

Wyoming Business Council

Management Audit Committee June 2005

Management Audit Committee

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TABLE OF CONTENTS

The Wyoming Business Council

Introduction: Scope and Acknowledgements	i
Chapter 1: Background	1
Chapter 2: Impact of Quasi-Governmental Status on State’s Investment Is Indeterminable	9
Chapter 3: WBC Has Not Issued a Comprehensive Economic Development Strategy	21
Chapter 4: Statutory Benchmarks Are Not Meaningful Performance Measures	29
Chapter 5: Administration of BRC Program Can Be Improved	37
Chapter 6: Conclusion	49
Agency Response	51
Appendices	
(A) <i>Selected Statutes</i>	A-1
(B) <i>1997 Steering Committee Executive Summary</i>	B-1
(C) <i>WBC Organizational Chart</i>	C-1
(D) <i>WBC Programs and Functions</i>	D-1
(E) <i>Senate File 35 Performance Benchmarks</i>	E-1

INTRODUCTION

Scope and Acknowledgements

Scope

W.S. 28-8-107(b) authorizes the Legislative Service Office to conduct program evaluations, performance audits, and analyses of policy alternatives. Generally, the purpose of such research is to provide a base of knowledge from which policymakers can make informed decisions.

In November 2004, the Management Audit Committee directed staff to undertake a review of the operations and impacts of the Wyoming Business Council (WBC). The Committee requested an analysis focusing on the following questions:

- What is WBC's role in directing Wyoming economic development efforts? Does its role differ from one that the 1997 Steering Committee envisioned?
- How does WBC's quasi-governmental status affect its ability to perform?
- What is the comprehensive economic development strategy by which WBC guides state efforts?
- How does WBC measure and report on its performance and economic impacts?
- How is WBC administering the Business Ready Communities grant and loan program?

The scope of this report does not include an evaluation of WBC's Travel and Tourism Division.

Acknowledgements

The Legislative Service Office expresses appreciation to those who assisted in this research, including the officials of local economic development organizations; staff members of the Departments of A&I and Employment; the Office of State Lands and Investments; and especially the WBC staff and former and present board members.

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CHAPTER 1

Background

Business Council has solidified its position as lead development agency

In recent decades, Wyoming has struggled to define a clear and comprehensive approach to developing the state's economy. Since the 1960s, the state has wrestled with concerns over the exporting of the state's youth population, the need to expand manufacturing, and generally providing good jobs that pay livable wages.

Wyoming Business Council began operating in 1998.

In the state's efforts to systematically address these challenges, the Wyoming Business Council (WBC) is the latest incarnation of Wyoming's lead economic development agency. It began operating in mid-1998, following passage of the Wyoming Economic Development Act (W.S. 9-12-101 through 804; see Appendix A for selected statutes) in the preceding legislative Session. Slightly different from earlier state-level economic development agencies, WBC has unique authorities that allow for greater discretion in the way it makes decisions and expends resources. Now with a seven-year track record, it appears the Council has moved past its initial growing pains and is achieving stability.

Unique aspects of Wyoming's economy create challenges for development efforts

Wyoming's economy is counter-cyclical to the nation and reliant on the minerals extraction industry.

Wyoming's economy has been characterized as being counter-cyclical to most of the rest of the nation. As a result, when viewing traditional economic indicators such as per capita income and unemployment, it has been difficult to determine the impact of national trends on the state's economy. Wyoming's position as the state with the smallest population and its unique reliance on the mineral extraction industry also make it difficult to detect what might be hindering or might be done to improve the economy. A knowledgeable stakeholder we interviewed reasons that as much as

75 percent of statewide economic growth, both direct and indirect, comes from the mineral extraction industry.

Wyoming's past efforts have been disparate and often-changing

Earlier efforts included the Link Deposit and Amendment IV loan programs.

Without a clear focus as to where to put resources to spur economic growth and diversify Wyoming's economic base, the Legislature has taken a number of different programmatic and organizational approaches. Efforts included creating the Link Deposit and Amendment IV Loan programs and the Economic Development and Stabilization Board in the mid-1980s, as well as two state agencies, first the Department of Economic Planning and Development in 1969, and later the Department of Commerce in 1990.

Some recommendations from a 1992 LSO report were incorporated into WBC.

In response to legislative concerns about some of the state's early development efforts, the Legislature requested a program evaluation on the topic in 1992. That report concluded that the state lacked planning, consensus on a development approach, and coordination of efforts and resources. It recommended that loan programs be modified to provide "gap" financing only, that the state should provide matching grants to municipalities, and that the state agency should enhance its research and data collection efforts. Several of these recommendations were later incorporated into the structure and purposes for WBC.

Legislature created an economic development steering committee

Steering Committee formed WBC's original "business plan."

Several years after the LSO program evaluation, a newly-elected Governor and legislators came to agreement that they wanted to have an immediate and comprehensive impact on economic development. In 1997 the Legislature created a Steering Committee to develop a strategy for long-term economic growth. This committee's report served as the "business plan" for a new lead entity for economic development, the WBC (see Appendix B for the executive summary of this report). The plan's premise was that the state was "not operating on a high enough professional level and financial scale to make a difference in the economy." This led to the recommendation that to be effective, a state-level organization would need to be "structured like a private

Some programs folded into the WBC: Divisions of Tourism and Economic and Community Development (from Department of Commerce); Division of Marketing and Promotion (Department of Agriculture); the Economic Development and Stabilization Board; and the Wyoming Travel Commission.

company...with a board of directors, central office, regional divisions responsible for operations, professional performance standards and real world accountability.”

The Legislature adopted the steering committee’s business plan, and WBC began in July 1998. Following the committee’s recommendations, the Legislature included provisions in statute to make the WBC a “quasi-governmental” entity: it acts in the name of the state using state appropriations, but has some independent review and decision-making authority over its organization, programs, and budget. Duties and responsibilities of 25 programs from seven state agencies were folded into the new organization (see box at left).

WBC budget and programmatic responsibilities have greatly increased

WBC has two operational components, 64 staff and 6 core divisions.

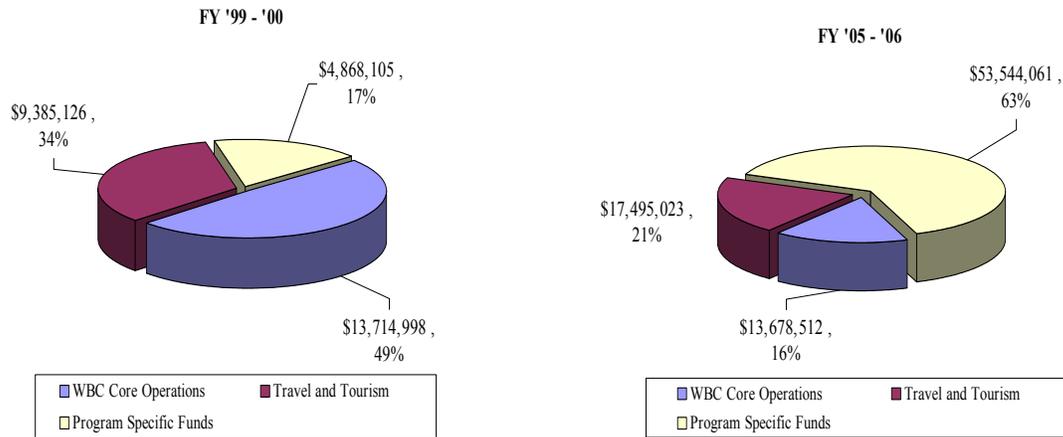
Most WBC appropriations are now targeted or pass-through funds.

WBC has 64 staff organized into two main operational components: Travel and Tourism, and WBC core operations. The Travel and Tourism Division is fairly autonomous with 17 staff members, a director, and a governing board. The WBC Board of Directors, their designated CEO, and remaining 45 staff members run the day-to-day operations of the core administrative WBC activities. The WBC board has some oversight responsibilities for the Travel and Tourism Division with regard to large contracts above \$100,000. WBC’s current administrative divisions include: Agribusiness, Business and Industry, Investment Ready Communities, Support Services, Accounting and Compliance, and Field Operations (see Appendix C for current organizational chart).

During the most recent two biennia, the Legislature has increased WBC’s funding and programmatic responsibilities. However, much of the increase is tied directly to targeted grant and loan programs or is pass-through funding, and thus is not discretionary money that the board can use for general purposes. Figure 1.1 shows the biennial appropriations for the two main operational components and other program-specific funding.

Figure 1.1

**WBC Budget
FY '99 – '00 and FY '05 – '06.**



Source: LSO analysis of WBC data.

Note: Program-specific funds include the various grant and loan programs as well as the appropriation for the Wyoming Business Technology Center for FY '05 – '06.

WBC's budget has increased 203% since its first biennium.

Since its inception, the Legislature has increased WBC's appropriations by 203 percent, from \$28 million for FY '99 – '00 to \$84.7 million for FY '05 – '06. However, as the Figure 1.1 indicates, more than 63 percent of current appropriations are for specific programs or pass-through funding designated by the Legislature; by contrast, in FY '99 – '00 this category accounted for 17 percent. Most increases have gone to the Investment Ready Communities Division of WBC which administers the Business Ready Communities (BRC), Community Facility Enhancements, and Community Development Block Grant (CDBG) programs.

WBC primarily partners with communities and businesses

WBC is a small, relatively new agency with a broad mission to help improve Wyoming's economy. Begun with expectations of growing and diversifying Wyoming's economy, WBC has determined the best way to achieve these goals is to mold its operations around being a central partnering, networking, and technical support agency. It also assists local governments (especially those in rural areas of the state) in assessing themselves and their development opportunities.

***WBC is the state's
"marketing arm."***

Generally speaking, aside from administering a number of infrastructure grant programs, WBC today is a service-oriented organization, partnering with local non-profit economic development organizations (one of the functions envisioned by the 1997 Steering Committee report). Its self-described function is that of being the state's "marketing arm" (see Appendix D for a summary list of programs and functions of WBC).

***WBC partners with
the University of
Wyoming for
business support
services.***

WBC operations center on coordination, promotion, and support services

WBC operates within a larger arena of businesses, development organizations, and government agencies. In order to fulfill its partnering focus, WBC works to engage these entities (different levels of government, local developers, private businesses, etc.) in working together on particular development projects. One function of the WBC is to help fund and coordinate with the University of Wyoming to operate various business start-up, retention, and expansion programs such as Small Business Innovation Research and Small Business Development Centers.

***WBC's regional,
financial, and human
resources staff
support local
development.***

To provide front-line assistance in communities, WBC has field staff in six regional offices: Riverton, Powell, Casper, Cheyenne, Rock Springs, and Gillette. Some of these offices are co-located with local economic development organizations and the partner programs of the University.

Complementing the regional staff's efforts, WBC's professional human resources and financial services staff located in Cheyenne consult with businesses on such issues as training and organizing financing deals. It promotes various industries and particular businesses at national and international trade shows, while also lining up private recruitment contacts for local economic development organizations to pursue.

WBC is to measure and report its performance regarding impact on the economy

WBC activities run the gamut from program implementation to partnership-building to direct service activities, and the Legislature has required WBC to measure its performance and impact on the state economy. The intention is to show some accountability for WBC's statewide economic development efforts.

Legislature prescribed performance benchmarks for WBC.

The Legislature prescribed measures known as Senate File 35 benchmarks (see Appendix E for WBC's latest reporting of these benchmarks) in WBC's 1998 enabling legislation. They focus on operational measures, state-level economic and quality-of-life indicators, and private contributions to WBC. WBC presents these measures in its annual report.

Fragmentation of state-level economic development efforts continues

Although a primary reason for creating WBC was to combine several state-level economic development functions into one entity, we learned that structural fragmentation continues. The Legislature has established other economic development responsibilities outside of WBC, such as the Infrastructure Authority and the Main Street Program, along with the existing Pipeline Authority and Telecommunications Council. Further, the Governor brought the main functions of WBC's Minerals, Energy and Transportation Division into his state planning office; 2005 legislation also moved the Air Service Enhancement responsibility into the Department of Transportation (Aeronautics Commission).

WBC does not encompass all state-level development functions.

But it does coordinate and network with other state-level organizations.

WBC's response to these changes has been philosophical. Board members see this as the natural evolution of governmental efforts to find the most appropriate place from which to administer a program. They believe this recurring fragmentation will not have a detrimental effect on WBC for two basic reasons: WBC has the organizational flexibility to adjust rapidly to such changes, and the WBC is better prepared and willing to network and coordinate relevant economic development efforts outside its direct control. However, board members reason that some proposed changes could be counterproductive, such as efforts to separate and elevate the Travel and Tourism Division to full agency status.

WBC can make adjustments to improve operations, accountability, and reporting

This report covers several topic areas where we believe WBC, with its organizational flexibility, can make improvements in its operations. Chapter 2 examines WBC's quasi-governmental status and whether that status may have benefited economic development efforts. Chapter 3 focuses on WBC's obligation to prepare a comprehensive strategy to guide the state's economic development efforts, and how it fulfills that requirement. Chapter 4 assesses how WBC carries out its duty to report measures of its own performance. Finally, Chapter 5 reviews the relatively new and well-funded Business Ready Communities program, and suggests improvements for administering it.

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CHAPTER 2

Impact of WBC Quasi-Governmental Status on State's Investment in Economic Development Is Indeterminable

Chapter summary

The 1997 Steering Committee believed that the corporate structure would provide a greater return on investment for the state's economic development initiative.

The 1997 Steering Committee recommended a corporate structure for the Wyoming Business Council, believing that “by emulating the corporation in structure and performance, Wyoming can provide more effective leadership and a greater return on investment in its economic development initiative.” The Legislature responded by placing numerous exemptions in statute which primarily give the WBC flexibility with respect to budgeting and personnel decisions. The statute also gives the WBC board the autonomy to direct WBC activities through its appointment of the WBC chief executive officer.

