

MINUTES
Approved by the Committee
Idaho Council on Indian Affairs
Tuesday, December 08, 2015
1:00 PM to 3:30 PM
WW53, State Capitol
Boise, Idaho

In attendance were Chairman Representative Marc Gibbs; Senators Jim Guthrie and Cherie Buckner-Webb; Representative Donna Pence; Chief J. Allan, Coeur d'Alene Tribe; Gary Aitken, Jr., Kootenai Tribe; Bill Picard, Nez Perce Tribe; Devon Boyer, Shoshone-Bannock Tribes; Lindsey Manning, Shoshone-Paiute Tribes; Bobbi-Jo Meuleman, Office of the Governor. Legislative Services staff present were Ryan Bush and Sara Bingham.

Others present included William Bacon, Marcus Coby, Robert Mann, Randy L'Teton and Wendy Furney, Shoshone-Bannock Tribes; Buster Gibson and Angele SaBori, Shoshone-Paiute Tribes; Ernie Stensgar, Don Sczenski, Helo Hancock, Eric Van Orden, Charlotte Nilson and Lobbyist Bill Roden, Coeur d'Alene Tribe; Darren Williams and Lobbyist Mandy McLennan, Nez Perce Tribe; Janet Gallimore, Idaho Historical Society; General Gary Saylor and Jake Fruhlinger, Idaho National Guard; Brigadier General Brad Richy, Director, Idaho Bureau of Homeland Security; Dr. Gloria Totorigaguena, Consultant, Idaho Sheriffs Association; Russ Barron, Idaho Dept. of Health and Welfare (DHW); Patty Sanchez and Blake Youde, Office of the State Board of Education (OSBE); Betsy Russell, Spokesman Review; Carrie Poster, Lobby Idaho; and Jeremy Pisca, Risch Pisca, PLLC.

Note: presentations and handouts provided by presenters/speakers are posted on the Idaho Legislature website: <http://www.legislature.idaho.gov/sessioninfo/2015/interim/indaff.htm>; and copies of those items are on file at the Legislative Services Office in the State Capitol.

Chairman Gibbs called the meeting to order at 1:00 p.m., and welcomed all to the meeting, indicating that introductions would follow an opening prayer. **Mr. Bill Picard**, Vice-chair of the Nez Perce Tribe, offered the prayer in his native tongue, concluding with a translation. Chairman Gibbs then recognized Lindsey Manning, and asked him, and other members, to include a brief summary of tribal government, recent changes and election process.

Mr. Lindsey Manning introduced himself as Chairman of the Shoshone-Paiute Tribal Business Council, located in Duck Valley, Owyhee County, and described their council as made up of 7 members, including Vice-chair Buster Gibson, Executive Secretary Angele SiBori, Marlyn Jim, James Blossom, Sandy Egan, Brian Thomas, and Treasurer Cristi Walker. These members serve for 3-year staggered terms, with elections held in April. Also elected are Tribal Judges, including Associate Judges, on popular vote ballots. The tribes have their own law and order codes and tribal court system, and control their own natural resources through a committee whose members are appointed by the Tribal Business Council.

Representative Donna Pence introduced herself, from District 26, which includes 4 counties: Blaine, Camas, Gooding (where she resides) and Lincoln.

Mr. Bill Picard introduced himself as Vice-chair of the Nez Perce Tribe, accompanied today by tribal attorney Darren Williams. **Mr. Picard** addressed recent changes to their tribal council, including that former Chairman Silas Whitman had chosen not to run for office, and that last year's Secretary, Brooklyn Baptiste, also did not run for office; the newly-elected Chairman is Anthony Johnson, and Mr. Picard himself is newly-elected Vice-chair. Other changes to the tribal government include Quincy Ellenwood, elected for a 3-year term, and Mary Jane Miles. Also mentioned was long-time member Sam Penney, serving "since time immemorial" (23 years), and just re-elected for another 3 years.

Senator Jim Guthrie introduced himself, representing District 28, which includes all of Power County and the rural parts of Bannock County.

