

SUMMARY *of* PROCEEDINGS



SELECT COMMITTEE ON TRIBAL RELATIONS

COMMITTEE MEETING INFORMATION

August 19-20, 2021 | 8:30 AM
Central Wyoming College, Intertribal Center, Wind River Room
2260 Peck Ave.
Riverton, Wyoming

COMMITTEE MEMBERS PRESENT

Senator Affie Ellis, Co-chairwoman
Representative Lloyd Larsen, Co-chairman
Senator Cale Case
Senator Tim Salazar
Representative Jim Blackburn
Representative Andi Clifford

COMMITTEE MEMBERS NOT PRESENT

None

LEGISLATIVE SERVICE OFFICE STAFF

Heather Jarvis, Staff Attorney
Donna Shippen, Research & Evaluation Deputy Administrator

OTHERS PRESENT AT MEETING

Please refer to [Appendix 1-02](#) to review the Committee Sign-in Sheet for a list of other individuals who attended the meeting.

The Committee Meeting Summary of Proceedings (meeting minutes) is prepared by the Legislative Service Office (LSO) and is the official record of the proceedings of a legislative committee meeting. This document does not represent a transcript of the meeting; it is a digest of the meeting and provides a record of official actions taken by the Committee. All meeting materials and handouts provided to the Committee by the Legislative Service Office, public officials, lobbyists, and the public are on file at the Legislative Service Office and are part of the official record of the meeting. An index of these materials is provided at the end of this document and these materials are on file at the Legislative Service Office. For more information or to review meeting materials, please contact the Legislative Service Office at (307) 777-7881 or by e-mail at lso@wyoleg.gov. The Summary of Proceedings for each legislative committee meeting can be found on the Wyoming Legislature's website at www.wyoleg.gov.

EXECUTIVE SUMMARY

The Select Committee on Tribal Relations met for two days in Riverton. The Committee received updates from the Northern Arapaho and Eastern Shoshone Business Council Chairmen, tribal liaisons, and the Governor's Office on inter-tribal developments and efforts. The Committee received updates from the University of Wyoming Survey and Analysis Center, Wyoming Division of Criminal Investigation, and Wind River Tribal Police Department on cooperative endeavors to address Missing and Murdered Indigenous Persons (MMIP) and efforts to hire a Victim's Advocate for the Wind River Reservation. The Governor's Office provided an update on the *Herrera v. Wyoming* case. The Committee received an overview of the *U.S. v. Cooley* case from amici curiae of the Crow Tribe lead counsel and co-counsel.

The Wyoming Livestock Board, State Veterinarian, Wyoming Department of Agriculture, United States Fish and Wildlife Service, Shoshone and Arapaho Fish and Game Department, and Wyoming Game and Fish Department provided an overview of brucellosis management. The Committee voted to sponsor 22LSO-0101-Brucellosis containment-tribal inclusion, as amended, in the 2022 session.

The Committee Chairs provided background on this Committee's work on absenteeism and truancy issues and invited the Eastern Shoshone and Northern Arapaho Business Councils to provide input on a draft bill being considered by the Joint Education Committee.

The Committee received updates from the Indian Health Service and Environmental Protection Agency on solid waste disposal and clean-up efforts on the Wind River Reservation. The Bureau of Indian Affairs (BIA) provided information regarding the Tribes' 638 self determination contract to operate and maintain irrigation systems on the Reservation, and Ray Lake Canal water users spoke about irrigation issues. The Eastern Shoshone Tribe and Northern Arapaho Tribe provided updates on Reservation resident wellbeing, benefits and improvements accomplished with CARES Act funds, and planned use of American Rescue Plan Act (ARPA) funds.

The Committee considered proposed legislation regarding ownership of fossils and artifacts. The Wyoming Business Council presented information and the Committee considered proposed legislation to clarify and allow the Tribes to access community development grant and loan programs, and to amend Tribal references in State statutes. Legislative Service Office (LSO) will revise the draft bills for consideration at the October Committee meeting.

CALL TO ORDER (AUGUST 19, 2021)

Chairwoman Affie Ellis called the meeting to order at 8:30 AM. The following sections summarize the Committee proceedings by topic. Please refer to [Appendix 1-01](#) to review the Committee Meeting Agenda.