At this point, approximately seven years into its existence, we can discuss the impact the exemptions and autonomy have had on some aspects of WBC operations. However, because the WBC has not determined how to measure performance of its efforts (as discussed in Chapter 4), we cannot confirm that the quasi-governmental status has increased the state's return on its economic development investment as the Steering Committee envisioned.

Statute provides WBC administrative flexibility through exemptions

WBC is exempt from most A&I statutes for managing government operations.

Statute specifically exempts WBC from a series of requirements that apply to other agencies (W.S. 9-2-1001 through 9-2-1026.1.) Essentially, these are the statutes that provide the Governor, working through the Department of Administration and Information (A&I), the capability to manage the executive branch of state government through “a more coordinated and responsive” system. These statutes include functions such as budget, human resources, procurement, information technology, and economic analysis. Some of the most prominent of these exemptions are those that release WBC from:

- Procuring supplies or services in compliance with A&I procurement rules.
- Adopting the A&I personnel classification and compensation plans or other personnel rules.
- Submitting statistical, informational or research programs to the A&I Division of Economic Analysis for supervision and coordination.
- Adhering to state employee travel expense rates.

WBC is also exempted from provisions of the Wyoming Administrative Procedure Act except as its statutes specifically require compliance. Thus, if it adopts rules, it must submit them for legislative review, have them approved by the Governor, and file them with the Secretary of State.

Attorney General: “WBC is a state agency.”

“All (WBC) powers are derived from statutes.”

Despite these exemptions, and language in statute that calls WBC a “body corporate” and a “state instrumentality,” the Attorney General has opined that WBC is a state agency. Factors that contribute to this opinion include: (1) WBC is a statutory creation, with its existence and termination a matter of legislative control through statutes; (2) the WBC board establishes the salary of the director, and those board members are appointed by the Governor; (3) WBC is organized for a governmental purpose; (4) WBC is exempt from taxation; and (5) all powers are derived from statutes. The Attorney General also wrote that WBC was a state agency for purposes of dispensing the market pay adjustment funds appropriated by the Legislature in 2001 and 2004.

WBC acts mostly like a state agency

WBC promulgates rules and is subject to the Open Records and Public Meeting Acts.

For the most part, WBC assiduously follows its authorizing statutes, often invoking the direction and limitations that statutes include. WBC officials noted that although the organization has certain flexibility, they are quite aware that the Legislature is “the real board of directors.” WBC has developed rules for its Wyoming Business Ready Community and loan programs, and plans to develop them for the newly-authorized Community Facilities program. It is subject to the Open Records and Public Meeting Acts.

WBC employees participate in the same benefit plans as do regular state employees.

WBC is also like state agencies in more administrative matters. Although statutes allow it to obtain liability insurance on its own, it is part of the state self insurance program. Even though WBC had a separate health insurance plan at one time, it now participates in the State Employees and Officials Group Insurance Act as statute requires. By statute, WBC employees are covered by the Wyoming Retirement Act and may participate in the Wyoming Deferred Compensation plan. WBC uses the services of the Attorney General for its legal needs, and its budget must go through the A&I and Governor's review process before being presented to the Legislature.

There are six WBC employees, the regional directors, in the regional offices.

Most WBC staff work in Cheyenne

The 1997 Steering Committee report envisioned that the regional offices would house most of the WBC staff, and that the strength of the organization would be in regionalization and the local delivery of services. Eight years later, this vision is partly realized. While the regional directors are credited with adding unmatched strength to the WBC effort and being critical to operations, there are only six WBC employees in the field; these are the six regional directors, one of whom also serves as Director of Field Operations. The remaining 40 WBC employees, not including those in Travel and Tourism, are based in Cheyenne.

WBC also considers the Small Business Development and Mid-America Manufacturing Technology Centers, which are co-located in many of the regions, to augment its field services. WBC partially funds these entities through contracts with the University of Wyoming. In addition, Cheyenne office staff provide assistance to the regional offices and to communities when called upon to do so.

The Steering Committee said employees should be at-will.

WBC turnover has been comparable to that of state government

To better conform to the business model, the Steering Committee report recommended that the employees of the state's new economic development organization be at-will employees. Statute authorizes the WBC chief executive officer to determine what other WBC positions exist and the terms of employment for the persons filling those positions. The WBC board approves its own

Exemptions from some A&I statutes define WBC employees' at-will status.

personnel policies, one of which is that employees serve at-will, like attorneys in the Office of the Attorney General and all Legislative Service Office employees.

Although not explained in the WBC policies, its exemption from the A&I Human Resources Division statute (W.S. 9-2-1022) means that its employees are not covered by A&I personnel standards governing employee leave time, grievances, layoffs, and other aspects of employment. WBC does not award its employees longevity pay, but their time in WBC employment counts toward longevity if they should transfer to another agency.

Average WBC turnover has been comparable to state employee turnover, only more erratic.

A review of WBC turnover since 1999 indicates that there have been changes in all levels of the organization, from CEO to administrative assistant positions. More than half of the reported 53 instances of turnover have occurred in management positions (CEO, Chief Financial Officer, Chief Support Services Officer), directors, and managers. WBC average turnover over the four-year period, 2000-2003, was just slightly higher than that of all state agencies for the same period (13.9 percent to 13.6 percent). Turnover has been more erratic at WBC, ranging from just less than two percent to 25 percent, and higher than the turnover in other small agencies (less than 100 employees).

Of the four separation categories recorded for WBC employees (resignation, retirement, transfer, and death), resignation is listed for most instances. However, the CEO indicated that a number of these resignations occurred because people did not fit the organization and that the at-will policy has helped WBC maintain a high quality staff.

WBC is funded by the state

The Steering Committee anticipated that the new state approach to economic development would include the investment of both private and public resources. Statutes foster the possibility that private funds would contribute to WBC through several provisions, including those that allow WBC to:

Statutes foster the

- Accept gifts or grants.
- Acquire and sell property, or interest in property

prospect that WBC would receive private funding.

- trademarks, copyrights, or patents.
- Mortgage or pledge any or all of its revenue, income, or interest in or assets arising out of a venture agreement.
 - Make investments in projects that have the potential to stimulate economic development in the state.
 - Invest and manage its funds.

WBC has not exercised these options because the Attorney General has determined that doing so would be a violation of Article XVI, Section 6 of the Wyoming Constitution which prohibits the state from becoming the owner of the capital stock of any association or corporation.

Attorney General: Wyoming Constitution prohibits WBC from owning equity in corporations.

As for grants and gifts, WBC officials said that seeking those contributions from in-state sources would mean competing with local economic development organizations. They said this would be counter-productive to WBC effort in supporting those entities. WBC has reported the funds received from private sources for WBC activities, as law requires. Over the last five years, private sources have contributed an average of \$227,543 annually.

Statutory requirements limit WBC programmatic flexibility

87% of FY '05 – '06 resources support inherited or statutory functions.

Although there is the perception that WBC has more organizational flexibility than other agencies, 87 percent of WBC resources support inherited or mandated functions, leaving 13 percent for discretionary programs or activities. The WBC was formed, in part, to alleviate some of the perceived fragmentation in state-level economic development efforts. The Legislature followed the Steering Committee recommendation and gathered many state-level economic development programs together into one cohesive entity.

For example, promoting and developing tourism and agriculture now are among WBC statutory responsibilities. Statute calls for the establishment of regional offices and a coordination /compilation of Wyoming business permitting requirements; WBC has also chosen to establish a market research center, as statute allows. Figure 2.1 shows the resources currently devoted to these statutory requirements as well as the targeted grant and loan

programs.

Figure 2.1

WBC Dedicated Program Funding, FY '05 – '06

Program	Number of Employees	Appropriated/ Allocated Funds (FY '05 - '06)	Percent of WBC Appropriations
Travel and Tourism	18	\$17,495,023	20.65%
Agriculture Promotion (Agribusiness)	5	\$1,572,414	1.86%
Permitting	1	\$130,560	0.15%
Market Research Center (only for FY '05)	-----	\$168,000	0.20%
Regional Offices	6	\$1,536,982	1.81%
Subtotal	30	\$20,902,979	24.60%
Targeted Grant and Loan Programs			
Administration	5	\$859,256	1.01%
Business Ready Communities	-----	\$36,600,000	43.20%
Community Development Block Grant	-----	\$7,844,061	9.26%
Community Facilities Enhancements	-----	\$7,500,000	8.85%
Subtotal	5	\$52,803,317	62.33%
Total Dedicated Program Funding	35	\$73,706,296	87.00%
WBC Appropriations	64	\$84,717,596	100.00%

Source: LSO analysis of WBC information.

WBC's flexibility is in determining the amount of resources it will dedicate to these functions

Although the statutory programs must be maintained, WBC has flexibility in allocating its resources among all of its programs and divisions, with the exception of the funds it receives for special programs such as BRC and CDBG. The Legislature has put in place a process that does not require its approval of WBC's budgets for various programs, operational divisions, or number of full-time equivalent (FTE) employees. A benefit of the flexibility according to WBC officials is the ability to move staff around, reconfigure divisions, and create new positions as needed.

WBC can reassign staff, reconfigure divisions, and create new positions as needed.

Regional services

Thus, WBC can choose how to implement these programs and how to allocate resources among the different budget series (personnel, support services, etc.) in order to best facilitate the growth of the economy. Our analysis shows that despite this

are seen as most critical, yet only 11% of WBC non-grant funds directly support regional offices.

flexibility, only 11 percent of WBC non-grant funds directly support the regional offices, including the regional directors and WBC contracts with University entities. Yet, WBC officials and stakeholders indicate that the regional services are most critical to WBC operations. A similarly small proportion of WBC appropriations (one percent) supports the BRC program, another crucial element of the state's economic development. BRC administration, as discussed in Chapter 5, may be hampered by this lack of resources.

WBC combines state policies with its own approach to employee compensation

WBC has followed many state personnel policies.

In the area of employee compensation and position classification, WBC has taken advantage of both state policies and its own flexibility. To make WBC more accountable, the Steering Committee maintained that WBC employees needed to serve at-will, and that their professional staff requirements necessitated separation from the state personnel policies and salary structure. Yet WBC has followed some state policies such as the 2003 state freeze on compensation adjustments, and had its positions slotted for market-rate adjustments. WBC employees also receive the three percent cost-of-living increase that all state employees receive, when it is awarded. WBC is not now awarding raises based upon merit, although its personnel policies allow this and board members have expressed a preference for merit increases.

Most WBC salaries are above the statewide average

77% of WBC employees have salaries above the statewide averages.

As a result of the November 2004 round of pay adjustments at the WBC, 77 percent of WBC employees receive salaries above the statewide averages for their equivalent position classifications, according to A&I Human Resources Division. A&I is able to make this analysis because WBC requested a review of its positions so WBC employees would be eligible to receive 2004 market-pay adjustments. Five employees received raises based upon this analysis, and WBC employees' salaries now range from \$21,000 to \$142,000, with a median salary of \$46,600.

For now, WBC has suspended its merit

Since the end of 2003, WBC has limited its pay increases to comply with the compensation raise options allowed by the Governor. While following these options, WBC has awarded

pay increases and distributes the 3% cost-of-living increase when it is available to all state employees.

raises only to employees who have assumed additional job responsibilities or have been promoted. Thus WBC, like other agencies, is following the Governor's direction to suspend individual agency compensation policies and performance increases.

Many WBC employees have the titles of "director" or "manager."

Many WBC employees carry the title of "manager" or "director" but do not have the supervisory responsibilities that similar titles would require in the state system (see Appendix C for WBC current position titles). In the state system, "director" is limited to those who direct entire agencies, whereas in the WBC system, it corresponds to a division director. So, when A&I compared salaries, it compared WBC directors to state administrators. To be a "manager," a regular state employee must oversee a minimum of three people above the administrative specialist level. In the WBC, employees receive these titles when they have programmatic and not necessarily supervisory responsibility.

Comparators: the WBC Investment Ready Community division and the Office of State Lands and Investments Government Grant and Loan section.

Administration cost for a WBC program is higher than for a similar state agency program

A&I's analysis of equivalent WBC and state positions is one way to see how the two systems compare. To add to our understanding of how state appropriations for similar programs in WBC and in a regular state agency compare, we looked at the WBC Investment Ready Community (IRC) division and the Office of State Lands and Investments Government Grant and Loan (GGL) section. The GGL section administers \$95 million in grant and loan monies for local infrastructure projects, while the IRC division administers \$44.4 million (both totals are for the FY '05 – '06 biennium) for a similar purpose. We found that the GGL section has 1.5 fewer positions (at 58.5 percent of WBC salary costs for the IRC division), but administers more than twice the funding.

The benefit of WBC's quasi-governmental status is subtle, one of perception

Local stakeholders do not perceive that the WBC's quasi-governmental status has a measurable impact on the agency's service provision or delivery. Some noted a general business reluctance to deal with government bureaucrats, and think the

Affiliation with government enables WBC to invoke the cachet of the entire state in recruiting.

image of a corporate structure aids in business recruitment. Others have noted that a benefit of WBC is that it brings the cachet of the entire state to bear in recruiting desired businesses. In general the issue seems to be one of perception and image rather than one of substance or function in a limited area of WBC operations; however, as one stakeholder noted, “It’s a subtle but profound distinction.”

25% of WBC personnel are in support services.

