



ENVIRONMENTAL QUALITY COUNCIL

PO BOX 201704
HELENA, MONTANA 59620-1704
(406) 444-3742

GOVERNOR BRIAN SCHWEITZER
DESIGNATED REPRESENTATIVE
MIKE VOLESKY

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CHAS VINCENT
CRAIG WITTE

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CHRISTINE KAUFMANN
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ROBERT STORY JR

PUBLIC MEMBERS
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DIANE CONRADI
DOUG MCRAE

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

MINUTES

Approved May 28, 2009

Date: September 8, 2008

Room 102
State Capitol Building

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

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

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

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

COMMITTEE MEMBERS PRESENT

SEN. DAVID WANZENRIED, Chair
REP. CAROL LAMBERT, Vice Chair
SEN. CHRISTINE KAUFMANN
SEN. JIM SHOCKLEY
SEN. ROBERT STORY JR
REP. NORMA BIXBY
REP. SUE DICKENSON
REP. JULIE FRENCH
REP. CHAS VINCENT
REP. CRAIG WITTE
MR. JEFF PATTISON
MR. BRIAN CEBULL
MS. DIANE CONRADI
MR. MIKE VOLESKY

COMMITTEE MEMBERS ABSENT

SEN. BOB HAWKS
SEN. DANIEL MCGEE
MR. DOUG McRAE

STAFF PRESENT

TODD EVERTS, Lead Staff
JOE KOLMAN, Research Analyst
SONJA NOWAKOWSKI, Research Analyst
HOPE STOCKWELL, Research Analyst
BARBARA SMITH, Legislative Fiscal Division
CYNTHIA PETERSON, Committee Secretary

Visitors

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

COMMITTEE ACTION

- The EQC approved the minutes of the May meeting.
- The EQC approved LC 6000.
- The EQC tabled LC 6003.
- The EQC approved LC 6001 as amended.
- The EQC approved LC 6002.
- The EQC approved LC 6005.
- The EQC approved LC 6006.
- The EQC approved LC 6007.
- The EQC approved LC 6008 as amended.
- The EQC approved LC 6009.
- The EQC tabled LC 6010.
- The EQC approved LC 6011 as amended.
- The EQC adopted the climate change report, findings, and draft recommendations.

CALL TO ORDER AND ROLL CALL

AGENDA

00:00:02 Sen. David Wanzenried, Chairman of the Environmental Quality Council (EQC), called the meeting to order at 1:01 p.m. The secretary noted the roll (Attachment 3).

ADMINISTRATIVE MATTERS

Approval of May EQC Meeting Minutes

00:00:53 Rep. Lambert moved the May minutes be adopted. The motion carried unanimously by voice vote

EQC Budget Review

00:01:19 Mr. Everts reported the EQC has remaining funds of \$25,430.80.

CLIMATE CHANGE BILL DRAFTS

00:04:33 Ms. Nowakowski summarized the public comment process for the bill drafts and directed the EQC members to the her five-page summary of the comments ([EXHIBIT 1](#)).

LC 6000

Review of public comment received

00:06:27 Ms. Nowakowski reviewed the public comments received regarding LC 6000.

Public comment

No public comment was offered.

Questions and discussion - EQC

There were no questions or discussion offered.

Council decision

00:08:06 Rep. Dickenson moved that LC 6000 be approved. The motion carried unanimously by voice vote with Sen. Hawks, Sen. McGee, and Mr. McRae voting by proxy.

LC 6001

Review of public comment received

00:08:55 Ms. Nowakowski reviewed the public comments received regarding LC 6001.

Public comment

- 00:09:27 Loretta Miller, owner of Green Meadow Auto Salvage in Helena, explained how the salvage industry has been recycling for years. Ms. Miller opposed LC 6001 and provided a history of the Junk Vehicle Fund. Ms. Miller was concerned about developing a bureaucracy for a service that was not really needed. Ms. Miller suggested the state should not compete with for-profit businesses.
- 00:18:49 Jim Dusenberry, President of Montana Tow Truck Association, explained the procedure currently used to address abandoned vehicles. Mr. Dusenberry believed the current procedure is working well and junk vehicles are being recycled. Mr. Dusenberry did not want to use state money to create another layer of government.