INTER-TRIBAL DEVELOPMENTS AND EFFORTS

Reports on Inter-Tribal projects, COVID-19 developments, and how the Select Committee may help

Northern Arapaho Business Council updates

Stephen Fast Horse, Northern Arapaho Business Council, spoke regarding inter-tribal efforts to address COVID-19 Delta variant surge on the Wind River Reservation and preparations to safely re-open schools for the new school year. Chairman Jordan Dresser, Northern Arapaho Business Council, described the recent Wind River Inter-Tribal Council public health order mandating mask use in indoor communal spaces and outdoor gatherings, and requiring vaccinations for all individuals working in Wind River

Reservation schools. The Northern Arapaho Tribe has implemented a cash incentives program in an effort to have all eligible tribal members vaccinated.

Chairman Dresser recounted the Tribe's efforts to offer sports betting and said the Northern Arapaho are the first tribe to have Class III gaming without a tribal-state compact.

Chairman Dresser said the Northern Arapaho Tribe received \$50 million of first phase ARPA funds based on population but has not yet received second phase funds, which will be calculated based on employment figures. The Tribe is distributing ARPA funds through tribal grants and using the funds to support existing mental health services offered by the Tribe's White Buffalo Recovery Center and a planned program for children.

Chairman Dresser also provided a brief overview of inter-tribal efforts regarding the Missing and Murdered Indigenous Persons project, including efforts to coordinate a regional task force.

Eastern Shoshone Business Council updates

Chairman John St. Clair, Eastern Shoshone Business Council, provided an overview of the Eastern Shoshone Tribe's use of ARPA funds received to date. The Tribe has distributed \$2000 to each tribal member to help with the needs of unemployed tribal members and families with children starting the school year. The Tribe is also looking at using ARPA funds to purchase fee land and convert it to trust land for a wind energy project and expand existing programs and services, such as providing firewood for heating. The Tribe is also looking for additional funding in addition to ARPA funds for other projects, such as building a cultural center and reopening the hot springs.

Chairman St. Clair said COVID vaccination rates on the Wind River Reservation are higher than in the rest of the State. The Eastern Shoshone Tribe is still encouraging tribal members to be vaccinated and is considering offering vaccination incentives.

Redistricting updates

Senator Case and Representative Clifford spoke about the Joint Corporations, Elections & Political Subdivisions Interim Committee legislative redistricting process and invited the participation of both Tribes. Chairman Dresser said the Legislature's enactment of HEA 63 in 2020 allowing the use of tribal identification cards for voter registration will help facilitate voting by tribal members, and the Tribe will work to ensure more tribal members obtain a tribal ID. Chairman St. Clair said the Eastern Shoshone Tribe is more than willing to work with the Committee on redistricting.

Solid waste agreement between the two Tribes required to qualify for federal "gap funding" from the Environmental Protection Agency

Councilman Fast Horse said inter-tribal efforts to finalize a solid waste agreement required for United States Environmental Protection Agency (EPA) General Assistance Program (GAP) funding are coming to an end and the proposed agreement is awaiting signature by both Tribes. Once finalized, the agreement will allow the Tribes to apply for annual GAP funding.

Chairman St. Clair spoke about inter-tribal efforts to secure EPA GAP funding to re-establish the Wind River Environmental Quality Commission. Chairman St. Clair said both tribes have also recently formed an Inter-Tribal Tax Commission.

Tribal Law & Order Code changes to amend penalties for illegal dumping (Section 7-4-8)

Chairman Dresser and Councilman Fast Horse spoke about ongoing inter-tribal efforts to develop solid waste guidance and policy in preparation for amendment of Tribal Law & Order Code penalties for illegal dumping. Once there is consensus, the draft language will be submitted to each Tribe for approval.

Chairman St. Clair spoke about the need to increase the Tribal Law & Order Code penalty for illegal dumping (**Appendix 2-01**, Section 7-4-8).

The Committee requested to know what the Committee can do to support inter-tribal efforts to address illegal dumping on the Reservation, including whether it would be helpful to pursue the denial of State contracts to vendors who illegally dump on the Reservation or the development of a cross-jurisdictional agreement to address the issue of non-tribal members who illegally dump on the Reservation. Chairman Dresser and Chairman St. Clair both stated the Tribes first need to amend the Tribal Law and Order Code penalties for illegal dumping. Chairman Dresser said perhaps the Tribes could work with the Committee to develop a list of vendors who are illegally dumping on the Reservation.

