 through 5].

NEW SECTION. **Section 11.** {standard} Effective date. [This act] is effective July 1, 2009.

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As of: June 19, 2008 (11:07am)

LC6003

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Options for addressing value-added agriculture under SJR 13

May 1, 2008

Issue	Cost	Purpose
Increase number of food innovation centers	Depends on approach	1) Build on Montana's agricultural strength by providing incentives for community regional development corporations to devote a portion of funding to value-added agriculture, for example by lowering matching funds needed in proportion to CRDC funding of value-added agricultural production or programs or changing the matching fund requirements for refrigerator trucks or mobile equipment owned by value-added agriculture cooperatives. 2) Enhance use of Growth Through Agriculture programs by requiring certain ratio of funding to be spent on food innovation centers.
Encourage in-state collaboration for value-added agricultural production	Depends on approach, could include tax credits	1) Add to purposes of Big Sky Economic Development Program (90-1-202) to include the development of value-added agricultural production and expand economic development organization (90-1-201) to mean a cooperative intended to develop value-added agriculture. The priorities for funding under 90-1-204 could also be changed to recognize not just industrial but value-added agricultural production. 2) Tax credits for in-state companies that collaborate to add value
Increase funding for meat inspector	\$120,000 - or the cost of an additional meat inspector/operating expenses	1) Local production and use requires local inspection.
Increase vocational technical college budgets to respond to local value-added agricultural production needs	To be estimated	1) Value-added agricultural producers expressed concern about lack of a trained work force in various elements of production. Some of these programs be short-term at one college but could rotate at vo-tech colleges around the state. The state may need to help with equipment purchases for training.
Other?		

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SENATE JOINT RESOLUTION NO. 13

INTRODUCED BY SMITH, STEINBEISSER, BALES, L. JONES, STAHL, REINHART

A JOINT RESOLUTION OF THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA REQUESTING AN INTERIM STUDY TO EVALUATE METHODS AND RECOMMEND WAYS TO ADD VALUE TO MONTANA AGRICULTURAL PRODUCTS THROUGH REDEVELOPMENT OF A FOOD PROCESSING INDUSTRY; AND REQUIRING THAT THE FINAL RESULTS OF THE STUDY BE REPORTED TO THE 61ST LEGISLATURE.

WHEREAS, most of the \$3 billion that Montanans spend on food each year goes to out-of-state companies; and

WHEREAS, the lack of a food processing infrastructure is a primary barrier inhibiting the ability of farmers and ranchers to serve in-state markets; and

WHEREAS, Montana's neighboring states add as much as eight to nine times more value to their agricultural products than Montana; and

WHEREAS, the food processing industry was Montana's number one employer through the 1940s, but today the Montana food processing industry is negligible; and

WHEREAS, Montana farmers, ranchers, small business entrepreneurs, and community economies would benefit from redevelopment of a food processing industry; and

WHEREAS, Montana's climate and soils can support production of a much greater diversity of agricultural and food products than are currently produced; and

WHEREAS, value-added enterprises owned by Montanans retain more of the value that is added to agricultural products in Montana communities; and

WHEREAS, producing food for local markets can reconnect Montana's rural and urban economies; and

WHEREAS, dependence on bulk raw commodity export markets diminishes the viability of Montana's rural economies and family farms and ranches; and

WHEREAS, food production on a family or community scale can enhance stewardship of Montana's natural and human resources; and

WHEREAS, value-added food production can contribute to the economic development goals of many communities.



1 NOW, THEREFORE, BE IT RESOLVED BY THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE
2 STATE OF MONTANA:

3 That the Legislative Council be requested to designate an appropriate interim study committee or
4 statutory committee, pursuant to section 5-5-217, MCA, or direct sufficient staff resources to:

5 (1) identify and compile statistics on model programs and policies that have been effective in supporting
6 the development of value-added food enterprises and a strong entrepreneurial culture within the food and
7 agriculture sectors;

8 (2) when possible, include a summary of the economic, social, and environmental impacts of each of
9 these model programs and policies;

10 (3) identify the barriers to value-added food production in Montana;

11 (4) using the findings, recommend public and private programs and policies appropriate to Montana that:

12 (a) support value-added food production that keeps money circulating in Montana's communities;

13 (b) sustain the state's natural resources; and

14 (c) encourage fair treatment of participants at each step in the food value chain, from field to table; and

15 (5) determine methods used by other states with geography similar to Montana to add more value to raw
16 agricultural products.

17 BE IT FURTHER RESOLVED, that the study consider input from:

18 (1) producers of livestock and crops;

19 (2) value-added meat processors;

20 (3) value-added nonmeat food processors;

21 (4) public and private economic developers;

22 (5) nonprofit, community-based food system advocates;

23 (6) Montana State University-Bozeman agriculture extension agents;

24 (7) Montana State University-Bozeman extension nutritionists;

25 (8) University of Montana-Missoula food system researchers;

26 (9) Agriculture Development Division staff at the Department of Agriculture;

27 (10) Business Resources Division staff at the Department of Commerce;

28 (11) food distributors and wholesalers;

29 (12) state legislators;

30 (13) the Governor's Office of Economic Development; ~~and~~

1 (14) the food and consumer safety section staff of the Department of Public Health and Human Services;

2 AND

3 (15) THE DEPARTMENT OF LIVESTOCK.

4 BE IT FURTHER RESOLVED, that if the study is assigned to staff, any findings or conclusions be
5 presented to and reviewed by an appropriate committee designated by the Legislative Council.

6 BE IT FURTHER RESOLVED, that all aspects of the study, including presentation and review
7 requirements, be concluded prior to September 15, 2008.

8 BE IT FURTHER RESOLVED, that the final results of the study, including any findings, conclusions,
9 comments, or recommendations of the committee, be reported to the 61st Legislature.

10 - END -

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As of: June 23, 2008 (2:58pm)

LC6004

**** Bill No. ****

Introduced By *****

By Request of the *****

A Bill for an Act entitled: "An Act ALLOWING TAX ABATEMENTS FOR FACILITIES THAT USE MONTANA GROWN RAW MATERIALS IN FOOD PRODUCTION; AND PROVIDING AN EFFECTIVE DATE; and providing an effective date."

Be it enacted by the Legislature of the State of Montana:

NEW SECTION. **Section 1. Purpose.** The purpose of [sections 1 through ___] is to encourage greater use of Montana grown raw materials in food production, as a means of providing economic benefit to the state and conserving resources by reducing costs and emissions associated with the manufacturing and transportation of our food supply.

NEW SECTION. **Section 2. Definitions.** For purposes of [sections 1 through ___], eligible food production facilities include those that make beverages and candy.

NEW SECTION. **Section 3. Property tax abatement -- qualifications.** (1) A food production facility may qualify for an abatement of the facility's taxable value pursuant to [section 4] if at least 25% of the raw materials used in the manufacturing of its food products are Montana grown.

