

TITLE 31
COUNTIES AND COUNTY LAW

CHAPTER 48
EMERGENCY COMMUNICATIONS ACT

31-4801. PURPOSE. The legislature recognizes that providing consolidated emergency communications systems and interoperable public safety communications and data systems is vital in enhancing the public health, safety, and welfare of the people in the state of Idaho. The legislature further finds that there is an obvious need for providing a means to finance the initiation, maintenance, operation, enhancement and governance of interoperable and consolidated emergency communications systems.

(1) The legislature of the state of Idaho finds that:

(a) Since the original enactment of the emergency communications act in 1988, many of Idaho's communities have found that they are lacking in the resources to fully fund emergency communications systems at the local level;

(b) Changes in technology and the rapid growth of communications media have demonstrated that financing such systems solely by a line charge on subscribers to wireline services does not reflect utilization of emergency communications systems by subscribers to wireless and other forms of communications systems;

(c) There is a need to enhance funding for the initiation and enhancement of consolidated emergency communications systems throughout the state;

(d) Utilization of cellular telephones and voice over internet protocol (VoIP) communications to access emergency communications systems has substantially increased citizen access to emergency services while at the same time increasing demands upon the emergency response system;

(e) In order to protect and promote the public health and safety, and to keep pace with advances in telecommunications technology and the various choices of telecommunications technology available to the public, there is a need to plan and develop a statewide coordinated policy and program to ensure that enhanced 911 services, next generation 911 services, and future and emerging public safety technologies are available to all citizens of the state and people in all areas of the state.

(2) Therefore, it is hereby declared that the intent and purpose of the provisions of this act are to:

(a) Provide authority to counties and 911 service areas to impose an emergency communications fee on the use of telephone lines, wireless, VoIP or other communications services that connect an individual or entity dialing or accessing 911 to an established public safety answering point;

(b) Provide that the emergency communications fee in section [31-4803](#), Idaho Code, shall be exclusively utilized by the counties or 911 service areas electing to impose it to finance the initiation, maintenance, operation, enhancement and governance of consolidated emergency systems as well as enhanced consolidated emergency systems or next generation consolidated emergency systems;

(c) Provide for the agreed-to reimbursement to telecommunications providers for their implementation of enhanced consolidated emergency

communications systems by counties or 911 service areas that have implemented enhanced consolidated emergency communications systems;

(d) Create the Idaho public safety communications commission that will have the duty to provide the governance structure through which public safety communications stakeholders can collaborate to advance consistency and common objectives, to provide integrated facilitation and coordination for cross-jurisdictional consensus building, to assist in the standardization of agreements for sharing resources among jurisdictions with emergency response communications infrastructure, to suggest best practices, performance measures and performance evaluation in the integrated statewide strategic planning and implementation of interoperability among public safety communications professionals and entities that serve people in Idaho regardless of jurisdiction, to manage the Idaho public safety interoperable communications and data systems fund as established by section [31-4820](#), Idaho Code, and to pursue budget authorizations as set forth in this chapter.

[31-4801, added 1988, ch. 348, sec. 1, p. 1027; am. 1990, ch. 200, sec. 1, p. 449; am. 2003, ch. 290, sec. 1, p. 785; am. 2003, ch. 311, sec. 1, p. 853; am. 2004, ch. 325, sec. 1, p. 973; am. 2007, ch. 340, sec. 1, p. 995; am. 2016, ch. 127, sec. 1, p. 364.]

31-4802. DEFINITIONS. As used in this chapter:

(1) "Access line" means any telephone line, trunk line, network access register, dedicated radio signal, or equivalent that provides switched telecommunications access to a consolidated emergency communications system from either a service address or a place of primary use within this state. In the case of wireless technology, each active dedicated telephone number shall be considered a single access line.

(2) "Administrator" means the person, officer or agency designated to operate a consolidated emergency communications system, and to receive funds for such an operation.

(3) "Basic consolidated emergency system" means consolidated emergency systems that are not enhanced.

(4) "Consolidated emergency communications system" means facilities, equipment and dispatching services directly related to establishing, maintaining, or enhancing a 911 emergency communications service.

(5) "District interoperability governance board" (DIGB) means any one (1) of the six (6) regional governing bodies, comprised of representatives and organized to provide input to the Idaho public safety communications commission regarding the commission's objectives and regarding consolidated emergency communications and interoperable public safety communications and data systems for the agencies and organizations within its own geographic area. District one includes the area composed of Benewah, Bonner, Boundary, Kootenai and Shoshone counties. District two includes the area composed of Clearwater, Idaho, Latah, Lewis and Nez Perce counties. District three includes the area composed of Ada, Adams, Boise, Canyon, Elmore, Gem, Owyhee, Payette, Valley and Washington counties. District four includes the area composed of Blaine, Camas, Cassia, Gooding, Jerome, Lincoln, Minidoka and Twin Falls counties. District five includes the area composed of Bannock, Bear Lake, Bingham, Butte, Caribou, Franklin, Oneida and Power counties. District six includes the area composed of Bonneville, Clark, Custer, Fremont, Jefferson, Lemhi, Madison and Teton counties.

(6) "Emergency communications fee" means the fee provided for in section [31-4803](#), Idaho Code.

(7) "Enhanced consolidated emergency system" means consolidated emergency systems that provide enhanced wireless 911 service and include, but are not limited to, the technological capability to provide call back numbers, cell site locations, and the location of calls by latitude and longitude and made through the systems of wireless carriers.

(8) "Governing board" means the joint powers board if the 911 service area is a multicounty area, or the board of county commissioners of the county or the city council if the 911 service area is a city, or both the board of county commissioners and the city council if the 911 service area includes both city and county residents but not the entire county.

