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Abstract

The 67th Wyoming Legislature's 20-day budget session was convened Thursday, February 8, 2024, for the beginning of its work in Cheyenne. This year, outside of its typical budget work, over 360 bills were brought forward by both legislative committees and individual legislators. These bills ranged from property tax relief to health care. In the end, on Friday March 8th, the final biennial General Fund budget was close to $3.8 billion – up approximately $100 million from the previous biennium. Deep ideological divides within the state's dominant Republican Party drove much debate and show no signs of abating before next year's general session.

Introduction

Wyoming operates on a biennial budget cycle, with even numbered years reserved for its 20-day budget session and odd-numbered years reserved for the 40-day general session. As such, the 67th Wyoming Legislature's 20-day budget session was convened Thursday, February 8, 2024, for the beginning of its work in Cheyenne. This year, outside of its typical budget work, over 360 bills were brought forward by both legislative committees and individual legislators. These bills ranged from property tax relief to health care. In the end, on Friday March 8th, the final biennial General Fund budget was close to $3.8 billion – up approximately $100 million from the previous biennium. Wyoming's governor, Mark Gordon, finally signed the budget bill on Saturday, March 23rd with dozens of line-item vetoes, noting that "this budget addresses our challenges and positions Wyoming for a prosperous future" (Mullen 2024a). Governor Gordon was less than impressed with the ideological contentiousness of this year's budget session, when many members of the Senate Appropriations Committee voted against their own work product resulting in a bill that narrowly passed (Ibid).

With few real financial issues tackled, the few budgetary highlights include property tax reform that provides a 50% exemption for citizens 65 years old and older who have paid residential property tax for the previous 25 years and an annual property tax rate hike cap of 4%. In addition, the final budget includes $300 million for K-12 school construction, $750,000 to reimburse Wyoming law enforcement that assists with "securing the United States border in Texas," $1.9 million removed from the University of Wyoming's budget to defund the Office of Diversity, Equity, and Inclusion, and a raft of bills to help secure the Wyoming state retirement system. Here, the new retirement system laws will require a 5.4% increase in retirement contributions over the next three years – evenly split between employer and employee – to bring the system to 96% of fully funded over the next 30 years (currently the retirement system is only funded at 84%).

Demographic and Economic Context

Wyoming's economy tends to run counter to the trends experienced by the national economy. As the nation booms, Wyoming's economy lags behind. As the nation's economy cools, Wyoming's fiscal situation often improves – and 2024's budget is another reflection of this pattern. Here, Wyoming's economy remains supported by three primary industries: agriculture, tourism, and extractive industries such as minerals/oil/natural gas. In addition to these industries, Wyoming's most significant sources of state revenue include severance tax, sales and use tax, and interest earned on Wyoming's Permanent Mineral Trust Fund.

Severance, Sales, and Investment Income

Measuring economic diversity using the Hachman Index (HI), compared to the 50 states plus the District of Columbia, in 2021 (the most recent year for complete data) Wyoming had the 49th least economically diverse economy in the country, followed by Alaska and North Dakota rounding out the bottom of the list. By comparison, Utah, which borders Wyoming on the southwest corner, is #5 in terms of economic diversity and Colorado to our south is at #9. Hachman scores range from 97.0 (highest) to 35.1 (lowest). In looking at the actual index, Wyoming's score is 36.9, New Mexico 63.5, Colorado 93.8, Arizona 96.4, and Utah 95.6 (Lloyd 2023)

In terms of the overall Wyoming tax structure, much of the state remains business friendly, and continues to have a supportive business/tax environment. According to Walczak, Yushkov, and Loughead from the Tax Foundation, the 2024 State Business Tax Climate Index ranks Wyoming 1st (i.e., best) in how supportive their tax system is for businesses. Here, regionally, Alaska ranked 3rd, South Dakota 2nd, Montana 5th, Oregon 28th, Utah 8th, and Nevada 7th (Walczak, Yushkov, & Loughead, 2024).

Currently, Wyoming collects no tax on intangible assets (bank accounts, stocks, or bonds), no tax on retirement income earned and received from other states, and no personal income tax, corporate income tax, or business inventory tax. A review of state gas taxes across the region shows that Wyoming's gas tax is currently near the middle of the pack.

