

EQUALITY STATE POLICY CENTER



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2005 Wyoming Legislature Working Better for Wyoming Citizens

Dear Friends:

The 2004 election produced even greater majority party dominance in the 58th Wyoming Legislature. This was not reflected in policy decisions, however, as most issues were not debated along partisan lines. Moderate legislators, citizen groups, and Governor Dave Freudenthal worked together to make significant policy advances in accountable government, education, and wildlife habitat improvements.

On the other hand, despite extraordinary levels of mineral revenues from rising prices, the Equality State Policy Center had to lobby hard to stop unnecessary sales and use tax breaks for power plants and coal enhancement projects – breaks that would sharply cut local government revenues just when they are needed most.

And although the Legislature accepted the will of the voters and left tort “reform” alone, much work remains to be done to address rising health care costs and the increasing numbers of uninsured Wyoming residents.

As the Legislature heads into the February 2006 budget session, when it will make many decisions about investing in programs and infrastructure (or saving even more cash for a rainy day), its members need to hear from Wyoming citizens about THEIR priorities and vision for our state.

The ESPC stands ready to help, with issue research, policy analysis, and training to help citizens effectively influence policy decisions.

As always, we thank you for your interest, participation, and support!

Best wishes,

Sarah Gorin
Board chair

Dan Neal
Director

Tom Throop
Outgoing director

P.S. For detailed descriptions of all the bills in this report and legislators' individual votes, please refer to the 2005 LAP Book on the ESPC's website at www.equalitystate.org*

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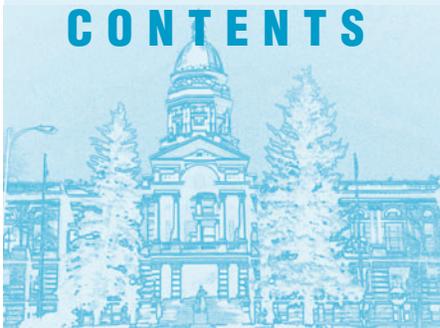
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Democracy Reforms & Government Accountability

Wyoming's legislators continued making incremental progress toward more open and accountable government.

Ethics for public officials.

Wyoming's current ethics law for public officials and employees (including members of state boards, commissions or councils) prohibits using their offices for personal gain or engaging in nepotism. House Bill 23 extended the reach of the ethics law to cover members of joint powers boards and officers of special districts.



Proponents successfully argued that we need fewer “mistakes” in the first place and that the term “willful violation” would protect those truly mistaken.

The bill allows public officials to participate in an illegally closed meeting, however, if they object during the proceedings. The objection will be made public, thereby alerting citizens to the contested secrecy.

Legislative compensation.

A small step toward broadening the pool of citizens who can consider legislative service was taken with passage of HB 281, which authorizes paying legislators for a specified amount of preparation time for interim committee meetings.

The ESPC long has advocated increased compensation for legislators because the relatively small salary tends to limit legislative service to people sufficiently affluent to take time away from their usual work.

State-tribal liaison.

In 2003, the Legislature established a state-tribal liaison in the Governor's office to improve relations between the state and the Northern Arapahoe and Eastern Shoshone tribes of the Wind River Reservation.

This year, passage of SF 45 appropriated \$120,000 to hire two full-time tribal liaisons, one for each tribe. In addition to the appropriation, the legislation directs the Governor's Office to develop an immediate action plan and a long-term policy to shape Wyoming's partnership with these sovereign nations within its boundaries.

Citizens Still in the Dark About Lobbyist Spending

While the state continues to make progress on democracy reforms, it still lacks the reporting requirements needed to spread sunshine on efforts by lobbyists to influence legislators.

Wyoming's weak lobbyist reporting law requires reporting of only selected expenses, resulting in a highly skewed picture of lobbying efforts. Many lobbyists who are at the Capitol throughout the session report nothing.

Citizens deserve to know the total amount of money various interests spend attempting to influence our elected lawmakers!

Open meetings law.

Legislators also enacted HB 165, making willful violation of Wyoming's open meetings law both a misdemeanor subject to a \$750 fine and cause for dismissal from office.

