

TITLE 67  
STATE GOVERNMENT AND STATE AFFAIRS

CHAPTER 87  
IDAHO BOND BANK AUTHORITY

67-8701. SHORT TITLE. This chapter shall be known and may be cited as the "Idaho Bond Bank Authority Act."

[67-8701, added 2001, ch. 130, sec. 1, p. 452.]

67-8702. DEFINITIONS. As used in this chapter:

(1) "Authority" or "bond bank authority" means the Idaho bond bank authority.

(2) "Bonds" means bonds, notes or other obligations of the authority issued under this chapter.

(3) "Municipal bond" means a bond, note or other obligation, including a loan, lease or installment sale agreement, issued or undertaken by a municipality for any purpose authorized by law.

(4) "Municipality" means any county, city, municipal corporation, school district, irrigation district, sewer district, water district, highway district or other special purpose district or political subdivision of the state established by law.

(5) "State sales tax account" means any fund or account in the state treasury in which state sales tax moneys are deposited, but only to the extent moneys in such fund or account are attributable to the state sales tax moneys.

[67-8702, added 2001, ch. 130, sec. 1, p. 452; am. 2002, ch. 148, sec. 1, p. 426; am. 2005, ch. 389, sec. 1, p. 1250.]

67-8703. BOND BANK AUTHORITY CREATED -- MEMBERSHIP -- VACANCIES -- OFFICERS -- QUORUM -- COMPENSATION. (1) There is hereby created an independent public body corporate and politic to be known as the Idaho bond bank authority. The authority is an instrumentality of the state within the state treasurer's office but has a legal existence independent of and separate from the state with continuing succession until its existence is terminated by law.

(2) The authority shall consist of the following five (5) members:

(a) The state treasurer, or his designee, who shall serve as ex officio chairman;

(b) One (1) member of the senate, who shall be appointed by and serve at the pleasure of the president pro tempore of the senate for a term of two (2) years;

(c) One (1) member of the house of representatives, who shall be appointed by and serve at the pleasure of the speaker of the house of representatives for a term of two (2) years; and

(d) Two (2) members appointed by the governor, who shall serve at the pleasure of the governor for terms of four (4) years, and who shall be residents of the state and qualified voters at the time of appointment.

(3) A vacancy occurring other than by expiration of term shall be filled in the same manner as the original appointment and for the balance of the unexpired term.

(4) The members may elect, by majority vote, a secretary and a treasurer. The secretary and treasurer may be nonmembers, and the same person may be elected to serve both as secretary and treasurer.

(5) Three (3) members of the authority shall constitute a quorum. Action may be taken and motions and resolutions adopted by the authority at any meeting by the affirmative vote of a majority of members present. A vacancy in the membership of the authority does not impair the right of a quorum to exercise all the powers and perform all the duties of the authority.

(6) Members of the authority shall be compensated as provided by section [59-509](#)(h), Idaho Code, except for those members with salaries established in section [59-501](#), Idaho Code.

[67-8703, added 2001, ch. 130, sec. 1, p. 453; am. 2013, ch. 105, sec. 1, p. 248.]

67-8704. RETENTION OF OUTSIDE SERVICES. The authority may contract for and engage the services of bond counsel, consultants, experts and others whose services the authority considers necessary or appropriate.

[67-8704, added 2001, ch. 130, sec. 1, p. 453.]

67-8705. POWERS AND DUTIES OF THE AUTHORITY. The authority shall have the following powers and duties:

- (1) To sue and be sued in its own name;
- (2) To adopt and from time to time alter an official seal;
- (3) To adopt and from time to time amend or repeal rules and bylaws;
- (4) To accept and receive public grants or private gifts, bequests or other moneys;
- (5) To purchase municipal bonds on original issue or previously issued, from the municipality issuer or from any other source, and to obtain funds for such other purposes of the authority authorized by this chapter by:
  - (a) Issuing bonds payable from or secured by municipal bonds of one (1) or more municipalities;
  - (b) Pledging or otherwise obligating, for and in the name and on behalf of the state as its agent and instrumentality, sales tax revenues of the state as a source of payment or security for bonds issued by the authority;
  - (c) Establishing debt service reserve funds or other reserve funds;
  - (d) Obtaining private credit enhancement for bonds issued by the authority;
  - (e) Investing moneys held by the authority, as proceeds or to pay or secure bonds issued by the authority, in such securities or obligations as are described in the indenture, trust agreement or other instrument providing for the authority's issuance of the bonds;
  - (f) Investing any moneys held by the authority, in excess of funds described in paragraph (e) of this subsection, in any securities or other obligations in which a trustee may invest as provided by law;
  - (g) Taking any other actions and entering into such other contracts and agreements as the authority may determine to be necessary or appropriate to accomplish the purposes of the authority and this chapter; or
  - (h) Facilitating the purchase of notes from municipalities to be utilized by a municipality in purchasing, leasing or lease-purchasing tangible personal property when the note was otherwise legally issued and

authorized by a municipality and the purchase of the note from a municipality does not violate the state constitution.

