

IN THE SENATE

SENATE BILL NO. 1306

BY EDUCATION COMMITTEE

AN ACT

1 RELATING TO EDUCATION; AMENDING SECTION 33-601, IDAHO CODE, AS AMENDED BY  
2 SECTION 44, CHAPTER 341, LAWS OF 2009, TO REVISE PROVISIONS RELATING  
3 TO THE SEALED BID OR PUBLIC AUCTION PROCESS FOR CERTAIN REAL PROPERTY,  
4 TO PROVIDE THAT IF THE BOARD OF TRUSTEES FINDS IT IS IN THE SCHOOL  
5 DISTRICT'S BEST INTERESTS TO TRADE PERSONAL PROPERTY TO A PERSON OR  
6 ENTITY FOR LIKE KIND PERSONAL PROPERTY, THE BOARD MAY VOTE TO ELECT TO DO  
7 SO AND THE BOARD MAY ELECT TO ABSTAIN FROM AN APPRAISAL OF THE PERSONAL  
8 PROPERTY IN CERTAIN INSTANCES AND TO MAKE TECHNICAL CORRECTIONS; AND  
9 PROVIDING AN EFFECTIVE DATE.  
10

11 Be It Enacted by the Legislature of the State of Idaho:

12 SECTION 1. That Section 33-601, Idaho Code, as amended by Section 44,  
13 Chapter 341, Laws of 2009, be, and the same is hereby amended to read as  
14 follows:

15 33-601. REAL AND PERSONAL PROPERTY -- ACQUISITION, USE OR DISPOSAL OF  
16 SAME. The board of trustees of each school district shall have the following  
17 powers and duties:

18 (1) To rent to or from others, school buildings or other property used,  
19 or to be used, for school purposes.

20 (2) To contract for the construction, repair, or improvement of any  
21 real property, or the acquisition, purchase or repair of any equipment, or  
22 other personal property necessary for the operation of the school district.

23 Except for the purchase of curricular materials as defined in section  
24 33-118A, Idaho Code, such contract shall be executed in accordance with the  
25 provisions of chapter 28, title 67, Idaho Code.

26 (3) To designate and purchase any real property necessary for school  
27 purposes or in the operation of the district, or remove any building, or  
28 dispose of any real property. Prior to, but not more than one (1) year prior  
29 to, any purchase or disposal of real property, the board shall have such  
30 property appraised by an appraiser certified in the state of Idaho, which  
31 appraisal shall be entered in the records of the board of trustees and shall  
32 be used to establish the value of the real property. The board of trustees  
33 shall determine the size of the site necessary for school purposes. The  
34 site shall be located within the incorporated limits of any city within the  
35 district; provided, however, that if the board finds that it is not in the  
36 best interests of the electors and the students of the district to locate the  
37 site within the incorporated limits of a city, the board, by duly adopted  
38 resolution setting forth the reasons for its finding, may designate a site  
39 located elsewhere within the district. In elementary school districts,  
40 except upon removal for highway purposes, a site may be designated or changed  
41 only after approval of two-thirds (2/3) or more of the electors voting at the  
42 annual meeting.

1 (4) (a) To convey, except as provided by paragraph (b) of this  
2 subsection, by deed, bill of sale, or other appropriate instrument,  
3 all of the estate and interest of the district in any property, real or  
4 personal. In elementary school districts, except such conveyance as is  
5 authorized by subsection (6) of this section, any of the transactions  
6 authorized in this subsection shall be subject to the approval of  
7 two-thirds (2/3) or more of the electors voting at the annual meeting.

8 Prior to such sale or conveyance, the board shall have the property  
9 appraised pursuant to this section, which appraisal shall be entered in  
10 the records of the board of trustees. The property may be sold at public  
11 auction or by sealed bids, as the board of trustees shall determine,  
12 to the highest bidder. Such property may be sold for cash or for such  
13 terms and conditions as the board of trustees shall determine for a  
14 period not exceeding ten (10) years, with the annual rate of interest on  
15 all deferred payments not less than seven percent (7%) per annum. The  
16 title to all property sold on contract shall be retained in the name of  
17 the school district until full payment has been made by the purchaser,  
18 and title to all property sold under a note and mortgage or deed of  
19 trust shall be transferred to the purchaser at the point of sale under  
20 the terms and conditions of the mortgage or deed of trust as the board  
21 of trustees shall determine. Notice of the time and the conditions  
22 of such sale shall be published twice, and proof thereof made, in  
23 accordance with subsections (7~~2~~) and (8~~3~~) of section 33-402, Idaho  
24 Code, except that when the appraised value of the property is less than  
25 one thousand dollars (\$1,000), one (1) single notice by publication  
26 shall be sufficient and the property shall be sold by sealed bids or at  
27 public auction.

