

LEGISLATIVE OVERSIGHT & INVESTIGATIONS COMMITTEE

Minutes

December 19, 2024

Call to Order and Roll Call

The 7th meeting of the Legislative Oversight & Investigations Committee was held on December 19, 2024, at 1:00 PM in Room 131 of the Capitol Annex. Representative Adam Bowling, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Representative Adam Bowling Co-Chair; Senator Brandon J. Storm Co-Chair; Senators Julie Raque Adams, Danny Carroll, Donald Douglas, Gerald A. Neal, and Reginald Thomas; Representatives John Blanton, Lindsey Burke, Ken Fleming, Matt Lockett, Jason Petrie, Scott Sharp, and Pamela Stevenson.

Guests: Sarah Cronan, General Counsel, Tourism, Arts, and Heritage Cabinet; Jennifer Spence, Parks Museum Curator, Department of Parks, Tourism, Arts, and Heritage Cabinet; Paula Hunter, Chair, and Randy Hunter, Member, Friends of Blue Licks State Park; Dennis Vesper, Archaeologist; Senator Steve West, District 27; Representative William Lawrence, District 70; and Ben Barnes, Chief, Tonya Tipton, NAGPRA Representative, and Erin Paden, Tribal Archaeologist, Shawnee Tribe.

LRC Staff: Committee Staff Administrator William Spears; Committee Analysts Jacob Blevins, Christopher Hall, Taylor Johnston, Valentina Osunmade, Jonathan Rickett, Austin Sprinkles, Shane Stevens, and Joel Thomas; and DJ Burns, Committee Assistant.

Approve Minutes from November 14, 2024

Upon motion by Representative Lockett and second by Senator Storm the minutes for the November 14, 2024 meeting were approved without objection.

Native American Artifacts Repatriation

Sarah Cronan, General Counsel, and Jennifer Spence, Parks Museum Curator for the Department of Parks, Tourism, Arts, and Heritage Cabinet, introduced themselves. They summarized the federal Native American Graves Protection and Repatriation Act (NAGPRA) and the actions taken by the cabinet regarding Native American artifacts held at Blue Licks Battlefield State Resort Park. Their presentation can be found on the Legislative Oversight and Investigations Committee webpage, with the first 22 slides representing their presentation and the remaining slides providing details on the artifacts.

In response to a question from Representative Lockett regarding association of the artifacts with the Shawnee, Ms. Spence said the Shawnee tribe are descendants of the Fort Ancient culture. Federally recognized tribes typically defer to the Shawnee in regards to artifacts from Fort Ancient sites.

In response to questions from Representative Lockett, Ms. Spence stated that the cabinet is required to reach out to tribes as part of the NAGPRA process to report inventories and initiate consultation. Ms. Cronan added that invitations were sent to eight tribes, three of which responded. Two tribes were consulted, including the Eastern Band of Cherokee who deferred to the Shawnee.

In response to a question from Senator Neal regarding NAGPRA penalties, Ms. Cronan answered that penalties were set in federal regulation and she is not familiar with the original rationale.

In response to a question from Senator Douglas regarding proceeds of NAGPRA penalties, Ms. Cronan stated that she does not know who receives the funds and recommended committee members contact their federal congressional delegation if they wish to know more.

In response to questions from Representative Blanton, Ms. Cronan stated the items are officially repatriated but the cabinet is holding custody until the tribe collects them. Representative Blanton stated that the artifacts should return to the graves where they were found and asked whether that was taking place. Ms. Cronan stated that this would be decided by the Shawnee.

Representative Bowling referenced the cabinet representatives' opening statement in which they mentioned meeting with a number of stakeholders including local, state, and federal officials in addition to the Friends of Blue Lick and asked when these meetings took place. Ms. Cronan stated that the repatriation process began in January 2024 with the publication of notice in the federal register. They started hearing from concerned citizens in June or July. Subsequent communication occurred with Senator West, Senator Lawrence, representatives of Senator McConnell and Representative Barr's offices, and local county judges and judge executives in the four affected counties of Nicholas, Robertson, Mason, and Fleming. The cabinet sent a detailed letter to these parties explaining the decision to repatriate. As far as Ms. Cronan is aware, these parties did not request an in-person meeting. The cabinet also met with the Friends of Blue Lick on at least two occasions. The cabinet held in-person meetings with the Nicholas County Attorney and one of the county judges, along with Ms. Hunter, in August.

