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A HISTORY OF THE WYOMING SALES TAX AND HOW LAWMAKERS CHOSE IT FROM AMONG SEVERANCE TAXES, AN INCOME TAX, GAMBLING, AND A LOTTERY

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For the first 45 years of statehood, Wyoming state and local governments depended almost entirely on funding from property taxes. During that time, however, Wyoming decision-makers considered various other methods of taxation ranging from severance taxes on minerals (1889 and 1924), a lottery, taxation of legalized gambling, and even an income tax (1933). Finally, in 1935, when funding of government services was strained

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nearly to the breaking point, the legislature adopted the sales tax. This article describes the politics of the tax questions and how, but for unusual circumstances, any of the alternatives might have predated the sales tax and, indeed, might have made the sales tax unnecessary. The article concludes with an analysis of the adoption of the sales tax and what implications that decision had on Wyoming government funding for the twentieth century and for the future.

Structural changes in a tax system may have the most long-lasting impact on a state's financial situation of any legislative action. During the 1920s and 1930s, nearly every Western state moved away from tax systems relying on property to either a sales tax or an income tax. The impact of the choice remains with these states today. Most states in the West opted for a state income tax. At least two, Washington and Wyoming, adopted a sales tax instead. In Wyoming, the income tax never gained voter or legislative approval. In the early 1930s, the state's economy was suffering and revenues were in short supply. After protracted discussions over means of financing government at all levels, the legislature passed the sales tax in Wyoming as a "temporary emergency measure" in 1935. The sales tax became a part of the state's revenue picture only after various forms of taxation were debated in two regular sessions and a special session of the Wyoming legislature.

I. CONSTITUTIONAL CONVENTION PROPOSAL FOR A SEVERANCE TAX, 1889

Before the legislature chose a sales tax, Wyomingites debated the merits of a severance tax on minerals. During the constitutional convention in 1889, a delegate introduced a "coal tonnage tax." The delegate was Laramie lawyer Melville C. Brown who served as President of the twenty-five-day session drafting the formulating document for state government.  

1. The sales tax provisions in Wyoming law are found in Wyoming Statutes, Title 39, Chapter 15. See Wyo. Stat. Ann. § 39-15-101 et seq. (LexisNexis 2002). Even with the extensive revisions made in 2001, much of the language replicates that from the "Temporary Emergency Sales Tax Act of 1935," although the direct origins are in the 1937 act that made the sales tax permanent. The issue of constitutionality was raised in Walgreen Co. v. State Board of Equalization. 62 Wyo. 288, 166 P.2d 960 (Wyo. 1946), rehearing denied, 62 Wyo. 336, 169 P.2d 76 (Wyo. 1946). Wyoming is unique in the West for having the sales tax adopted by the legislature and not through an initiative or constitutional amendment. Through an initiative measure in 1932, the first choice by Washington voters was for an income tax, but the Washington State Supreme Court declared it unconstitutional. Only then did the legislature adopt the sales tax. See Phil Roberts, A Penny for the Governor, A Dollar for Uncle Sam: Income Taxation in Washington (2002).


On the twentieth day of the convention, Brown introduced an article that would have established a “coal tonnage” tax. Brown pointed out that the coal industry was making substantial profits as the companies (primarily the Union Pacific Coal Company) removed more and more coal from the territory. Little of mined coal was used within the borders of Wyoming. Brown argued that the state would be financially sound for years to come if a modest tax were assessed against every ton of coal shipped out of Wyoming. “Can they afford to pay out of that 75 cents (of clean profit) two and a half cents per ton?” he asked. Without such a tax, “our new state shall be depleted of its wealth in coal, the coal taken and carried to other states and territories around us, to be used for their purposes, and we get no benefit . . .”

The measure passed initially during an afternoon session on the twentieth day of the convention, but that evening and throughout the next morning's debates, the delegates reconsidered their earlier action. The tax was amended out of the measure after delegates heard the impassioned arguments of C. D. Clark, a delegate from coal-producing Uinta County who, at the time he was elected a delegate, was working as the Union Pacific Railroad's legal counsel in that area. The Uinta delegate/railroad lawyer argued that such a tax ought to be left for consideration by a future legislature. Another delegate, John L. Russell, (like Clark, from Uinta County) questioned what would happen if the state were to have revenues from every ton of coal mined. He argued that the result would be waste, inefficiency and corruption—such a tax would “create such a surplus as to make it a great temptation for unnecessary extravagances and steals . . .”

Brown made a fatal, but not deliberate arithmetic miscalculation and, after he admitted the mistake, Clark pounced on the error. He argued that Brown’s figures on mining costs and profits were probably inaccurate as well. “Let us have an opportunity to be correct in this matter,” Clark said, “I believe in leaving all this to the wisdom of the legislature, because I believe

4. *See* JOURNAL AND DEBATES, *supra* note 2, at 637-74, 681-98, for debate over provisions. The proposal was amended and, eventually, the tax was ultimately eliminated. *Id.* at 697.
5. *Id.* at 640-41.
6. *Id.*
7. *Id.*
8. *Id.*
9. *Id.*
10. *Id.* Clark later was elected as the first United States Representative from Wyoming, serving from 1890-1893, and two years later, elected by the Wyoming legislature to the United States Senate, serving from 1895 to 1917. For a brief biography, *see* ERWIN, *supra* note 3, at 464.
14. *Id.* at 693.
... that the future legislatures of Wyoming will be as good a body of men as sits here today, I believe they will know better than we do what will be the necessities of this territory...”

When the Constitutional Convention wrapped up their work three days later, the mineral tax no longer appeared in the document. Wyoming voters overwhelmingly approved the Constitution, with the article on taxation and revenue referring to taxes on property—including assessed valuation on minerals as property, but not on the production of the mineral after removal from the mine. The severance tax would not be proposed again for more than thirty years.

II. WYOMING AND THE FEDERAL INCOME TAX AMENDMENT

In the early 1920s Wyomingites, dependent on a natural-resource economy, entered the “Great Depression” much earlier than the rest of America. State government, cities, and counties managed to weather the hard times for nearly a decade, but by 1933, all levels of government had reached a funding crisis. Property taxes proved insufficient; new revenue sources were essential for state government survival as well as for the maintenance of local government and the school systems. Several legislators suggested adoption of an income tax.

An income tax was not an alien concept to Wyomingites or their legislators. In January 1891, the first convention of the short-lived Populist Party in Wyoming incorporated the call for an income tax in its platform. Wyoming played a key role in the adoption of the “Income Tax Amendment” to the United States Constitution in 1913. By most accounts, the state provided the thirty-sixth and deciding ratification for the amendment. The measure gained broad bipartisan backing even though no ground swell of support for passage seemed to occur in Wyoming.

At the time the amendment was ratified, Joseph M. Carey served as the Democratic governor of Wyoming. Elected in 1911, he had no public
record of support for the income tax. Carey’s constituents seemed little interested in the issue. The only letter Governor Carey received about the income tax question had been sent the previous March by a San Francisco-based member of the “Ethic Association.” The form letter hardly could have influenced the governor. The writer pointed out the strength of the Socialist Party and how its support for an income tax would lead inevitably to election of their members to majorities the next election cycle.

Nonetheless, as the legislative session opened, Governor Carey, in his “state-of-the-state” address, flatly stated his support in a single paragraph:

One of the amendments is known as the ‘income tax amendment.’ . . . This amendment has been much discussed by the people of the United States and has been ratified by nearly the number of states necessary to make it a part of the Constitution of the United States, and I ask action by your honorable body on the proposed amendment.

The support, not exactly enthusiastic, might have been expected from Carey, the Republican elected as a Democrat who perhaps was the wealthiest man in the state. He had been identified throughout his long career as a “standpat Republican,” but in 1912, he had spurned endorsing either Taft or Wilson, instead flirting with the Progressivism of Theodore Roosevelt.

Democrat John B. Kendrick (later governor and U. S. Senator) represented Sheridan County in the State Senate in 1913. Kendrick introduced Senate Joint Resolution Number Two, the ratification of the federal income tax, which was routinely referred to committee. Eight days later, on Janu-

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23. Id.
25. Larson, supra note 17, at 325. Carey’s election in 1910 heralded one of the most progressive administrations in the state’s history, according to historian T. A. Larson. The antagonism between Carey and the other “Grand Old Man of Wyoming Politics,” Francis E. Warren, divided the state’s Republican Party for the first three decades following statehood. Id. at 319-28.
26. Resolutions, S.J. Res. 2, 12th Leg., Reg. Sess., at 66 (Wyo. 1913). As the session began, Kendrick became the last Wyoming candidate to lose the U. S. Senate “race” in an indirect election—through legislative action. He introduced the income tax amendment bill two days after the pro forma reelection of the Republican incumbent Senator Francis E. Warren.
ary 31, the Federal Relations, Indian and Military Affairs committee reported the bill out with a “do pass” recommendation. Suddenly, on February 3, the resolution began an unprecedented speedy move through both houses.

The House and Senate journals do not provide verbatim accounts of legislative actions, but from reading the local press and contemporary accounts of the session, it is clear that the resolution did not pass because of any strong legislative support for an income tax. It passed both houses in one day, almost without debate, because Wyoming stood the chance of becoming the thirty-sixth state—the deciding state—in to ratify the amendment! Publicity, more than principle, seems to have guided the rapid passage of Senate Joint Resolution Number Two. “The Wyoming legislature, just the moment the journals were read yesterday morning promptly suspended the rules and passed the Kendrick resolution ratifying the income tax amendment to the U. S. Constitution,” wrote the editor of the Cheyenne State Leader. The article continues:

The house and senate convened at 10 a.m. The resolution was promptly passed by the senate and by 10:45 a.m., it had been ratified by the house, telephoned to The Leader and by 10:50, it was on the wires of the Associated Press and Washington had the news that Wyoming had supplied the one state lacking to make it a part of the constitution by 11 o’clock.

Support for the measure was overwhelming in both houses. The Senate passed, by a vote of 25-2, a motion to suspend the rules and move toward second and third readings. Deliberations on third reading followed immediately and the measure was passed 24-3 on a roll call vote. The measure shot over to the House that very hour where it was introduced by E. J. Sullivan (a Republican from Big Horn County). Just as in the Senate,

28. CHEYENNE STATE LEADER, Feb. 4, 1913, at 1.
29. Id.
30. Id.
31. Id.
33. Id.
34. Committee of the Whole, H.R., 12th Leg., Reg. Sess., at 144-45 (Wyo. 1913). Almost a dozen years later, Sullivan, who had moved to Casper, won reelection to the legislature, and been elected House Speaker in 1923, gained the distinction of being the first male candidate for governor ever to lose the election to a woman, Nellie Tayloe Ross. Ironically, Sullivan’s son-in-law, Democrat Ernest Wilkerson, based his unsuccessful gubernatorial campaign on the severance tax in the 1966 general election. Three years later, the man who defeated Wilkerson, Stan Hathaway, urged passage of the first severance tax passed in Wyoming history. See Sarah Gorin, Wyoming’s Wealth for Wyoming’s People: Ernest Wilkerson and the
the House suspended the rules and rushed the bill through. The margin on final passage in the House was 48-7 with two absent.\textsuperscript{35}

The \textit{Leader} proudly pointed out that Wyoming had snatched the honor from two other states:

Just when only one more state’s approving vote was needed to ratify . . . when the entire country was watching the action of the legislatures of New Mexico and New Jersey to see which would be the thirty-sixth and deciding state to clinch the innovation, and when President-elect Wilson in Trenton, was urging the senate of New Jersey to act tonight in order to beat New Mexico to it—what happens? Why, little old Wyoming, away out west, wholly unexpectedly hops into the situation, suspends the rules of both houses, unanimously passes a joint resolution ratifying the income tax amendment and thus acquires the honor of forming the missing link in the new scheme . . . . And now New Mexico and New Jersey are peeved.\textsuperscript{36}

But Wyoming’s honor was questioned when it was revealed that the Delaware legislature had ratified the amendment at 10:55 a.m., Eastern Standard Time, thus beating Wyoming by two hours. The \textit{Leader} editor disregarded the claim: “However this may be, it is certain that Washington was notified of the action of the Wyoming legislature before Delaware was heard from, thus giving this state the honor of fixing the amendment.”\textsuperscript{37}

Curiously, little was mentioned about how the amendment would be applied even though the next day, the \textit{Leader} editor had to concede that Delaware’s claim might be strong. “Wyoming won the honor, lost it, then saw a chance of winning it back, of being the deciding state to ratify the income tax amendment,” the editor noted.\textsuperscript{38} “Little old Delaware holds the prize. There is a question of the legality of Kentucky’s action, however, and if her endorsement is thrown out, Wyoming will be Number 36.”\textsuperscript{39}

Wyoming’s ratification, however, did not translate into any significant change in the state’s tax structure. The bulwark was still the property tax. A state income tax seemed not to have occurred to legislators, at least in public pronouncements. A sales tax was an alien concept.

\begin{footnotes}
\item[35]\textit{Committee of the Whole, supra} note 34, at 144-45.
\item[36]\textit{Cheyenne State Leader}, Feb. 4, 1913, at 1.
\item[37]\textit{Id}.
\item[38]\textit{Cheyenne State Leader}, Feb. 5, 1913, at 1.
\item[39]\textit{Id}.
\end{footnotes}
III. SEVERANCE TAX PROPOSED AGAIN, 1923-1924

After the Constitutional Convention voted against including Brown’s “coal tonnage tax” as part of the Constitution, the question of a severance tax remained in the background for the next three decades. In 1922, the Wyoming economy was spiraling downward. Agricultural prices, buoyed by World War I demand, brought homesteaders to marginal Wyoming lands in record numbers. Just as the homesteading boom was getting underway, however, the weather cycle turned from abundant rainfall to drought. Farmers, confronted with the hardships of weather, faced a downward shift in national agricultural prices. Even without the drought, crops grown on marginal lands hardly returned the costs of planting.

Small rural banks failed at a record rate as drought added to the economic downturn. With the agricultural economy and declining property tax revenues from farm and ranch lands, Wyoming voters retaliated against the incumbent. In the 1922 Republican primary, Governor Robert Carey lost to Sweetwater County banker John Hay. Hay then lost the general election to the Democratic nominee, William Ross, a Cheyenne lawyer.

Despite the depression in agriculture, the mineral industry appeared to be avoiding the economic troubles. Oil companies, anxious to gain additional investors, trumpeted the potential for huge profits. The Wyoming electorate seemed to believe the industry was flush with money and, at the same time, privileged when it came to paying taxes. The time was ripe for

40. Larson, supra note 17, at 414-15. Larson writes: “The greatest boom years [for homesteading], however, proved to be 1919, 1920, and 1921, despite the devastating drought of 1919, which should have given pause to even the most land hungry and speculation prone.” Id.
41. Id. at 416-18.
42. Peter Huntoon, National Bank Failures in Wyoming, Annals of Wyoming, Fall 1982, at 34-44; Larson, supra note 17, at 413.
43. Erwin, supra note 3, at 604-05 (vol. II).
44. Larson, supra note 17, at 433.
45. Headline stories carried by the Inland Oil Index for 1922 reveal this seeming prosperity. Typical is the photograph on page one of the paper showing the gusher at Lost Soldier oil field. Lost Soldier Gusher, Inland Oil Index, Sept. 30, 1922, at 1. The next week, the paper ran the headline story, Teapot Boils and Mammoth Oil Company Strikes Big Gusher. Inland Oil Index, Oct. 7, 1922, at 1. See also id. at 5 (full page ad for the “Teapot Development Co”).
46. Larson, supra note 17, at 432. See also Exaggeration in Oil Reports, Inland Oil Index, Sept. 16, 1922, at 4. The recognized industry paper warned companies: “Exaggerated reports of oil production does the industry great harm, as it creates in the mind of the public an idea that nearly all oil companies are mints of wealth. This is one reason why federal and state officials always regard the oil companies as legitimate prey for all kinds of high taxes.” Id.
considering another severance tax even though many officials in both political parties had close relationships with the industry.\textsuperscript{47}

Little love was lost between the oil industry and agriculture. The editor of the \textit{Inland Oil Index} articulated his industry's prevalent view that ranchers and farmers were more prosperous than they were letting on and, yet, asking the government for help:

If the farmers of Wyoming want the grasshoppers destroyed, let them raise turkeys, they are more profitable than sheep. Plenty of instances may be cited in Wyoming where ranchers and farmers have made good money this year by raising turkeys and fattening them wholly on grasshoppers. Farmers are always asking for something.\textsuperscript{48}

County assessors, meeting in Cheyenne, discussed ways to bring in additional revenues. The group finally voted unanimously to ask the state legislature to enact a sales tax on gasoline sold in the state, gaining the wrath of the petroleum industry. The \textit{Inland Oil Index}, grudgingly admitting such a tax was likely, nonetheless observed, "[T]he politicians dare not make it too high as there are quite a few automobile drivers in this country and they can nearly all vote."\textsuperscript{49}

In Governor Ross' first message to the legislature on January 11, 1923, he emphasized the need for tax reform and a new tax base.\textsuperscript{50} "The people of Wyoming with the exception of those who reside in a few favored localities are in great financial distress," he told the legislature.\textsuperscript{51} "Their

\textsuperscript{47} \textit{Oil Men in Politics}, \textit{INLAND OIL INDEX}, Sept. 22, 1922, at 4. Listed were Charles A. Guenther, treasurer of the Republican State Committee, who was an officer in the Derrick Petroleum Company, Douglas; P. J. Quealy, treasurer of the Democratic State Committee, who was a director of the Producers and Refiners Company (PARCO); and Dr. J. R. Hylton, Democratic State chairman, who "is largely interested in a number of more important oil companies operating in Wyoming." \textit{Id.}


\textsuperscript{49} \textit{Tax on Gasoline in America}, \textit{INLAND OIL INDEX}, Dec. 30, 1922, at 4.

\textsuperscript{50} \textit{Message of Gov. William Ross to the 17th Legislature}, H.R., 17th Leg., Reg. Sess., at 14-25 (Wyo. 1923).

\textsuperscript{51} \textit{Id.} at 15.
livestock and other ranch and farm products are selling below the cost of production. He said that the state general fund was facing a serious shortfall. From the $1,325,773.72 gained from property taxes in 1921, the figure dropped to $715,931 just one year later in 1922. The shape of the state budget was awful but the situation was even worse for local governments, Ross said, pointing out that only one-seventh of the tax revenues came to the state—six-sevenths to counties, schools, and towns.

The sole sector of the economy above the financial distress was the minerals industry. Coal and oil prices seemed stable and Ross told the legislature that the owners of mineral interests escaped the tax burdens faced by other residents. "The lands of the people of Wyoming are too heavily taxed. Under the law a large percent of the property of this state goes absolutely free from taxation—the great coal fields, iron mines, oil fields, gas wells and other products of the state, worth millions of dollars, pay no taxes . . . " He pointed out that hundreds of millions in property were not taxed, "probably ninety percent of it owned by non-residents." After referring to the workings of the Louisiana "severance license tax," Ross urged legislators to pass a constitutional amendment allowing for similar taxation in Wyoming.

The oil industry responded by declaring Ross' message as "open season for oil companies." The industry newspaper predicted that if the governor's proposed taxes were implemented, the result would be huge decreases in oil employment and production. The Inland Oil Index editorialized that

[i]t would be short-sighted policy for the State now to burden the oil industry with unfair taxation when it is just beginning to get rightly underway in Wyoming . . . If the lawmakers are wise they will wait until the industry gets firmly established and then if it appears that the state needs more revenue there will be more oil investments to tax. To our way of looking at it, the state is not in need of additional revenue.

52. Id. Ross also advocated setting a ceiling on the interest rates charged by banks at seven to nine percent. Id. at 19. "Twelve percent has the same impoverishing effect as hard winters, dry summers, high taxes or low prices of products." Id.
53. Id. at 15.
54. Id. at 17.
55. Id. Ross quoted figures apparently provided to him by the State Treasurer.
56. Id. at 17-18.
57. Open Season for Oil Companies, INLAND OIL INDEX, Jan. 27, 1923, at 4.
58. See, e.g., Governor Would Increase Taxes, INLAND OIL INDEX, July 19, 1924, at 6.
59. Id. See also State Oil and Gas Taxation, INLAND OIL INDEX, Feb. 3, 1923, at 4.
On February 3, 1923, the twenty-first day of the forty-day session, and apparently at the governor's urging, State Senator Clarence Gardner, a Lincoln County Democrat, introduced Senate Joint Resolution Eight: "A joint resolution proposing to amend Section 3 of Article XV of the Constitution of Wyoming which relates to taxation of Mines, providing for the manner of taxing and for a severance tax."62 One week after introduction, the Senate passed the bill on third reading by a vote of twenty-two in favor, none opposed, and three members absent.63 On February 12, the bill went to the House where, on suspension of the rules, it sailed through in just five days, passing on February 17 with just one amendment, by a unanimous 51-0 vote.64 The proposed constitutional amendment called for authorization of severance taxes on "gold, silver, precious metals, copper, iron ore, soda, saline, coal, petroleum, and other crude and mineral oil, and natural gas, or other valuable deposit."65 The minerals "may be taxed in addition to the surface improvements, and in lieu of taxes on the lands, on the gross output in proportion to the actual value thereof, as may be prescribed by law."66

Despite the apparently strong support for the constitutional amendment in the legislature, Governor Ross knew that mineral interests would work hard to try to defeat the amendment.67 Consequently, the governor took to the road throughout the summer and fall of 1923, making speeches in favor of the amendment and granting interviews to reporters about the need for taxes on minerals. Best publicized was the governor's speech to the Democratic State convention held in Casper where his position for a severance tax was challenged by State Senator Pat O'Connor of Casper.68

An editorial in the Casper-based Inland Oil Index typified the petroleum industry opposition:

Governor W. B. Ross is running around the state of Wyoming advocating higher taxes for oil companies. The governor either does not know or does not want to know that the oil companies are already taxed in royalties and other forms

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63. Senate Files on Third Reading, S.J. Res. 8, 17th Leg., Reg. Sess., at 286 (Wyo. 1923).
64. Senate Files, H.R., 17th Leg., Reg. Sess., at 411 (Wyo. 1923). Five were absent; four excused. Id.
65. 1923 Wyo. Sess. Laws at 222-23 (Senate Joint Resolution No. 8).
66. Id.
67. This was clear from the text of the Governor's message to the legislature. See Message of Gov. Ross, supra note 50.
68. Governor Advocates Severance Tax, INLAND OIL INDEX, July 12, 1924, at 6.
of taxation three times what oil companies are in other states. 69

The newspaper pointed out the importance of oil employment in the state and how a severance tax would jeopardize those positions:

There are something like 35,000 people in Wyoming directly supported by the oil industry and more than 50 percent of the population of the state either directly or indirectly interested in Wyoming oil industry either as stockholders, producers, royalty owners or employees and they should not forget the attitude of the governor or any other candidates for state or county offices who are hostile to the oil companies—representing the greatest industry in our commonwealth. 70

Later, the paper said of oil companies,

They are taxed to death. There is no question but what the Legislature of Wyoming has the power to saddle all kinds of taxes on the oil companies as advocated by Gov. Ross when there will be only one of two things for the oil companies to do—either pay the taxes or get out of the state. 71

Later, the Inland Oil Index editorialized against the constitutional amendment: "It is a pet of Governor Ross who would prefer to raise more taxes than reduce them." 72 Other papers echoed concerns about not knowing enough about the effects of the tax, including the Laramie Republican-

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70. Id.
71. Immense Fortune Leaves Wyoming, INLAND OIL INDEX, July 19, 1924, at 6. See also Mounting Cost of Taxes, INLAND OIL INDEX, Aug. 2, 1924, at 6. Another editorial advocated economy: "We either ought to economize in governmental supervision or else quit kicking about high taxes." Cost of paternalism, INLAND OIL INDEX, Aug. 16, 1924, at 6.
72. Kill Both Constitutional Amendments, INLAND OIL INDEX, Sept. 13, 1924, at 6. A similar editorial appeared just before the election. Kill Constitutional Amendments, INLAND OIL INDEX, Oct. 25, 1924, at 6. In another issue printed just before the election, the editorial was even more blunt:

If oil companies are to continue in the development of new oil field, if Wyoming is to continue to encourage the entrance of new capital into the state, if existing companies are to maintain large payrolls, giving work to thousands of men . . . then it is to the interest of every citizen to vote down the proposed constitutional amendment . . . .