Debate over the bill was surprisingly contentious; a number of legislators objected to punishing elected officials for making a “mistake” in closing a meeting to the public.

The Joint Corporations, Elections and Political Subdivisions Interim Committee will review state laws governing Wyoming's counties during the interim. Most of these laws have not been changed since the late 1800s. The Committee will examine the duplication of responsibilities for cities, towns and counties and possible consolidation of services. It also may review state election laws for compliance with the federal Help America Vote Act.

**LOOKING
AHEAD**



TAX POLICY: Big Tax Breaks Derailed

State needs data on economic “incentives”

Because of Wyoming’s heavy reliance on mineral revenues, the state budget tends to boom and bust along with the energy economy. Instead of looking at ways to diversify Wyoming’s tax base, legislators considered bills offering tax breaks that would make the boom and bust cycles even worse.

The ESPC argued against enacting any new tax exemptions without first identifying replacement revenues and collecting and analyzing data on the impacts of an exemption.

The exemptions were all proposed as economic development “incentives,” but as other states have sadly discovered, tax breaks often fail to produce or sustain quality jobs while reducing revenues needed to meet demands for services.

Two bills proposed exempting sales of livestock semen, embryo transplants, herbicides, and pesticides from sales tax (HB 17 and HB 18). The revenue impact of these proposed exemptions was relatively small, but no data was presented to show any impact on jobs. Both bills passed the House, but were not brought up for debate in the Senate.

Two other House bills with potentially huge revenue impacts – but again no supporting data – were proposed to attract additional coal development. The first, HB 272, would have exempted from sales and use tax

the equipment purchased to build coal enhancement facilities (coal gasification or liquefaction). The second, HB 315, proposed the same exemption for electrical generating facilities.

Both bills were offered late in the session and neither carried a “fiscal note” – the estimate of the bill’s cost to state and local governments. Consequently, *legislators were voting on the bills without knowing the extent of the revenue being sacrificed.*

The ESPC estimated revenue losses to state and local governments of \$15 million to \$40 million per plant. This estimate was not contested by coal or utility lobbyists—nor were suggestions offered on how to replace the revenue. Fortunately for future budgets, both bills died.

In the end, only one new sales and use tax exemption passed the 2005 session – an exemption for construction and repair of rolling stock (rail cars). The ESPC successfully advocated a reporting amendment to determine whether the exemption will affect employment.

Repeal sales tax on food

The ESPC supported removing the sales tax on food and replacing the revenue by hiking the overall sales tax from 4% to 4.3%. This proposal would both lighten the burden on low-income Wyomingites while preserving revenues for state and local governments.

The bill (HB 160) was not brought up for debate in the House after passing committee. The lead sponsor, Rep. Ann Robinson (D-Casper/H58), has since joined with several legislators, former legislators and other advocates to begin an initiative petition drive to exempt food from sales tax.

If the petition drive collects enough signatures before the 2006 session, legislators will face a decision of either exempting food from sales tax by legislation or putting the proposal before the voters on the 2006 general election ballot.

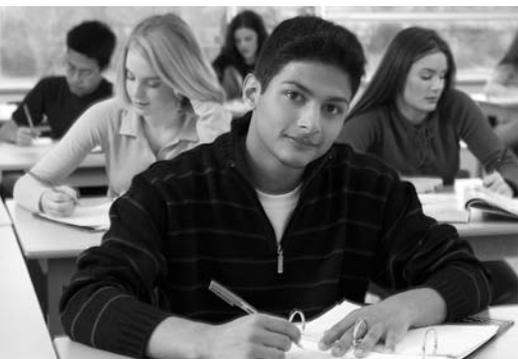
LOOKING AHEAD



The Joint Revenue Interim Committee will again study how to set the taxable value of producer-processed “sour” gas produced in western Wyoming – an issue that has generated one lawsuit after another for more than a decade. The ESPC expects industry lobbyists to pressure the Legislature to enact a valuation method that will reduce taxes paid by producers. The Joint Minerals, Business and Economic Development Interim Committee will look at what other states are doing to promote coal enhancement projects in competition with Wyoming.