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As of: June 23, 2008 (2:58pm)

LC6004

(2) If the abatement is granted, the qualifying food production facility must be taxed at:

(a) 90% of its taxable value, if at least 25% of raw materials used by the facility for the production of food are Montana grown;

(b) 75% of its taxable value, if at least 50% of raw materials used by the facility for the production of food are Montana grown; or

(c) 50% of its taxable value, if at least 75% of the raw materials used by the facility for the production of food are Montana grown.

(3) The abatement applies to all mills levied against the qualifying property.

(4) A qualifying food production facility may apply annually to the department of revenue pursuant to [section 4] to increase or decrease the size of its abatement.

(5) A qualifying food production facility may receive any portion of the abatement for no more than ten years.

NEW SECTION. **Section 4. Application -- approval.** (1) In order for a taxpayer to receive the abatement described in [section 3], the taxpayer shall submit an application for abatement to the department of revenue. The application must be on a form prescribed by the department and must include a requirement that the applicant be in compliance with all federal and state environmental and health standards and permit requirements.

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As of: June 23, 2008 (2:58pm)

LC6004

(2) The application must be accompanied by purchasing and delivery receipts and other records necessary to allow the department to determine the applicant's ability to qualify for the abatement.

NEW SECTION. Section 5. Reporting -- default -- remedy.

(1) A taxpayer who has been granted an abatement under [sections 3 and 4] shall submit quarterly reports to the department of revenue on a form prescribed by the department. The reports must include purchasing and delivery receipts and other records necessary to allow the department to determine the applicant's continuing qualification for the abatement.

(2) The department shall review the quarterly reports and make an annual determination regarding the taxpayer's continued qualification for the abatement.

(3) If, after a taxpayer has been granted the abatement under [sections 3 and 4], the department determines that the taxpayer has failed to meet the annual qualification requirements for any year, the taxpayer must be considered to be in default, unless the taxpayer qualifies for a lesser abatement under [section 3].

(4) If the taxpayer qualifies for a lesser abatement, the property must be taxed under the reduced abatement beginning January 1 of the year in which the taxpayer failed to meet the qualification for the greater abatement.

(5) If a taxpayer is considered to be in default, the taxpayer forfeits the abatement. Upon default, the property must

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As of: June 23, 2008 (2:58pm)

LC6004

be taxed at 100% of its taxable value beginning January 1 of the year in which the taxpayer defaulted. The taxpayer is immediately liable for any additional taxes resulting from the default.

(6) A taxpayer that has forfeited its abatement due to default may not reapply for an abatement under [section 4].

(7) A taxpayer aggrieved by a determination made by the department of revenue has the right to the review procedures in 15-1-211 or to a hearing under Title 2, chapter 4, part 6.

NEW SECTION. Section 6. {standard} Effective date. [This act] is effective

- END -

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Comments from Department of Agriculture
Provided by Perri Walborn, Bureau Chief Agriculture Marketing and Business
Development
406.444.2402

AFW-11 Promote Local Food and Fiber

1. Legislation to eliminate sunset on funding (through Coal Severance) for Growth through Agriculture program and Montana Cooperative Development Centers.
2. Receive a report on potential legislation being pursued by the Economic Affairs Interim Committee concerning S.J. 13, a study of methods and recommendations to add value to Montana agricultural products through redevelopment of a food processing industry.
3. Legislation to provide tax incentives or tax credits to use Montana raw materials for production of food in Montana.
4. Send a letter to the Commissioner of Higher Education encouraging Montana universities to track, as economically as is feasible, the amount of locally grown food produced and consumed in Montana.

Comments on Recommendation #3:

Such legislation should evaluate whether creating credits that are earned only if Montana agricultural products are processed within state boundaries is the single best option. Incentives for the food processing industry should not be too restrictive and/or interfere with the process of making sound business decisions. One should be reminded that even if Montana agricultural products are not processed, jobs and markets are created in a food processing enterprise. When markets are created, farmers can choose to respond to market signals. A food processing industry cannot be established without a dependable and affordable supply – and farm production will not change without an established market. The food processing must come first and any incentives that are implemented should be complimentary to such activities.



ENVIRONMENTAL QUALITY COUNCIL

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5/20/2008

Commissioner of Higher Education Sheila Stearns
Montana University System
PO Box 203201
Helena, MT 59620-3201

Dear Commissioner Stearns,

On behalf of the Legislative Environmental Quality Council (EQC), I am writing to encourage your office and the Montana University System to assist the Legislature in its effort to promote the conservation of our state's resources. As part of the EQC's Climate Change Study, the Council has identified two areas in which MUS programs and research could be especially useful: tracking the production and consumption of locally grown foods and advancing biomass technologies.

The EQC supports increased use of locally grown foods as an economic benefit to the state and an opportunity to reduce costs and emissions associated with the manufacturing and transportation of our food supply. The EQC is asking MUS for help developing a formal tracking system of locally grown foods. By doing so, the EQC hopes to better understand where and how local foods are most used, identify efficiencies within that system, and identify where improvements are needed to encourage greater use of such products.

The EQC also supports increased use of biomass technologies as an alternative energy source and encourages MUS to continue its existing research and programs in this area. The EQC requests a report from MUS in the next biennium regarding these activities and any recommendations about the feasibility of the collection, processing, transportation, storage, and distribution of forestry and agricultural residues. The EQC would also appreciate recommendations on the development and expansion of markets for biomass materials, as a way to reduce our use of fossil fuels.

Commissioner Stearns, the EQC appreciates the time and attention you and the MUS staff give these matters. We look forward to working with you in the coming months. Please let me know if I, or the EQC staff, can be of assistance.

Sincerely,

David Wanzenried, Chairman

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As of: June 26, 2008 (1:26pm)

LC6005

**** Bill No. ****

Introduced By *****

By Request of the *****

A Bill for an Act entitled: "An Act requiring the department of transportation to biennially report to the revenue and transportation interim committee on conservation measures in the transportation sector; amending section 5-5-227, MCA."

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 5-5-227, MCA, is amended to read:

"5-5-227. Revenue and transportation interim committee -- powers and duties -- revenue estimating and use of estimates. (1)

The revenue and transportation interim committee has administrative rule review, draft legislation review, program evaluation, and monitoring functions for the department of revenue and the department of transportation and the entities attached to the departments for administrative purposes.

(2) (a) The committee must have prepared by December 1 for introduction during each regular session of the legislature in which a revenue bill is under consideration an estimate of the amount of revenue projected to be available for legislative appropriation.

(b) The committee may prepare for introduction during a special session of the legislature in which a revenue bill or an appropriation bill is under consideration an estimate of the

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As of: June 26, 2008 (1:26pm)

LC6005

amount of projected revenue. The revenue estimate is considered a subject specified in the call of a special session under 5-3-101.