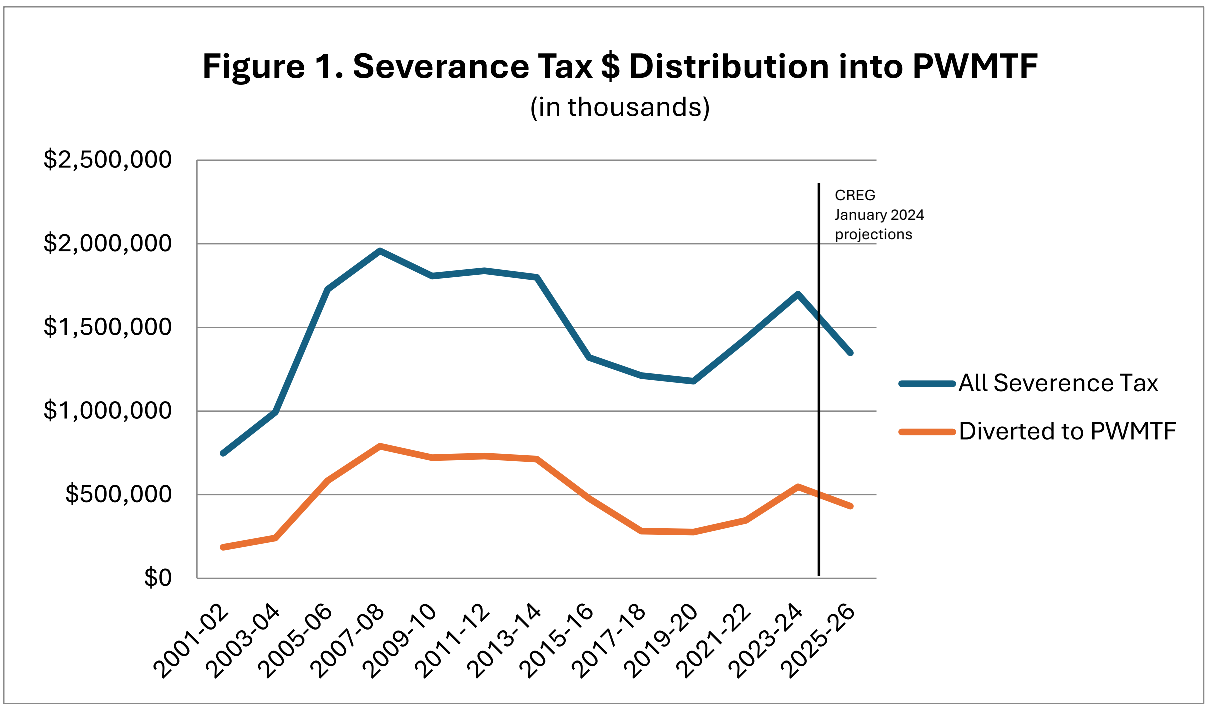
With no personal or corporate income tax, sales tax exemptions for groceries and prescriptions, and only mid-tier fuel taxes Wyoming is more reliant on the few taxes it does have and becomes more susceptible to price fluctuations for those commodities that it does tax. In addition, the state becomes more reliant on property and sales taxes to fund the costs of state and local government. These taxes tend, therefore, to be slightly higher as noted above.

Because of price and production changes in the extractive industries, Wyoming's forecasts for severance tax revenue are expected to be down in both FY 2024 and FY 2025. In addition to the slowdown in severance taxes, after substantial increases in FY 2022 and 2023, sales taxes are also expected to slow, particularly in retail trade and mining. Interestingly, despite the general slowdown, sales and use tax collections overall remain on the rise largely driven by new wind power in the state. This wind farm construction has also boosted tax collections from related sectors including transportation, construction, and business services (CREG 3, 2024).

Another important revenue source for the state is its investment income. Despite higher interest rates, actual interest and dividend income are moderately less than what was originally forecast. Yields in approximately 70% of the permanent fund related accounts are below their 2023 forecasts. This is largely due to bonds with current coupons that are significantly lower than new issue bonds. In contrast, the Permanent Wyoming Mineral Trust Fund (PWMTF) has increased its projected capital gains (rather than interest income) which, combined with other investment income, has caused the state to keep overall investment revenue projections for the upcoming year steady.

