

EQUALITY STATE POLICY CENTER



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2006 Wyoming Legislature The **Vision** Thing

Dear Friends,

The boom times continue to roll, with varying predictions as to how long it will last. Some say the natural gas bubble already is bursting; others believe world energy demands will keep prices up for many years to come.

In either case, the funds available now beg the question: Where does Wyoming want to be five years from now...in 10 years, 20 years? How should we invest the boom to counter the inevitable bust and improve the quality of life of our people, besides just socking away money?

Although the Legislature made substantial investments in education – the foundation for any economic vision – surprisingly few legislators are asking about, much less articulating, what our state should be like a generation hence.

And some clearly are happy simply with stuffing money into the mattress, rather than considering innovative programs that might help change the problems we all complain about.

The ESPC has some ideas. But we believe the most important thing is to foster a process that seeks and tests ideas, instead of looking no further ahead than the two-year budget cycle.

It looks like retirements alone will bring significant changes to the makeup of the 2007 Legislature. The ESPC coalition and its supporters need to continue working with lawmakers to create a better Wyoming for everyone.

Thanks for your commitment and support!


Sarah Gorin
Board chair


Dan Neal
Director

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Victory for Activism: Sales Tax Off Food

Exempting food from sales tax probably ranks as the greatest victory for citizen activism in the 2006 legislative session.

Initially, the proposal met the same treatment as in years past – killed early in the process before getting to a debate on the floor.

This time it was the House Revenue Committee, which voted down the bill on a 4-5 tally (even though the same committee passed the bill in 2005).

But that was just the start of the fight. A continuing campaign by the bill's chief sponsor, Rep. Ann Robinson (D-H58, Casper), assisted by several groups including the ESPC, generated enough public outcry to persuade a majority of legislators to approve an amendment to the 2007-08 budget bill that exempts food from sales tax for two years beginning July 1, 2006.

[The House takes roll calls on budget bill amendments only occasionally, so there is no House roll call vote on this important issue. The Senate roll call may be found at <http://equalitystate.org/lapbook/06legislation/hb1.html>]

The initiative petition campaign to permanently exempt food from sales tax will continue, with the goal of getting the exemption on the 2008 general election ballot in case the Legislature has not made the exemption permanent by then.

Taxing food was the most extreme element of Wyoming's regressive tax system (in a regressive system, taxpayers with lower incomes pay a higher percentage of their income in taxes than taxpayers with higher incomes).

Although the personal tax burden in Wyoming

is low relative to other states because taxes generated from mineral production provide significant funding for government services, lower-income taxpayers pay disproportionately more due to the state's reliance on sales tax (and no income tax).

Lower-income taxpayers also are hit hard by increases in energy prices – the same increases that so greatly benefit state coffers.

Consequently, legislators also approved additional funding for LIEAP (Low Income Energy Assistance Program) to assist with utility bills and weatherization. *[For a roll call vote on HB 124, please refer to <http://equalitystate.org/lapbook/06legislation/hb124.html>]*

Sin Wins

When the 2005 session's open container bill failed in a late brouhaha over alcohol in recreational vehicles, most observers believed the bill finally would pass in 2006 – the fourth attempt in as many years.

They were wrong. After passing the Senate easily, the bill foundered in the House by one vote, leaving in place the current law prohibiting only the driver from having an open container of alcohol (commonly described as the “hold-my-beer-while-I-talk-to-this-cop” law).

[For a roll call vote on SF 36, please refer to <http://equalitystate.org/lapbook/06legislation/sf36.html>]

A tax increase on tobacco also failed in the House, 26-33. The proposed increase raised the cigarette tax from 60 cents to \$1 per package, and the tax on non-cigarette tobacco products from 20% to 33.33% of the wholesale price, with the additional revenue going to the Medicaid program in the Wyoming Department of Health.

[For a roll call vote on HB 54, please refer to <http://equalitystate.org/lapbook/06legislation/hb54.html>]



And Coal Wins One, Too

In addition to exempting food from sales tax, legislators overwhelmingly approved an exemption for equipment used in construction of coal value-added facilities.

This was taken to mean the equipment comprising the plant, such as boilers and pipe (although the bill contained no definitions).

The Legislative Service Office estimated the cost of the exemption at \$9.4 - \$62.4 million in lost sales tax revenues, depending on the size and type of the facility.

