



March 15, 2019

The Honorable Drew Perkins
President of the Senate,
Wyoming Senate,
3001 East Pershing Boulevard,
Cheyenne, Wyoming 82001

RE: Not signing SF0049/ SEA No. 0067 County zoning authority-private schools

Dear President Perkins,

No other bill in this legislative session has sparked more correspondence to the Office of the Governor than Senate File 49. From all sides, there have been pleas to pass or to veto. The arguments generally fall out between the advocates for local control and those who suggest Teton County has gone too far. There have been other comments as well suggesting that schools enjoy a special place in Wyoming by virtue of the esteem our state gives to education and that indeed, per Wyoming's Constitution, local powers derive from the state. It is fair to say comments on all sides have come from all over the state. The issues here are not simple and I dare say our people are not settled on a proper remedy.

At issue are several competing philosophical points. How far should local control go? Are the duly elected local officials ultimately more accountable to the people they serve than the legislature which is made up of many representatives answering to constituents elsewhere? Is the logic that the legislature is empowered to dictate to local government more sanguine than the idea that Washington, DC can apply the same logic to our state? Is it appropriate for any individual regardless of means to opt for the nuclear option of legislative fiat when local remedies don't work?

But what about the issue of bias? Does a community have the right to determine which sorts of businesses are allowed into it? How do individual property rights play against regulations which some may feel are overzealous? Is it correct for a community to discriminate in any way? And what about property values? To what degree are taxpayers obliged to accept additional burden?

These are precariously weighty questions which require balance. And who better to understand balance than those who live in a community? These notions augur towards local control.

But what right does a local community have to differentiate between like institutions such as a school? Does the fact that one is a public institution and the other a private one really matter if their requirements and placements are substantially similar? This augurs towards setting a consistent standard.

For some, the answer to this conundrum is a simple veto. Double down on local control. Allowing the duly elected representatives of your community to condition property rights.

For others, the answer is allowing the state to seemingly preempt local control on the basis of asserting personal prerogative. That works when the legislature is on your side, especially when that support might be strong enough to override any contravening argument.

But the issue brought to light in SF 49 is more complicated than such a superficial analysis affords. The change in statute contemplated in this bill erodes some degree of local control from all counties in Wyoming. There is no denying that. Nevertheless, the 65th Legislature wrestled with this issue ultimately blunting its impact significantly. I still do not believe this bill offers the correct solution although I recognize the uniqueness of the situation which occasioned it.

There is a lot of emotion in the comments I have read on this bill on both sides. I believe, to a degree, emotion helped to guide this bill through the legislature regardless of merit. Sadly, it seems by the time a more locally palatable solution was potentially available, the proverbial horse had already left the barn. I am disappointed because I believe it is always better when solutions can be arrived at close to home. It is a bedrock conservative value that in some ways seems to have been eroded to the chagrin of county commissions and local governments all over the state. And I am sad that the hard work of the county that struggled over the past several years to put its plan together was summarily overridden in the first few months of its implementation. It is unfortunate that some thought it might be valuable to disparage the other side of the argument. In the end, this issue is not so much about big money arrayed against liberal elites or spirituality arrayed against secularism as it is an issue of due process and respect.

I believe this bill is flawed and so I will not sign it; but, as I have done with other bills, I will take this opportunity to recommend that the legislature and local governments continue to work to find a better way to sort out the types of impasses that begat this legislation closer to home. The passage of this bill sets an unfortunate precedent and one that I believe could be corrected with some diligence, equanimity, and foresight.

I do not take this action to avoid making a decision. In my core, I believe that government is best closest to the people and when it governs least. This bill sits in the saddle between those two. Despite the potential for criticism, I do believe, after the considered work of the legislature, at heart this bill is vastly less offensive to local control than it was to begin with. The issues that came to light during its deliberation were important ones and informative to the final product which remains unfinished.

I am committed to working with the county commissions, municipalities, the legislature, and the people of Wyoming to find a better way to resolve these sorts of conflicts.

Sincerely,



Mark Gordon
Governor

cc: The Honorable Secretary of State, Edward Buchanan

The Honorable Steve Harshman, Speaker of the House

Chief Clerk, Wyoming House of Representatives

Chief Clerk, Wyoming Senate