

Dear Senators LODGE, Vick, Bock, and
Representatives WILLS, Luker, Burgoyne:

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

IDAPA 11.10.01 - Rules Governing Idaho Public Safety & Security Information System (Docket
No. 11-1001-1301) - **Fee Rule**;

IDAPA 11.10.02 - Rules Establishing Fees For Services - Idaho Criminal Justice Information System
(Docket No. 11-1002-1301) - **Proposed Rule**.

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 10/15/2013. 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 11/12/2013.

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 334-4845, or send a written request to the address on the
memorandum attached below.



Jeff Youtz
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 Research Analyst - Brooke Brouman
DATE: September 25, 2013
SUBJECT: Idaho State Police

IDAPA 11.10.01 - Rules Governing Idaho Public Safety & Security Information System (Docket No. 11-1001-1301) - **Fee Rule**

IDAPA 11.10.02 - Rules Establishing Fees For Services - Idaho Criminal Justice Information System (Docket No. 11-1002-1301) - **Proposed Rule**

(1) IDAPA 11.10.01 - Rules Governing Idaho Public Safety & Security Information System (Docket No. 11-1001-1301) - Fee Rule

The Idaho State Police (ISP) submits notice of proposed fee rulemaking, which increases the usage fee charged to agencies for direct terminal or system access to the ILETS network. The usage fee is assessed based on an agency's percentage of total annual ILETS message traffic. The usage fee schedule found on page 106 of the rule lists the specific fee increases, which take effect on October 1, 2014. ISP states that the increase in the fee structure is necessary for the continuation of the operation of ILETS and for the implementation of a disaster recovery system. The ILETS Board voted unanimously to approve the fee increase.

In its cost/benefit analysis, ISP states that approximately \$765,002 will be generated from the user fee increases and that in its FY15 budget request it included \$656,805 in state general funds. ISP notes that the combined \$1.4 million total will help meet the current needs of the ILETS operation, which is currently operating in a deficit and depleting reserves for capital replacement.

The ILETS Board is authorized to set the access fee pursuant to the provisions of Section 19-5202, Idaho Code.

(2) IDAPA 11.10.02 - Rules Establishing Fees For Services - Idaho Criminal Justice Information System (Docket No. 11-1002-1301) - Proposed Rule

The Idaho State Police (ISP) submits notice of rulemaking, which includes the following proposed rule changes:

Mike Nugent, Manager
Research & Legislation

Cathy Holland-Smith, Manager
Budget & Policy Analysis

April Renfro, Manager
Legislative Audits

Glenn Harris, Manager
Information Technology

- (a) Renaming the rule title to "Rules Governing State Criminal History Records and Crime Information;"
- (b) Defining the terms "acquittal," "criminal summons," "dismissal," "expunge" and "serious misdemeanor;"
- (c) Setting forth a procedure for criminal history record expungement;
- (d) Setting forth acceptable methods for the transmittal of criminal history records; and
- (e) Establishing procedures for contesting the accuracy and completeness of a criminal history record contained in the Bureau of Criminal Identification's database.

ISP states that negotiated rulemaking was not conducted because negotiation of the rule is not feasible due to the lack of identifiable representatives of affected interests to participate in negotiated rulemaking.

We note only that the newly defined terms "dismissal" and "serious misdemeanor" are not used anywhere in the proposed or final rule and therefore should be removed.

ISP's proposed rule is authorized pursuant to the provisions of Section 67-3003, Idaho Code.

cc: Idaho State Police

Lt. Col. Kedrick Wills, Deputy Director, & Dawn Peck

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: Teresa Baker Phone: 208-884-7122

Date: 9/23/13

IDAPA, Chapter and Title Number and Chapter Name:

10.10.01 – Rules Governing Idaho Public Safety and Security Information System

Fee Rule Status: Proposed Temporary

Rulemaking Docket Number: 11-1001-1301

STATEMENT OF ECONOMIC IMPACT:

