

Sen. Brian Lenney
District 13
Canyon County

Sen. Josh Keyser
District 20
Ada County

Contact:

BLenney@senate.idaho.gov

JKeyser@senate.idaho.gov



Idaho State Legislature

State Capitol
P.O. Box 83720
Boise, Idaho 83720-0081

COMMITTEES

Senate Health & Welfare

Senate Judiciary & Rules

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Senate Transportation

March 12, 2026

Attorney General Raúl R. Labrador
700 W. Jefferson Street
P.O. Box 83720
Boise, ID 83720-0010

RE: Request for Legal Opinion on Idaho Child Care Program Statutory Authority

Dear Attorney General Labrador:

We write to request your office's formal legal opinion regarding the Idaho Child Care Program (ICCP) in light of recent written admissions by the Idaho Department of Health and Welfare.

Background:

On December 31, 2025, Senator Lenney and Representative Josh Tanner requested IDHW to temporarily suspend ICCP disbursements pending implementation of fraud prevention measures, citing concerns raised by the Minnesota childcare fraud investigations. (Copy attached)

On March 9, 2026, DHW Director Juliet Charron sent a letter to the Joint Finance-Appropriations Committee stating that "DHW has determined that the authority in code we have historically relied upon for rulemaking is insufficient to sustain any of the ICCP rules" and that "we can find no alternative rulemaking authority in law to sustain these rules." (Copy attached)

Director Charron further stated that "the child care subsidy program is not found anywhere in Title 56, nor another title in Idaho Code" and threatened that without legislative passage of S1374, "DHW will have no choice but to eliminate the rules and wind down ICCP by the close of the fiscal year, potentially earlier."

Legal Questions:

We respectfully request your office provide a formal legal opinion addressing:

1. Does DHW have statutory authority to continue operating ICCP under existing Idaho Code provisions, or does the program lack legal foundation as Director Charron's letter suggests?
2. If ICCP lacks proper statutory authority, what obligations does DHW have to ensure lawful operation or orderly wind-down?
3. What legal implications exist for disbursements already made under a program that DHW now claims lacks statutory authority?
4. Does DHW's operation of other federal welfare programs through administrative rules under § 56-202 raise similar legal authority questions?

Requested Actions:

If your office concludes that ICCP lacks proper statutory authority, we request you work with DHW to:

1. Ensure an orderly process that protects current participants while preventing expansion of a legally unauthorized program
2. Review prior disbursements for fraud and legal compliance
3. Advise the Legislature on minimum statutory requirements if the Legislature chooses to authorize a properly structured program with fraud prevention measures

We believe Idaho families deserve programs that operate within the law and with proper safeguards against fraud. Director Charron's letter raises serious questions about whether ICCP meets that standard.

We respectfully request your quick response.

Sincerely,



Senator Brian Lenney
District 13, Nampa
Idaho Senate



Senator Josh Keyser
District 20, Meridian
Idaho Senate

CC: Governor Brad Little
Senate & House Health and Welfare Committee Chairs
IDHW Director Juliet Charron
U.S. Department of Health and Human Services, Assistant Secretary Alex Adams