

# SUMMARY *of* PROCEEDINGS



## JOINT CORPORATIONS, ELECTIONS & POLITICAL SUBDIVISIONS COMMITTEE

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### COMMITTEE MEETING INFORMATION

September 24-25, 2014  
Starrett Junior High  
Lander, Wyoming

### COMMITTEE MEMBERS PRESENT

Senator Cale Case, Cochairman  
Representative Rosie Berger, Cochairman  
Senator John Hines  
Senator Wayne Johnson  
Senator Leslie Nutting  
Senator Charles Scott  
Representative James Byrd  
Representative Gerald Gay  
Representative Dan Kirkbride  
Representative Troy Mader  
Representative Jerry Paxton  
Representative Ruth Ann Petroff

### COMMITTEE MEMBERS NOT PRESENT

Representative Matt Greene  
Representative Dan Zwonitzer

### LEGISLATIVE SERVICE OFFICE STAFF

Ian Shaw, Staff Attorney  
Kelley Shepp, Research Analysis

### OTHERS PRESENT AT MEETING

Please refer to Appendix 1 to review the Subcommittee 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](mailto: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](http://www.wyoleg.gov).*

## EXECUTIVE SUMMARY

The Committee met for two days in Lander. The Committee heard testimony and considered draft legislation concerning insurance fine schedules, insurance regulation for portable electronic devices, the Telephone Assistance Program, special museum districts, revisions to the Wyoming Uniform Commercial Code, election laws, the Board of Cosmetology/Barber's Board, unclaimed property, social media data privacy, telecommunications and 911 emergency taxes. The Committee voted to sponsor legislation concerning insurance fine schedules, special museum districts, campaign contribution limits, special elections, and voting centers / electronic poll books.

## CALL TO ORDER (SEPTEMBER 24, 2014)

Cochair Berger called the meeting to order at 8:00 a.m. The following sections summarize the Committee proceedings by topic. Please refer to Appendix 2 to review the Committee Meeting Agenda.

## INSURANCE COMMISSION

Mr. Jim Mitchell, attorney for the Department of Insurance, explained the Insurance Department's enforcement authority and its statutory fine authority. He introduced 15 LSO 121-Department of insurance-fine schedules and costs, included as **Appendix 3**. The Department needs additional authority to discipline those who violate Wyoming's insurance code. This draft legislation increases the fines that can be assessed by the Department and allows the Department to collect costs. Kathryn Wilkinson, representing Mountain West Farm Bureau and the Property and Casualty Insurer's Association, expressed concern about the legislation's elimination of an aggregate fine limit. She also stated that an assessment of costs is not common.

Senator Scott moved to sponsor the legislation. The motion was seconded by Representative Paxton. On a unanimous roll call vote, the Committee voted to sponsor the legislation with the following amendments:

Page 2-line 5	After "court," insert "or who instructs its agents or adjusters to do so,".
Page 2-lines 7-11	Reinsert stricken language and delete new language; strike \$2,500 insert \$5,000; strike \$25,000 insert \$50,000; strike 3 months insert 1 year.
Page 2-lines 13-17	Reinsert stricken language and delete new language; strike \$500 insert \$1,000; strike \$5,000 insert \$10,000; strike 3 months insert 1 year.

Mr. Mitchell thanked the Committee and said goodbye since he is retiring.

The Committee then considered 15 LSO 108-Insurance adjusters-portable electronic devices, included as **Appendix 4**. Dave Piccard, Matt Nowels and Paul Fassbender, representing Asurion, discussed the bill. Asurion insures cellular telephones and other mobile devices and uses a simple system to adjust insurance claims for these devices. The draft legislation would allow unlicensed agents to adjust portable electronic device claims when the agents are supervised by a licensed supervisor who supervised no more than 25 unlicensed agents. The Committee discussed the staff comments contained in the bill draft and Asurion's comments to 15 LSO 108, included in **Appendix 4**. Cochair Case moved that the Committee sponsor the legislation. The motion was seconded by Representative Paxton. Without taking a vote on the motion, the Committee voted to amend the bill as follows:

Page 2-line 18	After "conducts" insert "portable electronic device insurance claim".
Page 3-lines 16-18	Delete.