The Severance Tax Amendment, INLAND OIL INDEX, Nov. 1, 1924, at 6.
Ross countered with speeches pointing out that Wyoming was one of the richest states in the Union "in point of natural resources, yet 51 percent of the state is bankrupt." He asserted that oil company property was worth five times the cost of all other property in the state,

but it is taxed at less than one-sixteenth as much . . . . In time we will merely have a hole in the ground and the people who have exploited this state will be living in some other state with money in their pockets. We owe it to future generations to protect our resources.

Because the 1924 election campaign was an "off-year" for the five statewide offices including the governorship, the issue dominated the news until early October, a month before the election. Campaigning for the severance tax in Laramie and speaking before a large audience on September 23, Governor Ross returned to Cheyenne by auto that evening. During the next morning, he suddenly became ill. By the following Monday, his condition was "grave." On October 2, 1924, he died at Memorial Hospital, barely a month before the November election.

To fulfill the terms of the Wyoming Constitution, both parties were faced with fielding candidates for the "special election" to complete the remaining two years of Ross' term. The Democrats nominated his widow, Nellie Tayloe Ross, and for the month leading up to the election, the novelty of running a woman for governor practically erased the severance tax issue from the state press. Ross narrowly won the election against oil company
executive and House Speaker E. J. Sullivan of Casper. She began serving as the nation's first woman governor. Meanwhile, the severance tax even more narrowly lost—gaining a majority but not the required fifty percent plus one of all voters casting ballots, a constitutional precondition for passage of such an amendment.

As Governor Nellie Tayloe Ross' two-year term began, the economy continued to decline. In her first message to the legislature in January, 1925, Ross mentioned the defeat of the constitutional amendment "though endorsed by a large majority of those who voted upon it, did not receive a majority of all votes cast and accordingly, failed of adoption." State Senator Gardner reintroduced the severance tax constitutional amendment. Unlike in 1923, this time, the measure failed to gain the two-thirds vote necessary to pass the Senate. In a roll call vote on third reading in the Senate, the joint resolution went down by a vote of fifteen in favor and twelve against, three votes short of the two-thirds required for passage of a constitutional amendment. This time, the opposition included virtually all of the Republican leadership in the Senate. Nine of the twelve opponents chaired important committees; another served as Senate President.

While the severance tax constitutional amendment went down in defeat, the legislature failed to consider any alternative to the property tax. Governor Ross, unlike her husband, seemed unwilling to stake political capital on such an amendment. Her mention of the amendment’s defeat, combined with her silence on Gardner’s reintroduction in the State Senate, sug-
gest she wished to look elsewhere for taxes as well as to trim government spending.\textsuperscript{91}

After she was defeated for reelection by former state engineer Frank Emerson, the state’s economy actually worsened, but just as in the case of Mrs. Ross’ term, little change came in tax policy. Throughout the bad economic times of the 1920s, the state government, as well as cities, counties and school districts, continued to lurch along, depending heavily on property tax assessments.\textsuperscript{92}

Emerson, reelected in 1930, died just a month and a half later. The secretary of state, Republican Alonzo Clark, served nearly two years until again, for the second time in eight years, a gubernatorial election was held in the same year as the election for President.\textsuperscript{93}

During Clark’s tenure, unemployment remained a serious problem. The state director of the United States Employment Bureau estimated in January 1932, that there were an average of fifteen needy families in every town in the state.\textsuperscript{94} J. F. Minnick told reporters that “even Wyoming industries that are the hardest hit have a tendency to employ the men sufficiently so that they will not be in actual want.”\textsuperscript{95}

The Hoover administration established the President’s Agency on Unemployment Relief in 1932. The agency’s purpose was to funnel federal funds to various state relief organizations who would then apply the federal monies to support local welfare programs. George E. Brimmer, acting chairman of the Wyoming organization in April 1932, wrote Wyoming mayors and county officers that the goal of the agency would be “Wyomingites First.”\textsuperscript{96} The first requirement, according to Brimmer, was that “each community is charged with the care of its own people.”\textsuperscript{97}

Some communities sought to lessen the problem by ordering transients out of town. In the spring of 1932, the city of Laramie protested the

\textsuperscript{91} \textit{Message of Governor Nellie Tayloe Ross, supra note 86, at 26.}
\textsuperscript{92} \textit{Per capita state debt in 1930 was $7.12, down from $10.89 in 1925, but considerably higher than in 1915 when the per capita state debt was just $.66. The aggregate debt of all state government obligations was $1,587,000, the fifth lowest in the United States, according to the census bureau report. See State Ranks 17th in Net Debt with $7.13 per Capita, GREEN RIVER STAR, Jan. 1, 1931, at 1.}
\textsuperscript{93} \textit{ERW}, supra note 3, at 613 (vol. II).
\textsuperscript{94} \textit{Average Town in Wyoming Has 15 Needy Families, GREEN RIVER STAR, Jan. 8, 1932, at 1.}
\textsuperscript{95} \textit{Id. The Green River Star noted some weeks later that local community people helped the unemployed by raising ninety-five dollars at a benefit Public Card party. Town Residents Aid Unemployed, GREEN RIVER STAR, Jan. 22, 1932, at 8.}
\textsuperscript{96} \textit{‘Wyomingites First’ Will Slogan State Relief Work Announced by Committee,” GREEN RIVER STAR, Apr. 15, 1932, at 3.}
\textsuperscript{97} \textit{Id.}
practice conducted by a number of Rocky Mountain communities. Laramie mayor and county commissioners wrote letters to area mayors saying they would strictly observe Wyoming law by not caring for any paupers found in Laramie but, instead, “ship them back” to where their last destination was.

In 1932, county governments spent $455,335 on “poor relief,” mostly for families of unemployed men. The total was $128,455 more than in the previous year. “Most of this was spent in counties where distress was most pronounced,” a columnist wrote. Albany, Natrona, Sheridan, Sweetwater, and Hot Springs counties were particularly singled out.

In many communities, non-profit organizations banded together to provide the assistance that the county could not afford. For example, in Powell in September 1932, the mayor called a meeting to form a private relief agency. The Methodist minister chaired the group, which was dedicated to helping alleviate the “impoverished conditions among some of the Mexican and American population in the region.”

Wyoming towns could not afford welfare for residents, let alone the destitute from elsewhere. More than 450 “bonus marchers” came through Wyoming in the spring of 1932. The men occupied twelve freight cars that had originated in Portland, Oregon. They stopped in Green River where local veterans’ organizations furnished their Sunday night supper. The Green River Star reported, “[A]lmost the whole town’s citizenry turned out to view the arriving army, their parade of the streets and their mess call.”

Agricultural prices, down throughout most of the 1920s, remained low in the early 1930s. With little state action to alleviate the problems, farmers tried to take direct action. In September 1932, potato growers near...
Powell held a mass meeting. They agreed they would "quit digging potatoes until such time as the market improves."  

Municipalities, too, were in desperate condition. Even Torrington, long admired by taxpayers for being the only municipality in the state not having any tax assessments at all, finally had to institute a property tax in the spring of 1933.  

Previously, the town's sole source of revenue came in the form of utility fees from the city-owned electric plant. Utility rates were lowered as property tax assessments provided the differential.

IV. CONSIDERING NEW TAXES

Many citizens braced for new taxes in various forms or other means of raising revenues. During the summer of 1932, rumblings were being heard that Congress might consider a national sales tax. Certainly, many states were considering sales tax proposals. Wyoming labor groups opposed sales taxes. "Interests who desire to impose more taxation on the underpaid masses of our people persist in bombarding the U. S. Senate with propaganda in favor of the most iniquitous of all taxes, the sales tax," the Labor Journal editorialized in early June.

Other taxes were under discussion. A Sheridan newspaper commented on income tax talk: "Certain agricultural interests in this county imply by their questionnaire to the candidates for the legislature that they would like them to approve a state tax on income." The editor argued it was "an impractical time to institute such legislation," pointing out that incomes "even in the industrial world are practically non-existent at the present time."

The Wyoming Socialist Party, meeting in convention in the summer of 1932 in Chugwater, advocated state ownership of all oil wells, thus making all tax sources unnecessary. The sentiment among farmers was strong for property tax relief. An "agriculture man," A. O. Blow, manager of the Chugwater Farmers’ Cooperative association, was nominated as the Socialist

110. Farm Strike Reaches Powell, Powell Tribune, Sept. 8, 1932, at 1. The paper pointed out that on top of poor prices, the crop was only about half of normal. Id.
112. Id.
113. Id.
115. Id.
117. Id.
118. Wyoming Socialists Advocate State-Owned Mines and Farms to Provide Work for Jobless, Wyoming Eagle, July 8, 1932, at 4. The leadership, and probably the party membership, was localized in southeastern Wyoming. Id. Central committee members were: W. W. Wolf, Wheatland; Roy and Vera Nicodemus, Joseph Lunn, Harry and Irene Barrett, W. O. Sayers, C. M. Voudy, all of Cheyenne; and H. H. Harry and Louis Sky of Chugwater. Id.
candidate for governor; W. W. Wolf of Wheatland, also employed in agriculture, was the party's candidate for United States House.119

Other Wyomingites, many in agricultural pursuits, recognized that relief from one form of taxation likely would bring additional tax through other means. One group organized to work for cuts in spending rather than increases in revenue. The Wyoming Taxpayers Association was formed in Casper on March 20, 1932, "under the sponsorship of the Wyoming Stock Growers Association." WSGA President, J. Elmer Brock, drafted the articles of incorporation, constitution, and by-laws.120 His proposed by-laws contained language providing that "the state association not submit or recommend any new law for a new form of raising public revenues until the per capita expense of government shall have been reduced 50 percent below the 1931 cost."121

An association representing cities and towns held a different view of tax policy. During the winter of 1932, G. R. McConnell, executive secretary of the Wyoming League of Municipalities, announced from his Laramie office that cities and towns in Wyoming intended to battle for a share of the gasoline tax and, at the same time, demand exemption from having to pay it.122

_A New Governor Faces Old Challenges_

During the gubernatorial campaign that fall, Democrat Leslie A. Miller, who had lost to Emerson in 1930, ran for the two years remaining in Emerson’s term. Like the Democratic presidential nominee Franklin D.

119. _Id._
120. _Taxpayers in State Form League with Economy Aim_, GREEN RIVER STAR, Apr. 1, 1932, at 1. Elected the first president was James Lee of Sheridan, “a coal man” and president of the Sheridan County Taxpayers’ Association. _Id._ Casper banker R. C. Cather was named treasurer. _Id._ Leslie Miller was among the sixteen founding directors that also included J. Elmer Brock, prominent Buffalo-area cattleman, and E. V. Robertson, Cody, later a United States Senator. _Id._
121. _Id._ The League was incorporated on August 3, 1932. The stated purpose was:

studying taxation and public expenditures and through non-partisan and non-political means, to aid in bringing about the greatest economies in government consistent with efficiency and good administration; to devise and suggest changes in our public revenue system and to do any and all such things as may be necessary or beneficial in bringing about economies in state, county, municipal and school administration.

_Articles of Incorporation Filed for Wyoming Taxpayers League_, ROCK SPRINGS ROCKET, Aug. 4, 1932, at 8.
122. _State Taxpayers Plan Association to Get Reduction_, GREEN RIVER STAR, Mar. 18, 1932, at 1.
123. _Wyoming League of Cities and Towns Again to Ask for Share in State Gasoline Tax-Claim_, WYOMING EAGLE, Dec. 9, 1932, at 4. The tax at the time was four cents. _Id._
Roosevelt, Miller ran on a platform advocating economy, cutting the expenses of government in order to outlast the bad economy. He received endorsements from organized labor as well as from the Citizens' League.

Miller repeated three important campaign promises to address problems with Wyoming’s economy: To lower gasoline prices to Wyoming drivers, to “cut government costs not less than 25 percent,” and to reduce taxes by a similar amount. Republicans criticized him as an oil distributor, inferring that the high cost of gasoline was tied to his business. Miller countered by opposing the “Tulsa-plus” system and pledging he would force a change once he was in office. Late in the campaign, Republican candidate Harry Weston admitted he did not believe a governor could make much difference in gasoline prices.

Cautious about the diversity of opinions, neither gubernatorial candidate embraced a tax proposal. Weston promised to “study” the tax system, but told supporters that the solution to the economic problems would come with a reduction in the state’s expenditures. “There will be no overdrafts in state funds,” he promised, noting that after he was elected, he would appoint three legislators from each house to help him deal with budget cuts. Democrat Miller also promised economic parsimony.

The voters of Wyoming, apparently as dissatisfied as voters nationally who had elected Franklin D. Roosevelt that year, turned to the Demo-
ocratic nominee to help solve the problems with the economy. Along with Miller, the Democrats captured control of the House of Representatives with a 42-20 majority. It was a sea-change. Just a dozen years earlier, only one Democrat served in the House—Thurman Arnold, a Laramie attorney.

At the opening of the legislative session of 1933, Miller addressed the Democratic-controlled House and a State Senate of fifteen Republicans and twelve Democrats. Miller provided what one editor called, “friendly advice to the legislature.” He told them that “finding that source of taxation and using it to make the property tax burden more reasonable or equal is what people really want.” (Miller had pledged at one point in the campaign to “lower government costs by 25 percent,” as a means of “pulling ourselves out of a hole”).

Miller also suggested major modifications in the structure of state government. After the speech, Wyoming Eagle columnist Julian Snow predicted that the legislature would be forced to so completely “remodel the governmental structure” that an “outside firm” would have to be hired to

133. Miller defeated Weston by a vote of 48,130 to 44,692; A. O. Blow, the Socialist candidate, polled 1,647, while Communist Party candidate Merton Miller gained a mere 180 votes. Erwin, supra note 3, at 630.
134. Id. at 350-53.
135. Arnold later became dean of Yale Law School and, in the 1930s, went on to serve President Franklin Roosevelt as head of the United States Department of Justice anti-trust division. See Thurman Arnold, Fair Fights and Foul: A Dissenting Lawyer’s Life (1965) (an amusing account of his experience as the only Democrat in the Wyoming legislature in 1921).
136. Wyoming Labor Journal, Feb. 3, 1933, at 4. “I had no professional training,” Miller told an interviewer in his later years. “Memoirs,” Laramie Boomerang, Aug. 18, 1957. “I was brought up working as a clerk around mercantile stores, starting out with my father in Laramie, where my family first landed in 1902. I only went through the eighth grade in primary school.” Id. Miller’s father was mayor of Laramie. “Leslie A. Miller, 84, Former Governor, Dies,” Wyoming State Tribune, Sept. 29, 1970, at 1. Leslie Miller ran for the legislature at a young age, losing in 1908 in Albany County. Id. Employed as a railroad brakeman in the Laramie yards, he was elected two years later (on the same ticket with Mary Bellamy, the first woman ever elected to the Wyoming legislature). Id. In 1913, he was appointed chief clerk in the office of the Commissioner of Public Lands in Cheyenne. Id. After four years in that position, he left to start an oil business, going into partnership with two other men in the Kinney Oil Company with leases on the Big Muddy near Glenrock. Id. Politically, he continued to be active in the Democratic Party, first assistant state chairman for Kendrick’s Senate race in 1916 and then in his own successful legislative race in Laramie County in 1922. Id. In 1926, he tried for the State Senate, but lost. Id. He won a State Senate seat two years later, resigning after two years to run for governor, losing to Frank Emerson in 1930. Id.
138. Id.
139. See, e.g., Wyoming Labor Journal, Oct. 7, 1932, at 3. (Miller campaign ad). See also Miller, in Announcing His Platform of Economy, Declares Plan Whereby Big Slash Can Be Made in State’s Budget, Green River Star, June 24, 1932, at 6. “There is only one answer to a demand for lower taxes and that answer is lower government expenditures.” Id. In the campaign, he also proposed consolidation of several state agencies. Id.
help.\textsuperscript{140} "The revision job is too big to put across at the present regular session, hence the request of the governor. The new program [to reorganize state government] is being backed by the State Taxpayers League."\textsuperscript{141}

As a means of balancing the budget and still providing necessary relief, most legislators, along with a majority of editors, favored cutting wages to public employees.\textsuperscript{142} The editor of the Wyoming Labor Journal disagreed: "Economy and efficiency in government are necessary and essential things that should be ever present, however, the matter of taxation should not be confused with the more important matter of income."\textsuperscript{143} As the legislative session opened, many labor union representatives wanted to eliminate the property tax and add an income tax. The editor of the Wyoming Labor Journal summarized the point: "If we must be taxed, income is the best guide."\textsuperscript{144} After all, the editor of the Wyoming Labor Journal wrote, an income tax would only be applied "on businesses that are profitable."\textsuperscript{145}

\textsuperscript{140} Julian Snow, WYOMING EAGLE, Jan. 20, 1933, at 3.
\textsuperscript{141} Id.
\textsuperscript{142} WYOMING LABOR JOURNAL, Mar. 17, 1933, at 4.
\textsuperscript{143} Id. Many communities already had reduced the size of their municipal workforces. For instance, in December, 1931, the town of Kemmerer slashed salaries of town marshals, eliminated the office of city health officer, and combined the jobs of city treasurer and police justice. Kemmerer Slashes Salaries of Officers, GREEN RIVER STAR, Jan. 1, 1932, at 1. Rock Springs followed suit in January, 1932, by reducing all city employee wages by ten percent. Rock Springs Cuts Wages of Employees, GREEN RIVER STAR, Jan. 29, 1932, at 1. Green River also cut the salaries ten percent across the board. Town Employees Cut 10 Per Cent, GREEN RIVER STAR, Feb. 12, 1932, at 1. Wage cuts were not restricted to public employees, however. The Union Pacific Coal Company reduced salaries of all "unorganized workers" by ten percent, effective February 1, 1932. UP Coal Co. cuts Pay 10 Per Cent, GREEN RIVER STAR, Feb. 12, 1932, at 8. School districts were quick to reduce salaries, too. See, e.g., School Board Here Cuts All Salaries Ten Per Cent, GREEN RIVER STAR, Apr. 1, 1932, at 1. The Wyoming State Legislature passed a bill in 1933 to reduce the salary of University of Wyoming President Arthur G. Crane from $11,000 per year to $8,000. Cut for Crane Still Unsigned, WYOMING STATE TRIBUNE, Feb. 13, 1933, at 1. With the budget cuts, the University of Wyoming reduced faculty and staff. 10 Members of U of W Staff Are Dropped, WYOMING STATE TRIBUNE, Apr. 27, 1933, at 1. State agencies also made cuts. See, e.g., State Education Board Slashes Budget $30,000 to Meet Funds, WYOMING EAGLE, Mar. 24, 1933, at 1. In the spring of 1933, Cheyenne authorized payments in scrip to unemployed men doing day work for the city. Scrip is Not for Regular Employees, WYOMING STATE TRIBUNE, Mar. 31, 1933, at 1. Regular city employees, however, were not paid in scrip. Id.
\textsuperscript{144} Equalizing Taxes, WYOMING LABOR JOURNAL, June 2, 1933, at 4.
\textsuperscript{145} Thoughtless Taxation, WYOMING LABOR JOURNAL, Feb. 3, 1933, at 4. See WYOMING LABOR JOURNAL, Mar. 24, 1933, at 3 (commenting on taxes on profitable business).
Many national agricultural organizations favored an income tax.\textsuperscript{146} In Wyoming, farmers advocated changes away from the land-based taxes that provided most revenue for state and county governments. Their representatives argued that they wished to “broaden the tax base” by shifting away from an “over-reliance on property taxes.”\textsuperscript{147} Not coincidentally, property taxes were most heavy on farm and ranch lands. As one agriculture representative wrote in 1932: “Wyoming can no longer rely on property owners [agriculturists] to pay the greatest share of costs for government services.”\textsuperscript{148} He asserted that the tax system had to be spread more broadly.\textsuperscript{149}

Oddly, no mention of a severance tax on minerals was made in 1932 even though just nine years earlier, the constitutional amendment for such a tax nearly passed.\textsuperscript{150} A Democratic state committeeman had introduced a severance tax proposal in the State Democratic Convention of 1932.\textsuperscript{151} H. J. Hunt of Laramie sought the backing in the May 9 convention of the party, but it gained little attention.\textsuperscript{152}

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\textsuperscript{146} The leading national organization favoring state graduated income taxes was the National Grange. See ROBERTS, supra note 1 (detailing how important the Grange was to tax debates in individual states). The Wyoming State Grange held its first state meeting in 1939 although individual Grange chapters existed prior to that time, mostly in Fremont County, but with some chapters in Johnson, Laramie, and Platte counties. There is no evidence the Wyoming Grange participated in the tax debates of the early 1930s. See Wyoming State Grange Journal of Proceedings, Fourth Annual Session, Oct. 25-27, 1943 (on file with the Wyoming State Archives).

\textsuperscript{147} Brock Offers Taxpayers’ Associations Solution to Problem of Mounting Taxes, GREEN RIVER STAR, Jan. 29, 1932, at 7 (comments of J. Elmer Brock, president of Wyoming Stock Growers Association, to the Rock Springs Stock Growers). Brock argued that land valuations were too high as were assessments on cattle. \textit{Id.} He urged no new taxes but, instead, “rigid economy.” \textit{Id.} Curiously, the sentiment was not expressed in an agricultural publication but in the Wyoming Labor Journal. Mar. 17, 1933, at 4. The writer pointed out that in the “current economic climate of the state, farmers’ taxes are 50-100 percent of income.” \textit{Id.} The average wages for various industry groups showed the following for 1929: Meatpacking plants: salaries, $4,268; Petroleum refining: salaries, $2,849 and wages of $1,981; Railroad shops: salaries, $3,011; and wages of $1,627; Printers: wages, $2,031. \textit{Meat Packers of Wyoming Lead in Salaried Class}, GREEN RIVER STAR, Jan. 1, 1932, at 1. A total of $2,288,632 was paid by industries in salaries in 1929 and the total in wages was $10,255,365. \textit{Id.} In September 1933, the school board in Sheridan considered wholesale firing of all married women teachers in order to balance the budget and yet not “adversely harm” families. Dismissal Imminent for Married Teachers, WYOMING STATE TRIBUNE, Sept. 13, 1933, at 3.

\textsuperscript{148} WYOMING LABOR JOURNAL, Mar. 17, 1933, at 4.

\textsuperscript{149} \textit{Id.}

\textsuperscript{150} No severance tax measure of any kind was introduced into the House of Representatives during the session. See H.R., 22nd Leg., Reg. Sess. (Wyo. 1933) (index of bills by title).

\textsuperscript{151} Severance Tax to Come Up Before Demos in Casper, GREEN RIVER STAR, Apr. 8, 1932, at 1.