For the past three years the multi-jurisdictional ILETS Board has looked for a sustainable dedicated funding source for the Public Safety and Security Information System, commonly known as “ILETS”. This system is utilized by all Idaho law enforcement agencies and criminal justice systems. The ILETS system allows officers in the field to access numerous data bases (warrants, registrations, drivers licenses, civil protection orders, concealed weapons, missing persons data base, criminal history, etc.) instantaneously to help ensure continued public safety of the citizens of Idaho

Many options for the funding were examined to ensure ILETS operations well into the future and finally legislation seeking a title transfer fee was developed to introduce in the 2013 Legislative Session. The legislation was not successful and the Idaho State Police, whom support the ILETS system, has worked with the Governor’s office for a solution to ensure the sustainability of this crucial system. The proposed additional funding of approximately 1.4 million dollars would come from a shared funding of approximately \$765,002 in increased user fees by the agencies utilizing direct access to ILETS. Docket 11-1001-1301 contains the fee changes to implement the planned increase in user fees in that amount. Additionally, ISP has included in its FY15 budget request \$656,805 in state general funds to cover the remaining costs for the plan.

The proposed funding will help meet the current needs of the ILETS operation which is presently operating in a deficit and depleting reserves for capital replacement. Additionally the funding would cover the following:

- communications backup and redundancy to ensure the availability of system to public safety users
- IT System Programmer position and IT Network Analyst position to provide system support
- fund continual system development, capital replacement and additional ongoing operating expenses.

Section 19-5201, Idaho Code, states, “the state has an unmistakable responsibility to give full support to all public agencies of the criminal justice system. This responsibility includes the provision of the efficient law enforcement information system available to all state and local agencies.” By providing the proposed funding, the state fulfills their responsibility and this proposed rule allows the state to share some of the burden with the agencies utilizing the system.

IDAPA 11 - IDAHO STATE POLICE

11.10.01 - RULES GOVERNING IDAHO PUBLIC SAFETY AND SECURITY INFORMATION SYSTEM

DOCKET NO. 11-1001-1301 (FEE RULE)

NOTICE OF RULEMAKING - PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Sections 67-3001, 67-3003, 67-3004, 67-3007 and 67-3010, Idaho Code.

PUBLIC HEARING SCHEDULE: 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 October 16, 2013.

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 a nontechnical explanation of the substance and purpose of the proposed rulemaking:

This rule amends the fees charged to users of the Idaho Public Safety and Security Information system, commonly known as the ILETS System. This fee increase was approved by the ILETS Board, a six-member multi-jurisdictional board that establishes policies relating to the management and operations of the ILETS System, as outlined in this section of Administrative Rule.

The increase in the fee structure is necessary for the continuation of the ILETS System's operation and for the implementation of a disaster recovery system.

FEE SUMMARY: The amendment to the current fee structure is included in this section of Administrative Rule.

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 resulting from this rulemaking:

This rule does not create an impact on the general fund. However, additional funding of the ILETS System is being sought to augment financial need for operation of the System.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not conducted because negotiation of the rule is not feasible due to the lack of identifiable representatives of affected interests to participate in negotiated rulemaking. However, the ILETS Board, that represent the affected users of the ILETS System, unanimously voted to approve the fee increase.

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:

There are no materials to be incorporated by reference to this rule.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Dawn Peck, Manager, Bureau of Criminal Identification, 208-884-7130.

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 October 23, 2013.

DATED this 30th day of August, 2013.

Lt. Col. Kedrick Wills, Deputy Director
 Idaho State Police
 700 S. Stratford Dr.
 Meridian, Idaho 83642
 Phone: 208-884-7000
 Fax: 208-884-7090

THE FOLLOWING IS THE PROPOSED TEXT OF FEE DOCKET NO. 11-1001-1301

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. (3-13-02)