The Committee then engaged in a detailed discussion regarding the definition of a portable electronic device and voted to table the bill so that a formal definition can be considered at the next meeting. Mr. Mitchell from the Insurance Department informed the Committee that the Department has studied definitions and found that defining portable electronic device is difficult.

### **SOURCE GAS / PSC – WYOMING STORAGE PLAN PROPOSAL**

Norm Long and Kelli Schermerhorn provided the Committee a handout, included as **Appendix 5**, concerning Source Gas' storage plan proposal. The proposal was recently approved by the Wyoming Public Service Commission ("PCS"). Mr. Long and Ms. Schermerhorn discussed the materials in their handout. Bryce Freeman, Wyoming PSC, described the PCS' work on the proposal and stated that Casper division customers will see a benefit. Chris Petrie, PSC, also spoke in favor of the proposal and the benefits it provides. Cochair Case thanked all the parties involved in reaching an agreement on the storage proposal.

### **TELEPHONE ASSISTANCE PROGRAM**

LSO Staff Attorney, Ian Shaw, reported on the Department of Family Service's involvement in the Telephone Assistance Program. Mr. Shaw spoke with representatives of DFS who reported that, while state funding for the program offers a \$3.50 reduction in a qualified individual's telephone bill, the benefit is not proportionately significant. Federal rules have been changed to allow states to qualify for federal telephone assistance funding even where a state does not contribute to the program. The federal government provides a \$9.25 benefit for qualifying individuals. Jason Hendricks and Liz Zerga spoke on behalf of telecommunications companies and reported that there is decreasing participation in the program. Although the law allows telecommunication companies to assess a surcharge on their customers to fund the program, most companies self-fund it and do not charge their customers. After discussion and an opportunity for any additional public comment, the Committee passed a motion to have LSO draft a bill which repeals the program. The bill will be considered at the next meeting.

### **COSMETOLOGY BOARD / BARBER'S BOARD UPDATE**

As reported at the Committee's last meeting, a working group has been working to identify commonalities between the Cosmetology Board and Barber's Board. A decline in the number of licensed barbers has prompted discussion, including an LSO Management Audit recommendation, suggesting that the barbers should consider joining the administration of their board with the Board of Cosmetologists. Representative Petroff described the work of the working group. The conclusion of the working group is that no changes should be made to the current operation of the two boards. The Barber's Board prefers to remain independent. David Parsons and Debbie Bankcroft testified as members of the Barber's Board. Betty Abernathy testified as a member of the Board of Cosmetology. They discussed plans for increasing the number of barbers in Wyoming, including the placement of a barbers' college in Wyoming. They discussed the challenges in qualifying barber instructors. They are working on rules which would facilitate having joint barber and cosmetology schools. Ms. Abernathy testified that many of the Barbers' Board administrative functions have already been assumed by the Cosmetology Board. The Committee advised that the barbers will have to become viable if they want to maintain their own board and that barber's fees may have to be raised to cover the increasing cost of each member. The Committee discussed past proposals to allow cross-licensing. The current 750 education hour requirement for cross-licensing is relatively high. Some states have 150-200 hour requirements. The Committee suggested that the Barbers find a way to remain viable, possibly by facilitating cross-licensing.

## SPECIAL MUSEUM DISTRICTS

As a result of the special museum district discussion during the Committee's June meeting, the Committee considered 15 LSO 116-Museum district-formation. A copy of the draft legislation is included as **Appendix 6**. John Farr, from Encampment, and Ian Shaw described the legislation to the Committee. Mr. Shaw discussed the staff comments. The legislation allows county commissioners a streamlined process for submitting the creation of a special museum district to voters. Mr. Farr explained the societal importance of small museums and museum districts. Representative Byrd moved that the Committee sponsor the legislation. The motion was seconded by Representative Paxton. The Committee passed the bill on a roll call vote. Senator Cochair Berger and Representatives Byrd, Kirkbride, Mader, Paxton, and Petroff voted in favor of the motion. Senators Cochair Case, Hines and Scott voted no. The Committee voted to adopt the following amendments:

Page 2-lines 2 through 5 Reinsert stricken language.