(6) To charge such fees to municipalities or other potential sellers of municipal bonds in connection with application for and receipt of financing under this chapter and interest and other charges on or in connection with municipal bonds purchased as it may deem necessary or appropriate to cover all costs and expenses of the authority and its operations, and to set such other terms and conditions on its services or purchase of municipal bonds as may be necessary or appropriate to secure the bonds or improve their marketability or to otherwise achieve the purposes of the authority;

(7) To take any and all actions, execute any and all contracts, including payment of any arbitrage rebate as may be necessary to obtain or maintain exemption of interest on bonds issued by the authority from federal income taxes; provided however, that nothing shall prevent the authority from issuing bonds bearing interest subject to federal income tax; and

(8) To develop underwriting policies or guidelines in connection with municipal bonds purchased by the authority.

[67-8705, added 2001, ch. 130, sec. 1, p. 453; am. 2003, ch. 93, sec. 1, p. 278; am. 2005, ch. 389, sec. 2, p. 1250.]

67-8706. ANNUAL REPORT. Before January 1 of each year, the authority shall prepare and submit to the governor and the legislature a report of its activities for the preceding fiscal year. The report shall set out a complete operating and financial statement which covers its operations during the previous fiscal year, and shall include an estimate of the amount of bonds of the authority to be issued during the upcoming fiscal year.

[67-8706, added 2001, ch. 130, sec. 1, p. 454.]

67-8707. NEGOTIABILITY OF BONDS. Notwithstanding any other provision of law, a bond issued under this chapter is fully negotiable, and a holder or owner of a bond, by accepting the bond, is conclusively considered to have agreed that the bond is fully negotiable.

[67-8707, added 2001, ch. 130, sec. 1, p. 454.]

67-8708. BONDS AS LEGAL INVESTMENTS. Notwithstanding any other provisions of law, all banks, trust companies, savings banks and institutions, building and loan associations, savings and loan associations, investment companies, and other persons carrying on a banking business, all insurance companies, insurance associations, and other persons carrying on an insurance business, and all executors, administrators, guardians, trustees and other fiduciaries, may legally invest sinking funds, money or other funds belonging to them or within their control in bonds issued under this chapter.

[67-8708, added 2001, ch. 130, sec. 1, p. 454.]

67-8709. TAX EXEMPTION. All property of the authority is public property exempt from all taxes and special assessments of the state or a municipality. All bonds issued under this chapter are issued by a body corporate and politic of this state, and the bonds and the interest and income on and from the bonds and their transfer, and all fees, charges, funds, revenues, interest, income and other moneys or property received by the authority from

or in connection with municipal bonds or other assets or operations of the authority, are exempt from every kind of taxation by the state or a municipality.

[67-8709, added 2001, ch. 130, sec. 1, p. 455.]

67-8710. ISSUANCE OF BONDS -- FORM OF ISSUANCE -- SALE PRICE -- PAYMENT OR REFUNDING OF BONDS -- TERMS OF AGREEMENT WITH BONDHOLDER. (1) The authority may issue its bonds from time to time in principal amounts that it considers necessary to provide funds for any purpose under this chapter, including, without limitations, to purchase municipal bonds, to fund reserves or to pay costs of issuance, refunding, including redemption premium, credit enhancement, or other matters related to the purpose, structure or marketing of the bonds.

(2) Bonds shall be authorized by resolution of the authority and shall bear the date, mature at the time or times, bear interest at the rate or rates of fixed or variable interest, payable at the times, be in the denominations, be in the forms, carry the conversion or registration privileges, have the rank or priority, be executed in the manner, be payable from the sources in the medium of payment at the place or places inside or outside the state, and be subject to the terms of redemption, with or without premium, rights of holders to tender for purchase and other terms and conditions as the resolution of the authority provides.

(3) Bonds of the authority may be issued in one (1) or more series.

(4) Bonds of the authority may be sold at public or private sale at the price or prices the authority determines.

(5) The authority may, from time to time, issue its bonds under this chapter and pay and retire, or fund or refund previously issued bonds from proceeds of refunding bonds, or from other funds or money of the authority available for that purpose.

(6) By resolution, the authority may authorize entering into an indenture or trust agreement with a corporate trustee located within or outside the state in order:

(a) To provide for the issuance of the bonds with such terms, including without limitation those terms referred to in subsection (2) of this section, as the authority may determine;

(b) To pledge or assign to the trustee for the benefit of holders of the bonds all or any part of the proceeds of the bonds, any municipal bonds purchased from municipalities or other sellers, any other assets or revenues of or received by or pledged to the authority, and the income or other proceeds from any or all of the foregoing;

(c) To provide for the establishment of reserves and any other funds or accounts that the authority determines to be necessary or appropriate, in addition to or in lieu of the reserve fund established pursuant to section [67-8713](#), Idaho Code, which will secure all bonds issued by the authority unless the resolution of the authority providing for issuance of the bonds provides otherwise;

(d) To provide for the custody, safekeeping and enforcement of the municipal bonds acquired;