As noted above, one of the most important sources of income for the Wyoming budget is the Permanent Wyoming Mineral Trust Fund (PWMTF). In 1975, when the Trust Fund was first established, the intent was to provide a much needed revenue stabilizing force (the PWMTF was created by a constitutional amendment passed in 1974). Interest from the Fund was to be utilized as a relatively consistent and predictable revenue stream for the General Fund, the state's main operating account. Legislators viewed this as something vitally necessary for the boom and bust cycles inherent in an economy built largely on mineral extraction (Western, 2012).

According to the office of the Wyoming State Treasurer's 2023 Annual Report, in June of 2023 the market value of the Fund was $10,189,100,000 which places this fund among the top five largest U.S. Sovereign Wealth Funds in the country (and 40th in the world) behind the Alaska Permanent Fund, the Texas Permanent School Fund, the Texas Permanent University Fund, and the New Mexico State Investment Council Investment Funds. (SWFI, 2023) Significant revenue from pre-pandemic years of the boom cycle, when natural gas prices reached an all-time high, was diverted to the PWMTF to increase its corpus and hedge off the effects of the bust cycle. Article 15, Sec. 19 of the Wyoming Constitution guarantees that a tax of 1.5% be imposed on the value of all minerals extracted and that this tax flow automatically into the corpus, but an additional 1% tax is currently deposited there at lawmakers' discretion (State of Wyoming). In terms of the value of all severance tax dollars collected each year, of those, the projection for



Source: CREG January 2024, Table 5

2023-2024 is that roughly 20 percent were deposited directly into the corpus of the PWMTF, and 24.8% will be directly allocated to the General Fund budget (see Figure 1 below. (Consensus Revenue Estmating Group, 2024). Importantly, every 20-million-barrel reduction in oil production equals $12 million less in direct severance tax revenue (Reynolds, 2020).

A number of economists indicate that the percentage of revenues earned from the PWMTF that go into to the General Fund is relatively high. Here, according to Boettner, Kriesky, McIlmoil, and Paulhus (2012), only Wyoming and North Dakota deposit all fund earnings into their general fund (11). Current sentiment is that Wyoming simply has no other stable revenue stream, and current revenue forecasts confirm this point.

The 2023 Wyoming State Treasurer's Annual Report showed that the market value of the PWMTF had grown by almost 28% over the past 5 years – from $7.97 billion in 2019 to $10.19 billion in 2023. Some argue this creates an attitude of complacency within the state in terms of economic and tax diversification (which seems to be reflected in the most recent legislative session, despite the volatility of our extractive industries). There seems little political incentive to diversify the tax structure with the relatively high percentage of interest from the PWMTF being deposited in the General Fund.

In addition to the PWMTF, the state has another, smaller, rainy day account created in 2005 labeled as the Legislative Stabilization and Reserve Account (LSRA) that is funded by excess revenue during "boom" periods. During periods of lower revenue from oil and gas extraction, the