Page 2-lines 5 and 6 Delete new language; strike "." and insert "or through the following process:".

Page 4-line 11 Delete "for" insert "in".

Page 5-lines 2 through 5 Delete and insert "**Section 2.** This act is effective July 1, 2015."

## WYOMING UCC REVISIONS – ARTICLES I AND VII

Attorneys Professor Elaine Welle, Bob Berger and Scott Meier discussed the work of the task force assigned to study Wyoming's adoption of revised articles 1 and 7 of the Uniform Commercial Code. Mr. Berger described the uniform act and the benefits of having Wyoming's act consistent with the act adopted in at least 47 other states. The changes being considered do not materially change the law as it exists today. Elaine Welle explained that the proposed UCC revisions: 1) address technology changes, 2) conform language to today's business practices, 3) conform definitions throughout the UCC, 4) modify language that was previously confusing and 5) make stylistic changes without changing substantive law. Professor Welle reviewed the document included as **Appendix 7**, a side-by-side chart showing existing law and how each section of existing law is modified by the proposed UCC revisions. Because the UCC revisions bill draft will be in excess of 100 pages, the side-by-side comparison likely will be the most direct and useful means of understanding the proposed revisions. Professor Welle and Mr. Meier reviewed the Uniform Law Commission's "Legislative Fact Sheets" for articles 1 and 7, included in **Appendix 7**. Professor Welle later provided LSO with updated fact sheets which are included in **Appendix 7**. Professor Welle agreed to provide the Committee with a summary of how Wyoming's UCC has been revised since its initial adoption. A draft bill will be considered at the Committee's November meeting.

## ELECTION ISSUES

Pat Arp and Peggy Nighswonger from the Secretary of State's Office provided the Committee with an update on Wyoming's primary elections. There were no state-wide concerns or problems.

Upon Cochair Case's questions, Mrs. Arp described an issue leading up to this year's elections involving campaign reporting. Under Wyoming law, organizations making independent expenditures (i.e. expenditures not coordinated with a candidate) which do not directly advocate for or against a specific candidate do not have to report to the Secretary of State. During the summer, there were several organizations which delivered printed materials to the public. These materials did not expressly direct the reader to vote for or against any particular candidate. Rather, the materials used negative language to explain the position of a particular candidate and encouraged the reader to call that candidate to have them explain their position. Some of these organizations did not file reports with the Secretary of State. The Wyoming Attorney General's Office advised the Secretary of State that no reporting was required

because the printed materials did not expressly advocate for or against a particular candidate. Upon further discussion, the Committee voted to have LSO draft a bill for consideration at the next meeting which addresses the situation and which requires these organizations to report.

Julie Freese, Fremont County Clerk, testified about automated calls made during the election season which attempted to register certain voters if they supported a particular candidate. Her office received complaints about the calls and the process. Laurie Urbekeit, Realtors Association, explained that it was her organization which arranged for those calls. She apologized and stated that the calls were not handled well by the company hired to make them.

Debbye Lathrop, Laramie County Clerk, raised issues about the election of precinct committee persons. Committee persons are currently elected as part of the primary election and the county clerks must conduct the election, count votes, certify the results and notify the parties, even where only write-in candidates, or no candidates, are running for the office. Mrs. Lathrop testified to the significant burden placed on county clerks at the same time they are trying to count and certify all the other election results. Mrs. Lathrop suggested following prior legislative efforts to take precinct committee people off of the primary ballot or to give county clerks more flexibility in handling these elections so that they can better manage their other primary election duties. Mrs. Lathrop also raised the issue of whether the public should be paying for these party elections. County clerks from Albany, Carbon, Teton and Sublette counties also testified that precinct elections are often uncontested, which questions why the elections should be conducted in a way that significantly burdens county clerks. Mrs. Lathrop agreed to conduct a survey in the state to determine state-wide experiences on this issue.

Wendy Underhill from that National Conference of State Legislatures (NCSL), introduced herself and explained her work with elections issues for NCSL. She explained that some states allow precinct people to be appointed by the parties.