\textsuperscript{152} \textit{Id.} In 1949, a bill was introduced in the House to place a two percent severance tax on oil, but the measure failed to pass the State Senate. See Gorin, supra note 34. The issue was raised again in legislative sessions of 1951, 1953, and 1955, but all efforts for passage failed. \textit{Id.} Wyoming lawmakers finally authorized a severance tax in 1969. \textit{Id.}
Although ranchers appeared to favor an income tax, others were opposed to it. In any event, wrote the editor of the Sheridan Press, an income tax is not the alternative: "Incomes are conspicuous for being the most uncertain source of revenue ever adopted by a government. When tax revenues are most needed that form of taxation dries up."\(^{153}\)

A few Wyoming politicians were on record as favoring an income tax. One was former Governor Fenimore Chatterton.\(^{154}\) Just one week after his term on the State Board of Equalization expired, Chatterton told a Cheyenne Rotary Club that the Wyoming Constitution should be amended "to authorize the levying of a state income tax and to clothe the state legislature with power to classify various kinds of property for a graduated mill levy which would equalize taxation in consideration of the income-producing potentialities of the property."\(^{155}\) He pointed out that only twenty-five percent of all income in Wyoming was taxed in any way and the remaining seventy-five percent was "not touched."\(^{156}\) He concluded, "That is not fair."\(^{157}\) He continued to speak throughout the state during 1933 to civic groups about the financial problems with the state and the need for an income tax. "An income tax need not and should not be an additional tax," he argued, "properly applied, it should be an equalization tax . . . ."\(^{158}\)

But there were other proposals being floated for tax changes. The Wyoming Eagle reported on a proposal by E. V. Robertson, a Park County Republican who had substantial influence in the party:

[Robertson] talks readily on what he sees as the need for "privilege" and "retail sales" taxes to ease the tax burden on owners of real property. In Cheyenne this week, he said that if such taxes were enacted, each real estate owner in Wyoming would have a $5,000 exemption from real estate taxes. He claims such a change would put Wyoming on a cash basis and would attract many to this state because of the lightened real estate tax. By a "privilege" tax he explained he meant a tax to do any kind of business, including even the right to practice law or medicine. "Why shouldn't a lawyer


\(154\) Erwin, supra note 3, at 129 (vol. II) (giving a brief Chatterton biography).

\(155\) Chatterton Lists Increases in State Government Costs, Wyoming State Tribune, Mar. 1, 1933, at 1. He also urged cuts in salaries of University of Wyoming administrators and other cost-cutting measures in state government. Id.

\(156\) Id.

\(157\) Id.

\(158\) Chatterton Demands Cut in Government Cost, Activities, Wyoming State Tribune, Sept. 28, 1933, at 10 (reporting on his speech to the annual convention of the Wyoming Federation of Women's Clubs). He also advocated extensive cost-cutting measures, including reducing the number of counties to fourteen and repealing the direct primary law as a means of saving money. Id.
pay a yearly tax for the right to practice law. If a merchant also has to pay?” Robertson asked. His “retail sales tax” is a general sales tax.159

Support existed for a sales tax without the complications Robertson proposed. State Senator B. C. Rumsey spoke to about fifty people at a meeting in Powell. Those in attendance unanimously passed a resolution calling for a state sales tax “of sufficient scope to relieve the present tax burden now resting on property.”160 Opponents pointed out that sales tax proposals had been proposed, but defeated in other Western states.161 Apparently, the mood was different in Wyoming, sales tax proponents argued.162 Voters wanted no new taxes of any kind, but if necessity required, a sales tax was least objectionable. The Wyoming Eagle, observing that Oregon voters opposed the sales tax by a four to one margin, predicted that such a tax had support in Wyoming: “A similar proposal has been made at numerous times in Wyoming and is being given considerable consideration by state leaders at the present time.”163

A bill to establish a state sales tax was filed in the legislature by Representative William G. Johnson, a Fremont County Democrat.164 As the Wyoming Eagle observed, “[I]t is another measure that is likely to be in for some tough sledding. At the present there is quite a feeling against new taxes.”165 With all of the talk of dire conditions, the legislature did not pass a tax bill. Press accounts showed that many Wyomingites still preferred “economy” to new revenue sources.166 Governor Miller recommended deep cuts to state appropriations and when the legislature complied, cutting even more than the governor thought possible, he complimented them on the

159. Miller Ready to Call Extra Legislative Session if Survey Warrants, WYOMING EAGLE, June 30, 1933, at 12.
161. Id.
162. Id.
163. Oregon Vote on Sales Tax May Halt Move Here, WYOMING EAGLE, July 28, 1933, at 10.
166. This was the message from many state newspapers, but there were exceptions. For instance, the Wyoming Eagle published an article saluting the Cheyenne Unemployment League's efforts in running an “appeal for aid” the previous week and urging greater local involvement. Unemployed Here Need More Help, WYOMING EAGLE, Nov. 3, 1933, at 3.
One measure, however, called for deep cuts in salaries of state employees and, also, cuts in the salaries of state officials. Moreover, state needs mounted. In Thermopolis in the spring of 1933, more than 300 unemployed miners from Gebo and Crosby filed into town demanding either work or immediate relief assistance. Governor Miller "dispatched" sufficient money to buy them groceries after George B. Short, the county relief chairman, wired the state relief director that the situation was "desperate."

As the session wound down in 1933, it was apparent that even the very deep cuts would not be enough to sustain the state budget through the next biennium. New income would be necessary. Clearly, a special session would have to be called because, at that time, the Wyoming legislature met every other year for just forty days. The crisis appeared too great to wait two years for action.

The Special Committee

Absent passage of a specific bill addressing the problem, legislative bodies often commission a study. At the end of the 1933 regular session, the legislature passed House Joint Resolution Number Three, providing for the appointment of a special joint committee of the Senate and the House, to study all governmental functions in Wyoming, with a view to recommending to a special session of the Legislature reforms which will tend to simplify and reduce the cost of such governmental functions.

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167. Larson, supra note 17, at 464. See also Deborah Hardy, Wyoming University: The First Hundred Years, 1886-1986, 105-06 (1986). Discussing the impact on the University of Wyoming, the author noted, "As it turned out, 1933 was the worst year in the history of the University as far as funding was concerned." Id. at 105.


170. Id.

171. As the result of a constitutional amendment passed in 1972, the legislature now meets annually during the two-year life of a legislature—a maximum of forty days during a regular session (odd numbered years) and a maximum of twenty days in the "budget session" (even numbered years). See Wyo. Const. art. III, § 7.
... and the employment of necessary assistants to carry out the provisions herein set forth.\textsuperscript{172}

The resolution called for a strictly bi-partisan committee of six members.\textsuperscript{173}

The legislative leadership from both parties appointed three members of each House to a special Committee on Taxation.\textsuperscript{174} State Senators Roy Cameron of Sundance, Thomas Hunter of Cheyenne, and Clifford A. Miller of Casper were tapped along with three colleagues in the House—Representatives Max Russell of Douglas, Pat Norris of Cheyenne, and William Jack of Casper.\textsuperscript{175} Russell was a businessman, Jack worked for a Casper-based oil company, and Norris was a Cheyenne highway contractor.\textsuperscript{176} The resolution establishing the committee and setting forth its charge made no mention that an outside consulting firm would be hired to handle the details, although the language did imply that the committee would have "agents or employees."\textsuperscript{177}

Representative Jack, traveling for the company for which he worked (Texaco), stopped in Lusk in early April. He told the \textit{Herald} reporter that tax relief, not increased tax revenues, was the commission’s goal.\textsuperscript{178} "The purpose is to lay a basic foundation for an equitable system of taxation in Wyoming and then it will be up to the Governor to decide whether or not a special session of the legislature will be called to act upon the findings of the commission."\textsuperscript{179}

\textsuperscript{172} 1933 Wyo. Sess. Laws at 185 (House Joint Resolution No. 3).
\textsuperscript{173} \textit{Id.}
\textsuperscript{174} \textit{See Special Committee Appointed, S., 22nd Leg., Reg. Sess., at 606} (Wyo. 1933) (appointment of Miller and Hunter). \textit{See also Appointment of Members of Special Joint Committee, H.R., 22nd Leg., Reg. Sess., at 773} (Wyo. 1933) (appointment of Norris and Russell). Cameron was nominated by the Senate and he appointed Hunter and Miller. \textit{Special Committee Appointed, supra,} at 606. Speaker Jack was appointed by the House and he, in turn, appointed the other House members. The appointments were made on the morning of the final day of the regular session in the House and that afternoon by the Senate. \textit{See id.; Consideration of Appointment of Member of Special Committee, H.R., 22nd Leg., Reg. Sess., at 731} (Wyo. 1933).
\textsuperscript{175} \textit{Senator Cameron Named on Committee to Study Governmental Structure, SUNDANCE TIMES,} Feb. 23, 1933, at 1. Hunter died in late 1936 while still serving in the State Senate. \textit{Message of Gov. Leslie A. Miller to the 24th Legislature, S., 24th Leg., Reg. Sess., at 28} (Wyo. 1937).
\textsuperscript{176} \textit{Presenting Laramie County’s New Representatives in Legislature, WYOMING EAGLE,} Nov. 9, 1934, at 4.
\textsuperscript{177} \textit{Public Asked to Aid Tax Revision Plans, THERMOPOLIS INDEPENDENT RECORD,} Apr. 7, 1933, at 1 (text of resolution); \textit{see also 1933 Wyo. Sess. Laws at 184-86} (House Joint Resolution No. 3).
\textsuperscript{178} \textit{No Definite Date Set for Meeting Tax Commission, LUSK HERALD,} Apr. 6, 1933, at 5.
\textsuperscript{179} \textit{Id.}
The commission was to hold the first of several hearings in Lusk on March 10. However, the illness of Senator Cameron prevented the commission from meeting. The commission finally convened in Cheyenne on April 26, where it heard addresses by Governor Miller and former Governor Fenimore Chatterton. Cameron was elected permanent chairman of the commission; Pat Norris, the permanent secretary after the commission rejected a proposal to hire a paid executive secretary.

The tax study group interviewed several tax experts in Cheyenne following its organization. Along with the tax commissioner of Colorado, the group “interviewed” T. E. Madsen of the J. L. Jacobs Company, Chicago, on Friday afternoon. The next day, the group met with E. O. Griffenhagen, representing his firm, also from Chicago. As the Wyoming Eagle noted, Griffenhagen was “conceded to be one of the best known governmental experts in the nation.” His firm’s good reputation was justified. It had done reorganization studies for the Canadian government in the 1920s and for the states of Utah, Texas, and Nevada in the early 1930s.
Charged with increasing government efficiency, decreasing governmental costs, and producing a more equal distribution of the tax burden, the tax committee voted to hire the Griffenhagen Company of Chicago to do a cost analysis of state government and recommend places where cuts could be made and where revenues could be put.\(^{188}\) The company was given access to an office in the state capitol.\(^{189}\) They were to begin studying the problems of finance and budget by May 15 and, on the second Tuesday of each month, the legislative tax group would meet with them and monitor their progress.\(^{190}\) The firm was given until September 15 to produce its final report, giving the tax group until November 1 to make its final recommendations to the legislature.\(^{191}\) The editor of the \textit{Wyoming State Tribune} congratulated the tax group for seeking to examine all aspects of government—state, county, municipal, and school district—and making funding recommendations accordingly.\(^{192}\)

The decision to hire the out of state firm drew considerable criticism. One newspaper reported feelings at a local meeting:

Especially was sharp criticism directed against the legislative committee for employing tax expert [sic] from Chicago at a reported salary of $10,000 to make recommendations for Wyoming tax laws. One speaker suggested that experts from any other place than Chicago might have been more acceptable, as it is a notorious fact that Chicago’s tax muddle is the worst on record.\(^{193}\)

An editor in northeast Wyoming commented, “Similar proposals have been made in Wyoming for years, but it is costing taxpayers of the state some $15,000 to have their memories refreshed by the Chicago firm of accountants who were awarded the contract for the audit by the governor and the committee.”\(^{194}\)

\footnotesize{articles/view/GG/mkgl (last visited on Sept. 17, 2003). In Texas two years earlier, “[t]he Griffenhagen staff made comprehensive examination of all phases of state administration and incorporated its report in thirteen separately printed and bound parts, aggregating well over 2000 pages. The volumes covered fiscal and administrative agencies, highways, law enforcement, the judiciary, welfare programs, prisons, health, and education.” \textit{Id.}}

\(^{189}\) \textit{Id.}
\(^{190}\) \textit{Id.}
\(^{191}\) \textit{Id.}
\(^{193}\) \textit{Tax Meeting Wants Special Tax Session}, \textit{THERMOPOLIS INDEPENDENT RECORD}, May 2, 1933, at 1. The meeting of Big Horn Development Association ended with a resolution condemning the hiring of an out-of-state firm to do the study. \textit{Id.}
The Committee on Taxation appointed local county committees and solicited advice from the general public through newspaper press releases.\(^{195}\) Individual members of the committee spoke to various groups around the state throughout the late spring and early summer.\(^{196}\) When the tax group met in June, they decided to leave to the Griffenhagen company the responsibility of delving into county, municipal, and school district issues. "The commission . . . will devote attention to study of the income, corporation and sales taxes of other states and to weighing the feasibility and advisability of adoption by Wyoming of these sources of public revenue."\(^{197}\) Committee chairman Roy Cameron, however, was quick to point out that, if there were a state income tax, it would not be a supplemental source of income.\(^{198}\) Real and personal property taxes would be shifted, he contended.\(^{199}\) He also noted the interest in "efficiency."\(^{200}\)

By this time, "poor relief," administered by counties and towns, had reached crisis levels. In 1933, one in five Wyoming residents was on relief.\(^{201}\) School boards continued to demand "voluntary cuts" in wages by teachers.\(^{202}\) Cameron, who also served as president of the Senate, told a Cheyenne reporter that the commission had discussed the need for a "temporary sales tax" to obtain funds for relief, although the commission made no recommendation on the matter.\(^{203}\)

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Members of the legislative committee and others who attended the recent meetings are understood to have been sworn to secrecy, and it has been difficult and almost impossible to obtain specific information about its deliberations. Why secrecy should enshroud the work of public officials has not been explained, but such appears to be the case.

\(^{195}\) See, e.g., Public Asked to Aid Tax Revision Plans, Thermopolis Independent-Record, Apr. 7, 1933, at 1. Thornton, the state legislator from Hot Springs County, also served on the local committee. \(^{196}\) With him on the local committee were State Senators Dora McGrath, Mike McCarthy, Charles Sheffer, and Henry Cottle. \(^{197}\) "This is too important a matter to all substantial citizens to be given snap judgment, hence, the Independent Record is devoting much valuable space to the matter, that all citizens may be informed." \(^{198}\) See, e.g., Miller and Jack of Tax Committee Here Soon, Thermopolis Independent Record, May 5, 1933, at 1. The two members of the committee were to speak to the annual meeting of the Big Horn Development Association, chaired by Paul Greever of Cody. \(^{199}\) Supplemental Taxing Source Is Sought Here, Wyoming State Tribune, May 12, 1933, at 1. \(^{200}\) Id. \(^{201}\) Julian Snow, Proposed Five-Point State Tax Reform Program Center of Interest, Wyoming Eagle, Oct. 13, 1933, at 12.
Tax questions were a common topic throughout Wyoming in the spring and summer. When the Big Horn Basin Development Association met in Thermopolis in May 1933, the group favored change in the state's tax system. The association passed a resolution endorsing either an income tax or a sales tax to help alleviate the property tax burden. Also included in the resolution was condemnation of the selection of an out-of-state firm to do the study and failure of the tax committee to send a representative to the association's meeting.

Despite the fact that the legislative tax committee had but six members, many were absent during the six meetings in 1933. "One member, Sen. Thomas Hunter of Cheyenne, has attended but one of the five or six meetings held." Members received a per diem of twelve dollars per day plus mileage for the sessions. Nonetheless, when the Griffenhagen report was due to be released, the press pointed out that members of the commission had spent "much of the month" in deliberations in Cheyenne with the various Griffenhagen firm employees and drafting possible bills for the special legislative session.

The committee met in Cheyenne throughout the summer and into the fall, but some members also presided over public meetings around the state. Two commission members, Representatives Jack and Miller, held town meetings in Greybull and Thermopolis in August. C. W. Axtell, a Thermopolis attorney, seemed to represent the prevailing opinion at both meetings. He said the present system of reliance on property taxes was wholly unacceptable and that if it continued, "counties will own all of the property within their boundaries." Nonetheless, he dismissed one possible alternative: "Income taxes cost more to collect than the revenue raised . . . The sales tax is easy to collect, it is just and equitable; if the heavy tax burden is taken off industry and labor, the present deplorable condition will be remedied."

204. Favor Change in State Tax Laws, WYOMING STATE TRIBUNE, May 17, 1933, at 9.
205. Id.
206. Id.
207. Charles A. Cooney, News Notes from Wyoming Capitol, WYOMING STATE TRIBUNE, Sept. 21, 1933, at 6.
208. Id.
209. Committee on Tax System in Session Here, WYOMING STATE TRIBUNE, Oct. 4, 1933, at 1.
211. Tax Committee Meets Here to Discuss Changes, THERMOPOLIS INDEPENDENT RECORD, Aug. 11, 1933, at 1.
212. Id.
213. Id.
Throughout the summer, speculation continued as to whether the governor would call a special session. He is “ready to call a special session in the fall IF the tax commission and its experts now at work can convince him the session would be worthwhile to Wyoming. That has been his position from start to finish,” the Wyoming Eagle noted.214

The Griffenhagen group was to finish its report prior to the tax committee’s meeting in September.215 After the firm presented a preliminary report to the taxation committee’s September meeting focusing on highways and schools, eighty percent of state expenditures, the committee asked the governor to call the special session.216 “We gave the governor to understand that more than $1,000,000 per year can be saved by putting the program into effect,” State Senator Cameron told the Wyoming Eagle.217 “We feel that the saving would offset the cost of the special session many times.”218

The Committee Deliberates and Reports

The economy remained weak throughout the fall. When the national relief administrator released a report on families in the United States receiving relief from public funds during November, 1933, Wyoming had the lowest percentage of any state—two percent.219 Conditions seemed not to coincide with the report, however. The Thermopolis Journal reported that by September 1933, 357 families consisting of 1310 individuals were registered in Hot Springs County as “unemployed.”220 A syndicated columnist, in the fall of 1933, pointed out that the state labor commissioner had applications for employment from 11,675 men.221 The columnist wrote that this number was expected to increase as winter set in.222 Wyomites seeking work were so numerous that just before the special legislative session opened the

214. Miller Ready to Call Extra Legislative Session if Survey Warrants, WYOMING EAGLE, June 30, 1933, at 12.
215. Tax Commission Will Meet Here Tuesday to Hear Survey Report, WYOMING EAGLE, Aug. 4, 1933, at 12; Charles A. Cooney, News Notes from Wyoming Capitol, WYOMING STATE TRIBUNE, Sept. 7, 1933, at 5.
217. Id.
218. Id.
220. Charles A. Cooney, News Notes from Wyoming Capitol, WYOMING STATE TRIBUNE, Sept. 28, 1933, at 3 (quoting Ralph Noble, editor of the Thermopolis Journal).
221. Charles A. Cooney, News Notes from Wyoming Capitol, WYOMING STATE TRIBUNE, Sept. 14, 1933, at 5. The number did not include Teton County’s total, unavailable at the time of compilation. Id.
222. Id.
next month, a group in Casper established an association of the unemployed, calling it the "Workers' Brotherhood of America." 

Although it acknowledged the increases in unemployment and relief applicants, the board of equalization reported in September that the state tax burden was down eleven percent from 1932 to 1933. More than a million dollars in savings was noted, mostly from school district expenditures. Schools statewide spent $4.2 million in 1932; $3,684,000 in 1933. The estimate was that 44.44 cents of every tax dollar went to schools and 24.96 to county taxes; 16.44 for state government and 14.14 to municipalities. For municipalities, costs had to be reduced. All but two towns had decreased evaluations.

In a meeting in Cheyenne on October 4, the tax committee received the final report from the Griffenhagen company. According to press accounts, the report contained 450,000 words "while an ordinary novel contains 50,000 to 60,000 words." The legislature had allocated only $1000 for publication and distribution of the report to all members of the legislature. While the company's report filled two published volumes, the major criticism was not made over the length—it was the content. In the name of efficiency and economy, the Griffenhagen planners advocated a statewide police force, a single-house legislature, reduction in the number of counties, an appointed state administrator to head the executive branch, and total consolidation of the 399 school districts in the state into one statewide district.

223. Carl Thomason, Casper Unemployed Form Organization, WYOMING LABOR JOURNAL, Dec. 1, 1933, at 1. The Reverend Charles S. Bream gave a "labor talk" and officers were elected: E. P. Beard, president; Barney Price, vice president; Alvah Todd, secretary. Id.
225. Id.
226. Id.
227. Id.
228. Id. The report showed that only Jackson and Newcastle had valuation increases and they were miniscule. Id. For the portion under state control, 20.94 cents per dollar was for education; 27.36 for institutions; 8.62 for general administration; capital outlay, 5.5; judiciary, 7.5; livestock, 3; military, 1.95; engineering, 2.44; state land and farm board, 3.96; state coal mine inspections, .98; capitol building commission, 4.27; highway bond issue, 3.4; soldiers tax exemption, 5.94; legislature, 1.63; state overdraft, 3.8; all other activities, 6.49. Id.
229. Tax Report Before Miller, SHERIDAN PRESS, Oct. 6, 1933, at 1. For the contents of the report, see GRIFFENHAGEN ASSOCIATES, REPORT MADE TO THE SPECIAL LEGISLATIVE COMMITTEE ON ORGANIZATION AND REVENUE (1933) (2 vols.) [hereinafter GRIFFENHAGEN REPORT].
230. Tax Report Has 450,000 Words; Something to Read, THERMOPOLIS INDEPENDENT RECORD, Oct. 20, 1933, at 5.
231. Id.
232. GRIFFENHAGEN REPORT, supra note 229.
Much to the surprise of the press, the commission declined to accept many of the company's recommendations to economize. As one columnist noted,

The report of the special commission does not appear to be as completely revolutionary as a survey of the complete Griffenhagen report led us to fear it might be. A large number of the reforms as recommended by the experts who made the survey, are not included in the report which the commission is making to the governor and to the members of the legislature along about Nov. 1st.\(^\text{233}\)

The committee, meeting during the following week, "rejected recommendations of the Chicago auditing firm to abolish all state elective offices."\(^\text{234}\) Clearly, the Griffenhagen study contained politically impossible proposals. "Members . . . indicated Thursday that they were not entirely in sympathy with some of the sweeping recommendations suggested for other state departments. One of those recommendations calls for consolidation of all state institutions with the exception of the state university at one central point."\(^\text{235}\) The commission settled on a "five-point" proposal, allowing the rest of the report to be shelved, possibly to be considered at a later time.\(^\text{236}\) Abandoned were Griffenhagen recommendations for a statewide centralized police force, a single-house legislature, and elimination of election of state officials, including the governor.\(^\text{237}\)

The commission did adopt some points from the Griffenhagen suggestions. One was to centralize all road building within the State Highway Department.\(^\text{238}\) Another was to consolidate all school districts into one statewide district.\(^\text{239}\) Savings from both plans were estimated at approximately two million dollars annually.\(^\text{240}\) Further, the committee wanted to


\(^{235}\) *Taxation Problem Up to Commission*, WYOMING STATE TRIBUNE, Oct. 5, 1933, at 7.

\(^{236}\) *Id.*

\(^{237}\) *Id.* GRIFFENHAGEN REPORT, vol. 1, parts II and III (relating to education and highways); *id.* vol. II, part XI (covering state organization).

\(^{238}\) REPORT OF THE LEGISLATIVE COMMITTEE ON ORGANIZATION AND REVENUE TO THE GOVERNOR 71 (Nov. 1, 1933) (on file with the Wyoming State Archives) [hereinafter COMMITTEE REPORT].

\(^{239}\) *Id.* at 47. *Proposed School Law Would Give State Full Control of Education*, WHEATLAND TIMES, Oct. 19, 1933, at 1. The proposal was unveiled by State Superintendent of Public Instruction Katherine Morton to the Southeastern Wyoming Education association conference on October 14, 1933. *Id.; see also Wyoming May Have State Control of All Schools*, THERMOPOLIS INDEPENDENT RECORD, Oct. 20, 1933, at 1.