Mr. Chief J. Allan introduced himself as Chairman of the Coeur d'Alene Tribe, stating that the tribe has a 7-member council, 3 of whom are here today, including Don Sczenski, long-time Vice-chair Ernie Stensgar, and Charlotte Nilson. Other tribal council members are Aflred Nomee, Margaret Sijohn, (newest member), and Cindy Williams.

Chairman and Representative Marc Gibbs introduced himself, from Grace, Idaho, District 32, made up of Oneida, Caribou, Bear Lake, Franklin, Teton, and the eastern part of Bonneville, Counties.

Mr. Gary Aitken, Jr., introduced himself as Chairman of the Kootenai Tribe, and stated there were no new election updates, but spoke of their 7-member council; members chosen from 3 districts with 2 representatives from each, plus the Chair; council members include Elma Bahee, Vice-chair Jennifer Porter, Ron Abraham, Kym Cooper, Amethyst Aitken, and Duane Saunders, plus 2 alternates.

Ms. Bobbi-Jo Meuleman, Governor Otter's Deputy Chief of staff, introduced herself.

Mr. Devon Boyer, serving on the Shoshone-Bannock Tribal Council as Sergeant-at-Arms introduced himself, and was substituting for Chairman Blaine Edmo, who could not be present. **Mr. Boyer** stated that their council is made up of 7 members, several of whom joined him today, including Secretary Marcus Coby, and lead tribal attorney William Bacon. **Mr. Boyer** expressed how good it felt to be among the other Nations here today in the state Capitol.

Chairman Gibbs then directed the committee's attention to the conference call and slide presentation of Professor Peterson.

Professor Steven Peterson opened with some background: he has been a regional economist with the University of Idaho, specializing in economic impact assessments, and has done over a hundred of these studies over the course of his career, during which he has had the pleasure of working with the Five Tribes of Idaho for almost 20 years. He has completed three Statewide Economic Impact Assessments, of which today's presentation is one; his very first study was an impact assessment on the Clearwater Casino, completed for the Nez Perce Tribe in 1996. The basic conclusion he draws from the three statewide assessments, as well as from individual assessments, is that the Five Tribes of Idaho have had, and continue to have, an important, and rapidly-growing economic impact on the state of Idaho, with substantial growth over the last fifteen years. Professor Peterson then provided some demographics, in conjunction with several slides.

The Five Tribes of Idaho collectively:

- Own just under one million acres, in either tribal trust, individual trust or fee simple; with 963,000 acres, upon which 9,553 tribal members live, ranking tribal lands 20th, in terms of size, of Idaho's 44 counties; and of those tribally-owned acres, 150,000 are used for agricultural cultivation, with another 50,000 used for grazing, for a total of 200,000 acres in production agriculture, with average revenues and expenditures totaling approximately one hundred million dollars (\$100,000,000) per year.
- Provide substantial economic benefits to their local and regional economies through diversification, development, reduction in unemployment (both for tribal and non-tribal members) and promotion of partnerships with local economic development and business agencies, as well as entrepreneurial ventures.
- Directly employ 4,641 individuals, ranking them collectively within the top 10 employers in the state of Idaho – (more probably in the top 3 or 4); with the tribal governments themselves employing approximately 1,893 workers; the casinos and related services employing 1,886 workers; tribal enterprises (146 workers), housing (84 workers) and health clinics, (523 workers).
- Provide an additional 2,720 jobs, through outside contracting services such as construction, agriculture, and the hospitality and related service industries.
- Make a substantial impact, in terms of job creation, by providing a total of approximately 7,361 direct jobs in Idaho, not counting "multiplier effects."
- Own and operate 4,834 video gaming machines, 506 hotel rooms, and 7 tribal casinos that collectively generate a growth revenue of approximately eight hundred-twenty million dollars (\$820,000,000), before payouts, and attract approximately 500,000 visitors per year, 60% of whom are tourists from out-of-state; and, while tourism that is unique to the tribes is somewhat difficult to estimate, the Five Tribes are responsible for approximately 12 million visitors to Idaho per year, from around the globe.