The Committee voted to have LSO draft a bill which takes precinct elections off of the primary ballot and which allows the political parties to appoint or elect precinct people. LSO also will draft one or more bills which: 1) relieve county clerks of the necessity of processing precinct elections at the same time they are processing other election results, 2) remove the requirement that precinct elections be certified with notice to each candidate and 3) require the parties to pay for precinct elections. Mrs. Lathrop will provide suggested language and LSO has the authority to add additional ideas or concepts to the draft legislation as advisable or necessary.

Cochair Case brought the Committee's attention to a letter concerning election issues written by Attorney Steve Kline of the Wyoming Liberty Group. That letter is included as **Appendix 8**.

The Committee then discussed 15 LSO 59-Initiative and referendum-revisions. The bill draft is included as **Appendix 9**. The bill draft is meant to clarify initiative and referendum procedures by separating them into two, separate articles and better describing the processes. Ms. Nighswonger explained the outdated and confusing provisions in existing law and the way in which the proposed legislation addresses the problems. Senator Hines asked whether the bill will have fiscal impacts beyond state government and whether local governments might be allowed to opt into the legislative fiscal note process and provide fiscal impact estimates. Mr. Shaw described the Wyoming statute which limits fiscal notes to state impacts. After further discussion and an opportunity for public comment, the Committee laid back the bill for consideration at the next committee meeting.

The Committee then considered draft legislation, 15 LSO 111-Special elections-time limits, included as **Appendix 10**. This legislation adjusts the required time limits applicable to special elections for vacancies in the United States House of Representatives and details how the applicable time limits are calculated. Ms. Nighswonger explained the bill. The Committee discussed the limited number of party-affiliated spots on the special election ballot compared to the unlimited number of independent candidates that can run. This could allow party-affiliated candidates who do not get the support of their party to jump onto the ballot as an independent candidate. Representative Paxton moved for the Committee to sponsor the legislation. Cochair Berger seconded the motion. The motion passed a roll call vote, all committee members voting in favor of the motion except Cochair Senator Case, who voted no. No amendments were adopted.

Cochair Case described 15 LSO 124-Aggregate campaign contribution limits-repeal, included as **Appendix 11**. This draft legislation repeals Wyoming's aggregate campaign contribution limit in accordance with recent law from the United States Supreme Court, as discussed at the Committee's last meeting. Cochair Berger moved for the Committee to sponsor the draft legislation. The motion was seconded by Senator Johnson. The motion passed a roll call vote, all members voting in favor of the motion except Representative Byrd who voted no and Senator Hines who abstained.

The Committee also considered 15 LSO 125-PAC campaign contribution limits-repeal. The draft legislation is included as **Appendix 12**. The draft legislation repeals Wyoming's limits on campaign contributions from political action committees. Senator Scott discussed an amendment he would like to make to this legislation. He will have a written amendment ready for the Committee to consider at the next meeting.

Mrs. Lathrop reviewed 15 LSO 122-Elections-vote centers and electronic poll books, included as **Appendix 13**. Mrs. Lathrop discussed the concept of "over votes" and "under votes," discussed in the draft legislation, and the benefits of having centralized voting centers. Senator Scott expressed his concern about the consolidation of voting centers and the possibility that consolidation might impact rural voters by reducing the number of places available to vote. Ms. Underhill with NCSL commented on the prevalence of voting centers in other states. She will provide research to the Committee on this issue. Pat Arp stated that the Secretary of State's Office has no objection to the bill, particularly since it allows counties to participate, but does not require participation. She did warn of a fiscal impact if the legislation is passed because of the need to coordinate state-wide voter registration systems. Establishing voter centers will require some time, money and effort and will require that the state develop a system to process information coming from electronic pollbooks and vote centers. For this reason, she suggested delaying the effective date of the legislation. Representative Byrd, seconded by Representative Petroff, moved that the Committee sponsor the legislation. The motion passed with only Senator Scott voting no. The Committee adopted the following amendments to the bill:

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|----------------------|--|
| Page 3-after line 17 | Insert two new definitions – "Overvote" means a vote placed on a ballot question in excess of the allowable votes for that ballot question. "Undervote" means a vote that could have been made on a ballot question but which was not made on that ballot question." |
| Insert new section   | Adopt language from W.S. 22-7-102(a) regarding limits to changes in precinct boundaries and apply it so as to place limits and standards on efforts to move polling places.  |
| Page 16-line 10      | Delete "W.S. 22-16-103(c)(vi)" insert "W.S. 22-16-103(c)(viii)".   |

## MEETING RECESS

The Committee recessed at 6:30 p.m.