(e) To provide for the right to sell or otherwise dispose of property of any kind, including municipal bonds;

(f) To provide for the investment of bond proceeds or other moneys held by the trustee in such securities or obligations as may be described in the indenture or trust agreement;

- (g) To provide for amending the indenture or trust agreement, with or without the consent of the holders of the bonds;
- (h) To provide for the replacement of lost, stolen, destroyed or mutilated bonds;
- (i) To provide for the issuance or limitations on issuance of additional bonds;
- (j) To provide for the rights, liabilities, powers and duties arising upon the breach of any covenant, condition or obligation, to limit the rights of bondholders to enforce covenants, conditions or obligations, and to prescribe the events of default and the terms and conditions upon which any or all of the bonds become or may be declared due and payable before maturity, and the terms and conditions upon which the declaration and its consequences may be waived;
- (k) To appoint and to provide for the duties and obligations of a paying agent or agents or other fiduciaries inside or outside the state;
- (l) To make covenants to do or refrain from doing acts, including to enter into any contract, and to provide any other terms and conditions which the authority may determine to be necessary or appropriate in order to better secure the bonds or improve their marketability; and
- (m) To intercept certain payments, and to impose interest and penalties, as provided in section [67-8725](#), Idaho Code.

[67-8710, added 2001, ch. 130, sec. 1, p. 455; am. 2002, ch. 148, sec. 2, p. 427; am. 2005, ch. 389, sec. 3, p. 1251.]

67-8711. PURCHASE AND DISPOSITION OF BONDS. The authority may purchase bonds of the authority. The authority may hold, cancel or resell the bonds subject to, and in accordance with, agreements with holders of its bonds.

[67-8711, added 2001, ch. 130, sec. 1, p. 456.]

67-8712. PRESUMPTION OF VALIDITY. After issuance, all bonds of the authority, and the purchase of all municipal bonds with the proceeds of the bonds, and any contracts entered into in connection with issuance of the bonds, shall be conclusively presumed to be fully authorized and issued under the laws of the state, and all persons, entities and municipalities are estopped from questioning the authorization, sale, issuance, execution or delivery of the bonds and other agreements by the authority.

[67-8712, added 2001, ch. 130, sec. 1, p. 456; am. 2005, ch. 389, sec. 4, p. 1252.]

67-8713. RESERVE FUND -- ADDITIONAL FUNDS AND ACCOUNTS. (1) There is hereby created in the state treasury a fund to be known as the "Idaho Municipal Bond Bank Authority Reserve Fund" (hereinafter referred to as "reserve fund") in which there shall be deposited or transferred:

- (a) All proceeds of bonds or municipal bonds or any reserve surety policy or similar credit enhancement obtained to secure bonds of the authority that the authority may require, by contract with the municipality or by a resolution of the authority, to be deposited in the reserve fund; and
- (b) All moneys appropriated by the legislature for the purpose of the fund.

(2) Moneys in the reserve fund shall be maintained by the authority and are pledged and shall be held and applied solely to the payment of the interest on and principal of those bonds designated by the authority, pursuant to the provisions of section [67-8725](#), Idaho Code, as the interest and principal become due and payable. Moneys may not be withdrawn from the reserve fund if a withdrawal would reduce the amount in the reserve fund to an amount less than the required debt service reserve, as herein defined, except for payment of interest then due and payable on bonds and the principal of bonds then maturing and payable, whether by reason of maturity or mandatory redemption, for which payments other than moneys of the authority pledged to pay such interest and principal are not then available. As used in this chapter, "required debt service reserve" means, as of the date of computation, the amount required to be on deposit in the reserve fund as provided by resolution of the authority.

(3) For purposes of valuation, investments in the reserve fund shall be valued at par, or if purchased at less than par, at cost unless otherwise provided by resolution of the authority. Valuation on a particular date shall include the amount of interest then earned or accrued to that date on the moneys or investments in the reserve fund.

(4) Moneys in the reserve fund in excess of the required debt service reserve, whether by reason of investment or otherwise, may be withdrawn at any time by the authority and transferred to another fund or account of the authority, subject to the provisions of any agreement with the holders of any bonds.

(5) In order to assure the maintenance of the required debt service reserve in the reserve fund, the legislature may annually appropriate to the authority for deposit in the reserve fund the sum, certified by the chairman of the authority to the legislature, that is necessary to restore the fund to an amount equal to the required debt service reserve. The chairman of the authority, annually before December 1, shall make and deliver to the legislature his certificate stating the sum required to restore the funds to that amount. Nothing in this subsection creates a debt or liability of the state to make any appropriation.

(6) All amounts received on account of moneys appropriated by the state to the reserve fund shall be held and applied in accordance with this section; provided however, at the end of each fiscal year, if the amount in the reserve fund derived from amounts appropriated by the legislature exceeds the required debt service reserve, any amount representing earnings or income received on account of moneys appropriated to the reserve fund by the legislature that exceed the expenses of the authority for that fiscal year shall be transferred to the general fund of the state.

