

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 431

BY JUDICIARY, RULES AND ADMINISTRATION COMMITTEE

AN ACT

1 RELATING TO CHARITABLE ORGANIZATIONS; AMENDING TITLE 48, IDAHO CODE, BY THE  
2 ADDITION OF A NEW CHAPTER 19, TITLE 48, IDAHO CODE, TO PROVIDE A SHORT  
3 TITLE, TO PROVIDE LEGISLATIVE FINDINGS AND INTENT, TO DEFINE TERMS, TO  
4 PROVIDE THAT RIGHTS AND POWERS OF THE COURTS SHALL NOT BE IMPAIRED, TO  
5 PROVIDE THAT CERTAIN PERSONS SHALL BE EXCLUDED, TO PROVIDE FOR CERTAIN  
6 UNLAWFUL ACTS AND FOR EXCEPTIONS, TO PROVIDE FOR THE SALE OR TRANSFER OF  
7 CHARITABLE ASSETS, TO PROVIDE FOR INVESTIGATORY AUTHORITY OF THE ATTOR-  
8 NEY GENERAL, TO PROVIDE FOR VOLUNTARY COMPLIANCE AND A CONSENT JUDGMENT  
9 IN CERTAIN INSTANCES, TO AUTHORIZE CERTAIN PROCEEDINGS BY THE ATTORNEY  
10 GENERAL, TO PROVIDE FOR SERVICE OF NOTICE, TO PROVIDE PENALTIES FOR  
11 CERTAIN VIOLATIONS, TO PROVIDE FOR THE DISPOSITION OF CERTAIN PENAL-  
12 TIES AND FEES RECOVERED, AND TO PROVIDE FOR THE CONVEYANCE OF RECOVERED  
13 CHARITABLE ASSETS AND FOR RESTITUTION RECOVERED; AND AMENDING SECTION  
14 67-1401, IDAHO CODE, TO REVISE A CERTAIN DUTY OF THE ATTORNEY GENERAL  
15 AND TO MAKE A TECHNICAL CORRECTION.  
16

17 Be It Enacted by the Legislature of the State of Idaho:

18 SECTION 1. That Title 48, Idaho Code, be, and the same is hereby amended  
19 by the addition thereto of a NEW CHAPTER, to be known and designated as Chap-  
20 ter 19, Title 48, Idaho Code, and to read as follows:

21 CHAPTER 19

22 IDAHO CHARITABLE ASSETS PROTECTION ACT

23 48-1901. SHORT TITLE. This chapter shall be known and may be cited as  
24 the "Idaho Charitable Assets Protection Act."

25 48-1902. LEGISLATIVE FINDINGS AND INTENT. (1) The state of Idaho is  
26 home to thousands of charitable organizations that, collectively, hold bil-  
27 lions of dollars in charitable assets. Charitable organizations have a le-  
28 gal duty to use their charitable assets according to the charitable purposes  
29 designated in their governing documents. The legislature is aware, however,  
30 that misuse or misappropriation of charitable assets occurs to the harm of  
31 the charitable purposes for which they were donated and the communities that  
32 were intended to be benefitted by the charitable donation.

33 (2) The attorney general, as the state of Idaho's chief legal officer,  
34 has a legal duty to ensure that charitable assets are used for their intended  
35 purposes.

36 (3) The current law governing the attorney general's authority over  
37 charitable organizations holding charitable assets does not adequately de-  
38 fine the attorney general's duties and enforcement authorities. Further,  
39 Idaho law has not effectively defined the attorney general's authority to

1 address a person's unlawful misuse or misappropriation of charitable as-  
2 sets.

3 (4) Therefore, through this chapter, it is the legislature's intent to:  
4 (a) Define the attorney general's duties to protect charitable assets  
5 from misuse or misappropriation and to provide the attorney general  
6 with the necessary authority and enforcement tools to protect charita-  
7 ble assets; and

8 (b) Provide a procedure for notifying the attorney general before cer-  
9 tain charitable organizations dissolve, convert to a noncharitable  
10 organization, terminate, or otherwise dispose of their charitable as-  
11 sets.