Reports from Tribal Liaisons

Cy Lee, Northern Arapaho Tribal Liaison, expressed appreciation to the Committee for recognizing the two Tribal leaders and having them present first to the Committee. Mr. Lee highlighted several recent events and efforts, including last week's veteran's memorial dedication at the Frank B. Wise Center in Ft. Washakie; regular quarterly meetings with the Governor and Tribal leaders; efforts to ensure that Tribal members are eligible to access funds through various State agencies; and the valuable work accomplished on the MMIP project, including Chairman Dresser's efforts to coordinate a regional task force.

Lee Tendore, Eastern Shoshone Tribal Liaison, provided an update on Eastern Shoshone Department of Family Services (DFS) efforts to become compliant with the federal Title IV-E program and be eligible for pass-through IV-E funding through Wyoming DFS. The Governor's Office has offered \$500,000 to support each Tribe's efforts to become IV-E compliant. The Eastern Shoshone DFS has executed its contract with the State and is on the path to accessing IV-E funds. Mr. Tendore also spoke about the Wind River Grow Our Own 307 project to bring back food sovereignty through gardening by providing gardening boxes to tribal members; the project received a grant from the First Lady's Wyoming Hunger Initiative. Mr. Tendore summarized cooperative efforts by the State and both Tribal housing offices to distribute emergency rental assistance and homeowners assistance funds.

Report from the Governor's Office

Emily Soli, Special Counsel in the Governor's Office, spoke about the Governor's priority to develop and maintain a close relationship with each Tribe and the tribal liaisons essential contributions to this effort, including the coordination of Department of Interior Secretary Haaland's visit to the Wind River Reservation last week.

Ms. Soli provided a brief summary of work completed to date by the State and each Tribe regarding Title IV-E child welfare funding. Wyoming DFS and the Eastern Shoshone DFS have executed a contract which specifies the steps the Eastern Shoshone DFS will be taking to become IV-E compliant and receive pass-through IV-E funds. The Northern Arapaho DFS is seeking eligibility for direct federal IV-E funding, which requires some additional steps to become IV-E compliant. The Northern Arapaho DFS has submitted their timeline and budget to Wyoming DFS, and the State-Tribal contract is close to being finalized.

Ms. Soli provided a status update on the *Herrera v. Wyoming* litigation concerning the Crow Tribe's treaty right to hunt on unoccupied lands in Wyoming. Currently there are two open cases relating to the *Herrera* litigation. One is a State case, the original *Herrera v. Wyoming* case, which was remanded by the U.S. Supreme Court back to State district court. The State district court, in turn, remanded the case back to State circuit court to answer the questions in the case which have been left open. The second case is a federal case, *Crow Tribe v. Repsis*, previously decided by the Tenth Circuit about 30 years ago, which has been re-opened by the Crow Tribe. The State of Wyoming is a party to this case.

The U.S. Supreme Court's ruling on *Herrera v. Wyoming* answered two important questions:

- Wyoming statehood did not extinguish the Crow Tribe's treaty rights to hunt; and
- The establishment of the Bighorn National Forest did not render Forest land "occupied."

The U.S. Supreme Court decision left three unresolved questions to be decided in State court:

- Where does the Crow treaty right to hunt apply? What regions within the Bighorn National Forest are considered occupied?
- What, if any, State regulations can be imposed upon that treaty right? Does conservation necessity within the region Mr. Herrera was hunting support the imposition of State hunting laws on Mr. Herrera?
- By what procedure should the State court make these determinations or have the previous two questions already been answered by previous litigation, which would bar further proceedings?

The State circuit court ruled the question of occupation and the question of conservation necessity have already been answered by the Tenth Circuit Court decision in *Crow Tribe v. Repsis*. Mr. Herrera has appealed the State circuit court decision and the case is now sitting with the State district court.

In response, the Crow Tribe re-opened the *Crow Tribe v. Repsis* case. The Tenth Circuit Court ruled in favor of the State in deciding not to overturn the Court's previous decision. The Crow Tribe has filed a Notice of Appeal. Ms. Soli expects that it will take a year or so for the appeal to be decided.

Chairman St. Clair welcomed members of the Shoshone and Bannock Tribe in attendance. Chairman St. Clair said the Eastern Shoshone Tribe and Shoshone and Bannock Tribe share the 1868 Fort Bridger Treaty, which has the same language regarding hunting rights as the Crow Tribe's 1868 Fort Laramie treaty. Chairman St. Clair asked Ms. Soli questions regarding the Herrera case.

