

THE OFFICE OF THE GOVERNOR

**EXECUTIVE DEPARTMENT
STATE OF IDAHO
BOISE**

EXECUTIVE ORDER NO. 2021-08

REPEALING EO 2021-07 TO RESTORE LOCAL CONTROL

WHEREAS, as a Republican and conservative Idahoan, I strongly believe that government best serves the people when cities, counties, and other local jurisdictions have the power and autonomy to make decisions at a local level and without undue interference by the state government; and

WHEREAS, the Idaho Constitution, Article XII Section 2, wisely entrusts counties and cities - not the state government - with the power to pass and enforce local ordinances to protect the health and safety of their constituents; and

WHEREAS, pursuant to Idaho Code §§ 50-304, 39-414, 33-512, and other sections, the Idaho Legislature provides additional flexibility to cities, counties, schools, and public health districts to act as they deem necessary to protect the health and safety of the people they serve; and

WHEREAS, because of my concerns with the appropriateness and efficacy of a statewide mask mandate, I did not issue a statewide mask mandate during the COVID-19 public health emergency; and

WHEREAS, no statewide mask mandate exists now nor has one existed in Idaho at any time during the COVID-19 public health emergency; and

WHEREAS, on May 27, 2021, while I was temporarily working out of the state, the Lieutenant Governor, in her capacity as acting Governor, signed Executive Order No. 2021-07 unilaterally stripping local jurisdictions of their constitutional and statutory authority to take action they deem necessary to preserve public health and safety; and

WHEREAS, Executive Order 2021-07 violates fundamental principles of conservatism by forcing the heavy hand of government on local jurisdictions that are better suited to make unique decisions directly affecting the health and safety of their populations; and

WHEREAS, Executive Order 2021-07 disrespects the rule of law by arbitrarily exercising executive power in a manner contrary to our laws and without consulting stakeholders and our local government counterparts; and

WHEREAS, Executive Order 2021-07 violates the separation of powers doctrine by encroaching on the Legislature's prerogative to make statewide policy and legislatively refine the powers of cities, counties, schools, and public health districts; and

WHEREAS, Executive Order 2021-07 is a near verbatim resurrection by the Lieutenant Governor of House Bill 339a, which was introduced and debated during the 2021 Legislature, but failed to pass both houses due to insufficient support from Idaho's elected policy makers; and

WHEREAS, Executive Order 2021-07 has unacceptable consequences for the state's ability to protect children, veterans, the elderly and infirm, first responders, customers, corrections staff, prisoners, lab technicians, and countless others that the state employs and serves; and

WHEREAS, the Idaho Constitution, Article IV, Section 5, requires the Governor to "see that the laws are faithfully executed;" and

WHEREAS, Idaho Code § 67-802 authorizes the Governor to repeal any executive order by issuance of a new executive order; and

WHEREAS, it is necessary to repeal Executive Order No. 2021-07 in its entirety to reverse the misuse of executive authority, preserve the rule of law, maintain the separation of powers, protect Idahoans, and eliminate any doubt that all Idaho Code provisions, including those identified herein, remain in effect without limitation.

NOW, THEREFORE, I, Brad Little, the duly elected and sworn Governor of the State of Idaho, by virtue of the authority vested in me by the Constitution of the United States, the Constitution of the State of Idaho, and the laws of the State of Idaho including, but not limited to, Idaho Code § 67-802, do hereby proclaim and declare as follows:

1. Executive Order No. 2021-07 is repealed in its entirety, effective immediately.
2. The repeal of Executive Order No. 2021-07 shall apply retroactively to 11:00 a.m. on May 27, 2021.

IN WITNESS WHEREOF, I have hereunto set my hand and caused to be affixed the Great Seal of the State of Idaho in Boise on this 28th day of May in the year of our Lord two thousand twenty-one.



BRAD LITTLE
GOVERNOR

LAWRENCE DENNEY
SECRETARY OF STATE