(3) The committee's estimate, as introduced in the legislature, constitutes the legislature's current revenue estimate until amended or until final adoption of the estimate by both houses. It is intended that the legislature's estimates and the assumptions underlying the estimates will be used by all agencies with responsibilities for estimating revenue or costs, including the preparation of fiscal notes..

(4) The department of transportation shall biennially report to the committee on measures that conserve energy in the transportation sector, including conservation measures specific to city street design.

~~(4)~~(5) The legislative services division shall provide staff assistance to the committee. The committee may request the assistance of the staffs of the office of the legislative fiscal analyst, the legislative auditor, the department of revenue, and any other agency that has information regarding any of the tax or revenue bases of the state."

{Internal References to 5-5-227:
5-3-101x 5-11-105* x 17-7-140x}

- END -

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As of: June 26, 2008 (8:40am)

LC6006

**** Bill No. ****

Introduced By *****

By Request of the *****

A Bill for an Act entitled: "An Act increasing the amount of money from motor vehicle revenue deposited in the state general fund in each fiscal year transferred to the senior citizens and persons with disabilities transportation services account; amending 15-1-122, MCA; and providing an effective date."

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 15-1-122, MCA, is amended to read:

"15-1-122. Fund transfers. (1) There is transferred from the state general fund to the adoption services account, provided for in 42-2-105, a base amount of \$36,764, and the amount of the transfer must be increased by 10% in each succeeding fiscal year.

(2) There is transferred from the state general fund to the department of transportation state special revenue nonrestricted account a base amount of \$3,050,205, increased by 1.5% in each succeeding fiscal year.

(3) For each fiscal year, there is transferred from the state general fund to the accounts, entities, or recipients indicated the following amounts:

(a) to the motor vehicle recycling and disposal program provided for in Title 75, chapter 10, part 5, 1.48% of the motor vehicle revenue deposited in the state general fund in each

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As of: June 26, 2008 (8:40am)

LC6006

fiscal year. The amount of 9.48% of the allocation in each fiscal year must be used for the purpose of reimbursing the hired removal of abandoned vehicles. Any portion of the allocation not used for abandoned vehicle removal reimbursement must be used as provided in 75-10-532.

(b) to the noxious weed state special revenue account provided for in 80-7-816, 1.50% of the motor vehicle revenue deposited in the state general fund in each fiscal year;

(c) to the department of fish, wildlife, and parks:

(i) 0.46% of the motor vehicle revenue deposited in the state general fund, with the applicable percentage to be:

(A) used to:

(I) acquire and maintain pumpout equipment and other boat facilities, 4.8% in each fiscal year;

(II) administer and enforce the provisions of Title 23, chapter 2, part 5, 19.1% in each fiscal year;

(III) enforce the provisions of 23-2-804, 11.1% in each fiscal year; and

(IV) develop and implement a comprehensive program and to plan appropriate off-highway vehicle recreational use, 16.7% in each fiscal year; and

(B) deposited in the state special revenue fund established in 23-1-105 in an amount equal to 48.3% in each fiscal year;

(ii) 0.10% of the motor vehicle revenue deposited in the state general fund in each fiscal year, with 50% of the amount to be used for enforcing the purposes of 23-2-601, 23-2-602, 23-2-611, 23-2-614 through 23-2-618, 23-2-621, 23-2-622, 23-2-631

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LC6006

through 23-2-635, and 23-2-641 through 23-2-644 and 50% of the amount designated for use in the development, maintenance, and operation of snowmobile facilities; and

(iii) 0.16% of the motor vehicle revenue deposited in the state general fund in each fiscal year to be deposited in the motorboat account to be used as provided in 23-2-533;

(d) 0.64% of the motor vehicle revenue deposited in the state general fund in each fiscal year, with 24.55% to be deposited in the state veterans' cemetery account provided for in 10-2-603 and with 75.45% to be deposited in the veterans' services account provided for in 10-2-112(1);

(e) ~~0.30%~~ 0.59% of the motor vehicle revenue deposited in the state general fund in each fiscal year for deposit in the state special revenue fund to the credit of the senior citizens and persons with disabilities transportation services account provided for in 7-14-112; and

(f) to the search and rescue account provided for in 10-3-801, 0.04% of the motor vehicle revenue deposited in the state general fund in each fiscal year.

(4) For the purposes of this section, "motor vehicle revenue deposited in the state general fund" means revenue received from:

(a) fees for issuing a motor vehicle title paid pursuant to 61-3-203;

(b) fees, fees in lieu of taxes, and taxes for vehicles, vessels, and snowmobiles registered or reregistered pursuant to 61-3-321 and 61-3-562;

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(c) GVW fees for vehicles registered for licensing pursuant to Title 61, chapter 3, part 3; and

(d) all money collected pursuant to 15-1-504(3).

(5) The amounts transferred from the general fund to the designated recipient must be appropriated as state special revenue in the general appropriations act for the designated purposes."

{ Internal References to 15-1-122:

7-14-112X 10-2-112X 10-2-603X 10-3-801X
61-3-459X }

NEW SECTION. **Section 2.** {standard} **Effective date.** [This act] is effective July 1, 2009.

- END -

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As of: June 26, 2008 (9:58am)

LC6007

**** Bill No. ****

Introduced By *****

By Request of the *****

A Bill for an Act entitled: "An Act creating a weatherization account, allocating to the account a percentage of the oil and natural gas production taxes, amending sections 15-36-331, 90-4-201, and 90-4-215, MCA; and providing an effective date."

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 15-36-331, MCA, is amended to read:

"15-36-331. Distribution of taxes. (1) (a) For each calendar quarter, the department shall determine the amount of tax, late payment interest, and penalties collected under this part.

(b) For the purposes of distribution of oil and natural gas production taxes to county and school district taxing units under 15-36-332 and to the state, the department shall determine the amount of oil and natural gas production taxes paid on production in the taxing unit.

(2) (a) The amount of oil and natural gas production taxes collected for the privilege and license tax pursuant to 82-11-131 must be deposited, in accordance with the provisions of 17-2-124, in the state special revenue fund for the purpose of paying expenses of the board, as provided in 82-11-135.

(b) The amount of the tax for the oil, gas, and coal

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As of: June 26, 2008 (9:58am)

LC6007

natural resource account established in 90-6-1001 must be deposited in the account.

(3) (a) For each tax year, the amount of oil and natural gas production taxes determined under subsection (1)(b) is allocated to each county according to the following schedule:

Big Horn	45.05%
Blaine	58.39%
Carbon	48.27%
Chouteau	58.14%
Custer	69.53%
Daniels	50.81%
Dawson	47.79%
Fallon	41.78%
Fergus	69.18%
Garfield	45.96%
Glacier	58.83%
Golden Valley	58.37%
Hill	64.51%
Liberty	57.94%
McCone	49.92%
Musselshell	48.64%
Petroleum	48.04%
Phillips	54.02%
Pondera	54.26%
Powder River	60.9%
Prairie	40.38%
Richland	47.47%

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Roosevelt 45.71%
Rosebud 39.33%
Sheridan 47.99%
Stillwater 53.51%
Sweet Grass 61.24%
Teton 46.1%
Toole 57.61%
Valley 51.43%
Wibaux 49.16%
Yellowstone 46.74%
All other counties 50.15%

(b) The oil and natural gas production taxes allocated to each county must be deposited in the state special revenue fund and transferred to each county for distribution, as provided in 15-36-332.