## CALL TO ORDER (SEPTEMBER 25, 2014)

Cochair Berger called the meeting to order at 8:00 a.m.

## UNCLAIMED / ABANDONED PROPERTY

Treasurer Mark Gordon, Marianne Beaudoin, Betsy Anderson and Sharon Garland discussed issues important to the Treasurer's Office with the Committee.

They first presented a handout to the Committee, included as **Appendix 14**, concerning the deposit of public funds in Wyoming's banks. The presentation detailed a number of proposed statutory changes that would bring Wyoming's deposit / depository statutes up to date. They also explained how banks operating in Wyoming qualify to receive public deposits. Some statutory changes may be necessary to conform with current practice. The Committee asked LSO to work with the Treasurer's Office to prepare a formal bill draft concerning these topics for consideration at the next committee meeting.

Treasurer Gordon then discussed four abandoned property issues which may need legislative attention. The first involves the state's roll in handling abandoned safe deposit boxes. Currently, the state is charged with receiving the contents of these boxes. The state, however, does not accept all the contents of abandoned safe deposit boxes and a statutory change would be beneficial to conform the law to current practice. Nancy Russell then addressed the Committee, via telephone, to discuss the general operation of Wyoming's abandoned property statutes and the Treasurer's Office's duties. She reviewed three pamphlets that are produced by the Treasurer's Office for the public, included in **Appendix 14**.

Ms. Russell discussed the operation of heirfinders in Wyoming. Heirfinders are companies that sometimes use scare-tactics to cause people to pay large fees in order to locate unclaimed property. This property is sometimes already available from the state without the use of a heirfinder. The Committee discussed ways to limit the operation of heirfinders in Wyoming and to effectively advertise the existence of abandoned/unclaimed property without violating privacy rights. Ms. Russell also discussed the costs of advertising required by Wyoming statute for abandoned/unclaimed property. Wyoming spends \$22,000 for its once-a-year advertisement. The Treasurer's Office believes the advertising statute should be amended to give the Treasurer's Office more flexibility to advertise in other ways, using electronic and other means.

The Committee then discussed the issue of gift cards as abandoned / unclaimed property. Representative Petroff described the legislation she introduced in 2014, included in **Appendix 14**. Wyoming law needs to be amended to better cover gift cards, which present a unique type of property. Ms. Russell explained that the Uniform Law Commission is currently considering how to handle gift cards and there may be some reason to wait until the Commission makes recommendations before Wyoming takes action to amend its statutes.

Mike Geesey from the Wyoming Banker's Association described the Association's position on safe deposit boxes. He explained that Banks do not mind handling safe deposit boxes, but that they would like statutory authority to do so and a release from any liability incurred in complying with the statutes.

The Committee then voted to have LSO work with the Treasurer's Office and Representative Petroff to resurrect Representative Petroff's prior bill, 14 House Bill 131, and amend it to address the concerns

raised to the Committee regarding gift cards. The Committee voted to amend the bill draft to raise the minimum amount to which the relevant statute applies from \$100 to \$200. The Committee voted to insert a sunset date of July 1, 2019 and to insert a definition for the term “gift cards.” The Committee voted to have LSO draft any additional bills necessary to address the Treasurer’s other concerns.

### **REVENUE COMMITTEE WORK ON SALES/USE TAX EXEMPTION FOR BROADBAND**

Cochair Case reported that the Joint Revenue Committee did not consider the issue of a sales/use tax exemption for broadband services at its last meeting and likely will not address the topic this interim.

