

Dear Senators LAKEY, Foreman, Wintrow, and
Representatives SKAUG, Scott, Gannon:

The Legislative Services Office, Research and Legislation, has received the enclosed rules of
the Idaho State Police - Public Safety:

IDAPA 11.10.01 - Rules Governing Idaho Public Safety and Security Information System (Fee Rule)
- Temporary and Proposed Rule (Docket No. 11-1001-2301).

Pursuant to Section 67-454, Idaho Code, a meeting on the enclosed rules may be called by the
cochairmen or by two (2) or more members of the subcommittee giving oral or written notice to Research
and Legislation no later than fourteen (14) days after receipt of the rules' analysis from Legislative
Services. The final date to call a meeting on the enclosed rules is no later than 10/05/2023. If a meeting is
called, the subcommittee must hold the meeting within forty-two (42) days of receipt of the rules' analysis
from Legislative Services. The final date to hold a meeting on the enclosed rules is 11/02/2023.

The germane joint subcommittee may request a statement of economic impact with respect to a
proposed rule by notifying Research and Legislation. There is no time limit on requesting this statement,
and it may be requested whether or not a meeting on the proposed rule is called or after a meeting has
been held.

To notify Research and Legislation, call 334-4854, or send a written request to the address on the
memorandum attached below.



Terri Kondoff
Director

Legislative Services Office Idaho State Legislature

Serving Idaho's Citizen Legislature

MEMORANDUM

TO: Rules Review Subcommittee of the Senate Judiciary & Rules Committee and the House Judiciary, Rules & Administration Committee
FROM: Principal Legislative Drafting Attorney - Ryan Bush
DATE: September 18, 2023
SUBJECT: Idaho State Police - Public Safety

IDAPA 11.10.01 - Rules Governing Idaho Public Safety and Security Information System (Fee Rule) - Temporary and Proposed Rule (Docket No. 11-1001-2301)

Summary and Stated Reasons for the Rule

The Idaho State Police (ISP) submits notice of temporary and proposed rulemaking via IDAPA 11.10.01 - Rules Governing Idaho Public Safety and Security Information System (Fee Rule). ISP is increasing its usage fees for the ILETS system. ISP states that this is being done to ensure that the system can continue to provide the critical officer safety and other information used by law enforcement agencies across Idaho.

Negotiated Rulemaking / Fiscal Impact

ISP states that negotiated rulemaking was not conducted because negotiations on the fee increase were done prior to the 2023 legislative session. There is no fiscal impact anticipated with this rulemaking.

Statutory Authority

The proposed rule appears to be within the statutory authority granted to ISP in Section 19-5203, Idaho Code.

cc: Idaho State Police - Idaho State Police - Public Safety
Tecia Ferguson

*** PLEASE NOTE ***

Per the Idaho Constitution, all administrative rules may be reviewed by the Legislature during the next legislative session. The Legislature has 3 options with this rulemaking docket: **1)** Approve the docket in its entirety; **2)** Reject the docket in its entirety; or **3)** Reject the docket in part.

Paul Headlee, Deputy Director Kristin Ford, Manager Keith Bybee, Manager April Renfro, Manager Norma Clark, Manager
Legislative Services Office Research & Legislation Budget & Policy Analysis Legislative Audits Information Technology

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IDAPA 11 – IDAHO STATE POLICE

11.10.01 – RULES GOVERNING IDAHO PUBLIC SAFETY AND SECURITY INFORMATION SYSTEM

DOCKET NO. 11-1001-2301 (FEE RULE)

NOTICE OF RULEMAKING – TEMPORARY AND PROPOSED RULE

EFFECTIVE DATE: The effective date of the temporary rule is October 1, 2023.

AUTHORITY: In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a temporary rule, and proposed regular rulemaking procedures have been initiated. The action is authorized pursuant to Section(s) 19-5201, 19-5202, 19-5203, and 19-5204 Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be held as follows:

Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than September 20, 2023.