(9) "Governor's appointment" means the power and procedures of the governor to appoint members to statewide commissions as provided for in section [67-802](#), Idaho Code.

(10) "Interconnected" means the ability of the user to receive calls from and terminate calls to the public switched telephone network (PSTN) or emergency services internet protocol network (ESInet), including commercial mobile radio service (CMRS) networks.

(11) "Interconnected VoIP service" means a service bearing the following characteristics:

(a) The service enables real-time, two-way voice communications;

(b) The service requires a broadband connection from the user's location;

(c) The service requires IP-compatible customer premises equipment; and

(d) The service permits users to receive calls that originate on the public switched telephone network (PSTN) or ESInet and to terminate calls on the PSTN or ESInet.

(12) "Interconnected VoIP service line" means an interconnected VoIP service that offers an active telephone number, or successor dialing protocol assigned by a VoIP provider to a VoIP service customer number that has an outbound calling capability of directly accessing a public safety answering point.

(13) "Interoperable public safety communications and data systems" means facilities, equipment, networks, services, software and infrastructure directly related to establishing, maintaining or enhancing systems to exchange voice, video or other public safety data, to include future technology advancements.

(14) "Interoperability" means the ability of public safety service and support providers, law enforcement, public utilities, transportation and others to communicate when necessary with staff from other responding agencies, and to exchange voice, video, and data on demand, in real time, and when authorized.

(15) "Next generation consolidated emergency system" or "NG911" means consolidated emergency communications systems that provide an internet protocol (IP) based system of managed emergency services IP networks (ESInets), functional elements (applications), and databases that replicate traditional E911 features and functions and provide additional capabilities. NG911 is designed to provide access to emergency services from all connected communications sources and to provide multimedia data capabilities for public safety answering points (PSAPs) and other emergency service organizations through current and emerging technology systems.

(16) "911 service area" means a regional, multicounty, county or area other than a whole county in which area the residents have voted to establish a consolidated emergency communications system.

(17) "Place of primary use" means the residential street address or the primary business street address in Idaho where the customer's use of the wireless or VoIP service primarily occurs. For the purposes of 911 fees imposed upon interconnected VoIP service lines, the place of primary use shall be the customer's registered location on the date the customer is billed.

(18) "Public safety communications and data systems" refers to the general systematic ability of people or entities to communicate or manage data with other people or entities using technology for the purpose of reporting and responding to situations that require a public safety response. This term does not refer to any existing state agency, division or office, building, network, personnel, or fund and is not related to the Idaho military division's unit of public safety communications.

(19) "Public safety communications stakeholders" means any city, county, fire district, ambulance district, and the state.

(20) "Telecommunications provider" means any person or entity providing:

- (a) Exchange telephone service to a service address within this state; or
- (b) Any wireless carrier providing telecommunications service to any customer having a place of primary use within this state; or
- (c) Interconnected VoIP service to any customer having a place of primary use within this state; or
- (d) A provider of any other communications service that connects an individual having either a service address or a place of primary use within this state to an established public safety answering point by dialing 911.

(21) "VoIP service provider" means any person or entity providing interconnected voice over internet protocol (VoIP) service.

(22) "Wireless carrier" means a cellular licensee, a personal communications service licensee, and certain specialized mobile radio providers designated as covered carriers by the federal communications commission in 47 CFR 20.18 and any successor to such rule.

[31-4802, added 1988, ch. 348, sec. 1, p. 1027; am. 1990, ch. 200, sec. 2, p. 450; am. 1994, ch. 86, sec. 1, p. 203; am. 2003, ch. 290, sec. 2, p. 786; am. 2007, ch. 340, sec. 2, p. 996; am. 2016, ch. 127, sec. 2, p. 365.]

31-4803. AUTHORITY TO ESTABLISH AND FOR VOTERS TO APPROVE FUNDING FOR A CONSOLIDATED EMERGENCY COMMUNICATIONS SYSTEM. (1) The board of commissioners of any county may establish a consolidated emergency communications system by virtue of authority granted by this chapter or by [chapter 23, title 67](#), Idaho Code. The service area may be regional, multicounty, countywide, or any part or parts of the county, and may include or exclude a city or cities. If the board of county commissioners has adopted a resolution stating that the county is unable to establish a countywide consolidated emergency communications system, or if the voters reject a countywide consolidated 911 system, then a 911 service area may be established by action of any city or cities within the county. The 911 service area shall be described in the ordinance of creation. The ordinance shall further provide for an election on

the question as provided in subsection (2) of this section. The ordinance of creation shall define the governing board, designate the administrator, and the agency to service the 911 calls. The costs of the election ordered by the county shall be a proper charge against the county current expense fund. The costs of the election for a 911 service area shall be a proper charge against the city or cities initiating the election.

(2) The voters of any county or 911 service area may authorize funding to support implementation of a consolidated emergency communications system pursuant to the provisions of this chapter. The authorization to provide such funding must be made by the registered voters of the county or of the 911 service area at either a primary or general election. A notice for any election shall be published for twenty (20) days as required by section [60-109](#), Idaho Code. A sixty percent (60%) majority of the votes cast in favor of the question shall be necessary to authorize the emergency communications fee.

(3) If a 911 system is to be financed in whole or in part by an emergency communications fee, the governing board shall submit the question to the electors of the county or 911 service area in substantially the following form:

"Shall the governing board of be authorized to institute an emergency communications fee in an amount no greater than one dollar (\$1.00) per month to be used to fund an emergency telephone system, commonly known as 911 service?"

(4) No emergency communications fee for a consolidated emergency communications system shall be charged without voter approval as provided in subsection (2) of this section.