\(^{240}\) WYOMING LABOR JOURNAL, Nov. 10, 1933, at 2; COMMITTEE REPORT, supra note 238, at 70, 72 (detailing education savings and highway savings).
create a “finance board” and eliminate county assessors, treasurers and their state counterparts.\textsuperscript{241} The commission claimed this would lead to more equalized taxation.\textsuperscript{242} Pointing out that the committee did not adopt all that Griffenhagen proposed, the \textit{Wyoming Eagle}’s Julian Snow wrote: “The commission, wisely we believe, refrained from okeying a program so completely revolutionary in scope that it would throw a contemplated short session of a legislature into turmoil and perhaps kill all chances of getting anything passed.”\textsuperscript{243}

The Griffenhagen report contained numerous tax-raising suggestions. On the revenue-raising side, the press indicated that the members were particularly inclined to favor the state income taxation proposals.\textsuperscript{244} Snow, the \textit{Wyoming Eagle} writer, questioned whether or not the discussions over taxes ought to have waited until the special session:

Without distinguishing between news reports as to what the Griffenhagen people had recommended and what the commission is preparing to recommend to the governor, a lot of earnest minded folk over the state have been mixing one with the other, commending some reform proposals that the commission has never believed it will accept and condemning others which, likewise, have been pigeon-holed by the commission . . . .”\textsuperscript{245}

Snow added that as the special session approaches:

Some large and well organized lobbies are expected to go into action . . . . The elimination of all tax on personal property may be expected to send the powerful livestock interests to the side of the small farmer, for not only will the stockmen benefit by the fact that their herds and flocks will be exempted from taxation, but the tax burden upon their lands would be lessened by means of revenue from the income taxes.\textsuperscript{246}

Soon after the report was released, Miller told reporters, “I believe that the committee has presented enough information to warrant calling of a

\begin{itemize}
  \item \textsuperscript{241} Committee Report, \textit{supra} note 238, at 29.
  \item \textsuperscript{242} \textit{Wyoming Labor Journal}, Nov. 10, 1933, at 2. This was the second installment of the committee’s four-part series designed to gain support for their plan.
  \item \textsuperscript{243} Julian Snow, \textit{Proposed Five-Point State Tax Reform Program Center of Interest}, \textit{Wyoming Eagle}, Oct. 13, 1933, at 12.
  \item \textsuperscript{244} See, e.g., \textit{State Tax System Due for Change}, \textit{Sheridan Press}, Oct. 9, 1933, at 1.
  \item \textsuperscript{245} Julian B. Snow, \textit{Wyoming is Tower of Babel as Discussion of Tax Reforms Spreads}, \textit{Wyoming Eagle}, Oct. 27, 1933, at 12.
  \item \textsuperscript{246} \textit{Id}.
\end{itemize}
special session." He did caution, however, that the meeting of the committee was "merely a starter for the heavy study that must be made of the huge Griffenhagen report."

The following Monday, the committee released what it called the five major points in the study, emphasizing that the proposed changes would save an estimated two million dollars per year. The first point was "broad changes in the tax structure to equalize the burden of taxation instead of the present system . . . ." Under the proposal, the personal property tax would be eliminated and a personal income tax, a business tax, and a tax on real estate would be substituted. The proposal, if adopted, would reduce property taxes by fifty percent by "proposing a business net income tax at the low flat rate of four percent; a personal net income tax with graduated rates, the highest of which is six percent, and the retention of the real property tax . . . ."

In a later column, Snow commented on the confusion people had between the Griffenhagen report and the committee's much less drastic recommendations. He insisted that the two were "not the same." The Sheridan Press editorialized, quoting from the Wyoming Eagle publisher Tracy McCraken, powerful Democratic party loyalist and Snow's boss: "There probably are some features of the Griffenhagen recommendations and the legislative commission's report that can advantageously be enacted into law, though we wonder how many."

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248. Id.
249. 5 Big Changes in State Rule to be Advised, WYOMING STATE TRIBUNE, Oct. 9, 1933, at 1.
250. Id.
251. State Tax System Due for Change, SHERIDAN PRESS, Oct. 9, 1933, at 1. See also 5 Big Changes in State Rule to be Advised, WYOMING STATE TRIBUNE, Oct. 9, 1933, at 1. The other points were: (1) reorganization of the tax collecting units, (2) creation of one broad plan for education to save about one million dollars per year, (3) placing all road and highway construction under control of the state highway department, and (4) a change in election laws so that all elections would be held on the same day. Id. The committee also recommended a "legislative reference bureau." Id. For tax specifics, see Cooney, supra note 234.; see also Drastic Reform Program With Huge Tax Cut Goes to Governor, WYOMING EAGLE, Oct. 6, 1933, at 5 (detailing the Griffenhagen report and the claim that possible savings would amount to more than two million dollars).
254. Id. Snow also observed that there was interest among ranchers for an income tax as an alternative to property taxes. Id.
255. Special Legislative Session Imperative, SHERIDAN PRESS, Nov. 7, 1933, at 4 (quoting Special Legislative Session Imperative, WYOMING EAGLE, Nov. 3, 1933, at 9). McCraken seemed to conflate the report and the recommendations. Id.
The committee filed its report with Governor Miller on November 1. By the time the report came to the governor, most of the Griffenhagen recommendations had been removed. A Sheridan newspaper quoted Miller: "It would be impossible . . . for the legislature to consider in a special session all the reforms approved by the committee" and, therefore, the "five-point program would have to serve as its recommendations to the special session."

In an editorial a few days later, the Sheridan editor predicted that Wyoming would "become tax conscious" in the following weeks. "In making up the loss from reduced property taxes, the committee was forced to find a substitute—and it finally agreed upon a personal income tax." He predicted it would be controversial because "every resident who has an income, no matter how small, would be required to make a return and each return would be accompanied by a filing fee of $3."

A personal net income tax and a business net income tax would add two million dollars on the revenue side, the commission said.

Inasmuch as the total cost of all government in Wyoming, local and state, amounted this year to between eight and nine million dollars, it is apparent that if the estimated economies and new revenue are as they predict, real estate, which now must bear nearly the entire burden of the state, should have this tax burden slashed nearly in half.

The tax base had to be broadened, it concluded, and an income tax would accomplish this feat.

While the commission believed a flat four percent was appropriate for a business net income tax, gaining an estimated one million dollars per year, the personal income tax would be graduated. For those earning less than $1000, there would be no tax except for payment of the mandatory eight dollar "filing fee," required for income earners at all other levels as well. Those earning from $1000-$2000 would pay one percent; $2000-$4000, two percent; $4000-$6000, three percent; $6000-$8000, four percent;

256. COMMITTEE REPORT, supra note 238.
259. Id.
260. Id.
261. COMMITTEE REPORT, supra at 238, at 17.
262. Id.
263. Id. at 16.
264. Id. See also Julian Snow, Proposed Five-Point State Tax Reform Program Center of Interest, WYOMING EAGLE, Oct. 13, 1933, at 12.
265. COMMITTEE REPORT, supra note 238, at 17.
$8000-$10,000, five percent; and six percent on all those making more than $10,000 annually.\textsuperscript{266}

The Special Session of 1933

Governor Miller issued his formal call for a special session on November 13, 1933.\textsuperscript{267} In it, he lined out eight important items for consideration. Among them were banking and liquor. The third one listed was: "To consider the report of the Special Legislative Tax Committee."\textsuperscript{268}

The commission began a series of newspaper articles, arguing for their proposals, in November 1933. The first installment claimed that much of the waste and inefficiency in state government could be eliminated by centralizing roads and schools.\textsuperscript{269} In one district, the commission argued,

[T]he trustees purchased enough floor varnish to last 100 years. In one county the commissioners purchased $90,000 worth of road machinery in the last three years. Less than $30,000 (new value) worth of machinery could be located when the new board of county commissioners took over the affairs of the county last January 1st.\textsuperscript{270}

\textsuperscript{266} Id. See also Julian Snow, Proposed Five-Point State Tax Reform Program Center of Interest, WYOMING EAGLE, Oct. 13, 1933, at 12. The article stated:

Sen. Roy Cameron, president of the last session of the state legislature and chairman of the special tax reform commission, only this week admitted that the subject of a 'temporary' sales tax to obtain funds for relief, had been discussed by the special commission, though no recommendation has been made . . . . It is estimated by experts that the personal net income tax will bring $1,250,000, and that the business net income tax will yield, under present economic conditions, $1 million.

\textsuperscript{267} Id.; see also Here is First of Articles by State Commission Explaining Proposed Tax Reform Program, WYOMING EAGLE, Nov. 3, 1933, at 2.

\textsuperscript{268} Special Session of Legislature Called for Dec. 4, WYOMING EAGLE, Oct. 27, 1933, at 1; Gov. Miller Calls Special Session of Legislature Dec. 4th, WHEATLAND TIMES, Nov. 2, 1933, at 1; Miller Issues Call for Legislature to Meet Dec. 4th, THERMOPOLIS INDEPENDENT RECORD, Dec. 1, 1933, at 1.

\textsuperscript{269} Id; see also Here is First of Articles by State Commission Explaining Proposed Tax Reform Program, WYOMING EAGLE, Nov. 3, 1933, at 2. The committee's installment on the tax issues was not published in the Thermopolis Independent Record until December 22, 1933, after the special session had already ended! THERMOPOLIS INDEPENDENT RECORD, Dec. 22, 1933, at 5.
The Sheridan Press editor asserted that "consolidation of government" was a national trend—away from "expensive, cumbersome and over-lapping governments."\(^{271}\)

The commission article pointed out that voters should not fear loss of local control. "The people should not be misled by false appeals to local pride and prejudice and to fear of weakening popular control. Such appeals will undoubtedly be advanced by those whose selfish interests lie in the continuation of the present waste, inefficiencies and injustices."\(^{272}\) The second installment, published statewide during the week of November 10, 1933, argued for new tax proposals.\(^{273}\) The third, on school reform, also appeared in early November.\(^{274}\)

Meanwhile, newspapers throughout Wyoming tried to gauge the public view. The Gillette News-Record conducted a poll on the Griffenhagen proposals and the select committee's choices from the report. The results were published by other papers statewide because the poll showed little support for most of the plan: "Centralization of schools: Yes 0, No 68; State income tax to supplant personal property tax: Yes 28, No 38; All road construction under the State Highway Department: For 4, Against 64; Creation of state retail sales tax: For 9, Against 58."\(^{275}\) The editor of the Douglas Budget summed up the cynicism of some Wyomingites:

> It is possible that there can be an equitable division of that [tax] load, but it is altogether improbable that this will ever be done. More money is needed now by the state and we have the sales tax, the income tax and other taxes proposed in order to bring the money in. None of them will be satisfactory probably because all taxes are unpopular.\(^{276}\)

The editor of the Powell Tribune was critical of the tax commission's plans as well as the decision to employ the Griffenhagen firm: "They employed some Chicago tax experts to show them what was wrong, and now these Chicago experts are about as popular in Wyoming as a polecat at a picnic . . . . As a matter of fact, the people of Wyoming do not crave any revolutionary changes in their tax structure."\(^{277}\) A front-page article in the


\(^{272}\) Id.


\(^{274}\) Here is School Reform Plan of Tax Commission, Wyoming Eagle, Nov. 17, 1933, at 2.

\(^{275}\) Lusk Herald, Nov. 30, 1933, at 2.

\(^{276}\) With Wyoming's Editors, Wyoming Eagle, Nov. 10, 1933, at 9 (quoting The Committee Reports, Douglas Budget).

\(^{277}\) This and That, Powell Tribune, Nov. 16, 1933, at 4.
Wyoming State Journal was even more critical. Titled “Shelve Capable Wyoming Men in Favor of Chicago Experts,” the article pointed out that the Griffenhagen firm received “$8,750,” adding that the Chicago representative of the firm “will be given additional pay, depending upon the extra time spent on this work.” Why weren’t Wyoming people hired to do this, the writer wondered. “W. B. Haselmire, Casper certified public accountant, offered to do the same job for a sum not to exceed $5,000. And C. H. Reimorth, another Casper CPA, withdrew his bid after learning of the arrangement whereby the contract went to the Chicago auditors.” Former Governor Fenimore Chatterton, the article asserted, offered to do the same job for $3500 and “also offered to draft all proposed legislation and present written arguments in support of it.” As the article concluded, all proposals were rejected.

When the chairman of the legislative committee, Senator Roy Cameron, met with an audience in Sheridan soon after the report was released, he “faced an antagonistic audience.” According to the Sheridan Press, Cameron was “unruffled by flurries of opposition from a large number of ‘school people’ in the audience.” Cameron spoke in favor of the committee’s five points at the meeting, organized by the Sheridan County Taxpayers’ League, held in the American Legion Hall. According to the news account, “The audience listened in comparative silence until near the end of the meeting when Herbert Brooks, chairman of the meeting, expressed the fear that the tax program tended to create ‘a bureaucratic form of government with powers centered at Cheyenne.’ This statement brought applause.” Brooks introduced sectionalism into the dispute by adding that he hoped that the south would not “get the cream and northern Wyoming the skimmed milk.”

Cameron tried to address the problems of inefficiency and inequality in the school systems by providing a lengthy list of specific cost savings by

The sales tax was thought to be popular here at Powell a few months ago, but an income tax to relieve in part the present property tax now seems more likely. A general lack of agreement is the obstacle to tax reform, and such will continue to be the obstacle when the legislature meets.

279. Id.
280. Id.
281. Id.
283. Id.
284. Id.
285. Id.
286. Id.
combining districts. One audience member, rancher George Geier, responded: "Let the little red schoolhouse stand where it is, let the people surrounding it run it and tell the legislature to mind its own business." Cameron apparently did not respond to Geier's popularly held sentiment. Instead, he noted that property taxes would be reduced by introducing an income tax or a sales tax but not eliminated. "As state expenses run about the same, we must have some source of income, like the property tax, that is stable, because other taxes, like an income tax or a sales tax, move up and down with existing economic conditions." The audience apparently was not convinced.

The school issue and not the tax plan gained the most public attention after the Sheridan meeting. The editor of the Sheridan Press pointed out that changes were necessary, but he concluded that the "plan is too drastic a pill to be swallowed by the ailing taxpayer at one time—especially when he has no assurance that it is not just as liable to kill him as to cure him."

As the special session was getting underway, the Wyoming Taxpayers League met in Cheyenne on December 3, to discuss the tax proposals. The organization passed a resolution urging delay. "The proposed laws . . . were of such far-reaching importance that they should have further consideration," the League resolved. The Wyoming Taxpayers' League met in Cheyenne while the legislature was in session. The group passed a resolution that no definite action be taken on major proposals of the legislative committee on organization and revenue at the special session. "The league took the stand that the proposed laws on income tax, business tax,
department of finance, education, and highways were of such far-reaching
importance that they should have further consideration."

Members of the Wyoming Stockgrowers Association weighed in on the
tax proposals. A letter to the editor of *Cow Country* complained that
while a few items of personal property would be exempt from the tax, "these
do not include livestock." The letter added that "if the time again comes
when ranchmen make any profit, they will be taxed on their real estate, live-
stock and their profit." The writer concluded that "[t]he committee was
appointed to devise ways for reducing tax expenditures and not to make
plans for new forms of taxation."

The *Sheridan Press* predicted that the tax measures would
have a hard row to hoe if the final bill retains the present
theory of 'setting up new forms of taxation to relieve exist-
ing taxation.' The property owners will want definite assur-
ance that their taxes will be reduced, and opponents of the
proposed bills declare that they are devoid of any such guar-
antee.

The editor concluded that the legislature's biggest task would be "to separate
the worthwhile grain from the chaff of that legislative report."

When Governor Miller addressed the special session on the opening
day (December 3, 1933), he reminded legislators that the special six-member
taxation committee had not been appointed by him, but by the legislature.
He praised the committee's diligence and singled out Senators Roy H. Cam-

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299. *What A Cattleman Thinks*, SHERIDAN PRESS, Nov. 26, 1933, at 4 (quoting D. R. Whitaker, WSGA President, COW COUNTRY, Nov. 18, 1933, n.p. (the bulletin of the Wyoming Stockgrowers Association)).
300. Id.
301. Id.
303. Id.
304. *Message of Governor Leslie A. Miller to the Special Session of the Wyoming State Legislature*, H.R., 22nd Leg., Spec. Sess., at 15 (Wyo. 1933) [hereinafter *Message of Governor Miller to Special Session*]. It was only the fourth special session in state history, the others being in 1920 to ratify the women's suffrage amendment; in 1923 for a farm loan law and interstate streams legislation; and 1929 for a variety of endeavors, including creating two new state institutions and making changes to election laws. The complete text of Miller's speech also was printed in newspapers around the state. See, e.g., *Governor Outlines Definite Relief Program to Special Session*, WYOMING EAGLE, Dec. 8, 1933, at 9-10.
eron (Republican from Crook County) and Clifford A. Miller (Republican from Natrona County) who led the committee’s work.  

He said he would not comment extensively on the committee’s report, leaving that to the committee through individual bills they might propose for the session. “I do, however, desire to comment briefly upon a few of the recommendations.” After noting a few areas in which he had agreement (changes in inheritance taxes, for example), he said, “There is unquestionably a very considerable feeling in this State that we should adopt some form of an income tax. Personally, I believe the income tax to be the outstandingly just and fundamental method of taxation.” He added:

I do not believe, however, that at this time we should give thought to any new taxes unless those taxes should be used to offset and reduce tax now paid on real property. It is, therefore, my recommendation that the Legislature give due consideration to the proposal for an income tax and if favorable consideration be given the committee’s bill, the same be amended to the effect that any tax paid on property shall be a credit not upon gross income but upon income tax to be paid. Unless the workings of the income tax measure can be made to relieve the present burdens borne by owners of real property, the measure should be discarded at this time.

As for the committee’s recommendations for changes in education, he emphasized “local control” would not be affected. “The act proposed to provide a state district for school tax purposes would not interfere with the present control over fundamental school district affairs,” he asserted. He pointed out that his plan would contain safeguards in that area while providing the funding from the state:

The funds would be paid over by the State to the County Treasurers, and the local school boards would retain the power to request the County Commissioners to raise any sums necessary to pay interest on existing bonds, or to liquidate the same. It would equalize the opportunity for edu-

305. Message of Governor Miller to the Special Session, supra note 304, at 16. See also Wyoming Eagle, Dec. 8, 1933, at 10 (quoting entire text of the governor’s address).
306. Message of Governor Miller to the Special Session, supra note 304, at 16.
307. Id.
308. Id. at 17. See also Miller Address to Special Session, Wyoming State Tribune, Dec. 4, 1933, at 2.
309. Message of Governor Miller to the Special Session, supra note 304, at 17. Years later, in 1974, Wyoming voters passed a constitutional amendment that follows Miller’s logic. See Wyo. Const. art. XV, §18.
310. Message of Governor Miller to the Special Session, supra note 304, at 20.
311. Id.
cation as well as equalize the burdens on taxpayers, and it seems to me if we can arrive at this general wholesome effect and at the same time permit our people to retain the actual control of fundamental school affairs they now have, such a course would be altogether desirable.\footnote{312}

The newspaper reaction to Miller's speech seemed generally positive. The \textit{Sheridan Press} editor wrote that Miller "has plainly indicated that he prefers to travel the middle ground to economy and tax relief."\footnote{313} His view of the income tax was summarized by the paper.

Like the members of the Legislative Committee, the governor did declare himself personally in favor of an income tax—but added that "I do not believe, however, that at this time we should give thought to any taxes unless those taxes should be used to offset and reduce tax now paid on real property."\footnote{314}

In order to take care of the increasing burden of "poor relief," Miller recommended a tax on beer (just recently legalized when Prohibition was repealed) of four cents per gallon.\footnote{315} "I believe it would be a tax at once productive of sufficient revenue and a tax popular in its purpose and conception."\footnote{316} He also proposed changes in educational finance, but would not concur with the committee's recommendation that the entire school system of the state be centralized into one district and under one board.\footnote{317} The same was true of the centralization of authority over highway spending.\footnote{318} He concluded, however, that reduction in state expenditures, which he had accomplished during the previous year, was a better budget solution than new taxes.\footnote{319}

R. T. Baird, the editor of the \textit{Powell Tribune}, disagreed:

What we need in Wyoming is more tax money coming in from untaxed sources and a reduced property tax. We want a 50 percent cut in the taxes levied on real estate and per-

\begin{footnotes}
312. \textit{Id.}
314. \textit{Id.}
316. \textit{Id.}
317. \textit{Message of Governor Miller to the Special Session}, supra note 304, at 18-19.
318. \textit{Id.} at 21-22.
\end{footnotes}
He concluded that the legislature ought to "devise an entirely new scheme of taxation." Baird described the newly formed Big Horn Taxpayers' League, a group that insisted its members would pay no more taxes until all property taxes were abolished. He predicted this movement would spread statewide unless the legislature took action on the property tax reduction.

Not all of Wyoming had a "considerable feeling" in favor of an income tax. The Lander Chamber of Commerce took a straw poll of its membership in November 1933. The group voted 10-1 for a sales tax and against an income tax. Main street businessmen clearly did not want an income tax, but representatives from their rural neighbors were to show more ambivalence. One editor observed that regardless of the Democratic majority, there would be "domination of the House by the 'farm bloc' composed of agrarian representatives and their sympathizers; extension of such domination to the Senate contemplated but uncertain." According to the Powell Tribune, "The farm bloc is already in control of the Democratic House and the Republican Senate. It is something new to have farmers and their interests controlling a legislature in this state."

The editor of the Sheridan Press was extremely critical of the tax proposals, calling them "theoretical bills." "Many of the theoretical bills are based upon the rosy promise that the creation of new forms of taxation will relieve existing taxation. But those measures DO NOT GUARANTEE that that result will be achieved, nor does it seem possible that it can." He concluded that "Plain, old-fashioned economy, painful but practical, is what is needed at the present time."

Partisan politics apparently had little to do with support for an income tax. Democrats had control of the House of Representatives by a mar-

321. Id.
322. Id.
323. Id.
324. WYOMING STATE TRIBUNE, Nov. 30, 1933, at 1.
325. Id.
326. Special Session Met Monday: Farm Bloc Control House; Many Favor Sales Tax Law, THERMOPOLIS INDEPENDENT RECORD, Dec. 8, 1933, at 1. The editor predicted that the income tax proposed by the committee would be rejected and a sales tax would be adopted. Id. The editor did point out, however, that "opposition to the proposed income tax was not so well defined." Id.
329. Id.
330. Id. Three days later, the Sheridan Press reported the defeat of a sales tax measure in Montana. Montana Sales Tax Bill Loses, SHERIDAN PRESS, Dec. 18, 1933, at 1.
gin of 42-20 while the Republicans held on to the Senate by 15-11. \(^{331}\)

Had the income tax been a purely partisan issue, the outcome would have been clear. Both parties were split on the issue, however. Support for the income tax in Wyoming (and nationally) cut across party lines. Many rural Republicans joined with their farm-ranch Democratic colleagues to support some type of income tax. Representative L. F. Thornton, a Hot Springs County Republican, and R. V. Allen, a Goshen County Democrat, announced jointly that “more than a majority of the House members had signed a call for a caucus to decide concerning the proposed bloc and politics which it will sponsor.”\(^{332}\) While, generally, farmers and ranchers, in Wyoming as well as nationally, seemed to favor an income tax, businessmen and industry representatives opposed it.\(^{333}\)

Labor union representatives continued to speak out against adoption of a sales tax. “It places the tax burden on those least able to pay and paves the way for large savings by those who own large property buildings and should bear their fair share of the tax burden.”\(^{334}\)

On the second day of the special session, the Joint Committee on Organization and Revenue introduced House Bill Number One:

A Bill for An Act providing for the payment of an income tax by individuals, trusts, and estates; providing for certain exemptions and deductions therefrom; defining certain words and phases; providing for the time and manner of filing returns, the fees to be paid therefor [sic], including a fee as a poll tax under the constitution, and the computation, determination, collection, and payment of taxes due hereunder.