All agree that development of “clean coal” technologies is necessary to the future of Wyoming’s still vast coal reserves. The current practice of burning coal to generate electricity releases too much mercury, too many particulates, too many greenhouse gases. It can and will be done better.

Unfortunately, even assuming the tax exemption might attract a facility (and no evidence was offered to support this assumption, although there is considerable evidence against it), the exemption is not tied to use of a clean coal technology.

Moreover, the exemption ignores the need to mitigate impacts of plant construction. Under Wyoming’s Industrial Development Information and Siting Act, sales taxes paid by an entity constructing a large project are considered part of the mitigation package.

Without these taxes, either the plant owner(s) will have to pay more in mitigation, or the state will have to pick up the tab.

[For a roll call vote on HB 61, please refer to <http://equalitystate.org/lapbook/06legislation/hb61.html>]

Covering the Uninsured

Between 70,000 – 80,000 Wyomingites, mostly adults, have no health insurance coverage. This is a critical issue not only for these people, their families, and their employers, but also for our state’s public hospitals (funded in part by tax dollars) and private health care providers.

The 2006 Legislature took a positive step toward covering some uninsured adults with passage of a bill expanding the Kid Care CHIP program to include some participants’ parents.

Kid Care CHIP (Children’s Health Insurance Program) is an existing public-private partnership providing health insurance coverage to children in families with too much income for Medicaid, but not enough to purchase insurance on the private market.



The Kid Care CHIP expansion will offer coverage to parents (of Kid Care CHIP participants) whose employers contribute a 50% match toward the policy premium. This is intended to strengthen the private insurance market by making employee coverage more affordable for small employers.

However, experience in other states has shown that many employers can’t or won’t contribute, so the initial enrollment is expected to be small (and, in fact, is capped by current funding at just over 3,700 participants). So while the program is a step in the right direction, it is just a drop in the bucket toward covering Wyoming’s uninsured.

Although there were bumps along the way (like when the Senate Appropriations Committee took out all the funding for the expansion), SF 58 ultimately passed both houses unanimously, with funding.

ENERGY & WYOMING'S ENVIRONMENT

High energy prices pour money into state coffers and also stimulate more development, as increased prices justify recovery of oil and gas that is more costly to produce.

Despite tremendous increases in workload over the past few years, there has not been a matching increase in staff and other resources at Wyoming's Department of Environmental Quality.

Legislators partially remedied the situation this session by funding 34 out of 37 new DEQ positions recommended in Governor Freudenthal's budget. This infusion should result in additional monitoring and more field inspections.

Legislators also made a start on badly-needed landfill remediation. For years, many landfills were approved without liners, on the assumption that Wyoming's arid climate would prevent leaching that eventually would contaminate groundwater.

This assumption was wrong, and while a few of the state's larger and newer landfills are lined, most landfills across the state are not. Furthermore, about 80 percent of Wyoming's 145 landfills have inadequate groundwater monitoring systems (or none at all).

The 2006 legislation established a \$7.97 million groundwater monitoring grant program. These grants will be offered to local governments on a 50% matching basis, to be used to monitor and analyze pollution from open or closed landfills.

The DEQ then will have four years to evaluate the resulting data and report to the Legislature on the extent of groundwater pollution from landfills, how much it will cost to clean up, and how the cleanup might be funded.

In addition, local governments have until 2009 to submit integrated solid waste management plans to the DEQ. The bill included funding for a matching grant program to help local governments pay for the management plans.

[For a roll call vote on SF 38, please refer to <http://equalitystate.org/lapbook/06legislation/sf38.html>]



Bucks Get More Bucks

Legislators infused another \$25 million into the Wyoming Wildlife and Natural Resource Trust Fund to pay for wildlife habitat enhancement projects. The Fund was started by the 2005 Legislature with an initial appropriation of \$15 million.

Repeated attempts to place restrictions on spending per project, or on types of projects, were defeated with a strong grassroots conservation lobby effort.

[As with the food sales tax exemption, there is no House roll call vote on the budget bill amendment appropriating the money to the trust fund. The Senate roll vote can be found at <http://equalitystate.org/lapbook/06legislation/hb1.html>]

Coyotes Get More Bucks, Too

Conservationists also were able to reduce, but not eliminate, a new appropriation for local predator control boards. An initial \$10 million was reduced to \$6 million after proponents were unable to clearly identify a need for all the funds.