(5) Any net savings in operating expenditures realized by any taxing district utilizing a consolidated emergency communications system shall be used by that taxing district for a reduction in the property tax charges of that taxing district.

(6) If the voters of any county or 911 service area have previously approved funding of a consolidated emergency communications system in the manner provided in subsections (2) and (3) of this section, no further vote is necessary to authorize the emergency communications fee set forth in this act.

(7) Effective October 1, 2004, and every year thereafter, the emergency communications fee provided for in this act shall be reviewed and modified as required by this subsection by the board of commissioners of a countywide system or by the governing board of a 911 service area as follows:

(a) The level of the emergency communications fee shall be reviewed and, as appropriate and necessary, readjusted by action of the board of commissioners or the governing board on an annual basis. The board of commissioners or governing board shall set the level of the fee based upon the revenue requirements necessary to implement an annual budget prepared under the direction of the board of commissioners or governing board for the initiation, maintenance, operation, enhancement and governance of a consolidated emergency communications system, including both basic and, if applicable, enhanced consolidated emergency systems.

(b) The revenues from emergency communications fees shall be exclusively expended pursuant to the budget established in paragraph (a) of this subsection. Use of such revenues for any other purpose is expressly prohibited.

(c) The process of reviewing and setting the level of emergency communications fees shall be governed by the meeting and public notice provisions of section [31-710](#)(4), Idaho Code. For the purposes of this section, the setting of a fee shall be deemed to be the promulgation of a rule such that public participation provisions of section [67-5222](#), Idaho Code, shall apply to the meetings of the board of commissioners or of a governing board pursuant to this section.

[31-4803, added 1988, ch. 348, sec. 1, p. 1028; am. 1989, ch. 196, sec. 1, p. 492; am. 1990, ch. 200, sec. 3, p. 450; am. 1994, ch. 86, sec. 2, p. 203; am. 2003, ch. 290, sec. 3, p. 787.]

31-4804. EMERGENCY COMMUNICATIONS FEE. (1) The emergency communications fee provided pursuant to the provisions of this chapter shall be a uniform amount not to exceed one dollar (\$1.00) per month per access or interconnected VoIP service line, and such fee shall be used exclusively to finance the initiation, maintenance, operation, enhancement and governance of a consolidated emergency communications system and provide for the reimbursement of telecommunications providers for implementing enhanced consolidated emergency systems as provided for in section [31-4804A](#), Idaho Code. All emergency communications fees collected and expended pursuant to this section shall be audited by an independent, third-party auditor ordinarily retained by the governing board for auditing purposes. The purpose of the audit as related to emergency communications systems is to verify the accuracy and completeness of fees collected and costs expended.

(2) The fee shall be imposed upon and collected from purchasers of access lines or interconnected VoIP service lines with a service address or place of primary use within the county or 911 service area on a monthly basis by all telecommunications providers of such services. The fee may be listed as a separate item on customers' monthly bills.

(3) The telecommunications providers shall remit such fee to the county treasurer's office or the administrator for the 911 service area based upon the 911 service area from which the fees were collected. In the event the telecommunications provider remits such fees based upon the emergency communications fee billed to the customer, a deduction shall be allowed for uncollected amounts when such amounts are treated as bad debt for financial reporting purposes.

(4) From every remittance to the governing body made on or before the date when the same becomes due, the telecommunications provider required to remit the same shall be entitled to deduct and retain one percent (1%) of the collected amount as the cost of administration for collecting the charge. Telecommunications providers will be allowed to list the surcharge as a separate item on the telephone subscriber's bill and shall have no obligation to take any legal action to enforce the collection of any charge, nor be held liable for such uncollected amounts.

(5) Use of fees. The emergency communications fee provided hereunder shall be used only to pay for the lease, purchase or maintenance of emergency communications equipment for basic and enhanced consolidated emergency systems, and next generation consolidated emergency systems (NG911), including necessary computer hardware, software, database provisioning, training, salaries directly related to such systems, costs of establishing such systems, management, maintenance and operation of hardware and software applications and agreed-to reimbursement costs of telecommunications providers related to the operation of such systems. Use of the emergency

communications fee should, if possible, coincide with the strategic goals as identified by the Idaho public safety communications commission in its annual report to the legislature. However, the county or 911 service area governing board has final authority on lawful expenditures. All other expenditures necessary to operate such systems and other normal and necessary safety or law enforcement functions including, but not limited to, those expenditures related to overhead, staffing, dispatching, administrative and other day-to-day operational expenditures, shall continue to be paid through the general funding of the respective governing boards; provided however, that any governing body using the emergency communications fee to pay the salaries of dispatchers as of March 1, 2006, may continue to do so until the beginning of such governing body's 2007 fiscal year.

[31-4804, added 1988, ch. 348, sec. 1, p. 1028; am. 1990, ch. 200, sec. 4, p. 451; am. 2003, ch. 290, sec. 4, p. 788; am. 2003, ch. 311, sec. 2, p. 854; am. 2006, ch. 238, sec. 1, p. 722; am. 2007, ch. 340, sec. 3, p. 997; am. 2016, ch. 127, sec. 3, p. 367.]

31-4804A. ESTABLISHMENT OF ENHANCED CONSOLIDATED EMERGENCY COMMUNICATIONS SYSTEMS OR NEXT GENERATION CONSOLIDATED EMERGENCY SYSTEMS. (1) Any county or 911 service area that has established a basic consolidated emergency system may establish an enhanced consolidated emergency system or next generation consolidated emergency system by action of the governing board of the basic consolidated emergency system.