(7) The authority may establish subaccounts in the reserve fund, additional reserves or other funds or accounts as may be, in its discretion, necessary or appropriate to further the accomplishment of its purposes or to comply with the provisions of any of its agreements or resolutions.

[67-8713, added 2001, ch. 130, sec. 1, p. 456; am. 2002, ch. 148, sec. 3, p. 428; am. 2005, ch. 389, sec. 5, p. 1253.]

67-8714. PERSONAL LIABILITY. Neither a member of the authority nor a person executing bonds issued or contracts entered into under this chapter shall be liable personally on the bonds or contracts.

[67-8714, added 2001, ch. 130, sec. 1, p. 457.]

67-8715. EXEMPTION FROM EXECUTION AND SALE. All property of the authority is exempt from levy and sale by virtue of an execution. No execution or other judicial process may issue against the property of the authority, and a judgment against the authority may not be a charge or lien upon its property; provided however, this section shall not apply to nor limit the rights of a holder of bonds or a trustee on behalf of the holder to pursue a remedy for the enforcement of a pledge, lien or covenant given by the authority or a municipality.

[67-8715, added 2001, ch. 130, sec. 1, p. 457.]

67-8716. UNLIMITED SALES TAX RECEIPTS PLEDGE. (1) The bond bank authority fund is hereby statutorily created in the state treasury. Moneys in the fund shall be used only as provided in this chapter. Earnings of the bond bank authority fund shall be deposited into the general fund as defined in section [67-1205](#), Idaho Code.

(2) If sufficient moneys are not available to pay debt service on the bonds of the authority, except for bonds the authority has specifically designated not to receive payment from the sales tax, as of five (5) days prior to the scheduled payment date of such bonds, the state treasurer shall give notice to the state controller, certifying the amount of the deficiency, at least five (5) days prior to the scheduled payment date. After receipt of the certified notice from the state treasurer pursuant to this subsection (2), the state controller shall cause moneys representing state sales tax receipts in the amount of the deficiency certified by the state treasurer to be transferred from the general fund as defined in section [67-1205](#), Idaho Code, and deposited in the bond bank authority fund; provided however, that in no event shall a transfer of moneys representing state sales tax receipts from the general fund under the provisions of this chapter impede or otherwise affect the payment of sales tax moneys pledged for the payment on other state bonds outstanding on the effective date of this act or subsequently issued as tax anticipation notes pursuant to section [63-3202](#), Idaho Code.

(3) Moneys transferred from the general fund to the bond bank authority fund pursuant to subsection (2) of this section shall be deposited in the reserve fund as replacement moneys for amounts withdrawn from the reserve fund to pay debt service on the bonds pursuant to section [67-8725](#), Idaho Code, to the extent such moneys are derived from amounts appropriated to the reserve fund by the legislature, or shall be used to pay debt service when due on bonds for which other moneys available pursuant to section [67-8727](#), Idaho Code, are insufficient.

(4) The state of Idaho pledges to and agrees with the holders of any bonds that the state will not alter, impair or limit the rights vested by the sales tax account pledge provided in this section and in section [63-3638](#), Idaho Code, with respect to the bonds until the bonds, together with applicable interest, are fully paid and discharged.

(5) To the extent that other legally available revenues and funds of the state are insufficient to meet the certified deficiency, the state tax commission shall transfer moneys from the sales tax account in section [63-3638](#), Idaho Code.

[67-8716, added 2001, ch. 130, sec. 1, p. 458; am. 2002, ch. 148, sec. 4, p. 429; am. 2005, ch. 389, sec. 6, p. 1254; am. 2008, ch. 407, sec. 1, p. 1116; am. 2011, ch. 214, sec. 1, p. 600.]

67-8717. LIEN OF PLEDGE. A pledge of sales tax revenues made by the authority is binding from the time the pledge is made. Sales tax revenues so pledged and thereafter received by the authority are immediately subject to the lien of the pledge without any physical delivery thereof or further act, and the lien of a pledge is binding against all parties having claims against the authority of any kind in tort, contract, or otherwise, regardless of whether the parties have notice of the lien and notwithstanding any other law relating to the creation, priority, perfection or enforcement of pledges or liens or otherwise. Neither the resolution nor any other instrument by which a pledge is created must be filed or recorded except in the records of the authority.

[67-8717, added 2001, ch. 130, sec. 1, p. 458.]

67-8718. CREDIT ENHANCEMENT OR LIQUIDITY. (1) The authority may enter into agreements to obtain, from a department or agency of the United States or from a nongovernmental financial institution or other entity, insurance, guaranty or other credit enhancement or liquidity for the payment of interest or principal on, or payment of the purchase price on tender of:

- (a) Bonds issued by the authority;
- (b) Municipal bonds purchased or held by the authority; and
- (c) Other municipal bonds as the authority determines to be appropriate.

(2) Agreements as provided in subsection (1) of this section may contain such payment, interest rate, security, default, remedies or other terms and conditions as the authority may determine to be necessary or appropriate.

[67-8718, added 2001, ch. 130, sec. 1, p. 458.]