The bill also required cooperation with federal income tax officials along with the requirement for filing the federal form with the state form.\(^{336}\) The bill, along with a companion measure calling for a business franchise tax, was referred to the Revenue Committee and that group returned a “do not pass” recommendation on both bills on December 15, the twelfth day of the

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331. **Erwin, supra** note 3, at 350, 352-53.
333. *Id.* This is confirmed in the statement written by Powell editor R. T. Baird about farmer control over the House and Senate, even though each body was controlled by a different party. *Id.*
336. *Id.*
special session. The statewide press pointed out how divisive the tax acts had become. "Prolonged controversy" was expected to continue.

On the fourth day of the session, Democrat Allen and Republican Thornton introduced what the press called a privilege tax, House Bill Number Fifty-Nine. A group of twenty-three legislators from both parties supported the act that also was known as the "adjustment sales tax." The newspapers referred to the bipartisan group as the "farm bloc." The privilege tax appears to have been a combination of sales and income tax. It featured a two percent tax on gross receipts of doctors, lawyers and other professionals, oil and gas, transport, and communication companies. "Raw materials" were exempt from taxation, defined by the group as agricultural products but, curiously, not oil and gas. Allen and Thornton, the "farm bloc" leaders, spoke passionately in favor of the act, accusing the Democratic leadership of attempting to kill it before it could be considered.

Amid complaints that the special session was paying too much attention to trivial matters such as a "beaver tag bill," the legislative leadership brought up the farm bloc's "privileges tax." Not only was the Democratic leadership against it, but opposition surfaced from members of both parties. Democratic floor leader H. D. Watenpaugh argued strongly against it. The measure was before the committee of the whole for more than

337. *Standing Committee Reports*, H.R.B. 1, 2, 22nd Leg., Spec. Sess., at 201-02 (Wyo. 1933).
339. *Introduction of Bills*, H.R.B. 59, 22nd Leg., Spec. Sess., at 49 (Wyo. 1933). The bill was referred to the Revenue committee and reported out on December 15, the twelfth day of the session, with proposed amendments, but with a "do pass" recommendation. *Standing Committee Reports*, H.R.B. 59, 22nd Leg., Spec. Sess., at 212-13.
344. *Id.* See also *Extra Session Draws Near End of Two Weeks of Legislation*, WYOMING EAGLE, Dec. 15, 1933, at 3.
345. *S.F. 24*, 22nd Leg., Spec. Sess., at 164-65 (Wyo. 1933). The bill, Senate File 24, called for a fee to be charged to trappers for beaver tags. *Id.* Given the limited beaver population and minimal revenue to be gained from such a tag, the legislative efforts spent in debating the measure seem to have been a dubious use of limited time.
three and one-half hours late into the night of December 18. Scotty Jack, Casper Democrat, spoke against the bill as a “levy on human misery, a tax striking the unemployed as well as the employed, applying even to the clothing of the man in the bread line.” As a member of the special tax committee, he argued that an income tax would be more equitable.

Despite the leadership opposition, the measure passed committee of the whole on the fifteenth day of the session. When the report on the committee of the whole was made to the house on December 19, however, the House leaders recommended that the bill be “indefinitely postponed.” One of the “farm bloc” supporters, Park County Republican Ernest Goppert, requested a roll call vote on the adoption of the report.

Goppert spoke for the “adjustment tax” in what newspaper reports claimed was the longest speech of the special session. “The present tax system,” he argued, “puts a penalty on the man who improves the community” by the erection of a home, a factory, etc. He pointed out that up to a tenth of all property in Wyoming had been sold for taxes and in the Powell area, he asserted, twenty-five percent of all property was sold for taxes in 1932 alone. He said the tax bill would reduce the pressure on property owners and “encourage thrift by taxing spending.” Extensive amendments were made in the bill. Despite the changes, the leadership prevailed when thirty-eight legislators voted to indefinitely postpone and twenty-two voted to consider the bill.

The leadership preferred an income tax, or at least, a constitutional amendment to make it possible. On December 8, the fifth day of the session, Allen and Thornton introduced a house joint resolution to propose a constitutional amendment permitting the legislature to levy an income tax.

The measure went to the Judiciary committee and reported out with a “do
pass" recommendation on December 12. From there, Speaker Watenpaugh sought suspension of the rules for consideration of the resolution on December 13. It went immediately to second reading and then to consideration for third reading. While the measure gained more "yes" than "no" votes, because it was a constitutional amendment, it required a two-thirds vote for passage. It failed on a vote of 36-21 with one excused and three absent.

Proponents, including many of the "farm bloc" supporters of the defeated "privilege tax," did not give up. Immediately, Goppert demanded a call of the house in order to get the absent members present. The vote was taken again on reconsideration and, this time, the measure narrowly passed by a vote of 43-17 with one excused.

Sheridan County Democrat Owen S. Hoge, who had his own income tax plan to support, explained his vote against the constitutional amendment:

[A]s a member of the Special Joint Legislative Committee which had studied this matter very thoroughly, and having had the benefit of advice from many eminent members of the legal profession, it was his opinion and the opinion of other members of the Joint Legislative Committee that no constitutional amendment was necessary to enable the legislature to levy and collect income taxes.

360. Standing Committee Reports, H.R.J. Res. 6, 22nd Leg., Spec. Sess., at 137 (Wyo. 1933).
361. Suspension of Rules, H.R.J. Res. 6, 22nd Leg., Spec. Sess., at 169 (Wyo. 1933). Actually, the vote to suspend the rules was fifty-two "yes," not a single "no," but eight members absent, oddly enough, including Thornton. Id.
362. Id. at 169-72.
363. Id. at 172. Voting for the measure were: Allen, Armstrong, Baldwin, Bark, Binney, Bream, Buell, Carroll, Chassell, Connaghan, Cross, Culbertson, Fagan, Flannery, Goppert, Gose, Guyer, Hanson, Hoge, Jenkins, Johnson, Keith, Krueger, Mitchell, McCann, McPherson, Ray, Replogle, Reymore, Rochelle, Russell, Sanders, Schrader, Small, Watenpaugh, R. H. Wilson. Id. Voting against were: Birchby, Davis, Despain, Garetson, Geddes, Gilleard, Hammond, Hunt, Kunkle, Logan, Moore, Mullens, Norris, Rogan, Schloredt, Scott, Smith, Thornton, Wicks, Williamson, Hoge (as speaker pro tem). Id.
364. Id. at 172-73.
365. Id. at 173. Switching votes from "aye" to "nay" were: Democrats Carl Bark (Teton) and Lucile Connaghan (Fremont); but from "nay" to "aye" were: Democrats Earl Despain (Big Horn), and Henry W. Smith (Lincoln), and Republicans Allan H. Geddes (Albany), J. L. Wicks (Uinta), C. D. Williamson (Carbon), and Thornton. Id. Republican Paul Frison (Washakie), and Democrats Bryan Kemmer (Natrona) and Platt Wilson (Lincoln), absent on the earlier vote, voted "aye" on the reconsideration. Id.
366. Id.
The bill was sent to the Senate where it was indefinitely postponed on the sixteenth day of the session, December 19.\footnote{H.R.J. Res. 6, 22nd Leg., Spec. Sess., at 209 (Wyo. 1933).} After the failure of the "farm bloc's privilege tax" plan, Democrat Herman F. Krueger (Park County) requested "early consideration" of House Bill Number One, the income tax act that apparently had Governor Miller's support along with that of the House leadership.\footnote{Personal Privilege, H.R.B. 1, 22nd Leg., Spec. Sess., at 271 (Wyo. 1933). At the same time, Representative Hunt urged early consideration of the "limited income tax bill."} The speaker assured the legislators that it would come up promptly, but in fact, the measure finally came to the floor on the seventeenth day of the special session on December 20, 1933. By that point, the income tax law was weighted down with eighty-three proposed amendments in the twenty-one-page bill.\footnote{Report of Committee of the Whole, H.R.B. 1, 22nd Leg., Spec. Sess. at 300-04 (Wyo. 1933). Many of the amendments called for word changes to allow for the "director of taxation" to be the principal official administering the tax rather than the state treasurer.} Most of the farm bloc—the group losing the earlier privilege tax vote—nonetheless, backed the graduated income tax bill calling for a tax ranging from one percent on incomes below $300 annually to six percent on incomes in excess of $10,000 annually.\footnote{Id. The poll tax provision was deleted as well.} The measure passed committee of the whole by voice vote.\footnote{Id.}

On the next day, the eighteenth day of the session, Democratic House Leader Watenpaugh brought House Bill Number One, the income tax law, up for debate on third reading.\footnote{Third Reading of Bills, H.R.B. 1, 22nd Leg., Spec. Sess., at 317 (Wyo. 1933).} The Democratic leader apparently thought he was making the bill more palatable for doubters, perhaps some of the "farm bloc" members, by inserting a paragraph that would have allowed "[i]ncome received from any property paying property tax in the State of Wyoming" to be exempted from income taxes.\footnote{Id. The bill passed routinely on second reading.} The effort apparently boomeranged. Several legislators, who had favored the bill initially, argued against the Watenpaugh amendment, pointing out that it would leave the burden of the income tax virtually upon wage and salary earners.\footnote{Id.} The effect was to cause a rift between the "farm bloc" and the legislators from the "labor wing" of the Democratic party. Even though Watenpaugh's
amendment passed, it was not enough to gain support for the bill. On final passage, the income tax bill was defeated 24-36 with one excused.\footnote{Third Reading of Bills, supra note 372, at 317-18. Voting for the bill were: Allen, Bream, Carroll, Chassell, Fagan, Goppert, Gose, Hanson, Hoge, Jenkins, Johnson, Kemmer, Krueger, Kunkle, Mitchell, McCann, Norris, Ray, Sanders, Schloredt, Small, Thornton, Watenpaugh. \textit{Id.} Voting against were: Armstrong, Baldwin, Bark, Binney, Birehby, Buell, Miss Connnaghan, Cross, Culbertson, Davis, Despain, Flannery, Frison, Garetson, Geddes, Gilleard, Guyer, Hammond, Hunt, Keith, Logan, Moore, Mullens, McPherson, Replogle, Reymore, Mrs. Rochelle, Rogan, Russell, Schrader, Scott, Smith, Wicks, Williamson, P. Wilson, R. H. Wilson. \textit{Id.} Taylor was excused. \textit{Id.} For a description of debate on the bill, see House Kills Income Tax Law Bill, SHERIDAN PRESS, Dec. 21, 1933, at 1. Following the bill’s defeat, five members rose to explain their votes—Democrats Platt Wilson, Krueger and L. G. Flannery (Goshen), and Republicans G. W. Small (Platte), and Thornton. Third Reading of Bills, supra note 372, at 318.}

A second income tax bill (House Bill 103), sponsored by Representatives Herman Krueger and Owen S. Hoge, was introduced on the fifth day of the session.\footnote{Introduction of Bills, H.R.B. 103, 22nd Leg., Spec. Sess., at 75 (Wyo. 1933).} Dubbed the “limited income tax bill,” it sought to simplify filing. It would have required payment of a state income tax in the same amount the taxpayer paid in federal income tax.\footnote{Standing Committee Reports, H.R.B. 103, 22nd Leg., Spec. Sess., at 203 (Wyo. 1933). The bill passed second reading on suspension of the rules on December 21. Second Reading of Bills, H.R.B. 103, 22nd Leg., Spec. Sess., at 324 (Wyo. 1933).} Referred to the Revenue committee, it was reported back without recommendation on December 15.\footnote{Third Reading of Bills, H.R.B. 103, 22nd Leg., Spec. Sess., at 324 (Wyo. 1933). Voting for the bill were: Allen, Binney, Carroll, Miss Connnaghan, Cross, Culbertson, Davis, Despain, Fagan, Flannery, Geddes, Gopbert, Guyer, Hanson, Hammond, Hoge, Jenkins, Johnson, Kemmer, Krueger, McPherson, Ray, Replogle, Reymore, Mrs. Rochelle, Russell, Sanders, Schrader, Small, Thornton, R. H. Wilson, Mullens (who chaired the committee of the whole). \textit{Id.} Voting against were: Armstrong, Birchby, Buell, Frison, Garetson, Gilleard, Hunt, Kunkle, Logan, Mitchell, Moore, Mullens, Norris, Rogan, Schloredt, Scott, Smith, Wicks, Williamson, P. Wilson, Keith. Absent: Baldwin, Bark, Chassell, Watenpaugh. \textit{Id.} Excused were: Bream, Gose, McCann, Taylor. \textit{Id.}}

After passage on second reading through suspension of the rules on December 21, the bill came up for third reading, passing by a vote of 32-21 with four excused and four absent.\footnote{Wyoming State Tribune, Dec. 21, 1933, at 1.}

The two income tax bills had been debated on December 20, 1933, the last day of the special session. Following the defeat of the first, the second proposal never reached a vote. Any additional form of taxation was dead until after the next biennial session. A new legislature, elected in November 1934, would have to consider any tax bills.\footnote{Wyoming State Tribune, Dec. 21, 1933, at 1.}

During the time that the privilege tax and various other tax bills were winding their way through legislative committees, both houses ad-
dressed expenditures. The initial bill containing the Griffenhagen company's recommendations on school district consolidation, law enforcement, and county reduction failed in the House by a vote of 35-25. Nineteen of the twenty Republicans voted against it, joined by fourteen Democrats. One of the few recommended actions from the company and committee adopted by the legislature was creation of the State Board of Equalization. With the exception of the tax applied to intoxicating liquors, the only major tax bill passed in the special session involved adjustments to the state gasoline tax, including raising it to four cents per gallon.

The Wyoming Eagle editor tried to put a favorable light on the special session. “Although the special session of the Wyoming legislature will cost approximately $80,000, including all expenses and the appropriations voted to date, direct benefits in revenue will total more than one and a quarter million dollars, it was estimated by state officials yesterday.” Included in the total was a federal Reconstruction Finance Corporation (RFC) grant, requiring legislative approval, as well as several federal grants to the state in other areas.

The editor of the Powell Tribune was more critical:

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381. House Kills Income Tax Law Bill, SHERIDAN PRESS, Dec. 21, 1933, at 1, 3. On a bill calling for the state to be allowed to receive gifts and bequests, Representative Owen Hoge moved that the enactment clause be stricken from the bill. Id. Many House members viewed the motion as “humorous,” but Hoge, quoting from an editorial in the Wyoming State Tribune, on December 9, 1933, questioned the emergency nature of the session: “[I]t is] more than absurd, it is grotesque,” Hoge said, adding, “A close scrutiny of the bill fails to disclose any relation between it and an emergency.” Id.

382. Third Reading of Bills, H.R.B. 94, 22nd Leg., Spec. Sess., at 315 (Wyo. 1933) (House Bill 94 was entitled State as School District for Taxation Purposes). The bill to create a Department of Finance failed on third reading 26-32 with three excused. Bills on Third Reading, H.R.B. 5, 22nd Leg., Spec. Sess., at 100 (Wyo 1933). The companion bill, House Bill Number 6, was also killed. Bills on Third Reading, H.R.B. 6, 22nd Leg., Spec. Sess., at 101 (Wyo 1933).


The legislature did not enact what we favored and what the majority of Powell people favored in the way of a revision of the tax structure, but evidently Wyoming people do not think alike in these tax matters. We favored a general sales tax to relieve the overtaxed property owners. We thought our Park county delegation had simply a job of expounding their opinions, passing the bill with unanimous accord and returning home to receive the handshakes and applaudits [sic] of their farmer constituency. Not so.388

The Sheridan Press, in an editorial, referred to it as "The Session That Said 'No'":

No state income tax. No state liquor control program. No state school unit. No state school taxation system. Wyoming, it seems, is not ready for the far-reaching reforms recommended by the special legislative committee on organization and revenue. The proposed changes, the legislature seemed to feel, were too drastic and too theoretical to be approved upon the spur of the moment.389

The editor concluded that legislators felt that instead of finding ways to reduce taxes, the special committee had "returned instead with plans for still more taxation."390

Meanwhile, the unemployment situation in Wyoming was brightening with the hiring of 8214 Wyomingites by the Civil Works Administration (CWA) with a local payroll of some $143,000 for Cheyenne alone.391 A quota of 8250 was proposed by the federal government.392 About 600 public works projects were underway in Wyoming. Of these, 705 people were employed in airport improvements and construction.393 An additional 300 Cheyenne residents went off relief in October, 1934, when the state emergency relief administration opened a new meat cannery.394 Meat was to come from cattle purchased in drought-stricken areas of Wyoming.395 A similar number were employed in a second meat cannery in Sheridan (although it closed permanently in January 1935, idling some 200 workers).396

390. Id.
391. 8,214 Wyomingites Employed by CWA; Weekly Payroll is $143,000, WYOMING EAGLE, Jan. 5, 1934, at 1.
392. Id.
393. Id.
394. Meat Cannery to Open Saturday Here; 300 on Relief to Get Jobs, WYOMING EAGLE, Oct. 5, 1934, at 1.
395. Id.
396. Large Relief Canning Plant Is Shut Down, WYOMING EAGLE, Jan. 18, 1935, at 12.
In Jackson, a Federal Emergency Relief Administration (FERA) crew worked on constructing a ski jump.\footnote{FERA Will Spend Up to $2200 in Construction of Modern Ski Jump and Toboggan Slide for Jackson Hole, JACKSON'S HOLE COURIER, Dec. 27, 1934, at 1.} Eight men were assigned work on the 150-foot structure and directed to place heaps of firewood “conveniently along the route for the convenience of spectators.”\footnote{Id. See also New Ski Jump Built by FERA, WYOMING EAGLE, Jan. 4, 1934, at 12. FERA also built a skating rink in Jackson. Additional FERA Projects Costing $4,500 Given Approval of Cheyenne Office, JACKSON'S HOLE COURIER, Nov. 1, 1934, at 1. The CWA built a fish hatchery near Jackson. CWA Projects Underway, JACKSON'S HOLE COURIER, Dec. 14, 1933, at 1. The CWA employed thirty-three men to build the airport and a hangar at Lander where “air travel to the world's best hunting and fishing [was] virtually assured.” Modern Airport With Hangar for Lander Is Approved, WYOMING STATE JOURNAL, Dec. 28, 1933, at 1. Two weeks later, the paper announced that the CWA would be funding a new armory. First Unit of $40,000 Armory Authorized by CWA for Location at East End of Main, WYOMING STATE JOURNAL, Jan. 11, 1933, at 1.} The editor of the Powell Tribune pointed out that 2000 Wyoming farmers would be paid from a $400,000 federal agricultural fund, raised through a processing tax on millers, in exchange for “an agreement to reduce the wheat acreage.”\footnote{R. T. Baird, This and That, POWELL TRIBUNE, Dec. 14, 1933, at 4.}

The total amount for all relief in the state was about $250,000 in March 1934, with an additional $150,000 allocated for April salaries of CWA workers who earned forty-five cents per hour if they were unskilled, seventy cents if they were “semi-skilled,” and ninety cents if they were skilled workers.\footnote{Relief Work Reopens Next Monday, WYOMING EAGLE, Apr. 6, 1934, at 1. The amount for May was $229,000. $229,000 Spent in Wyoming for Relief Work During May, WYOMING EAGLE, June 8, 1934, at 4.} Work began during the summer on the “Liberal Arts Building” at the University of Wyoming, paid for by PWA funds.\footnote{Public Works Projects Approved in State so Far Total $627,000, WYOMING EAGLE, Aug. 3, 1934, at 8. PWA funds paid for water projects in Medicine Bow and Lovell, a sewage project in Cody, and school improvements in Powell. Id.}

The Wyoming State Journal editor articulated the feeling of many Wyomingites:

If we would be willing to get along with less, content to do with simpler things, satisfied to have poorer schools, roads and less of public buildings, costs could be lower. The trend today as we see it is for greater efficiency and a better spending of the tax dollar.\footnote{With Wyoming Editors, WYOMING EAGLE, Jan. 5, 1934, at 12 (quoting L. L. Newton, Make Each Pay His Share, WYOMING STATE JOURNAL, Dec. 28, 1933, at 2). Newton added in another line on the editorial page: “For the government, as for the individual, there is but one way to reduce taxes—spend less money.” Id.}
Two months later the editor preached that "the depression did us good."\textsuperscript{403} He argued that the depression brought to Americans a renewed "sense of values."\textsuperscript{404} He stated that "[t]hose who made an honest effort and applied intelligent judgment to their problems have come thru far and away better than those who threw up their hands and said 'It's no use. The depression's got us.'"\textsuperscript{405}

By February 1934, the Wyoming economy continued to show signs of improvement, but not in agriculture. Cattle numbers reached their highest total since 1919, according to an agricultural statistician.\textsuperscript{406} Ranches had 930,000 head of cattle on hand along with 149,000 horses, and 3.6 million sheep.\textsuperscript{407} Unfortunately for the Wyoming rancher, cattle prices also were down to an average of $16.20 per hundred.\textsuperscript{408} As the editor of the Powell Tribune put it, "Increasing employment has as yet brought but little signs of a returning farmer prosperity."\textsuperscript{409}

In March 1934, Miller boasted that his administration had cut taxes by thirty-two percent in his first year of office.\textsuperscript{410} He reduced state expenditures as well.\textsuperscript{411} For the year of 1932, the cost of state government averaged $22.94 per resident.\textsuperscript{412} Because of the budget cuts by school districts, there were thirteen percent fewer teachers in Wyoming in 1934 than there had been in 1929—2700, or 400 less than in 1929.\textsuperscript{413} Even with the infusion of some half million dollars from the school land income funds (amounting to $7.17 per student) many districts remained in a terrible fiscal condition.\textsuperscript{414}

At the same time, the federal Internal Revenue Service reported that income tax returns for 1933 in Wyoming amounted to about $765,000.\textsuperscript{415} During the first three months of 1934, the amount collected already ex-

\textsuperscript{403} Depression Did Us Good, WYOMING STATE JOURNAL, Jan. 25, 1934, at 2.
\textsuperscript{404} Id.
\textsuperscript{405} Id.
\textsuperscript{407} Id.
\textsuperscript{408} Id.
\textsuperscript{409} R. T. Baird, This and That, POWELL TRIBUNE, Dec. 21, 1933, at 4.
\textsuperscript{410} Gov. Miller Lays Economy Record of Administration Before Citizens, WYOMING EAGLE, Mar. 9, 1934, at 1. See also Gov. Miller Reviews Savings, Economies of First Year in Office, POWELL TRIBUNE, Mar. 15, 1934, at 1.
\textsuperscript{411} Gov. Miller Lays Economy Record of Administration Before Citizens, WYOMING EAGLE, Mar. 9, 1934, at 1.
\textsuperscript{412} Wyoming Government Costs Each Resident $22.94 for Year 1932, WYOMING EAGLE, July 30, 1934, at 2. Population was estimated at 229,000 and the total cost of general government was $5.2 million. Id.
\textsuperscript{413} 13 Percent of Teachers Laid Off Since '29, WYOMING EAGLE, May 25, 1934, at 4.
\textsuperscript{414} Half Million Allocated to State Schools, WYOMING EAGLE, Apr. 6, 1934, at 1.
\textsuperscript{415} U. S. Income Tax Returns in Wyoming Half Million, WYOMING EAGLE, Apr. 6, 1934, at 1.
ceed a half million dollars.\textsuperscript{416} As the editor of the \textit{Wyoming Eagle} put it, "The phenomenal increase in income tax assessments indicate a marked improvement in general business conditions in Wyoming."\textsuperscript{417}

The Western Governors Conference, held in Salt Lake City in March 1934, proposed a uniform sales tax for the Western states.\textsuperscript{418} Governor Henry H. Blood of Utah made the proposal and noted that he was meeting with officials of California and Arizona to see how practical it could be.\textsuperscript{419} "Gov. Miller said he would be interested in hearing the discussion of the sales tax but felt that it should not be adopted in Wyoming at this time."\textsuperscript{420}

V. PROPOSALS FOR TAXATION

By election day, 1934, economic conditions in Wyoming remained dire. Despite increases in federally funded work programs, not every Wyomingite had work and many remained on relief.\textsuperscript{421} Carl Bingemer, the newly appointed State Director of Subsistence Gardens, said that every needy family seeking aid in Wyoming from the state emergency relief administration would be required to raise a garden, provided facilities were available.\textsuperscript{422} The number of Wyomingites on relief actually increased in April 1934, to 5797, and by May, some 8530 were receiving relief in some form.\textsuperscript{423}

The severe drought in several areas of the state was blamed for the increases.\textsuperscript{424} The case loads for relief agencies in Wyoming increased dramatically during the summer of 1934 as drought conditions worsened in much of the state.\textsuperscript{425} In fact, the short-term outlook just before the November election suggested that the state would need new revenue sources if it

\begin{enumerate}
\item[416] Id.
\item[417] Id. The total collected in fiscal 1933-34 was $428,000, compared to $333,000 the previous year. \textit{Income Taxes in Wyoming Increase $95,000 in Year}, \textit{Wyoming Eagle}, July 6, 1934, at 1.
\item[418] \textit{Western Governors to Discuss Uniform Sales Tax at Parley}, \textit{Wyoming Eagle}, Mar. 9, 1934, at 2.
\item[419] Id.
\item[420] Id.
\item[421] Larson, supra note 17, at 444-46.
\item[424] Id.
\item[425] Relief Case Load in Wyoming is Increased by 1,684 in 2 Months, \textit{Wyoming Eagle}, Aug. 24, 1934, at 1.
\end{enumerate}
hoped to have a balanced budget. Failure of proposals for an income tax in the special session of 1933 simply made the crisis even more severe.