(2) The governing boards establishing enhanced consolidated emergency systems or next generation consolidated emergency systems shall request that wireless carriers serving such counties or 911 service areas collectively implement an enhanced consolidated emergency communications system within a reasonable time. When so requested, all wireless carriers serving such counties or 911 service areas shall implement enhanced consolidated emergency communications systems or next generation consolidated emergency systems within a reasonable time. The governing boards and wireless carriers shall enter into agreements that:

(a) Establish the scope and purpose of the proposed enhanced consolidated emergency communications systems and next generation consolidated emergency systems.

(b) Provide for an agreed-to level of reimbursement for telecommunications providers for the costs of wireless carriers resulting from their implementation and operation of enhanced emergency communications systems or next generation consolidated emergency systems that may include the acquisition, construction, financing, installation and operation of all equipment and facilities necessary to implement such systems.

(c) Provide that the agreed-to level of reimbursement for telecommunications providers for enhanced 911 service may include the costs and expenses incurred for designing, upgrading, purchasing, leasing, programming, installing, testing, or maintaining all necessary data, hardware and software required in order to provide such service as well as the recurring and nonrecurring costs of operating such service. All costs and expenses must be commercially reasonable.

(d) Provide that reimbursement to a telecommunications provider shall be nondiscriminatory and be made available to all other telecommunications providers.

Agreements shall provide for prompt reimbursement on invoices submitted by wireless carriers to the governing board.

[31-4804A, added 2003, ch. 290, sec. 5, p. 789; am. 2016, ch. 127, sec. 4, p. 368.]

31-4805. ESTABLISHMENT OF JOINT POWERS BOARD FOR OPERATION OF EMERGENCY COMMUNICATIONS SERVICE. Within one hundred eighty (180) days following voter approval of an emergency communications fee as provided in section [31-4803](#), Idaho Code, a governing board or administrator may be established under a joint powers agreement pursuant to sections [67-2326](#) through [67-2332](#), Idaho Code. Such joint powers board or administrator shall be responsible for establishing, maintaining, operating, enhancing and governing a consolidated emergency communications system. Providing an emergency communications service shall be considered a governmental function.

[31-4805, added 1988, ch. 348, sec. 1, p. 1029; am. 2003, ch. 290, sec. 6, p. 790.]

31-4806. AUTHORIZATION FOR GOVERNING BOARD TO APPOINT OFFICIAL TO SUPERVISE EMERGENCY COMMUNICATIONS SERVICE IN THE ABSENCE OF JOINT POWERS AGREEMENT. Whenever the electors approve imposing the emergency communications fee as provided in this chapter, but in the absence of an agreement to form a joint powers board or administrator as provided in this chapter, the governing board is hereby authorized to appoint an official or administrator to maintain, operate, enhance and govern a consolidated emergency communications system.

[31-4806, added 1988, ch. 348, sec. 1, p. 1029; am. 1990, ch. 200, sec. 5, p. 451; am. 2003, ch. 290, sec. 7, p. 790.]

31-4807. RIGHT TO FEE NOT AFFECTED BY NONSERVICE. All governmental entities within the county that have an already established emergency communications system using 911 call access, upon resolution duly adopted and approved and presented to the joint powers board or in their absence to the board of county commissioners, may ask that their existing emergency communication system area be excluded and such area shall be excluded from the county-wide emergency communications service but such exclusion shall not affect the right of the board of county commissioners to levy the fees as herein provided. No city or other agency shall establish an individual emergency communication system once a county-wide system as provided in this chapter has been adopted by the board of county commissioners. Whenever an area is excluded pursuant to this section, the board of county commissioners shall remit to the excluded entity one hundred percent (100%) of the fees collected in the excluded area as provided pursuant to this chapter. Any area excluded pursuant to this section may be subsequently included upon resolution duly adopted and approved and presented to the joint powers board or, in their absence, to the board of county commissioners.

[31-4807, added 1988, ch. 348, sec. 1, p. 1029.]

31-4808. TERMINATION. (1) Any county or joint powers board having adopted and established an emergency communications system as provided in this chapter may terminate the same for good cause.

(2) If, after the formation of any 911 service area of less than county-wide extent, the voters of the county approve 911 service for the

entire county, the newly formed county-wide 911 service area shall assume all of the assets and liabilities of all 911 service areas existing in that county at the time of formation of the county-wide system. Existing 911 service areas shall have two (2) years from the date of the county-wide election to merge into the county-wide consolidated emergency communications system.

[31-4808, added 1988, ch. 348, sec. 1, p. 1029; am. 1990, ch. 200, sec. 6, p. 452.]

31-4809. FUND AND APPROPRIATIONS. The county treasurer of each county or the administrator for a 911 service area in which an emergency communications system has been established pursuant to this chapter shall establish a fund to be designated the emergency communications fund in which all fees collected pursuant to this chapter, including fees distributed pursuant to section [31-4818](#)(6), Idaho Code, shall be deposited and such fund shall be used exclusively for the purposes of this chapter. The moneys collected and the interest earned in this fund shall be appropriated by the county commissioners, or governing board, for expenses incurred by the emergency communications system as set forth in an annual budget prepared by the joint powers board, or in their absence, the county commissioners and incorporated into the annual county budget.

[31-4809, added 1988, ch. 348, sec. 1, p. 1029; am. 1990, ch. 200, sec. 7, p. 452; am. 2013, ch. 224, sec. 1, p. 525.]

31-4810. EXISTING JOINT COUNTY-WIDE EMERGENCY DISPATCH SYSTEMS NOT AFFECTED. Joint county-wide emergency dispatch systems that are in existence prior to July 1, 1987, shall not be affected by the provisions of this chapter. These emergency dispatch systems may continue to function as they have and shall be eligible to receive revenues generated by this chapter.

[31-4810, added 1988, ch. 348, sec. 1, p. 1030.]