(4) The department shall, in accordance with the provisions of 17-2-124, distribute the state portion of oil and natural gas production taxes remaining after the distributions pursuant to subsections (2) and (3) as follows:

(a) for each fiscal year through the fiscal year ending June 30, 2011, to be distributed as follows:

(i) 1.23% to the coal bed methane protection account established in 76-15-904;

(ii) 1.45% to the natural resources projects state special revenue account established in 15-38-302;

(iii) 1.45% to the natural resources operations state special revenue account established in 15-38-301;

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As of: June 26, 2008 (9:58am)

LC6007

(iv) 2.99% to the orphan share account established in 75-10-743;

(v) 2.65% to the state special revenue fund to be appropriated to the Montana university system for the purposes of the state tax levy as provided in 20-25-423;

(vi) 5% to the weatherization account established in 90-4-215; and

~~(vi)~~ (vii) all remaining proceeds to the state general fund;

(b) for fiscal years beginning after June 30, 2011, to be distributed as follows:

(i) 2.16% to the natural resources projects state special revenue account established in 15-38-302;

(ii) 2.02% to the natural resources operations state special revenue account established in 15-38-301;

(iii) 2.95% to the orphan share account established in 75-10-743;

(iv) 2.65% to the state special revenue fund to be appropriated to the Montana university system for the purposes of the state tax levy as provided in 20-25-423;

(v) 5% to the weatherization account established in 90-4-215; and

~~(v)~~ (vi) all remaining proceeds to the state general fund."

{ Internal References to 15-36-331:

15-36-304	15-36-332	15-36-332	15-36-332
15-38-301	15-38-302	75-10-743	76-15-904
82-11-135	90-6-1001}		

Section 2. Section 90-4-201, MCA, is amended to read:

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As of: June 26, 2008 (9:58am)

LC6007

"90-4-201. Weatherization money sources -- consolidation.

(1) All federal funds and grants available and becoming eligible to Montana under the provisions of the U.S. department of energy low-income weatherization assistance program, the U.S. department of health and human services low-income home energy assistance program, and any other federal funds intended to increase the energy efficiency of dwellings occupied by persons of low and fixed incomes, except for Title XX of the Social Security Act, are to be coordinated and are appropriated to the department of public health and human services.

(2) The department of public health and human services shall allocate and spend for home weatherization programs under this part at least 5% of the funds received from the U.S. department of health and human services low-income home energy assistance program if federal law permits this allocation.

(3) The department of public health and human services shall use the funds in the weatherization account established in 90-4-215 for home weatherization programs under this part."

{Internal References to 90-4-201:
90-4-215x}

Section 3. Section 90-4-215, MCA, is amended to read:

"90-4-215. Account Accounts established -- use. (1) There is an energy conservation and energy assistance account within the federal special revenue fund established in 17-2-102.

(2) There is a weatherization account in the state special revenue fund. There must be deposited in the account the proceeds

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As of: June 26, 2008 (9:58am)

LC6007

from the distribution of oil and natural gas production taxes as provided in 15-36-331 and any other state funds.

(3) The amounts deposited in the account in subsection (1) and interest and earnings on the account may be used by the department of public health and human services to fund its low-income energy assistance and home weatherization programs created in 90-4-201.

(4) The amounts deposited in the account in subsection (2) and interest and earnings on the account shall be used by the department of public health and human services to fund its low-income energy assistance and home weatherization programs created in 90-4-201."

{Internal References to 90-4-215: None.}

NEW SECTION. **Section 4. {standard} Effective date.** [This act] is effective July 1, 2009.

- END -

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As of: June 19, 2008 (11:08am)

LC6008

**** Bill No. ****

Introduced By *****

By Request of the *****

A Bill for an Act entitled: "An Act increasing the individual income tax credit for energy-conserving expenditures; providing a tax credit for limited liability partnerships, S. corporations, or other disregarded entities and for taxpayers with certain income levels; providing a refund for unused energy-conserving expenditure tax credits; amending section 15-32-109, MCA; providing an immediate effective date; and providing a retroactive applicability date."

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 15-32-109, MCA, is amended to read:

"**15-32-109. Credit for energy-conserving expenditures.** (1) Subject to the restrictions of ~~subsection (2)~~ subsections (4) and (5), a resident individual taxpayer may take a credit against the taxpayer's tax liability under chapter 30 for 25% of the taxpayer's expenditure for a capital investment in the physical attributes of a building or the installation of a water, lighting, heating, or cooling system in the building, ~~so~~ as long as ~~either type of investment is~~ the investments are for an energy conservation purpose, in an amount not to exceed ~~\$500~~ \$800.

(2)(a) Subject to the restrictions of subsections (4) and (5), a resident individual taxpayer with a family income of less

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As of: June 19, 2008 (11:08am)

LC6008

than or equal to the amount established in subsection (2)(b) may take a credit against the taxpayer's tax liability under chapter 30 for 25% of the taxpayer's expenditure for a capital investment in the physical attributes of a building or the installation of a water, lighting, heating, or cooling system in the building as long as the investments are for an energy conservation purpose, in an amount not to exceed \$800.

(b) To be eligible for the credit allowed by this subsection (2), a single taxpayer may not have a Montana adjusted gross income in excess of \$12,590 and married couples filing jointly or separately on the same form may not have a Montana adjusted gross income in excess of \$14,590. The department, by November 1, of each year, shall multiply the income amounts in this subsection (2)(b) by the inflation factor for that year and round the product to the nearest \$10. The resulting adjusted income is effective for that tax year and must be used in determining the eligibility for the credit allowed by this subsection (2).

(3) Subject to the restrictions of subsections (4) and (5), a limited liability partnership, S. corporation, or other disregarded entity may take a credit against the taxpayer's tax liability under chapter 30 for 25% of the taxpayer's expenditure for a capital investment in the physical attributes of a residential rental building or the installation of a water, lighting, refrigeration, heating, or cooling system in the building as long as the investments are for an energy conservation purpose, in an amount not to exceed \$800.

(4) A taxpayer's expenditure may be claimed for credit under

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subsection (1), (2), or (3) but may be claimed under only one of those subsections.

~~(2)(5)~~ The credit credits under subsection subsections (1)
~~(a)~~ may not exceed the taxpayer's tax liability; and
~~(b)~~ is through (3) are subject to the provisions of
15-32-104.