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address below.

DESCRIPTIVE SUMMARY: The following is the required finding and concise statement of its supporting reasons for adopting a temporary rule and a nontechnical explanation of the substance and purpose of the proposed rulemaking:

This rulemaking is being done to ensure the Idaho Public Safety and Information Security (ILETS), can continue to provide the critical officer safety and other information used by law enforcement agencies across Idaho. The system is a vital link for law enforcement and provides 24/7 access to information that helps keep communities safe. The proposed changes will ensure adequate funding to support the continued stable operation of the ILETS System.

TEMPORARY RULE JUSTIFICATION: Pursuant to Section(s) 67-5226(1)(a), Idaho Code, the Governor has found that temporary adoption of the rule is appropriate for the following reasons:

Necessary to protect the public health, safety, or welfare.

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased:

Idaho Code 19-5202 authorizes the access chargers for users of the ILETS system. The following is the fee schedule that will be effective October 1, 2023.

Percentage of Total ILETS Message Traffic	Annual Usage Fee Effective October 1, 2014 2023
0 - .25 %	\$1,875 3,750
.26 - .50 %	\$3,750 7,500
.51 - .75 %	\$7,500 15,000
.76 - 1.0 %	\$15,000 24,000
1.01 - 1.50 %	\$22,500 32,500
1.51 – 2.0 %	\$33,750 48,750
2.01 – 5.0 %	\$50,625 69,625
> 5.01 %	\$75,939 98,939

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year:

The proposed rulemaking will not have an impact on state funds.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not conducted because negotiated rulemaking was conducted with all stakeholders prior to the last legislative session. All stakeholders agreed the increases were necessary to ensure continue operation.

INCORPORATION BY REFERENCE: Pursuant to Section 67-5229(2)(a), Idaho Code, the following is a brief synopsis of why the materials cited are being incorporated by reference into this rule:

This rulemaking does not amend any documents incorporated by reference.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary and proposed rule, contact Bureau Chief, Leila McNeill, (208) 884-7136, Email: Leila.Mcneill@isp.idaho.gov.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before September 27th, 2023.

DATED this 31st day of July, 2023.

Lt. Colonel Bill Gardiner, Chief of Staff
Idaho State Police
700 S Stratford Drive
Meridian ID 83642 (208) 884-7004
Bill.gardiner@isp.idaho.gov

**THE FOLLOWING IS THE TEMPORARY RULE AND THE PROPOSED TEXT
OF FEE DOCKET NO. 11-1001-2301
(Only Those Sections With Amendments Are Shown.)**

018. USER ACCESS FEES.

01. Payment of Fees Required. Any agency that has signed a user agreement with ILETS to have direct terminal or system access to the network must pay access and usage fees as provided in Section 018. (3-23-22)

02. ILETS Network User Access Fees. The access fees approved by the Board and to be collected quarterly in advance by the department are as follows: (3-23-22)

a. An agency at the county or municipal level pays an annual access fee of five thousand, four hundred and twenty-five dollars (\$5,425). (3-23-22)

b. An agency at the state, federal, or tribal level pays an annual access fee of nine thousand dollars (\$9,000). (3-23-22)

03. Usage Fee. Any agency that has signed a user agreement with ILETS to have direct terminal or system access to the ILETS network pays quarterly a usage fee based on that agency's percentage of total annual messages sent and received by user agencies through the ILETS message switcher. The total percentage for an agency

includes the message traffic generated by any other agency authorized to access ILETS through that agency's direct terminal or system access. (3-23-22)

a. The usage fee is assessed according to the following schedule:

Percentage of Total ILETS Message Traffic	Annual Usage Fee Effective October 1, 20142023
0 - .25 %	\$ 1,875 3,750
.26 - .50 %	\$ 3,750 7,500
.51 - .75 %	\$ 7,500 15,000
.76 - 1.0 %	\$ 15,000 24,000
1.01 - 1.50 %	\$ 22,500 32,500
1.51 – 2.0 %	\$ 33,750 48,750
2.01 – 5.0 %	\$ 50,625 69,625
> 5.01 %	\$ 75,939 98,939