Public Comment

Ladd Edmo, Shoshone-Bannock Tribal Secretary, Fort Hall Business Council, provided public comment on the *Herrera* case and said the Shoshone-Bannock Tribe has developed a resource management plan in cooperation with the State of Idaho that provides for Tribal self-regulation of off-reservation hunting and addresses conservation needs by establishing a hunting season and quotas. Secretary Edmo offered the plan as a model for other tribes with the same or similar treaty rights. In addition to hunting in Idaho, Shoshone-Bannock tribal members hunt Yellowstone National Park buffalo in Gardiner, Montana under an agreement with the U.S. Fish and Wildlife Service. Secretary Edmo also provided an update about the COVID-19 situation on the Shoshone-Bannock reservation.

Mark Larson, Wyoming Petroleum Marketers Association, asked for an update on the tobacco tax issue. The Association continues to seek retail parity on tobacco products that would mimic the gasoline compact whereby gasoline tax is collected at the retail level on the Wind River Reservation and all taxes collected, from both tribal and non-tribal members, are distributed to the Tribes. There is currently a

voluntary tobacco tax agreement in place for cigarettes only but not other tobacco products. Councilman John Washakie, Eastern Shoshone Business Council, said the Inter-Tribal Council recently established a Tax Commission and the tobacco tax issue has been presented to the Council. Ms. Soli said the Governor's Office has been in discussion with both Tribes on the issue, although most of the discussion occurred before the election of the current business councils of each Tribe. The Governor's Office provided the Tribes with a tobacco tax compact proposal that involves a tribal tobacco tax stamp. The Governor's Office hopes to continue discussions on the proposal once the Inter-Tribal Tax Commission is up and running.

CRIMINAL ISSUES AND PUBLIC SAFETY

Update on Missing and Murdered Indigenous Persons

Dr. Emily Grant, Senior Research Scientist, Wyoming Survey and Analysis Center (WYSAC), University of Wyoming, provided an update on the Missing and Murdered Persons (MMIP) research and data collection project. Under a contract with the Wyoming Division of Victim Services, WYSAC will be collecting data to update the 2020 and 2021 MMIP statistics included in their January 2021 report and connecting State vital statistics homicide data with court data to learn about the characteristics of the persons charged in connection with each homicide. WYSAC has found State vital statistics data to be the most complete source of homicide data, although there are sometimes issues with accuracy, such as incomplete reporting of race and ethnicity. WYSAC participates on a national level with Operation Lady Justice (**Appendix 3-01**), the Presidential Task Force on Missing and Murdered Native Americans and Alaska Natives, and has been networking with Montana, Nebraska, and other state task forces. Wyoming was one of the first states to complete a statewide MMIP report. Wyoming's report has been well-received and was added to the Operation Lady Justice website.

The Committee requested that as WYSAC continues to collect and analyze MMIP data, Dr. Grant provide feedback regarding ways that MMIP legislation enacted in 2020 (SF0008) can be "fine-tuned" to better address MMIP data collection and accuracy issues. Dr. Grant responded that providing training to coroners in MMIP data reporting and improvements in data reporting consistency will make a big difference.

Representative Clifford pointed out the MMIP report did not include Sovereign Bodies Institute data specific to Two Spirit indigenous people; so it is not possible to see whether LGBTQ indigenous people are disproportionately represented in the MMIP data. The Committee asked if the Governor's tribal liaisons could help facilitate Tribal requests to the Institute for that data.

Forrest Williams, Interim Director, Jeff Cullen, Supervisor, and Allison Moore, Deputy Supervisor, Criminal Justice Information Services, Wyoming Division of Criminal Investigation (DCI) provided an update on law enforcement cooperative efforts regarding MMIP since passage of 2020 SF0008. Inter-agency communication between DCI, the Wind River Police Department and BIA has improved, and DCI is now receiving and posting to the DCI website the BIA and Wind River Police Department's uniform crime report (UCR), missing persons reports, and annual Amber Alert report.

The Committee requested DCI prepare a report for the Committee on comparative crime rates for high level crimes, such as murder and rape, for the Wind River Reservation, Fremont County, and the rest of the State.

Chief Erick Blackburn, Wind River Police Department, BIA, provided an update on hiring a Victim Specialist as recommended by the WYSAC MMIP statewide report. A candidate has been selected and submitted to the BIA Human Resource Department to start the hiring process. Chief Blackburn said the BIA is also advertising a grant-funded one-year term Victim Specialist position. There is the possibility of extending the term of the position up to four years depending upon Congressional funding. Once both

positions are filled, there will be two BIA Victim Specialists assigned to the Wind River Reservation in addition to the two FBI Victim Specialists currently stationed in Lander.

