

IN THE SENATE

SENATE BILL NO. 1106

BY EDUCATION COMMITTEE

AN ACT

RELATING TO EDUCATION AND CERTAIN CONTRACTS; AMENDING SECTION 33-357, IDAHO CODE, AS ENACTED BY SECTION 2, CHAPTER 263, LAWS OF 2010, TO PROVIDE THAT INFORMATION RELATING TO CERTAIN CONTRACTS SHALL BE INCLUDED ON A CERTAIN INTERNET WEBSITE; AND AMENDING SECTION 33-601, IDAHO CODE, TO PROVIDE THAT FOR CERTAIN CONTRACTS THE BOARD SHALL REVIEW ANY APPLICABLE STATE OF IDAHO CONTRACT AND TO PROVIDE FOR DISCLOSURE OF CERTAIN COSTS.

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

SECTION 1. That Section 33-357, Idaho Code, as enacted by Section 2, Chapter 263, Laws of 2010, be, and the same is hereby amended to read as follows:

33-357. CREATION OF INTERNET BASED EXPENDITURE WEBSITE. (1) As used in this section, unless otherwise required:

(a) "Education provider" means:

- (i) A school district, including a specially chartered district organized and existing pursuant to law;
- (ii) A cooperative services agency or intermediate school district;
- (iii) A public charter school authorized pursuant to state law;
- (iv) A publicly funded governmental entity established by the state for the express purpose of providing online courses.

(b) "Entity" means a corporation, association, union, limited liability company, limited liability partnership, grantee, contractor, local government or other legal entity, including a nonprofit corporation or an employee of the education provider.

(c) "Public record" shall have the same meaning as set forth in chapter 3, title 9, Idaho Code.

(2) (a) No later than December 1, 2011, each education provider shall develop and maintain a publicly available website where the education provider's expenditures are posted in a nonsearchable PDF format, a searchable PDF format, a spreadsheet or in a database format.

(b) The internet based website shall include the following data concerning all expenditures made by the education provider:

- (i) The name and location or address of the entity receiving monies;
- (ii) The amount of expended moneys;
- (iii) The date of the expenditure;
- (iv) A description of the purpose of the expenditure, unless the expenditure is self-describing;
- (v) Supporting contracts and performance reports upon which the expenditure is related when these documents already exist; and

(vi) To the extent possible, a unique identifier for each expenditure; and

(vii) For any contract for which the cost exceeds the amount available in a comparable state of Idaho contract, pursuant to section 33-601(2), Idaho Code, the name and location or address of the entity to which the contract was awarded, the amount of the contract, a description of the purpose of the contract and the amount that will be paid under the contract in excess of the amount that would be paid under the comparable state of Idaho contract.

(c) The expenditure data shall be provided in an open structured data format that may be downloaded by the user.

(d) The internet based website shall contain only information that is a public record or that is not confidential or otherwise exempt from public disclosure pursuant to state or federal law.

(3) The education provider shall:

(a) Update the expenditures contained on the internet based website at least monthly;

(b) Archive all expenditures, which shall remain accessible and on the internet based website for a number of years, consistent with state law regarding keeping and retention of records;

(c) Make the internet based website easily accessible from the main page of the education provider's website; and

(d) The website shall include those records beginning on the effective date of this act on July 1, 2011, and all data prior to that date shall be available by way of a public records request.

SECTION 2. That Section 33-601, Idaho Code, be, and the same is hereby amended to read as follows:

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

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

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

Except for the purchase of curricular materials as defined in section 33-118A, Idaho Code, such contract shall be executed in accordance with the provisions of chapter 28, title 67, Idaho Code. For any contract in excess of five thousand dollars (\$5,000) that is executed pursuant to this subsection, the board shall review any applicable state of Idaho contract. If the board executes a contract that exceeds the cost of the comparable state of Idaho contract, the additional cost to the school district shall be disclosed pursuant to section 33-357, Idaho Code.