### **ELECTRONIC MEDIA – TASK FORCE ON DIGITAL INFORMATION PRIVACY**

Senator Chris Rothfuss described the work of the Task Force on Digital Information Privacy and the issues that were considered by the Task Force. The Task Force will continue for several years and will address a number of topics. However, this year, the Task Force did develop six pieces of legislation which it proposes that the Joint Corporations Committee consider for sponsorship. These pieces of legislation include:

- 15 LSO 66-Right of privacy-constitutional amendment.
- 15 LSO 67-State protection of data privacy.
- 15 LSO 73-Employee online privacy.
- 15 LSO 74-Decedents’ electronic communications.
- 15 LSO 75-Personal identifying information-definition.
- 15 LSO 133-Security breach notification.

The Committee briefly reviewed 15 LSO 74-Decedents’ electronic communications and 15 LSO 73-Employee online privacy, included as **Appendix 15**. Senator Scott suggested that page 2, line 6 of 15 LSO 74 be amended to include the language “or subsequent similar federal enactment.”

Liz Zerga and Jody Levin, Charter Communications and Verizon Wireless, expressed concern that the legislation proposed by the Task Force on Digital Information Privacy raises a broad range of contentious issues and covers a broad range of business topics. The legislation also raises a number of federal compliance issues. Their clients may have proposed amendments to the bills once the bills are officially released. Byron Odekoven, representing the Wyoming Sheriffs and Police Chief Association, explained his organization’s interest in the legislation. His organization likely will have proposed amendments. Senator Scott expressed his preference that the constitutional amendment proposed by the Task Force be carefully considered before being presented.

The Committee did not review other bill drafts, but agreed to consider the Task Force on Digital Information Privacy’s proposed legislation at its next meeting. Consideration of this legislation likely will require an extra half-day of meeting time.

### **WYOMING TELECOMMUNICATIONS ACT**

Cochair Case described the work of the working group which has considered changes to Wyoming’s Telecommunications Act during this interim. Cochair Berger discussed a survey that was conducted of all the stakeholders and which outlines the relevant policy decisions/statutory amendments that have been discussed. The survey reveals the significant level of consensus reached on each issue. The survey is included as **Appendix 16**. Jason Hendricks, Liz Zerga and Kelley Hoffman, representing the Wyoming Telecommunications Association (WTA), further described the survey.

Mrs. Zerga reviewed and described the WTA's two legislative proposals: 1) to extend the Wyoming Telecommunications Act's sunset date and 2) to provide a cost-based Universal Service Fund (USF) with a benchmark price of \$30.00. These proposals are included within **Appendix 16**. She described the reasons for a \$30.00 benchmark and the benefits of determining each USF participant's benefits using a cost-based approach. The Committee discussed the importance of providing a mechanism to amend the price benchmark if market or other circumstances make it necessary. Mrs. Zerga explained that the cost-based model will increase the size of Wyoming's USF by about \$900,000 which will better enable the fund to compensate participants for the real costs of providing the services necessitated by participation in the Fund. This will require an increase in USF assessments of less than one-half of one percent. Participation in the cost-based model would be optional for telecommunications providers.

Other stakeholders provided testimony on the WTA's proposals and on other related issues. Kristen Lee, Mark Reynolds and Jeremy Ferkin of Century Link explained their proposed statutory language which would provide parity in regulatory levels between voice over internet protocol (VoIP) and competitive telecommunications companies. The proposal would provide deregulation for competitive companies consistent with the deregulation provided for VoIP. Their proposal is included in **Appendix 16**.

Representatives from the competitive carriers (Verizon Wireless, Charter Communications, AT&T and Contact Communications), including Jody Levin, Chris Robisch, Dave Picard and Cheryl Riley, discussed their preference that the USF be funded through a general appropriation from the Legislature. They expressed concern that a move to a cost-based USF will allow the fund to grow beyond the estimated \$900,000 in growth. They believe it is problematic that the majority of the USF is funded by customers who do not enjoy its benefits. Senator Scott questioned whether a general fund appropriation for the USF could be sustained under the Wyoming Constitution, Article 16, Section 6, which prohibits the state from giving its credit except in the aid of the poor. Mr. Robisch briefly discussed the contents of his handout regarding carrier of last resort (COLR) obligations under the USF, included in **Appendix 16**.

