



Jeff Youtz  
Director

# Legislative Services Office Idaho State Legislature

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## 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.