12 (5) The provisions of this chapter are remedial and shall be construed  
13 and applied liberally to accomplish the purposes provided for in this sec-  
14 tion and to protect Idaho charitable assets.

15 48-1903. DEFINITIONS. As used in this chapter:

16 (1) "Accountable person" means a director, officer, executive, man-  
17 ager, trustee, agent, or employee of a charitable organization.

18 (2) "Attorney general" means the attorney general of the state of Idaho  
19 or the attorney general's designee.

20 (3) "Charitable asset" means any interest in real or personal property  
21 and any other article, commodity, or thing of value that is impressed with  
22 a charitable purpose but does not include private assets held in a split-  
23 interest trust, as described in section 4947(a) (2) of the Internal Revenue  
24 Code, as referenced in section 63-3004, Idaho Code.

25 (4) "Charitable organization" means a person who holds charitable as-  
26 sets regardless of the legal form.

27 (5) "Charitable purpose" means the relief of poverty, the advancement  
28 of knowledge, education, or religion, or the promotion of health, the envi-  
29 ronment, civic or patriotic matters, or any other purpose, the achievement  
30 of which is beneficial to the community.

31 (6) "Person" has the same meaning as that term is defined in section  
32 15-1-201(34), Idaho Code.

33 48-1904. COURTS NOT IMPAIRED -- CONFLICT OF LAWS. Nothing in this  
34 chapter shall impair the rights and powers of the courts of this state with  
35 respect to any charitable organization.

36 48-1905. PERSONS EXCLUDED. The provisions of this chapter shall not  
37 apply to:

38 (1) A state or federally chartered bank, savings bank, savings and loan  
39 association, thrift institution, trust company, or credit union; or

40 (2) An individual who is acting within the scope of his position and du-  
41 ties as a director, officer, executive, manager, or employee of a person de-  
42 scribed in subsection (1) of this section.

43 48-1906. UNLAWFUL ACTS. (1) It is unlawful for an accountable person  
44 or charitable organization to knowingly use, or allow to be used, the char-  
45 itable organization's charitable assets in a manner that is inconsistent  
46 with:

- 1 (a) Law applicable to the charitable asset;
- 2 (b) The restrictions contained in a gift instrument regarding the char-
- 3 itable assets; provided, however, that nothing in this section shall
- 4 prevent a person from seeking a release or modifying the charitable pur-
- 5 poses or restrictions contained in a gift instrument, pursuant to sec-
- 6 tion 33-5006, Idaho Code, or other applicable Idaho law; or
- 7 (c) The charitable purpose of the charitable organization that holds
- 8 the charitable asset.
- 9 (2) An accountable person is not liable under this section if the ac-
- 10 countable person:
- 11 (a) Discharged his duties as an accountable person in compliance with
- 12 the standards of conduct set forth in sections 30-30-618 and 30-30-623,
- 13 Idaho Code, irrespective of whether the accountable person would other-
- 14 wise be subject to the provisions of such sections;
- 15 (b) Acted in compliance with the applicable trust instrument and that
- 16 trust instrument complies with Idaho law;
- 17 (c) Qualifies for immunity under section 6-1605, Idaho Code; or
- 18 (d) Acted in compliance with a court order regarding a matter for which
- 19 the attorney general received timely notice as provided by applicable
- 20 law, thereby providing the attorney general time to file any objection
- 21 and be heard by the court regarding the matter.