- Impact the state's economy by contributing a combined 1.1 billion in total sales transactions, amounting to a net of 653 million in gross state product, making up about 1% of Idaho's 2013 gross state product.
- Account for a payroll of about 479 million in earnings, with an estimated 13,840 jobs attributable to the tribes and tribal activities.
- Create combined annual sales and excise tax revenues of an estimated 19.6 million, 9.7 million in property taxes, and 10 million in personal/corporate income taxes, for a combined estimated total of 39 million in tax revenues per year.

Professor Peterson directed the committee to a break-out of economic impacts by tribal division, found on page 5 of his handout, and spoke of the benchmark increase in the tribes' economic impact on the state between 2001 and 2013, which he said represented an increase of about 88%, with the caveat that there were some additional activities not tracked. He also noted that the positive economic impacts from the Five Tribes actually increased during the economic downturn—further evidence of their growing contributions to the state's economy. In conclusion, **Professor Peterson** told the committee that one of the most enjoyable aspects of his work with the tribes is that whenever he completes a study, he thinks he must be "a zero off," given the magnitude of economic growth impacts the Five Tribes have contributed, and continue to contribute, to the state of Idaho. More information can be found on the LSO website.

Next was **Mr. William Bacon**, attorney for the Shoshone-Bannock Tribes, who opened by stating that the tribes had asked him for a presentation to be shared with the 2016 Legislature, outlining the reasons for retroceding Public Law 83-280, as it applies to the Fort Hall Reservation. **Mr. Bacon** explained that P.L. 83-280 was passed by Congress in 1953 and that, in an effort to terminate tribal reliance on the federal government, carried a mandate for six states to provide certain services to tribal members residing on reservations, while other states (among them Idaho), would have the option of providing those services. Idaho opted to wait until 1963 to assume what had previously been federal obligation to provide; namely, services in the following 7 areas: (1) school attendance; (2) juvenile delinquency; (3) care of neglected children; (4) mental illness; (5) public assistance; (6) domestic relations; and (7) operation of vehicles on county-maintained roads. Given that the federal government failed to provide the state with funding for these obligations, **Mr. Bacon** characterized P.L. 83-280 as an unfunded mandate. Consequently, when tribal members on the reservation contacted the counties for funding help in the 7 areas, they were told no funding was available. **Mr. Bacon** contends that by ceding the funding of services obligation back to the federal government, the tribes would more likely receive the necessary dollars for these services; whereas by allowing the law to remain in place as is, the tribes can only assume that no state funding for services on the reservation will be forthcoming.

Senator Guthrie asked, in a 2-part question, whether the feds, prior to 1963, were fully funding the 7 services, and what level of confidence is there today that the feds will adequately fund said services if P.L. 83-280 is retroceded back to them? **Mr. Bacon** answered that it was a matter of perspective. The feds were providing funds prior to 1963, but whether those funds were adequate to meet the needs is open to interpretation; the feds most likely believing funding to be adequate, and the tribes most likely identifying more that could be done. In answer to the second part of the question, **Mr. Bacon** believes that some of the 7 items would get more money than others -- school attendance being most likely to be funded, given that the 2 schools on the Fort Hall reservation are BIA-funded, with currently no resources to address their high absenteeism rates. As for mental illness, **Mr. Bacon** feels this issue has been neglected on the reservation, and he thinks that Indian Health Services (a federal program) would be inclined to find funding to address mental illness, but that some of the other difficult issues, such as divorce and domestic relations, might be less likely funded by the feds. **Senator Guthrie** asked what the driving force or motivation was, behind the creation of P.L. 83-280 back in 1968, and why has it gone so long unfunded? **Mr. Bacon** replied that between 1953 and 1968 the states opting to use federal funds took the position of addressing the 7 areas in ways that excluded the tribes, so that provision of services was more like "a taking." **Mr. Bacon** referred to President Nixon's ushering in the era of "self-determination" in 1968 with laws like P.L. 83-280 and P.L. 638, that required states to secure tribal permission before assuming