(6) The credits under subsections (1) and (3) may not exceed the taxpayer's tax liability. If the amount of the tax credit under subsection (2) exceeds the taxpayer's income tax liability for the tax year, the amount of the excess must be refunded to the taxpayer. The credit may be claimed even if the claimant has no taxable income.

(7) If the taxpayer is an S. corporation, the shareholders may claim a pro rata share of the tax credit. If the taxpayer is a partnership or disregarded entity, the credit may be claimed by the partners or members in the same proportion used to report the partnership's or entity's income or loss for Montana income tax purposes."

{ Internal References to 15-32-109:

15-30-125X 15-32-104 X 15-32-106 X 15-32-106X }

NEW SECTION. Section 2. {standard} Effective date. [This act] is effective on passage and approval.

NEW SECTION. Section 3. {standard} Retroactive applicability. [This act] applies retroactively, within the meaning of 1-2-109, to tax years beginning after December 31,

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As of: June 19, 2008 (11:08am)

LC6008

2008.

- END -

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GOVERNOR'S OFFICE OF
BUDGET AND PROGRAM PLANNING

Fiscal Note 2009 Biennium

Bill # SB0210

Title: Revise energy conservation and weatherization laws

Primary Sponsor: Laslovich, Jesse

Status: As Amended in Senate Committee

- | | | |
|---|--|--|
| <input type="checkbox"/> Significant Local Gov Impact | <input checked="" type="checkbox"/> Needs to be included in HB 2 | <input type="checkbox"/> Technical Concerns |
| <input type="checkbox"/> Included in the Executive Budget | <input type="checkbox"/> Significant Long-Term Impacts | <input type="checkbox"/> Dedicated Revenue Form Attached |

FISCAL SUMMARY

	<u>FY 2008 Difference</u>	<u>FY 2009 Difference</u>	<u>FY 2010 Difference</u>	<u>FY 2011 Difference</u>
Expenditures:				
General Fund	\$39,062	\$33,610	\$34,450	\$0
Revenue:				
General Fund	(\$2,860,736)	(\$3,181,996)	(\$3,503,378)	\$0
Net Impact-General Fund Balance	<u>(\$2,899,798)</u>	<u>(\$3,215,606)</u>	<u>(\$3,537,828)</u>	<u>\$0</u>

Description of fiscal impact:

This bill amends 15-32-109, MCA, which provides a credit for energy conservation investments in a building. These amendments would be effective beginning with tax year 2007 and terminating at the end of 2010. For tax years 2007 through 2010, this bill

- increases the limit on the credit from \$500 to \$800,
- includes lighting in the investments that are eligible for the credit,
- makes the credit refundable for single taxpayers with adjusted gross income of \$11,280 or less and married taxpayers with adjusted gross income of \$14,590 or less, adjusted annually for inflation, and
- allows pass-through entities to claim the credit for investments in a residential rental building.

The increased credits will reduce general fund revenue by \$2.9 million in FY 2008 increasing to \$3.5 million in FY 2010. The legislation terminates January 1, 2010.

FISCAL ANALYSIS

Assumptions:

1. Under current law, taxpayers are allowed a credit of 25% of eligible expenditures, with the credit limited to \$500. (A married couple counts as two taxpayers whether they file separate returns or a joint return.)

Thus, taxpayers with eligible expenditures of \$2,000 or less are unaffected by the current cap, while taxpayers with eligible expenditures of more than \$2,000 are limited to a credit of \$500.

2. On 2005 returns, 4,692 taxpayers claimed \$500 credits. Total credits claimed by capped taxpayers were \$2,346,000.
3. Based on the distribution of credits less than \$500, it is assumed that each \$50 increase in the cap would reduce the number of capped taxpayers 10%. It is also assumed that the average credit claimed by taxpayers who would be removed from the cap by increasing it by \$50 is \$25 more than the original cap. For example, increasing the cap from \$500 to \$550 would reduce the number of capped taxpayers from 4,692 to 4,223, and the average credit claimed by the 469 taxpayers who are capped at \$500 but not at \$550 would be \$525.
4. With a cap of \$800, 1,607 taxpayers would claim credits equal to the cap. They would claim a total of \$1,285,662 in credits. There would be 3,085 taxpayers who would be capped at \$500 but not at \$800. They would claim a total of \$2,104,615 in credits (an average of \$682). Total credits claimed by taxpayers who are capped under current law would be \$3,390,277, an increase of \$1,044,277.
5. On 2005 returns, taxpayers who met the income requirements to have the credit refunded under this bill claimed credits that were \$226,365 more than their tax liability. Under this bill, that amount would have been refunded to taxpayers.
6. There are 113,810 rental units in Montana (American Community Survey). At least half of these units are owned by individuals, who can claim the credit for investments under current law. Even with a tax credit covering part of the costs, a landlord has an incentive to invest in energy efficiency only if the landlord can recover the costs through lower energy bills or higher rents. Landlords pay for all utilities in less than 20% of units and pay for some utilities in a higher, but unknown percent of units. For this fiscal note, it is assumed that 25% of rental units are owned by pass-through entities that pay for enough of the unit's heat and other utilities to have an incentive to invest in energy conservation.
7. In 2005, credits were claimed by 5.3% of homeowners. Assuming that pass-through entity landlords will have the same participation rate on units where the landlord pays some of the utilities, they would have claimed credits on 1,508 units in 2005 (113,810 x 25% x 5.3%). Assuming that the maximum credit would be claimed for each, credits would have been \$1,206,400 (1,508 x \$800).
8. If this bill had been in effect in 2005, credits would have been \$2,477,042 higher (\$1,044,277 + \$226,365 + \$1,206,400).
9. Use of the energy conservation credit has grown rapidly in recent years and is expected to continue to grow. This credit is not forecast separately in HJR 2, but it accounts for a large part of a group of credits that are forecast to grow by 15.49% from 2005 to 2007, 11.23% in 2008, and 10.10% in 2009 and 2010. Assuming that the increases due to this bill will grow at the same rates, this bill would increase credits by \$2,860,736 in 2007 (\$2,477,042 x 115.49%), by \$3,181,996 in 2008 (\$2,860,736 x 111.23%), and by \$3,503,378 in 2009 (\$3,181,996 x 110.10%).
10. Credits will be claimed on income tax returns filed in the spring following each tax year. The increases in credits for 2007 through 2009 will result in the same reductions in revenue for FY 2008 through FY 2010.
11. Department of Revenue auditors adjust approximately 25% of the claims for this credit that they examine. With the growth in use of this credit since it was last amended and the growth expected because of this bill, the department is not able to audit enough of the returns to ensure high taxpayer compliance with the law. To ensure adequate auditing with the increased credits, the department would need an additional half-time tax examiner with annual salary of \$18,086 and annual benefits of \$9,578. Total personal services costs would be \$27,664 per year, increasing by 2.5% in FY 2010. Equipment costs to set up a new employee would be \$5,900 in FY 2008. Operating costs would be \$5,498 in FY 2008 and \$5,946 per year in FY 2009, increasing by 2.5% in FY 2010. Total additional costs would be \$39,062 in FY 2008, \$33,610 in FY 2009, and \$34,450 in FY 2010.