Governor Miller, in 1933, had pledged he would not seek federal aid for Wyoming.\footnote{426} He reluctantly changed his view by 1934.\footnote{427} The New Deal programs would help ease some of the economic distress suffered by many state residents. But even with federal programs, Wyoming schools, counties, cities, and state agencies would need financial help in the following two years. Miller’s administration continued to cut state funding. In July 1934, he announced that taxes for operation of state government had been reduced by more than one million dollars during the two years of his governorship, thirty percent lower than what was collected and spent in the last two years of the Clark administration.\footnote{428} As the \textit{Wyoming Eagle} noted, “The enormous reduction considerably more than fulfills Governor Miller’s campaign pledge that if he were elected he would reduce state expenditures 20 to 25 percent.”\footnote{429} Miller also pointed out that Wyoming’s four cents per gallon gasoline tax ranked in the middle of what other states charged, the range being from two cents per gallon to seven.\footnote{430}

No mention of Miller’s views on taxation were offered in his newspaper advertisements during the campaign of 1934. Rather, the ads stressed that he had fulfilled the campaign promises of 1932 to “lower the costs of government” and to “bring business in state management.”\footnote{431}

In the general election in November 1934, Miller was reelected by a margin of 54,305 to 38,792.\footnote{432} He was joined by Democrats in all four of the other state offices—former Fremont County legislator Lester C. Hunt was Secretary of State; former Natrona County representative William “Scotty” Jack, who had co-chaired the special legislative committee in 1933, was the

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426. Larson, supra note 17, at 443.

427. Miller’s view was already changing at the beginning of the 1933 special session. See Message of Governor Miller to Special Session, supra note 304. See also \textit{Wyoming Eagle}, Dec. 8, 1933, at 10 (quoting entire text of the governor’s address) (“I have been wondering recently whether we were entitled to indulge in that feeling of pride [for not accepting federal assistance].”).


429. \textit{Id.}

430. \textit{Here Are Gas Taxes You Will Pay This Year}, \textit{Wyoming Eagle}, Apr. 6, 1934, at 2.

431. \textit{See, e.g.}, \textit{Wyoming Eagle}, Aug. 10, 1934, at 7 (ad entitled “Let’s Look at the Record” where, in the left column, the campaign promises are summarized and, in the right column, brief summaries are given of his “1933-1934 Performances”).

new State Auditor; J. Kirk Baldwin, state treasurer (the first and only Democrat ever elected to that post in the state’s history); and Jack R. Gage, was superintendent of public instruction. Democrats occupied all three of Wyoming’s seats in Congress. In the legislature, Democrats took a one-seat majority in the State Senate, 14-13, and held on to a margin of 38-18 in the House.

Even before the legislative session, it was clear that raising revenue again would be one of the key issues in 1935. As the editor of the Wyoming Eagle put it: “Relief, taxation, liquor. That trio yesterday knotted the brows of legislators throughout the state . . . .” The Eagle editor noted that both a sales tax and an income tax had been suggested “as a means to lighten the property owners’ burden.” Soon after the November election, the Wyoming Education Association submitted a sales tax proposal. The teachers’ group argued that without it, schools would continue to decay.

Such a tax gained increasing support throughout the winter. As the Wyoming Eagle noted in an article titled “Sales Tax Would Provide Million Dollars Yearly,” Governor Miller was endorsing the tax in a speech before a business group in Cheyenne. “The governor’s estimate . . . agreed with that of William F. DeVere, secretary of the merchants trade committee.” When asked about the impact on working people, the governor “denied that the small wage earner would bear the brunt of the tax.” He claimed that would “only happen if the sales tax were made the chief medium of taxation, which is not proposed at all. In my opinion, this is the only way to raise money for relief,” Miller said.

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433. ERWIN, supra note 3, at 634-35 (vol. II). Baldwin, the son of a Cheyenne railroad engineer and union organizer, once owned a plumbing and heating firm in Casper. See WYOMING LABOR JOURNAL, Sept. 21, 1934, at 5. Later, he became a traveling advertising representative for a national plumbing trades journal, returning to Casper in 1927 to work as circulation manager for the Casper Tribune-Herald. Id.
434. ERWIN, supra note 3, at 634-35 (vol. II). Joseph C. O’Mahoney defeated Republican Vincent Carter for the United States Senate while Cody lawyer Paul Greever won the House seat over Charles E. Winter. Id.
435. The Democratic total dropped to thirty-seven, however, before the session began. Legislators Hold Caucus Conferences, WYOMING STATE TRIBUNE, Jan. 7, 1935, at 1. Raymond M. Davis of Green River resigned his legislative seat to become private secretary to Congressman Paul Greever. Id. No election was held to name his successor. Id.
437. Id.
438. Id. at 8.
440. Id.
441. Id.
442. Id.
The Wyoming Farm Bureau held its annual meeting in Laramie in late January 1935. The group elected officers and passed numerous resolutions. One endorsed an income tax. "The delegates went on record favoring broadening of the state constitution to permit income tax legislation," the Wyoming Eagle reported, "with the provision that revenue thus provided would offset an equal or larger amount of property taxation."

Miller expressed his view of an income tax in a letter to the legislature, transmitting his request for an increased appropriation for the University of Wyoming:

There has been considerable talk from time to time of the adoption by the legislature of an income tax. A study which has been made within the last month, would seem to indicate that possible revenues from income levies at this time would be so small as to warrant a statement that the imposition of such a tax by this legislature would be inadvisable.

He contrasted such poor revenues with the substantial amount possible from a sales tax and concluded that a sales tax should be adopted: "[W]e could relieve the counties from collecting anything at all for state purposes by means of a tax on real property."

Many legislators saw the potential for tax revenues from increasing the taxes on newly legalized beer and liquor. The editor of the Gillette News-Record, arguing against a five-cent per gallon tax on beer, assumed that the legislature would use that as a means of balancing the budget. He stated that "if, besides the ever present federal taxes, liquor is burdened with a multiplicity of city, county and state taxes, so that the price will be set a sky high figure, the bootlegger will continue to practice his business . . . ."

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443. King to Head Wyoming Farm Bureau in '35, WYOMING EAGLE, Feb. 1, 1935, at 12. King, a Laramie area sheep breeder, was elected to his twelfth consecutive term at the fifteenth annual convention. Id. John Price of Powell was elected vice president; Roy Feusner, Greybull, secretary-treasurer; Earl Bowers, Worland, director at large; Mrs. C. Clyde Jones, Laramie, state home and community leader. Id.

444. Id.

445. Id.

446. Id.

447. Governor Recommends Increase in University Funds in Budget; Reduces Total Expenditures, WYOMING EAGLE, Jan. 4, 1935, at 1. One sub-headline is titled "Urges Consideration of Sales Tax." Id.

448. Id.


450. Id.
The state board of equalization, meanwhile, proposed a “joint income and sale tax” in order to “help landowners.” The board declared that “the load carried by the property owner is ‘out of all proportion’ to the income derived from most property...the only solution is through a tax on intangibles.” The report added that neither the sales tax nor the income tax “would be sufficiently high to cause any great hardship upon any class of citizen.”

The state real estate board proposed an “over-all” limitation on real property taxes. Among the six points in the plan were proposals to create a new board, allow the board to “veto bond issues” and let it determine property tax by the property’s “income-producing” value.

In addition, there was talk of a sales tax as a “temporary measure” to alleviate the looming budget shortfall. Governor Miller’s position on a sales tax was still unclear in the month prior to the 1935 legislative session. Before a Rotary club group in Cheyenne, Miller “outlined a sales tax plan which he said would meet all financial needs of state government during the next biennium and at the same time, would afford relief to property owners by eliminating a direct state tax on real estate.” He was quoted as telling the Rotary he did not believe “a state income tax would solve the taxation problem.”

State newspapers responded with comments about the various types of taxation. The Democratic-leaning Douglas Budget editorialized that the sales tax “is a tax that reaches everyone... At any rate, Wyoming, with the decreasing property valuation, is forced to raise extra revenue and if not by a sales tax then the tax rate on property must be raised.” Not one word was mentioned of a possible income tax.

J. B. Griffith, editor of the Lusk Herald, agreed with his Douglas counterpart. “If the sales tax will relieve property tax, well and good. If it is to be used as an additional tax, without relieving property tax, then it should

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452. Id.
453. Id. at 8.
454. Drive for Tax Limitation Law is Launched by Real Estate Board, WYOMING EAGLE, Jan. 4, 1935, at 1.
455. Id.
456. The temporary nature of the tax was reflected in the name: Temporary Emergency Sales Tax Act.
458. Id.
not be considered.” The Sheridan Press applauded the governor’s business-like approach to the relief issue, but noted that while he may have appeared to favor a sales tax, he “gave to the legislature the burden of making the final decision in regard to taxation.” In early January 1935, the Sheridan Press began a series of articles titled “Wyoming’s Tax Problems,” written by A. F. Vass, a professor in the University of Wyoming department of agronomy and agricultural economics. “The articles were not written with the idea of promoting any tax program,” the introductory paragraph noted, “but were prepared for the purpose of stimulating intelligent thinking.” Both columns featured the sales tax with Vass seeming to endorse such a tax scheme.

The sales tax always had been unpopular with labor groups. Martin Cahill, the head of the State Federation of Labor, voiced opposition to the sales tax. The Wyoming Labor Journal continued to publish editorials pointing out that the sales tax was “unfair to workers” and a “burden to the part-time worker.” Sheridan area miners wrote to Cahill that “a sales tax, no matter how small,” would detract from what Cahill called their “already small earnings [such] that it would make it impossible for them to support their families.” R. E. Hicks, Casper, president of the Wyoming Education Association who was also superintendent of schools in Casper, said he was “personally opposed to a general sales tax except as an emergency measure.” He did favor a sales tax on luxury items as well as “a personal in-

460. Miller’s Message, LUSK HERALD, Jan. 10, 1935, at 2. The editorial was partially reprinted in With Wyoming’s Editors, WYOMING EAGLE, Jan. 18, 1935, at 9. Griffith wrote that he supported Governor Miller on this and “most Republicans” would support the position, too. Id. Griffith was a significant figure in the state Republican party.
462. A. F. Vass, Wyoming’s Tax Problems—The Sales Tax, SHERIDAN PRESS, Jan. 9, 1935, at 4. For the next installment, see Wyoming’s Tax Problems—The Gross Receipt Sales Tax, SHERIDAN PRESS, Jan. 17, 1935, at 4. If other columns in the series were written, there is no record of them appearing in the Sheridan Press.
464. The opposition applied to a national sales tax proposed in the last days of the Hoover administration. See, e.g., WYOMING LABOR JOURNAL, June 3, 1932, at 4 (“Interests who desire to impose more taxation on the underpaid masses of our people persist in bombarding the U. S. Senate with propaganda in favor of the most iniquitous of all taxes, the sales tax . . . ”).
come tax, a business income tax and the existing inheritance tax and general property taxes.\textsuperscript{469}

The state board of equalization, cognizant of the opposition from various quarters to each form of taxation, recommended a "joint income and sales tax" to Governor Miller in December 1934.\textsuperscript{470} The board urged that all state and school revenues be raised through sales and income taxes, "rendering all property taxes to cities and counties."\textsuperscript{471} According to C. H. McWhinnie, the chairman of the board, "This would not in any way be an additional tax but would be a more equal distribution of the tax burden."\textsuperscript{472}

Meanwhile, critics of the income tax stepped up their opposition. The editor of the \textit{Laramie Republican-Boomerang} pointed out that it was "doubtful if a state income tax could be passed without an amendment to the State Constitution."\textsuperscript{473} He added that "such a step would not be practicable for the immediate needs of the state."\textsuperscript{474} He suggested that "neither a sales tax nor an income tax exhaust all of the methods of raising revenues."\textsuperscript{475} Without providing any specifics, he advocated a "luxury tax."\textsuperscript{476}

Even before the legislative session opened in January, 1935, it was clear that the governor, business, and agriculture preferred the sales tax. Gone, apparently, was the "farm bloc," the bipartisan legislative group favoring a "privilege tax" or an income tax in the 1933 session.\textsuperscript{477} Gone, too, were most references to the Griffenhagen study (although early in the session, a Wheatland legislator, 79-year-old freshman senator S. Manning, introduced a bill to change the Wyoming two-house legislature to unicameral—the bill was soundly defeated).\textsuperscript{478}

\textsuperscript{469} Id.
\textsuperscript{470} Joint Income and Sale Tax to Help Land Owner Urged, WYOMING EAGLE, Dec. 14, 1934, at 1. Other members of the board of equalization were M. J. Foley and B. B. Morton. \textit{Id.}
\textsuperscript{471} Id.
\textsuperscript{472} Id.
\textsuperscript{473} The Problem of State Revenue, LARAMIE REPUBLICAN-BOOMERANG, Dec. 28, 1934, at 2.
\textsuperscript{474} Id.
\textsuperscript{475} Id.
\textsuperscript{476} Id.
\textsuperscript{477} Representative Allen of Goshen County attempted to revive the farm bloc early in the session when he joined with Representative Paul Frison, Republican of Washakie County, in an effort to form a coalition. Farm Bloc May Be Organized in Legislature by Allen and Frison, WYOMING STATE TRIBUNE, Jan. 9, 1935, at 2. Their stated purpose, however, was to attempt reduction of the gasoline tax on agriculture. \textit{Id.} No mention was made of an income tax. \textit{Id.}
\textsuperscript{478} Senate Kills Proposal for Single House Legislature, WYOMING EAGLE, Jan. 25, 1935, at 1. About the only remaining voice of support for the Griffenhagen's proposal, or a variation of it, came from L. L. Newton, editor of the \textit{Wyoming State Journal}. 

Democrats held a one-seat advantage (14-13) in the State Senate.\textsuperscript{479} Democrat Nels A. Pearson of Sheridan held the Senate presidency.\textsuperscript{480} In the House, the Democratic margin had slipped a bit from 1933. The thirty-seven Democrats, led by House Speaker Henry D. Wattenpaugh, Sheridan County, faced eighteen Republicans.\textsuperscript{481} There was one vacancy, the seat in Sweetwater County.\textsuperscript{482} Representative L. F. Thornton, the Hot Springs County Republican who was one of the “Farm Bloc” leaders in the 1933 session, was not present. He had tried to run for State Senate but lost in Hot Springs County to Democrat A. R. Zimmerman.\textsuperscript{483} Representative R. V. Allen, a Goshen County Democrat, the other leader of the farm group, remained the only Democrat in the three-member Goshen House delegation, re-elected by a narrow margin.\textsuperscript{484}

Other supporters of the “privilege tax” in 1933 were gone as well. Republican Ernest Goppert in Park County lost, replaced by 26-year-old Democrat George T. Beck, Jr., who joined fellow Democrat Herman F. Krueger as the two legislators representing Park County.\textsuperscript{485} Neither Senators Roy H. Cameron (Republican from Crook County) nor Clifford A. Miller

Having reviewed some 17 of Wyoming legislatures, this writer is convinced that eight men employed the year around at a fair salary could become skilled by study and experience in the solving of Wyoming’s problems and arrive at a more logical and sensible answer than the nearly a hundred milling around the capital for 40 days once in two years.

\textit{And the Mountain Gives Birth to a Mouse,} WYOMING STATE JOURNAL, Feb. 21, 1935, at 6.
\textsuperscript{479} ERWIN, supra note 3, at 354-58 (vol. II).
\textsuperscript{480} Senator Pearson Was First Elected To State Legislature Here in 1910, WYOMING EAGLE, Jan. 18, 1935, at 2. Pearson, born in Sweden in 1872, completed an apprenticeship as a carpenter before coming to America in 1892, first settling in Omaha. \textit{Id.} In 1899, he began service on the Omaha police force, resigning three years later to move to Sheridan. \textit{Id.} A building contractor, he was father of four sons and a daughter. \textit{Id.}
\textsuperscript{481} ERWIN, supra note 3, at 354-58 (vol. II). The 41-year-old Wattenpaugh was a former homesteader and country schoolteacher. Speaker of House Formerly Homesteader and Pedagogue, WYOMING STATE TRIBUNE, Jan. 15, 1935, at 1. He homesteaded in 1919, just north of Sheridan inside Montana. \textit{Id.} There, he built a log cabin and took a job four miles away teaching. \textit{Id.} Not owning a car, he rode his horse, regardless of weather. \textit{Id.} He developed a limp from riding in the deep snow. \textit{Id.} A native of Nebraska, he came to the area from Omaha where he had worked for Carney Coal Company which later became Sheridan-Wyoming Coal Company. \textit{Id.} After three years on the homestead, he returned to Sheridan in 1922 to work as traffic representative for Sheridan flouring mills. \textit{Id.} In addition, he operated his own feed store that he established in 1926. \textit{Id.} He was first elected to the House in 1928. \textit{Id.} Married in 1915, he was father of three children. \textit{Id.}
\textsuperscript{482} ERWIN, supra note 3, at 354-58 (vol. II).
\textsuperscript{483} Election Extra, THERMOPOLIS INDEPENDENT-RECORD, Nov. 7, 1934, at 1.
\textsuperscript{484} ERWIN, supra note 3, at 636 (vol. II). The results were: Zimmerman, 1299; Thornton, 813. \textit{Id.} Allen barely hung on to second place; just eleven votes ahead of the Republican who also was elected. \textit{Id.} The fourth place finisher, a Republican, lost out by just twenty-six votes. \textit{Id.}
\textsuperscript{485} \textit{Id.} at 637. Goppert had 1728 votes and ran third behind two Democrats, both elected. \textit{Id.} Krueger outpolled Beck 2026-2001, but both won. \textit{Id.} W. C. Wilkins, the other Republican in the race, had 1267 votes. \textit{Id.}
(Republican from Natrona County), the two special taxation committee chairs, returned to the legislature in 1935.486

The Wyoming Taxpayers’ League, active in opposing the income tax in 1933, seemed silent in early 1935. The Powell Tribune quoted League president J. E. Lee of Sheridan who said they would “not let grass grow under their feet when the Wyoming legislature convenes.”487 “State relief for the unemployed, taxation legislation and liquor revenue” were three areas the League intended to follow closely.488

Legislators were mindful that in the year since the 1933 special session, cities, counties, and the state continued to suffer financial drains from welfare. Unemployment in the state remained high and drought was a serious problem.489 Teachers, a few organized by the American Federation of Labor in Cheyenne and at the University of Wyoming, lobbied for better pay.490

In his message to the legislature, Governor Miller voiced his opposition to the income tax:

[In my opinion an income tax imposed under existing economic conditions would not be sufficiently productive of revenue as to alleviate to any great extent tax burdens on real property. I am personally not enthusiastic about selective sales tax, although a study would indicate that a tax of two cents upon an ordinary package of cigarettes would produce revenue of $125,000 to $150,000 per annum, which probably could be collected very easily.491

Later, he expressed ambivalence about the sales tax but not outright opposition, suggesting that the Utah sales tax perhaps be followed as a model.492 He noted that the regressive nature of the tax would be offset by the fact that

486. Id. Cameron was succeeded by another Republican, but a Democrat gained the seat Miller vacated. Id.
488. Id.
489. Leslie A. Miller, Governor’s Message to the 23rd State Legislature, H.R., 23rd Leg., Reg. Sess., at 16-29 (Wyo. 1935) [hereinafter Miller’s Message to the 23rd Legislature].
491. Miller’s Message to the 23rd Legislature, supra note 489, at 19-20.
492. Id. at 21. See the extensive coverage in Governor Delivers His Message to Legislature, Wyoming State Tribune, Jan. 9, 1935, at 1. See id. at 6-7 for the text of his address, printed in its entirety.
low-income people would not pay property tax or very little in the way of federal income tax. Even though labor leaders and others protested the sales tax legislation, State Relief Administrator Metz told the relief workers that passage of the sales tax was essential in order for the state to continue to receive federal aid for the 10,000 or more families depending on federal relief programs. He said that in order for the state to continue to receive such funds, the legislature would have to provide at least $750,000. "We've got to have something tangible that we can lay on the line or we will not receive the expected $5 million under the new setup," he warned. "We'd be in nice shape . . . if we had the lottery and gambling revenue besides." On the other hand, "The sales tax would provide about $400,000 for relief purposes. In addition, $200,000 from the liquor tax bill has been earmarked for relief," the Wyoming Eagle noted.

The House Revenue committee held open hearings in early February. Representatives from organized labor and other groups were called to testify. As the Wyoming State Tribune report indicated, "Most of the outright opponents of a sales tax advocated levies on incomes with particularly heavy mulct of the bigger incomes." In 1933 support for the income tax came from a coalition representing various occupational groups. The coalition had disappeared in 1935. Some observers quipped that only labor and "government employees" were in favor of an income tax this time around. "The state relief agencies are clamoring for the sales tax with an ear-marked $500,000 to keep them in steady jobs," the Cody Enterprise editor sniffed. "Others favor the sales tax, and they want it now."
tax but insist upon a general lowering of other taxes in lieu of the sales tax," the Enterprise editor concluded.\(^{502}\)

The editor of the Wyoming State Tribune, opposed to an income tax, wrote,

Among those who yesterday voiced loudest and most emphatic disapproval of the sales tax plan were Martin Cahill, head of the state federation of labor; Secretary Nicodemus of the Unemployed Union and Roy Hines, Cheyenne representative of the Communist Party. They complained, in general, that the rich men and big corporations of Wyoming should be made to pay for relief.\(^{503}\)

The Tribune's news story cleverly seemed to fasten organized labor and support of an income tax to two organizations that Wyomingites viewed with great skepticism—the Unemployed Union and the tiny Communist Party. Opponents of the income tax in the legislature apparently recognized this fact, too. Representatives of both groups were invited to testify before legislative committees.\(^{504}\)

The Communists had virtually no support statewide.\(^{505}\) Four Communist candidates ran for statewide offices in 1934, with Don Wirth, their candidate for state treasurer, receiving more votes than the other Communist candidates, but only 195.\(^{506}\) Nonetheless, their representative spoke out strongly for an income tax.\(^{507}\) Such support from Communists frightened the more "mainstream" supporters of an income tax into silence. By subtly tying the income tax to Communists, opponents of the tax won the day.

\(^{502}\) Id.

