Executive Department
State of Idaho

State Capitol
Boise

EXECUTIVE DEPARTMENT
STATE OF IDAHO
BOISE

EXECUTIVE ORDER NO. 2020-15-A

DIRECTING IDAHO STATE TAX COMMISSION TO ADMINISTER THE BUDGET AND LEVY COMPONENTS OF THE GOVERNOR'S PUBLIC SAFETY GRANT INITIATIVE FOR CITIES AND COUNTIES

WHEREAS, Congress has passed the Coronavirus Aid, Relief, and Economic Security (CARES) Act (P.L. 116-136), which provided the State of Idaho $1.25 billion through the Coronavirus Relief Fund for qualifying expenses; and

WHEREAS, on April 30, 2020, the Board of Examiners approved, pursuant to Idaho Code § 67-3516(2), non-cognizable spending authority for the Governor's Office in fund 0345 for the $1.25 billion for the time period of March 1, 2020, through December 30, 2020; and

WHEREAS, on June 30, 2020, the United States Department of Treasury ("U.S. Treasury") issued guidance for state, territorial, local, and tribal governments on the proper uses of the Coronavirus Relief Fund; and

WHEREAS, the U.S. Treasury guidance ("U.S. Treasury guidance") outlines a non-exclusive list of eligible expenditures, including expenditures for payroll expenses for public safety, public health, health care, human services, and similar employees whose services are substantially dedicated to mitigating or responding to the COVID-19 public health emergency; and

WHEREAS, the U.S. Treasury guidance states that as a matter of administrative convenience, the entire public health and public safety payroll costs may be presumed to be substantially dedicated to mitigating or responding to the COVID-19 public health emergency; and

WHEREAS, the U.S. Treasury Secretary and senior staff of the U.S. Treasury are quoted in various outlets stating that this presumption of substantial dedication to COVID-19 efforts exists regardless of whether or not the payroll costs were accounted for in the budget most recently approved as of March 27, 2020; and

WHEREAS, the U.S. Treasury states that the funds may be transferred from the state to units of local government with the addition of certain restrictions to satisfy the requirements of the CARES Act and guidance; and

WHEREAS, the U.S. Treasury notes that for payments to be deemed necessary, they must be reasonably necessary for their intended use in the reasonable judgment of the government officials responsible for spending Fund payments;

WHEREAS, in Executive Order 2020-07, I established the Coronavirus Financial Advisory Committee (CFAC) to make recommendations to me for prioritizing the use of Coronavirus Relief Funds; and

WHEREAS, CFAC is comprised of a broad group of stakeholders, including

legislators, representatives of local and tribal governments, and representatives from the Idaho Association of Cities and Association of Idaho Counties; and

WHEREAS, on May 4, 2020, I approved a recommendation from CFAC to allocate $94 million to local and tribal governments to cover their direct COVID-19 expenses, making Idaho one of the first states to provide local governments access to the fund, eliciting praise from the Trump Administration; and

WHEREAS, local governments have expressed that this initial $94 million allocation is sufficient for and, in many cases in excess of, their direct COVID-19 costs and relatively little expenses have been incurred to date; and

WHEREAS, on May 28, 2020, CFAC sent a letter to U.S. Treasury staff outlining the potential use of the Fund for a Public Safety Grant Initiative (the Initiative) with restrictions to ensure compliance with U.S. Treasury guidance; and

WHEREAS, CFAC convened on June 11, 2020, and determined that, in its judgment, the expenditure of Coronavirus Relief Funds on local public safety payroll expenses was necessary to respond to COVID-19 and made unanimous recommendations to me on the expenditure of up to $200 million with eligibility criteria targeted to the U.S. Treasury guidance; and

WHEREAS, CFAC voted unanimously to allow local governments to voluntarily apply for a grant to receive this additional allocation of funds, which is on top of the original $94 million allocated to local governments; and

