

Dear Senators LODGE, Harris, Stennett, and  
Representatives HARRIS, Armstrong, Smith:

The Legislative Services Office, Research and Legislation, has received the enclosed rules of the  
Endowment Fund Investment Board:

IDAPA 32.01.01 - Notice of Omnibus Rulemaking (Fee Rule) - Proposed Rule (Docket No.  
32-0101-2000F).

Pursuant to Section 67-454, Idaho Code, a meeting on the enclosed rules may be called by the  
cochairmen or by two (2) or more members of the subcommittee giving oral or written notice to Research  
and Legislation no later than fourteen (14) days after receipt of the rules' analysis from Legislative  
Services. The final date to call a meeting on the enclosed rules is no later than 10/09/2020. If a meeting is  
called, the subcommittee must hold the meeting within forty-two (42) days of receipt of the rules' analysis  
from Legislative Services. The final date to hold a meeting on the enclosed rules is 11/06/2020.

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

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



Eric Milstead  
Director

# Legislative Services Office

## Idaho State Legislature

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*Serving Idaho's Citizen Legislature*

### MEMORANDUM

**TO:** Rules Review Subcommittee of the Senate State Affairs Committee and the House State Affairs Committee  
**FROM:** Principal Legislative Drafting Attorney - Ryan Bush  
**DATE:** September 23, 2020  
**SUBJECT:** Endowment Fund Investment Board

IDAPA 32.01.01 - Notice of Omnibus Rulemaking (Fee Rule) - Proposed Rule (Docket No. 32-0101-2000F)

The Endowment Fund Investment Board has submitted proposed rules that reauthorize and republish the following previously approved chapter under IDAPA 32:

32.01.01, Rules Governing the Credit Enhancement Program for School Districts

These rules were previously analyzed and reviewed by the Legislative Services Office upon promulgation.

This is a fee rule. No new fees or charges, or changes to existing fees or charges, are noted in this docket.

No other substantive changes from the existing rules have been noted.

cc: Endowment Fund Investment Board  
Chris Anton

**\*\*\* PLEASE NOTE \*\*\***

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

## IDAPA 32 – ENDOWMENT FUND INVESTMENT BOARD

DOCKET NO. 32-0101-2000F (FEE RULE)

### NOTICE OF OMNIBUS RULEMAKING – PROPOSED RULE

**AUTHORITY:** In compliance with Sections 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Section 57-728(2), Idaho Code.

**PUBLIC HEARING SCHEDULE:** Opportunity for presentation of oral comments concerning this rulemaking will be scheduled in accordance with Section 67-5222, Idaho Code.

**DESCRIPTIVE SUMMARY:** The following is the required finding and concise statement of the purpose of the proposed rulemaking:

This proposed rulemaking re-publishes the following existing temporary rule chapter previously submitted to and reviewed by the Idaho Legislature under IDAPA 32, rules of the Endowment Fund Investment Board:

#### **IDAPA 32**

- 32.01.01, *Rule Governing the Credit Enhancement Program for School Districts.*

**FEE SUMMARY:** This rulemaking does not impose a fee or charge, or increase a fee or charge, beyond what was previously submitted to and reviewed by the Idaho Legislature in the prior rules. The following is a specific description of the fees or charges, authorized in Section 57-728, Idaho Code:

This rule indicates that the Endowment Fund Investment Board will charge school districts an application fee of \$500 and a one-time bond guarantee fee equal to two one hundredths of one percent (0.02% or two basis points) of the Total Debt Service.

**FISCAL IMPACT:** The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year: This rulemaking is not anticipated to have any fiscal impact on the state general fund because the FY2021 budget has already been set by the Legislature, and approved by the Governor, anticipating the existence of the rules and fees being reauthorized by this rulemaking.

**NEGOTIATED RULEMAKING:** Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not feasible because engaging in negotiated rulemaking for all previously existing rules will inhibit the agency from carrying out its ability to serve the citizens of Idaho and to protect their health, safety, and welfare.

**INCORPORATION BY REFERENCE:** Pursuant to Section 67-5229(2)(a), Idaho Code, incorporated material may be obtained or electronically accessed as provided in the text of the proposed rules attached hereto.