Questions and discussion - EQC

- 00:23:00 Rep. Dickenson addressed Lou Moore, Department of Environmental Quality (DEQ), and stated Ms. Miller's comments make a good point and asked Ms. Moore for her thoughts about expanding the program to include the private sector. Ms. Moore stated it would not matter whether the loans were being made to a public or private entity. Rep. Dickenson asked whether rulemaking should be done to protect loans from going to businesses that were not stable. Ms. Moore agreed that would be helpful. Rep. Dickenson was curious to know the balance in the Junk Vehicle Fund. Ms. Moore responded there is approximately \$5 million in the Junk Vehicle Fund. Ms. Moore suggested the fund is high because of the high price of metals.
- 00:26:41 Sen. Kaufmann asked for an explanation of the statutory purpose of the Junk Vehicle Fund. Ed Thamke, DEQ, explained the intention of the fund is to promote recycling in Montana. Sen. Kaufmann asked whether it would take legislative action to replace the \$1 million of the diverted money if the program becomes short funded. Mr. Thamke responded it would depend on how the legislation is written. Mr. Thamke believed the program is sustainable because of the high price of metals.
- 00:28:39 Rep. Witte asked what specifically was being recycled. Mr. Thamke responded mostly metals are being recycled because of junk automobiles.
- 00:30:03 Sen. Story addressed Mr. Thamke and asked what the cash flow for the fund looks like during the year. Mr. Thamke responded the high price of metals has resulted in a high fund balance. Sen. Story asked whether there was a lot of inventory out in the counties. Mr. Thamke responded they have been busy since people are anxious to take advantage of the high price of metals. Sen. Story

wondered whether the \$60 fee to collect junk vehicles was adequate. Mr. Thamke responded the 2005 legislation was necessary for the county yard formula.

00:33:12 Rep. Lambert inquired whether more money is paid for towing in years when there is a surplus. Mr. Thamke responded they have provided an increase in the abandoned towing reimbursement during the last several years.

00:34:19 Mr. Cebull requested clarification that the intent of LC 6001 was to expand general recycling in communities.

00:35:04 Ms. Nowakowski agreed the legislation was aimed at helping landfills, local governments, and non-profits.

Council decision

00:36:06 Rep. Dickenson moved LC 6001 be approved for early introduction.

00:36:22 Rep. Witte requested the vote on LC 6001 be postponed until the EQC had an opportunity to discuss LC 6003. Rep. Dickenson withdrew her motion.

LC 6003

Review of public comment received

00:37:15 Ms. Nowakowski summarized the public comment received on LC 6003.

Public comment

There was no public comment offered.

Questions and discussion - EQC

00:38:39 Ms. Conradi asked whether there was overlap between LC 6001 and LC 6003. Ms. Nowakowski explained one is a grant program and the other is a loan program. Additionally, the programs have different funding mechanisms.

00:40:20 Rep. Lambert asked Ms. Nowakowski how many individuals would be on the advisory council. Ms. Nowakowski responded there would be seven members, and only 15 percent of the fee would go toward program administration.

00:42:00 Rep. Witte asked whether the 15 percent administrative costs would go to the DEQ. Ms. Nowakowski agreed. Rep. Witte asked whether the agency could utilize less than 15 percent.

00:43:48 Mr. Cebull requested the current tonnage fee. Mr. Thamke responded the current tonnage fee is 40 cents.

- 00:44:40 Rep. French requested clarification, and Ms. Nowakowski explained everybody who pays the fee now, would pay the increased fee. Rep. French asked whether counties would also be paying. Ms. Nowakowski agreed, and Mr. Thamke added there are only two private facilities in Montana.
- 00:46:41 Sen. Story asked Barbara Smith, Legislative Fiscal Analyst, to explain the appropriations process.
- 00:47:04 Ms. Smith explained the item would be contained in HB 2, and it would be a legislative decision whether to appropriate the 15 percent.
- 00:47:32 Rep. Witte clarified the fee would be going from 40 cents per ton to 75 cents per ton. Ms. Nowakowski agreed.
- 00:47:49 Rep. Vincent asked to hear from a representative from the Montana Association of Counties (MACo). There was no representative available.
- 00:48:15 Rep. Dickenson was also concerned about the funding mechanism and pointed out another option could be to fund the grants out of the Junk Vehicle Fund.
- 00:49:23 Sen. Story emphasized that LC 6001 provides for a revolving loan and LC 6003 provides for a grant program.
- 00:50:20 Rep. Dickenson asked why the 35 cent fee increase was proposed and wondered whether a decent program could be funded with less of an increase. Ms. Nowakowski explained why the 35 cent fee was deemed appropriate.
- 00:51:57 Rep. Lambert moved LC 6003 be tabled. The motion carried by roll call vote.