(3) To designate and purchase any real property necessary for school purposes or in the operation of the district, or remove any building, or dispose of any real property. Prior to, but not more than one (1) year prior to, any purchase or disposal of real property, the board shall have such property appraised by an appraiser certified in the state of Idaho, which appraisal shall be entered in the records of the board of trustees and shall be used to

1 establish the value of the real property. The board of trustees shall deter-  
2 mine the size of the site necessary for school purposes. The site shall be  
3 located within the incorporated limits of any city within the district; pro-  
4 vided, however, that if the board finds that it is not in the best interests  
5 of the electors and the students of the district to locate the site within the  
6 incorporated limits of a city, the board, by duly adopted resolution setting  
7 forth the reasons for its finding, may designate a site located elsewhere  
8 within the district. In elementary school districts, except upon removal  
9 for highway purposes, a site may be designated or changed only after approval  
10 of two-thirds (2/3) or more of the electors voting at the annual meeting.

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

18 Prior to such sale or conveyance, the board shall have the prop-  
19 erty appraised pursuant to this section, which appraisal shall be en-  
20 tered in the records of the board of trustees. The property may be sold  
21 at public auction or by sealed bids, as the board of trustees shall de-  
22 termine, to the highest bidder. Such property may be sold for cash or  
23 for such terms and conditions as the board of trustees shall determine  
24 for a period not exceeding ten (10) years, with the annual rate of in-  
25 terest on all deferred payments not less than seven percent (7%) per an-  
26 num. The title to all property sold on contract shall be retained in the  
27 name of the school district until full payment has been made by the pur-  
28 chaser, and title to all property sold under a note and mortgage or deed  
29 of trust shall be transferred to the purchaser at the point of sale under  
30 the terms and conditions of the mortgage or deed of trust as the board  
31 of trustees shall determine. Notice of the time and the conditions of  
32 such sale shall be published twice, and proof thereof made, in accor-  
33 dance with subsections (2) and (3) of section 33-402, Idaho Code, except  
34 that when the appraised value of the property is less than one thousand  
35 dollars (\$1,000), one (1) single notice by publication shall be suffi-  
36 cient and the property shall be sold by sealed bids or at public auction.

37 The board of trustees may accept the highest bid, may reject any bid,  
38 or reject all bids. If the real property was donated to the school dis-  
39 trict the board may, within a period of one (1) year from the time of  
40 the appraisal, sell the property without additional advertising or bid-  
41 ding. Otherwise, the board of trustees must have new appraisals made  
42 and again publish notice for bids, as before. During the sealed bid or  
43 public auction process, no real property of the school district can be  
44 sold for less than its appraised value. If, thereafter, no satisfactory  
45 bid is made and received, the board may proceed under its own direction  
46 to sell and convey the property for the highest price the market will  
47 bear.

48 The board of trustees may sell personal property, with an estimated  
49 value of less than one thousand dollars (\$1,000), without appraisal, by  
50 sealed bid or at public auction, provided that there has been not less

1 than one (1) published advertisement prior to the sale of said property.  
2 If the property has an estimated value of less than five hundred dol-  
3 lars (\$500), the property may be disposed of in the most cost-effective  
4 and expedient manner by an employee of the district empowered for that  
5 purpose by the board, provided however, such employee shall notify the  
6 board prior to disposal of said property.

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

32 (5) To enter into contracts with any city located within the boundaries  
33 of the school district for the joint purchase, construction, development,  
34 maintenance and equipping of playgrounds, ball parks, swimming pools, and  
35 other recreational facilities upon property owned either by the school dis-  
36 trict or the city.

37 (6) To convey rights-of-way and easements for highway, public utility,  
38 and other purposes over, upon or across any school property and, when neces-  
39 sary to the use of such property for any such purpose, to authorize the re-  
40 moval of school buildings to such new location, or locations, as shall be de-  
41 termined by the board of trustees, and such removal shall be made at no cost  
42 or expense to the school district.

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

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

49 (9) If there is a great public calamity, such as an extraordinary fire,  
50 flood, storm, epidemic, or other disaster, or if it is necessary to do emer-

1    gency work to prepare for national or local defense, or it is necessary to do  
2    emergency work to safeguard life, health or property, the board of trustees  
3    may pass a resolution declaring that the public interest and necessity de-  
4    mand the immediate expenditure of public money to safeguard life, health or  
5    property. Upon adoption of the resolution, the board may expend any sum re-  
6    quired in the emergency without compliance with this section.