22 48-1907. SALE OR TRANSFER OF CHARITABLE ASSETS. (1) A charitable or-

23 ganization that holds, or within the preceding twelve (12) months received

24 or at any time held, charitable assets with a fair market value in the aggre-

25 gate exceeding ten thousand dollars (\$10,000) shall provide written notice

26 to the attorney general of the charitable organization's intent to dissolve,

27 convert to a noncharitable organization, terminate, or dispose of all of its

28 charitable assets. In addition, a charitable organization that holds, or

29 within the preceding twelve (12) months received or at any time held, chari-

30 table assets with a fair market value in the aggregate exceeding ten thousand

31 dollars (\$10,000) shall provide written notice to the attorney general of

32 the charitable organization's intent to dispose of substantially all of its

33 charitable assets if such charitable organization has no reasonable expect-

34 ation it will hold charitable assets with a fair market value in the aggre-

35 gate exceeding ten thousand dollars (\$10,000) in the next twenty-four (24)

36 months.

- 37 (2) This section shall not apply to a charitable organization that is
- 38 subject to the provisions of:
- 39 (a) Chapter 15, title 48, Idaho Code, where notice is timely provided to
- 40 the attorney general, as provided therein; or
- 41 (b) Section 68-1204, Idaho Code, where notice is timely provided to the
- 42 attorney general, as provided therein.
- 43 (3) Written notice to the attorney general under this section must in-
- 44 clude, at a minimum, the following:
- 45 (a) Legal names and mailing addresses of the directors and officers of
- 46 the charitable organization;
- 47 (b) A description of the charitable assets and the charitable purpose
- 48 of the assets; and

1 (c) A copy or summary of the plan of dissolution, conversion to a non-  
2 charitable organization, or termination and disposal of the charitable  
3 organization's charitable assets.

4 (4) Subject to subsection (8) of this section, no charitable assets  
5 shall be disposed of, transferred, or conveyed by a charitable organization  
6 subject to this section until at least thirty (30) days after it has given  
7 notice required by this section to the attorney general or until the attorney  
8 general has consented in writing to the actions set forth in the charitable  
9 organization's written notice or indicated in writing that he will take no  
10 action with respect to the proposed dissolution, conversion, or termination  
11 and disposal of the charitable organization's charitable assets, whichever  
12 is earlier.

13 (5) Failure to comply with the notice requirements of this section  
14 subjects the charitable organization's accountable persons to liability as  
15 provided by this chapter.

16 (6) A charitable organization that has provided notice under subsec-  
17 tions (1) and (3) of this section and has not received a written response from  
18 the attorney general after thirty (30) days of giving such notice may proceed  
19 with the proposed dissolution, conversion to a noncharitable organization,  
20 or termination and disposal of charitable assets and be deemed in compliance  
21 with subsections (1) and (3) of this section.

22 (7) Within ninety (90) days of completion of the proposed dissolution,  
23 conversion to a noncharitable organization, or termination and disposal of  
24 all or substantially all of its charitable assets, the charitable organiza-  
25 tion's board shall deliver to the attorney general a list of who received the  
26 assets. The list shall include the address of each person who received the  
27 assets and indicate what assets each received.

28 (8) If the attorney general opposes, in writing, a proposed dissolu-  
29 tion, conversion to a noncharitable organization, or termination and dis-  
30 posal of all or substantially all of a charitable organization's charitable  
31 assets, as set forth in the charitable organization's notice under subsec-  
32 tions (1) and (3) of this section, the charitable organization may not pro-  
33 ceed forward with the actions proposed in its written notice for at least  
34 fourteen (14) days after the attorney general's written response has been  
35 issued to allow the attorney general, in his discretion, to file suit seek-  
36 ing to block the charitable organization's proposed dissolution, conversion  
37 to a noncharitable organization, or termination and disposal of its charita-  
38 ble assets, or otherwise to resolve the matter with the affected parties pur-  
39 suant to section 48-1909, Idaho Code.