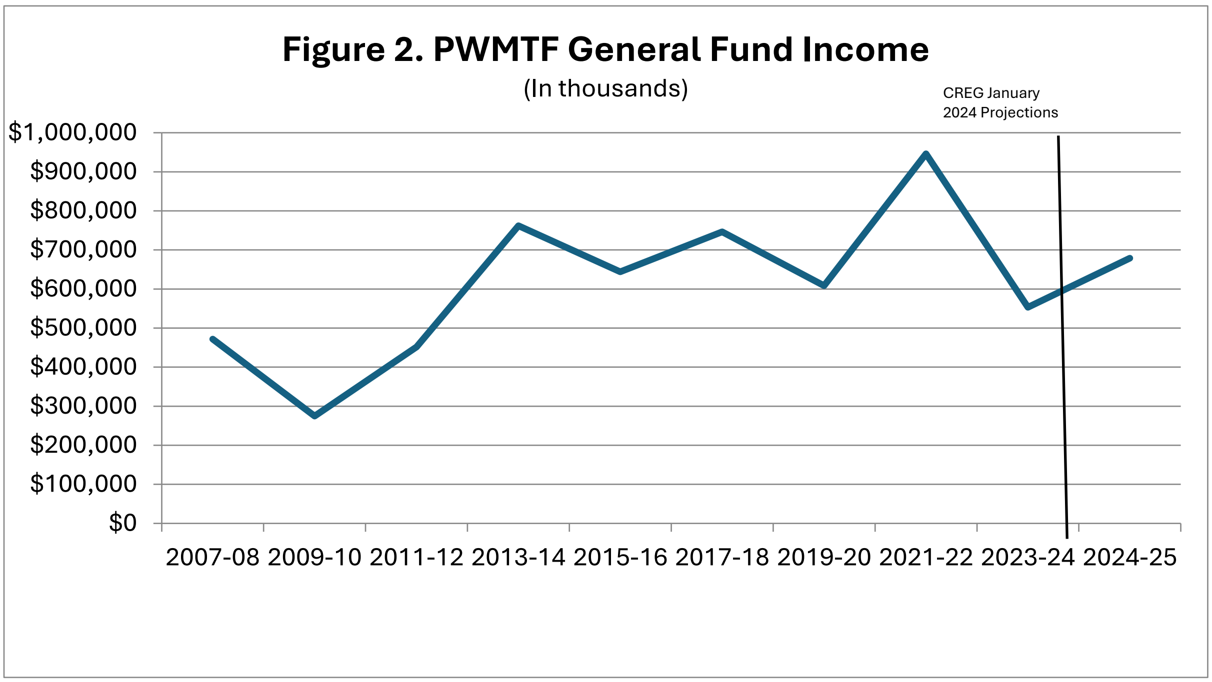


Figure 2. PWMTF General Fund Income

Source: CREG January 2024, Table 2.

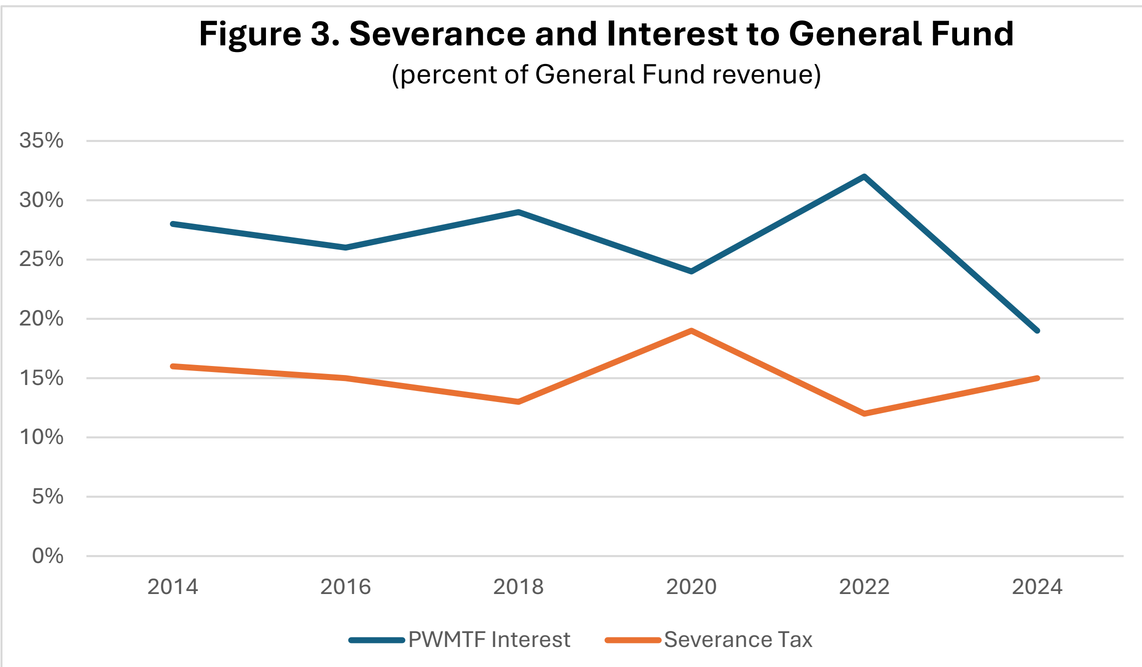
state dips into its "rainy day account" and, as such, the fund was used during pandemic years when oil and gas prices were down, and drilling had all but stopped. The size of the LRSA fluctuated significantly in recent years, ranging from $1.7 billion as of 2018, to a low of $1.5

billion as of 2021. By June 2023 the fund had recovered and reached $1.94 billion (Wyoming State Treasurer, 2023).