Chief Blackburn gave an update on Operation Lady Justice and establishment of the BIA Missing and Murdered Unit (MMU). One of the MMU offices is in Billings. Chief Blackburn also gave an update on the Wind River Police Department and current staffing levels. The Wind River Police Department currently has 16 officers and is in the process of hiring six additional officers. The Department has been fortunate to be able to attract candidates for hire, most of which are non-native military veterans, but has not been successful in attracting Native American candidates.

Overview of Cooley v. United States, involving tribal police officer authority to detain temporarily and to search non-Indian persons traveling on public rights-of-way running through a reservation for a potential violation of state or federal law

Jennifer Weddle, Greenberg Traurig, Counsel of Record, and Dion Killsback, Co-Counsel, *Amici Curiae of the Crow Tribe, the National Congress of American Indians, and other Tribal Organizations, United States v. Cooley*, presented an overview of *United States v. Cooley* (**Appendix 3-02**). Ms. Weddle explained that the Cooley case is about tribal investigative authority, not prosecutorial authority. Ms. Weddle summarized the facts of the *U.S. v. Cooley* case that involved an investigative traffic stop on the Crow Reservation made by a federal Bureau of Indian Affairs, Office of Justice Services (BIA-OJS) officer employed by the Crow Police Department. In June 2021, the Supreme Court decided the case in favor of the United States, ruling that a tribal police officer has authority to detain temporarily and to search non-Indian persons traveling on public rights-of-way running through a reservation for potential violations of state or federal law. Ms. Weddle stated that the authority of a federal BIA-OJS officer to make an arrest in Indian Country was never at issue; rather, the Court resolved the issue of whether the officer, acting under the authority of the Crow Tribe, had investigative authority over a non-Indian.

Mr. Killsback said the Cooley decision provides BIA officers and tribal police officers with authority, without limitation or authorization from the State, to make investigative “Terry” stops based on a reasonable suspicion of wrongdoing.

Ms. Weddle said the determination of prosecutorial authority regarding crimes committed on reservation lands depends on whether the crime is a major or minor offense. Major crimes defined under the federal Major Crimes Act (18 USC 1153), such as murder, rape or drug-dealing, fall under the exclusive prosecutorial authority of the United States. Minor crimes may be referred to the State for prosecution; under the 1978 *Oliphant v. Schlie* decision, the Tribes do not have prosecutorial jurisdiction over minor crimes. However, minor crimes committed by non-Natives in Indian Country are often not prosecuted.

With regard to civil violations under tribal law and order codes, Ms. Weddle said Tribes have civil regulatory and civil adjudicatory authority when (a) there is a consensual relationship with the non-Native individual or (b) the non-Native individual’s conduct threatens or impacts the health, welfare, economic security, or political integrity of the Tribe.

Ms. Weddle further explained prosecutorial jurisdiction over civil violations that occur on a state highway across a reservation depend upon the highway right-of-way agreement. Tribal prosecutorial rights may be expressly reserved by an exclusion to the agreement.

With regard to the issue of cross-deputization of BIA or tribal police, Ms. Weddle stated the Supreme Court’s Cooley decision recognized cross-deputization as a tool that Congress has provided to tribes, states

and counties, but rejected the argument that BIA or tribal officers must be cross-deputized to have investigative authority over non-Indians on a reservation.

Ms. Weddle and Mr. Killback encouraged the Select Committee and Tribal governments to be proactive to address these jurisdictional issues and not wait for the courts to decide these issues and provided recommendations.

Public comment:

Chairman St. Clair commented about the issues raised by the *Cooley* case. Chairman St. Clair stated he is a licensed attorney and served for many years as the Wind River Tribal Court judge. The current Tribal Court chief judge and prosecutor are both licensed attorneys. Chairman St. Clair said the Eastern Shoshone Tribe's concerns are how the *Cooley* decision impacts prosecution of illegal dumping and traffic violations, including DUIs, committed by non-Indians on the Reservation.

Crystal C' Bearing, Deputy Director, Northern Arapaho Tribal Historic Preservation Office, provided public comment regarding the MMIP project and law enforcement on the Wind River Reservation.

Randy Means, Northern Arapaho Tribal Historic Preservation Office, asked questions regarding MMIP project coordination with other states, and Wind River Police Department community outreach and recruitment efforts.

BRUCELLOSIS MANAGEMENT

Director Steve True, Wyoming Livestock Board, and Director Doug Miyamoto, Wyoming Department of Agriculture, presented an overview of brucellosis management in the State and the potential impact of brucellosis livestock infection on the State's agriculture industry and individual producers. He explained jurisdictional issues and how to allow Reservation livestock producers to access indemnity funds.