40 (9) If the attorney general files a lawsuit seeking to block a charita-  
41 ble organization's proposed dissolution, conversion to a noncharitable or-  
42 ganization, or termination and disposal of charitable trust assets, the dis-  
43 trict court shall review, de novo, the charitable organization's proposal to  
44 determine if it is in compliance with charitable trust law. If the attor-  
45 ney general does not file a lawsuit within the fourteen (14) days provided  
46 in this section, the charitable organization may proceed with the proposed  
47 dissolution, conversion to a noncharitable organization, or termination and  
48 disposal of charitable assets and be deemed in compliance with subsections  
49 (1) and (3) of this section.

1 48-1908. INVESTIGATORY AUTHORITY OF ATTORNEY GENERAL. Whenever the  
2 attorney general has reason to believe that an accountable person or char-  
3 itable organization has violated or is violating the provisions of section  
4 48-1906, 48-1907, or 48-1909, Idaho Code, the attorney general may:

5 (1) Serve investigative demands using the same procedures and in the  
6 same manner as described in section 48-611, Idaho Code;

7 (2) Issue subpoenas and conduct hearings using the same procedures and  
8 in the same manner as described in section 48-612, Idaho Code;

9 (3) Apply to the district court for compliance orders using the same  
10 procedures and in the same manner as described in section 48-614, Idaho Code;  
11 and

12 (4) Retain certified fraud examiners, accountants, appraisers, and  
13 other experts to assist the attorney general with the attorney general's  
14 investigation.

15 48-1909. VOLUNTARY COMPLIANCE -- CONSENT JUDGMENT -- DISTRICT COURT  
16 APPROVAL. (1) In lieu of initiating or continuing an investigation or action  
17 or proceeding under this chapter, the attorney general may accept an assur-  
18 ance of voluntary compliance or consent judgment from a person who the attor-  
19 ney general has reason to believe violated or is violating the provisions of  
20 section 48-1906 or 48-1907, Idaho Code.

21 (2) Such assurance of voluntary compliance or consent decree shall com-  
22 ply with the provisions of section 48-610, Idaho Code, for assurances of vol-  
23 untary compliance and section 48-606(4), Idaho Code, for consent judgments  
24 and have the same effect as set forth in those provisions with the addition  
25 that such assurances of voluntary compliance and consent judgments may also  
26 include provisions that require the person signing the document to report to  
27 the attorney general concerning the charitable assets or charitable organi-  
28 zation or to perform specific acts relating to the charitable organization.

29 (3) Matters closed pursuant to this section may at any time be reopened  
30 by the attorney general for further proceedings in the public interest pur-  
31 suant to the procedures set forth in section 48-1910, Idaho Code.

32 48-1910. PROCEEDINGS BY ATTORNEY GENERAL. (1) Whenever the attorney  
33 general has reason to believe that a person violated or is violating the pro-  
34 visions of section 48-1906, Idaho Code, the attorney general, acting in the  
35 public interest, may bring an action in the name of the state against such  
36 person:

37 (a) To enjoin any action that constitutes a violation of this chapter by  
38 issuance of a temporary restraining order or preliminary or permanent  
39 injunction, upon the giving of appropriate notice to the alleged viola-  
40 tor as provided in the Idaho rules of civil procedure;

41 (b) To obtain appointment of a master, receiver, or escrow agent to  
42 gather, account for, and oversee the charitable assets of the alleged  
43 violator and prevent further the dissipation of such assets;

44 (c) To remove the alleged violator from his position as an accountable  
45 person of the charitable organization;

46 (d) To terminate a charitable organization and liquidate its charita-  
47 ble assets in accordance with its governing instrument or applicable  
48 law;

1 (e) To recover from the alleged violator damages or restitution of any  
2 charitable assets misappropriated, lost, or diverted in violation of  
3 section 48-1906, Idaho Code;

4 (f) To recover from the alleged violator civil penalties of up to fifty  
5 thousand dollars (\$50,000), as determined by the district court;

6 (g) To obtain specific performance from the alleged violator;

7 (h) To recover from the alleged violator the attorney general's reason-  
8 able expenses, investigative costs, and attorney's fees; and

9 (i) To obtain other appropriate relief.