Legislative exemptions lead to a high level of support services

Because of its quasi-governmental status, WBC has recreated some of the A&I functions from which statute exempts it. For example, WBC has its own human resources professional and payroll staff (although the State Auditor’s Office handles its payroll), comptroller and accounts payable specialist, and a number of administrative assistants. These support services unattached to programs required by statute amount to 25 percent of its personnel and \$2.3 million in biennial expenses, or almost 12 percent of the WBC non-grant and non-tourism biennial budget. Through negotiation with the Travel and Tourism Board, WBC is receiving approximately \$175,000 from that division in partial funding of these support services for the current biennium.

Status creates some discord with other state agencies over statistical reporting

One of the exemptions created for WBC was the statutory authority to collect and report economic performance data without the A&I Division of Economic Analysis oversight that covers other agencies (W.S. 9-2-1024 (a) (ii)). However, controversy over statistics in early WBC reports led to the addition of a legislative footnote in the WBC 2001-2002 biennial budget requiring a Memorandum of Understanding (MOU) between WBC, A&I’s Economic Analysis Division, and the Department of Employment’s Research and Planning Division for how specified economic data would be published.

The MOU between WBC and two state data agencies may no longer be in effect.

WBC staff provided a mixed response regarding the implementation and current status of this MOU, while officials at the other two agencies say the MOU is now expired. WBC continues to list the other agencies’ names on its quarterly and annual reports of the benchmark data, required by law. To create

these reports, WBC uses the published data of the other two agencies, in addition to purchasing data from other sources, and adds an executive summary component. Both WBC and state officials acknowledge that WBC is interested in data that it can use to promote economic development, and that the other two agencies use data for different purposes.

WBC strategically chooses when to apply its quasi-governmental status

WBC officials frankly acknowledge that both aspects of its status have advantages, and the determination of which to emphasize when is strategic. For example, WBC sees the access to BRC funding as a major advantage of its governmental status. This funding is made possible by the revenues the state receives from the current minerals industry boom. If WBC were independent from state government, it would not have access to that level of funding, reasoned a former board member.

Funding flexibility allows WBC to fund its priorities without the approval of the Legislature or Governor, if it determines to do so.

At the WBC operational level, the CEO recognizes the value of being a state agency when across-the-board or market-based pay raises are available, and yet still having the independence to set higher salaries and discuss mutually-agreed upon resignations with some employees. Funding flexibility gives WBC a way to fund projects that the Legislature and Governor may not agree are priorities, such as the 2005 Wadley-Donovan targeted industry and workforce/underemployment study. Finally, WBC officials and stakeholders agree there are instances in which it enhances WBC perception to be able to shed the bureaucratic trappings of a state agency. Yet, we also heard that it is of great benefit for WBC to provide access to high-level agency officials when it is assisting communities working with business people.

Conclusion: It is not possible to objectively determine whether WBC's quasi-governmental status is beneficial and necessary.

It was clear from previous reports that the fragmented structure that had been in place for the state's economic development effort

WBC has not developed “real world” accountability measures to gauge its impact.

did not work, so the Legislature created something different. A critical element of that plan was that the new economic development entity have a corporate structure, rather than be a regular state agency. At this point, we cannot comment about the effectiveness of WBC’s organizational structure because, as is developed more thoroughly in Chapter 4, WBC has not developed measures with which to gauge its performance, although they do claim to have an impact. For the Legislature to evaluate the success of quasi-governmental status, WBC needs to provide the “real world” accountability measures that were promised when the WBC was envisioned and created.

The WBC quasi-governmental structure may not inherently be necessary and beneficial to the state’s economic development efforts, nor is it necessarily optional and extravagant. Other than anecdotally, we cannot discern whether or not the quasi-governmental status has increased the state’s return on investment in its economic development investment, as the Steering Committee envisioned. What can be said with certainty is that in terms of salaries, the investment is higher. Further, as discussed in Chapter 2, WBC has developed its role as one of primarily working within the state to provide services and information to communities and residents, much like other state agencies.

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CHAPTER 3

WBC Has Not Issued a Comprehensive Economic Development Strategy

Chapter summary

In creating the Wyoming Economic Development Act, the Legislature included a requirement for the Wyoming Business Council to develop what it called a comprehensive economic development strategy for the state, starting the first year of each new gubernatorial administration. WBC has chosen instead to develop strategic plans, which statute requires of all state agencies. It has not developed a plan that it calls a “comprehensive economic development strategy.”

WBC is to report annually on its implementation of the comprehensive economic development strategy.

By choosing to emphasize strategic planning, WBC is, at least theoretically, bound to implement the goals and objectives for economic development established by the Governor. But the Governor has activated another agency, the State Planning Office, as his economic and social planning arm. Regardless of this apparent duplication in planning authority, WBC has made a policy decision to respond to economic development priorities as defined at the local level, rather than undertaking comprehensive planning at the state level. It has also adopted a community-development concept as its de-facto plan for statewide economic development. However, it has not gone the final step to commit to this plan as its comprehensive economic development strategy, and connect it to performance measures.

This strategy is a key statutory requirement of WBC.

Statutes envision a progression through which WBC creates a comprehensive economic development strategy, and reports annually on the status of its implementation of that strategy as well as on recommendations for legislative and executive actions needed to implement it. Finally, the Legislature has asserted that progress toward economic development through that strategy should be measured by the SF 35 benchmarks. Thus, the comprehensive economic development strategy is not a requirement for which the WBC strategic plan can be substituted, and WBC should develop it or ask to be relieved of the responsibility.

1997 Steering Committee articulated a comprehensive plan

The '97 plan offered specific strategies, such as recruiting manufacturing and technology-based firms, and directing state funds toward community development.

The 1997 report of the Steering Committee for Business Development noted that Wyoming “does not have a comprehensive development plan or unified state structure to effectively conduct a modern economic development program.” While the report might be best known for outlining a quasi-governmental structure for the new economic development organization, it also offered an initial comprehensive economic development plan for the state. Legislation establishing the committee had required it to recommend a business plan for long-term, sustainable economic growth.

The 1997 report plan offered “six strategic components that represent a comprehensive frame for Wyoming’s economic development strategy”: competitive people, businesses, and communities; infrastructure development; diversification and value-added products; and redefined state and private sector roles. It was equally broad in translating these components into strategies: building upon tourism as an area of strength, adding value to Wyoming’s natural resource base, establishing regionally-based manufacturing extension staff, aiding in the creation of new companies and the nurturing of small firms, providing small business assistance staff, and redirecting state and federal funding sources toward community development. The plan also specified some targets of economic opportunity for recruitment efforts, such as high-value, capital intensive manufacturing and processing, technology-based firms, and firms that manufactured and/or processed products from and for existing companies.

Enduring concepts have been diversification and keeping young people in the state.

Mission has always been broad and all-encompassing

According to statute, it is WBC’s duty “to encourage, stimulate and support the development and expansion of the economy of the state.” The adopted performance measures give direction as to how the Legislature would evaluate how well WBC was discharging this duty. In 2002, WBC formally adopted the mission “To facilitate the growth of Wyoming’s economy.” It is difficult to determine what had been the mission before the change, although the various statements of purpose in WBC

documents (not always formally called mission statements) have been broad and all-encompassing. While at one time there was an emphasis on developing the manufacturing sector, the most enduring concepts have been diversifying the economy and providing opportunities that would keep young people in the state.

First strategic plan offered some specificity

WBC has traditionally met its comprehensive planning requirement with a strategic plan, which statute (W.S. 28-1-115) requires all executive branch agencies to produce. In its April 1999 strategic plan, WBC listed four priorities encompassing essentially everything that might be envisioned under economic development:

1. Building manufacturing and technology as a Wyoming core competency.
2. Preserving and strengthening Wyoming's foundation industries of tourism, agriculture, and minerals and energy.
3. Retaining and attracting younger workers and managers to reverse the drain of this human resource from Wyoming.
4. Encouraging and providing leadership in developing: business and industry investment-ready communities; updated local community business and land planning; supportive infrastructure and transportation development; capital formation concepts; taxing and permitting policies; business and industry recruitment initiatives; business retention undertakings, and local volunteer and professional team building.

WBC considers strategic planning to meet its comprehensive planning responsibility.

WBC strategic planning has been general, and focused at the short-term task level

In the private sector, and increasingly in the public sector, the discipline of strategic planning is used to set goals, develop strategies to meet those goals, and measure the results, or outcomes. WBC, like other state agencies, follows statutes which require state agencies to submit four-year strategic plans to the Governor, following an opportunity for public review. In fact, WBC has traditionally developed a strategic plan each year and the Governor signs WBC strategic plans as WBC co-chair, indicating his support.

WBC strategic plans list tasks and activities, but do not link them to measurable outcomes.

While WBC presents its strategic plans as if they are equivalent to the comprehensive economic development strategies required by statute, some board members acknowledge that they are not. They see the strategic plans as addressing what statute itemizes as WBC responsibilities and as a set of tactics and actions in which WBC will engage for a year to keep people aware of and engaged in economic development at any level. Another board characterization was that WBC strategies have been more micro than the macro strategizing implied by the comprehensive planning requirement.

Our assessment of the WBC strategic plans is similar to that of some board members. Plans list tasks and activities, but do not link them to broader, measurable outcomes that would indicate what WBC efforts have accomplished in pursuit of an overall goal of diversifying the economy. Chapter 4 discusses this theme in more detail.

By definition, state agency strategic planning supports Governor's goals

By following the strategic plan statute, WBC has deferred its responsibility of developing a statewide economic development strategy to carrying out the Governor's plan for economic development. Agency strategic plans are to accomplish and further state goals and objectives defined by the Governor, in this case, in economic development.

The Governor has his own planning arm, the State Planning Office.

However, it does not appear the current Governor is using the WBC board as the policy body for the state in economic development, as was envisioned in the 1997 Steering Committee Report. Although the Governor has the prominent statutory role of appointing WBC members and serving as a non-voting co-chair, the Governor has not been publicly involved in WBC deliberations. He has attended one board meeting in his term, and according to one board member, intentionally tries not to influence WBC decisions.

Further, by choosing to activate the State Planning Coordinator statutes, the Governor has set up a parallel planning function to

the one statute assigns to WBC. By statute, if a Governor chooses to employ a state planning coordinator, he or she may, through that office, both coordinate the planning efforts of all state agencies and develop a state comprehensive plan for economic and social development.

WBC has the responsibility to work with all to develop its strategy

Whether or not the Governor has his own planning arm should not interfere with the WBC responsibility to develop a comprehensive economic development strategy. In fact, statute (W.S. 9-12-106 (a) (ii)) anticipates that WBC will work with many different entities, including other state agencies, the university and community colleges, and other persons it deems necessary to assist in the development of the comprehensive economic development strategy.

WBC does not believe it has the capacity for statewide economic development planning.

The board members with whom we talked did not believe WBC was staffed for a statewide comprehensive economic development planning responsibility, nor was it realistic to expect WBC to do this for the state. They see this responsibility as more properly resting with the Governor and the Legislature because of the political decisions involved. But it is precisely this body that the Legislature has called upon to conduct such studies and invite such collaboration as is necessary to create a comprehensive plan.

WBC has adopted a de facto comprehensive economic development strategy

Even though it has not overtly developed a comprehensive economic development strategy, WBC has adopted some policies and approaches that have de facto become that strategy. WBC board members and staff repeatedly articulated the policy that communities must take the lead in economic development and in identifying responsible outcomes. WBC takes the position that supporting local initiatives is more likely to create success than a top-down approach.

The de facto strategy is to assist communities to do local level planning.

As a means of assisting communities in determining their economic development planning, WBC has “partnered” with the Wyoming Rural Development Council to conduct community assessments throughout the state. WBC has incorporated these

WBC helps communities address needs and issues identified in non-prioritized, wide-ranging community assessments.

assessments as a critical element in its operations and in its annual reports; it takes credit for the large percentage of incorporated communities that have completed them (72 of the 98).

The documents resulting from a community assessment identify major themes of community needs and issues in no particular order. These themes, as well as the more specific challenges itemized within them, cover a broad range of needs in the communities' infrastructure, economic and community development, human services, recreation and cultural attributes, law enforcement, and other categories. The assessments range so widely that it is hard to envision projects that they could not justify.

Although rudimentary, these assessments form the basis of WBC assistance and efforts in developing communities. For example, through its regional directors, WBC offers technical assistance, and through the Business Ready Communities program, financial resources to help implement community projects identified in community assessments. However, it is not clear that WBC requires assessments to be converted into prioritized plans before it directs resources toward assisting the communities.

WBC aims to help communities develop “economic development building blocks”

WBC estimates it could be 4 – 6 years before most communities can recruit businesses.

The community assessments work well with the overall approach guiding WBC. This concept, which WBC indicates is based upon academic research, is called “Economic Development Building Blocks, A Holistic Approach” (see Figure 3.1 below). The premise is that the lower building blocks need to be in place before a community can recruit businesses.

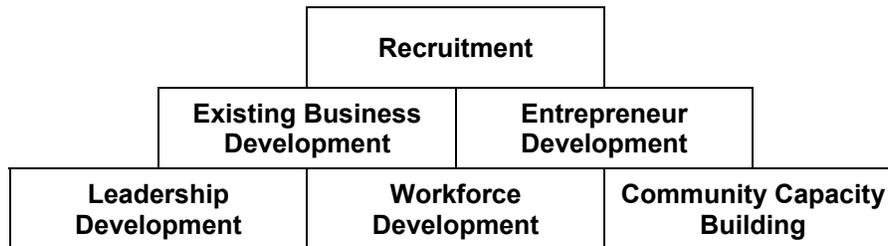
WBC says 54% of resources go to community development.

As the WBC CEO put it, “Until we establish the infrastructure, money can't be spent on recruitment,” and he indicates that it could be four to six years before most Wyoming communities are in a position to recruit businesses. The infrastructure to which he refers includes physical infrastructure as well as leadership and workforce development. WBC's much-publicized allocation of resources, 54 percent to community development, 44 percent to developing existing businesses, and 2 percent for recruiting

businesses from out of state, also illustrates its commitment to this approach.