LC 6001 (Cont'd)

- 00:54:19 Rep. Dickenson moved that LC 6001 be approved for pre-introduction.
- 00:54:41 Rep. Witte addressed the loss ratio of five percent and wondered whether that percentage was reasonable. Rep. Witte moved to amend LC 6001 by reducing the loss ratio to one percent.
- 00:56:02 Sen. Story commented the section relates to reporting to the Legislature and the loss ratio would be whatever it is. Sen. Story emphasized the loss ratio needs to be tracked and reported.
- 00:57:05 Rep. Witte stated he did not support the proposal and viewed it as competition with private industry. Rep. Witte's motion failed by voice vote.
- 00:58:39 Sen. Kaufmann asked whether moving any proposed legislation forward would make the legislation a committee bill. Chairman Wanzenried responded yes the legislation would become a committee bill.

00:59:41 Sen. Story moved to expand LC 6001 to include private entities. The motion carried unanimously by voice vote.

Council decision

01:00:15 Sen. Dickenson moved that LC 6001 move forward as amended. The motion carried by roll call vote.

LC 6002

Review of public comment received

01:02:03 Ms. Nowakowski reviewed the purpose and public comment relating to LC 6002.

Public comment

No public comment was offered.

Questions and discussion - EQC

01:02:51 Rep. Witte inquired how much the program provides in tax credits. Ms. Nowakowski provided an explanation and noted a discrepancy. Ms. Moore provided clarification and agreed the figure needed to be verified.

01:06:49 Sen. Story explained the figure in controversy was a tax deduction and that is why the figure seemed high. Ms. Nowakowski verified the figure and agreed with Sen. Story's explanation.

Council decision

01:08:12 Sen. Story moved LC 6002 be moved forward as an EQC bill. The motion carried unanimously by voice vote.

LC 6004

Review of public comment received

01:09:02 Ms. Nowakowski explained LC 6004 received substantial public support.

01:09:30 Hope Stockwell, Research Analyst, explained the phase-in process contained in LC 6004 and the definition of "manufactured food." Ms. Stockwell reviewed the questions and suggested changes contained in LC 6004.

Public comment

No public comment was offered.

Questions and discussion - EQC

- 01:11:12 Sen. Story summarized comments and questions from the agricultural industry as: (1) What types of facilities would qualify; and (2) how to encourage new business without providing incentives for people with existing businesses. Sen. Story suggested a tax credit would be easy, but emphasized many new businesses do not immediately make a profit and, therefore, do not pay income taxes.
- 01:13:56 Ms. Stockwell explained the proposal could be shaped to only apply to the state's portion of the property taxes. Ms. Stockwell also believed the proposal could be crafted so it would only apply to small facilities.
- 01:15:10 Rep. Dickenson asked Mr. Volesky about applying the abatement to the state's portion of the property taxes. Mr. Volesky believed a representative from the Department of Revenue (DOR) would need to be consulted. Ms. Dickenson suggested the EQC wait to take action until more information could be obtained.
- 01:16:34 Sen. Story agreed and noted the proposed legislation did not specifically reference products consumed in Montana.
- 01:17:54 Ms. Stockwell explained to Ms. Conradi that the EQC's request was broad and did not specifically identify a property tax abatement. Ms. Conradi asked if there was an advantage to utilizing a property tax abatement, and Ms. Stockwell explained she was attempting to have something flexible.
- 01:19:17 Mr. Pattison explained Montana has a 90-day growing season and noted the abatement is annual. Ms. Stockwell responded the proposal would apply to the taxable value of the food production facility. Ms. Stockwell explained quarterly reports would need to be provided and a qualification determination would be made annually.
- 01:23:37 Sen. Shockley asked whether there were any federal commerce clause issues.
- 01:24:09 Mr. Volesky commented that commerce clause problems occur when attempts are made to unduly restrict products from another region.
- 01:24:33 Sen. Kaufmann asked Ms. Stockwell to draft language that would make the proposal apply to smaller facilities, so a large portion of the tax base would not be affected.
- 01:25:20 Sen. Story suggested speaking with Mr. Heiman or Mr. Martin from Legislative Services Division.
- 01:25:47 Mr. Volesky stated a representative from DOR would provide more information for the EQC. Ms. Stockwell stated she would have a representative from the DOR review the proposal.