Natural Gas, Oil, Coal, and Trona

According to the January 2024 Consensus Revenue Estimating Group (CREG) Report, natural gas will continue to be a significant contributor to Wyoming's revenue stream, accounting for 40.5% of the state's total severance tax distribution in 2024 (Table 6). *This marks the first year where natural gas becomes the largest income producer*, now ahead of crude oil, with coal coming in at number three (CREG, January 2024).

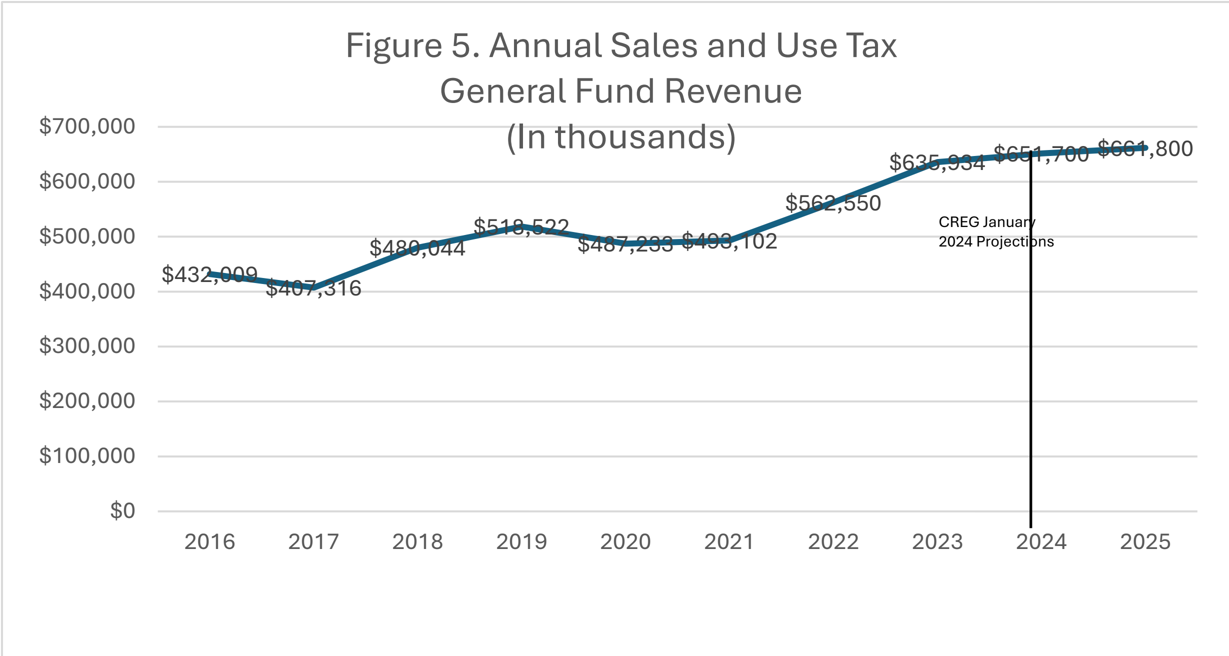
Over a decade ago Sam Western (2012) argued that natural gas prices are less stable than the



Source: CREG January 2024, Table 2.

state's other extractive commodities and this statement continues to hold true. Importantly, according to CREG, contrary to United States trends Wyoming's natural gas production has declined in 12 of the last 13 years since its peak in 2009. In fact, Wyoming natural gas production has declined 49% over the last 14 years. However, although production is down, price is up. This reversal accounts for the increased size of natural gas revenue for the state.