Figure 3.1

Economic Development Building Blocks



Source: Wyoming Business Council

WBC does not have basic business planning accountability

A plan that specifies goals is crucial for the “business” of WBC to direct the increasing amount of resources the state is providing in support of economic development. A WBC board member frankly assessed the effect of WBC not having specific directions toward which efforts are to be organized as “an un-aimed arrow never misses.” The context for this comment was the concern that without such a vision, resources cannot be allocated to reach it, and “the planning process becomes the budgeting cycle.”

A basic business model premise is to have a business plan and a way to monitor progress towards goals.

Ironically, a basic premise of the business model, upon which the WBC was established, is the need for a business plan and a way to monitor progress towards goals. To paraphrase a WBC article, the peril of starting a business without a business plan is that it is hazardous to take off with a pocket full of money, debt or equity, without a clear idea of where you want to go or how to get there. The chances of becoming successful, and especially becoming successful in an efficient and economical manner, are increased tremendously by using a plan. Business plans are necessary as a measure, a way to check progress and re-evaluate chosen directions.

WBC is unable to apply this basic business principle to its own business. Including the BRC program, the Legislature has increased by 203 percent the amount of money appropriated to the

WBC since it was created. The state's money could perhaps be spent more effectively if it operated according to a specified, comprehensive, statewide economic development strategy.

Recommendation: WBC should identify its comprehensive economic development strategy and organize its efforts and performance measures within that overall plan.

Both the Steering Committee report and the statutes establishing WBC envisioned that it would provide assistance to local and regional economic development entities. The Steering Committee saw regional service provision as key to the new approach. In fact, WBC is now focused upon this vision, as evidenced by its adoption of the "economic development building blocks" concept. It acts as a coordinating, facilitating and service agency to meet the needs of individuals and communities.

WBC essentially has a plan, but needs to formally commit to it and develop accountability measures to gauge progress.

However, WBC has not acknowledged this approach as its "comprehensive economic development strategy," although it has clearly determined that assisting communities to reach their goals is the best course. The stakeholders from communities throughout the state with whom we spoke generally voiced approval and appreciation of the approach WBC has chosen to take. WBC needs to formally develop this concept as its overall strategy, and link it to the performance measures established by the Legislature, and to others that it might establish to more thoroughly measure its performance. If WBC believes that creating a comprehensive economic strategy is not a realistic expectation, then it should initiate a discussion with the Legislature to eliminate the responsibility.

CHAPTER 4

Statutory Benchmarks Are Not Meaningful Performance Measures

Chapter summary

WBC says SF 35 benchmarks do not reflect WBC activities.

When creating WBC, the Legislature built in an accountability component by requiring annual reports on some 27 different benchmarks. For the most part, the benchmarks are aggregate measures of the state's economy, on which there are many influences beyond the WBC. Believing that many of the benchmarks measure outcomes that lie outside of one governmental agency's control, and also recognizing that they fail to capture what the Council presently does, WBC reports the information without linking it to program goals or attempting to place it within the relevant context of WBC activities. Statute allows WBC to develop additional measures that are different, but it has not done this.

WBC reports also measure activities on a task-level basis: either a given task was done or it was not. However, this is not the level of accountability that the Legislature required or that its multi-million dollar budget calls for. WBC was created in the corporate model precisely because it was believed that this structure would produce real-world accountability and demonstrable results. Measuring at the task level does not fulfill that demand, and WBC needs to develop performance measures that more fully reflect its utility and productivity.

If SF 35 benchmarks do not reflect its performance, WBC needs to develop measures that do.

Given that comprehensive statewide economic development planning is not deliberately occurring within WBC, and given that the agency does not generally link its activities and performance to the SF 35 benchmarks, it is incumbent upon the organization to develop some other measures of its performance. WBC needs to develop measures that reflect its service and support orientation, quantify the impacts of its activities, and link those activities to agency and state goals.

The Legislature created WBC with expectations of accountability

A corporate approach was to lead to measurable impacts.

Creation of the Business Council occurred amidst a number of expectations and promises, one of which was to deliver “real-world accountability.” WBC was to show measurable impacts on Wyoming’s economy that would generate from the corporate philosophy, administrative style, and structure of the organization. It was to achieve broad objectives such as diversifying the economy through the development of manufacturing and technology industries, and providing well-paying jobs to retain the youth of Wyoming in the state.

The Legislature established WBC benchmarks

Accountability was to be demonstrated through measurement of outcomes defined in a 1998 Session Law, original Senate File 35; the measures have come to be known as “SF 35 benchmarks” (see Appendix E). WBC is to report the benchmarks in its annual report, as well as other information specified in W.S. 9-12-112.

SF 35 benchmarks imply policy directions for the agency to pursue.

Those we interviewed, including both WBC and state economic development experts, agreed that most of the benchmarks are macro-level measures of the state’s economy or outcomes that are affected by many factors beyond WBC activities. However, the Legislature’s point in establishing them was to determine if the state could impact its economy through its economic development efforts. The benchmarks also seem to indicate policy directions that the Legislature considered important for WBC to pursue, such as the wage rate disparity between men and women and the number of primary jobs created and lost. That the Legislature included a measure of the percentage of new or lost employment in 11 sectors of the state’s economy indicates its interest in diversification.

Certain benchmarks more specifically apply to WBC, such as those that specify outputs rather than outcomes, and those indicating WBC’s level of activity in economic development efforts. Some examples are the number of jobs created, lost, or retained and capital investment from recruited or retained companies.

WBC activities are not necessarily linked with benchmarks

This benchmark information is valuable for understanding overall economic trends, but given the agency's diffuse service and support orientation, the link between WBC programs and changes in these metrics has not been made clear in WBC reports. Board members and staff state that the benchmarks do not reflect the agency's role or activities. The reasons they cite are two-fold: (1) There are other factors at play in the economy, and (2) WBC assists the businesses and communities that actually create the jobs and build the economy. While WBC has statutory authority to report "other measures or adjustments the council deems appropriate," it has not brought forward a set of alternative and more appropriate performance measures.

Task accomplishment has been the primary measure of success

WBC strategic planning focuses on activities not outcomes.

WBC reports the benchmark measures in its annual report. For macro-level metrics, it uses data assembled by the Department of Administration and Information and the Department of Employment. This leaves WBC responsible for only those measures that relate to its activities, such as the number of companies in its business retention programs. However, as discussed in the previous chapter, WBC focuses upon its strategic plan as the primary statement of its planning and performance. For this, WBC lists activities its staff plans to do, and when the activities are completed, the overriding objective is assumed to have been met. WBC rarely proposes measurements of the activities' impacts or outcomes.

A sampling from each division's strategies, goals, and action items in the FY 2005 action plan illustrates (see Figure 4.1) the lack of quantifiable outcome measures. For the most part, task accomplishment (or input) appears to be WBC's primary measure of success.

Figure 4.1

WBC Performance Measures

WBC Division	Growth Strategy	Goal	Action Item	Implied Measure ¹
Agribusiness	Encourage and promote new and existing agricultural opportunities	Expand domestic and international marketing opportunities	Encourage development and promotion of e-commerce ag products	Activity Description Input
Business and Industry	Help businesses increase jobs through programs	Create a climate that supports entrepreneurship	Promote the UW business incubator statewide	Activity Description Input
Investment Ready Communities	Provide demographic data, planning tools for grant applications	Expand data, model planning tools, and information for the website	Conduct five national recruitment trips	Input

Source: LSO analysis of WBC FY 2005 Action Plan

¹ LSO evaluation

Economic development difficult to quantify, but performance measures are available

Credible sources, such as GASB, stress importance of monitoring and measuring activity.

One of the themes consistently repeated in the course of our research is that economic development “is extremely difficult to pin down, difficult to quantify, difficult to measure. It is a long-term process.” Wyoming’s state-level economic development effort also has been likened to a 20-year bet with an outcome that is by no means ensured. Such statements collectively imply that WBC wants to deflect attention away from accounting for current and past activity.

However, the Wyoming Legislature has made it clear that it expects accountability from the state’s economic development agency. Based on our review of several credible sources, we believe it is possible to measure the variety of activities that WBC undertakes, from service provision to product development and program implementation.

Wyoming’s 1997 Steering Committee report acknowledged the importance of performance measurement by referencing a 1990

Governmental Accounting Standards Board (GASB) report. That report stressed the importance of including Service Efforts and Accomplishments in monitoring and measurement activity. W.S. 28-1-115 (a) (II) (A) requires compliance with GASB standards as a part of every agency's strategic reporting.

Use of performance measures provides a basis for good decision-making, efficient use of resources, and accountability to lawmakers.

GASB maintains that it is necessary for states to have some mechanism that permits the assessment of economic development programs. In 2002, the Oregon legislature commissioned the National Association of State Development Agencies to review the cost-effectiveness of that state's economic development programs. The resulting report confirms the need for monitoring performance of economic development programs to gauge whether state economic development agencies are providing good information relative to the effective allocation of resources. The benefit of such information, according to the report, is to allow optimum management of the agency, and accountability to the legislature and taxpayers.

A landmark 1990 Urban Institute study for the states of Minnesota and Maryland developed a model system of accountability measures for economic development activity, based on a series of inputs, outputs, and outcomes and efficiencies. A 2004 Joint Legislative Audit and Review Committee (JLARC) report for Washington State's Department of Community, Trade and Economic Development cited the same GASB measures as the "best practices" standard for measuring performance in economic development programs.

Reports should stress outcomes, not inputs

Measures should focus on the contribution WBC services have to clients' outcomes.

In developing performance measures, literature stresses placing less emphasis on indicators of outputs, i.e., measures of program activities. According to GASB, elected officials are interested in a small number of activity measures, but these outputs have limited value in determining the effects of the programs. Instead, external reports should focus greatest attention on the clients assisted by the programs, and the contribution their services make to the outcomes these entities experience. Figure 4.2 below provides examples from the GASB, Urban Institute, and JLARC reports illustrating the concepts involved in measuring a wide array of economic development activities.

Figure 4.2

Different Activities Require Different Performance Measures

	Development Activity	Performance Indicator	Measurement Type
1990 GASB			
	financial assistance	number of staff hours expended	input
	business attraction	number of firms receiving assistance	output
	export programs	number of leads generated at each event	intermediate outcome
1990 Urban Institute			
	community development	number of firms rating services as good	service quality
	business marketing	number of responses to advertising/direct mail	intermediate outcome
	non-financial assistance	number of clients reporting assistance helped outcome	long-term outcome
2002 National Association of State Development Agencies – Oregon			
	business marketing	increased sales for assisted firms	outcome
	community development	proportion of projects addressing top local priority issues	outcome
	infrastructure development	investment in infrastructure leveraged from other sources	outcome
	infrastructure development	percentage of communities with marketable sites	outcome
2004 JLARC - Washington			
	education and training	number of participants in workshops	output
	business finance	percentage of jobs created above average wage	outcome
	business finance	amount lent per job created	efficiency*

*-efficiency measures the relation between inputs and outputs/outcomes

Source Note: LSO analysis/compilation of Service Efforts and Accomplishments Reporting: Its Time Has Come, 1990 GASB; Monitoring the Outcomes of Economic Development Programs, 1990 Urban Institute; An Assessment of the Cost Effectiveness of Oregon's Economic Development Programs, 2002 NASDA; Performance Measure Review, 2004 JLARC

Client surveys can be useful to measure customer service outcomes.

Performance data can come from a variety of sources

Client surveys can supply some of the outcome measures related to the usefulness and quality of WBC services. The Urban Institute stresses that such surveys should be periodic and provide detailed primary data about program use and impact. However, such surveys rely upon subjective and self-reported data. To augment this data, economic development organizations should maintain program records on their clients to gather such

information as firm size, industry category, and services provided so that analyses of aggregate data can be made to assess performance.

Employment data provide objective measurement of concrete outcomes such as jobs created.

Obtaining objective measurement of such concrete outcome measures as jobs created and the percentage of jobs created above average or minimum wage levels, requires access to confidential state unemployment insurance data. The Department of Employment's Research and Planning section manages this data for Wyoming, and statute allows WBC to obtain such data as long as it abides by confidentiality requirements (W.S. 27-3-607(c)(vii)). However, as discussed in Chapter 2, WBC and this section currently do not have a working relationship to share this data. Another possibility is for WBC to establish reporting requirements for similar data in BRC contracts.

WBC perfunctorily reports the SF 35 benchmarks and purposely deflects credit

WBC's service and support orientation, along with its tradition of measuring inputs rather than outcomes, makes it difficult to determine the actual effects of its operations. WBC has for the most part dutifully reported the SF 35 benchmarks, but its reports do not connect outcomes of its activities to that data, and it has not gone on to develop additional measures as permitted in statute. Further, the Legislature specifically seeks input from WBC for actions it might take related to the implementation of the comprehensive economic development strategy, and WBC has not formally proposed other, more appropriate measures.

WBC downplays its role in local economic development.

In addition, officials often attempt to minimize WBC's role in local development efforts. WBC board members and staff strongly support local control of economic development efforts. In turn, representatives of local economic development organizations praise WBC highly for providing technical and financial advice on potential projects, and view it as an important resource upon which they can draw. Yet stakeholders are aware that difficulties arise from this self-effacing approach. One said, "WBC tries to take a low-key approach but is doing a tremendous amount of behind-the-scenes work. It hurts their image and probably affects their funding. They need to figure out how to

take credit somehow.”

Recommendation: WBC should create and use appropriate measures to gauge the impact and success of its programs, activities, and services.