Senator Carroll expressed his understanding of both sides of the issue and asked if the

Shawnee could give permission for the artifacts to remain in the museum. Ms. Cronan stated that the Shawnee declined and added that the repatriated artifacts compose about 12.5 percent of the total collection.

In response to a question from Senator Carroll, Ms. Cronan stated that Mineral Mounds State Park is not involved.

In response to a question from Representative Bowling, Ms. Spence stated that in the past 20 years ancestral remains have been repatriated to various tribes and NAGPRA was followed in those cases. Ongoing repatriations are taking place at four other sites: John James Audubon site in Henderson County, Wickliffe Mounds, Cumberland Falls, and Big Bone Lick.

In response to a a question from Representative Lockett regarding if the cabinet reached out to Senator McConnell and Representative Barr's office to ask for a meeting, Ms. Cronan stated that the Commissioner of Parks was involved so she is unsure of who reached out first. The meeting with Senator McConnell and Representative Barr's office took place at the same time as the meeting with Senator West and Representative Lawrence.

Community Comments on Repatriation

Senator Steve West, District 27, discussed the importance of Blue Licks State Park. He had good discussions with the Shawnee Tribe but saw issue with the transparency and availability of the Tourism, Arts, and Heritage Cabinet. A petition to stop the process and receive more information was signed by 2,000 people. The Friends of Blue Licks wanted timetables for repatriation, the evidence for each artifact, and if the park pursued alternative methods with the Shawnee Tribe. After meeting with the cabinet, Senator West understood that the cabinet would have a public meeting and meetings with the judge executives and county attorneys from each affected county. The cabinet sent letters to each party but did not personally meet with them.

Paula Hunter, chair, and Randy Hunter, member, of the Friends of Blue Licks State Park introduced themselves. They spoke about the history of the park and the artifacts, the NAGPRA process, and their concerns about the process. Their testimony and associated exhibits can be found on the Legislative Oversight and Investigations Committee webpage.

Dennis Vesper, archaeologist and former member of the Kentucky Heritage Council, began by acknowledging the presence of First Nation representatives. He said there is no genetic evidence linking any tribes involved in the NAGPRA case, including the Shawnee, to Kentucky. He claimed that human remains should be reburied, but that reburying perishable artifacts in Kentucky's acidic soils will destroy them, making the act a Class D felony - a concern he has shared with the Kentucky Heritage Council. He offered personal

tours of the Blue Licks Pioneer Museum and an active role in creating displays to any Native American tribes. Finally, he claimed that removing artifacts deters future donations, suggesting he may donate his own collection to Harvard instead of Blue Licks State Park.

Representative Lawrence, District 70, said they were asking for more time and more evidence.

Shawnee Tribe Available For Questions After Meeting

Representative Bowling said the Shawnee Tribe representatives were at the meeting but preferred to listen to concerns. They were available for conversations with committee members after the meeting.

Additional Questions For The Tourism, Arts, and Heritage Cabinet

In response to questions from Representative Burke, Ms. Cronan stated she disagreed with how the community comments depicted the cabinet's actions. In regards to the five-year timeline, the statute has various timelines depending on the object discovered and the stage of repatriation. The US Senate Committee on Indian Affairs demanded compliance with NAGPRA in a letter sent June 2024.

Adjournment

Prior to adjournment, Representative Bowling announced it would be the last meeting for him and Senator Storm. Senator Elkins and Representative Sharp will be the new co-chairs in 2025. In response to a question from Senator Carroll, Representative Bowling said Senator Elkins and Representative Sharp will decide on research topics.

Upon motion by Representative Sharp and second by Senator Carroll, the meeting was adjourned.