jurisdiction, and also allowed the tribes flexibility in outsourcing, and more control over who was providing services. **Senator Guthrie** asked whether any of the other tribes had expressed interest in joining this effort, and whether the Shoshone-Bannock had reached out to other tribes concerning this issue? **Mr. Bacon** replied that the Shoshone-Bannock did not wish to appear presumptuous; they were respectful of each of the other tribes having their own needs and wants; and while it was possible that other tribes might participate, **Mr. Bacon** could only speak for his client on the desire to retrocede P.L. 83-280. **Ms. Bobbi-Jo Meuleman** asked whether Indian Health Services (I.H.S.) currently provides any mental health services on the Fort Hall reservation, and **Mr. Bacon** replied no, there were no in-patient facilities for mental health issues beyond possibly some out-patient treatment, but nothing like State Hospital South in Blackfoot. **Chairman Gibbs** asked whether the Shoshone-Bannock of Fort Hall were using the Behavioral Health Crisis Center of East Idaho that recently opened in Idaho Falls. **Mr. Bacon** was not sure.

The next presentation was from **Janet Gallimore**, of the Idaho State Historical Society, who thanked the committee and tribes for their cooperation and participation in the ongoing redesign of the Idaho State Historical Society Museum in Boise's Julia Davis Park. She began with an overview, complete with drawings, of some of the new exhibits that are intended to preserve, enhance and provide a more complete understanding of Idaho's history, with particular focus on the connections between the land and its various peoples. **Ms. Gallimore** spoke of efforts, since 2014, to reach out and collect feedback from each of the tribes through surveys, focus groups and meetings, and to seek the tribes' formal approval and suggestions in making sure that new exhibits accurately incorporate and represent various tribal origin and other stories, words from their languages, their art, petroglyphs, and traditions (including contemporary traditions). **Ms. Gallimore** said the museum plans to reopen in 2017, and she offered to enlist her staff in making additional visits to the tribes, if desired, between now and then, and welcomed their continued guidance and participation as details of the redesign continue to be refined. She spoke of the discovery, through surveys and focus groups, that the topic currently of most interest to Idaho's citizens is the history of its tribal peoples. **Chairman Gibbs** thanked **Ms. Gallimore** for her presentation and for sharing what he found were exciting details of the museum's redesign, mentioning that from his work on the Joint Finance-Appropriations Committee, the plan entails "quite a bit of money," but that he hoped the state could find those moneys. **Mr. Allan** thanked **Janet Gallimore** and commended her for all of the mutual respect that was evident in the process the state and the tribes have shared together thus far. More details of the museum's redesign can be found in the attachments on the Legislative Services website.

General Gary Saylor of the Idaho National Guard spoke next, presenting a Memorandum of Understanding (MOU) signed with the Shoshone-Bannock Tribes. He began by stating that the Department of Defense (DOD) views it as a very important part of federal government policy to build stable and enduring relations with all of the federally-recognized tribes of Idaho. The appointment of lead cultural resource advisor **Jake Fruhlinger** (also present today), who coordinates with all other cultural resource advisors throughout the state, helps foster positive relationships by consulting with the tribes to ensure that any negative impacts to tribal lands and resources as a result of DOD actions are discussed first, and then minimized or eliminated. The formalization of an MOU establishes and continues open and regular communications between an individual tribe and a branch of the military (in this case the National Guard, including its Air and Army branches). **General Saylor** noted that this joint MOU is the first of its kind to be signed between the National Guard and any tribe in the U.S. **Mr. Boyer** said it was the first such MOU that he was aware of, ever, and he viewed it as a real step forward in terms of working together with the U.S. military, rather than, as in the past, shooting "flaming arrows" at them. **Chairman Gibbs** congratulated both sides on the signing of the MOU, and Shoshone-Paiute Chair **Lindsey Manning** also recognized the improved relations between the tribes and the U.S. military – and commended and thanked the Idaho National Guard, and in particular **General Saylor** and **Jake Fruhlinger**, who have helped host and facilitate the welcome back celebration and return march to the Boise valley that the tribes make each year to a place so meaningful to their history.