The National Association of State Development Agencies (NASDA) acknowledges that a heavy emphasis on pass-through funding and regional development makes it difficult to reliably measure state level economic development effectiveness. However, the difficulty of the task does not absolve an agency from the responsibility to provide policy makers with the information they need to effectively allocate resources.

Performance measures will differ depending on the type of activity undertaken.

Determining the success or impact of a wide array of WBC activities cannot be accomplished by measuring them all with the same yardstick. For example, it would be inaccurate to claim that promoting Wyoming as a business relocation destination at a trade show was directly responsible for creating six new jobs, yet in the case of awarding a BRC business-committed grant to ensure that a manufacturing company relocates to Wyoming, such a job-creation claim may be entirely appropriate.

If the legislatively-established benchmarks do not provide an adequate vehicle for illustrating WBC impacts, the agency has the statutory authority, and an obligation, to develop and report such additional measures as it deems appropriate. Developing such measures need not necessarily be cost-prohibitive, nor would the measures have to be extensive, but they must be relevant to the function, the activity, and the objective. WBC needs to redirect some of its staff effort toward developing relevant measures for both internal use and external reporting requirements.

CHAPTER 5

Although a New Program, Administration of BRC Can Be Improved

BRC program is just over two years old.

Chapter summary

Due to its high profile and large appropriation, the Business Ready Communities (BRC) program requires special consideration in this evaluation. Despite its short existence (BRC was created only two years ago, in 2003), the program has lofty goals and has generated considerable attention and support. It aims to “promote economic development at the city, town and county level in order to create additional economic health and a stronger state economy.” With \$45 million appropriated to cover three fiscal years (FY '04 – '06), BRC accounts for the greatest portion of the monies for which WBC has responsibility.

Since only two of BRC’s funded projects have been completed as of this writing, it is difficult to gauge even the short-term impact of the loan and grants awarded thus far. WBC board members and staff say it is unreasonable to expect defined results sooner than two to four years after a project is finished.

WBC can make adjustments to ensure success of the program.

Nevertheless, WBC needs to develop reasonable standards for prioritizing applications and for allocating BRC funds so they are available over a biennium. To prioritize, the WBC may need to go beyond the current ambiguous project review criteria, which make it unclear how the WBC objectively gauges each proposal’s promised economic impact. Also, current project monitoring is primarily a financial accounting of funds. WBC monitoring plans are evolving, but still lack direction for post-construction follow-up to see if promises made in applications actually materialize. We believe WBC can make procedural adjustments in these areas to ensure the success and continued support of the program.

Business Ready Communities is a primary focus for WBC

Through the Community Infrastructure Program (W.S. 9-12-601 through 603), WBC can award BRC funds as grants and loans to

Legislature has appropriated \$45 million to cover three fiscal years.

local communities (city/town and county governments and joint powers boards) to build infrastructure that enhances local ability to develop the economy. Following staff review and recommendation, the WBC board of directors recommends projects to the State Land and Investment Board (SLIB) for final approval; after this, projects can draw down BRC funds. The Legislature has approved three appropriations for BRC: \$8.4 million in 2003, \$25 million in 2004, and \$11.6 million in 2005.

BRC is the “product” for WBC to sell.

BRC appears to dominate the other aspects of WBC operations. Perhaps because it comprises the greatest portion of WBC’s budget, many local economic developers as well as current and former WBC board members perceive that it *is* the WBC. Staff have referred to it as “the product” for WBC to sell, one that is greatly contributing to economic development in the state. If BRC were cancelled or removed from WBC, some say this would greatly hinder the impact the WBC could have.

Three categories of BRC projects

BRC is structured to fund three levels of development in communities: Business Committed, Community Readiness, and Community Enhancement projects. BRC rules allow consideration of Business Committed projects at any board meeting throughout the year. Community Readiness and Community Enhancement projects are considered twice each year, in the spring and fall.

Figure 5.1

**BRC Project Categories: Projects/Funds Awarded and Under Review
April 2004 through May 2005**

Project Type	Number of Projects	BRC Funding	Percent of Projects	Percent of Total BRC Funds	Average BRC Cost per Project
Business Committed	12	\$13,700,858	27.27%	31.08%	\$1,141,738
Community Readiness	26	\$29,134,828	59.09%	66.09%	\$1,120,570
Community Enhancements	6	\$1,250,339	13.64%	2.84%	\$208,390
Total	44	\$44,086,025	100.00%	100.00%	\$1,001,955

Source: LSO analysis of WBC data.

Business Committed and Community Readiness projects require a

five percent community match for projects costing up to \$250,000, and a ten percent match for projects between \$250,000 and \$1,500,000. Community Enhancement grants require a fifty percent community match for grants up to \$500,000. Figure 5.1 provides detail on BRC funds awarded.

Wyoming lacks direct incentives to offer businesses for expansion or relocation.

BRC provides economic incentives

Although Wyoming is considered a business-friendly state in that, for example, it has no corporate income tax, it has had few other direct incentives to offer businesses considering expansion or relocation in the state. BRC is intended to help local communities by providing funding for two purposes: first, to help communities build needed infrastructure, and second, for direct and indirect economic incentives.

BRC allows transfers of infrastructure to private business.

Factors influencing the evaluation of an economic incentive program differ from traditional grant and loan programs to local governments, such as the Mineral Royalty Grant (MRG) program administered by the Office of State Lands and Investments. For example, the MRG program does not anticipate the transfer of publicly-owned infrastructure to private business, something the BRC allows for.

State agency must take an active role in building accountability

According to NCSL, evaluating incentive programs is troublesome.

A report by the National Conference of State Legislatures (NCSL) on devising and evaluating economic incentive programs states that evaluating how well state economic development incentives work, assessing whether the benefits justify the costs, and holding beneficiaries of the incentives to their commitments, are troublesome issues in all states. Further, evaluations of incentive programs that measure success and use of resources are not common. This means a state development agency must take an active role in upholding the intent of a program in order to build in accountability, collect the needed information, and enforce agreements.

The Community Development Block Grant program served as the model for BRC

CDBG funding decisions do not go before SLIB for approval.

Since its formation, WBC has administered the federally funded Community Development Block Grant (CDBG) program. This program is similar to BRC in that it too provides economic incentives to local communities by offering grants and loans to assist in economic development. To some extent, WBC patterned its BRC start-up and rules after the CDBG program, although CDBG funding decisions differ in not going before the SLIB for final approval.

CDBG sets specific objectives that communities must meet to receive funds

The primary goal of the CDBG program with respect to economic development is to “provide for the creation and retention of permanent primary jobs that are above the average wage and aid in the diversification of the Wyoming economy.” This goal is similar to, though more specific than, the goal of BRC: “...to improve economic health and [promote] a stronger state economy.”

The CDBG program offers reasonable and precise standards that guide the WBC in fulfilling program goals; one example of a well-defined CDBG objective is that activities must benefit low to moderate income populations. The program also requires that applicants define such aspects as the type and amount of jobs to be created, that the applicant is unable to finance the development activity on its own, and that other funding sources are not available. Additional criteria, such as private sector investment and historic value, can also influence funding decisions.

The success of economic incentive programs requires planning, disclosure, measurement, and monitoring

Article XVI, Section 6 of the Wyoming Constitution (see excerpt at left) complicates decisions about when incentives such as BRC grant funds may benefit private business. WBC requested guidance from the Attorney General, who stated that the provision is intended to prevent government from “subsidizing special interests.” Evidencing a similar concern, CDBG guidelines stipulate the need to ensure that its program does not unreasonably raise the equity of a private business.

NCSL recommends making incentives contingent upon measurable performance.

To help cope with these and other issues such as fairness, NCSL recommends improving disclosure of economic incentive terms and packages, and coordinating (planning) incentive programs. In addition, it recommends making incentives contingent upon measurable performance by the recipient. However, performance outcomes can only be validated by consistent monitoring that continues past facility construction.

Figure 5.2

**BRC Awards by Region: Projects/Funds Awarded and Under Review
April 2004 through May 2005**

Region	Projects	Committed BRC Funds	Percent of Total Projects	Percent of Total BRC Funds	Average BRC Cost per project
1) Fremont, Sublette, Teton	6	\$6,472,324	13.64%	15%	\$1,078,721
2) Park, Bighorn, Hot Springs, Washakie	6	\$5,320,941	13.64%	12%	\$886,824
3) Natrona, Converse, Platte, Niobrara	5	\$3,934,602	11.36%	9%	\$786,920
4) Laramie, Carbon, Albany, Goshen	10	\$7,993,516	22.73%	18%	\$799,352
5) Sweetwater, Lincoln, Uinta	8	\$12,422,865	18.18%	28%	\$1,552,858 ¹
6) Campbell, Sheridan, Johnson, Crook, Weston	9	\$7,941,777	20.45%	18%	\$882,420
Total	44	\$44,086,025	100.00%	100%	\$1,001,955

Source: LSO analysis of WBC data.

¹ The average BRC cost per project in Region 5 is above the single grant maximum due to several multi-phased projects.

WBC has quickly committed BRC funds without sufficient project prioritization

The first BRC projects were approved in April 2004 and after a little more than one year, WBC has committed over \$32.9 million for 34 projects and is reviewing another 10 projects with requests for \$12.2 million. Although appropriations were intended to cover the program through FY '06, it is likely the WBC will commit all BRC appropriated funds by the fall of 2005. Figure 5.2 shows the distribution of BRC funds to the six WBC regions.

WBC does not allocate funds to cover all proposed funding cycles.

WBC has not adopted rules or procedures to limit the amount of funding awarded each quarter, or to give priority to certain types of projects throughout the entire biennium. Since WBC says Business Committed projects are the highest priority, it is counter-productive not to have funding available for these projects later in the biennium. In essence, the program has been administered as a first come, first served funding source, where any project that meets application standards will be recommended.

Some development may be stalled for lack of BRC funding in FY '06.

Because of these circumstances and as a result of the rapid commitment of BRC funds, WBC cannot ensure that those applicants who submit proposals during the remainder of FY '06 will have the same ability to pursue development projects as previous applicants. Also, this may potentially stall development in communities trying to obtain BRC funds, especially in those that have yet to receive funds.

WBC maintains statute does not require prioritization of projects.

For example, since WBC has not set aside a portion of the funds to cover later time periods (as the SLIB does with Mineral Royalty Grants), all program funds will have been spoken for and WBC will not be able to fund projects under the Business Committed category of BRC for the remainder of FY '06. Although officials have stated their intent to prioritize BRC projects during the current funding cycle, WBC has not issued policies or guidelines showing how it will occur across project categories. According to staff, thus far they have had the luxury of substantial funding for the program and statute does not require the agency to prioritize projects.

WBC says loans are “superfluous” to the program.

Almost all BRC funds have been awarded as grants

Although the BRC program was set up to be both a grant and loan program, at present the WBC considers loans to be “superfluous” to the program. By statute, BRC allows for loans to be at no or low interest and WBC has discretion in the terms to be applied. Of the awards already made or under review, 99.8 percent of funding is in the form of grants; only one loan for \$100,000 has been approved.

Statute and WBC policy do not encourage all or partial loan funding for projects.

Several conditions in statute, along with WBC policy, are the likely reasons for this disparity in amounts. First, statute requires loans to be reviewed by the Attorney General to certify the legality of transactions. Second, loans must be “adequately collateralized” by the government entity applying for the loan, and a community may need to hold an election to approve borrowing. Third, by WBC policy, BRC is administered so communities, not the state, decide how to fund projects; thus, WBC has no reason to recommend applications as all or partial loans rather than grants.

The SLIB raised questions about the low use of loans and lack of BRC recapture provisions

According to BRC rules, loans may be used when the funded infrastructure is a revenue-generating facility. Several projects currently awarded grants fall into this revenue-generating category, but the WBC has yet to suggest loans as part of any award. At a recent meeting the SLIB raised the issue of whether the BRC has, or should have, provisions for recapturing funds. The purpose of recapture would be so WBC can extend the use of its appropriation. With the exception of the one loan, WBC is not recapturing funds at the state level, in the BRC program, for re-distribution toward future projects.

Attorney General has suggested three basic criteria exist for initially evaluating the legality of BRC transactions:

- A. A public purpose must exist.
- B. Adequate consideration must be exchanged.
- C. Statutory authority must exist.

Similarly, WBC has received guidance from the Attorney General's Office that when funding projects which benefit private business, the state must receive "adequate consideration" so as not to violate Article XVI, Section 6 of the Wyoming Constitution. However, "adequate consideration" does not mean that loans are the only way to meet this requirement, and it is case-specific as to whether this condition has been met. The Attorney General also noted the Wyoming Supreme Court has yet to rule on the public purpose of economic development, what types of consideration may be used regarding BRC projects, or future infrastructure transfer deals with businesses.

WBC uses nominal review criteria when evaluating applications

According to BRC rules, only Business Committed projects must demonstrate that actual primary jobs will be created or retained as the result of a BRC award. In order to gauge these projects' impacts on the community, the WBC runs an economic impact computer model to define projections for such aspects as jobs created, business revenue, and taxes. However, Business Committed projects comprise only about one-fourth of all projects and less than one-third of BRC funds awarded. The other project categories, Community Readiness and Community Enhancement, are not required to meet defined job targets and their link to economic development is not certain.

WBC project evaluation and criteria remain unclear and subjective.

Application materials for the BRC program seem logical to determining the economic development potential of projects and are similar to those required for CDBG. Yet aside from identifying "emerging themes" of the program (summarizing who has applied), it is unclear what WBC "due diligence" entails when evaluating projects as to their proposed impacts on economic development. The CDBG process scores specific factors and, for example, allows a downtown development project to be rated higher to the extent it has twenty-five percent or more matching financial support. Also, CDBG guidelines gauge the ratio of jobs created to the amount of money awarded: if a project costs more than \$50,000 per job created, the project is considered as not providing sufficient public

benefit.