10 (2) Whenever the attorney general has reason to believe that a charita-  
11 ble organization violated or is violating the provisions of section 48-1907,  
12 Idaho Code, the attorney general, acting in the public interest, may bring an  
13 action in the name of the state against such organization and any agents of  
14 the organization:

15 (a) To enjoin any action dissolving the charitable organization, or the  
16 dissolving, converting to a noncharitable organization, terminating,  
17 or disposing of all or substantially all of the charitable organiza-  
18 tion's charitable assets by issuance of a temporary restraining order  
19 or preliminary or permanent injunction, upon the giving of appropriate  
20 notice to the alleged violator as provided in the Idaho rules of civil  
21 procedure;

22 (b) To obtain appointment of a master, receiver, or escrow agent to  
23 gather, account for, and oversee charitable assets whenever it shall  
24 appear that all or substantially all of the charitable organization's  
25 charitable assets may be dissolved, converted, terminated, or disposed  
26 of during the course of the proceedings;

27 (c) To terminate a charitable organization and liquidate its charita-  
28 ble assets in accordance with its governing instrument or applicable  
29 law;

30 (d) In cases where the charitable organization's accountable person or  
31 persons knew of and intended to violate the notice provisions of sec-  
32 tion 48-1907, Idaho Code, to recover from the charitable organization's  
33 accountable persons civil penalties of up to five thousand dollars  
34 (\$5,000), as determined by the district court; and

35 (e) To obtain other appropriate relief.

36 (3) The action may be brought in the district court of the county in  
37 which the alleged violator resides or, with consent of the parties, may be  
38 brought in the district court of Ada county. The action may be brought in any  
39 district court in this state if the alleged violator resides outside of the  
40 state.

41 48-1911. SERVICE OF NOTICE. Service of any notice, demand, or subpoena  
42 under this chapter shall be made pursuant to section 48-613, Idaho Code.

43 48-1912. VIOLATION OF INJUNCTION, CONSENT JUDGMENT, OR ORDER -- CIVIL  
44 PENALTY. Any person who violates the terms of a consent judgment entered pur-  
45 suant to section 48-1909, Idaho Code, or an injunction issued or an order  
46 or judgment entered pursuant to section 48-1910, Idaho Code, shall forfeit  
47 and pay to the state a civil penalty of no more than ten thousand dollars  
48 (\$10,000) per violation, the amount of the penalty to be determined by the

1 district court issuing such order, consent judgment, judgment, or injunc-  
 2 tion. For the purposes of this section, the district court issuing such or-  
 3 der, consent judgment, judgment, or injunction shall retain jurisdiction,  
 4 and the cause shall be continued, and in such cases the attorney general act-  
 5 ing in the name of the state may petition for recovery of civil penalties.

6 48-1913. PENALTIES AND FEES RECOVERED -- DISPOSITION. Any civil  
 7 penalties, costs, or attorney's fees sued for and recovered by the attorney  
 8 general under this chapter shall be remitted to the consumer protection fund  
 9 created in section 48-606, Idaho Code, and shall be used for the furtherance  
 10 of the attorney general's duties and activities under the provisions of this  
 11 chapter, pursuant to legislative appropriation.

12 48-1914. CHARITABLE ASSETS RECOVERED -- CY PRES -- RESTITUTION RECOV-  
 13 ERED. (1) Any charitable assets sued for and recovered by the attorney gen-  
 14 eral under this chapter shall be conveyed:

15 (a) To the injured charitable organization to restore its misappropri-  
 16 ated, lost, or diverted charitable assets; or

17 (b) To any charitable organization with a similar charitable purpose  
 18 as that of the charitable organization from which the charitable assets  
 19 were recovered, pursuant to a court-approved cy pres distribution.

20 (2) Any restitution sued for and recovered by the attorney general un-  
 21 der this chapter shall be deposited and held in the state treasury until such  
 22 time as the attorney general directs that payment be made to a person to reim-  
 23 burse for any actual damages he incurred as a direct result of a violation of  
 24 this chapter.