Brigadier General Brad Richy took the floor next, and introduced proposed draft legislation that would address the currently fragmented statewide emergency communications system by using a more holistic approach to consolidate, coordinate and modernize all 911 dispatch, radio interoperability, and public safety wireless broadband under the governance of a new commission, to be called the Idaho Emergency Communications Commission. (More detailed background information can be found on the Legislative Services website in the form of two handouts and the draft legislation presented). **General Richy** spoke of efforts over the past 17 months to identify areas lacking emergency communication services, while also reducing or eliminating any duplicative services, with extensive feedback from law enforcement stakeholders, first responders and existing groups such as the Emergency Communications Commission (ECC), the Statewide Interoperability Executive Committee (SIEC), and the District Interoperability Governance Boards (DIGBs) all of whom were included in forming the new commission, with a core group to draft legislation. **General Richy** requested that the committee make one change in the configuration of the new commission, where out of 18 members, the one tribal member seat, as currently worded, is a "nonvoting ex officio member" which, in his opinion, should be struck, and replaced by a fully participatory, voting member, in order that tribal concerns be adequately represented. **Mr. Boyer** was in support of the change, especially as no 911 service is currently available for emergencies on the Fort Hall reservation. **General Richy** wholeheartedly agreed, and that from the standpoint of the working group's "whole community approach," the nonvoting member is not appropriate. He also mentioned that several tribes in Idaho have been doing "an incredible amount of futuristic planning" with wireless broadband, which pertains to the upcoming FirstNet technology, a wireless broadband national public safety network for first responders, to be authorized and funded by Congress, available to participating states sometime between 2018 and 2022, and is in addition to the "next generation consolidated emergency systems" (NG911) outlined in the draft. **Mr. Bill Picard** agreed the tribes should have a voting member, and spoke of the Nez Perce reservation and the approximately 15 cell towers the tribe has installed to provide cell and internet service across their lands, and in addition, the ability to contract those services out to some nearby communities whose schools and residents lack them. **Mr. Gary Aitken** also spoke in support of it, and that an appointed tribal member who lacks voting privileges "smacks of lip service and paternalism" of a kind he finds inherent to so many governmental dealings with Native Americans across the country, and he appreciates the addition of voting rights to the tribal commission member.

Chairman Gibbs then asked for a motion on the matter, and **Mr. Lindsey Manning** made the motion to strike the words "nonvoting ex officio member" as it applies to the tribal member on the commission in subsection (5)(d) of section 31-4815, Idaho Code (see draft legislation Section 5). **Bill Picard** seconded the motion and the motion passed unanimously. **General Richy** asked whether the committee would support the legislation once the Motion's change was made to it; and the general consensus, including that of **Chairman Gibbs**, was decidedly in the affirmative. **Lindsey Manning** wanted to thank **General Richy**, and for the record, to express his and the tribes' great appreciation of him and all the work he has done on this issue.

With that, **Chairman Gibbs** then directed the discussion to the topic of mascots and murals. **Chairman Gibbs** mentioned a school in Teton County that had considered a mascot change from the "Teton Redskins" 2 years ago, which caused much controversy in the community, and in an email he received today, the school board indicated that any such change must be "student-driven" and only then would the board take action. **Senator Buckner-Webb** said there was a discussion at Boise High School to change the name of the Boise Braves, which was student-driven. **Mr. Lindsey Manning** referred to the tribal summit held yesterday, where members discussed the issue of disrespectful portrayal of Indians, but he sees the murals as a separate issue from the mascots, referring specifically to the old Ada County Courthouse and its murals. **Mr. Manning** mentioned that in their custodianship of the murals, the new owners of the building have been sensitive to the tribes' position, and he believes the mural is an accurate portrayal of an historical event: the lynching of a Native American by settlers, and that it reflects the truth of what happened then. He

