

TITLE 33
EDUCATION

CHAPTER 6
SCHOOL PROPERTY

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.

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

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

Prior to such sale or conveyance, the board shall have the property appraised pursuant to this section, which appraisal shall be entered in the records of the board of trustees. The property may be sold at public auction or by sealed bids, as the board of trustees shall determine, to the highest bidder. Such property may be sold for cash or for such terms and conditions as the board of trustees shall determine for a period not exceeding ten (10) years, with the annual rate of interest on all deferred payments not less than seven percent (7%) per annum. The title to all property sold on contract shall be retained in the name of the school district until full payment has been made by the purchaser, and title to all property sold under a note and mortgage or deed of trust shall be transferred to the purchaser at the point of sale under the terms and conditions of the mortgage or deed of trust as the board

of trustees shall determine. Notice of the time and the conditions of such sale shall be published twice, and proof thereof made, in accordance with subsections (2) and (3) of section [33-402](#), Idaho Code, except that when the appraised value of the property is less than one thousand dollars (\$1,000), one (1) single notice by publication shall be sufficient and the property shall be sold by sealed bids or at public auction.

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

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

(b) Real and personal property may be exchanged hereunder for other property. Provided, however, that aside from the provisions of this paragraph, any school district may by a vote of one-half (1/2) plus one (1) of the members of the full board of trustees, by resolution duly adopted, authorize the transfer or conveyance of any real or personal property owned by such school district to the government of the United States, any city, county, the state of Idaho, any hospital district organized under [chapter 13, title 39](#), Idaho Code, any cooperative service agency formed pursuant to section [33-317](#), Idaho Code, any other school district, the Idaho housing and finance association, any public charter school, any library district, any community college district, or any recreation district, with or without any consideration accruing to the school district, when in the judgment of the board of trustees it is for the interest of such school district that said transfer or conveyance be made. Prior to any transfer or conveyance of any real or personal property pursuant to this paragraph (4) (b), the board shall have the 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 establish the value of the real or personal property. Provided however, if the board of trustees finds it is in the school district's best interests to trade personal property to a person or entity for like kind personal property, the board of trustees may vote to elect to do so. The board of trustees may elect to abstain from an appraisal of the personal property if the estimated value of such property is less than five thousand dollars (\$5,000).

(5) To enter into contracts with any city located within the boundaries of the school district for the joint purchase, construction, development,

maintenance and equipping of playgrounds, ball parks, swimming pools, and other recreational facilities upon property owned either by the school district or the city.

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

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

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

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

[33-601, added 1963, ch. 13, sec. 70, p. 27; am. 1967, ch. 73, sec. 1, p. 167; am. 1972, ch. 39, sec. 1, p. 61; am. 1973, ch. 14, sec. 1, p. 29; am. 1974, ch. 140, sec. 1, p. 1353; am. 1975, ch. 109, sec. 1, p. 222; am. 1978, ch. 165, sec. 1, p. 361; am. 1979, ch. 120, sec. 1, p. 370; am. 1980, ch. 120, sec. 1, p. 259; am. 1981, ch. 143, sec. 1, p. 246; am. 1982, ch. 87, sec. 1, p. 160; am. 1983, ch. 111, sec. 1, p. 238; am. 1984, ch. 45, sec. 1, p. 73; am. 1992, ch. 237, sec. 1, p. 705; am. 1998, ch. 88, sec. 5, p. 300; am. 2000, ch. 345, sec. 1, p. 1167; am. 2001, ch. 191, sec. 1, p. 654; am. 2003, ch. 264, sec. 1, p. 699; am. 2004, ch. 219, sec. 1, p. 655; am. 2005, ch. 213, sec. 5, p. 640; am. 2006, ch. 228, sec. 1, p. 680; am. 2008, ch. 191, sec. 1, p. 598; am. 2008, ch. 307, sec. 1, p. 853; am. 2009, ch. 171, sec. 4, p. 546; am. 2009, ch. 227, sec. 2, p. 709; am. 2009, ch. 341, sec. 44, p. 1020; am. 2010, ch. 42, sec. 1, p. 73; am. 2012, ch. 15, sec. 1, p. 32.]

33-601A. LEASING OF GOODS, EQUIPMENT, BUSES AND PORTABLE CLASSROOMS. No provision of [chapter 6, title 33](#), or [chapter 28, title 67](#), Idaho Code, shall be construed to prevent a board of trustees from entering into lease-purchase agreements for goods, equipment, buses or portable classrooms, provided the agreement is in writing and meets all of the following requirements:

(1) The annual lease payments shall reflect reasonable compensation for use;

(2) No penalty shall be imposed on the school district for proper cancellation of the lease;

(3) The right to exercise the option to purchase shall be at the sole discretion of the school district; and

(4) The cost of purchase shall not exceed the reasonable value of the goods, equipment, buses or portable classrooms as of the time the option to purchase is exercised.

For the purposes of this section, "portable classroom" means a facility which is not so related to particular real estate that an interest in it arises under real estate law.

[33-601A, added 1992, ch. 175, sec. 1, p. 552; am. 2005, ch. 213, sec. 6, p. 643.]

33-603. PAYMENT OF FEES OR RETURNING OF PROPERTY. The board of trustees of each school district shall have the power and the ability to require as a condition of graduation, as a condition of issuance of a diploma or certificate, or as a condition for issuance of a transcript, that any or all indebtedness incurred by the person when he was a student be satisfied, or that all books or other instructional material, uniforms, athletic equipment, advances on loans, or other personal property of the school district borrowed by the person when he was a student of the district be returned. Provided, the board of trustees of a school district or its designated employees may excuse the requirements of this section upon an adequate showing of financial need or other exigency and shall not delay transfer of school records to another school district or enrollment of the student in any other school.

[33-603, added 1992, ch. 112, sec. 1, p. 342; am. 1996, ch. 138, sec. 1, p. 463.]

33-604. RENEWABLE THERMAL ENERGY. The board of trustees of each school district is empowered to establish, create, develop, own, maintain, operate and contract for the establishment, creation, development, ownership, maintenance and operation of thermal heating and cooling energy generation and distribution systems, including hot or chilled water systems, where thermal energy is generated from biomass, geothermal or solar renewable energy.

[33-604, added 2010, ch. 220, sec. 1, p. 493.]

33-605. SALES OF EXCESS ENERGY. The board of trustees of a school district which operates an energy system as described in section [33-604](#), Idaho Code, may use, sell or exchange excess thermal hot or chilled water not needed by the school district subject to the following conditions:

(1) Revenues from the sale of energy as described in section [33-604](#), Idaho Code, shall be used for the benefit of the school district.

(2) Sale of energy as described in section [33-604](#), Idaho Code, shall be pursuant to a school district written contract approved by resolution of the board of trustees of the school district, which resolution shall be forwarded to the state department of education.

[33-605, added 2010, ch. 220, sec. 2, p. 493.]