WHEREAS, CFAC established parameters for voluntary participation, aimed at advancing compliance with critical areas of U.S. Treasury guidance, namely (1) ensuring the receipt of this voluntary allocation does not constitute revenue replacement, which is not a permissible direct use of fund payments; and (2) ensuring that the allocation does not create a windfall that is used for non-COVID-19 related purposes; and

WHEREAS, CFAC further saw that these voluntary restrictions could advance other areas of U.S. Treasury guidance, namely the allowance to provide economic support to those suffering from the widespread COVID-19 related closures and expenses; and

WHEREAS, on June 11, 2020, I accepted the recommendation of CFAC and announced the program known as the Public Safety Grant Initiative that will provide funding for public safety payroll expenses to city and county governments that agree to participate in the Initiative and provide the resulting savings as property tax relief to the taxpayers of the participating units of local government by foregoing the taxes that would otherwise traditionally have been collected; and

WHEREAS, on July 6, 2020, CFAC sent an updated letter to U.S. Treasury re-outlining the proposed Public Safety Initiative in the context of U.S. Treasury guidance; and

WHEREAS, on July 16, 2020, I met with senior U.S. Treasury and White House staff in Washington, D.C., to discuss the Initiative and received positive reinforcement that the proposed plan aligns with U.S. Treasury guidance; and

WHEREAS, 54 cities and 28 counties submitted Letters of Intent to participate in this voluntary grant program; and

WHEREAS, the Initiative would provide a grant to these local governments in an amount that would cover approximately 42-percent of their public safety budget, allowing the funds to be targeted to those frontline public safety and public health officials who are substantially dedicated to COVID-19 mitigation and response, minimizing the potential for layoffs or furloughs; and

WHEREAS, local governments have the ability to finalize their participation in this voluntary grant program by discussing it in open, public meetings where public testimony on the merits may be taken;

WHEREAS, I have agreed with the CFAC unanimous recommendation that this expenditure in necessary for its intended use; and

WHEREAS, on August 6, 2020, I issued Executive Order No. 2020-15 to implement the Initiative and am now issuing this amended Executive Order to further define the Initiative and ensure its compliance with the CARES Act; and

WHEREAS, on September 2, 2020, U.S. Treasury issued updated guidance, noting that public health and safety payroll costs are both substantially dedicated to COVID-19, and are thus for a substantially different use than accounted for in the most recent budget. Further, Treasury defined a non-exclusive list of positions that meet this presumption; and

WHEREAS, Treasury articulated its intent that the presumption is to help minimize layoffs or furloughs in the face of budget pressure. This aligns with the primary goal of the Initiative given the budget uncertainty many Idaho local governments face. Stable coverage of a large portion of public health and safety payroll costs will help all areas of Idaho to be prepared to respond to and mitigate the COVID-19 pandemic and avoid layoffs and furloughs while not increasing the burden on local taxpayers during uncertain times.

NOW, THEREFORE, I Brad Little, Governor of the State of Idaho, by virtue of the authority vested in me by the Constitution and laws of this state do hereby order:

1. *The Idaho State Tax Commission shall ensure that the budget and levy effects of the Initiative remain neutral those cities and counties that choose to participate. To accomplish this, the Idaho State Tax Commission shall not consider any subtraction from a participating entity's 2020 operating budget due to participation in this program when determining 2021 budget limitations according to Idaho Code § 63-802.*

2. *Urban renewal agencies that would otherwise lose funds due to the lowered levy rates of participating cities and counties may be treated neutrally at the discretion of the participating local government. In such case, the participating local government may use tax dollars collected by the government to maintain neutrality, not CARES Act funds.*

3. *The Idaho State Tax Commission shall make such adjustments to the L-2 form as necessary to verify that participating cities and counties have met the requirements of the Initiative by certification.*

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 14th day of September in the year of our Lord two thousand and twenty.

BRAD LITTLE
GOVERNOR

LAWERENCE DENNEY
SECRETARY OF STATE