EDUCATION: A Big Boost

As the most important component to ensure a state's long-term economic and social health, education requires a deep commitment from government.



This year, legislators responded to lobbying by parents, educators, and business groups with extraordinary support for public schools, the community colleges and the University of Wyoming.

Scholarships and endowed chairs.

Two trust funds were established by SF 122 to make higher education a priority.

The Hathaway Scholarship Plan will use interest from a \$400 million trust fund to pay for Wyoming students' college scholarships.

A second trust fund of \$105 million will generate earnings that will be used to finance endowed chairs at the community colleges and at UW.

Supporters of the Hathaway Plan hope it will lead to greater family engagement in high school and help reduce Wyoming's 25% drop-out rate. The plan promises to pay tuition and fees for students who take specified core classes (including a number of advanced academic courses) and who meet minimum grade requirements and ACT scores.

Educators believe the establishment of five endowed chairs at the University of Wyoming's Department of Education will improve the quality of classroom teachers. Many people believe the classroom instructor is the most important factor in student success.

Better pay for teachers, staff.

The need for better pay for teachers and other school employees spurred spending of more than \$22.7 million via a budget amendment for pay raises throughout the state. In SF 47, legislators also approved a \$33 million appropriation to help meet health insurance costs in Wyoming's districts. Both should help school districts' recruitment efforts.

A separate fund of \$400,000 is aimed at helping districts recruit math, science and special education teachers.

Funding for all-day kindergarten, extended day/summer school, and an inflation adjustment appropriation of \$12 million was also included in SF 47.

The direct additional appropriations to public schools totaled nearly \$80 million.



LOOKING AHEAD



“Recalibration” of the state’s school finance system will be the first priority study for the Joint Education Interim Committee. The result may determine whether the state will focus on mere adequacy for Wyoming’s public schools, or on excellence. The committee also will study student tuition assistance, private school licensing, teacher advancement programs, and charter schools. The panel was directed to step into the politically charged environment surrounding the State Superintendent of Public Instruction with a review of that office’s relationship with the state Board of Education.

WORKING WYOMING FAMILIES:

Job Opportunities Improve, Wages Lag

Wyoming's labor unions initiated a successful proposal to help our state's youth and women get higher-paying jobs with an apprenticeship program tied to the state's school construction and other public works projects. But legislators balked at bills directly affecting wages.

Apprenticeships.

House Bill 253 gives a bid preference to contractors who agree to employ apprentices to work at least 10% of the hours on any University of Wyoming, community college or school district project estimated to cost \$1 million or more.

Expected costs for Wyoming's school construction, prison and road projects will total about \$800 million and could create around 1,200 new jobs, according to the Wyoming State AFL-CIO.

Proponents hope the apprenticeships will help close the gender wage gap and provide opportunities for young people who might otherwise leave our state.

Wages.

HB 68 proposed raising the state minimum wage for tipped employees from \$2.13/hour to the federal minimum wage, \$5.15. The bill passed

committee but was not brought up for debate on the House floor.

Similarly, a bill to enact a living wage, SF 151, was defeated in committee.

During the session, the Governor's Planning Office released The Self-Sufficiency Standard for Wyoming – a compilation revealing the income needed to cover basic economic necessities (such as housing, food, transportation, health insurance, child care) – for different family sizes in each Wyoming county.

The study is intended to educate employers, those seeking work, and the general public about the actual costs of living in Wyoming and the wages needed to achieve economic self-sufficiency. The data can be accessed online at http://wyoming.gov/governor/policies/documents/WyomingSelf-SufficiencyStandard2005_000.pdf or by requesting a copy of the study from the Governor's Planning Office.

Unemployment compensation.

Amendments to unemployment compensation laws permanently eliminate the one-week waiting period for benefits due when a job is lost. SF 80 also will impose a fine of up to \$50,000 for employers who illegally manipulate contribution rates.

The Joint Labor, Health and Social Services Interim Committee will consider the problem of employers who are delinquent in paying their worker's compensation premiums. The Children and Families Initiative, a diverse assortment of other state agencies and nonprofit organizations working to improve conditions for Wyoming children and families, will prepare its final report for submission to the Legislature on October 1.