Substantiating project prioritization may be difficult without clear criteria.

Although WBC used the CDBG program as a template for the BRC program, it is unclear why some evaluative aspects of the CDBG program were not adopted. BRC review criteria need not duplicate CDBG, but we note that several concerns about measurement and evaluation of BRC applications were raised during the rule-making process. WBC responded by stating it would make no changes to the rules and would handle these concerns administratively. If WBC develops standards for prioritizing projects without also issuing clear criteria for reviewing those projects, it may have difficulty justifying decisions to approve or deny once funding shortfalls occur, as is anticipated to occur later in FY '06.

WBC selectively applies some project standards

WBC has recently suggested that one Business Committed project incorporate the state Family Economic Self-Sufficiency Standard, but it has not made similar requirements of other Business Committed or Community Readiness projects. According to NCSL, business specific incentives can invite charges of favoritism from the public and other firms that do not receive the incentives or comparable terms. By not applying consistent and clear standards to all projects, or at least within each project category, WBC risks not funding projects that better meet the program's objectives. It also risks funding projects for which other avenues of funding may be available or more appropriate.

Confusion exists as to what makes WBC recommendations on BRC projects "business decisions."

WBC states that its BRC funding recommendations are "business decisions," although this term has not been defined. We found a lack of agreement among the board members as to whether these are true business decisions. One member said that if BRC recommendations were truly business decisions, the banks would be funding these projects. WBC staff indicate the WBC should only come in with assistance for businesses when private financing is not available.

Must WBC approve all projects?

Statute maintains WBC need only

Several WBC board members mentioned a concern that nothing in the BRC statute or rules allows them to deny funding to applicants. WBC belief has been that as long as project proposals meet the application standards, it is obliged to recommend those projects to

**“consider”
completed
applications.**

SLIB. However, BRC statute only indicates “[a]ll complete applications...shall be *considered* by the council (emphasis added).” In addition, we believe WBC staff could apply more rigor to the application review process; for example, by making use of some CDBG program standards, staff can help the board better ascertain the effectiveness and financial efficiency of proposed BRC projects.

Monitoring for BRC is developing

Since the program is so new, few projects have been completed and little monitoring has occurred. BRC rules only require recipients to submit quarterly progress reports and a final comprehensive report, upon completion of project construction. However, we found considerable variation in how and to what depth recipients fill out these reports. Also, WBC still lacks a timeframe and process for further follow-up beyond construction, especially for Community Readiness and Enhancement projects.

**BRC monitoring is
response-driven, not
proactive and
consistent.**

Several WBC staff and board members said there is an intention to monitor projects beyond the construction phase, but they indicated concern that this would take substantial staff time and other resources. So far, monitoring consists of identifying additional services a community may need to market their new facilities, and relating “success stories” to would-be applicants. Although anecdotal references may be helpful in illustrating aspects of the program's effectiveness, this response-driven approach to monitoring falls short of linking application promises to actual results. If WBC does at some point develop a more defined monitoring approach, projects funded later may face greater scrutiny and reporting requirements than the projects already funded.

The BRC program stipulates (through rules that require actual and potential primary job formation) and application materials imply (by requesting projections and promises) that further follow-up is needed, beyond facility construction, to see if economic development on the scale promised has materialized. Verification of such projections can help strengthen those anecdotal “success stories.” Also, in light of concerns raised by the Attorney General, more follow-up may be required in the future to judge whether “adequate consideration” was exchanged upon approval of a

Business Committed project.

Other states use provisions to assure promised results.

Without a fully-developed monitoring plan, WBC has no recourse if funded proposals do not meet projections. Other states use provisions such as rescission (cancellation of agreement for non-performance) and clawback (recovery of all or part of funds when performance does not meet promises) to further guarantee delivery of promised results. WBC has another example to follow in the CDBG program, which offers a convertible loan option (“recalibration,” according to NCSL). This process allows a loan to be forgiven (converted to a grant) if expectations such as job growth over specified periods of time are met.

Recommendation: The WBC should develop BRC project review, prioritization, and monitoring procedures that ensure fairness and transparency for applicants.

Current program implementation requires ample, indeterminate appropriations.

The BRC program is too new to assess its true impact, either short- or long-term. WBC says that its current approach is “defining the demand for the program,” yet this approach gives no assurance for the remainder of FY ’06, or for any future year, that adequate funding will be available to meet that demand. Unless the Legislature approves ample funding to cover all project proposals at every point, WBC will not be able to give fair and equal consideration to equally high-value projects within a funding cycle. Moreover, for lack of program funding, projects with high anticipated returns on investment (in terms of job creation, capital investment, etc.) may be delayed or not come to fruition.

WBC needs to be more deliberate in

Statute charges WBC with administering its funds with “prudence, discretion, and [judgment].” We believe WBC needs to more fully develop BRC procedures for reviewing and prioritizing projects and monitoring results. It also needs to ensure that these procedures are

***funding, evaluating,
and monitoring
projects.***

as fair and transparent as possible, and consistently applied to all applications and funded projects. Since BRC is considered to be pivotal in meeting statewide economic development goals, it will be to WBC's benefit to be more deliberate in its allocation of funds, evaluation of projects, and monitoring of results.

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CHAPTER 6

Conclusion

WBC is involved in an array of activities.

With the very broad purposes outlined in its enabling statute, WBC engages in a wide variety of activities: the staff administers grant and loan programs for local community governments and private business, provides technical business advice to employers, serves as the state’s marketing arm, trains and educates individuals in entrepreneurial practices, contracts for services from private companies and partners with the University of Wyoming, develops prospective business leads for local economic development organizations, and attends, sponsors and funds conventions, trade events, seminars and workshops.

Its response-driven philosophy leads it to be many things to many people.

In the process of establishing this wide-ranging presence, WBC has confronted various internal and external pressures. By reacting to these pressures and covering a “punch-list” of activities that primarily meet short-term agency goals, WBC has become an agency that attempts to be many things to many people. This response-driven operational philosophy is at odds with original expectations: that WBC be a dynamic, independent, and aggressive policy-making agency that would help shape and improve Wyoming’s economy. Its current low profile allows WBC to implement the more service and support oriented functions of statute, and also supplies ample reason not to pursue fulfilling other areas of its authority.

The benefits of quasi-governmental status are not readily apparent.

WBC was established to be administratively independent, but its quasi-governmental status cannot be said to have had a demonstrable impact on the state's investment in economic development. The importance of its status may have more to do with perception than with measurable results. That issue aside, WBC does operate much like an agency of the state, and it uses General Fund appropriations. To substantiate the need for continuation of its special status, WBC needs to show how being quasi-governmental enables it to deliver the “real world accountability” envisioned by the 1997 Steering Committee.

WBC should articulate its comprehensive economic development strategy.

In addition, WBC has not put forward (as statute directs it to) a comprehensive economic development strategy for the state, and instead has substituted strategic plans that focus at the task level. While WBC claims that it lacks the authority and resources to develop a comprehensive strategy, it nonetheless appears to have the fundamentals of such a plan in place. WBC needs to acknowledge its “economic development building blocks” approach as its comprehensive economic development strategy. Further, it should link its efforts to the SF 35 benchmarks and other measures so policymakers can determine whether or not this strategy is effective.

In establishing the WBC, the Legislature made clear an intention for the organization to report on its effectiveness. Since many of the statutory benchmarks are only loosely related to WBC’s performance, WBC needs to develop additional measures that demonstrate its impact. Also, the \$45 million in General Funds appropriated for BRC is nearly all committed, long before the end of FY ’06. WBC has quickly moved this money out to communities, but has not developed clear project review criteria, standards for prioritizing projects, or a monitoring process that tracks the outcomes of these projects long-term.

WBC needs to know if its course of action is having sufficient impact.

WBC remains popular and has the support of many stakeholders working on economic development. Moreover, since the inception of the BRC program, WBC appears to have more relevancy and to be making a discernable impact. But there is a disconnect between early expectations and current practice as to how, and for what results, WBC should be held accountable. Slated to sunset in 2008, WBC needs to know quickly if the service-oriented and money-dispensing niche it has selected for itself is having sufficient impact to satisfy expectations for the future.

AGENCY RESPONSE

Wyoming Business Council

July 7, 2005

Honorable Randall Luthi
Wyoming House of Representatives
Chairman, Management Audit Committee
Capitol Building
Cheyenne, Wyoming 82002

Dear Representative Luthi:

Thank you and the members of the Management Audit Committee for your counsel and guidance at the June 20, 2005 meeting in Thayne. I have asked the Business Council and staff to help with comments on how to make the Business Council better. The following are suggestions to continue the dialogue started in Thayne:

1. The Business Council - is it a state agency, independent organization or something in the middle? And what should it be?

(a) Applicable parts of the statute:

(i) WS 9-12-103(a) "There is created the Wyoming business council. The council is a body corporate operating as a state instrumentality."

(ii) WS 9-12-103(g) "The following provisions do not apply to the council: (i) WS 9-2-1001 through 9-2-1026.1; (ii) WS 9-3-101 through 9-3-105; (iii) The Wyoming Administrative Procedures Act."

(b) Comments:

(i) An Attorney General opinion (Attachment 1) shows the Council is an Executive branch agency, not an independent organization. The Council submits its budget as part of the Governor's Budget, reports to the Joint Minerals, Business and Economic Development Committee and Joint Travel, Recreation, Wildlife and Cultural Resources Committee. The Council and staff comply with the state ethics policies and potential liability is covered by the state.

(ii) The statute exceptions are from: state contract procedures, state procedures for the acquisition of computer and telecommunications equipment, state personnel classification, arbitration, compensation, salaries, travel and meal expenses.

(iii) The Council appropriation is different from other state agencies. It is one sum without dictating how much for personnel and program. However, compliant

with state budgeting procedures, the Council submits its biennium budget and exception items in the form prescribed by the Governor.

(iv) Some believe the Council should be:

(A) a totally separate entity, for example a contract agency. Since taxpayer money funds the operation it needs to help any business/community in the state. An independent business would not operate this way, but target its operations to maximize return on investment. The need to help all in-need precludes it from being a totally independent organization.

(B) just like any other state agency thus have no exemptions from state policies and procedures.

(c) Recommendation: The experiment to make this organization more business-like has resulted in an entity that is operating programs that are having a positive effect on communities and businesses. Recommend no change to the statute dealing with the character of the organization.

2. Equity

(a) Applicable part of the statute, WS 9-12-104

(b) Comments:

(i) In several paragraphs in this section of the statute there is the underlying premise that the Council can take and use equity positions. (See WS 9-12-104(v), (vi), (vii), (ix))

(ii) The Attorney General opinion at Attachment 2 was requested when the Council wanted to take an equity position with funds being loaned to a company. This is a very common business practice. If money is lent to a company, part of the payback is not just the loan repayment, but also a provision that as the company does better, the Council (taxpayers) should participate in the “upside” of the business.

(iii) Equity is probably the most likely vehicle that could provide funding for Council operation, thus lessening the requirements for appropriations from the State General Fund.

(iv) Due to several factors (the Attorney General’s opinion, lack of business acumen in this arena by the staff and the prior unsuccessful state attempts to use equity) the Council has not put this “tool” to use.

(v) There are several members of the Council who are expert in this area; there should be dialogue between the Management Council and these members to work this issue.

(c) Recommendation: Legislature work with the Council and Attorney General to develop a proposal that allows the Council to take equity positions. The finalization of the proposal would by necessity be a statute and possibly a constitutional amendment

change, thus bringing the merits of such a proposal to the debate of the Legislature and citizenry.

3. Comprehensive Economic Development Strategy.

(a) Applicable parts of the statute: WS 9-12-106(a)(i) "Develop a comprehensive economic development strategy for the state, starting the first year of each new gubernatorial administration, consistent with the provisions of this act"

(b) Comments:

(i) A comprehensive economic development strategy that takes all aspects of the state's economy into account, especially as a new Governor comes into office is certainly a reasonable requirement. It should be driven by the new Governor and be the roadmap bringing together the resources of all state agencies to accomplish what the new incumbent wants to make happen in the administration.

(ii) Governor Freudenthal has instituted a strategic planning methodology that is to result in a document that is readable by non-bureaucrats and be the basis for budgets and programs. Each state agency is working on theirs. The Governor's Planning Office is rightfully driving this transformation as this should be a reflection of the Governor's vision and strategy.

(iii) The Council is responsible for that portion of the state plan that is in the Wyoming Economic Development Act (WS Chapter 12)

(c) Recommendations:

(i) After coordination with the Governor, add the requirement to Title 9, Chapter 1, Article 2 the requirement for a comprehensive economic and social development strategy for the state when a new Governor takes office.

(ii) Change WS 9-12-106(a)(i) to, "Each year develop an operational strategic plan as part of the Governor's comprehensive economic and social development strategy."

4. Benchmarks.

(a) Applicable part of the statute, 1998 Session Laws, chapter 6, section 1,(d)(i) through (iii) as amended by 2003 Session Laws, chapter 8, section 2

(b) Comment: The Council staff to this point has concentrated on developing programs and have not done the requisite work to develop measures and data to show the effectiveness of the diverse programs. We have contracted to develop a client management system to keep track of and then report on the companies, communities and individuals we worked with.

Page 4
Rep. Luthi
WBC LSO Audit
July 7, 2005

(c) Recommendations:

(i) The following should be the benchmarks:

(A) Jobs created/retained and capital investments that have been aided by state programs. This data should be garnered through surveys (surveys may not get all the requisite data, but they will provide primary information submitted by the business participating in the state sponsored program).

(B) Jobs created/retained and capital investment due to Challenge Loans.