31-4811. PAY PHONES TO BE CONVERTED TO ALLOW EMERGENCY CALLS WITHOUT CHARGE. Every provider of telephone service or other owner of a pay station telephone in an area served by an emergency telephone system established pursuant to this chapter must convert every pay station telephone to permit dialing 911 or the telephone company operator without deposit of a coin or other charge to the caller. Conversion must be completed by or before the time the emergency telephone system is operational. If modification of telephone service switching equipment is necessary to implement the provisions of this section, such modification shall be considered a cost of the emergency communications program and the provider of telephone service shall be compensated from the user fees authorized for this chapter upon application to the county, providing that such costs are approved by the public utilities commission.

[31-4811, added 1988, ch. 348, sec. 1, p. 1030.]

31-4812. IMMUNITY AND CONDITIONS OF LIABILITY IN PROVIDING EMERGENCY COMMUNICATIONS SERVICE. In order to further the purposes of this chapter, and to encourage the development of consolidated emergency communications systems, the legislature finds that telecommunications providers making available consolidated emergency communications systems and related ser-

vices shall not be subject to liability in conjunction with providing such services except on the terms stated below.

(1) No telecommunications provider shall be liable to any person for the good faith release to emergency communications system personnel of information not in the public record including, but not limited to, nonpublished or nonlisted telephone numbers.

(2) A telecommunications provider making available emergency communications systems or services, and its employees and agents, shall not be liable in tort to any person for damages alleged to have been caused by the design, development, installation, maintenance or provision of consolidated emergency communications systems or services, unless such entities or persons act with malice or criminal intent, or commit reckless, willful and wanton conduct.

(3) For the purposes of this section, "reckless, willful and wanton conduct" is defined as an intentional and knowing action, or failure to act, creating an unreasonable risk of harm to another, and which involves a high degree of probability that such harm will result.

[31-4812, added 1990, ch. 221, sec. 1, p. 588; am. 2003, ch. 290, sec. 8, p. 791.]

31-4813. PREPAID WIRELESS TELECOMMUNICATIONS SERVICE EMERGENCY COMMUNICATIONS FEE. (1) As used in this section:

(a) "Consumer" means a person who purchases prepaid wireless telecommunications service in a retail transaction;

(b) "Prepaid wireless E911 fee" means the fee imposed by subsection (2) (a) of this section on prepaid wireless telecommunications service that is required to be collected by a seller from a consumer;

(c) "Prepaid wireless telecommunications service" means a wireless telecommunications service that allows a caller to dial 911 to access the 911 system, which service must be paid for in advance and is sold in predetermined units or dollars;

(d) "Provider" means a person that provides prepaid wireless telecommunications service pursuant to a license issued by the federal communications commission;

(e) "Retail transaction" means the purchase of prepaid wireless telecommunications service from a seller for any purpose other than resale;

(f) "Seller" means a person who sells prepaid wireless telecommunications service to another person;

(g) "Tax commission" means the Idaho state tax commission.

(2) (a) There is hereby imposed a prepaid wireless E911 fee in the amount of two and one-half percent (2.5%) of the sales price on each retail transaction.

(b) The prepaid wireless E911 fee shall be collected by the seller from the consumer with respect to each retail transaction occurring in this state. The amount of the prepaid wireless E911 fee shall be either separately stated on an invoice, receipt or other similar document that is provided to the consumer by the seller, or otherwise disclosed to the consumer.

(c) For purposes of paragraph (b) of this subsection, a retail transaction is considered to have occurred in Idaho if:

(i) The retail transaction is effected in person by the customer at a seller's location in Idaho;

(ii) When subparagraph (i) of this paragraph does not apply, the prepaid wireless telecommunications service is delivered to the subscriber at an Idaho address provided to the retailer;

(iii) When subparagraphs (i) and (ii) of this paragraph do not apply, the retailer's records that are maintained in the ordinary course of business indicate that the subscriber's address is in Idaho and the records are not made or kept in bad faith;

(iv) When subparagraphs (i) through (iii) of this paragraph do not apply, the subscriber gives an Idaho address during the consummation of the sale, including the subscriber's payment instrument if no other address is available, and the address is not given in bad faith;

(v) When subparagraphs (i) through (iv) of this paragraph do not apply, the subscriber's mobile telephone number is associated with an Idaho location.

(d) The prepaid wireless E911 fee is the liability of the consumer and not of the seller or of any provider, except that the seller shall be liable to remit all prepaid wireless E911 fees that the seller collects or is required to collect from consumers as provided pursuant to the provisions of this section, including all such fees that the seller is deemed to collect where the amount of the fee has not been separately stated on an invoice, receipt or other similar document provided to the consumer by the seller.

(e) The amount of the prepaid wireless E911 fee that is collected by a seller from a consumer, if such amount is separately stated on an invoice, receipt or other similar document provided to the consumer by the seller, shall not be included in the base for measuring any tax, fee, surcharge or other charge that is imposed by this state, any political subdivision of this state or any intergovernmental agency.

(f) The prepaid wireless E911 fee shall be proportionately increased or reduced, as applicable, upon any change to the fees imposed pursuant to the provisions of sections [31-4804](#) and [31-4819](#), Idaho Code. The amount of the prepaid wireless E911 fee shall be the percentage calculated by adding the amounts authorized pursuant to the provisions of sections [31-4804](#) and [31-4819](#), Idaho Code, and then dividing such sum by fifty dollars (\$50.00). Such increase or reduction shall be effective on the effective date of the change to the fees imposed pursuant to the provisions of sections [31-4804](#) and [31-4819](#), Idaho Code, or if later, the first day of the first calendar month to occur at least sixty (60) days after the enactment of the change to fees imposed pursuant to the provisions of sections [31-4804](#) and [31-4819](#), Idaho Code. The tax commission shall provide not less than thirty (30) days of advance notice of such increase or reduction on its website.