LOOKING
AHEAD



Space limitations prevent additional detail. For more information, including votes on and texts of legislation, visit the electronic version of this report on ESPC's website: www.equalitystate.org.



TORT LIMITS: Again

The July 2004 Special Session put two proposed constitutional amendments on the general election ballot: Amendment C, to establish a medical malpractice review panel; and Amendment D, to allow the Legislature to limit non-economic damages in medical malpractice cases (so-called “caps”). The voters approved Amendment C but defeated Amendment D.

Medical Review Panels.

With caps off the table, spirited debate took place over the composition and power of the medical malpractice review panels.

Of four bills offered, the final review panel legislation (HB 83) provides for a panel made up of two medical care providers, two attorneys, and a lay person.

An individual alleging medical malpractice must first bring the case to a panel (unless the injured person and the medical provider jointly agree to waive the panel). Within 60 days, the injured person must submit a statement from an expert witness describing the basis of the claim and supporting evidence.

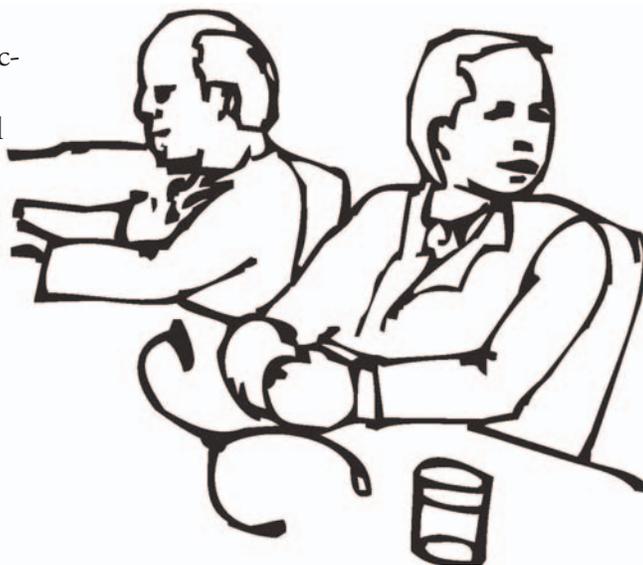
The decision of the panel is not binding, and if the case ultimately goes to the courts, the panel’s decision will be admissible at the discretion of the trial judge.

Other health care legislation.

Medical malpractice insurers will come under closer scrutiny due to passage of SF 88, requiring insurers to file an annual report with the Wyoming Department of Insurance listing all claims against health care providers and all settlements or damage awards.

Although specific claims and awards will be confidential, the public will receive an accounting of the totals claimed and paid.

Problems leading to patient injuries will be better identified following passage of SF 113, which requires hospitals and nursing homes to report patient deaths and severe injuries due to events within the institution. Similar laws in other states have led to better medical outcomes at relatively low cost.



LOOKING AHEAD



The Joint Labor, Health and Social Services Interim Committee will try to determine whether health care costs are higher in Wyoming and why private health insurance costs are rising faster than underlying costs of care. The Joint Judiciary Interim Committee will consider forming a risk retention pool to provide medical malpractice insurance for Wyoming doctors. In addition, a special Joint Committee on Department of Health Review will look at the increasing Department of Health budget, particularly Medicaid expenditures.

ENVIRONMENT: Help for Landowners and Wildlife

Two proposals debated in several previous sessions finally passed in 2005: A split-estate bill to help landowners who do not own the rights to minerals beneath their ranches; and a wildlife trust fund bill.

Split estates.

This term refers to situations in which a landowner holds rights only to the surface and someone else owns the mineral rights.

Because a surface owner may not deny access to the minerals (except under specific laws such as the federal surface coal mining statute), the coalbed methane boom has resulted in a number of unhappy landowners who feel the gas companies have acted irresponsibly when it comes to surface impacts.

In an unusual process reflecting the fragile compromise between the two sides over SF 60, legislators moved the bill through both houses without amendment.

The new law requires oil and gas operators to negotiate a surface use agreement with landowners (or obtain a bond for the landowner to secure payment for damages) before the oil or gas company can obtain a state permit to drill.