Fiscal Note Request – As Introduced

(continued)

	<u>FY 2008 Difference</u>	<u>FY 2009 Difference</u>	<u>FY 2010 Difference</u>	<u>FY 2011 Difference</u>
<u>Fiscal Impact:</u>				
FTE	0.50	0.50	0.50	0.00
<u>Expenditures:</u>				
Personal Services	\$27,664	\$27,664	\$28,356	\$0
Operating Expenses	\$5,498	\$5,946	\$6,095	\$0
Equipment	\$5,900	\$0	\$0	\$0
TOTAL Expenditures	<u>\$39,062</u>	<u>\$33,610</u>	<u>\$34,450</u>	<u>\$0</u>
<u>Funding of Expenditures:</u>				
General Fund (01)	\$39,062	\$33,610	\$34,450	\$0
TOTAL Funding of Exp.	<u>\$39,062</u>	<u>\$33,610</u>	<u>\$34,450</u>	<u>\$0</u>
<u>Revenues:</u>				
General Fund (01)	(\$2,860,736)	(\$3,181,996)	(\$3,503,378)	\$0
TOTAL Revenues	<u>(\$2,860,736)</u>	<u>(\$3,181,996)</u>	<u>(\$3,503,378)</u>	<u>\$0</u>
<u>Net Impact to Fund Balance (Revenue minus Funding of Expenditures):</u>				
General Fund (01)	(\$2,899,798)	(\$3,215,606)	(\$3,537,828)	\$0

Long-Range Impacts:

1. This bill sunsets on January 1, 2010 and will have no impacts after FY 2010.

_____	_____	_____	_____
<i>Sponsor's Initials</i>	<i>Date</i>	<i>Budget Director's Initials</i>	<i>Date</i>

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As of: June 26, 2008 (4:40pm)

LC6009

**** Joint Resolution No. ****

Introduced By *****

By Request of the *****

A Joint Resolution of the Senate and the House of Representatives of the State of Montana requesting an interim study to evaluate the feasibility of expanded use of biomass feedstocks for energy use in Montana.

WHEREAS, the expanded use of biomass from forests, agriculture, and other sources for energy may provide substantial economic and environmental benefits to Montanans; and

WHEREAS, the environmental quality council in conducting it's climate change interim study during the 2007-2008 interim, identified the expanded use of biomass feedstocks for energy use in Montana as a potentially important policy directive that deserves further evaluation.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA:

That the Legislative Council be requested to designate an appropriate interim committee, pursuant to section 5-5-217, MCA, or direct sufficient staff resources to:

- (1) evaluate the feasibility of expanding the alternative energy revolving loan program for biomass feedstock projects;
- (2) evaluate Montana biomass feedstock tax incentives as well as other state biomass feedstock tax incentives with respect

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As of: June 26, 2008 (4:40pm)

LC6009

to reducing the capitol costs of biomass energy production, including electricity generation and heating of residences and public buildings;

(3) analyze the potential use of pilot projects for different forestry and agriculture residues and liquid fuel production;

(4) evaluate funding alternatives for research and development on techniques for the collection, processing, transportation, storage, and distribution of forestry and agriculture residues, as well as market development or expansion for these materials;

(5) document research that has been conducted to:

(a) characterize emissions from biomass boilers and the impacts those emissions have on community air pollution; and

(b) mitigate emission impacts; and

(6) evaluate the statutory roadblocks for renewable resource grant and loan program eligibility for biomass feedstock projects, if any.

BE IT FURTHER RESOLVED, that if the study is assigned to staff, any findings or conclusions be presented to and reviewed by an appropriate committee designated by the Legislative Council.

BE IT FURTHER RESOLVED, that all aspects of the study, including presentation and review requirements, be concluded prior to September 15, 2010.

BE IT FURTHER RESOLVED, that the final results of the study, including any findings, conclusions, comments, or recommendations

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As of: June 26, 2008 (4:40pm)

LC6009

of the appropriate committee, be reported to the 61st
Legislature.

- END -

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Suggested Biomass Energy Incentives in Montana

Provided by Angela Farr, DNRC Fuels for Schools Coordinator
406.542.4239

1. Alternative Energy Investment Tax Credit revisions: Montana's Alternative Energy Systems 35% investment tax credit applies only to the tax liability (i.e., income) created by the investment in the renewable energy system. For example, if a mill installs a system for electrical generation from biomass, and sells a portion of that energy, only the income from selling the energy would be subject to the 35% tax credit on the investment in the renewable energy generation system. In most cases, this is not much of an incentive, because biomass energy investments do not generate high profits or cash flow. Many mills in the state are interested in developing capacity for electrical generation from biomass, primarily for their own energy needs, and cannot take full advantage of the current investment tax credit because there would be little or no taxable income generated by the investment.

In contrast, Oregon offers a 50% investment tax credit for renewable energy installations, which is given over 5 years on a 10% per year basis. Importantly, it can be applied to all income by a taxpayer on a consolidated return, not just the income generated by the investment. In addition, entities installing systems that are not able to take advantage of the credit (due to nonprofit status or lack of tax liability) can sell that credit at a discount to other taxpayers. In some cases, the capacity for monetizing this tax credit has been used as equity for borrowing the capital for the original investment. This makes the credit a very powerful tool. Montana's 35% would not necessarily need to be modified to 50%, but allowing the credit to apply to all income, or to be sold at a discount, would make the credit much more powerful.

2. Income tax credit for removing and processing biomass for energy: Oregon's last legislature (HB2210) enacted a \$10 per green ton state income tax credit for the removal and use for energy of material directly from the woods. The credit is granted to the entity that removes and processes the material into a form usable for energy. Similar to the renewable energy investment tax credit, this credit can be sold if the recipient is not able to use it.

At the Federal level, a \$20 per ton transportation subsidy for biomass fuel was authorized in the 2005 Energy Policy Act, but has never been funded.

Montana could enact a similar tax credit for removing and processing biomass to be used for heat or energy. Providing such a credit to the entities who remove the biomass, rather than to end users, would be more effective at getting more material used rather than burned in place, wasting its heat and energy.

3. Renewable Portfolio Standard modifications: Montana's Renewable Portfolio Standard is relatively weak due to the cost cap provisions in MCA 69-3-2007. For public

utilities that have restructured pursuant to Title 69 ch. 8, (i.e., Northwestern Energy), the renewable electricity must be cost-competitive with other electricity suppliers in order to make the purchase of renewables obligatory. Montana's rural electric cooperatives are not covered by the renewable portfolio standard. Strengthening the RPS for electrical generation by altering the cost caps is recommended (recognizing that some cost caps are probably needed). Investigating the impact of applying the RPS to rural electric cooperatives is also recommended. Several other states that include rural electric coops in their RPSs would be good sources for this information (examples include Arizona, Colorado, and New Mexico).