Crude oil is now the second largest contributor to the state's mineral taxes, accounting for 39.2% of the total severance tax distribution in 2023. From a pandemic era low of 85.4 million bbls, Wyoming oil production has rebounded and steadied to an annual production level of approximately 91 million bbls for calendar year 2023 (Table 3). Wyoming forecasts that OPEC pricing and production, changes in the federal regulatory environment, and increased investment in renewable energy infrastructure will all weigh heavily on our extractive industries (coal in



Source: CREG January 2024, Table 11

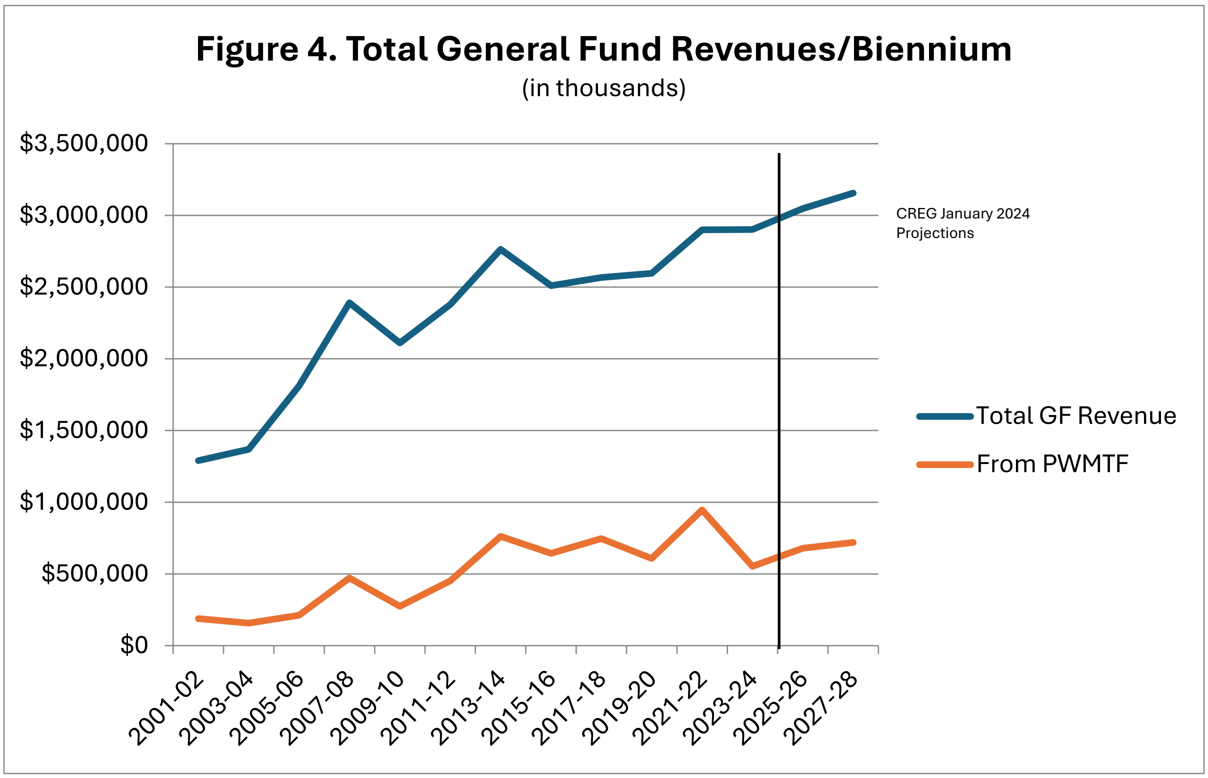
particular). Indeed, the U.S. generated more electricity from renewables than from coal for the first time in 2022 (Pollack, 2023).

Surface coal production in Wyoming has been in a decline since 2015 and looking towards the future "trends are not positive" with year-over-year forecasts for a continued modest decline in CY 2023 (CREG Oct. 2023). As is well known, coal's share of total domestic electric generation has fallen from more than 28% in 2018 to 20% in 2022, with natural gas and renewables increasingly augmenting supply. There have been some improvements in coal's outlook due to higher prices for natural gas, but as CREG notes "those tailwinds are no longer present" (CREG, Oct. 23, pg. 8). In some of its most cautionary language, CREG noted that Wyoming's forecast for coal production will continue to decline in a "stair-step manner, potentially with large drops in an uneven pattern" (Ibid.). Although Wyoming saw an increase in price not seen in the last decade, average prices have flattened with anticipated production declines and one Wyoming coal mine closure. The expectation is that coal will continue as an important but declining contributor of mineral severance taxes to the Wyoming budget throughout the next decade (see Appendix Table 2). In the current biennium, coal's tax contributions to the General Fund are 17.4% of all severance taxes, still making it the third highest producer to this critical revenue stream (Consensus Revenue Estmating Group, 2024).