(g) When prepaid wireless telecommunications service is sold with one (1) or more other products or services for a single, nonitemized price, then the percentage specified in paragraph (a) of this subsection shall apply to the entire nonitemized price unless the seller elects to apply such percentage to:

(i) If the amount of the prepaid wireless telecommunications service is disclosed to the consumer as a dollar amount, such dollar amount; or

(ii) If the seller can identify the portion of the price that is attributable to the prepaid wireless telecommunications service

by reasonable and verifiable standards from its books and records that are kept in the regular course of business for other purposes including, but not limited to, non-tax purposes, such portion. Provided however, if a minimal amount of prepaid wireless telecommunications service is sold with a prepaid wireless device for a single, nonitemized price, then the seller may elect not to apply the percentage specified in paragraph (a) of this subsection to such transaction. For purposes of this subparagraph, an amount of service denominated as ten (10) minutes or less, or five dollars (\$5.00) or less, is minimal.

(3) (a) Prepaid wireless E911 fees collected by sellers shall be remitted to the tax commission at the times and in the manner provided by [chapter 36, title 63](#), Idaho Code, with respect to the sales tax. The tax commission shall establish registration, reporting and payment procedures that substantially coincide with the registration and payment procedures that apply to the sales tax pursuant to the provisions of [chapter 36, title 63](#), Idaho Code.

(b) A seller shall be permitted to deduct and retain three percent (3%) of prepaid wireless E911 fees that are collected by the seller from consumers.

(c) The following provisions of [chapter 36, title 63](#), Idaho Code, with respect to sales tax shall apply to the prepaid wireless E911 fee:

- (i) Audit and appeal procedures;
- (ii) Collection, enforcement, penalties and interest; and
- (iii) Statute of limitations and refunds of fees paid erroneously.

The tax commission shall have the authority to promulgate administrative rules applicable to the prepaid wireless E911 fee. Such rules shall, to the extent practicable, minimize administrative burdens on sellers by incorporating existing provisions of [chapter 36, title 63](#), Idaho Code, that apply to audits, appeals, collection, enforcement, penalties, interest, statute of limitations and refunds of fees paid erroneously.

(d) The tax commission shall establish procedures by which a seller of prepaid wireless telecommunications service may document that a sale is not a retail transaction, which procedures shall substantially coincide with the procedures for documenting sale for resale transactions pursuant to the provisions of [chapter 36, title 63](#), Idaho Code, with respect to the sales tax.

(e) The tax commission shall distribute revenue from the prepaid wireless E911 fees as follows:

- (i) An amount of money shall be distributed to the state refund account sufficient to pay current refund claims. All refunds authorized under this chapter by the tax commission shall be paid through the state refund account; and
- (ii) Pay all remaining remitted prepaid wireless E911 fees over to the Idaho emergency communications fund provided for in section [31-4818](#)(1), Idaho Code, within thirty (30) days of receipt.

The tax commission may deduct an amount, not to exceed two percent (2%) of remitted fees, to reimburse its actual costs of administering the collection and remittance of prepaid wireless E911 fees. The tax commission may also retain an amount, not to exceed seventy thousand

dollars (\$70,000), of remitted revenues in the fiscal year 2014 only for programming and one-time implementation costs.

(4) Each provider and seller of prepaid wireless telecommunications service is covered by the liability provisions of section [31-4812](#), Idaho Code.

(5) The prepaid wireless E911 fee imposed pursuant to this section shall be the only E911 funding obligation imposed with respect to prepaid wireless telecommunications service in this state, and no tax, fee, surcharge or other charge shall be imposed by this state, any political subdivision of this state or any intergovernmental agency, for E911 funding purposes, upon any provider, seller or consumer with respect to the sale, purchase, use or provision of prepaid wireless telecommunications service.

[31-4813, added 2003, ch. 290, sec. 9, p. 791; am. 2007, ch. 340, sec. 4, p. 999; am. 2013, ch. 224, sec. 2, p. 525.]

31-4814. CONFIDENTIAL AND PROPRIETARY DATA. All data submitted to governing boards by wireless carriers deemed by such carriers as confidential and proprietary shall be deemed to be trade secrets pursuant to [chapter 1, title 74](#), Idaho Code.

[31-4814, added 2003, ch. 290, sec. 9, p. 791; am. 2015, ch. 141, sec. 57, p. 420.]

31-4815. CREATION OF THE IDAHO PUBLIC SAFETY COMMUNICATIONS COMMISSION -- TERMS. (1) There is hereby created in the military division an Idaho public safety communications commission (hereinafter referred to as "the commission") with the purposes identified in section [31-4801](#)(2)(d), Idaho Code.

(2) Notwithstanding any other provision of law to the contrary, the commission shall, upon being constituted, exercise its powers and duties in accordance with the provisions of this section relative to consolidated emergency communications and interoperable public safety communications and data systems in this state established by enactment of the legislature or by private act.

(3) All members of the commission will be appointed by the governor and will serve at the pleasure of the governor.

(4) The commission shall be composed of eighteen (18) voting members. The statewide interoperability coordinator of the Idaho bureau of homeland security will not be a member of the commission, but shall report quarterly to the commission.

(5) Appointment by the governor will include the following voting members:

(a) The director of the Idaho bureau of homeland security or a designated representative and the director of the Idaho state police or a designated representative.

(b) The chair of the Idaho technology authority and one (1) legislator selected by joint approval from the speaker of the house of representatives and the president pro tempore of the senate.