Bruce Asay, on behalf of Union Telephone Company, urged that carriers be allowed to choose between a cost-based and price-based USF. Mr. Asay encouraged the Committee to consider the wide variety of legal changes that may be coming in the federal system when considering what changes to make to Wyoming's law. The Committee engaged in a lengthy discussion about what impact changes to federal law might have on Wyoming's Telecommunications Act and the Wyoming USF.

Brett Moline from Wyoming Farm Bureau stated that his clients would like a USF price benchmark of \$25 or, if that is not realistic, no more than 130% of the average price for telecommunications service. He argued that many of the people he represents live in areas where there is no telecommunications competition and, therefore, high prices. Jason Gay of the Wyoming Liberty Group reminded the Committee that telecommunications regulations create social programs that should be limited so as not to damage competition. They should be operated in a transparent fashion and not hidden in the context of regulation. The Liberty Group does have a complete rewrite of the Wyoming Telecommunications Act to present to the Committee. Mr. Gay will provide that to LSO.

Mr. Gay then discussed a Wyoming Public Service Commission report which indicated that 55% of Wyoming's citizens prefer a landline telephone. Mr. Gay presented the information contained in **Appendix 17**. Mr. Gay concluded that Wyoming citizens are moving toward wireless technology and that the telecommunications industry should not be regulated based on old, wired technology.

Tim Lockwood, AARP of Wyoming, emphasized the importance of reasonable and stable telecommunication prices. AARP supports fixed, benchmark USF prices and parity between VoIP and competitive telecommunications carriers.

Al Menier, Wyoming Public Service Commission, provided the PSC's position on the proposed changes to Wyoming's Telecommunications Act. He suggested a statutory change which would set a USF price benchmark, but which would allow the PSC to alter the benchmark any time a 10% or more correction is necessary. The benchmark should always be reviewed every 4 years. The Committee discussed the extent to which mobile phones in rural areas of Wyoming are dependent on landlines to make them work. Mr. Menier will provide information on this topic to the Committee.

Senator Case distributed a letter from Brett Glass, Lariat Communications, discussing Lariat's position on changes to the Wyoming Telecommunications Act. Mr. Glass believes that the state should regulate special access line pricing. Mr. Glass' letter is included in **Appendix 17**.

The Committee then directed LSO to prepare bill drafts which address each of the issues identified in the survey, **Appendix 16**. Each stakeholder and interested party should be allowed to collaborate in the development of the legislation and all interested parties should present draft language to LSO. The legislation on the USF price benchmark should include a provision allowing the benchmark to be adjusted when necessary to correct the benchmark by 10% or more. The legislation providing a cost-based USF should limit expansion of the USF to no more than 125% of its existing level. LSO should work with stakeholders to draft bills addressing the COLR and VoIP/regulatory parity issues and other issues identified in the survey and in the committee meeting.

## **PREPAID 911**

The Committee moved its meeting to the Pronghorn Lodge in Lander to discuss Prepaid 911 / taxation issues. The meeting was held jointly with county officials.

The Committee considered 15 LSO 117-Emergency 911 tax-prepaid wireless, included as **Appendix 18**. This draft legislation would place a 1.5% tax on the sale of prepaid wireless at the point of sale. The tax is meant to approximate the \$.75 per line 911 tax that is currently imposed on all mobile telephone subscribers who pay on a monthly basis (post-pay customers).

Sheryl Riley introduced John Schmidt, tax policy director at Verizon Wireless, who discussed Verizon's concerns with the draft legislation. LSO staff attorney, Mr. Shaw, discussed the staff comments contained in the bill draft. The discussion centered around the definitions contained in the draft bill, the itemization of the 911 fee on receipts and invoices, equal protection issues and the basis for the 1.5% assessment proposed in the legislation. Director of the Department of Revenue, Dan Noble, also commented on the bill draft and explained where the bill draft is similar to, and different from, Wyoming's sales tax statutes. Mr. Nobel suggested that the bill will need a delayed effective date in order to allow his agency to prepare to administer the tax.