25 SECTION 2. That Section 67-1401, Idaho Code, be, and the same is hereby  
 26 amended to read as follows:

27 67-1401. DUTIES OF ATTORNEY GENERAL. Except as otherwise provided in  
 28 this chapter, it is the duty of the attorney general:

29 (1) To perform all legal services for the state and to represent the  
 30 state and all departments, agencies, offices, officers, boards, commis-  
 31 sions, institutions and other state entities, in all courts and before all  
 32 administrative tribunals or bodies of any nature. Representation shall be  
 33 provided to those entities exempted pursuant to the provisions of section  
 34 67-1406, Idaho Code. Whenever required to attend upon any court or adminis-  
 35 trative tribunal, the attorney general shall be allowed necessary and actual  
 36 expenses, all claims for which shall be audited by the state board of exam-  
 37 iners.

38 (2) To advise all departments, agencies, offices, officers, boards,  
 39 commissions, institutions and other state entities in all matters involving  
 40 questions of law.

41 (3) After judgment in any of the causes referred to in this chapter, to  
 42 direct the issuing of such process as may be necessary to carry the same into  
 43 execution.

44 (4) To account for and pay over to the proper officer all moneys re-  
 45 ceived which belong to the state.

46 (5) To ~~supervise nonprofit corporations, corporations, charitable or~~  
 47 ~~benevolent societies, person or persons holding property subject to any pub-~~

1 ~~lie or charitable trust~~ enforce the Idaho charitable solicitation act, chap-  
2 ~~ter 12, title 48, Idaho Code; the Idaho nonprofit hospital sale or conver-~~  
3 ~~sion act, chapter 15, title 48, Idaho Code; to supervise charitable organi-~~  
4 ~~zations, as such term is defined in section 48-1903(4), Idaho Code; and to~~  
5 ~~enforce whenever necessary any noncompliance or departure from the general~~  
6 ~~charitable purpose of such trust and, in order to accomplish such purpose,~~  
7 ~~said nonprofit corporations, corporations, charitable or benevolent soci-~~  
8 ~~eties, person or persons holding property subject to any public or charita-~~  
9 ~~ble trust are subject at all times to examination by the attorney general,~~  
10 ~~on behalf of the state, to ascertain the condition of its affairs and to what~~  
11 ~~extent, if at all, said trustee or trustees may have failed to comply with~~  
12 ~~trusts said trustee or trustees have assumed or may have departed from the~~  
13 ~~general purpose for which it was formed. In case of any such failure or de-~~  
14 ~~parture, the attorney general shall institute, in the name of the state, any~~  
15 ~~proceeding necessary to enforce compliance with the terms of the trust or any~~  
16 ~~departure therefrom organizations as set forth and provided in chapter 19,~~  
17 ~~title 48, Idaho Code.~~

18 (6) To give an opinion in writing, without fee, to the legislature or  
19 either house thereof, or any senator or representative, and to the gover-  
20 nor, secretary of state, treasurer, state controller, and the superinten-  
21 dent of public instruction, when requested, upon any question of law relat-  
22 ing to their respective offices. The attorney general shall keep a record of  
23 all written opinions rendered by the office and such opinions shall be com-  
24 piled annually and made available for public inspection. All costs incurred  
25 in the preparation of said opinions shall be borne by the office of the attor-  
26 ney general. A copy of the opinions shall be furnished to the supreme court  
27 and to the state librarian.

28 (7) When required by the public service, to repair to any county in the  
29 state and assist the prosecuting attorney thereof in the discharge of du-  
30 ties.

31 (8) To bid upon and purchase, when necessary, in the name of the state,  
32 and under the direction of the state controller, any property offered for  
33 sale under execution issued upon judgments in favor of or for the use of the  
34 state, and to enter satisfaction in whole or in part of such judgments as the  
35 consideration for such purchases.