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: (3-13-02)

a. An agency at the county or municipal level pays an annual access fee of ~~four thousand dollars (\$4,000) for each telecommunication line drop to the agency. Effective October 1, 2007, the fee shall be~~ five thousand dollars (\$5,000). (3-19-07)()

b. An agency at the state, federal, or tribal level pays an annual access fee of ~~seven thousand dollars (\$7,000) for each telecommunication line drop to the agency. Effective October 1, 2007 the fee shall be~~ eight thousand, seven hundred fifty dollars (\$8,750). (3-19-07)()

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. (3-20-04)

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

Percentage of Total ILETS Message Traffic	Annual Usage Fee Prior to October 1, 2007	Annual Usage Fee Effective October 1, 2007	Annual Usage Fee Effective October 1, 2014
0 - .25 %	\$500	\$625	\$1,875
.26 - .50 %	\$1,000	\$1,250	\$3,750
.51 - .75 %	\$2,000	\$2,500	\$7,500
.76 - 1.0 %	\$4,000	\$5,000	\$15,000
1.01 - 1.50 %	\$6,000	\$7,500	\$22,500
1.51 - 2.0 %	\$9,000	\$11,250	\$33,750
2.01 - 5.0 %	\$13,500	\$16,875	\$50,625
> 5.01 %	\$20,250	\$25,313	\$75,939

(3-19-07)()

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. (3-20-04)

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. (3-20-04)

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. (3-20-04)

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. (3-20-04)

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. (3-20-04)

05. Sanctions for Delinquency. Any user agency that becomes delinquent in payment of assessed fees is subject to sanctions under Section 028. (3-20-04)

IDAPA 11 - IDAHO STATE POLICE

11.10.02 - RULES ESTABLISHING FEES FOR SERVICES - IDAHO CRIMINAL JUSTICE INFORMATION SYSTEM

DOCKET NO. 11-1002-1301

NOTICE OF RULEMAKING - PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Sections 67-3001, 67-3003, 67-3004, 67-3007 and 67-3010, Idaho Code.

PUBLIC HEARING SCHEDULE: 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 October 16, 2013.

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 a nontechnical explanation of the substance and purpose of the proposed rulemaking:

This rule will include terms defined in Section 67-3001, Idaho Code. This rule will also provide a procedure for the expungement of a person's criminal history record, for the transmittal of criminal history arrest fingerprints, and for a person to contest to the accuracy and completeness of a criminal history record in the database of the Bureau of Criminal Identification, as allowed pursuant to Section 67-3001, Idaho Code.

FEE SUMMARY: No fees are imposed by this rule.

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 resulting from this rulemaking: There is no impact on the general fund.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not conducted because negotiation of the rule is not feasible due to the lack of identifiable representatives of affected interests to participate in negotiated rulemaking.

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: There are no materials to be incorporated by reference to this rule.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Dawn Peck, Manager, Bureau of Criminal Identification, 208-884-7130.

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 October 23, 2013.

DATED this 26th day of August, 2013.

Lt. Col. Kedrick Wills, Deputy Director
Idaho State Police
700 S. Stratford Dr.
Meridian, Idaho 83642
Phone: 208-884-7000
Fax: 208-884-7090

THE FOLLOWING IS THE PROPOSED TEXT OF DOCKET NO. 11-1002-1301

11.10.02 - RULES ~~ESTABLISHING FEES FOR SERVICES—IDAHO~~ GOVERNING STATE
CRIMINAL ~~JUSTICE~~ HISTORY RECORDS AND CRIME INFORMATION ~~SYSTEM~~

000. LEGAL AUTHORITY.

These rules are authorized by Sections 67-3001, 67-3003, 67-3004, 67-3007, and 67-3010, Idaho Code. ~~(3-30-01)~~()

001. TITLE AND SCOPE.

01. Title. These rules shall be cited as IDAPA 11.10.02, "Rules ~~Establishing Fees for Services—Idaho~~ Governing State Criminal ~~Justice~~ History Records and Crime Information ~~System~~." ~~(3-30-01)~~()

02. Scope. The rules relate to the governance and operation of criminal history records and crime information. (3-30-01)

(BREAK IN CONTINUITY OF SECTIONS)