28 The board of trustees may accept the highest bid, may reject any  
29 bid, or reject all bids. If the real property was donated to the school  
30 district the board may, within a period of one (1) year from the time  
31 of the appraisal, sell the property without additional advertising or  
32 bidding. Otherwise, the board of trustees must have new appraisals made  
33 and again publish notice for bids, as before. During the sealed bid or  
34 public auction process, no real property of the school district can be  
35 sold for less than its appraised value. If, thereafter, no satisfactory  
36 bid is made and received, the board may proceed under its own direction  
37 to sell and convey the property for the highest price the market will  
38 bear. ~~In no case shall any real property of the school district be sold~~  
39 ~~for less than its appraisal.~~

40 The board of trustees may sell personal property, with an estimated  
41 value of less than one thousand dollars (\$1,000), without appraisal, by  
42 sealed bid or at public auction, provided that there has been not less  
43 than one (1) published advertisement prior to the sale of said property.  
44 If the property has an estimated value of less than five hundred dollars  
45 (\$500), the property may be disposed of in the most cost-effective  
46 and expedient manner by an employee of the district empowered for that  
47 purpose by the board, provided however, such employee shall notify the  
48 board prior to disposal of said property.

49 (b) Real and personal property may be exchanged hereunder for other  
50 property. Provided, however, that aside from the provisions of this

1 paragraph, any school district may by a vote of one-half (1/2) plus one  
2 (1) of the members of the full board of trustees, by resolution duly  
3 adopted, authorize the transfer or conveyance of any real or personal  
4 property owned by such school district to the government of the United  
5 States, any city, county, the state of Idaho, any hospital district  
6 organized under chapter 13, title 39, Idaho Code, any cooperative  
7 service agency formed pursuant to section 33-317, Idaho Code, any other  
8 school district, the Idaho housing and finance association, any public  
9 charter school, any library district, any community college district,  
10 or any recreation district, with or without any consideration accruing  
11 to the school district, when in the judgment of the board of trustees  
12 it is for the interest of such school district that said transfer or  
13 conveyance be made. Prior to any transfer or conveyance of any real or  
14 personal property pursuant to this paragraph (4) (b), the board shall  
15 have the property appraised by an appraiser certified in the state of  
16 Idaho, which appraisal shall be entered in the records of the board of  
17 trustees and shall be used to establish the value of the real or personal  
18 property. Provided however, if the board of trustees finds it is in the  
19 school district's best interests to trade personal property to a person  
20 or entity for like kind personal property, the board of trustees may  
21 vote to elect to do so. The board of trustees may elect to abstain from  
22 an appraisal of the personal property if the estimated value of such  
23 property is less than five thousand dollars (\$5,000).

24 (5) To enter into contracts with any city located within the boundaries  
25 of the school district for the joint purchase, construction, development,  
26 maintenance and equipping of playgrounds, ball parks, swimming pools, and  
27 other recreational facilities upon property owned either by the school  
28 district or the city.

29 (6) To convey rights-of-way and easements for highway, public utility,  
30 and other purposes over, upon or across any school property and, when  
31 necessary to the use of such property for any such purpose, to authorize the  
32 removal of school buildings to such new location, or locations, as shall be  
33 determined by the board of trustees, and such removal shall be made at no cost  
34 or expense to the school district.

35 (7) To authorize the use of any school building of the district as a  
36 community center, or for any public purpose, and to establish a policy of  
37 charges, if any, to be made for such use.

38 (8) To exercise the right of eminent domain under the provisions of  
39 chapter 7, title 7, Idaho Code, for any of the uses and purposes provided in  
40 section 7-701, Idaho Code.

41 (9) If there is a great public calamity, such as an extraordinary  
42 fire, flood, storm, epidemic, or other disaster, or if it is necessary  
43 to do emergency work to prepare for national or local defense, or it is  
44 necessary to do emergency work to safeguard life, health or property, the  
45 board of trustees may pass a resolution declaring that the public interest  
46 and necessity demand the immediate expenditure of public money to safeguard  
47 life, health or property. Upon adoption of the resolution, the board may  
48 expend any sum required in the emergency without compliance with this  
49 section.

1           SECTION 2. This act shall be in full force and effect on and after  
2    January 1, 2011.