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning the proposed rule, contact Chris Anton at (208) 334-3312.

Anyone may submit written comments regarding the proposed rulemaking. All written comments must be directed to the undersigned and must be delivered within twenty-one (21) days after publication of this Notice in the Idaho Administrative Bulletin. Oral presentation of comments may be requested pursuant to Section 67-5222(2), Idaho Code, and must be delivered to the undersigned within fourteen (14) days of the date of publication of this Notice in the Idaho Administrative Bulletin.

Dated this 19th day of August, 2020.

Chris Anton, Manager of Investments  
Endowment Fund Investment Board  
816 West Bannock Street, Suite 301  
Boise, ID 83702  
Phone: (208) 334-3312  
Fax: (208) 334-3786

## IDAPA 32 – ENDOWMENT FUND INVESTMENT BOARD

### 32.01.01 – RULES GOVERNING THE CREDIT ENHANCEMENT PROGRAM FOR SCHOOL DISTRICTS

#### 000. LEGAL AUTHORITY.

Section 57-728(2), Idaho Code, gives the Endowment Fund Investment Board authority to promulgate rules necessary to the discharge of the EFIB's duties for the administration of the Credit Enhancement Program. 2010 Idaho Attorney General Opinion 01 concludes that the EFIB must charge fees to offset the costs of the Credit Enhancement Program to the Endowments. ( )

#### 001. TITLE AND SCOPE

01. **Title.** These rules are titled IDAPA 32, Title 01, Chapter 01, "Rules Governing the Credit Enhancement Program for School Districts." ( )

02. **Scope.** These rules contain the provisions for implementation of the Credit Enhancement Program. ( )

#### 002. -- 009. (RESERVED)

#### 010. DEFINITIONS AND REFERENCES.

01. **Administrative Fees.** Application Fees and Pass-through Fees charged to School Districts applying for and receiving guarantees under the Credit Enhancement Program. ( )

02. **Application Fee.** The amount determined by the EFIB and set forth in this chapter as the cost of reviewing applications to the Credit Enhancement Program and administering the Credit Enhancement Program. ( )

03. **Credit Enhancement Program.** The Credit Enhancement Program for School District Bonds established in Section 57-728, Idaho Code. ( )

04. **EFIB.** Endowment Fund Investment Board. ( )

05. **Endowments.** The trusts granted to the state of Idaho by the Idaho Admission Bill, 26 Statutory Laws 215, chapter 656 as amended. The Endowments include the Public School Endowment established by Idaho Admission Bill sections 4 and 13. ( )

06. **Guarantee Fee.** The amount determined by the EFIB and set forth in this chapter as the cost of guaranteeing a school bond under the Credit Enhancement Program. The cost of guaranteeing a school bond includes the difference in the investment return to the Public School Endowment projected by the EFIB to arise from the guarantee and additional costs to the Endowments arising from investment of the Public School Endowment in the Credit Enhancement Program. ( )

07. **Guaranty Program.** The Idaho School Bond Guaranty Program established in Title 33, Chapter 53, Idaho Code. ( )

08. **Pass-Through Fee.** A direct cost to the EFIB for reviewing an application to the Credit Enhancement Program or for issuing a note to pay a debt service payment under the Credit Enhancement Program. Direct costs include the costs billed to the EFIB by legal, accounting, and financial professionals. ( )

09. **School District.** As defined in Section 33-5302, Idaho Code. ( )

10. **Total Debt Service.** The total amount to be repaid to bond purchasers over the stated maturity of the School District bond (principal plus interest). ( )

#### 011. -- 019. (RESERVED)

#### 020. APPLICATION.

01. **Required Materials.** School Districts must submit the following application materials to the EFIB: ( )

a. Correspondence from the Idaho State Treasurer certifying that the School District has been approved to participate in the Guaranty Program and setting forth the maximum credit enhancement amount available to the School District within the limitations set forth in Section 57-728(8), Idaho Code. ( )

b. A fully completed application form as prescribed by the EFIB from time to time executed by a party authorized to bind the School District. ( )

c. Copies of the complete audited financial statements of the School District prepared pursuant to Section 33-701, Idaho Code, for the preceding three (3) fiscal years and the adopted budget for the current fiscal year. ( )

d. Upon request of the EFIB, documentation substantiating the information set forth in materials submitted pursuant to Subsection 020.01 of these rules. ( )