believes, however, that captions need to indicate how at one point in Idaho history an event such as depicted is evidence of a prevalent attitude when Indians were likened to "inclement weather" or "infestation of the land." **Mr. Manning** expressed his desire that a distinction be made between that time and the present, with captions clearly indicating the distinction. **Mr. Picard** agreed with **Mr. Manning's** comments on the mural, and that history is important to preserve in order that it not be repeated. **Mr. Picard** then spoke to the mascot issue, relating that Lewis-Clark State College has been very respectful in their use of the "warrior" as their mascot, and that nothing in the way the mascot is presented at games is offensive; but that another school's appellation Sacagawea Savages" was viewed as offensive, and after consultation with the tribes, was changed to the "Braves." In yet another instance **Mr. Picard** related how students at a school voted to change "savages" to "braves" but the adults reversed it. He said the tribes felt this to be a regrettable outcome; and that while he does not, in general, favor the use of tribal mascots, he appreciates when the tribes are consulted and their views taken into consideration, making more likely an outcome founded upon honor and respect. **Chairman Gibbs** said he grew up in Grace, Idaho, where the school mascot was the "Red Devils," since changed to the "Grizzlies" -- and that even now the two still wage a kind of conceptual battle that indicates how emotionally charged such a change can be. **Mr. Allan** said his perspective on the mascot issue has changed over time, particularly after seeing a video produced by the National Congress of American Indians (NCAI) that made a clear distinction between being a person, and being a mascot, and from a point of respect, native people are not mascots. He mentioned that Adidas recently pledged to pay for costs of new uniforms and equipment in the event a team name is changed in response to a demand for greater respect in the choosing of mascots. He has considered the potential hurtfulness of a name such as "savages" especially since having children of his own who could potentially be exposed to that hurt. **Mr. Aitken** explained that the term "Redskin" refers to a scalp used as proof, for payment, of having killed someone, so there is pain connected to the word as a result of its historical meaning, and that pain needs to be addressed with open conversations on these issues, such as the Florida Seminoles football team has initiated with the tribes there, and as exemplified by the Adidas offer. **Mr. Boyer** on behalf of the Shoshone-Bannock echoed the views expressed, sharing in the desire not to support or promote any mascots presented disrespectfully, and being mindful of negative aspects of a word such as "squaw" and that regardless of where we come from, or who we are, we all want to be thought of as brave, and as warriors in spirit, but what it comes down to is respect, and the honoring of one another, and that all progress made in our relationships are made possible only through a process based upon respect, as the progress made today on various agreements and other issues attests. **Senator Buckner-Webb** voiced her concern of how crucial it is to discontinue any oppressive, derogatory, inflammatory use, by the dominant culture, of words and terms offensive to the minority, and that such continuing insensitivity to those minorities is very unfortunate, and, from her own experience, can be felt as an indication that mutual respect in a larger cultural context is still not being addressed as a matter of primary concern.

Chairman Gibbs closed the discussion with his acknowledgement of the importance of respect voiced by all members, and moved on to the issue of instant horse racing. **Mr. Allan** felt the instant horse racing issue had been voted on and taken care of already, and wondered if there were any bills forthcoming that would possibly change what he views as an issue that has been put to rest. **Ms. Meuleman** said the Governor has no plans at this time for additional legislation, and that he stands by his veto message and his support of a gaming commission.

Chairman Gibbs then turned to the selection of new chairmen. **Mr. Allan** said that by way of the "gentleman's rule" they rotate the chairmanship among the tribes, and that it is the Kootenai tribe's turn to select Vice-chair for the council – naming **Gary Aitken, Jr.**, as the next Vice-chair. In keeping with a similar gentlemanly rotation, **Chairman Gibbs** suggested his chair on the council be passed to **Senator Guthrie**.

Chairman Gibbs was not sure whether the council would meet again, but recognized that **Representative Donna Pence**, in her decision not to run for re-election, will be stepping down.

Chairman Gibbs expressed his thanks for all her good service to the House of Representatives as a whole, and to this council in particular. **Representative Pence** thanked all, and expressed her appreciation for the opportunity to work together and build relationships with members of the council over the past 2 years, noting that she has learned a lot and hopes the state will continue to work on tribal issues with the tribes in a shared process. She wished everyone good luck.

Chairman Gibbs adjourned the meeting at 2:40 p.m.