- 01:27:04 Ms. Nowakowski directed the EQC members to a letter dated September 4, 2008, to Mick Robinson from Mark S. LoParco (**EXHIBIT 2**) and a letter dated September 5, 2008, from Bob Durringer to Mick Robinson (**EXHIBIT 3**).
- 01:28:20 Ms. Stockwell explained the Montana University System (MUS) is requesting additional direction and clarification.
- 01:30:55 Rep. Witte was curious about the reference to beverages and candy in the bill draft. Chairman Wanzenried explained LC 6004 would be addressed as soon as additional information is received.
- 01:31:47 Sen. Story recalled the request was made in an effort to determine how much food is produced and consumed in Montana. Chairman Wanzenried offered to send further clarification to the Commissioner of Higher Education.
- 01:33:46 Ms. Stockwell believed the request filtered through the MUS levels and referred the EQC members to Exhibit 2.
- 01:35:08 Sen. Story suggested proposing a resolution to the next legislature requiring a study.
- 01:35:54 Rep. French suggested the proposal could be incorporated into LC 6009.

(BREAK)

LC 6005

Review of public comment received

- 01:52:15 Chairman Wanzenried directed the EQC members to the revised version of LC 6005 (**EXHIBIT 4**). Ms. Nowakowski reviewed the proposed legislation and explained only one comment was received from the public.

Public comment

There was no public comment.

Questions and discussion - EQC

- 01:54:22 Mr. Cebull stated he did not believe the proposal should be placed into Montana law. Mr. Cebull believed the proposal could be included in the EQC's final report.
- 01:55:39 Sen. Story agreed with Mr. Cebull in theory and suggested it would be helpful to have a formalized procedure. Sen. Story emphasized the Montana Department of Transportation already reports to the Revenue and Transportation Interim Committee.
- 01:57:31 Chairman Wanzenried suggested the only way to ensure consistency in reporting is to require it by statute.

Council decision

01:57:59 Rep. French moved that LC 6005 be advanced for early drafting. The motion carried unanimously by voice vote.

LC 6006

Review of public comment received

01:58:34 Ms. Nowakowski reviewed the purpose of LC 6006 and the public comment.

Public comment

There was no public comment.

Questions and discussion - EQC

There were no questions or discussion from the EQC.

Council decision

01:59:17 Sen. French moved LC 6006 be advanced for early drafting.

01:59:34 Sen. Story asked for clarification on the source of revenue.

01:59:40 Ms. Nowakowski explained the proposal would establish the revenue at previous levels and would double the amount that goes into the Motor Vehicle Fund.

02:00:51 Sen. Story asked if there needs to be an offset or a catchall number for consistency in the law and proposal.

02:01:07 Ms. Nowakowski responded there does not need to be an offset in the percentages.

02:01:23 Rep. French asked what the Legislative Finance Committee is looking to do away with. Ms. Nowakowski stated there is a bill draft which would eliminate permanent general fund transfers.

02:02:18 Barbara Smith, Legislative Fiscal Division (LFD), explained LFD staff looked at state special revenue funds to determine whether they met the criteria to segregate revenue for specific interests.

02:03:08 Sen. Wanzenried added there are hundreds of millions of dollars every biennium going to programs that are not scrutinized.

02:03:56 The motion to advance LC 6006 for early drafting carried by voice vote with Sen. McGee, Sen. Shockley, Sen. Story, Sen. Witte, and Mr. Cebull voting no.

LC 6007

Review of public comment received

02:04:43 Mr. Kolman explained revenue from oil and gas taxes go to a number of other funds and the remainder goes to the general fund. Mr. Kolman explained five percent of leftover oil and gas taxes would go to weatherization.

Public comment

02:06:18 Dave Galt, Montana Petroleum Association, cautioned that for the past four quarters, Montana has experienced record growth in oil and gas revenues, but oil production is down in Montana and gas production is flat. Mr. Galt cautioned against making a statutory appropriation.

Questions and discussion - EQC

02:07:41 Sen. Kaufmann asked whether the appropriation would go away because of other legislation proposed for special revenue funds. Chairman Wanzenried believe it would be scrutinized, and Ms. Smith added the funds would be a transfer from oil and gas and not a transfer from the state special revenue account.