The reduced (but still significant) appropriation passed despite earlier legislation establishing and funding a state wide Animal Damage Management Board intended to be funded mainly via voluntary fees paid by ranchers and sportsmen.

The anticipated levels of funding did not materialize, but rather than conclude that this showed a lack of public support for the program, a majority of legislators voted to give predator control yet more general fund money.

[For a roll call vote on HB 24, please refer to <http://equalitystate.org/lapbook/06legislation/hb24.html>]

The predator control funding also catalyzed an accountability issue when the state Department of Agriculture used its resources to send a mailing to local predator control boards, urging them to lobby for the funding, and providing instructions and assignments.

The ESPC protested and publicized the misuse of funds, and has asked Governor Freudenthal and Department of Agriculture Director John Etchepare to establish executive branch rules identifying inappropriate lobbying activity, and to train employees to follow them.

Siting Act, eminent domain

Interim studies of particular interest in the energy and conservation area include a review of the Wyoming Industrial Development Information and Siting Act (for meetings, follow the Minerals, Business and Economic Development Interim Committee at <http://legisweb.state.wy.us/2006/interim/min/minerals.htm>), eminent domain reform (<http://legisweb.state.wy.us/2006/interim/ag/topics.htm> -- reassigned from Minerals), and alternative funding for the Wyoming Game and Fish Department (<http://legisweb.state.wy.us/2006/interim/trav/topics.htm>).

In addition, the Legislature approved a study of water produced from coalbed methane operations, to be conducted by a task force appointed by the Governor and Legislature.

[For a list of members of the task force and the meeting schedule, please refer to <http://legisweb.state.wy.us/2006/interim/coalbed/coalbed.htm>]

Confidentiality – or Secrecy?

Since his election in 2002, Governor Freudenthal had used his veto power sparingly but effectively, with no veto overrides. This streak ended in the 2006 session with an overwhelming override – not on a major public policy disagreement, but instead over a relatively obscure issue of “privileged communications.”

The privileged communications in question were those between legislators and legislative staff. All communications relating to requests for research or advice, drafting legislation, anything under consideration by a legislative committee (except communications in public meetings), or development of the legislator’s position on legislation, were defined as confidential and therefore not subject to public records requests.

Communications on these same topics between a legislator and a contractor or consultant retained by the Legislature, and to communications between a legislator and his/her constituents, also were labeled confidential.

Several legislators described the bill as simply extending to themselves the same freedom of discussion enjoyed by the governor and his staff, but much of the emotional debate focused on legislators’ need to formulate legislation out of the public eye.

The ESPC, the League of Women Voters of Wyoming, and the Wyoming Press Association believe that legislation should be formulated in public view, and particularly objected to protecting legislators’ communications with contractors and consultants – to no avail.

[For roll call votes on final passage of SF 5 and the veto override votes, please refer to www.equalitystate.org/lapbook/06legislation/sf5.html]

CHILD CARE

and Working Families



The ESPC frequently has pointed out that while Wyoming’s “citizen legislature” has many advantages, not many people have the personal and financial flexibility to walk away from their normal lives to serve in a part-time legislature – sometimes leading to a group of lawmakers distanced from

the realities of life faced by many of their constituents.

Nowhere in the 2006 session was this distance more obvious than in the debate over an innovative proposal to improve the quality of child care in Wyoming.

Census statistics show that at least 64% of all Wyoming families with children under five have all parents working. Access to any child care, much less quality child care, comes up as a problem in every analysis of workforce and economic development.

Yet many legislators showed an unwillingness to act upon, or even believe, these data. Even though the bill was developed by a legislatively-funded project (the 2005 Children and Families Initiative) and an interim committee, it was subjected to unusually intense scrutiny and questioning – which would not be objectionable if all programs (most much less useful) got the same treatment.

The proposal was saved only by committed and creative work on the part of a conference committee (resolving differing versions of the bill passed by each house), and implementation will move forward in phases under the supervision of the special Legislative Oversight Committee on Quality Child Care.

[For the roll call vote on HB 92, please refer to <http://equalitystate.org/lapbook/06legislation/hb92.html>]

The schedule for interim work on the proposal may be found at <http://legisweb.state.wy.us/2006/interim/childcare/childcare.htm>

Jobs and Wages

The state’s boom times also have put a strain on its workforce – there are not enough skilled workers in the construction trades to handle all the new projects such as schools, state facilities, and general commercial and residential construction.

