

**Wyoming Senator Affie Ellis**  
**Testimony before the U.S. Senate Committee on**  
**Banking, Housing and Urban Development**  
**April 20, 2021**

**I. Introduction**

Good morning, Mr. Chairman and members of the Committee. My name is Affie Ellis and I am State Senator from Laramie County, Wyoming. It is a pleasure and honor to appear before you today. Thank you for inviting me to testify on the topic of our country's economy and the importance of investing in rural communities.

Wyoming is one of the largest land-based states, though we are the least populated state in the country with fewer than 600,000 residents. As you talk about rural, even frontier, communities, it's more than appropriate to focus on a place like Wyoming. Though we are small, we are mighty in the sense that we power America. According to the U.S. Energy Information Administration,<sup>1</sup> Wyoming produces 14 times more energy than it consumes, and it is the biggest net energy supplier among the states. Wyoming has been the top coal-producing state since 1986, accounting for about 39% of all coal mined in the United States in 2019, and the state holds more than one-third of U.S. coal reserves at producing mines. In 2018 Wyoming's coal mining industry provided 5,534 jobs and delivered nearly \$680 million to state and local governments.<sup>2</sup> Wyoming was the eighth-largest crude oil-producing state in the nation in 2020, accounting for slightly more than 2% of U.S. total crude oil output. The state was the ninth-largest natural gas producer and accounted for almost 4% of U.S. marketed gas production. Of particular note, in 2020 and numerous preceding years, Wyoming has ranked first in the nation for natural gas production on federal lands and

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<sup>1</sup> [U.S. Energy Information Administration.](#)

<sup>2</sup> [Wyoming Infrastructure Authority.](#)

second in oil production on federal lands.<sup>3</sup> In 2019, the oil and gas industry delivered \$1.67 billion to state and local governments and employed 19,416 people. Additionally, wind power in Wyoming has more than doubled in the last 20 years and accounted for 12% of the state's electricity net generation in 2020. The State installed the third-largest amount of wind power generating capacity in 2020, after Texas and Iowa. As I said, we are a small, but mighty state powering America.

Before I talk in greater detail about Wyoming's energy economy and how it supports the services Wyoming provides to its citizens, including funding K-12 education, let me introduce myself. I grew up in Wyoming. I'm proud of my state and thankful for all the opportunities it provided me. My parents are both Navajo and they grew up on the Navajo Reservation located in the Four Corners area of Arizona, New Mexico, Colorado and Utah. Starting in the late 1800s and through much of the 1900s, our country developed policies to assimilate native children into the dominant non-Indian culture. Both of my parents, for example, attended boarding schools on the Reservation and eventually they were sent to the Intermountain Indian School in Brigham City, UT. My dad's father was a renowned Navajo silversmith, so my dad was taught to weld. My mom learned general home economics. When they graduated in the mid-1950s, my dad found a job working as a welder in Jackson Hole, Wyoming where he and my mom started our family. My dad eventually started his own welding shop, which he continues to run today in his 80s, and my mom, who passed at the age of 83 just a few years ago, worked in a drycleaner Monday through Friday and cleaned motel rooms on the weekends. I am the youngest of four children and much of my childhood involved enjoying the beautiful outdoors of this special place and working with my mom cleaning motel rooms.

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<sup>3</sup> U.S. Department of Agriculture, Office of Natural Resources Revenue.

Wyoming provided me with so many opportunities. I was the first in my family to attend college through a substantial scholarship from the University of Wyoming. I eventually earned my law degree and I currently practice in the area of energy, natural resources, and federal Indian law. My husband and I have three children who all attend public schools in Cheyenne. I don't know how it is in other states, but I appreciate that Wyoming affords people like me, who come from humble and hardworking families, the chance to serve in our Legislature and testify before all of you today.