02:08:48 Rep. Lambert asked whether counties that produce oil, gas and coal would receive more money. Mr. Kolman responded the proposal would give five percent to the weatherization program and would not be linked to production.

02:09:46 Sen. Shockley asked who would administer the money. Mr. Kolman responded the Department of Public Health and Human Services (DPHHS) administers the weatherization program. Ms. Nowakowski added the idea would be to chip away at the weatherization waiting list.

02:10:59 Mr. Volesky explained the Human Resource and Development Councils administer the money for weatherization.

02:11:43 Mr. Pattison requested clarification, and Mr. Kolman clarified the proposal would not affect the amount of money currently received by individual counties. Ms. Smith explained that total oil and gas revenues are disbursed to counties first, the expenses are paid to the Board of Oil and Gas, then to the Orphan Share Account, and then to the general fund.

02:14:29 Rep. Witte asked whether the proposal would increase funding to the orphan share. Ms. Smith clarified the proposal would not increase revenue to the Orphan Share Account.

02:15:21 Sen. Kaufmann moved LC 6007 be advanced for early drafting.

- 02:15:36 Mr. Cebull cautioned oil and gas production will decrease and disagreed with the five-percent allocation. Mr. Cebull believed weatherization is a good cause, but did not want to tie weatherization funding to oil and gas production taxes.
- 02:16:42 Sen. Kaufmann explained the proposal would not increase taxes and, if production decreases, the five percent for weatherization would also decrease. Sen. Kaufmann emphasized the money would actually be paid from the general fund.

Council decision

- 02:17:30 Sen. Kaufmann's motion to advance LC 6007 carried by roll call vote.

LC 6008

Review of public comment received

- 02:19:15 Ms. Nowakowski reviewed LC 6008 and the summary of public comment.

Public comment

There was no public comment.

Questions and discussion - EQC

- 02:21:14 Rep. Witte, addressed page 2, subsection (b), and wondered how many people would be eligible. Rep. Witte wondered if eligibility should be tied to the poverty level. Sen. Shockley agreed.
- 02:22:17 Sen. Story noted eligibility is tied to adjusted gross income, which is higher than a person's total income.
- 02:23:04 Ms. Nowakowski explained the numbers came from SB 210 (2007) and correspond with the federal earned income tax credit. Sen. Shockley suggested the level should be 150 percent of poverty. Rep. Dickenson agreed and noted there are several energy programs available. Rep. Dickenson moved to amend the amounts to \$15,600 and \$17,500.
- 02:25:29 Rep. Witte asked about proposed changes to the poverty level for CHIP. Sen. Kaufmann responded the proposed legislation does not change the federal poverty level but increases the limit by which people will qualify for CHIP. Rep. Witte suggested the amount should be tied to the CHIP level.
- 02:27:04 Sen. Shockley noted a family of four making \$60,000 could qualify for CHIP and children could, under some circumstances, receive services up to age 25.
- 02:27:45 Ms. Nowakowski clarified the amendment would be 150 percent of poverty level versus referencing a specific dollar amount.

02:28:24 Sen. Story noted the bill does not take into account the number of children in a household. Sen. Story also noted the proposal is for a refundable tax credit and not a deduction.

02:29:51 Sen. Kaufmann did not want to tie the level to a percentage of poverty level.

Council decision

02:31:33 Rep. Dickenson restated her motion was to amend LC 6008 and increase the eligibility to 150 percent of poverty level or \$15,600 and \$17,500. The motion carried by roll call vote. Ms. Nowakowski requested clarification and emphasized 150 percent of the federal poverty level will change every year; therefore, a specific dollar amount cannot be set in statute.

02:34:36 Rep. Dickenson agreed the amendment was not workable.

02:35:03 Ms. Conradi moved to set the eligibility level at 150 percent of the federal poverty level.

02:35:35 Sen. Kaufmann believed it should not matter how many children are in the home since the goal is to weatherize homes and conserve energy.

02:36:53 Sen. Story believed most programs are usually tied to total household income and not how tax returns are filed. Sen. Story suggested raising the numbers and asking DPHHS how income is calculated.

02:38:01 Ms. Nowakowski read an e-mail from Jim Nolan, DPHHS, and his comment that 150 percent of the federal poverty level is what DPHHS uses for Low-Income Energy Assistance Program (LIEAP), which is better than the SB 210 level. Ms. Conradi withdrew her motion and the EQC agreed to take further action on LC 6008 on September 9, 2008.