(c) The governor will receive suggested names of candidates and alternates for representation from the following and will appoint at his own discretion one (1) representative as a voting member from each: one (1) member representing the association of Idaho cities, one (1) member representing the Idaho association of counties, two (2) members repre-

senting the Idaho sheriffs' association, one (1) member representing the Idaho chiefs of police association, one (1) member representing the Idaho fire chiefs association, one (1) member representing the Idaho health and welfare department's state emergency medical services communications center, and one (1) member representing the Native American tribes of the state.

(d) Six (6) district interoperable governance board (DIGB) representatives. Each district shall select from the following to represent its district: a county commissioner, sheriff, mayor, chief of police, fire service chief, public safety answering point manager, public safety technology manager or emergency medical services manager.

(6) Commission representatives shall be appointed by the governor as follows:

(a) Each association, entity or DIGB shall select one (1) primary and one (1) alternate candidate to represent the association, entity or DIGB. Following administrative procedures guidelines, both names shall be submitted to the administrative agency responsible for these tasks, which is the Idaho bureau of homeland security, within thirty (30) days after a term expires or a vacancy occurs. The Idaho bureau of homeland security will then forward each entity's names to the governor for consideration and appointment to the commission.

(b) Should any association, entity or DIGB fail to submit the names of the candidate and the alternate as directed in this subsection, the commission shall select a candidate and alternate from the association, entity or district and submit those names to the governor for consideration and appointment to the commission.

(7) Except as provided in this subsection, members of the commission shall be appointed to a term of four (4) years. The following members shall be appointed to an initial term of two (2) years: the member representing the Idaho fire chiefs association, the member representing the Idaho chiefs of police association, one (1) member representing the Idaho sheriffs' association, the member representing the Idaho department of health and welfare emergency medical services communications center, the member representing the Native American tribes, the member from the state legislature, the chair of the Idaho technology authority, and the representatives of DIGBs one, three and five. The remaining members appointed by the governor shall be appointed for an initial term of four (4) years. Thereafter, all terms shall be for a period of four (4) years.

(8) The commission shall recommend to the governor a list of candidates to be appointed to a four-year term as chair. The governor shall appoint the chair from the list of candidates. The commission shall elect a vice-chair and such officers as it may deem necessary and appropriate. The commission shall meet at least annually and at the call of the chair. Members of the commission shall be compensated as provided in section [59-509](#)(b), Idaho Code. Compensation shall be paid from the emergency communications fund created in section [31-4818](#), Idaho Code.

[31-4815, added 2004, ch. 325, sec. 2, p. 974; am. 2007, ch. 292, sec. 1, p. 828; am. 2016, ch. 127, sec. 5, p. 369.]

31-4816. IDAHO PUBLIC SAFETY COMMUNICATIONS COMMISSION -- RESPONSIBILITIES. The responsibilities of the commission are to:

(1) Determine the status and operability of consolidated emergency communications systems and interoperable public safety communications and data systems statewide;

(2) Determine the needs for the upgrade of consolidated emergency communications systems and interoperable public safety communications and data systems;

(3) Determine the costs for the upgrades;

(4) Recommend guidelines and standards for operation of consolidated emergency communications systems and interoperable public safety communications and data systems;

(5) Recommend funding mechanisms for future implementation of upgrades;

(6) Serve as a conduit for the future allocation of federal grant funds to support the delivery of consolidated emergency communications systems and interoperable public safety communications and data systems;

(7) Serve as the statewide interoperability executive committee (SIEC) for issues related to public safety communications and data communication. Such issues may involve the federal communications commission, national telecommunications information administration and first responder network authority;

(8) Perform an annual review of the statewide communications interoperability plan and provide the statewide interoperability coordinator with guidance to improve operational and interoperable communications in the state;

(9) Designate working groups or subcommittees as appropriate, which may include consolidated emergency communications, information technology, cross-jurisdictional relations with Native American tribes, interoperable public safety communications and data systems, the national public safety broadband network or future technologies, and others as deemed necessary by the commission;

(10) Report annually to the legislature of the state of Idaho on the planned expenditures for the next fiscal year, the collected revenues and moneys disbursed from the fund and programs or projects in progress, completed or anticipated;

(11) Enter into contracts with experts, agents, employees or consultants as may be necessary to carry out the purposes of this chapter;

(12) Assist public safety communications stakeholders in the establishment of consolidated emergency communications systems and public safety communications and data systems, and to provide the governance structure through which public safety communications stakeholders can collaborate to advance consistency and common objectives;

(13) Provide integrated facilitation and coordination for cross-jurisdictional consensus building;

(14) Assist in the standardization of agreements for sharing resources among jurisdictions with emergency response communications infrastructure;

(15) Suggest best practices, performance measures and performance evaluation in the integrated statewide strategic planning and implementation of interoperability;

(16) Manage funds as authorized by this chapter;

(17) Pursue budget authorizations for interoperable public safety communications and data systems; and

(18) Promulgate rules pursuant to the provisions of [chapter 52, title 67](#), Idaho Code, to carry out the purposes of the commission's duties.

[31-4816, added 2004, ch. 325, sec. 2, p. 975; am. 2016, ch. 127, sec. 6, p. 370.]

31-4817. IDAHO PUBLIC SAFETY COMMUNICATIONS COMMISSION -- MEDIATION. In the event that a dispute arises between local government entities over the governance of operations of consolidated emergency communications systems and interoperable public safety communications and data systems, those local governments shall be required, prior to initiating any legal action, to submit the contested issue or issues to the commission for purposes of mediation. The commission shall have sixty (60) days from the date of submission of any issues to mediate and recommend a course of action to the local governments involved in the dispute. Any recommendation of the commission shall be advisory only and shall not be binding on the parties involved. After receipt of any recommendation by the commission, the local governments may accept in whole or in part the recommendations or may initiate legal action as provided by contract or law.