Dr. Hallie Hasel, Wyoming State Veterinarian, provided information regarding the science of brucellosis transmission and management, federal and State regulation of brucellosis and tuberculosis, and the federal and State brucellosis indemnity programs.

Director Arthur Lawson, Shoshone and Arapaho Fish and Game summarized feedback and concerns received from Tribal cattle producers regarding brucellosis.

Pat Hnilicka, U.S. Fish and Wildlife Service, spoke about elk brucellosis testing on the reservation over the past three years. (**Appendix 4-01**). The Wind River Reservation has ample winter range for elk; so feedgrounds, and the associated concentration of elk, are not necessary.

Hank Edwards and Scott Edberg, Wyoming Game and Fish, were available to answer questions.

Co-chair Larsen introduced **22LSO-0101.5-Brucellosis containment—tribal inclusion (Appendix 4-02)**, which specifies that Tribal livestock producers may participate in State livestock disease management programs. Heather Jarvis, LSO Staff Attorney, presented the bill draft.

Public comment

Ms. Soli voiced support from the Office of the Governor for the bill as it allows Tribal livestock producers to access indemnity programs that are currently only available to non-Tribal producers.

Dr. Jim Logan, former Wyoming State Veterinarian (retired), spoke in favor of the bill's intent to make indemnity programs available to tribal livestock producers but voiced concerns that the bill does not address the issue of Tribal livestock producers who choose not to participate in brucellosis testing.

Ms. C' Bearing spoke in opposition to the bill due to concerns about Tribal sovereignty over the Northern Arapaho bison herd.

Randy Means asked questions regarding State brucellosis infection rates.

Co-chair Larsen moved that the Committee sponsor 22LSO-0101.5 as amended:

Throughout the bill	Delete "brucellosis" and insert "contagious and infectious".
Page 3-line 1	Delete " <u>region</u> " and insert " <u>regions adjacent to Wyoming</u> ".

The motion to sponsor 22LSO-0101.5 as amended passed on a roll call vote with all members voting in favor. Representative Clifford was not in attendance for the vote but was excused by Co-chair Larsen.

ABSENTEEISM AND TRUANCY

Co-chairwoman Ellis and Co-chairman Larsen provided an overview of absenteeism and truancy issues and the legislative history of 2020 SF0015 Absenteeism and truancy ([Appendix 2-02](#)) and 2021 SF0068 Absenteeism in public schools ([Appendix 2-03](#)). The Joint Education Committee is working on a draft bill regarding responsibilities for enforcing attendance requirements which proposes to have issues regarding children of families living within the Wind River Reservation directed to Tribal Court. The Committee invited the Eastern Shoshone Business Council and Northern Arapaho Business Council to provide input on the draft bill.

SOLID WASTE DISPOSAL AND CLEAN UP

Co-chair Larsen summarized the Select Committee's previous discussions regarding solid waste issues on the Wind River Reservation.

Jason Schneider, Indian Health Service (IHS), spoke about solid waste issues on the Reservation and presented an IHS inventory of open dump sites on the Reservation ([Appendix 6-01](#)). The Committee requested Mr. Schneider provide a sum for the total number of acre-feet occupied by illegal dumps.

Janice Pearson, Resource Conservation and Recovery Act (RCRA) and OPA (Oil Pollution Act) Enforcement Branch Chief, and Alison Ruhs, EPA Region 8, provided an update on the collaborative work of EPA, Tribal, State and county agencies to resolve solid waste and illegal dumping issues on the Wind River Reservation, and potential funding available to the Tribes from the EPA GAP, USDA Rural Development program, and IHS.

Public Comment

Chairman St. Clair spoke in support of addressing solid waste issues on the Wind River Reservation but expressed concerns regarding using ARPA funds to clean up illegal dumps due to restrictions on the funds.

Jerel Kohler, Northern Arapaho Tribal Historic Preservation Office, said that both tribal and non-tribal people are illegally dumping and spoke in favor of collaborative efforts to solve solid waste issues on the Reservation.