67-8719. SURETY FOR DEPOSITS BY BANK. All banks, trust companies, savings banks, investment companies and other persons carrying on a banking business are authorized to give to the authority a good and sufficient undertaking with such sureties as are approved by the bank, to the effect that the bank or banking institution shall faithfully keep and pay over to the order of, or upon the warrant of, the authority or its authorized agent all those funds deposited with it by the bank and agreed interest under, or by reason of, this chapter at such times or upon such demands as may be agreed with the bank or in lieu of these sureties, deposit with the authority or its authorized agent or a trustee or for the holders of bonds, as collateral, those securities as the authority may approve. The deposits of the authority may be evidenced by an agreement in the form, and upon the terms and conditions, that may be agreed upon by the authority and the depository bank or banking institution.

[67-8719, added 2001, ch. 130, sec. 1, p. 459.]

67-8720. EXPENSES OF ADMINISTRATION. All expenses incurred in carrying out this chapter are payable either from revenues or funds appropriated under this chapter or from moneys appropriated to the state treasurer from the general fund for operating expenditures. Nothing in this chapter authorizes the authority to incur an indebtedness or a liability on behalf of or payable by the state.



[67-8720, added 2001, ch. 130, sec. 1, p. 459; am. 2007, ch. 55, sec. 1, p. 138.]

67-8721. SWAPS. In connection with, or incidental to, the issuance or carrying of bonds, but only for the purpose of reducing the amount or duration of payment, interest rate, spread or similar risk, or to result in a lower cost of borrowing, and not for purposes of investment or speculation, the authority may enter into contracts which the authority determines to be necessary or appropriate to hedge such risk or to place the obligation of the bonds, in whole or in part, on the interest rate, cash flow, or other basis desired by the authority, including without limitation, contracts commonly known as interest rate swap agreements, interest rate caps or floors, forward payment conversion agreements, futures or hedge contracts.

[67-8721, added 2001, ch. 130, sec. 1, p. 459.]

67-8722. MUNICIPAL BONDS. Any municipality which receives sales tax funds from the state may, in addition to any other powers it may have and without regard to the restrictions or requirements that might otherwise apply under the laws of the state but subject to the requirements of section 3, article VIII, of the constitution of the state of Idaho and any other limitations imposed upon municipalities by the constitution of the state of Idaho:

(1) Issue municipal bonds for sale to the authority, with such interest rate, maturity, redemption, security, remedies and other terms as the municipality may agree with the authority;

(2) Levy and collect property taxes, fees, rates, charges and other assessments to pay or secure the municipal bonds issued by the municipality for the sale to the authority;

(3) Pledge or assign to the authority or its designee property taxes, fees, rates, charges and other assessments, and rights to enforce the collection and application thereof, to pay or secure the municipal bonds issued by the municipality for sale to the authority; and

(4) Take any other actions and enter into such other contracts and agreements including, without limitation, leases on installment sale agreements for credit enhancement or liquidity, with such terms as it may determine with the authority to be necessary or appropriate to accomplish the purposes of the authority under this chapter.

[67-8722, added 2001, ch. 130, sec. 1, p. 459.]

67-8723. COMPLETE AUTHORITY. This chapter provides a complete, additional and alternative method for accomplishing the acts authorized by this chapter, whether by the authority or by municipalities, and the issuance of bonds and municipal bonds, the purchase of municipal bonds, the entering into of any indenture, trust agreement, credit enhancement or liquidity agreement, investment agreement, swap or other agreement entered into or the taking of any other action in connection with the issuance of bonds or municipal bonds need not comply with the requirements of any other law except as specifically set forth in this chapter.

[67-8723, added 2001, ch. 130, sec. 1, p. 460.]

67-8724. RIGHTS NOT TO BE IMPAIRED BY STATE. The state does hereby pledge to and agree with the holders of any bonds issued under this chapter that the state will not limit or alter the rights hereby vested in the authority to fulfill the terms of any agreements made with the holders thereof or in any way impair the security, rights or remedies of such holders until the bonds, with interest thereon, are fully paid and discharged. The authority is authorized to include this pledge and agreement in any indenture, trust agreement or other agreement with the holders of such bonds.

[67-8724, added 2001, ch. 130, sec. 1, p. 460.]

67-8725. PAYMENT TRANSFER -- NOTICE OF NONPAYMENT -- STATE FINANCIAL ASSISTANCE INTERCEPT MECHANISM -- STATE TREASURER DUTIES -- INTEREST AND PENALTY PROVISIONS.

(1) (a) Each municipality, with outstanding unpaid municipal bonds as set forth in this chapter held by or for the authority, shall transfer moneys sufficient for the scheduled debt service payment to its paying agent at least fifteen (15) days before any principal or interest payment date for the bonds in order that the bonds of the authority may be paid. The paying agent may be the trustee for the bonds of the authority that are secured by those municipal bonds.

