

IN THE SENATE

SENATE CONCURRENT RESOLUTION NO. 103

BY STATE AFFAIRS COMMITTEE

A CONCURRENT RESOLUTION

1 STATING FINDINGS OF THE LEGISLATURE AND DECLARING THAT THE DECEMBER 30,
2 2020, GENERAL ORDER OF ISOLATION ISSUED BY THE GOVERNOR AND THE DIRECTOR
3 OF THE DEPARTMENT OF HEALTH AND WELFARE IS TERMINATED.
4

5 Be It Resolved by the Legislature of the State of Idaho:

6 WHEREAS, on December 30, 2020, the Governor and the Director of the
7 Idaho Department of Health and Welfare issued an order of isolation re-
8 stricting business activities, prohibiting public and private gatherings,
9 requiring nonfamilial physical distancing, and prohibiting nonparticipants
10 from being present at school extracurricular activities by virtue of pow-
11 ers granted to the Director by the Legislature in Section 56-1003(7), Idaho
12 Code; and

13 WHEREAS, voluntarily limiting the number of people at a gathering,
14 practicing physical distancing, and wearing facial coverings may be guid-
15 ance for individuals to follow when making responsible health decisions,
16 and such practices may encourage the preservation and enhancement of public
17 safety; and

18 WHEREAS, the powers granted to the Director in Section 56-1003(7),
19 Idaho Code, allow him to impose orders of isolation and quarantine only; and

20 WHEREAS, the Centers for Disease Control and Prevention (CDC) and the
21 Department of Health and Human Services (HHS) both define quarantine as
22 something that "separates and restricts the movement of people who were ex-
23 posed to a contagious disease to see if they become sick" and isolation as
24 something that "separates sick people with a contagious disease from people
25 who are not sick"; and

26 WHEREAS, restricting business activities, prohibiting gatherings, and
27 requiring physical distancing are not properly considered quarantine or
28 isolation per the CDC or HHS definitions and are therefore outside of the
29 Director's statutory authority; and

30 WHEREAS, the order of isolation issued by the Governor and the Direc-
31 tor is an order of general applicability affecting citizens and businesses
32 throughout Idaho, regardless of their exposure to COVID-19; and

33 WHEREAS, as an order of general applicability, the order of isolation
34 is in essence an administrative rule to be promulgated pursuant to the Idaho
35 Administrative Procedure Act, Chapter 52, Title 67, Idaho Code; and

36 WHEREAS, proper procedures under the Administrative Procedure Act were
37 not followed in the promulgation of the order of isolation; and

38 WHEREAS, the Legislature has the authority to reject any rule as pro-
39 vided by law pursuant to Section 29, Article III, of the Constitution of the
40 State of Idaho; and

41 WHEREAS, the order states that a violation or failure to comply with a
42 mandatory provision of the order may constitute a misdemeanor punishable by
43 fine, imprisonment, or both; and

1 WHEREAS, the Legislature has determined to end orders that diminish
2 personal accountability for health decisions, curtail family participation
3 in extracurricular events, effectively quarantine and isolate all of the
4 healthy individuals in the State of Idaho, and single out certain categories
5 of Idaho businesses for enhanced regulation; and

6 WHEREAS, the order is currently in effect as of 12:00 a.m., December 30,
7 2020.

8 NOW, THEREFORE, BE IT RESOLVED by the members of the First Regular
9 Session of the Sixty-sixth Idaho Legislature, the Senate and the House of
10 Representatives concurring therein, that the general order of isolation and
11 all of its prohibitions and requirements issued on December 30, 2020, in re-
12 sponse to the COVID-19 outbreak in Idaho and pursuant to Section 56-1003(7),
13 Idaho Code, by the Governor and the Director of the Idaho Department of
14 Health and Welfare is hereby terminated.