IRRIGATION

Superintendent Leslie Shakespeare, BIA, Wind River Agency, provided an overview of P.L. 93-638 that allows Tribes to contract with the BIA to conduct and administer direct services programs, including irrigation systems. Superintendent Shakespeare explained Ray Lake Canal Water Users Association currently receives grant funding under an agreement with the BIA for the grant performance period 2019-2025. In February 2021 the Wind River Intertribal Council submitted a request to modify their existing 638 irrigation contract to assume operation and maintenance of the Ray Lake Canal. If the request is granted, the 638 contract would take precedence over the Association's grant agreement, and Ray Lake Canal Users would be so notified at the end of the current irrigation season.

Former Representative Jim Allen and Northern Arapaho Tribal member Guy Givens provided their perspectives as Ray Lake Canal water users. Mr. Allen stated water use efficiency of the entire Big and Little Wind River systems could be improved by facilitation of the approval process for proposed water storage projects, reconstruction of aging water conveyance structures using federal Water Infrastructure Improvements for the Nation (WIIN) Act funding, and improved integrated and holistic management of the entire system. Mr. Givens spoke about the complexity of private and Tribal water rights and Tribal, BIA and State irrigation management on the Wind River Reservation.

Public Comment

Eastern Shoshone Tribal members and Ray Lake Canal water users Michael Greywolf Garvin and Wade Warren LeBeau provided public comment about their difficulties obtaining water and resolving grievances with the Ray Lake Canal Water Users Association.

The Select Committee Chairmen stated the Irrigation topic would be continued at the October Committee meeting, to include input from the State and Tribal Water Engineers regarding jurisdiction issues, and a report of past and anticipated projects to be funded with WIIN Act monies.

RECESS MEETING DAY ONE

Chairwoman Ellis recessed the meeting at 4:55 PM until tomorrow, August 20, at 8:30 AM.

FRIDAY, AUGUST 20, 2021

CALL TO ORDER

Introductions of Tribal Business Councils and others

Chairman Larsen called the meeting to order at 8:30 AM.

RESERVATION RESIDENT WELLBEING

Benefits and improvements accomplished from COVID-19 assistance, lessons learned, anticipated future impacts

Karen Snyder, COVID-19 Coordinator, Eastern Shoshone Tribe, provided an update on the Tribe's COVID response and the recent Delta variant resurgence. Ms. Snyder summarized what the Tribe has accomplished with CARES Act funds, including contracting with a tribal-owned construction company for weatherization services, road improvements to allow ambulance access, improvements to internet services, and purchase of equipment for the solid waste program. The Tribe is unsure what infrastructure needs can be addressed with ARPA funds as U.S. Treasury guidance is unclear.

Co-chairman Lee Spoonhunter, Northern Arapaho Business Council, summarized the Tribe's COVID-19 response and vaccination incentive program. The Tribe has used their CARES Act funds for a variety of

purposes, including providing weatherization and home repair services to seniors, and laptops and internet services for virtual learning to K-12 and college students.

OWNERSHIP OF FOSSILS AND ARTIFACTS

Ms. Jarvis presented background information about 2021 SF0088 and draft bill **22LSO-088.4-Fossils distinguished from minerals (Appendix 12-01)**, which distinguishes fossils from minerals in estate ownership and removes references to "artifacts."

Public Comment

Crystal Reynolds, Northern Arapaho Tribal Archaeologist, provided a handout (**Appendix 12-02**) and voiced concerns about the proposed bill.

Chairman Dresser provided public comment about the need for consultation with the Tribal Historic Preservation Offices (THPO) in the development of proposed legislation concerning artifacts.

Stephanie Kessler, Wyoming Outdoor Council, provided public comment and a handout (**Appendix 12-03**) with suggested amendments to 22LSO-088.4.

Co- chairwoman Ellis moved the Committee to sponsor the bill, and the Committee requested the following amendments to consider the bill at the next meeting:

Page 1-lines 10-11	Delete "Section 1" and paragraphs (a) and (b)
Page 2-lines 3-4	Delete "unless conveyed by a clear and express grant".
Page 2-lines 13-18	Delete paragraph (c)
Page 3-lines 13-14	Delete "unless the clear and express terms of the instrument provide otherwise,"
Page 3-line 21	Following "by natural processes," add "excluding human remains and funerary objects as governed by W.S. 7-4-106,"
Page 4-lines 10-12	After "surface estate" delete ", subject to severance by the fee title owner of the land pursuant to a clear and express grant".
Page 4-line 15	After "provisions of title 30" add "this applies prospectively and retroactively to instruments governed by Wyoming law to the maximum extent possible under the constitutions of the United States and the state of Wyoming".
Page 4-line 17	Delete "and (c)(ii) is repealed" Add to (c)(ii) Artifact definition: "An artifact is not a mineral or a fossil."