(3-23-22)(10-1-23)T

b. The department will conduct audits of ILETS message switcher traffic for even-numbered years to determine an agency's annual usage fee. This fee is effective for two (2) years and begins with the quarterly statement beginning October 1 of odd-numbered years. (3-23-22)

c. If an agency discontinues direct terminal or system access to ILETS and acquires authorized access through another agency, the usage fee for the agency maintaining direct access will be adjusted to reflect the combined historical usage. (3-23-22)

d. A new agency approved for direct ILETS access that does not have historical usage will be assessed an interim usage fee by the department pending the next audit of ILETS message traffic. The department sets an interim fee based on the agency's similarities to existing agencies with direct terminal or system access. An agency may appeal the interim usage fee set by the department to the ILETS Board. (3-23-22)

e. As operator of ILETS, the department, in lieu of payment of fees, provides direct and in-kind support of network operations. The Board reviews biennially the proportion of that support to the overall operating cost of the system. (3-23-22)

04. Billing and Payment. The department mails billing statements quarterly to all agencies with direct terminal or system access to ILETS. Payment of the fees is due by the first day of the month of each quarter (October 1, January 1, April 1, and July 1), unless it is a Saturday, a Sunday, or a legal holiday, in which event the payment is due on the first successive business day. (3-23-22)

05. Sanctions for Delinquency. Any user agency that becomes delinquent in payment of assessed fees is subject to sanctions under Section 028. (3-23-22)

PROPOSED RULE COST/BENEFIT ANALYSIS

Section 67-5223(3), Idaho Code, requires the preparation of an economic impact statement for all proposed rules imposing or increasing fees or charges. This cost/benefit analysis, which must be filed with the proposed rule, must include the reasonably estimated costs to the agency to implement the rule and the reasonably estimated costs to be borne by citizens, or the private sector, or both.

Department or Agency: Idaho State Police

Agency Contact: Leila McNeill **Phone:** 208-884-7136

Date: June 22, 2022

IDAPA, Chapter and Title Number and Chapter Name:

[11.10.01 Rules Governing Idaho Public Safety and Security Information System](#)

Fee Rule Status: Proposed Temporary

Rulemaking Docket Number: 11-1001-2301

STATEMENT OF ECONOMIC IMPACT:

For many years, ILETS usage fees have remained static, without any adjustments for increased costs associated with the network. While this has been beneficial for our users, the ILETS fund has been slowly decreasing as we have to use more reserve to pay our annual bills. The costs of technology have been rising and during the past two years have significantly increased. ISP staff constantly monitor the state of the ILETS fund and bring any concerning situations to the Board for review.

It has become clear to the Board that an increase to annual usage fees is necessary. The costs of technology show no signs of reducing or even slowing. Technology and network servicing costs will continue to rise and the ILETS Board feels it is necessary to take this step now to avert a critical need in the near future.

This is a change to the existing fee schedule in the administrative rule, not a new rule or section. The ILETS Board has determined that the fees currently being collected from system users is not sufficient to sustain the fund over time. In order to legally collect higher fees, the administrative rule must be changed.

This change will impact the ILETS dedicated fund only. The increased fees paid by the users of the system will generate approximately an additional \$514,000 annually. This will ensure the ILETS system can be kept at a current technology level and provide access to all local, state, tribal and federal law enforcement agencies in the state. ILETS provides critical information to law enforcement for both public and officer safety through access to other state's driver information along with federal information at NCIC, the Interstate Identification Index, and other federal databases. Negatively, each agency with direct access to the system will be responsible for an increased annual payment to the fund. The proposed cost schedule is included in the rule documentation to show the increase to each agency. All agencies have been informed of the proposed change.