**02. Submission Deadlines.** School Districts may submit an application at any time. ( )

**021. -- 029. (RESERVED)**

**030. FEES.**

**01. Guarantee Fee.** School Districts must remit to the EFIB a one-time fee equal to two one-hundredths of one percent (0.02% or two basis points) of the Total Debt Service. When Paid. School Districts must remit the Guarantee Fee to the EFIB within five (5) days of the sale of bonds guaranteed by the Credit Enhancement Program. The EFIB will deposit the Guarantee Fee in the Public School Endowment. ( )

**02. Administrative Fees.** ( )

a. Application Fee. School Districts shall submit to the EFIB an Application Fee of five hundred dollars (\$500). School Districts shall submit the Application Fee to the EFIB with the application materials. The EFIB will use Application Fees to pay costs of reviewing applications and administering the Credit Enhancement Program. At the conclusion of each fiscal year, the EFIB will deposit unexpended Application Fees in the Public School Endowment. ( )

b. Pass-through Fee. The EFIB may incur a Pass-through Fee related to the review of an application in its discretion. The EFIB will not invoice a School District for Pass-through Fees related to the review of an application without the prior written approval of the School District. The EFIB may incur a Pass-through Fee related to the issuance of a note without prior approval of the School District. The EFIB will invoice School Districts for the full amount of any Pass-through Fees related to the issuance of a note. School Districts shall remit each invoiced Pass-through Fee to the EFIB within thirty (30) days of invoice. The EFIB will use a Pass-through Fee to pay the direct costs to the EFIB under the Credit Enhancement Program giving rise to the fee. ( )

**031. -- 039. (RESERVED)**

**040. APPROVAL AND DENIAL OF APPLICATIONS.**

**01. Review Periods.** The EFIB will provide written approval or denial of an application within twenty (20) days of the submission of all required materials. If the Board requests substantiating documentation, the EFIB will provide written approval or denial of the application within twenty (20) days of the submission of the substantiating documentation. ( )

**02. Delegation of Review and Approval.** ( )

a. Staff Review. The EFIB may delegate review of applications to EFIB staff. ( )

b. Experts. The EFIB may engage experts to review an application. Experts include legal, accounting, and financial professionals. ( )

c. Staff Approval. The EFIB may delegate approval of applications to the EFIB's manager of investments. ( )

**03. Discretionary Investment.** The EFIB will invest in a School District bond issuance under the Credit Enhancement Program in its sole discretion and within its fiduciary responsibilities as trustees of the financial assets of the Endowments. The EFIB may deny an application for participation in the Credit Enhancement Program if the EFIB determines the investment is not in the best interests of one (1) or more of the Endowments. ( )

**04. Denial of Application for Unpaid Fees.** The EFIB may deny an application for participation in the Credit Enhancement Program if a School District has not paid a fee under a pending application or a prior guarantee issued by the Credit Enhancement Program. ( )

**041. -- 999. (RESERVED)**

## **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: Endowment Fund Investment Board**

**Agency Contact: Chris Anton**

**Phone: (208)334-3312**

**Date: August 19, 2020**

**IDAPA, Chapter and Title Number and Chapter Name:**

**IDAPA 32, 32.01.01 Rule Governing the Credit Enhancement Program for Public Schools**

**Fee Rule Status: \_\_\_\_\_ Proposed \_\_\_\_\_ Temporary**

**Rulemaking Docket Number: 32-0101-2000F**

### **STATEMENT OF ECONOMIC IMPACT:**

**The fees are unchanged from the previous year's temporary fee rule as outlined in IDAPA 32, 32.01.01, Rule Governing the Credit Enhancement Program for School Districts.**

**This rule indicates that the Endowment Fund Investment Board will charge school districts an application fee of \$500 and a one-time bond guarantee fee equal to two one hundredths of one percent (0.02% or two basis points) of the Total Debt Service.**