Peter Obermueller, Executive Director of the County Commissioner's Association, addressed the Committee. He was accompanied by Mike Nichol, Sheridan County Commissioner. They presented a new proposed distribution formula to insert into the bill draft which would provide a base funding amount to every county and promote the development of 911 systems in smaller counties. Mr. Obermueller's proposal is included in **Appendix 18**. Mr. Obermueller discussed how other states handle their 911 taxes/fees. The Committee requested that Mr. Obermueller provide information on the current

distribution of Wyoming 911 taxes assessed on post-pay mobile telephone users. Commissioner Nichol explained how the 911 emergency system is operated in Sheridan County.

County public safety representatives then addressed the Committee. Dave Adsit and Dale Stalder provided the maps contained in **Appendix 18** which demonstrate the status of 911 service in Wyoming. They explained how there is a great disparity of 911 availability and system quality across the state. Richard Ladwig from Niobrara County described his county's challenges paying for its 911 system. They also discussed their concerns with Wyoming's 911 laws. Statutory definitions need updated and the statutory grant of immunity from liability likely does not extend to some necessary activities and 911-related decisions.

The Committee discussed tax policy and the use of a 911 tax to fund the 911 system. The cochairman encouraged parties to provide more information concerning the use of 911 funds and the efficiency of expenditures. Mr. Obermueller questioned the current reporting requirements and suggested that the Committee consider whether current requirements provide useful information to the proper agencies.

After further discussion and the opportunity for public comment, the Committee provided drafting instructions to the LSO for 15 LSO 117. LSO was directed to 1) work with industry and others to develop appropriate definitions within 15 LSO 117; 2) amend 15 LSO 117 to adopt the distribution formula presented by Mr. Obermueller and the counties; 3) attempt to make the collection mechanism as close as possible to Wyoming's sales tax statutes; 4) amend the effective date to January 1, 2016; 5) insert a new provision requiring the Department of Revenue and PSC to report to the Committee ever four years concerning the parity between the 911 tax rate charged to post-paid wireless subscribers and prepaid wireless purchasers; 6) insert a blank appropriation to the Department of Revenue which will allow them to prepare for the administration of a 911 tax on prepaid wireless purchases; and 7) adjust the draft legislation to give the Department of Revenue necessary enforcement powers against prepaid wireless retailers. Cochair Case and Mr. Obermueller will coordinate a meeting to discuss 911 efficiency and reporting requirements with all interested parties.

## **MEETING ADJOURNMENT**

There being no further business, Cochair Case adjourned the meeting at 3:40 p.m.

Respectfully submitted,

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Senator Case, Cochair

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Representative Berger, Cochair

# Committee Meeting Materials Index

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12	Election Issues	15 LSO 125-PAC campaign contribution limits-repeal	Legislative Service Office
13	Election Issues	15 LSO 122-Elections-vote centers and electronic pollbooks	Legislative Service Office
14	Unclaimed/Abandoned Property	Treasurer's Office outline of deposit / depository issues; unclaimed property pamphlets; 2014 HB 131	Treasurer's Office / Legislative Service Office
15	Electronic Media	15 LSO 74-Decedents' electronic communications; 15 LSO 73-Employee online privacy	Legislative Service Office

16	Wyo. Telecommunications Act	Survey of issues and stakeholder positions; WTA legislative proposals; VoIP/Competitive Parity outline; COLR issue outline	Wyoming Telecommunications Association; Legislative Service Office/Century Link/Competitive Carriers
17	Wyo. Telecommunications Act	Materials related to PSC report regarding publics' preference for landline service; Letter from Lariat Communications re: regulation of special access lines and telecom issues	Wyo. Liberty Group / Lariat Communications
18	Prepaid 911 Tax	15 LSO 117-Emergency 911 tax-prepaid wireless; proposed distribution formula by county commissioner's association; maps indicating 911 service in Wyoming	Legislative Service Office / County Commissioner's Association / County emergency service representatives