Although it is little known, Wyoming has the largest deposit of trona in the world (trona is a compound processed into soda ash or baking soda). Making up approximately 2.6% of the state's severance taxes in 2023, trona production levels dropped from 2019 levels and are expected to stabilize and perhaps increase in the near future. These potentially optimistic forecasts are due to more positive worldwide economic outlooks and the resulting expansion of at least one trona mine in the state.

Sales and Use Tax

Sales and use taxes occupy the number one category of General Fund revenue, followed by income from the PWMTF, and direct severance taxes (44.5%, 17.1%, and 16.8% respectively). Fiscal year 2023 sales and use tax collections were up from 2022 collections by 13%. Projections indicate a 2.5% rise from 2023 to 2024 along with modest increase through the 2027 fiscal year (Consensus Revenue Estmating Group, 2024). CREG believes that the overall speed of growth in taxable sales and economic growth is expected to slow as we move forward. As noted earlier, the large increases in recent sales and use tax receipts are being driven by investments in renewable energy (especially wind power) and the rebounding extractive industries that drive construction and transportation.



Source: CREG January 2024, Table 2

Political Context

Wyoming remains one of the most conservative states in the nation, and in fact is becoming more so. A biennial survey of Wyomingites reveals the steady shift in ideology and political party identification, over the last five decades. Responses to the Wyoming Election Year Survey indicate that while nearly half the state identified as Democrats in 1974, that number had fallen to roughly 20% by 2022. Similarly, in the late 1970s, roughly two-thirds of respondents identified as either liberal or moderate. By 2022, that portion had fallen to slightly more than forty percent. That historical context – of a state becoming more conservative and more Republican over time – offers insight into current Wyoming politics which are more complex than one-party rule might suggest. (Wyoming Election Year Survey, 2022)

Founded in 2020, the Wyoming Freedom Caucus is patterned after the House Freedom Caucus, at the national level, and espouses a commitment to both social and fiscal conservatism that would likely have been more commonplace in the 1980s than it is today. Members of the caucus typically speak of a call to public service to represent the views of their community, which they feel have been ignored or overlooked by the more mainstream members of the state's Republican Party. (Wolfson, 2023) Freedom Caucus Chairman Rep. John Bear (R – Gillette) offered this explanation of the faction's disposition, "It is safe to say any measure that results in the growth of government, cedes power to the federal government, or raises taxes will be met with opposition from the WYFC" (Mullen, 2023). By 2022, the caucus had grown to roughly 26 members of the legislature, for the first time giving it the votes needed to block legislation, due to it constituting more than one-third of the membership of the House (Ibid).

Budget Battles

With those factors in mind, few were surprised when the 2024 budget session opened with a veritable massacre of bills introduced by the more moderate Wyoming Caucus, as the Freedom Caucus cast its votes in alignment with its ideology. These votes take on an outsized role in a budget session, where as a matter of law, non-budget related bills must receive a super-majority vote to advance. With 353 bills and 13 joint resolutions filed within the first week of the four-week session (Randall, 2024), the Wyoming Freedom Caucus claimed responsibility for killing fully *one-third* on introduction (Mullen, 2024). The inclusion of committee authored bills on the block-list drew the ire of many legislative veterans, who lamented the waste of deliberative time and state money through their development. With the rise of the Freedom Caucus as a viable faction within the legislature, Wyoming's one-party rule has now devolved into intra-party warfare.