[31-4817, added 2004, ch. 325, sec. 2, p. 975; am. 2016, ch. 127, sec. 7, p. 371.]

31-4818. IDAHO EMERGENCY COMMUNICATIONS FUND -- ESTABLISHMENT AND ADMINISTRATION. (1) There is hereby created within the treasury of the state of Idaho a separate fund known as the Idaho emergency communications fund, which shall consist of moneys received from counties, cities, consolidated emergency communications operations, the fee imposed pursuant to the provisions of section [31-4813](#), Idaho Code, grants, donations, gifts and revenues from any other source to support the delivery of consolidated emergency communications systems.

(2) Moneys in the fund are hereby continuously appropriated and shall be utilized exclusively for the purposes set forth in this chapter as determined by the commission.

(3) Annually, at the direction of the commission, not more than one percent (1%) of the total emergency communications fees collected in the state of Idaho is hereby dedicated for and shall be placed in the fund on a quarterly basis by county, city or consolidated emergency communications systems. The commission, on an annual basis, shall prepare a budget indicating that portion of the fee necessary for the continuous operation of the commission to achieve the purposes of this chapter.

(4) The commission shall authorize disbursement of moneys in the fund to eligible entities.

(5) The state treasurer shall invest idle moneys in the fund and interest earned from such investments shall be returned to the fund.

(6) Funds received from the fee imposed pursuant to the provisions of section [31-4813](#), Idaho Code, shall be distributed quarterly to each governing board based upon population served, excluding one percent (1%) to be used for administration of the emergency communications commission as described in this section.

(7) This act is necessary for the immediate preservation of the public peace, health, safety or support of the state government and its existing public institutions and takes effect January 1, 2014.

[31-4818, added 2004, ch. 325, sec. 2, p. 976; am. 2008, ch. 379, sec. 1, p. 1048; am. 2013, ch. 224, sec. 3, p. 528.]

31-4819. ENHANCED EMERGENCY COMMUNICATIONS GRANT FEE. (1) On and after July 1, 2013, there shall be an enhanced emergency communications grant fee established by virtue of authority granted by this chapter. The fee shall be twenty-five cents (25¢) per month per access or interconnected VoIP service line.

(a) Such fee shall be authorized by resolution of a majority vote of the board of commissioners of a countywide system or by the governing board of a 911 service area.

(b) Such fee shall be remitted to the Idaho emergency communications fund provided in section [31-4818](#)(1), Idaho Code, on a quarterly basis by county, city or consolidated emergency communications systems. Annually, at the discretion of the commission, a budget shall be prepared allocating a portion of the available grant funds for administration of the grant program. The remaining grant funds shall be dedicated for and shall be authorized for disbursement as grants to eligible entities that are operating consolidated emergency communications systems for use to achieve the purposes of this chapter. Grant funds shall coincide with the strategic goals as identified by the commission in its annual report to the legislature. Grant funds may also be budgeted for and utilized for the establishment of next generation consolidated emergency systems (NG911) within the state.

(2) The commission, on an annual basis, shall prepare a budget allocating the grant funds available to eligible entities and the portion of the funds necessary for the continuous operation of the commission to achieve the purposes of this chapter.

(3) To be eligible for grant funds under this chapter, a county or 911 service area must be collecting the emergency communications fee in accordance with section [31-4804](#), Idaho Code, in the full amount authorized and must also be collecting the enhanced emergency communications grant fee in the full amount authorized in this subsection.

(4) If a county or 911 service area has authorized the collection of the enhanced emergency communications grant fee pursuant to this chapter, such county or 911 service area shall retain the full amount of the emergency communications fee that was set by the board of commissioners or governing board pursuant to section [31-4803](#), Idaho Code. The county or 911 service area is then also exempt from remitting to the Idaho public safety communications commission one percent (1%) of the total emergency communications fee received by the county or 911 service area as required in section [31-4818](#)(3), Idaho Code. The remaining funds from the enhanced emergency communications grant fee collected shall then be remitted by the county or 911 service area to the Idaho public safety communications commission.

[31-4819, added 2008, ch. 379, sec. 2, p. 1049; am. 2013, ch. 260, sec. 1, p. 636; am. 2014, ch. 97, sec. 21, p. 285; am. 2016, ch. 127, sec. 8, p. 372.]

31-4820. IDAHO PUBLIC SAFETY INTEROPERABLE COMMUNICATIONS AND DATA SYSTEMS FUND -- ESTABLISHMENT AND ADMINISTRATION. (1) There is hereby created within the treasury of the state of Idaho a separate fund known as the Idaho public safety interoperable communications and data systems fund. This fund may consist of moneys received from the state, counties, cities, grants, donations, gifts and other revenues.

(2) Moneys in the fund are hereby continuously appropriated and shall be utilized exclusively for the purposes set forth in this chapter.

(3) Annually, at the direction of the commission, a budget shall be prepared allocating a portion of the available funds for administration of the public safety interoperable communications and data systems programs, for the purposes of this section.

[31-4820, added 2016, ch. 127, sec. 9, p. 373.]

31-4821. ADMINISTRATIVE SUPPORT. The commission may, with consensus of the governor and legislature of the state of Idaho, create positions including, but not limited to, executive director, 911 program manager, 911 grants manager, statewide interoperability coordinator, national public safety broadband network program manager, or other administrative support positions as required to carry out the provisions of this chapter. In accordance with the law of the state of Idaho, and striving to keep administrative costs to a minimum, the commission may hire, fix the compensation and prescribe the powers and duties of such individuals.

[31-4821, added 2016, ch. 127, sec. 10, p. 373.]