## **II. Wyoming is an energy producing state**

I decided to run for the Wyoming Senate in 2016 to give back to a state that has given me so much and ensure that such opportunities are available for current and future generations. At the time, Wyoming could see on its horizon a downturn in energy production, which in turn, would impact almost all services Wyoming provides to its citizenry. Development of oil, natural gas, coal, trona and uranium are our primary revenue raising mechanisms. Wyoming taxes and generates revenue from the mineral industry in a variety of ways, including severance tax, ad valorem tax, property tax, sales tax, personal property tax, federal mineral royalties, and lease bonus payments. Indeed, significant revenue derived from lease bonus payments allowed Wyoming to build new schools across our state these last two decades. Unlike most states which rely on local bond revenues for such capital construction, Wyoming's K-12 education system is highly centralized. Further, counties with mineral wealth provide what we call "recapture payments" to fund school operations statewide to ensure our financing system is equitable.

Declines in mineral production have significant effects on statewide budgets as well as county and city budgets. Consequently, Wyoming has among the most volatile year-over-year revenue collection in the nation. That revenue volatility has forced us to recognize boom years for

what they are and plan accordingly for non-boom years. Wyoming saves a significant portion of the revenues derived from mineral production. For example, our constitution directs a percentage of severance tax revenue to be deposited in our Permanent Mineral Trust Fund (PMTF). Income earned from the PMTF – not the corpus of the fund itself – supports our state’s General Fund. Wyoming also established a Legislative Stabilization Reserve Account (LSRA), which we often refer to as our “rainy day fund.” Wyoming has one of the nation’s largest rainy-day reserves.<sup>4</sup> Our reserves could support operating costs of our government for more than a year. By contrast, other states only have the capability to operate a few months, some a few weeks, others a few days, and in more dire examples, only several hours, on their reserves.

Wyoming recognizes its reliance on energy production. We often hear that Wyoming “needs to diversify its economy.” I agree with the need to diversify, but it’s easier said than done. Tourism is our second largest industry, followed by agriculture. In recent years, we’ve worked to grow our technology sector. The rural nature of Wyoming provides a perfect laboratory to see how we can improve things like remote work, telehealth and virtual learning, to name a few. Wyoming’s dry cool climate, coupled with tax incentives, has made our state a destination for data centers. Too often we forget that every picture we take or video we record on our cell phones requires electronic storage space for that data. And data centers consume energy. A lot of energy. Everything we send to “the cloud” has a carbon footprint. Additionally, Wyoming has been a leader in passing blockchain legislation. We recently created Special Purpose Depository Institutions (SPDI) (also referred to as “speedy banks”) to accept digital asset deposits, or “crypto currency.” On the education front, we were the first state to require our schools to provide computer science for all grade levels because we want our children to not only understand how to

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<sup>4</sup> [“Budget Surpluses Are Helping Many States Boost Their Savings,”](#) Pew Trusts (March 11, 2019).

consume technology but have the skill set to create technology. We are trying to prepare our children for jobs that don't even exist yet, recognizing that technology will continue to advance and play an increasing role in all sectors, including Wyoming's legacy industries of energy, tourism, and agriculture. Despite these advances in diversifying our economy, there is no other sector that produces the kind of revenue for Wyoming that energy provides.