To help solve this problem, a bill was offered to change Wyoming’s contractor preference law. Public works contracts must be awarded to the lowest bidder, with a 5% preference given to resident contractors, which means that resident contractors may be awarded a contract if their bid is up to 5% more than the lowest bid.

The change proposed in HB 63 would allow larger contracting businesses that work in Wyoming but are owned by out-of-state entities to receive the same 5% preference on bids, as long as the company maintained an office and place of business in Wyoming for at least one year before submitting the bid.

Supporters, including Wyoming’s labor unions, argued that broadening contractor preference would create more competition for bids, which would benefit the state and its taxpayers, as well as bring in larger, unionized contractors paying higher wages and benefits.

The bill passed the House but died in the Senate on an unrecorded tie vote.

[For the House vote on HB 63, please refer to <http://equalitystate.org/lapbook/06legislation/hb63.html>]

The Legislature appropriated \$8.4 million to bring state employee salaries up to 2004 market levels – more or less. The “more or less” is because the money will go to the State Employee Compensation Commission for final allocations.

A bill providing funding to help pay health insurance premiums for state retirees again failed, although legislators appropriated \$50,000 to study the problem yet again.

TOUCHING THE FUTURE: Education

Probably the Legislature's most forward-thinking accomplishment of the 2006 session was providing additional money to the Hathaway Scholarship Endowment, established by 2005 legislation.

Money from the endowment provides scholarships for Wyoming high school graduates to attend the University of Wyoming or one of the state's seven community colleges.

The additional funding will enable the program to begin functioning immediately.

School financing for the coming biennium was lifted significantly by unanimous votes in both houses of the

Legislature. The additional money will enable school districts across the state to offer substantial pay raises for public school teachers and support staff.

Numerous interim studies pertaining to education at all levels were authorized, including studies of school facilities construction, community college funding, and teachers' health insurance.

[To track interim studies on education topics, please refer to <http://legisweb.state.wy.us/2006/interim/ed/topics.htm> and <http://legisweb.state.wy.us/2006/interim/app/topics.htm>]



Clean Money

While Wyoming legislative races usually are not very expensive (at least relative to those in more populous states), most of the money contributed to campaigns comes from political action committees and individuals who often have a particular interest in legislation.

Six states now have some form of Clean Money system for financing campaigns for public office. Arizona and Maine now have conducted several Clean Money elections for their legislatures.

Rep. Dan Zwonitzer (R-H43, Cheyenne) had a bill drafted to institute a Clean Money system for Wyoming legislative races. He eventually decided not to offer it for introduction in the budget session (which would have meant getting a two-thirds vote just to get the bill considered), but plans to bring it back in 2007.

State-Tribal Relations

A proposal to amend Wyoming's Constitution to allow the state to make appropriations to the business councils of the Eastern Shoshone and Northern Arapaho Tribes (or the tribes' joint business council) to pay for government services to Wyoming residents who also are tribal members passed the Senate easily, but was not brought up for consideration in the House.

Passage of the amendment would have enabled the tribal governments to access state programs providing funding to political subdivisions (primarily for infrastructure), thereby putting reservation residents on a par with other Wyomingites.



GUN BILL MISFIRES

A legislative committee killed a poorly written “duty to retreat” bill that would have provided immunity from prosecution to anyone using deadly force to defend a person, premises, or property.

Legislators balked at the shoot-first-ask-questions-later approach to defending property as well as people, and raised many questions about situations such as domestic or custodial disputes that were not fully addressed by the bill.

Protection for abuse victims

Victims of domestic and sexual assault won two important victories in the 2006 session. Legislation passed allowing judges to issue family violence protection orders for up to one year, instead of just 90 days. The change means victims will no longer have to go back to court and likely face their attackers every three months. A victim can have the order renewed for up to one year as needed for safety and protection.

A second new law allows Sexual Assault Nurse Examiners or other specifically trained health care providers to conduct sexual assault examinations. Previously, only doctors were allowed to collect samples for the bio-kit and testify in court regarding the evidence produced by the exam.

The Legislature also authorized \$1.4 million in additional state funding over the biennium for the 24 Domestic Violence and Sexual Assault programs across the state. The money can be used to provide services not covered by federal grants.

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.



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