\(^{503}\) Communist, Unemployed and Labor Opposed to Sales Tax, Wyoming State Tribune, Feb. 7, 1935, at 14. Hines, as president of the Unemployed Workers, planned a march on the capitol for the opening session. Radical Jobless Planning March on Statehouse, Wyoming Eagle, Jan. 25, 1935, at 2. When the membership did not go along, he was "ousted" as leader and left town briefly only to return and plan another march on the capitol. Id. Hines is listed in the Eagle article as "the Communist leader." Id.


\(^{505}\) In fact, the Fred Coe Post No. 20, of the American Legion in Cody passed a resolution in 1934 demanding that the name "Communist" be barred from leading an election ticket in the State of Wyoming. See Legion Post Would Oultlaw Word Communist From Ballot, Cody Enterprise, Dec. 26, 1934, at 1. Later in the same meeting, the legion post, commanded by Milward Simpson, passed a resolution demanding that even the printing of the word be banned from the Wyoming ballot. Id.

\(^{506}\) Erwin, supra note 3, at 634-35 (vol. II).

A State Lottery

But an income tax had not been the only alternative to a sales tax. In December, 1934, Will Metz, the State Relief Administrator, proposed a state lottery, patterned after the Irish Sweepstakes, as a means of raising money for welfare programs.\(^{508}\) "I believe that nine out of ten businessmen will agree with me that a lottery would be the simplest and most effective means of raising relief money," Metz told a Wyoming Eagle reporter.\(^{509}\) Soon after, heads of federal recovery agencies in Wyoming endorsed his plan and asked State Senator Nels Pearson, head of the National Emergency Council, to appoint a committee to assist Metz in studying the plan.\(^{510}\) Pearson named A. L. Kendig of Burns, head of the Regional Agricultural Credit Corporation, and John McDonald, assistant administrator for the federal housing program, to his committee.\(^{511}\) At the same time, pastors of nine Cheyenne churches condemned the proposal and asked that neither the governor, the relief director, nor the legislature "resort to . . . any unlawful and questionable means of securing the necessary funds for caring for those on public relief."\(^{512}\) Soon after the 1935 session began, seventeen House members co-sponsored a lottery bill.\(^{513}\) The measure was endorsed by the president of the Wyoming Taxpayers' League.\(^{514}\)

Legislators weighed in on each side prior to the opening of the session. Thomas Hunter, State Senator from Laramie County said, "In my opinion, a lottery for relief funds is not at all objectionable. The moral objections are far exceeded by the worthwhile benefits that would arise."\(^{515}\) But W. A. "Pat" Norris, Laramie County house member, disagreed, "Until more merit than has been already shown is shown, I am opposed to a lottery. A number of evils could arise out of one. If a lottery wasn't satisfactory in

509. Id.
normal times I certainly don’t believe it will be satisfactory in an emergency.\footnote{516} The \textit{Wyoming Eagle} announced it would conduct a poll to decide on sentiment about the lottery.\footnote{517} “People are beginning to realize that we are not advocating the starting of a big gambling game over the state, but are merely putting a tax on a thing which already exists,” Metz declared on December 20.\footnote{518}

Some observers were skeptical of a lottery. “How do we know that our citizens with a taste for gambling will prefer this particular game to other ‘honest games of chance’?” wrote the editor of the \textit{Sheridan Press}.\footnote{519} In a “man-on-the-street” column in the \textit{Wyoming Eagle}, Tommy Caruso, “prize-fighter,” said that “[g]ambling should take place in the open rather than on the sly . . . let the government get something out of it.”\footnote{520} Several others agreed.\footnote{521}

Ferguson Mitchell, of the Wyoming Taxpayers League, favored the lottery (although he was careful to point out that it was his view and not that of the league itself).\footnote{522} The Wheatland man, a former legislator, told the \textit{Wyoming Eagle} that “a properly conducted lottery does not encourage gambling and it does not open the way for abuses.”\footnote{523} He pointed out that “people from other states will send their money here.”\footnote{524}

A. D. Shipp, Casper representative of the oil workers, told the House Revenue committee that a state-controlled lottery would solve the relief problem.\footnote{525} “[A]rguments against conducting a state lottery and taxing gambling, which we all know goes on, have no weight when advanced by those who think the state’s morals might be endangered,” he told the committee.\footnote{526} “If we can tax these things we not only can destroy them, if they are evil, but

\begin{thebibliography}{99}
\bibitem{516} Id.
\bibitem{517} \textit{Wyoming Eagle to Conduct Poll on Sentiment Regarding Lottery}, \textit{Wyoming Eagle}, Dec. 21, 1934, at 1.
\bibitem{518} Id.
\bibitem{519} \textit{Cody Enterprise}, Jan. 2, 1935, at 2 (quoting \textit{Sheridan Press}). As to gambling generally, the \textit{Cody Enterprise} editor asserted that Cheyenne already collected twenty-five dollars each month from slot machines. \textit{Id.} “Even in gambling’s palmiest days, no ‘rakeoff’ was ever secured comparable to that which slot machines take from those who play them . . . .” \textit{Id.}
\bibitem{521} Id.
\bibitem{523} Id.
\bibitem{524} Id.
\bibitem{526} Id.
\end{thebibliography}
we can be raising a lot of money for the thousands in the state who are on relief while we are doing it," he concluded.\textsuperscript{527}

The lottery measure was reported back to the full House by the Revenue committee on February 8, 1935, with no recommendation.\textsuperscript{528} Earlier, in an informal \textit{Wyoming Eagle} poll taken in late December, 1934, Wyomingites said they favored the lottery act by 256 to forty.\textsuperscript{529} One person who wrote on the "ballot" told the \textit{Eagle} that "Nebraska has voted in pari-mutuals and unless we adopt the lottery, a great deal of Wyoming money will go to Nebraska."\textsuperscript{530} But an opponent argued, "Did any nation or state progress by resorting to the gambling vice? The remedy is worse than the disease."\textsuperscript{531}

\textit{Legislature Authorizes Full Gambling and Governor Vetoes}

Others still held out hope for full gambling. Early in the session, on January 17, the House Revenue Committee sponsored a "feeler bill" to determine sentiment for a full gambling law.\textsuperscript{532} The bill was modeled after a bill passed a few years earlier in sparsely-populated Nevada. The resolution was "literally torn to pieces by amendments," according the \textit{Wyoming State Tribune}.\textsuperscript{533} It's future was "very much in doubt."\textsuperscript{534} It "finally was indefinitely postponed with no 'expression' gained."\textsuperscript{535} The action came on the second to last day of the session, effectively killing this, the first of two gambling measures.\textsuperscript{536}

Another gambling bill was moving toward final passage. A few days before introduction of the "feeler bill," on January 31, John A. Kunkle and Harry C. Schleicher, both Laramie County Democrats, joined with Republican Craig Lewis from Laramie County, to introduce a bill to legalize most forms of gambling by amending the law to prohibit only "unlicensed" gambling and allowing for slot machines and card games "in any incorporated city or town, subject to regulation."\textsuperscript{537} The bill, House Bill Number

\begin{flushleft}
527. \textit{Id.}
528. \textit{Standing Committee Reports, H.R.B. 181, 23rd Leg, Reg. Sess., at 417 (Wyo. 1935).}
529. \textit{Today Last Day for Vote on Relief Lottery Plan, WYOMING EAGLE, Dec. 28, 1934, at 1.}
530. \textit{Id.}
531. \textit{Id.}
532. \textit{Seek Legislative Sentiment in Regard to Gambling Law, WYOMING STATE TRIBUNE, Jan. 16, 1935, at 1.}
534. \textit{Id.}
535. \textit{Gambling Bill to Finance Relief Introduced, WYOMING EAGLE, Jan. 18, 1935, at 1. The bill was introduced by W. A. "Pat" Norris in his capacity as chair of the Revenue Committee. Id.}
537. \textit{Id.}
\end{flushleft}
138, was introduced late in the session on the twenty-fourth day.\textsuperscript{538} The effect of the bill would have been to legalize nearly all forms of gambling and to allow for its licensing.

The Wyoming press weighed in on the various gambling proposals. The editor of a Thermopolis paper advocated “wide open gambling.”\textsuperscript{539} So did the editor of the Kemmerer Gazette.\textsuperscript{540} Nonetheless, church groups came out against gambling on moral grounds.\textsuperscript{541} Governor Miller, too, was opposed.\textsuperscript{542} The editor of the Cody Enterprise strongly opposed it. “We always will be unalterably opposed to taxing vices of any kind,” he wrote.\textsuperscript{543} He continued:

The state or government can ill afford to get into a business which when operated for profit, becomes a prey upon a people . . . . Far better that we take care of our needy in a straightforward and businesslike manner. Let all taxpayers bear the burden, and not just those who would gamble, drink and indulge in the various forms of recreation that always seem to attract the heaviest forms of taxation.\textsuperscript{544}

His counterpart with the Kemmerer newspaper, however, suggested that the state take over all slot machines and apply the profits to relief work.\textsuperscript{545} “The great spirit of chance is predominant among American people and it is apparent in Wyoming that state laws cannot kill that spirit . . . . It is at least worth a try-out . . . .”\textsuperscript{546} More noncommittal was the editor of the Casper Tribune-Herald, who commented favorably on Miller’s opposition to the lottery, but concluded, “What the legislature will do about it can only

\begin{thebibliography}{9}
\bibitem{540} \textit{Id.}
\bibitem{541} \textit{Clergymen to Confer about Metz Lottery}, WYOMING STATE TRIBUNE, Dec. 8, 1934, at 1.
\bibitem{542} THERMOPOLIS JOURNAL, Jan. 4, 1933, at 4.
\bibitem{544} \textit{Id.} Meanwhile, the Wyoming Eagle noted that Casper was considering the “elimination of slot machines.” \textit{Elimination of Slot Machines Is Considered}, WYOMING EAGLE, Dec. 28, 1934, at 12. Also noted were “rodent campaigns” held in various counties. \textit{Rodent Drives Beneficial to State Farmers}, WYOMING EAGLE, Dec. 28, 1934, at 5.
\bibitem{545} \textit{With Wyoming’s Editors}, WYOMING EAGLE, Jan. 4, 1935, at 9 (quoting the Kemmerer Gazette).
\end{thebibliography}
be surmised. One guess is as good as another in view of the more liberal trend of public opinion. 547

The editor of the Laramie Republican-Boomerang applauded Governor Miller’s opposition to legalized gambling. 548 “As this paper sees it, this is one of the gravest evils which face us as a commonwealth.” 549 The governor’s opposition was “a sensible stand,” according to the editor of the Gillette News-Record, “certainly one of the most courageous and sensible stands which any public official in Wyoming has ever taken.” 550 The Powell Tribune editor emphasized that Wyoming voters had not voted in the previous election to “license gambling and to outdo Reno in the matter of easy divorce laws.” 551

J. B. Griffith of the Lusk Herald was ambivalent. “As a matter of principle, we do not believe in the state participating in the gambling racket,” he noted, adding that “if the state intends to permit gambling to continue unbridled, as at present, it should at least see that a part of the immense revenue derived from finds its way into the public treasury, thus affording some relief for the over-burdened property owner.” 552 L. L. Newton pointed out that Governor Miller always had the power to crack down on gambling, if he so chose. 553 “Why he has not used this prerogative is a question which may not have occurred to him. He merely pointed to the condition without supplying a remedy.” 554

The House was deeply split on the gambling measure. When the full gambling bill came up for a vote on third reading, the bill failed by a tie vote (26-26) with three members absent. 555 The motion was made for reconsideration in the next day’s session. 556 After several amendments were accepted, including one prohibiting minors from gambling and another allowing for “another gambling device” beyond slot machines and cards, the House passed the bill by a vote of 34-20 with one member absent. 557 It ap-

549. Id.
554. Id.
556. Id. at 514.
557. Bill on Third Reading on Reconsideration, H.R.B. 138, 23rd Leg., Reg. Sess., at 532-33 (Wyo. 1935). Curiously, both women in the House, Lucile Connnaghan from Fremont County, and Mrs. Albert Rochelle from Natrona County, voted against legalization of gambling. Id. Passage of House Bill 138 is reported in Measure to Legalize and Tax Slot Machines, Card Games in Wyoming is Approved by House. Wyoming Eagle, Feb. 15, 1935, at 1. For
peared that Wyoming finally would have full gambling, with the income-producing potential to balance the budget without relying on other taxes. The bill had passed the legislature on the very last day of the session.558

Newspaper editors wondered whether or not the governor would sign the bill. He had expressed continuing opposition to gambling.559 The governor didn’t wait long. On the Friday following adjournment, he vetoed the gambling bill.560 “As I sense the situation, it was not really the wish of a majority of the members of the legislature to license gambling,” he said, “but on the last day pressure was applied in behalf of a certain city of the state which was reported to be having difficulties in financing some of its activities.”561 Cheyenne was the city to which he made reference as the legislators introducing the act were all from Cheyenne.562 John C. Thompson, editor of the Wyoming State Tribune, called the veto “a gubernatorial good deed.”563 Not only would gambling “expose a large number of persons to folly arising from their own weaknesses,” Thompson wrote, “it would have resulted, furthermore, in an influx of the riff-raff, some of it the very dregs of humanity, which gathers to prey on the gullible where gambling is permitted.”564

Much to the distress of proponents, however, the legislature could do nothing—the veto was made after the session ended.565 In his veto message, Miller vowed to have his attorney general crack down on illegal gambling, the presence of which was mentioned frequently during legislative debates.566 State government’s ability to enforce such a ban was problematic. As the editor of the Jackson’s Hole Courier pointed out, no state law existed on gambling.567 The “attorney general merely informs county offi-
cial officials that where in the past they have winked at open gambling and passed on, they now must take action."568 The editor was skeptical about serious enforcement, however.569 “Such orders to close gambling have been issued before and they were effective for a while, then forgotten. It will be interesting to see how long this one lasts.”570

Cheyenne police chief T. Joe Cahill indirectly confirmed the Jackson newspaper’s assertions that gambling was condoned statewide in his report to the city council in January 1935.571 “Slot machines and other forms of gambling swelled the Cheyenne police department’s coffers by $12,608.89, the last year,” the Wyoming Eagle reported.572 The article noted that the “tax” assessed by the city on each slot machine had been raised from ten to fifteen dollars to twenty-five dollars per month per machine.573 “Probable revenue to the city from this source this year will be about $36,000,” the paper estimated.574

The Sales Tax Passes

Most legislators had not pinned any hopes on gambling as a means of solving the revenue problem. The second week of the session began with a substantial number favoring a sales tax and a small group still advocating an income tax. It appeared to some observers that action would not be taken on either—the legislature would do nothing about revenue, just as it had done in 1933.

For a time, it appeared that no tax measure would be forthcoming during the session. Governor Miller, however, finally stepped in, making a personal plea for passage of the sales tax.575 The Wyoming State Tribune read:

Pointing out that money is needed for relief purposes and declaring it to be out of the question to increase the direct tax levy to raise it, the governor urged the adoption of the sales tax as a means of definitely assuring income so the

568. Id.
569. Id.
570. Id.
571. Slot Machines Add Over $10,000 to City Revenue, WYOMING EAGLE, Feb. 1, 1935, at 1.
572. Id.
573. Id.
574. Id.
575. Sales Tax Advocated in House by Governor and Relief Head, WYOMING STATE TRIBUNE, Feb. 11, 1935, at 3.
state may cooperate with the federal government under terms of the economic security act.\textsuperscript{576}

In the act, the sum of $500,000 would be earmarked for relief.\textsuperscript{577}

"The sales tax is the only way out," the governor told legislators in an informal meeting.\textsuperscript{578} In an unprecedented appearance before the House, Relief Administrator Will Metz also pleaded for passage of the sales tax act.\textsuperscript{579}

Opposition to a sales tax remained vocal—and bipartisan. Representative George Messick, a Republican from Sheridan, observed that "70 percent of the people do not want a sales tax."\textsuperscript{580} Representative J. Reuel Armstrong, a Republican from Carbon County, pointed out that since the state had repealed Prohibition and opted to enter the wholesale liquor business, revenues from those operations, estimated at one million dollars annually, would mean "there is no need for a sales tax."\textsuperscript{581}

Miller, the Democratic governor, recognized that the labor unions, part of his core base, were the primary opponents of the tax. "I know the chief opposition comes from organized labor," Miller said, "but the laboring man does not pay a disproportionate share of taxes in Wyoming."\textsuperscript{582} The editor of the \textit{Gillette News Record} made a similar argument:

"We for one are unable to see the logic in organized labor's fight against the sales tax . . . in that some manner of raising additional funds for relief purposes must be had, surely no means can be found that is more equitable and fair to everyone. After all, we spend in direct proportion to our income. Therefore that part of the sales tax which any of us will pay will be in direct ratio to our ability to pay."\textsuperscript{583}

House Bill Number 124, calling for a sales tax, was introduced by the Revenue Committee on the twenty-fourth day of the session.\textsuperscript{584} The

\textsuperscript{576} Id.
\textsuperscript{577} Id.
\textsuperscript{578} \textit{Plea by Governor and Metz Rescues Sales Tax Measure}, \textit{Wyoming State Tribune}, Feb. 12, 1935, at 12.
\textsuperscript{579} \textit{Metz Fears Defeat of Sales Tax He Promised Washington}, \textit{Wyoming State Tribune}, Feb. 11, 1935, at 10. State newspapers criticized Miller for "pushing for a sales tax" rather than leaving the tax decision to the legislature. Id.
\textsuperscript{581} Id.
\textsuperscript{582} Id.
\textsuperscript{584} \textit{Introduction, Reading and Reference of Bills}, H.B. 124, 23rd Leg., Reg. Sess., at 248 (Wyo. 1935).
same day, it was referred back to that committee for consideration.\textsuperscript{585} It finally came out of the committee on the thirty-fifth day of the session, with several amendments attached.\textsuperscript{586} After debate by the entire House on the next day, and with the addition of several more amendments, the sales tax act passed by a vote of 35-19 with one member excused.\textsuperscript{587}

As a means of ensuring passage, the sponsors of the sales tax bill added dozens of exemptions, including a crucial exemption on all services and on agricultural commodities.\textsuperscript{588} To sweeten the proposal, they argued that the measure would be "only temporary" and the entire tax question could be revisited once the economic conditions warranted. While there is no direct evidence as to support this fact, clearly the sales tax advocates seem to have cemented their position with these assurances.\textsuperscript{589}

Meanwhile, the income tax proponents, tied indirectly to communism in the hearings, had lost momentum since the 1933 special session. Outnumbered, they tried to substitute an income tax for the sales tax late in the session.\textsuperscript{590} The effort failed by a substantial margin.\textsuperscript{591}

After considerable debate, including references to the "failure" of the Utah income tax law to raise sufficient revenues, the House passed the sales tax bill on February 12, 1935, by a vote of 35-19.\textsuperscript{592} With but four days remaining in the session, the measure was sent to the Senate for consideration. Senators made additional amendments. Senator Frank Barrett of Niobrara County introduced an amendment excluding bread and milk from the sales tax.\textsuperscript{593} Another senator, Senator Dinsmore, got the Senate to exempt cigarettes and tobacco from the tax.\textsuperscript{594} Later, however, Dinsmore offered an amendment to leave such exemptions to the discretion of the state board of equalization.\textsuperscript{595}

\begin{itemize}
\item \textsuperscript{585} Id.
\item \textsuperscript{586} Standing Committee Report, H.B. 124, 23rd Leg., Reg. Sess., at 453 (Wyo. 1935).
\item \textsuperscript{587} Bills on Third Reading, H.B. 124, 23rd Leg., Reg. Sess., at 471-73 (Wyo. 1935).
\item \textsuperscript{588} Id.
\item \textsuperscript{589} Id. The title of the act was changed with a last-minute amendment before the vote on third reading in the House. Id. at 472. Revenue committee chair Burwell moved to change the title from "Sales Tax Act" to the "Emergency Sales Tax Act." Id.
\item \textsuperscript{590} Senate Passes Sales Tax But Excepts Bread, WYOMING STATE TRIBUNE, Feb. 15, 1935, at 1.
\item \textsuperscript{591} Id.
\item \textsuperscript{592} Bills on Third Reading, supra note 587, at 471-73.
\item \textsuperscript{593} Id. at 445 ("Provided, however, that individual sales of bread for less than 11 cents per loaf or milk for less than 14 cents per quart shall be exempt from the provisions of this Act.").
\item \textsuperscript{594} Id.
\item \textsuperscript{595} General Appropriations and Sales Tax Bills Approved in Upper House of Legislature, WYOMING STATE TRIBUNE, Feb. 15, 1935, at 10.
\end{itemize}
"Why shouldn't everybody contribute something toward the support of the government from which they benefit?" asked Senator B. C. Rumsey, Park County Democrat, speaking in support of the sales tax. He argued, "Twenty percent of the property owners now pay 80 percent of the cost of the government. Is that fair? Union labor wants everything from the government but doesn't want to have to pay for any of it. Is that fair?"

He asserted that the sales tax was more fair than the present system. "If he could select six members of the Senate and be given several weeks, he could draw up a tax system—a combination of the sales tax, income taxes supplemented by a property tax, which would be the one and only fair system."

Rumsey's home-county newspaper, the Powell Tribune, backed his view. "A large majority of the people up this way are favorable to a sales tax, but they want it to serve as a means of reducing the otherwise heavy property tax burden and not as a source of additional revenue for state spending." R. T. Baird concluded, however, "Despite all the cry, our taxes are now more than they have been, and the legislature is not headed in a determined program to cut them to any appreciable extent."

During debate on second reading, several senators were confused about what they were voting on. Senators R. H. Sanders of Rock Springs and Earl Wright of Farson both told the Eagle reporter that they thought vote on passage in second reading actually was on a minor amendment. They vowed to vote against the measure on third reading. One senator confidently predicted that the measure would lose the next day on a vote of 16-11. He was wrong. The next day, a majority did pass the bill with only token opposition. On February 18, 1935, the governor signed the bill that became the "Emergency Sales Tax Act of 1935."

597. Id.
598. Id.
599. Id.
600. Id. Rumsey was the rarest of successful state senators—he was a Democrat from Wapiti, a heavily Republican community in overwhelmingly Republican Park County.
602. Id.
603. Id.
605. Id.
606. Id.
The law required that all retail firms purchase an annual sales tax license for a two dollar fee. License forms were distributed locally, often from banks. Two percent was assessed on all retail sales, on carriers of telephone and telegraph services (exempting interstate services), public utilities, gas and electric companies. Two percent was assessed on all meals served in restaurants and two percent on admission to entertainment events. Sales under thirteen cents were exempt.

Numerous exemptions were built into the "Emergency Act." Commodities, sales to federal and state agencies, and charitable organizations were exempt. Section sixteen made it unlawful to advertise that the tax was being "absorbed by the retailer."

The enabling clause indicated the nature of the act: "This is an emergency act and shall be self-repealing and shall expire on March 31, 1937." Governor Miller signed the bill on the final day of the session, February 18, 1935.