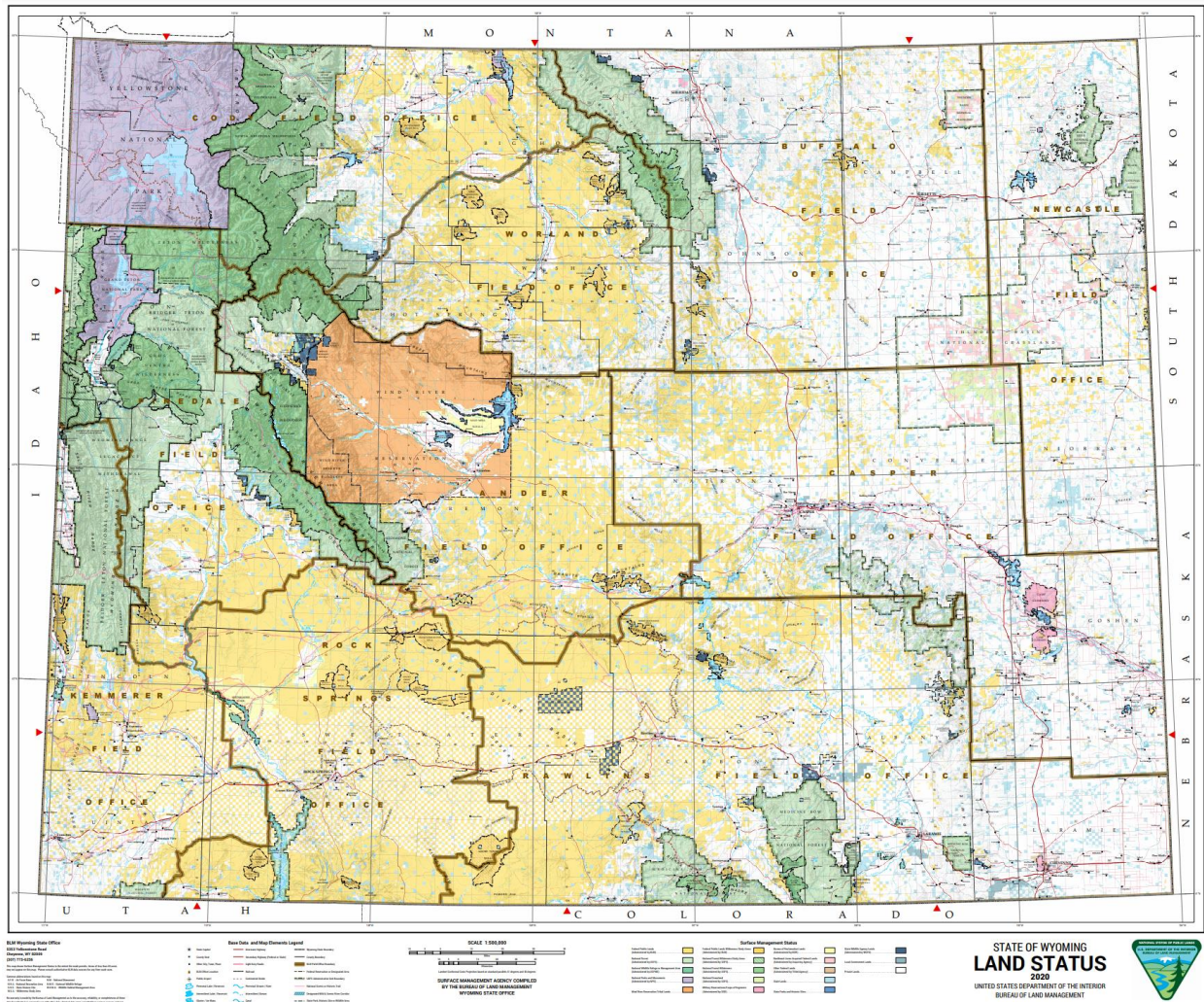
### **III. Restrictions and bans on leasing on lands federally managed lands**

Wyoming is a citizen legislature and budgets on a biennial basis. In rough numbers, we appropriate approximately \$1.3 billion each year for the operation of general government and another \$1.5 billion for our K-12 education budget, with more than half of that amount coming from state appropriations. With declines in energy production, Wyoming has cut departments and programs supported by our General Fund, which has impacted health care services, support for our senior citizens, and the developmentally disabled. This year alone, we just completed our legislative General Session, cutting more than \$300 million from General Fund supported expenditures. Our K-12 budget has remained largely intact, but with continued assaults on domestic energy production, we are now working to resolve a \$300 million per year projected structural deficit in K-12 education.

Wyoming leaders recognize the volatility of revenues derived from energy production. We know that we cannot control global markets or predict the price of oil. However, we have significant concerns when leaders within our own country attack and undermine our energy economy.

Nearly half of the surface lands in Wyoming are managed by the federal government through agencies such as the Bureau of Land Management (BLM), U.S. Forest Service, and National Parks Service. These lands, including the Wind River Indian Reservation and other

federal enclaves, are not subject to state property taxation, though we receive modest compensation through the federal Payment in Lieu of Taxes (PILT) program. BLM lands support significant oil and gas leasing, including BLM lands that are intermixed with private lands in the “checkerboard,” primarily located along the southern portion of our state. Below is a [BLM Land Status Map](#).