010. DEFINITIONS.

Except as otherwise specifically provided, the terms defined in Section 67-3001, Idaho Code, shall have the same meaning in these rules. Any other terms defined in Section 67-3001 shall be given their ordinary and commonly understood meaning. ~~(3-30-01)~~()

01. Acquittal. The legal certification by a jury or judge that a person is not guilty of the crime charged. ()

02. Criminal Summons. Shall include any summons, information or indictment issued in a criminal proceeding or action. ()

03. Dismissal. Termination of a criminal action without further hearing, especially before the trial of the issues involved. ()

04. Expunge. To erase or destroy, to declare null and void outside the record, so that it is noted in the original record as expunged, and redacted from all future copies. ()

05. Serious Misdemeanor. A crime, that if convicted, could be punishable by imprisonment in a county jail. ()

011. ABBREVIATIONS.

Except as otherwise specifically provided, ~~the terms defined in Section 67-3001,~~ any terms abbreviated in Chapter 30, Title 67, Idaho Code, shall have the same identification and meaning in these rules. ~~(3-21-12)~~()

[Codified Sections 012 and 013 are being moved and renumbered respectively to Sections 031 and 032]

012. -- 020. (RESERVED)

021. EXPUNGEMENT PROCEDURE.

The procedure for any criminal history record expungement shall be as follows: ()

01. Application. A person seeking to expunge their criminal history record must submit the proper application to the Bureau of Criminal Identification as provided by the Bureau. ()

02. Required Information Included. The applicant must also include a copy of one of the following to the Bureau of Criminal Identification: ()

a. Criminal citation; or ()

b. Criminal Summons, Complaint, and Affidavit of Service by the county sheriff's office; or ()

c. Indictment; or ()

d. Information. ()

03. Certified Copy of Acquittal. The applicant must also include a certified copy of the court's order of acquittal finding the applicant was not guilty of the crime charged. ()

04. Return of Incomplete Application. The Bureau of Criminal Identification shall return an application to the applicant, if the application is incomplete or if the required documents are not provided. ()

022. TRANSMITTAL OF CRIMINAL HISTORY RECORDS.

The transmittal of criminal history arrest fingerprint(s) may be via electronic submission from a live-scan or card scanner over a secured and approved network or by hard copy through regular mail. ()

023. PROCEDURE FOR CONTESTING THE ACCURACY AND COMPLETENESS OF A CRIMINAL HISTORY RECORD CONTAINED IN AGENCY FILE.

01. Challenge Accuracy of Records. A person may challenge the accuracy and correctness of their criminal history records contained in the Bureau's database. ()

a. The applicant must submit to fingerprinting through either the Bureau of Criminal Identification or other law enforcement agency. A fingerprinting fee may apply. ()

02. Notification of Fingerprints Not Matched. If the applicant's fingerprints do not match those contained in the Bureau's database, the applicant will be notified by certified mail. ()

03. Documentation of Erroneous Information. If the applicant's fingerprints match, but the applicant has documentation showing the information is in error, the applicant may submit such information to the Bureau of Criminal Identification. ()

04. Correction of Records. The Bureau of Criminal Identification will correct its records per the direction of the law enforcement agency where the initial criminal action arose or appropriate court order. ()

024. -- 030. (RESERVED)

031. FEES FOR SERVICES.

01. Fingerprint Check. The Bureau shall charge a fee of not more than twenty-five dollars (\$25) for each fingerprint check requested for other than law enforcement purposes. (3-21-12)

02. Name Check. The Bureau shall charge a fee of not more than twenty dollars (\$20) for each name check requested for other than law enforcement purposes. (3-21-12)

03. Rolling Fingerprint. The Bureau shall charge a fee of not more than ten dollars (\$10) for rolling a

set of fingerprints and no more than five dollars (\$5) for each additional copy of such rolled fingerprints. (3-21-12)

0432. NON-EXPANSION OF SERVICES.

Nothing within these rules shall be construed to alter or expand the services which will be provided to those requesting fingerprint checks and name checks. (7-1-96)

0433. -- 999. (RESERVED)