(b) A municipality subject to this section and chapter with regard to any municipal bonds and which is unable to transfer the scheduled debt service payment to the paying agent at least fifteen (15) days before the scheduled payment date shall immediately notify the paying agent and the state treasurer by:

- (i) Telephone;
- (ii) A writing sent by facsimile transmission; and
- (iii) A writing sent by first-class United States mail.

(c) If sufficient funds are not transferred to the paying agent as required by this subsection, the paying agent shall notify the authority and the state treasurer of that failure in writing at least ten (10) days before the scheduled debt service payment date by:

- (i) Telephone;
- (ii) A writing sent by facsimile transmission; and
- (iii) A writing sent by first-class United States mail.

(d) If sufficient moneys to pay the scheduled debt service payment have not been transferred to the paying agent at least ten (10) days before the scheduled payment date, the authority or the state treasurer shall cause sufficient moneys to be transferred from the reserve fund as provided in section [67-8713](#), Idaho Code, to the paying agent to make the scheduled debt service payment on the bonds of the authority.

(e) To the extent moneys transferred from the reserve fund are derived from moneys appropriated to the reserve fund by the legislature, the payment by the state treasurer transfers the rights represented by the obligation of the municipality and/or authority from the bondholders to the state.

(2) (a) If one (1) or more payments on bonds are made by the state treasurer from moneys in the reserve fund that are derived from moneys appropriated to the reserve fund by the legislature, due to the failure of the municipality to make payment on its bonds in a timely manner, the state treasurer, subject to the limitations provided in paragraph (b) of this subsection shall:

- (i) Immediately intercept any payments from:

- (A) The receipts of any payment of property taxes; or
- (B) Sales tax moneys that would be distributed pursuant to section [63-3638](#), Idaho Code; or
- (C) Liquor revenues that would be distributed pursuant to section [23-404](#), Idaho Code; or
- (D) Any other source of operating moneys provided by the state to the municipality that issued the municipal bonds that would otherwise be paid to the municipality by the state; and

(ii) Apply the intercepted payments to reimburse the state for payments made by the state for the bonds of the authority by deposit to the reserve fund up to the amount withdrawn from the reserve fund for such purpose until all obligations of the municipality to the state arising from those payments, including interest and penalties, are paid in full.

(b) The foregoing intercept and transfer provisions shall operate by force of law and no consent thereto is required of the municipality in order to be enforceable, provided that such provisions shall not apply to any municipal bonds that were previously deemed exempt from intercept under section [67-8728](#), Idaho Code, when such section was in full force and effect.

(c) The state has no obligation to the municipality or to any person or entity to replace any moneys intercepted under the authority of this subsection. Any funds intercepted under subsection (2) (a) (i) of this section shall be used only for payment of bonds of the authority and not the bonds of the municipality, and the municipality shall receive no credit against amounts due under its municipal bonds for any amounts intercepted under subsection (2) (a) (i) of this section.

(3) The municipality that issued municipal bonds for which the state has made all or part of a debt service payment, either from amounts in the reserve fund that are derived from moneys appropriated by the legislature or from moneys transferred from the state sales tax account pursuant to section [67-8716](#), Idaho Code, shall:

- (a) Reimburse all moneys drawn by the state treasurer on its behalf;
- (b) Pay interest to the state on all moneys paid by the state from the date the moneys are drawn to the date they are repaid at a rate not less than the average prime rate for national money center banks plus five percent (5%); and
- (c) Pay all penalties required by this chapter.

(4) (a) The state treasurer shall establish the reimbursement interest rate after considering the circumstances of any prior draws by the municipality on the state, market interest and penalty rates, and the cost of funds, if any, that were required to be borrowed by the state to make payments on the bonds.

(b) The state treasurer may, after considering the circumstances giving rise to the failure of the municipality to make payment on its bonds in a timely manner, impose on the municipality a penalty of not more than five percent (5%) of the amount paid by the state for each instance in which a payment by the state is made.

- (5) (a) (i) If the state treasurer determines that amounts obtained under this section will not reimburse the state in full within one (1) year from the state's payment of a municipality's scheduled debt service payment, the state treasurer shall pursue any legal

action, including mandamus, against the municipality to compel it to:

- (A) Levy and provide tax or other revenues to pay debt service on its municipal bonds when due; and
- (B) Meet its repayment obligations to the state.
- (ii) In pursuing its rights under paragraph (a) of this subsection, the state shall have the same substantive and procedural rights as would a holder of the bonds of a municipality.
- (b) The attorney general shall assist the state treasurer in these duties.
- (c) The municipality shall pay the attorney's fees, expenses and costs of the state treasurer and the attorney general.
- (6) (a) Except as provided in paragraph (c) of this subsection, any municipality whose operating funds were intercepted under this section may replace those funds from other municipal moneys or from property taxes, subject to the limitations provided in this subsection. Said operating funds may also be replaced by the authority from excess amounts available to it if the municipality subsequently pays the delinquent payments on its municipal bonds and any penalties or costs of expenses due the authority in connection therewith.
- (b) A municipality may use property taxes or other moneys to replace intercepted funds only if the property taxes or other moneys were derived from:
  - (i) Taxes originally levied to make the payment but which were not timely received by the municipality;
  - (ii) Taxes from a supplemental levy made to make the missed payment or to replace the intercepted moneys;
  - (iii) Moneys transferred from the undistributed reserve, if any, of the municipality; or
  - (iv) Any other source of money on hand and legally available.
- (c) Notwithstanding the provisions of paragraphs (a) and (b) of this subsection, a municipality may not replace operating funds intercepted by the state with moneys collected by the municipality and held to make payments on its municipal bonds if that replacement would divert moneys from the payment of future debt service on its municipal bonds and increase the risk that the state would be called upon an additional time to make payments on the bonds of the authority.