LC 6009

Review of public comment received

02:40:26 Ms. Nowakowski reviewed the purpose of LC 6009 and summarized the public comment.

Public comment

There was no public comment.

Questions and discussion - EQC

02:41:17 Rep. French assumed if the study bill moved forward, it would include the questions posed to the MUS regarding biomass.

02:41:53 Sen. Shockley stated he believed the issue needed to be addressed.

- 02:42:39 Mr. Pattison noted Section 3, page 2, and asked Sen. Shockley what would be a different pilot project. Sen. Shockley thought the state was encouraging the use of biomass and, simultaneously, discouraging the burning of wood.
- 02:43:48 Mr. Volesky clarified biomass burners are very efficient.
- 02:44:10 Rep. Vincent believed there were many different aspects and that the issues of supply and process need to be analyzed.

Council decision

- 02:46:13 Rep. French moved that LC 6009 move forward. The motion carried by voice vote with Sen. McGee voting no by proxy.

LC 6010

Review of public comment received

- 02:46:54 Ms. Nowakowski reviewed the purpose of LC 6010 and the public comment received.
- 02:49:12 Mr. Everts identified a need to define the date the resolution was adopted and directed the EQC members to the National Association of Counties (NACo) Resolution dated July 15, 2008 ([EXHIBIT 5](#)).

Public comment

There was no public comment.

Questions and discussion - EQC

- 02:51:03 Sen. Kaufmann addressed the reference to the NACo resolution in LC 6010 and suggested the "Whereas" clauses should be modified to support the version of the NACo resolution that passed.
- 02:52:06 Chairman Wanzenried emphasized the EQC's past action did not support the NACo resolution as passed.
- 02:52:46 Rep. Vincent emphasized the resolution was attempting to give some meat to the decision to declare an emergency. Rep. Vincent believed the system is being clogged by people who are manipulating the system by filing appeals. Rep. Vincent moved to withdraw the previous vote to adopt the NACo resolution and adopt the NACo Subcommittee resolution as submitted to the EQC.
- 02:56:16 Mr. Cebull explained the language has to be amended to remove the reference to the NACo resolution.
- 02:56:54 Chairman Wanzenried explained the intent is to adopt the subcommittee recommendation of NACo. Mr. Everts suggested amending page 2, subsection

(1), to specify that it was the subcommittee draft resolution of NACo, as opposed to the adopted resolution. Rep. Vincent agreed. Mr. Cebull suggested the first paragraph would need to be edited as well. Mr. Everts agreed.

02:58:24 Sen. Story expressed concern about the last two "Whereas" clauses. Mr. Everts explained the "Whereas" clauses were being retained, but the reference on page 2, subsection (1), would reference the draft resolution from the subcommittee as opposed to the final resolution.

02:59:32 Rep. French wondered why NACo went to the amended statement versus the one recommended by the subcommittee. Rep. Vincent was unaware of the reason and had not been provided an explanation.

Council decision

03:00:50 Rep. Dickenson asked whether the idea had been run by the Fire Suppression Interim Committee (FSIC). Rep. Vincent responded he had not had an opportunity and would be making a similar motion to the FSIC. Rep. Dickenson asked if it was on the agenda of the FSIC. Rep. Vincent agreed the issue was on the FSIC agenda. The motion to amend LC 6010 failed by roll call vote.

03:04:17 Sen. Story moved to table LC 6010. The motion carried by voice vote with Rep. Vincent and Rep. Witte voting no.

LC 6011

Review of public comment received

03:05:01 Ms. Nowakowski reviewed the purpose of LC 6011 and the public comment that was received.

Public comment

03:06:18 Jim Whaley, State Architect, identified one problem with LC 6011 as the requirement that the state follow Leadership in Energy and Environmental Design (LEED) standards. Mr. Whaley explained the definition of construction the state follows includes alteration, repair, and new construction of buildings, and following LEED standards in those circumstances is not always feasible. Mr. Whaley stated the cost of getting the LEED certification is not insignificant. Mr. Whaley stated LC 6011 does not fit well with what they are attempting to do and submitted substitute language for LC 6011 ([EXHIBIT 6](#)).

03:09:40 Ms. Moore believed Mr. Whaley's proposal was better, and stated DEQ would support the new language.

03:10:04 Ellen Simpson, Montana Wood Products Association, believed the original bill draft was unacceptable and supported the new substitute bill draft.