Economic conditions, still serious, were somewhat better than earlier in the decade. Wyoming newspapers commented on passage of the sales tax law. The editor of the Greybull Standard wrote, "In slightly more than a month, the sales tax will be upon us and with it the train of chaffing annoyances." While the editor agreed that passage did not result from a "sinister motive" and, instead, was done through necessity, he thought that the "relief" help promised from passage of the act ought to be extended to building irrigation projects for farmers. "Employ relief money to build for the future," he argued, "It aids the deserving farmer and builds the community for the future." He concluded:

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609. Id. § 3.  
610. See, e.g., Sales Tax Blanks Are Now Available Here, GREYBULL STANDARD, Mar. 21, 1935, at 1 (the distribution of forms was undertaken by E. K. Parks at the First National Bank of Greybull).  
612. Id. §§ 4(c), (d).  
613. Id. § 4(e).  
614. Id. § 6.  
615. Id. § 16.  
616. Id. § 23.  
617. Sales Tax to be Collected in Few Weeks, WYOMING STATE TRIBUNE, Feb. 18, 1935, at 1.  
618. See, e.g., REPORT OF COORDINATING COMMITTEE OF FEDERAL DEPARTMENTS AND AGENCIES IN WYOMING, submitted to Governor Miller on Dec. 2, 1935 (on file with the Wyoming State Archives).  
620. Id.  
621. Id.
Passage of the sales tax should be welcome news to Republican legislative candidates, who in this county made their campaign solely on this issue. They asked to be elected so that they might go into the legislature and pass a sales tax. To our Republican friends who asked for it, we extend greetings and felicitations. They can no longer seek election on the issue.622

The sales tax was not popular elsewhere in the Big Horn Basin. "The sales tax law, which goes into effect in April, is not meeting with favor in Powell, the very center of advocacy of sales tax principles in past years," wrote editor R. T. Baird.623 "Our farmers are opposed to the tax as an added burden. It still leaves the owner of property as chiefly taxed. The sales tax revenue is earmarked for relief."624 He concluded that the original intent had been undermined and voters would respond in the next election.625

Nonetheless, most Wyomingites seemed to accept the sales tax. "Although some wary residents view the coming sales tax with skeptical eyes and have started stocking their larders with large quantities of foodstuffs before the first of the month, most of Cheyenne's residents are unperturbed over the new duties on groceries," the Wyoming Eagle reported.626 The paper pointed out that there would be no tax assessed on purchases of less than thirteen cents "and the big share of grocery sales come under that price."627

J. B. Griffith of the Lusk Herald wrote that he once purchased three cigars each day, amounting to a total purchase of fifteen cents.628 With the new rule on sales tax, he started buying a cheaper variety that cost three for a dime.629 He tried to buy a newspaper, for five cents, and the druggist demanded an extra penny.630 When he protested, the druggist said he had to charge because it was one purchase.631 "So we took our cigars, walked out on the sidewalk, sniffed the fresh air, came back in and bought the paper for five cents—and beat Gov. Miller out of a penny."632

622. Id.
624. Id.
625. Id.
627. Id.
629. Id.
630. Id.
631. Id.
632. Id.
"Like anything new, the sales tax has already been the cause of many wails and groans on the part of local merchants, on account of the extra figuring and book work which the law entails," wrote the editor of the *Gillette News Record.* He thought that within a month or two, however, most "merchants and purchasers alike will have grown accustomed to the extra cent, two or three . . ."  

The "emergency nature" of the sales tax convinced many Wyomingites that the tax was needed. Typical was the reaction by the editor of the *Casper Tribune-Herald*: "Regardless of its unpleasant features, however, all may find some measure of satisfaction in the purpose to be served—unemployment relief."  

On the other hand, some places in the state saw the sales tax as benefiting Cheyenne. "Cheyenne realizes that it will require a sizeable force of men and women in various capacities to administer the tax," Axel W. Lilja, editor of the *Greybull Standard,* complained. "But up here in the Big Horn Basin where appointments to state jobs are as scarce as feathered simians, we can't become enthusiastic about the sales tax."  

The state board of equalization, charged with establishing sales tax collection rules, issued the first set of requirements in late March 1935. One preconceived view was shattered—the tax had to be calculated on total purchases made. While an individual item of less than thirteen cents was tax exempt, if an individual bought more than one, the tax was to be assessed over the entire purchase. One cent was to be charged for purchases of fourteen to sixty-four cents; sixty-five cents to $1.25, two cents. The tax schedule was widely published with nearly every Wyoming newspaper featuring it on the front page.

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634. *Id.*
637. *Id.*
639. *Id.*
640. *Id.*
The *Wyoming Eagle* published the entire text of the sales tax regulations in its March 29 issue.642 The regulations took almost one and one-half pages. The preamble to the regulations stated that the primary purpose was

the relief of property tax by meeting directly the demands made by the US government for funds with which to meet relief purposes, by meeting directly the demands of sorely depleted public schools funds and, if available, the removal of a portion of the burden of state government and institutions.643

The regulations provided a long list of items that were not subject to the sales tax, including sales of livestock for all but breeding purposes, livestock feed, shoe-shining services, cigarettes (but not cigars—according to a board ruling in early April), "personal services," except for supplies sold by such service providers as barbers, oculists, dentists, etc.644 Merchants statewide were puzzled by numerous special rules and exemptions.645

The *Cody Enterprise* pointed out that Wyomingites would become "tax conscious" over the next two years.646 "Heretofore a vast percentage of the people paid no taxes. They believed in 'relief' and lots of it, because it cost them not a penny . . . . Now it should and will be different. We are going to pay as we go."647

"If we can get used to the sales tax, it should prove helpful in years to come," the *Powell Tribune* editor wrote.648 He pointed out that "Labor interests are much opposed to the sales tax, because they believe the men who enjoy the large incomes thus escape their share."649 The editor pointed out that

[i]t seems that from property, income and taxable sales ultimately come the revenue for our government expenses. The delay in getting this proper distribution of the tax burden is a tragic injustice to property owners, who have in past years

647. *Id.*
649. *Id.*
been meeting far beyond their share of state, county, school and municipal expense.  

The universality of the taxpayers was emphasized by the Powell Tribune:

The tourist, the Mexican, the transient laborer, the salaried man here for a short time only, the non-property owners in all walks of life are now paying generously into the state treasurer's coffers. They are doing their part to help relieve the property owner of his tax burden. The sales tax is a nuisance and it is unpopular with a great number, but already we are becoming accustomed to its inconveniences and if it were put to a vote of our people such a tax would be continued.

By the end of 1936, the Wyoming economy was improving slightly. Nine of the twenty-one Public Works Administration projects authorized in Wyoming had been completed and work continued on the remaining ones. For the first time in many years, the State Department of Game and Fish was out of debt. Wyomingites apparently were reconciled to the sales tax. "About the worst to be said of the sales tax is that it is a nuisance," wrote Tracy McCraken of the Wyoming Eagle. "But we can think of lots of taxes that are much more than a nuisance. Most others are burdens."

The Wyoming League of Municipalities met in January, 1937. Mayors from throughout Wyoming advocated what they saw as an even less burdensome "tax"—gambling. They urged the legislature to legalize gambling, at least allowing it as a local option. Many mayors were strongly opposed. The motion carried only after "a heated discussion" and then by barely a majority. The mayors also voted that if the sales tax were to be continued, it should be divided in the following manner: one-half to the

650. Id.
652. Nearly $2.5 million in Work Done in Wyoming by PWA During 1936, WYOMING EAGLE, Jan. 1, 1937, at 5. The completed projects were the liberal arts building at the University of Wyoming; state institutional buildings at Evanston, Casper, and Lander; schools in Buffalo, Riverton, Lander, and Egbert; and water works improvement in Sundance. Id.
653. Game Department Ends First Year Out of Red, WYOMING EAGLE, Jan. 1, 1937, at 5.
655. Id.
657. Id.
658. Id.
659. Id.
state; one quarter to the cities; and the remaining quarter to the counties.\textsuperscript{660} The next day, ministerial associations from throughout the state and the WCTU announced they were setting up lobbying efforts to defeat any attempt to repeal the laws against gambling.\textsuperscript{661}

The 1937 session opened with little interest in an income tax even though Governor Miller had proposed an initiative on such a tax in his message to the legislature.\textsuperscript{662} Legislators displayed little interest although Platte County State Senator S. Manning introduced Senate Joint Resolution Two on the seventh day of the session proposing "an amendment to the Constitution of the State of Wyoming, providing that the legislature shall have power to levy and collect taxes on incomes."\textsuperscript{663} The bill was referred to the revenue committee, but later that same day, Manning gained unanimous consent to withdraw the resolution.\textsuperscript{664} The same resolution was introduced into the House on the twenty-first day of the session by the House Revenue Committee.\textsuperscript{665} After considerable delays in considering the act, it finally came up for third reading in the House on the thirty-seventh day of the session. It did not pass. Only seventeen House members voted for it with thirty-nine opposed.\textsuperscript{666} In his "State of the State" address, opening the 1937 legislative session, Governor Miller urged economy.\textsuperscript{667} The budget he submitted was exactly ninety dollars below the total appropriations made by the legislature two years earlier. Only the University of Wyoming would receive a huge increase under Miller's proposal with many agencies facing budget cuts.\textsuperscript{668} Nonetheless, the Wyoming Taxpayers League mobilized for action to defeat the bills they believed would greatly increase spending.\textsuperscript{669} On the revenue

\textsuperscript{660} Id. Later in the session, the league met and drafted four proposed bills for legislative action, one legalizing gambling. See Mayors Draft Four Measures for Lawmakers, WYOMING EAGLE, Jan. 23, 1937, at 11.
\textsuperscript{661} Battle Lines Drawn on Gambling Act, WYOMING EAGLE, Jan. 8, 1937, at 1, 8.
\textsuperscript{662} Governor's Message to the 24th Legislature, supra note 565, at 21.
\textsuperscript{663} Introduction, Reading and Reference of Bills, S.J. Res. 2, 24th Leg., Reg. Sess., at 50 (Wyo. 1937).
\textsuperscript{664} Id. at 52.
\textsuperscript{665} Introduction, Reading and Reference of Bills, H.R.J. Res. 2, 24th Leg., Reg. Sess., at 166 (Wyo. 1937).
\textsuperscript{666} Bills on Third Reading, H.R.J. Res. 2, 24th Leg., Reg. Sess., at 497-98 (Wyo. 1937).
\textsuperscript{667} Miller Urges Economy as He Submits Budget, WYOMING EAGLE, Jan. 13, 1937, at 1, 8.
\textsuperscript{668} Governor's Message to the 24th Legislature, supra note 565, at 17.
\textsuperscript{669} Tax League Called Into Action To Fight Legislative Measures, WYOMING EAGLE, Jan. 26, 1937, at 1. The four leaders of the group were identified as Lee Simonson, Thermopolis; T. S. Taliaferro, Jr., W. E. Mullen and M. E. Robertson. A Fight Against Higher Taxes, WYOMING EAGLE, Feb. 2, 1937, at 1 (photograph). Others enlisted to lobby for the group were: John D. Clark, Cheyenne; Tom Rogers, Green River; N. R. Greenfield, Rawlins; and George Klett, Cheyenne. Id.
side, he recommended continuation of the sales tax, warning that without it, "The property tax . . . could be more than doubled."670

"The sales tax has done all that was expected of it and more," he told the legislature.671 It was a popular tax with the public, he said, but noted it had "vociferous enemies."672 He pointed out that some action had to be taken—either to renew the sales tax or to turn to an alternative. He recommended retention of the sales tax, but eliminating the tax on foodstuffs and placing the sales tax on "luxury items" previously exempted.673

Earlier, Cheyenne publisher Tracy McCraken editorialized on removing the tax from food.674 He acknowledged that it probably would not be practical, particularly since one-fourth of all sales tax revenues came from sale of food and separating food from non-food items in stores would be a nightmare for the average grocer, for instance.675

In addition to advocating renewal of the sales tax, Miller urged the passage of an income tax.676 "I have felt the graduated income tax to be the most just and equitable form of taxation," he reminded the legislature, but he also pointed out the difficulties in gaining its passage.677 "I share with many others the belief that a really well-balanced tax program would embrace three major revenue factors—a graduated income tax, a sales tax and the property tax," Miller argued, concluding with an argument for a constitutional amendment to be placed on the 1938 ballot.678 The Revenue Committee, siding with Governor Miller, introduced House Joint Resolution Two authorizing the income tax amendment to the State Constitution.679 When the bill reached the full House, it was rejected by a vote of 17-39, almost

670. Miller Urges Economy as He Submits Budget, WYOMING EAGLE, Jan. 13, 1937, at 1, 8.
671. Governor’s Message to the 24th Legislature, supra note 565, at 20-21.
672. Id.
673. Id. He also urged adoption of a "use tax." Id. Newspapers republished the entire message. See, e.g., Message Proposes Income Tax Referendum, WYOMING EAGLE, Jan. 14, 1937, at 14, 15. Miller also explained his veto of the gambling act following the 1935 legislative session, indicating that he remained opposed to gambling. Governor’s Message to the 24th Legislature, supra note 565, at 20-21. "You know what gambling does to the souls of men. You know without listening to a sermon that gambling is a much more corroding evil than is the addiction to liquor. You know, too, the type of people legalized gambling attracts to a community . . . ." Id. Nonetheless, gambling remained the hottest issue of the session with numerous bills introduced to legalize it. See, e.g., $500,000 Gambling Tax Bill Proposed, WYOMING EAGLE, Jan. 16, 1937, at 1.
675. Id.
676. Governor’s Message to the 24th Legislature, supra note 565, at 21.
677. Id.
678. Id.
679. Introduction, Reading and Reference of Bills, supra note 665, at 166.
exactly the reverse of the 40-16 vote in favor of the sales tax introduced at
the same time.\textsuperscript{680}

Labor unions, still opposed to the sales tax, but willing to compro-
mise, sent representatives to meet with the governor early in the legislative
session. "If the state absolutely needs the revenue produced by the sales
tax—as Governor Miller informed the conferees it did—labor is willing to
have the law reenacted, John Ross, president of District 22, United Mine
Workers of America, said.\textsuperscript{681} In return for labor dropping its opposition,
Miller assured Ross and the other union leaders that he would not seek to
increase the sales tax to three percent.\textsuperscript{682} Further, he told them he would
seek a constitutional amendment for an income tax.\textsuperscript{683} "We feel that the
wage earner in the lower brackets bears the sales tax out of proportion to his
income,' Ross declared. 'However, if it is removed from foods—the big
necessity—we feel that we will not oppose its reenactment, since Governor
Miller says the revenues are vitally needed.'\textsuperscript{684}

Labor leaders failed to gain critical editorial and political support for
their position, however. Cheyenne editor McCraken noted, "The sales tax is
here to stay."\textsuperscript{685} He wrote that he did not see the same necessity for remov-
ing food from taxation because "it is based on the fact that at present large
numbers of people are on relief and many more are earning but a bare sub-
sistence income.'\textsuperscript{686} He argued that since the sales tax "now being written
lacks the temporary features of the present act, being probably a permanent
feature of our taxation system, the fewer exemptions granted will be more
fair to all concerned.'\textsuperscript{687} As to the elimination of the sales tax on foodstuffs,
organized labor continued to insist on the exemption. Late in the session,
Martin Cahill, state federation of labor president, and Albert Roberts, vice
president of District Twenty-Two, United Mine Workers, appeared before
the Revenue Committee in support of an amendment, drafted by union attor-
ney Bard Farrell, to remove the sales tax on food.\textsuperscript{688}

The legislature failed to follow Miller's recommendations and
seemed to ignore labor's entreaties. During initial consideration in an eve-
ning session on the twenty-eighth day of the legislature, dozens of other

\begin{thebibliography}{9}
\bibitem{680} Bills on Third Reading, supra note 666, at 497-98.
\bibitem{681} Certain Passage of Sales Tax Seen as Compromise is Reached, \textit{WYOMING EAGLE},
\bibitem{682} Id.
\bibitem{683} Id.
\bibitem{684} Id. at 20.
\bibitem{685} Tracy McCracken, \textit{It's Here to Stay}, \textit{WYOMING EAGLE}, Feb. 2, 1937, at 15.
\bibitem{686} Id.
\bibitem{687} Id.
\bibitem{688} Labor Forces Amendment Exempting Tax on Foods, \textit{WYOMING EAGLE}, Feb. 4, 1937,
at 1.
\end{thebibliography}
amendments were offered to the sales tax act, broadening the exemptions. One significant change raised the base rate for exempted items from eleven cents to twenty-four cents. The next afternoon, on third reading, the bill passed with overwhelming support. Forty legislators voted for it with only sixteen voting against. After House passage, the bill went to the State Senate where, after a few more amendments, but not those urged by the labor leaders, the measure gained an even more overwhelming endorsement of twenty-two for and just three senators opposed.

The legislature reenacted the sales tax, but the name was changed slightly to no longer imply that the tax was "temporary." The new title no longer contained the word. In what was then titled the "Selective Sales Tax Act of 1937," section four changed the lower limit on the tax to twenty-four cents, made a few exemption adjustments, but kept the tax largely as it had been during the preceding years. The effective date was April 1, 1937. Once again, state revenue shortfalls, for the time being, were averted, but the income tax constitutional amendment no longer mustered interest. Governor Miller signed the law soon after the legislature adjourned.

Were there political repercussions from making the sales tax permanent? If so, they are difficult to assess. Some historians have pointed to Governor Miller's support for the income tax as part of the reason for his loss to Nels Smith in the 1938 general election. Others believe he lost the critical support from his "base" among union Democrats because he did not succeed in his promise to eliminate the sales tax on food nor to gain a constitutional amendment for an income tax. A number of other issues contributed

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689. Introduction of Bills, H.R.B. 118, 24th Leg., Reg. Sess., at 147 (Wyo. 1937). The committee gave the bill a "do pass" recommendation. Id. The amendments were added in Committee of the Whole considerations during an evening session on February 8. Id. See also Sales Tax on Food Kept in House Bill, WYO. EAGLE, Jan. 30, 1937, at 1.
692. Id.
693. Joint Conference Committee Report, S., 24th Leg., Reg. Sess., at 318-19 (Wyo. 1937). The two senators from Sweetwater County, Rudolph Anselmi and Earl Wright, and Platt Wilson from Lincoln County, voted "no." Id. One member, Binney, was absent and did not vote. Id.
697. LARSON, supra note 17, at 467.
to Smith's victory over Miller. For one, Miller was seeking what was then an unprecedented third term.698

Lincoln County representative Carl Robinson introduced an income tax bill in the 1939 legislature.699 But the legislative mood had become even more anti-income tax. State Representative Ernest F. Shaw of Park County introduced House Joint Memorial Six advocating repeal of the federal income tax.700 While Robinson's measure was sent to the Judiciary committee where it died, the memorial urging repeal of the Sixteenth Amendment to the United States Constitution and elimination of the federal income tax sailed through the House by a vote of 30-18 and the Senate on a 17-9 vote.701

By most indications, Wyomingites had become conditioned to the sales tax and hostile to the idea of an income tax. The economy was improving and the legislature apparently felt the revenue crisis of the early 1930s had been solved through passage of the sales tax and an accompanying use tax. At a time when most of the surrounding states were opting for income taxes as a means of "broadening the tax base," the Wyoming legislature had made a choice that was to have a long-term impact on state funding and an enduring legacy to future governors and state legislators, even into the next century.

VI. THE FUTURE OF WYOMING TAXATION

On November 5, 1974, Wyoming voters approved an amendment to the Wyoming Constitution making it extremely difficult to establish a state income tax.702 The amendment does not outright prohibit an income tax as some people believe. The section reads: "No tax shall be imposed upon income without allowing a credit against such tax liability for all sales, use,

698. Id. T. A. Larson suggested another reason for Miller's defeat was his inability to reduce gasoline prices despite considerable assertions during his previous campaigns that he would accomplish such a task. Id.
699. Introduction, Reading and Reference of Bills, H.R.J. Res. 7, 25th Leg., Reg. Sess., at 181 (Wyo. 1939). It was referred to the Judiciary and Elections Committee where it stayed for the session. Id.
and ad valorem taxes paid in the taxable year by the same taxpayer to any taxing authority in Wyoming.\textsuperscript{703}

Since 1969, when Wyoming finally adopted a severance tax on minerals, state government remains heavily dependent on the two "legs of the tax stool"—sales taxes and severance taxes.\textsuperscript{704} For as long as fossil fuels remain central to American energy needs and the estimated coal and other mineral reserves in Wyoming are accurate, the state can expect to receive substantial revenues from minerals. The severance tax, unpopular with out-of-state owned mineral companies, is a novel state "export." Little of the tax is paid by Wyoming residents. Instead, the costs are paid by the many out-of-state users of the final product produced by the mineral. In the case of the mineral produced in greatest abundance, coal, the ultimate electricity consumers in midwest or southwestern states are paying just a few mills in each monthly bill they receive from the power companies burning Wyoming coal.

Unless another means of assessment is used, however, Wyoming will receive only a tiny percentage of the delivered value of the particular product. The tax on coal, for instance, is paid on the value as determined at the mouth of the mine—not at the delivered price charged at the final destination.\textsuperscript{705} The shipping costs to distant destinations are substantial and these are not considered in assessing the tax. Given that shipping costs for the coal far outweigh the production costs, Wyoming receives far less per ton than the shippers, mostly absentee-owned railroad corporations. Mineral companies concerned about the competitive impact of the severance tax on out-of-state sales need to look for ways to reduce shipping costs, perhaps through developing greater competition for transport.

Unless the sales tax rates are raised so substantially that Wyoming buyers no longer purchase goods or make purchases elsewhere, the sales tax will remain an important (and probably popular) means of taxation.\textsuperscript{706} Critics correctly point to the sales tax as one of the most regressive forms, particularly given that Wyoming law does not exempt food and other essentials from sales tax. Despite the absence of exemptions for "essentials," numerous other "loopholes" are included in the sales tax laws. By reexamining the numerous exemptions attached to the sales tax law in 1935 and later, the legislature could increase revenues with relatively little impact on most citizens.

\textsuperscript{703} Wyo. Const. art. XV, § 18. The 1973 legislature passed the resolution for the amendment; the measure passed on November 5, 1974, and was proclaimed to take effect on December 12, 1974. H.R.J. Res. 12, 42nd Leg., Reg. Sess. (Wyo. 1973).

\textsuperscript{704} For a recent critique of the state's heavy reliance on mineral taxes, see SAM WESTERN, PUSHED OFF THE MOUNTAIN, SOLD DOWN THE RIVER 102 (2002).


\textsuperscript{706} The use tax is assessed on all goods purchased outside the state and brought into Wyoming. The rationale is to tax goods that are not reachable by sales tax collections. Of course, the enforcement is problematic.
Property taxes in Wyoming remain relatively low, in comparison to neighboring states. Property taxes historically have been assessed for the needs of local government and school districts. With the increasing costs of education and the equalization decisions of the Wyoming Supreme Court, passage of a set statewide levy earmarked for the schools may be necessary. Likely, the increased valuations of homes in "vacation spots" like Jackson Hole, Cody, Saratoga, and elsewhere, and increasing values on mineral production properties, will offset any need for increased tax rates on property.

Higher values of real property, more severance taxes gained from greater production of minerals, and continued collections of sales taxes ought to allow Wyoming government to balance budgets well into the future—but it will not be without conflict. Without population gains, greater demands for minerals, or better employment opportunities for Wyomingites, the costs of maintaining state services are bound to increase into the twenty-first century.

But increased population brings with it a quandary. The taxes generated by minerals are not tied to population. With the addition of more and more residents, those already living in Wyoming gain a smaller percentage of benefit from every severance tax dollar the state earns. Increases in the other major form of tax revenue, the sales tax, are dependent on either increased rates or greater consumer spending. For more sales tax revenues, more population (or more tourism) is desirable. Thus, the two "legs" are in conflict over the crucial question of growth or "development." One of the greatest challenges for future political leaders will be to try to balance the needs for growth with maintenance of the "Wyoming way of life"—with the two forms of revenue sources looming in the background.

Unless Article XV, section 18, of the Wyoming Constitution, is changed to eliminate the offset of all other taxes, Wyoming citizens would be foolish to adopt an income tax. Given the off-set provision, out-of-state mineral companies would be the biggest winners from an income tax on Wyoming residents, but so would owners of extremely expensive homes. Given this reality, one can expect future efforts by mineral interests and wealthy homeowners to get the Wyoming legislature to pass an income tax while, at the same time, they will insist that the constitutional Article XV set-offs remain in place.

An income tax may come to Wyoming (if Article XV, section 18 were amended), but only if the sales and property taxes increase to levels most voters find onerous. Further, an income tax may come if alternative energy sources make fossil fuels obsolete, cheaper alternatives are found for trona, and mineral extraction becomes less competitive with sources in other states or nations. In the view of this writer, that day is far in the future.