(C) Jobs created/retained and capital investment due to Community Development Block Grants, Business Ready Community Grants and Loans, Community Facility Grants and Loans.

(ii) The following should be removed from the 1998 Session Laws, chapter 6, section 1, (d)(i) through (iii) as amended by the 2003 Session Laws, chapter 8, section 2.

Thank you again for your guidance during the June 20, 2005 meeting. I believe this letter does what you asked, namely identify things in statute that can facilitate economic development in Wyoming. The Council, my staff and I are committed to work with the Management Council and Legislature to continue the dialogue started at Thayne and fashion the best plan for Wyoming's economic development.

Sincerely,

Tucker Fagan
Chief Executive Officer

TF: lsh

C: Rod Morrison, Co-Chair Wyoming Business Council
Governor Freudenthal, Co-Chair Wyoming Business Council
Wyoming Business Council

Attachments:

1. Attorney General Letter, March 9, 2001, subject, WBC Executive Agency Status
2. Attorney General Letter, December 14, 2001, subject, Ability to Take Equity Positions

AGENCY RESPONSE

Attachments

The attachments to this letter are available at the Legislative Service Office, 213 Capitol, Cheyenne, Wyoming.

APPENDICES

Wyoming Business Council

APPENDIX A

Selected Statutes

CHAPTER 12

WYOMING ECONOMIC DEVELOPMENT ACT

ARTICLE 1 IN GENERAL

ARTICLE 2 SCIENCE, TECHNOLOGY AND ENERGY FINANCIAL AID

ARTICLE 3 WYOMING PARTNERSHIP CHALLENGE LOAN PROGRAM

ARTICLE 4 FILM AND VIDEO PROMOTION

9-12-401. Repealed By Laws 2003, Ch. 8, § 2.

ARTICLE 5 WYOMING COUNCIL FOR WOMEN'S ISSUES

ARTICLE 6 COMMUNITY INFRASTRUCTURE PROGRAM

ARTICLE 7 AIR SERVICES FINANCIAL AID

9-12-701. Amended and Renumbered as W.S. 10-3-601 by Laws 2005, ch. 13, § 1.

9-12-702. Amended and Renumbered as W.S. 10-3-602 By Laws 2005, ch. 13, § 1.

ARTICLE 8 WYOMING COMMUNITY FACILITIES PROGRAM

ARTICLE 1 IN GENERAL

9-12-101. Short title.

This chapter shall be known and may be cited as the "Wyoming Economic Development Act."

9-12-102. Definitions.

(a) As used in this act, the following terms have the following meanings, except where the context clearly indicates otherwise:

- (i) "Board" means the board of directors of the council;
- (ii) "Council" means the Wyoming business council, the body corporate created by this article;

(iii) "Federal agency" means the United States, the President of the United States, and any department, corporation, agency, or instrumentality heretofore or hereafter created, designated, or established by the United States;

(iv) "Financial aid" means:

(A) The infusion of risk capital to persons by making investments for use in the development and exploitation of specific products;

(B) The purchase of securities;

(C) Royalty agreements;

(D) Loans and loan guarantees;

(E) Any contractual arrangement in which the council provides technological services to any person involving the development and exploitation of a specific product.

(v) "Person" means natural persons, firms, foundations, associations, corporations, business trusts, partnerships, joint ventures, and public bodies, including but not limited to the state of Wyoming, any state, and any agency, department, institution, political subdivision or instrumentality of Wyoming or any state;

(vi) "Product" means any product, device, technique or process, which is or may be exploitable commercially and includes products, devices, techniques or processes which have advanced beyond the theoretic stage and are readily capable of being, or have been, reduced to practice but excludes pure research;

(vii) "Venture" means any contractual arrangement with any person whereby the council obtains rights from or in a product or proceeds therefrom in exchange for the granting of financial aid to the person;

(viii) "This act" means W.S. 9-12-101 through 9-12-804.

9-12-103. Wyoming business council; creation; composition; compensation; termination; meetings; surety bonds; fiscal control.

(a) There is created the Wyoming business council. The council is a body corporate operating as a state instrumentality operated solely for the public benefit. As such it shall have, and is hereby vested with, the powers and duties conferred in this chapter. It shall be governed by a board of directors consisting of fifteen (15) voting directors, appointed by the governor with the advice and consent of the senate. The governor shall be a member and cochairman of the board, but shall not vote. The appointed directors shall have demonstrated leadership and business expertise. An equal number of directors shall be appointed to initial terms of one (1), two (2) and three (3) years. Thereafter, directors shall serve for terms of three (3) years. No appointed director shall serve more than two (2) successive three (3) year terms. If a vacancy occurs, the governor shall appoint a successor in accordance with W.S. 28-12-101. The governor may remove any board member he appoints for cause and shall remove any director who fails to attend three (3) consecutive regular meetings of the council. No appointed council member shall send a designee to attend a council meeting nor vote by proxy. The board shall select one (1) of its members to act as cochairman of the board. The board shall retain a chief executive officer. The chief executive officer serves at the pleasure of the board. All of the appointed directors shall be appointed at large and at least twelve (12) of the appointed directors shall be residents of Wyoming.

(b) The appointed directors shall receive per diem for attending board meetings in the same amount as state legislators and shall receive no other compensation for serving on the board. The board shall fix the salary of the chief executive officer. Subject to the approval of the directors, the chief executive officer shall determine the terms of employment, tenure, duties, working conditions, promotion and termination of all other employees which the chief executive officer determines are necessary to carry out the purposes and functions of the council. Employees

of the council shall be covered by the Wyoming Retirement Act, the State Employees and Officials Group Insurance Act and the Wyoming Deferred Compensation Act.

(c) The council shall exist until July 1, 2008. Upon termination of the council, all its rights and properties shall pass to and be vested in the state.

(d) The council shall determine the date, time, place and method of notice for all regular meetings of the council. A majority of the voting directors of the council constitutes a quorum for the transaction of any business or the exercise of any power or function of the council. Matters shall be decided by a majority vote of the voting members of the council. As unanimously determined by the council members, the council may take action by conference telephone or similar communications equipment whereby all persons participating in the meeting can hear each other at the same time.

(e) The council may execute and maintain at its expense a blanket surety bond covering each director, the chief executive officer and the employees or other officers of the council in the penal sum of two hundred fifty thousand dollars (\$250,000.00).

(f) The council may also form committees and advisory councils, which may include representatives who are not members of the board, to undertake more extensive study and discussion of the issues before the board.

(g) Except as specifically provided in this act, the following provisions do not apply to the council:

- (i) W.S. 9-2-1001 through 9-2-1026.1;
- (ii) W.S. 9-3-101 through 9-3-105;
- (iii) The Wyoming Administrative Procedure Act.

(h) Except as specifically provided in this act, the provisions of W.S. 16-4-201 through 16-4-205 and 16-4-401 through 16-4-408 shall apply to the council.

9-12-104. General powers and duties of the council.

(a) Except as otherwise limited by this act, the council may:

- (i) Sue and be sued and procure necessary liability insurance;
- (ii) Have a seal;
- (iii) Make and execute contracts and other instruments;
- (iv) Adopt rules and regulations to implement the programs and functions assigned to the council by this act. Any rule adopted by the council shall be submitted to the management council of the legislature in accordance with W.S. 28-9-101 through 28-9-108, approved by the governor as provided in W.S. 16-3-103(d) and filed with the secretary of state;
- (v) Acquire or contract to acquire by grant, purchase, option or otherwise, real, personal or mixed property or any interest in property, including patents, copyrights, trademarks or any other evidence of protection or exclusivity as to products;
- (vi) Own, hold, clear, improve and rehabilitate, and sell, assign, exchange, transfer, convey, lease and mortgage real, personal or mixed property or otherwise dispose of, or encumber the same;
- (vii) Grant options to purchase any interest in or asset arising out of an agreement;

- (viii) Provide advisory, consultative or educational services, technical assistance and advice to any person in order to carry out the purposes of the council;
 - (ix) Mortgage or pledge any or all of its revenue, income, or interest in or asset arising out of a venture agreement;
 - (x) Except as otherwise provided in this act, deposit any funds of the council in any financial institutions located within the state;
 - (xi) Procure insurance against any loss in connection with its property and other assets and operations in amounts and from insurers it deems desirable;
 - (xii) Engage the services of consultants on a contract basis for rendering professional, financial and technical assistance and advice, including for studies and investigation likely to lead to business development;
 - (xiii) Contract for and accept any gifts or grants or loans of funds or property or financial or other aid in any form from the federal government or any agency or instrumentality thereof, or from any other source and pass through or otherwise comply, subject to the provisions of this chapter, with the terms and conditions thereof;
 - (xiv) Enter into agreements with persons doing business or who will do business in this state for the advancement of financial assistance to those persons for research and the development of specific products, procedures and techniques to be developed and produced in this state conditioned upon contractual assurances that the benefits of increasing or maintaining employment and tax revenues shall remain in and accrue to this state;
 - (xv) Consent to the modification of the terms of any mortgage, loan or contract to which the council is a party;
 - (xvi) Organize, conduct, sponsor or cooperate in and assist the conduct of special institutes, conferences and demonstrations relating to the stimulation and formulation of business development;
 - (xvii) Make investments in projects that have potential to stimulate economic development in the state;
 - (xviii) Render advice and assistance and to provide services to state agencies, local and regional economic development entities, private firms and other persons providing services or facilities for economic development in Wyoming;
 - (xix) Do all acts and things necessary or convenient to carry out the powers granted to it by this act or any other act;
 - (xx) Provide a program for severance pay and other transitional employment services to employees of the department of commerce who lost their employment with the state of Wyoming due to this act and who are not reemployed with the council within sixty (60) days of having their employment terminated with the department of commerce.
- (b) The board, consistent with this act, shall develop guidelines for each of the areas specified in subsection (a) of this section relative to definitions, types of grants or loans, level of funding and repayment requirements.

9-12-105. Economic development services.

- (a) It shall be the duty of the council to encourage, stimulate and support the development and expansion of the economy of the state. The council is charged with the following duties and responsibilities:

- (i) To see that there are prepared and carried out effective economic development marketing and promotional programs;
- (ii) To make available, in conjunction and cooperation with localities, chambers of commerce, industrial authorities and other public and private groups, to prospective new businesses basic information and pertinent factors of interest and concern to such businesses;
- (iii) To formulate, promulgate and advance programs throughout the state for encouraging the location of new businesses in the state and the retention and growth of existing businesses;
- (iv) To encourage and solicit private sector involvement, support and funding for economic development in the state;
- (v) To encourage the coordination of the economic development efforts of public institutions, regions, communities and private industry and collect and maintain data on the development and utilization of economic development capabilities;
- (vi) To establish such offices within and without the state that are necessary to the expansion and development of industries and trade. The council shall establish economic development regions and offices within the state based upon socioeconomic and geographic similarities;
- (vii) To encourage the export of products and services from the state to national and international markets; and
- (viii) To advise the University of Wyoming and the Wyoming community college commission in designating technical training and other educational programs in Wyoming's community colleges and the University of Wyoming beneficial to economic development activities in this state.

9-12-106. Planning and research.

(a) It shall also be the duty of the council to:

- (i) Develop a comprehensive economic development strategy for the state, starting the first year of each new gubernatorial administration, consistent with the provisions of this act; and
- (ii) Conduct such studies and research, in collaboration with state agencies, university and community colleges, local and regional industrial authorities and organizations, and other persons within and without the state, as the council may deem necessary, to assist in the development of the comprehensive economic strategy and the development of recommendations and advice on the improvement of economic development and related programs and strategies across the state.

(b) The council may establish a Wyoming market research center to conduct regional, national and international market research for Wyoming manufacturers and to conduct market feasibility studies for value added projects across all economic sectors, including agriculture. If a center is formed:

- (i) The council and center shall develop a plan to phase-in fees for services and a formula for commissions payable by manufacturers for sales which are directly attributable to the center's research. The plan shall be directed to make the center self-sufficient by July 1, 2003;
- (ii) The center may utilize the services of student interns from the University of Wyoming and community colleges to provide those students with practical marketing experience.

9-12-107. Tourism promotion and development.

(a) It shall also be the duty of the council to:

- (i) Assemble and distribute information concerning the scenic and recreational opportunities and resources of Wyoming;

- (ii) Encourage close cooperation between public and private agencies engaged in stimulating recognition of Wyoming recreational resources;
- (iii) Implement programs to promote tourism in Wyoming.

(b) Repealed By Laws 2003, Ch. 8, § 2.

9-12-108. Coordination of business permits.

(a) The council shall:

- (i) Compile information on the federal, state and local requirements necessary to begin and operate a business in Wyoming and make this information available to the public on request;
- (ii) Develop application procedures to expedite the state licensing and permitting process;
- (iii) Assist prospective businesses in obtaining the necessary federal, state and local permits and licenses;
- (iv) Encourage and facilitate the participation of federal, state and local government agencies in permit and license coordination;
- (v) Review permit requirements and the value to the state of these permits and prepare recommendations for changes for submission to the appropriate agency, the governor and the legislature.

(b) The council may request assistance from any state agency to carry out its duties under this section. State agencies shall cooperate with the request for assistance.

9-12-109. Promotion of agriculture.

The council shall encourage and promote the development of agriculture in the state including horticulture, apiculture, livestock, poultry, dairying and the kindred industries and including the development of new value-added agribusiness and product uses and markets for Wyoming agricultural products.

9-12-110. Exemptions from taxation; exceptions.

The exercise of the powers granted by this act constitutes the performance of an essential governmental function. The council shall not be required to pay any taxes levied by any municipality or political subdivision of the state, other than to comply with the Wyoming employment security law and for assessments for local improvements, upon its property or monies. Except as provided herein, the council's monies and the income therefrom, shall be free from taxation of every kind by the state, municipalities and political subdivisions of the state.