Federal land management decisions are an ongoing source of concern for elected leaders in Wyoming because those federal decisions impact the livelihood of our citizens and the strength of our state. Accordingly, the Legislature commissioned a study a few years ago to understand the potential impacts of an oil and gas lease moratorium and drilling ban on federal lands. In December of 2020, a University of Wyoming energy economist released this study exploring

potential scenarios that affect nine western states, including Wyoming, New Mexico, Colorado, Utah, North Dakota, Montana, California, and Alaska.<sup>5</sup>

For Wyoming, the study found that “either a moratorium on new federal leases or an outright drilling ban would constitute a significant shock to the Wyoming economy, reducing tax revenues, income, and employment.”<sup>6</sup> The study concluded that in Wyoming, by the end of President Biden’s first term, a moratorium would cause Wyoming to lose an average of 15,269 jobs annually and lose cumulatively \$8.3 billion in gross domestic product (GDP), \$3.8 billion in personal income, and \$1.8 billion in state tax revenue.<sup>7</sup> The study’s conclusions regarding an outright ban were even more devastating for Wyoming’s economy, as we would lose an average of 18,228 jobs annually and lose cumulatively \$10.3 billion in GDP, \$4.7 billion in personal income, and \$2 billion in state tax revenue.<sup>8</sup> If the ban continued for the next twenty years until 2040, Wyoming would lose cumulatively \$132.9 billion in GDP, \$60.1 billion in personal income, and \$30.5 billion in state tax revenue and lose an average of 75,475 jobs annually from 2036 through 2040.<sup>9</sup>

The study also explained that a moratorium or ban on leasing would not only limit production on public lands, but would affect potential production on state, private and Indian lands because of the checkerboard of surface lands and minerals rights across the West. In other words, adjacent lands not directly covered by a federal moratorium or ban can become isolated and nonfederal oil and natural gas resources may be stranded when federal access is denied.

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<sup>5</sup> [“The Fiscal and Economic Impacts of Federal Onshore Oil and Gas Lease Moratorium and Drilling Bank Policies,”](#) Dr. Timothy J. Considine, Professor of Energy Economics, School of Energy Resources, University of Wyoming (Dec. 14, 2020)

<sup>6</sup> *Id.* at 17-18.

<sup>7</sup> *Id.* at 16-17, 44.

<sup>8</sup> *Id.*

<sup>9</sup> *Id.* at 16-17.

In addition to examining the financial impacts, the report also shed light on the relative costs of achieving reductions in greenhouse gas emissions with a moratorium on federal oil and gas leases. The report stated, “Even if in the unlikely event a leasing moratorium or a drilling ban were to reduce emissions, they would be achieved at great cost. There are many cost effective technologies and strategies to reduce greenhouse gas emissions. Restricting development of oil and gas on federal lands is not one of them.”<sup>10</sup> Indeed, Wyoming has invested and continues to invest in alternatives to offset carbon emissions. We opened the Wyoming Integrated Test Center in May of 2018 to provide a space for researchers to test carbon capture, utilization, and sequestration.<sup>11</sup> Further, Wyoming Governor Mark Gordon recently joined other governors in sending a letter to members of Congress urging support for the SCALE Act which would provide low-income loans and grants to build out a transportation network for carbon, similar to government support for water or highway infrastructure development.<sup>12</sup>

Wyoming cares deeply about our natural resources. As the Chairwoman of the Senate’s Travel, Recreation, Wildlife and Cultural Resources Committee, I can tell you that Wyoming works to find the right balance of supporting our energy industry with conserving our natural resources. For example, Wyoming was a leader among western states in developing a Sage-Grouse Conservation Strategy to ensure energy and other development projects avoid and minimize impacts in core and non-core sage grouse habitat areas to protect these species well in advance of an Endangered Species Act listing.

Wyoming established a Wildlife and Natural Resource Trust Fund (Trust) which set aside more than \$115 million in its corpus to support projects that enhance wildlife, such as building

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<sup>10</sup> *Id.* at xi.

<sup>11</sup> [Wyoming Integrated Test Center](#).