At least one state has mandated that a percentage of the heat used in that state be derived from renewable fuels, in addition to the RPS for electricity. Heat is the most valuable and efficiently derived form of energy from biomass, and an RPS for heat would be beneficial to expanding biomass utilization to replace fossil fuels and reduce greenhouse gas emissions.

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As of: June 26, 2008 (3:08pm)

LC6010

**** Joint Resolution No. ****

Introduced By *****

By Request of the *****

A Joint Resolution of the Senate and the House of Representatives of the State of Montana encouraging Congress to adopt the National Association of Counties' resolution regarding hazardous fuels emergencies.

WHEREAS, according to the Montana Legislature's Fire Suppression Interim Committee, that with limited resources and fuel and climatic conditions, it is likely that communities in Montana will burn, and firefighters and members of the public will be seriously injured or killed;

WHEREAS, the contributing factors of drought, extensive tree mortality due to insect infestation, and current federal land management policies that allow for extensive accumulations of biomass, make Montana's forest lands highly susceptible to catastrophic and environmentally destructive wild fires that threaten public health safety and welfare;

WHEREAS, U.S. Department of the Interior research has confirmed that reducing hazardous biomass fuels further away from communities limits the risks of catastrophic wild fires;

WHEREAS, reducing and using biomass has multiple benefits outside of wild fire mitigation, including alternative energy generation;

WHEREAS, the National Association of Counties has passed a

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As of: June 26, 2008 (3:08pm)

LC6010

resolution calling on the United States Congress to enact legislation granting a governor authority to declare a crisis when the severity of fire danger from fuels on identified federal lands within that state pose a significant threat to public health and safety, or there would be a probable loss of homes and property if wild fires occur; and

WHEREAS, upon the declaration of a crisis, responsible federal agencies would be required to fast-track a mitigation plan to reduce forest fuels, mitigation planning would be excluded under the National Environmental Policy Act appeal process, and any claimant filing a court action against the plan would be required to post a damage bond of 10% of the value of the property that would be protected under a mitigation plan; and

WHEREAS, adoption of these proactive hazardous fuels emergency measures will enhance Montana's ability to manage hazardous fuels in order to reduce the risk of catastrophic and environmentally destructive wild fires.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA:

(1) That the United States Congress enact legislation adopting the National Association of Counties' resolution regarding hazardous fuels emergencies and reduction.

(2) That the Secretary of State send copies of this resolution to the President of the United States; the Western Governors' Association; the Montana Congressional Delegation; and the National Association of Counties.

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As of: June 26, 2008 (3:08pm)

LC6010

- END -

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As of: June 26, 2008 (3:51pm)

LC6011

**** Bill No. ****

Introduced By *****

By Request of the *****

A Bill for an Act entitled: "An Act setting energy efficiency standards for new construction of state-owned buildings; and amending section 17-7-201, MCA."

Be it enacted by the Legislature of the State of Montana:

NEW SECTION. Section 1. Energy efficiency standards for new building construction. (1) All planning and preparation for building construction under 17-7-202 after July 1, 2010, must be designed, constructed, and certified to the LEED silver standard.

(2) (a) State agencies shall compile a report on operating savings relating to buildings constructed after July 1, 2008, to the department of administration before July 1 of each even-numbered year.

(b) The department shall consolidate all reports from state agencies required in subsection (2) (a) into one report to be presented to the legislature during the first week of each regular legislative session. This report is in addition to any other reporting requirements under 17-7-203.

Section 2. Section 17-7-201, MCA, is amended to read:

"17-7-201. Definitions of building and construction. In

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As of: June 26, 2008 (3:51pm)

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this part the following definitions apply:

(1) "Building" includes a:

(a) building, facility, or structure constructed or purchased wholly or in part with state moneys;

(b) building, facility, or structure at a state institution;

(c) building, facility, or structure owned or to be owned by a state agency, including the department of transportation.

(2) ~~"Building"~~ Building does not include a:

(a) building, facility, or structure owned or to be owned by a county, city, town, school district, or special improvement district;

(b) facility or structure used as a component part of a highway or water conservation project.

(3) "Construction" includes construction, repair, alteration, and equipping and furnishing during construction, repair, or alteration.

(4) "LEED silver standard" means the leadership in energy and environmental design rating standard developed by the United States green building council, commonly called the silver standard.

(5) "State agencies" has the meaning provided in 2-18-111."

{Internal References to 17-7-201:
20-15-403}

- END -

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As of: June 26, 2008 (3:51pm)

LC6011

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Information provided by DEQ

State LEED Experience

WASHINGTON

I spoke with Stuart Simpson, Sustainable Building Advisor, Washington Department of General Administration about their LEED experience.

State law now requires public buildings that receive funding from the state to be designed and certified to at least the LEED Silver standard. The law became effective in 2005 and applies to buildings larger than 5,000 square feet. Renovation projects with construction costs greater than 50 percent of the assessed value of the building or facility also require LEED Silver certification.

The Department of General Administration (GA) has worked with 60 construction projects since the LEED Silver certification requirement law was passed in 2005. The first new construction projects impacted by the law will be completed in late 2007 and 2008. Under Washington law the GA is able to grant exceptions to the LEED requirements in some special cases where LEED certification is not practical or justified. Four exceptions were granted to agencies with unique building needs that did not justify meeting LEED standards. These projects included a greenhouse, car ferry maintenance facility and several maintenance shops.

Washington has found that increased costs for construction and design fees for LEED certification has ranged from 1/2% to 3 1/2% of project costs.

In Washington State there is also requirement to perform life cycle cost analyses on new or major remodels of all publicly owned or leased facilities that are 25,000 square feet or more. This requirement is based in law: Revised Code of Washington (RCW) 39.35 and the Washington Administrative Code (WAC) 180-27-075.

OREGON

Oregon state government does not have a LEED certification requirement at the current time. However, Oregon does offer business tax credits for sustainable buildings that meet LEED certification for new or existing buildings.

To be eligible for the credits Oregon requires a building must achieve at least a minimum of a silver rating. Oregon also requires LEED projects to achieve additional energy performance improvements above the minimum or required LEED energy criteria. Projects must attain at least two points under the Energy and Atmosphere Credit section for exceeding energy code requirements and an another point for additional commissioning efforts. These additional requirements for energy performance result in new buildings being designed to exceed ASHRAE Standard 90.1-2004 by 14 percent. In the case of an existing building renovation the energy performance of the facility must be improved at least 7 percent to earn 2 additional energy points.

COLORADO

Senate Bill 07-051 requires state agencies or departments embarking upon a substantial renovation, design, or construction of a state-assisted facility of more than 5,000 square feet to pursue U.S. Green Building Council LEED Gold certification, as long as construction costs can be recouped from decreased operational costs within 15 years.