[67-8725, added 2001, ch. 130, sec. 1, p. 460; am. 2002, ch. 148, sec. 5, p. 430; am. 2005, ch. 389, sec. 7, p. 1255; am. 2008, ch. 407, sec. 2, p. 1117.]

67-8726. COOPERATION BY GOVERNMENT AGENCIES. (1) All officers, departments, boards, agencies, divisions and commissions of the state shall render to the authority services that are within the area of their respective governmental functions and that may be requested by the authority, and shall comply promptly with any reasonable request by the authority to conduct a study or review regarding:

- (a) The desirability, need, expense or financial feasibility of a public project, purpose or improvement; or
- (b) The financial or fiscal responsibility or ability of a municipality making application to the authority for the purchase by the authority of municipal bonds to be issued by that municipality.

(2) The cost and expense of a service requested by the authority, at the request of the officer, department, board, agency, division or commission rendering the service, shall be paid by the authority.

[67-8726, added 2001, ch. 130, sec. 1, p. 462.]

67-8727. ALTERNATIVE INTERCEPT PROCEDURE. Notwithstanding any other provision of law to the contrary, to the extent that any bonds are not secured by moneys appropriated by the legislature to the reserve fund established pursuant to section [67-8713](#), Idaho Code, or such moneys are insufficient to pay debt service when due on the bonds, in lieu of the provisions set forth in section [67-8725](#), Idaho Code, the following provisions shall apply, provided that the provisions of section [67-8725](#), Idaho Code, shall continue to apply with respect to transfers of amounts in the reserve fund derived from moneys appropriated by the legislature:

(1) (a) Each municipality with outstanding unpaid municipal bonds as set forth in this chapter held by or for the authority, shall transfer moneys sufficient for the scheduled debt service payment to its paying agent at least fifteen (15) days before any principal or interest payment date for the bonds. The paying agent may be the trustee for the bonds of the authority that are secured by those municipal bonds.

(b) A municipality which is unable to transfer the scheduled debt service payment to the paying agent at least fifteen (15) days before the scheduled payment date shall immediately notify the paying agent, the authority and the state treasurer by:

- (i) Telephone;
- (ii) A writing sent by facsimile transmission; and
- (iii) A writing sent by first-class United States mail.

(c) If sufficient funds are not transferred to the paying agent as trustee for the bonds of the authority that are secured by those municipal bonds at least ten (10) days before the scheduled debt service payment date of those bonds, the trustee shall transfer any available funds pledged to secure payment of the bonds of the authority or the municipality held in any reserve fund or other pledged fund, or draw on any reserve surety policy securing such bonds, sufficient amounts to make up any shortfall in the amount necessary to pay debt service on the bonds on the scheduled payment date and deposit such amount in the debt service payment fund for those bonds.

(d) If the trustee is required to transfer funds pursuant to paragraph (c) of this subsection to pay debt service on the bonds of the authority or there are not sufficient funds available pursuant to paragraph (c) of this subsection to make up for any shortfall in the amount necessary to pay debt service on such bonds in order that the bonds of the authority may be timely paid, at least ten (10) days before the scheduled debt service payment date of the bonds, the trustee shall notify the authority and the state treasurer by:

- (i) Telephone;
- (ii) A writing sent by facsimile transmission; and
- (iii) A writing sent by first-class United States mail.

(e) Upon the notice provided in subsection (1) (d) of this section, the state treasurer shall:

- (i) Immediately intercept any payments from:
  - (A) The receipts of any payment of property taxes; or

(B) Sales tax moneys that would be distributed pursuant to section [63-3638](#), Idaho Code; or

(C) Liquor tax moneys that would be distributed pursuant to section [23-404](#), Idaho Code; or

(D) Any other source of operating moneys provided by the state to the municipality that issued the municipal bonds that would otherwise be paid to the municipality by the state; and

(ii) Transfer the intercepted payments in the following order of priority:

(A) To the trustee for the bonds of the authority for deposit in the debt service payment fund for such bonds until there are sufficient amounts on deposit to pay debt service on the bonds of the authority on the scheduled payment date; provided that if the state treasurer will be unable to transfer sufficient intercepted payments for such purpose, the state treasurer shall give notice to the state tax commission, certifying the amount of the deficiency, at least five (5) days prior to the scheduled payment date of the bonds;

(B) To the trustee for the bonds to reimburse any amounts transferred from a reserve or other pledged fund or surety policy pursuant to paragraph (c) of this subsection up to the required balance in such fund or required reimbursement of such surety; and

(C) To the state for the reimbursement of any moneys transferred from the state sales tax account pursuant to section [67-8716](#), Idaho Code, to pay debt service on the bonds on the scheduled payment date, together with any interest or penalties established pursuant to section [67-8725](#), Idaho Code;

(iii) The foregoing intercept and transfer provisions shall operate by force of law and no consent thereto is required of the municipality in order to be enforceable, provided that such provisions shall not apply to any municipal bonds which were previously deemed exempt from intercept under section [67-8728](#), Idaho Code, when such section was in full force and effect.