Questions and discussion - EQC

03:11:32 Sen. Kaufmann asked whether the new proposal had received public comment. Mr. Everts explained the new draft was proposed through the public comment process. Mr. Everts noted the new draft does not include leased buildings.

03:12:39 Sen. Story asked Mr. Whaley about state-leased buildings. Mr. Whaley stated he did not have a problem with including new leased buildings.

03:14:48 Sen. Story asked whether Mr. Whaley had any estimate what the additional costs would be in meeting the requirement of 20 percent greater than the International Energy Conservation Code (IECC). Mr. Whaley identified the Native American Study Center at the U of M and stated that building is approximately 50 percent more efficient than Code. Mr. Whaley explained Code is a minimum standard and 20 percent above code should be economically feasible. Mr. Whaley addressed the remodel of Hamilton Hall at Montana State University and explained how it may not be feasible to make Hamilton Hall 20 percent more efficient than current code.

03:16:43 Sen. Story suggested that remodels are the problem. Mr. Whaley stated the nature of some new buildings do not lend themselves to being 20 percent above code.

03:17:41 Rep. Dickenson stated she was confident in what is already being done by state government regarding energy efficiency. Rep. Dickenson spoke about a Colorado Wal-Mart's innovative energy conservation efforts.

Council decision

03:20:16 Sen. Story moved to amend LC 6011 and incorporate the proposals contained in Exhibit 6 to develop a new draft.

03:21:53 Rep. Witte explained he had spoken with various individuals in the construction industry who believed the LEED standards were not always feasible.

03:22:20 Rep. Dickenson made a substitute motion to include new leased buildings for the state of Montana.

03:23:12 Sen. Story requested clarification that the amendment was for newly constructed leased buildings or newly leased existing buildings. Rep. Dickenson clarified she would like to include newly constructed leased buildings.

03:23:50 Rep. Witte recalled testimony that some buildings may not be able to meet 20 percent. Mr. Whaley agreed that 20 percent may not be feasible for some buildings. Rep. Witte asked whether the percentage should be lower. Mr. Whaley explained there is a need to balance functionality, energy use, and good

construction. Rep. Witte suggested adding language referencing "or to the extent it is cost effective." Chairman Wanzenried agreed.

03:26:39 Ms. Conradi asked Sen. Story whether his amendment would include the definition section. Sen. Story stated the definitions would be as currently in statute. The substitute motion carried unanimously by voice vote.

CLIMATE CHANGE DRAFT REPORT AND FINDINGS

Review of public comment received - Staff

03:29:32 Ms. Nowakowski directed the EQC members to the draft Climate Change Report, which contained the EQC's changes from its July meeting ([EXHIBIT 7](#)).

Public comment

There was no public comment.

Questions and discussion - EQC

03:33:45 Mr. Cebull requested clarification whether voting to approve the report would mean that he agrees with everything in the report. Mr. Cebull stated he did not support everything contained in the report. Ms. Nowakowski clarified the report outlined both sides of the issues and clearly states not all EQC members agreed.

03:35:03 Chairman Wanzenried asked for clarification that public comments on the report could be added as an appendix. Ms. Nowakowski agreed adding public comment to the report or the legislative proposals would have to be done as an appendix.

Council decision

03:36:14 Rep. Dickenson moved the EQC adopt the climate change report.

03:36:32 Sen. Kaufmann agreed and expressed her disappointment with the EQC's work and suggested the EQC could have done a better job in addressing climate change.

03:37:50 Rep. Witte recalled some of the 54 recommendations were contradictory to successful, wise living in Montana. Rep. Witte expressed his disappointment that the EQC failed to address issues surrounding Montana superfund sites.

03:39:36 Ms. Nowakowski explained that by adopting the climate change report, the EQC members would also be adopting the findings and the draft recommendations and the legislative proposals adopted by the EQC today.

03:41:00 Rep. Vincent reminded the committee members that the EQC would be hearing additional information at its meeting tomorrow, and it might be premature to vote.

03:41:46 Rep. Dickenson appreciated the time and effort expended by the EQC and its staff. Rep. Dickenson requested the EQC members to support the motion.

- 03:44:14 The motion to adopt the climate change report carried by roll call vote.
- 03:46:31 Sen. Wanzenried commended the work of the staff and EQC members on the controversial issues surrounding climate change.
- 03:47:49 The EQC recessed at 4:49 p.m.