9-12-111. Investment and management of funds; audit.

(a) Except as otherwise provided in this act, the council may invest funds not required for immediate disbursement in securities in which state funds may be invested as provided by law, sell securities it has purchased and deposit securities in any financial institution. Funds deposited in financial institutions shall be secured by obligations authorized as permissible security for state investments. In investing and managing its funds, the council shall exercise the judgment and care which persons of prudence, discretion and intelligence would exercise under similar circumstances in managing the permanent disposition of their funds, considering the probable income and the probable safety of their capital.

(b) The director of the department of audit or his designee shall conduct an audit of the books and accounts of the council. The examination shall include a financial and compliance audit of the council's operations as the examiner deems appropriate. The audit shall be conducted at least once in each year and copies of the audit report shall be

filed with the secretary of state, the joint minerals, business and economic development committee and the legislative service office.

9-12-112. Annual report and budget.

(a) The council shall submit an annual report in the manner provided by W.S. 9-2-1014 and using the benchmarks prescribed in this act. In addition to the requirements of W.S. 9-2-1014, included within the annual report shall be:

- (i) The status of the implementation of the comprehensive economic development strategy and recommended legislative and executive actions related to the implementation of the comprehensive economic development strategy;
- (ii) A summary of the total investments made by the council under the Wyoming partnership challenge loan program, article 3 of this chapter, including:
 - (A) The name of each borrower and the amount of each loan;
 - (B) An evaluation of the loan success in economic development using appropriate performance indicators as identified by the council;
 - (C) The cost of the loan program to the people of Wyoming in terms of:
 - (I) Forgone interest that could have been obtained if the funds had been invested by the state treasurer with the permanent funds of the state;
 - (II) Administrative and other costs associated with the program.
 - (D) Revenues and any other benefits obtained from the program.
- (iii) Repealed By Laws 2003, Ch. 8, § 2.
- (iv) Progress concerning the development of the research marketing center and its self-sufficiency under W.S. 9-12-106(b).

(b) The council shall submit its budget for review as provided by W.S. 9-2-1010 through 9-2-1014.

9-12-113. Conflicts of interest.

Council members shall be subject to the provisions of W.S. 16-6-118 and shall abstain from voting in accordance with that section.

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APPENDIX B

1997 Steering Committee Report Executive Summary

Wyoming's economy has entered troubled times. The progressive changes in the national and global economy have largely bypassed the state. Key economic data indicate that in terms of employment, income, and wages, Wyoming's citizens are not keeping pace with regional or national prosperity. Our situation as characterized by the lack of economic diversity job growth that is shifting from higher to lower paying jobs and federal policies limiting the development of public lands. Wyoming's young people continue to leave the state for better opportunities. There are some positive signs of slow growth, such as recent gains in the service sector. In most cases, however, Wyoming citizens are falling behind economically, and indicators suggest that trends will not reverse unless there is aggressive intervention.

Wyoming's economic development efforts have been hampered by the state's lack of commitment to the future. Although there are many hard-working and talented people dedicated to the effort, the State lacks a comprehensive development plan and a cohesive organization. The present fragmentation of multiple agencies with multiple missions is a basic structural problem. In addition the state investment is insufficient to make an appreciable difference in the economy.

The Committee recommends to the Legislature a consolidation of existing economic development organizations and a significant new investment of state resources. The Committee also recommends to the private sector a new commitment of people, time, and financial resources to lead the state towards an improved economy.

The foundation for a comprehensive development effort must be an improved business climate. Wyoming's people, businesses, and communities must all improve their ability to compete in the global economy. Business climate issues of workforce, taxation regulation, and responsible financial incentives all need to be addressed. Infrastructure must be maintained and communications enhanced statewide. Higher education must be engaged to a greater extent than ever before in workforce training, business support, research and development, and technology transfer as statewide services. Capital must be attracted to the state and creatively employed to leverage financial resources. Core development strategies recommended include adding value to existing business, developing new enterprises, fostering entrepreneurs, forming regional alliances, and identifying and recruiting key businesses to enhance and complement our resources.

The implementation plan presented is a dramatic departure from past practices in Wyoming.

The design focuses on citizen leadership of a new, corporation like structure, a new level of professional service, and a regional delivery system. A second focus is development at the community level defined by local requirements for improved training, financial expertise, and technical assistance. An unprecedented investment of resources, both people and capital, is required train both the private and public sectors. Performance benchmarks will increase accountability and measure specific progress in program operations, economics, and quality of life. This plan is a formula for success.

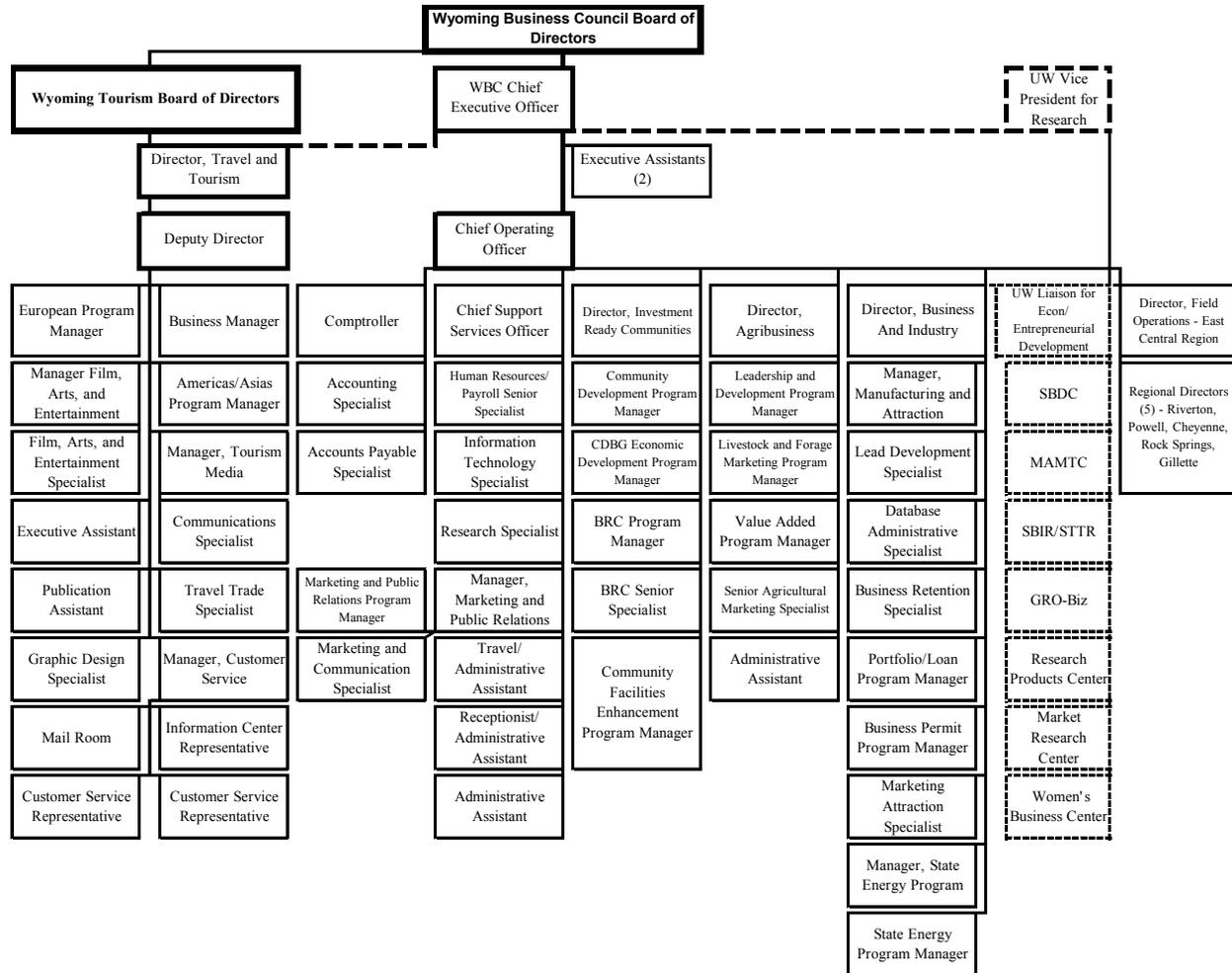
The Steering Committee for Business Development calls upon all Wyoming citizens to commit to this new partnership for a better future.

“We must provide job opportunities so our young people will not have to leave the state -jobs that are productive, meaningful, and well-paying. The actions called for in this report are comprehensive. They require a strong alliance of private and public sectors. We must be willing to commit to that alliance. Then together we will provide a better future for ourselves our children and our grandchildren.”

- Governor Jim Geringer

APPENDIX C

WBC Organizational Chart



Source: Adapted from WBC information.

 Contracted service programs.

Note: WBC indicates they are holding off on filling the director's position for the Minerals, Energy and Transportation Division.

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APPENDIX D

WBC Programs Partnerships and Activities

Units of WBC	Number of Positions	Primary Focus	Programs	Partnerships	Activities
Executive, Financial, and Support Services	17	Administrative, financial, technical support for the agency.	Run/ Maintain the Wyoming Economic and Workforce Development Corporation (WEWD, Inc.).	Liaison with other State of Wyoming Agencies Examples: Dept. of Workforce Services, Administration and Information, etc.)	Consulting, accounting of funds, building and maintain databases, contracting for services, coordinate between businesses and agencies in and outside state.
Travel and Tourism	18	Promote Wyoming as a tourist destination.		Contract for services with private and non-profit industry groups for marketing, research, etc.	European, Americas/Asia travel recruitment; Film, Arts, and Entertainment industry development; attend and sponsor businesses at trade shows.
Investment Ready Communities	6	Administration of grant and loan programs to local communities.	BRC, CDBG and CFE economic incentives programs.	Provide staff and administrative support to the WRDC for community assessments.	Provide technical and support services to applicants applying for grants and loan.
Business and Industry	11	Promote business recruitment, expansion, and retention.	Manage state loan programs: Partnership Challenge Loans, Bridge Loans, Seed Capital Loans, Loan Guarantees, Economic Disaster Loans, Rural Economic Dev. Loans, STEA, Amendment IV Loans.	Contracts with University of Wyoming for business startup, retention, and expansion services: SBIR/STTR, MAMTC, SBDC, GRO-Biz, Research Products Center, Market Research Center, and Wyoming Women's Business Center.	Sponsor and attend trade events, seminars and workshops, monitor contracts with UW partners, financial and business consultation, provide guidance on state permitting requirements, maintain alliances with local economic development organizations.
Agribusiness	6	Promote development of Wyoming agribusiness.	Wyoming LEAD (agriculture – Leadership, Education And Development)	Work with producers of agriculture products, University of Wyoming Agriculture Extension, Wyoming Department of Agriculture.	Sponsor and attend trade events, seminars and workshops, training and education outreach, publish directory and newsletters, grant writing, micro grant disbursement to businesses.

Field Operations	6	WBC regional representatives around the state.	Front line technical, financial and support services to businesses, communities, grant and loan applicants. Attends local meetings concerning development projects, business leads, etc. Coordinate with UW partner programs for information and assistance with businesses trying to expand and relocate in/to the state. Participate in contracted research, local assessment and planning activities.
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Source: LSO summary from WBC information.

APPENDIX E

SF 35 Performance Benchmarks

1998 Laws, Ch. 6, sec. 1 (SF 35)

(d) The Wyoming business council shall measure the effectiveness of this act in submitting its annual report pursuant to W.S. 9-12-112 using benchmarks which include:

(i) Operational Benchmarks:

(A) Existing business and recruitment:

(I) The number of companies in identified retention programs

(II) The number of job created, lost or retained and capital investment from recruited or retained companies

(III) The percentage of new or lost employment in the 11 economic sectors of:

1. Agriculture
2. Mining
3. Construction
4. Manufacturing
5. Transportation and utility
6. Wholesale
7. Retail
8. Finance, real estate and insurance
9. Services
10. Government
11. Technology

(IV) The amount of money spent by tourists, and other measurements including the average length-of-stay

(B) Entrepreneurship/enterprise development:

(I) The number of new business starts and failures

(II) The number of existing firms being assisted/enrolled in development programs

(C) Community Enhancement:

- (I) Communities/regions with current comprehensive business development plans in place
 - (II) The amount of dollars of grant assistance procured
- (ii) Economic performance benchmarks
- (A) Per capita personal income levels
 - (B) Number of primary jobs created and lost
 - ~~(C) Sector growth or decline in primary industries~~ repealed, 2003 Laws, ch. 8
 - (D) Exports and imports per capita
 - (E) Average earnings per job and average weekly wages per sector
 - ~~(F) Fiscal stability and balanced revenue~~ repealed, 2003 Laws, ch. 8
 - (G) Male/female wage rate disparity
- (iii) Quality of life benchmarks
- ~~(A) Workforce skills and education~~ repealed, 2003 Laws, ch. 8
 - ~~(I) Average proficiency scores in mathematics and reading~~
 - ~~(II) High school completion rate~~
 - (B) Community health and safety
 - (I) Percent of population below poverty
 - ~~(II) Primary school enrollment rates~~ repealed, 2003 Laws, ch. 8
 - ~~(III) Infant mortality rate~~ repealed, 2003 Laws, ch. 8
 - ~~(IV) Crime rate~~ repealed, 2003 Laws, ch. 8
 - ~~(V) Air quality~~ repealed, 2003 Laws, ch. 8
 - (C) Land use
 - (I) Number of counties with comprehensive land use plans
- (iv) Contributions received by the business council from private sources for activities of the council under this act (identified as in case, in-kind, or other)
- (v) Other measures or adjustments the council deems appropriate.