(f) The state has no obligation to the municipality or to any person or entity to replace any moneys intercepted under the authority of this subsection. Any funds intercepted under subsection (1) (e) of this section shall be used only for payment of bonds of the authority and not for the bonds of the municipality, and the municipality shall receive no credit against amounts due under its municipal bonds for any amounts intercepted under subsection (1) (e) of this section.

(2) (a) The municipal bonds or the agreement for purchase of the municipal bonds by the authority may provide for payment of interest and penalties and other terms for reimbursement of any amounts drawn from reserve funds, pledged funds, reserve surety policies or other credit enhancement to pay debt service on the bonds of the authority due to the failure of the municipality to make payment on its municipal bonds in a timely manner. To the extent that debt service on the bonds of the authority is paid from the state sales tax account pursuant to section [67-8716](#), Idaho Code, the provisions of sections [67-8725](#)(3), (4) and (5), Idaho Code, shall apply.

(b) If the authority determines that amounts obtained under this section will not fully make up for failure of the municipality to pay its municipal bonds when due, together with any interest and penalties established pursuant to this section, within one (1) year from the payment of the municipality's scheduled debt service payment, the authority or the trustee for the bonds of the authority may pursue any legal action, including mandamus, against the municipality to compel the municipality to:

(i) Levy and provide tax or other revenues to pay debt service on its municipal bonds when due; and

(ii) Meet its repayment obligations, under its municipal bonds or otherwise, to the authority.

(c) In pursuing their rights under this subsection, the authority and the trustee shall also have the same substantive and procedural rights as a holder of the bonds of a municipality.

(d) The attorney general shall assist the authority in carrying out its duties under this subsection.

(e) The municipality shall pay the attorney's fees, expenses and costs of the authority, the trustee and the attorney general.

(3) (a) Except as provided in paragraph (c) of this subsection, any municipality whose operating funds were intercepted under this section may replace those funds from other municipal moneys or from property taxes, subject to the limitations provided in this subsection. Said operating funds may also be replaced by the authority from excess amounts available to it if the municipality subsequently pays the delinquent payments on its municipal bonds and any penalties or costs of expenses due the authority in connection therewith.

(b) A municipality may use property taxes or other moneys to replace intercepted funds only if the property taxes or other moneys were derived from:

(i) Taxes originally levied to make the payment but which were not timely received by the municipality;

(ii) Taxes from a supplemental levy made to make the missed payment or to replace the intercepted moneys;

(iii) Moneys transferred from the undistributed reserve, if any, of the municipality; or

(iv) Any other source of money on hand and legally available.

(c) Notwithstanding the provisions of subsections (3)(a) and (b) of this section, a municipality may not replace operating funds intercepted by the state with moneys collected by the municipality and held to make payments on its municipal bonds if that replacement would divert moneys from the payment of future debt service on its municipal bonds and increase the risk that the state would be called upon an additional time to make payments on the bonds of the authority.

[67-8727, added 2002, ch. 148, sec. 6, p. 432; am. 2005, ch. 389, sec. 8, p. 1257; am. 2008, ch. 407, sec. 3, p. 1120.]

67-8729. IDAHO BOND BANK ADMINISTRATIVE FUND. (1) There is hereby created in the state treasury the "Idaho Bond Bank Administrative Fund" to which shall be credited:

(a) Fees collected from municipalities or other potential sellers of municipal bonds in connection with application for and receipt of financing under this chapter, and interest and other charges on or in con-

nection with municipal bonds purchased as it may deem necessary or appropriate to cover all costs and expenses of the authority and its operations;

(b) Fees and charges collected to cover costs associated with the powers and duties of the authority as required in section [67-8705](#), Idaho Code;

(c) Interest earned on the investment of idle moneys in the fund, which shall be paid to the fund; and

(d) All other moneys as may be provided by law.

(2) Moneys in the fund shall be continuously appropriated to the authority, and any moneys remaining in the fund at the end of each fiscal year shall not be appropriated to any other fund.

(3) Moneys in the fund shall only be used to effect the purposes of [chapter 87, title 67](#), Idaho Code, pursuant to the provisions as prescribed therein; provided however, the authority may approve reimbursement of the state treasurer's costs associated with the implementation, administration and oversight of the Idaho bond bank authority.

[67-8729, added 2007, ch. 342, sec. 1, p. 1013; am. 2016, ch. 160, sec. 1, p. 443.]