WYOMING BUSINESS COUNCIL

Ron Gullberg, Strategic Partnerships Director, Wyoming Business Council, introduced Julie Kozlowski, Investment Division Director. Ms. Kozlowski provided an overview of the Business Ready Community (BRC) program and eligible applicants listed in State statute, which include cities, towns, counties, joint powers boards, and the Tribes. WBC has completed BRC projects with the Tribes in the past but in recent years has encountered difficulty in bringing Tribal projects to fruition. Ms. Kozlowski inquired with the Attorney General's Office and was told the process whereby the Tribes are able to participate in the BRC program is unclear and the Tribes would have to execute a cooperative agreement with the State to access the program. The Committee requested the Business Council obtain some clarity from the Attorney General's Office regarding the matter.

Ms. Jarvis presented the bill draft, **22LSO-0098.5 Economic development programs-tribal inclusion (Appendix 14-02)** which clarifies that the Tribes may participate in specified economic development programs.

Public Comment

Ms. Soli said the Governor's Office supports the bill since it clarifies without ambiguity that the Tribes are eligible for the BRC program.

Councilwoman Kimberly Whiteman Harjo, Northern Arapaho Business Council, provided public comment about past difficulties encountered by Tribal agricultural producers in accessing grant and loan programs.

The Committee directed LSO to revise the draft bill for consideration at the October meeting.

Chairman Larsen introduced **22LSO-0110.5-Tribal reference amendments (Appendix 14-01)** that clarifies statutory references to the Tribes and Tribal councils. Ms. Jarvis presented the bill draft to the Committee. The Committee requested that LSO revise the bill draft to include generic language for cooperative tribal governing bodies and change education statute references to "foreign language" to "foreign or indigenous language." The Committee also requested LSO draft a letter to each Tribal business council explaining the intent of the bill and requesting feedback with suggested or recommended statutory language for references to each Tribe and a cooperative tribal governing body.

OTHER BUSINESS

The Committee discussed the issue of access to fee land within the boundaries of the Wind River Reservation and that county commissioners may provide for a road.

MEETING ADJOURNMENT

There being no further business, Chairman Larsen adjourned the meeting at 1:00 PM.

Respectfully submitted,

Senator Affie Ellis and Representative Lloyd Larsen

Committee Meeting Materials Index

Index Number	Agenda Item	Document Description	Document Provider
1-01		Agenda	Legislative Service Office
1-02		Sign-In Sheet	Legislative Service Office
2-01	Inter-Tribal Developments and Efforts	Title VII Code of Tribal Offenses - THE LAW AND ORDER CODES OF THE SHOSHONE & ARAPAHO TRIBES	Legislative Service Office
2-02	Inter-Tribal Developments and Efforts	2020 SF0015 Engrossed from Senate plus House amendments	Legislative Service Office
2-03	Inter-Tribal Developments and Efforts	2021 SF0068 Enrolled	Legislative Service Office
3-01	Criminal Issues and Public Safety	Operation Lady Justice Accomplishments	Legislative Service Office
3-02	Criminal Issues and Public Safety	United States v. Cooley, June 1, 2021 Decision	Legislative Service Office
4-01	Brucellosis Management	Brucellosis & Elk Wind River Reservation	U.S. Fish and Wildlife Service
4-02	Brucellosis Management	22LSO-0101 v0.5 Brucellosis containment-tribal inclusion.	Legislative Service Office

6-01	Solid Waste Disposal and Clean Up	Wind River Reservation Open Dumps - IHS inventory	Indian Health Services
7-01	Irrigation	A Primer on 638 Authority: Extending Tribal Self-Determination to Food and Agriculture	Legislative Service Office
11-01	Reservation Resident Wellbeing	American Rescue Plan Act: Tribal-Government-Allocation-Methodology	Legislative Service Office
12-01	Ownership of Fossils and Artifacts	22LSO-0088 v0.4 Fossils distinguished from minerals.	Legislative Service Office
12-02	Ownership of Fossils and Artifacts	Public Comment-Northern Arapaho Tribal Archaeologist	Public Comment
12-03	Ownership of Fossils and Artifacts	Public Comment-Wyoming Outdoor Council	Public Comment
14-01	Wyoming Business Council	22LSO-0110 v0.5 Tribal reference amendments.	Legislative Service Office
14-02	Wyoming Business Council	22LSO-0098 v0.5 Economic development programs-tribal inclusion.	Legislative Service Office