In that context, several issues have drawn intense debate and public scrutiny. One example is the controversy surrounding the sale of state lands, within the borders of Grand Teton National Park, to the National Park Service (Koshmrl, 2024). Known as the "Kelly Parcel," sale of the pristine 640 acre tract was the subject of intense debate due to its value. While some suggested a valuation considerably greater, ultimately the legislature agreed upon a sale price of not less than $100M. Two amendments to the legislation may prove difficult for the federal government to accept, however. The first would require the National Park Service to allow livestock grazing and hunting on the parcel in perpetuity. Neither activity is currently allowed in Grand Teton National Park. The second amendment tied the sale to the terms of a Bureau of Land Management resource management plan (RMP) in southwest Wyoming, which is itself controversial and widely unpopular across the state, due to its proposed changes in land use regulations. Under the legislation as passed, if the BLM makes none of the changes to the RMP suggested by the legislature, then the sale of the Kelly Parcel is off (Reagan Smith, 2024). Speculation is now rampant that those amendments will serve as "poison pills" to the land sale.

Another property issue has also drawn legislative attention: foreign property ownership of critical infrastructure.[1] Here, debate and legislative intent turned on desires to limit the ability of foreign entities to secure good title to infrastructure deemed so crucial to the existence and operation of the state, that its demise or destruction would "have a debilitating effect on security, the economy, public health, public safety or any combination thereof."

Notable debate and legislation have addressed state sponsorship of diversity, equity, and inclusion (DEI) related activities. Specifically, SF0130 Section 1(b)[2] states "No governmental entity shall engage in any diversity, equity or inclusion program, activity or policy." SF0094[3] would prohibit the state and its subdivisions from requiring personnel to use another employee's preferred pronouns. Both of these Senate files passed the chamber and moved to the House for consideration, where their future seemed uncertain due to earlier House action killing a bill that would have defined "what is a woman"[4]. In the compressed environment of the short budget session, the House did not consider either the preferred pronoun prohibition (SF0094) or the ban on DEI activities (SF0130) for introduction, killing their progress. Similarly, a Senate file addressing parental rights in education[5] successfully passed that chamber, yet it ran into lively debate in the House centering on the potential for the statute to create untenable legal liability for Wyoming schools which failed to meet the new requirements for communications with parents regarding "critical decisions involving students." This legislation nevertheless ultimately passed the House as well.

Conclusion

In some ways, the 67th Wyoming Legislature's budget session was predictable from past sessions. Members of the body split along ideological fault lines drawn along both fiscal and social differences of opinion. While some favored spending increased state revenue on onetime expenditures or even ongoing state programs, others advocated saving and investing these funds for the future. Such has been the basic parameters of Wyoming's budgetary debate for decades.

In other ways, however, this legislative session differed significantly from the norm of Wyoming politics. The fracturing of the state's Republican Party into two energized factions – the Wyoming Caucus and the Wyoming Freedom Caucus – has brought a level of contentiousness to the legislature previously unseen. Decades of relatively congenial political debate have now given way to impassioned floor debate and allegations of both ethical and procedural misconduct. This is uncharted territory for the nation's least populated state, where personal relationships have historically provided the means by which compromise has been achieved.

What might this portend for the future? In the 67th Legislature, the Wyoming Freedom Caucus held enough seats in the House of Representatives to kill legislation it opposed – but not enough seats to pass its own legislation through the chamber without support from either Wyoming

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[1] SF0102 (https://wyoleg.gov/Legislation/2024/SF0102)
[2] SF0130 (https://wyoleg.gov/Legislation/2024/SF0130)
[3] SF0094 (https://wyoleg.gov/Legislation/2024/SF0094)
[4] HB0050 (https://wyoleg.gov/Legislation/2024/HB0050)
[5] SF0009 (https://wyoleg.gov/Legislation/2024/SF0009)

Caucus Republicans or the Democrats, or a bit of both. Thus, an increase in Freedom Caucus membership, especially in the House, may have profound implications on the state's future budget, as that faction has largely opposed what it perceives as government growth beyond the state's need. On election day, 2024, the Caucus added six seats to membership in the House – achieving a simple majority in the chamber (34 of 62 seats). (Mullen, 2024b) Leadership selection later in the month resulted in Freedom Caucus members taking four positions of prominence in the lower chamber – speaker, speaker pro tempore, majority floor leader, and majority whip. (Mullen, 2024c) Thus, the next legislative session – a longer general session, in the Wyoming system – will likely see reconciliation challenges between a more traditionally constituted Senate and a House poised to pursue Freedom Caucus policy objectives.

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