

RESOLUTION

A JOINT RESOLUTION OF KOOTENAI, SHOSHONE, BENEWAH, BONNER, AND BOUNDARY COUNTIES, OF THE STATE OF IDAHO, THE CHAIRMAN OF THE BOARDS OF THE AFOREMENTIONED COUNTIES; AND THE CHAIRMAN OF DISTRICT I OF THE IDAHO ASSOCIATION OF COUNTIES TO THE SENATE OF THE STATE OF IDAHO AND TO THE HOUSE OF REPRESENTATIVES OF THE STATE OF IDAHO.

WHEREAS, HB0500 is before the Legislature; and

WHEREAS, Boards of County Commissioners and the Joint District 1 elected officials met on March 1, 2010 to discuss HB0500 and after a vote, the Chairman of the Board of the respective counties and the Chairman of District 1 opposed HB0500 for the following reasons:

WHEREAS, Developing public safety, including enforcement of the Idaho law, is an inherently political process; and Idaho public safety policy clearly defines what law enforcement officials can and cannot do. These policies are set through a transparent political process, a process which at its core represents the collective will of Idaho's citizens. This fundamental principal of the Idaho public policy process is set forth in Article 1, section 2 of the Idaho Constitution which clearly states that "all political power is inherent in the people." Any entity that seeks to enforce the laws of the state of Idaho must be held accountable to the political will of the people. House Bill 500 would create tribal law enforcement entities that operate outside of this political process and create police forces that are not accountable to the state of Idaho, its counties, or its citizens. If House Bill 500 becomes law a natural disconnect will arise between the tribes who will enforce state law and the non-tribal residents on whom the tribes will enforce the laws, creating an environment where unaccountable tribal police officers will be authorized to enforce laws on Idaho residents who have no political say in either tribal elections or the manner in which tribal police enforce laws; and

WHEREAS, With Tribal law enforcement agencies created under House Bill 500 will operate independently of state and local law enforcement agencies. Tribal law enforcement agencies will not be accountable to state or local law enforcement entities, nor the policies and procedures that have been set forth by elected governing bodies. Not only does this create a gap in accountability but also a gap in lines of command and communication; and

WHEREAS, House Bill 500 gives the appearance of judicial accountability; however language in the bill contradicts its self calling into question whether or not a tribe can in fact be held accountable through Idaho's court system. In order to enforce state law on tribal land, a tribal law enforcement agency is required to maintain a general liability insurance of not less than \$2 million and waive sovereign immunity in defense of any claims brought about as a result of law enforcement activities. However, whether a tribe will waive sovereign immunity can be called into question given the conflicting language

of the bill which later states that "Nothing contained in this section shall be construed or deemed to impair or affect the existing status and sovereignty of federally recognized Indian tribes in the state of Idaho as established under the laws of the United States." One must call into question whether or not a tribe can be held accountable for misconduct by Idaho courts for its actions; and

WHEREAS, State and local government law enforcement agencies are subject to public records and open meeting laws that provide the public with access to records and proceedings relating to the activities of state and local law enforcement agencies as well as policies and procedures. This openness in government creates transparency and provides the public with information regarding the policies and procedures of government entities, including state and county law enforcement agencies. Tribal law enforcement agencies created under House Bill 500 will not be subject to Idaho public records or open public meeting laws. Given the language of House Bill 500 there is no way to guarantee that the public will have access to tribal records, law enforcement policies and procedures, and other related proceedings; and

WHEREAS, House Bill 500 requires that a tribe electing to enforce state law on tribal land negotiate with the affected counties how the tribe intends to enforce state laws on non-tribal members within a tribes exterior boundaries, including procedures for detaining, transporting, transferring, and prosecuting offenders; however, the bill provides no clear path for counties to object to or even block the provisions of a tribe's election from going into effect. There is no language in the bill that will permit a county to block a tribe from enforcing state law on tribal land if the county disagrees with the tribe's proposal. This allows a tribe to ignore the wishes of the county and proceed to organize a tribal police force to enforce state law on tribal land if the tribe disagrees with the county's positions; and

WHEREAS, Counties and Tribes are authorized under existing statute to form cooperative law enforcement agreements whereby a tribe can assist a county in enforcing state laws on tribal land. Furthermore, Idaho code allows a county to cross-deputize tribal police officers to enforce state and county law within the exterior boundaries of tribal land so long as the tribal police officer is POST certified. Therefore, new legislation that would require counties and tribes to enter into law enforcement agreements is not needed. Many counties and tribes within Idaho already have such agreements. It is unfair to force legislation on all counties and tribes within the state of Idaho because of a single tribe or county's inability to reach an agreement on how state law is to be enforced on non-tribal members living on tribal land; and

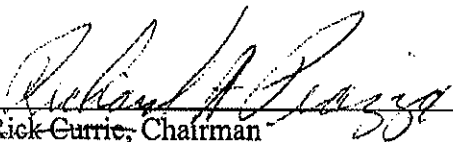
WHEREAS, Idaho counties are willing to work with tribes. Many allegations have been falsely made by tribal representatives asserting that counties are both unwilling to enter into cooperative law enforcement agreements with tribes and unwilling to enforce state law on tribal land. Both of these allegations are completely false. All Idaho counties with tribal lands within their boundaries either currently have cooperative agreements with tribes or have offered to enter into cooperative law enforcement agreements including the cross-deputization of tribal law enforcement officers. It is the tribes that are no longer


interested in cross-deputization agreements as it appears that the tribes in question are only interested in having full and independent law enforcement authority over non-tribal members residing within the exterior boundaries of tribal land; and

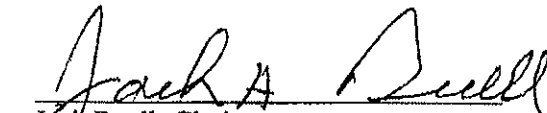
WHEREAS, House Bill 500 will greatly expand a tribe's authority over non-tribal residents residing on tribal land. Tribes will have power to enforce state law on non-tribal members within exterior tribal boundaries. However, the state of Idaho and its counties will continue to be prevented from enforcing Idaho state law on tribal members residing on tribal land.

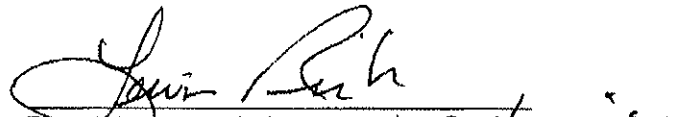
THEREFORE BE IT RESOLVED, That the five northern counties of Idaho comprising District I of the Idaho Association of Counties believe that the legislation HB0500 would create prejudice against the rights of our citizens and we therefore oppose the enactment of HB0500.

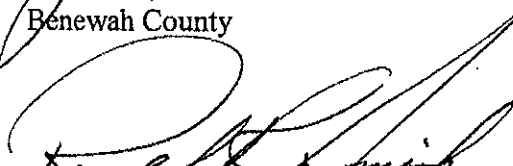
Adopted this 1st day of March, 2010.



VICE Rick Currie, Chairman
Kootenai County
RICHARD PIAZZA


Jon Cantamessa, Chairman
Shoshone County


Jack Buell, Chairman
Benewah County


Joseph Young, Chairman *vice chairman*
Bonner County


Ronald R. Smith, Chairman
Boundary County


Dan R. Dinning, Chairman
District I