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House of Representatives
State of Idaho

SPEAKER OF THE HOUSE

April 12, 2020

The Honorable Brad Little
Governor
STATEHOUSE MAIL

via electronic delivery

Dear Governor Little:

Amid the COVID-19 pandemic, the government of the State of Idaho finds itself in uncharted waters that we are navigating to the best of our ability. As elected officials, we also have an obligation to faithfully discharge our duties according to our oaths of office. It is in that spirit that I write to you.

The strain on our fellow Idahoans is palpable – be it on our businesses, on their employees and families, or on our healthcare providers and their patients and families. Idaho's elected officials – most prominently you – should continue to respond calmly, with both compassion and resolve.

I commend you for your leadership in this emergency. I know you have heard from the critics in and out of government complaining that you have done either too much or too little to control the spread of the virus. Like you, I hear the same messages.

During times of emergency, Idaho Code expands the scope of your executive powers to include some that are normally reserved to the legislative process. That expansion understandably focuses the attention of the House of Representatives on how you exercise that temporary power.

Members I have spoken to do not question your good will or your intentions. These extraordinary times, however, cause them to think also of the future and the precedents being set. Raising these issues now is respectful of our system of representative democracy and separation of powers envisioned by the nation's Founding Fathers and enshrined in Idaho's Constitution. As James Madison of Virginia pointedly put it in 1788 in Federalist No. 51: "If men were angels, no government would be necessary."

When concerns are voiced about the precedents we are setting today and how they affect our constitutional balance of powers, we can all agree on the need to pause, listen, and reflect on those concerns. Arguably, the Legislature has little authority under existing Idaho law if, as is the case now, an emergency disaster unfolds while we stand in adjournment. But I am mindful, as you are, that the way you exercise legislative powers now will affect how the Legislature views those powers when it next convenes.

The most prudent path forward at this time, it seems to me, would be to advance a public policy that reduces and mitigates the well-founded health risks, while at the same time trusting Idaho citizens and businesses to take the proper steps to address those risks. Let's continue informing our citizens about the health risks and then, to the greatest degree possible, let them govern themselves.

The Idaho Way is to trust that our Idaho people will move forward with knowledge, caution, and common sense. Somewhere between a blanket stay-at-home order and a complete disregard for the reality of this virus's potential, there lies an acceptable level of risk. It is a risk we will need to take in order to avoid a major, long-lasting economic catastrophe. In that light, a state-wide, one-size-fits-all approach, in my judgement, is ill advised. Rather, allowing public health districts the discretion to modify response policies regionally and locally would best begin the transition back to our pre-COVID-19 economy.

Governor, I am writing to offer any help I can provide in terms of counsel and cooperation as you make these difficult legislative decisions. My purpose is not to hinder your work or usurp your executive functions; rather it is to lend a legislative branch perspective on your exercise of legislative powers. Anything less would be an abdication of my oath of office.

On behalf of the House of Representatives, I look forward to working closely with you as we continue to navigate the uncharted waters of COVID-19.

Stay well.

Scott Bedke

Scott Bedke
Speaker

C: The Honorable Brent Hill, President Pro Tem
Members of the Idaho House of Representatives