Senate Bill 07-051 requires the Colorado Department of Personnel and Administration to consult with

the Colorado Commission on Higher Education to adopt a "high performance standard certification program" for state building projects.

The program must:

- include quantifiable and verifiable standards;
- reduce long-term operating costs (e.g., energy, water consumption);
- recoup increased initial costs within 15 years through lower operating costs;
- improve indoor environmental quality;
- encourage the use of local building products and materials; and
- comply with the federal standards for historic properties.

The bill applies to facilities that:

- are substantially renovated, designed, or constructed with state moneys;
- are at least 5,000 gross square feet;
- include heating, ventilation, or air conditioning systems; and
- have not entered a design phase prior to January 1, 2008.

The bill affects any renovation that exceeds 25 percent of the property's value. SB 07-051 exempts certain projects, including:

- historic buildings;
- projects that cannot reduce operating costs enough to recoup the initial costs within 15 years;
- projects that substantially increase the cost of the building; and
- projects with extenuating circumstances.

Further, the bill does not apply to higher education facilities constructed with student fees, buildings financed by the Colorado Housing and Finance Authority, or local government buildings financed with severance tax revenue. If certification will increase a project's initial building cost by more than 5 percent, the Capital Development Committee (CDC) must review the cost before approving the project. The department is required to report annually to the CDC regarding the high performance standard certification program.

MASSACHUSETTS

A Massachusetts executive order in 2007 requires state agencies undertaking new construction projects to build to LEED Silver level or above.

ARIZONA

Arizona Executive Order 2005-05 requires new state-funded buildings to meet at least the LEED Silver level standard as a minimum requirement.

NEW MEXICO

New Mexico Executive Order 2006-001 requires all new state agency buildings over 15,000 square feet and over 50kW peak electrical demand to achieve at least a LEED Silver level rating.

CALIFORNIA

On December 14, 2005, California's governor signed Executive Order S-20-04, creating a Green Building Action Plan to improve the energy performance of all state buildings and reduce grid-based energy usage in state buildings by 20% of 2003 levels by 2015. Under this order, all new and renovated buildings must be rated to at least the "Silver" level of LEED* standards. EO S-20-04 also requires agencies to seek out office space leases in buildings with the ENERGY STAR rating for spaces of 5,000

square feet or more, to identify the most appropriate ways of achieving energy efficiency in their buildings, and to purchase ENERGY STAR products when cost effective.

CONNECTICUT

Public Act No. 06-187, enacted in 2006, required the Connecticut Office of Policy and Management, in consultation with the commissioner of public works, the commissioner of environmental protection and the commissioner of public safety, to adopt building construction regulations for state facilities. The construction standards must be consistent with or exceed the U.S. Green Building Council's LEED Silver rating for new commercial construction and major renovation projects, or an equivalent standard. Certain state building projects were originally exempt from the standard, but HB 7432 of 2007 removed those exemptions. State building projects that now must comply with the standard include:

- Any new construction of a state facility with a projected cost \$5 million or more, of which \$2 million or more is state funding, and is approved and funded on or after January 1, 2008.
- Renovation of a state facility that is projected to cost \$2 million or more, of which \$2 million or more is state funding, approved and funded on or after January 1, 2008.
- New construction of a facility that is projected to cost \$5 million or more, of which \$2 million or more is state funding, and is authorized by the Connecticut General Assembly on or after January 1, 2009.
- Renovation of a public school facility that is projected to cost \$2 million or more, of which \$2 million or more is state funding, and is authorized by the General Assembly on or after January 1, 2009.

FLORIDA

Executive Order 07-126, signed in July 2007, furthered the cause of sustainability in Florida by making new requirements and goals to decrease greenhouse gas emissions across all state agencies and departments under the direction of the Governor, and to increase the energy efficiency of state buildings.

To achieve this goal, the Department of Management Services has been directed to adopt the US Green Building Council's Leadership in Energy and Environmental Design for New Construction (LEED*-NC) for all new buildings, and to strive for Platinum Level certification. Further, all state agencies and departments under the direction of the Governor may not enter into new leasing agreements for office space that does not meet Energy Star building standards.

MICHIGAN

Regarding state buildings, all capital-outlay projects over \$1 million for buildings occupied by state agencies, departments, universities, and community colleges are required to be designed and constructed in accordance with the U.S. Green Building Council's Leadership in Energy and Environmental Design (LEED) rating system. The new executive directive also requires the DMB to ensure that all new construction and renovations of state buildings, including state-leased buildings, strive to score at the LEED Platinum level on the Existing Building, New Construction, and Commercial Interiors scorecards when attainable. This is an expansion of the old policy which only required the lowest level of LEED certification; platinum is the highest level. The 2007 directive also added numerous other requirements relating to departmental energy use and carbon tracking, recycling, agency coordination, alternative fuels, and alternative vehicles.

NEVADA

Effective July 1st, 2007, each occupied public building whose construction will be sponsored or financed by the state must, when completed, meet the requirements to be certified at or meet the equivalent of the base level or higher in accordance with the LEED System, or an equivalent standard. The legislation also requires that during each biennium, at least two occupied public buildings whose construction will be sponsored or financed by the State must be designated as demonstration projects that meet the requirements to be certified at or meet the equivalent of the LEED "Silver" level or higher.

Finally, before initiating the construction or renovation of any occupied public building which is larger than 20,000 square feet, Nevada state agencies must complete an analysis of the cost to construct, operate, and maintain the building over its expected lifetime. The analysis should identify energy conservation measures with payback of 10 years or less and renewable energy measures that could be incorporated into construction or renovation (such as passive and active solar, wind, and geothermal). The agency must then consider the results of this analysis in determining the design of the building. Renewable energy should be incorporated into plans when in the best interest of the state.

LEED Cost Issues

Additional construction costs and design fees for meeting LEED certification are not excessive. Integrating sustainable design into the project during the development and design phases can significantly reduce the additional costs for LEED certification. Overall costs for construction projects could increase significantly if sustainable design elements are considered late in the building design phase and projects have to go through a redesign to meet LEED standards. However, experience in the federal government and states has shown that additional costs can range from zero to seven percent for a wide variety of building types.

Cost Study Examples Attached

***The Costs and Financial Benefits of Green Buildings -
A Report to California's Sustainable Building Task Force
October 2003***

A nation wide review of 33 green buildings showed a construction premium for meeting LEED certification ranged from zero percent to 7.5 percent.

***GSA LEED Cost Study
U.S General Services Administration.
October 2004***

This study was done to estimate the cost to develop green federal facilities for the General Services Administration. The detailed study examined the extra costs to build two typical federal building types, a new mid-size federal courthouse and a mid-size federal office building renovation. The construction cost impacts for Silver certification ranged from a low of negative .03 percent to a high of 4.4 percent more for the new federal courthouse example. Silver certification for the office building renovation example ranged from 3.1 percent to 4.2 percent.