<sup>12</sup> [“Wyoming governor calls for federal support for carbon capture.”](#) Casper Star Tribune (Apr. 6, 2020) (access to the letter included in the link).



wildlife overpasses and underpasses to prevent and reduce vehicle collisions. This effort brings industry, conservation groups and other stakeholders together. Since 2006, the Trust has funded 538 proposals and allocated \$59 million in on-the-ground projects.<sup>13</sup>

We care about our wildlife and our environment. We hunt, fish, mountain bike, hike, camp, kayak, and paddle board. We snowmobile, ski and snowshoe. We gaze at stars that city folks cannot see because of light pollution. We breathe the cleanest air and we can spend days exploring Wyoming's wilderness without seeing another soul. We not only enjoy these natural wonders on our own but recognize that people from all over the world travel to experience our beautiful state, home of Yellowstone, the country's first national park, and Devil's Tower, the country's first national monument. During the widespread closures due to COVID-19 last year, Wyoming saw dramatic increases in places like our state parks. People across this country were reconnecting with nature and we were proud that they came to Wyoming. Our state is a wonderful example of how conservation of our natural resources can and does co-exist with robust domestic energy production.

You can imagine how we felt on January 20, 2021 when the U.S. Department of Interior (DOI) announced Secretarial Order No. 3395, a two-page document which called for an immediate 60-day suspension of new oil and gas leases and drilling permits for U.S. lands and waters.<sup>14</sup> Think of your state's number one industry and imagine receiving an undebated executive order that contradicts numerous federal statute coming from Washington, DC which would hurt not only that industry and the men and women employed in that sector, but the revenues it provides to fund your schools, roads and health care programs. The Order is akin to banning corn growth in Iowa, banning rubber and plastic manufacturing in Ohio, or banning gaming in Nevada. Although the

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<sup>13</sup> [Wyoming Conservation Legacy](#).

<sup>14</sup> [U.S. Department of the Interior Secretarial Order no. 3395](#) (Jan. 20, 2021).

initial 60 days have passed, the moratorium has been extended by the Department of the Interior pending a “review and reconsideration” of leasing practices.<sup>15</sup> Our state is gravely concerned that this moratorium will be extended indefinitely and that the current presidential Administration will also impose an outright ban on all oil and gas drilling on federal lands.

Our Governor filed a lawsuit in the Federal District Court of Wyoming which explains how the halt on new oil and gas leases on federal lands violates the National Environmental Policy Act, the Administrative Procedure Act, the Mineral Leasing Act and the Federal Land Policy Management Act.<sup>16</sup> The lawsuit asks the court to require the BLM to resume quarterly oil and gas lease sales, which have been suspended since the order was signed. Our Governor has rightly pointed out that our world will continue to need and use oil and gas for the foreseeable future. The question is whether those resources will be produced under the environmental safeguards in place on federal lands in Wyoming, or in other countries which do not have strong environmental regulations.

As I mentioned, the Wind River Indian Reservation, home to the Eastern Shoshone Tribe and Northern Arapaho Tribe, is located in central Wyoming. On February 22, 2021, the Northern Arapaho governing body sent a letter to the Department of the Interior to express its opposition to leasing moratorium because although tribes themselves are exempt from the moratorium, the impact on Wyoming impacts tribal members who are also citizens of our state. Reductions in state services affect tribal members, including native children attending Wyoming public schools funded by the state. The Northern Arapaho also expressed support for the nomination of Secretary Deb Haaland, who is the first American Indian to serve at the secretarial level of a presidential

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<sup>15</sup> U.S. Department of the Interior Memorandum (Mar. 19, 2021); Executive Order 14008, Tackling the Climate Crisis at Home and Abroad, at Section 2078 (Jan. 27, 2021).

<sup>16</sup> [Wyoming v. Haaland](#), CV 21-00056, Petition for Review of Final Agency Action (March 24, 2021).

administration. As a Navajo woman, it is inspiring to see a native sister serving in this capacity. Unfortunately, this remarkable milestone of having an indigenous woman serve as an executive cabinet official has been clouded by the moratorium because it threatens the livelihood of thousands of hardworking families in Wyoming and in New Mexico, Secretary Haaland's home state. I hope we can reverse course.

As Wyoming continues to navigate its way out of these incredibly challenging economic times, we appreciate your willingness to support policies to promote economic recovery in rural places like Wyoming. As the U.S. Senate considers not only what the federal government should do to help rural America, it should discuss what the federal government should not do. Wyoming needs you to understand how executive orders, signed with a stroke of a pen without congressional approval, can literally devastate our state's economy. We want the freedom, stability, and support from our federal leaders to invest in ourselves.

Thank you for the opportunity to present this testimony to you today.