The agreement covers timelines for drilling and production activities, descriptions of those activities, reclamation plans, and compensation for use of the surface.

Wildlife trust fund.

Despite reservations over creating new trust funds, the 2005 Legislature enacted SF 41, the Wyoming Wildlife and Natural Resource Funding Act, which establishes a trust fund that will generate revenues to pay to enhance wildlife habitat throughout Wyoming.

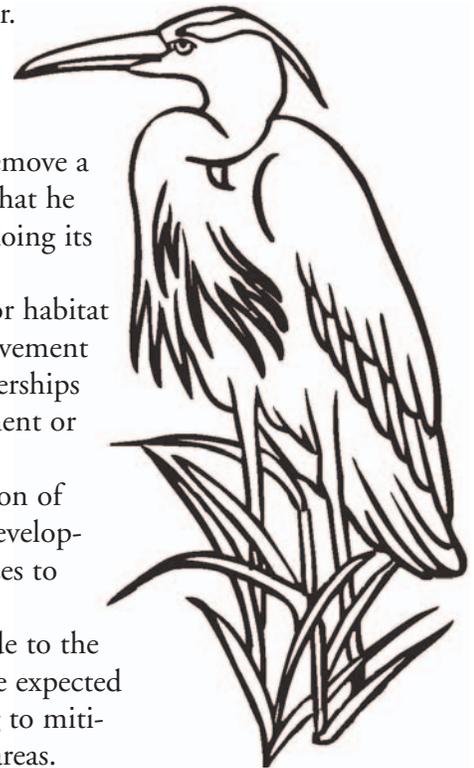
The proposal moved easily through the Senate with a \$30 million appropriation and the legal authority to buy appropriate lands. Opponents in the House piled on damaging amendments that reduced funding to \$15 million and denied authority to buy private property, even from a willing seller.

Expenditure of the funds will be directed by a board appointed by Gov. Freudenthal. The governor used his line-item veto to remove a \$200,000 per-year spending cap that he said would keep the board from doing its work.

The board will make grants for habitat preservation, restoration or improvement projects, typically involving partnerships between landowners and government or nonprofit agencies.

Projects may include acquisition of easements to protect access and development of land management practices to benefit wildlife.

Private donations may be made to the Wildlife Trust Fund, and some are expected from energy corporations needing to mitigate habitat losses in production areas.



LOOKING AHEAD



The Joint Travel, Recreation, Wildlife, and Cultural Resources Interim Committee will consider alternative funding for the Game and Fish Department during the interim, along with electronic licensing. So-called “takings” legislation again will be considered by the Joint Agriculture, Public Lands and Water Resources Interim Committee, which will look at a takings law passed last year in Oregon.

TRANSITIONS



Tom and Caryn Throop.

Tom Throop, the executive director of the ESPC since 1998, retires in August. Under his leadership, the ESPC expanded its membership and won wide recognition as Wyoming's "Good Government Watchdog."

Tom's hard work was magnified by his extraordinary organizational skills. He ran a tight ship administratively, developed a sound funding base, and spurred the production of some of the ESPC's best "think tank" work.

"Tom Throop's energy and vision made the ESPC the high-profile organization it is today," said Sarah Gorin, ESPC board chair. "More than that, as a dedicated grassroots activist, he helped build and promote citizen participation through many other groups and programs."

The ESPC welcomes Dan Neal, former editor of the Casper Star-Tribune, as its new executive director. As Dan noted in his interview, he has "spent 24 years learning about the issues and people of Wyoming." He's working in the new Casper office located at 340 West "B" Street – come in and visit!

About the ESPC

The Equality State Policy Center (ESPC), a Wyoming nonprofit corporation, is a broad-based coalition of Wyoming organizations.

The ESPC utilizes research, public education and advocacy to maintain accountability in state government and to substantially increase citizen participation in, and influence over, public policy decision-making.

The ESPC publishes the *Wyoming LAP* Book* (*Legislative Accountability Project), a compilation of each legislator's campaign contributions and voting record on key legislative issues, available on the ESPC's website at www.equalitystate.org and in every county library.



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