36 (9) Whenever the property of a judgment debtor in any judgment men-  
37 tioned in subsection (8) of this section has been sold under a prior judg-  
38 ment, or is subject to any judgment, lien, or encumbrance, taking precedence  
39 of the judgment in favor of the state, under the direction of the state  
40 controller, to redeem such property from such prior judgment, lien, or en-  
41 cumbrance; and all sums of money necessary for such redemption must, upon the  
42 order of the board of examiners, be paid out of any money appropriated for  
43 such purposes.

44 (10) When necessary for the collection or enforcement of any judgment  
45 hereinbefore mentioned, to institute and prosecute, in behalf of the state,  
46 such suits or other proceedings as may be necessary to set aside and annul all  
47 conveyances fraudulently made by such judgment debtors; the cost necessary  
48 to the prosecution must, when allowed by the board of examiners, be paid out  
49 of any appropriations for the prosecution of delinquents.



1 (11) To exercise all the common law power and authority usually apper-  
2 taining to the office and to discharge the other duties prescribed by law.

3 (12) To report to the governor, at the time required by this section, the  
4 condition of the affairs of the attorney general's office and of the reports  
5 received from prosecuting attorneys.

6 (13) To appoint deputy attorneys general and special deputy attorneys  
7 general and other necessary staff to assist in the performance of the du-  
8 ties of the office. Such deputies and staff shall be nonclassified employees  
9 within the meaning of section 67-5302, Idaho Code.

10 (14) To establish a medicaid fraud control unit pursuant to the provi-  
11 sions of section 56-226, Idaho Code, and to exercise concurrent investiga-  
12 tive and prosecutorial authority and responsibility with county prosecutors  
13 to prosecute persons for the violation of the criminal provisions of chap-  
14 ter 2, title 56, Idaho Code, and for criminal offenses that are not defined  
15 in said chapter 2, title 56, Idaho Code, but that involve or are directly re-  
16 lated to the use of medicaid program funds or services provided through the  
17 medicaid program.

18 (15) To seek injunctive and any other appropriate relief as expedi-  
19 tiously as possible to preserve the rights and property of the residents of  
20 the state of Idaho, and to defend as necessary the state of Idaho, its offi-  
21 cials, employees and agents in the event that any law or regulation violating  
22 the public policy set forth in the Idaho health freedom act, chapter 90,  
23 title 39, Idaho Code, is enacted by any government, subdivision or agency  
24 thereof.

25 (16) To establish an internet crimes against children unit pursuant to  
26 the provisions of section 67-1410, Idaho Code, and to exercise concurrent  
27 investigative and prosecutorial authority and responsibility with county  
28 prosecutors to prosecute persons for the violation of the criminal provi-  
29 sions of sections 18-1507, 18-1509A, 18-1513 and 18-1515, Idaho Code, which  
30 may also encompass criminal offenses that are not defined in said sections  
31 but that involve or are directly related to child pornography and sollicita-  
32 tion of minors for pornography, prostitution or sex-related offenses.

33 (17) To respond to allegations of violation of state law by elected  
34 county officers, to investigate such claims, to issue appropriate findings  
35 and to refer such cases for further investigation and prosecution pursuant  
36 to section 31-2002, Idaho Code.

37 (18) To establish a sobriety and drug monitoring program to reduce the  
38 number of people on Idaho's highways who drive under the influence of alco-  
39 hol or drugs, reduce the number of repeat offenders for certain offenses in  
40 which the abuse of alcohol or drugs was a contributing factor, and increase  
41 pretrial and posttrial options for prosecutors and judges in responding to  
42 repeat DUI offenders and offenders for certain crimes in which the abuse of  
43 alcohol or drugs was a contributing factor in the commission of the crime,  
44 and to adopt such rules and establish such fees as are necessary for the oper-  
45 ation of said program, as set forth by law.