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**IDAPA 08
TITLE 01
Chapter 03**

08.01.03 - FINANCIAL AFFAIRS OF THE STATE BOARD OF EDUCATION

000. -- 099. (RESERVED).

100. BONDS AND OTHER INDEBTEDNESS.

01. General Powers. The University of Idaho, Idaho State University, Lewis-Clark State College, and Boise State University may, by a majority vote of all the members of the Board, borrow money with or without the issuance of bonds pursuant to Chapters 28 and 40, Title 33, Idaho Code. The Board must act by formal resolution. Such indebtedness is not an obligation of the State of Idaho but is an obligation solely of the respective institutions and the respective board of trustees. Any indebtedness is to be used to acquire a project, facility, or other asset that may be required by or be convenient for the purposes of the institution. Student fees, rentals, charges for the use of the projected facility, or other revenue may be pledged or otherwise encumbered to pay the indebtedness. Refunding bonds also may be issued. (7-1-93)

02. Attorney General's Opinion. The Board or the institution may request the Attorney General of Idaho to review and pass upon the validity of a proposed bond issue. If found valid, the bond is an incontestable, binding obligation on the institution. (7-1-93)

03. Private Sale. A private sale of bonds is permitted only with the prior approval of the Board as the governing body of the institution. The chief executive officer of the institution must explain why a public sale is not desirable and explain the benefits of a private sale of bonds. (7-1-93)

04. Responsibility of the Chief Executive Officer. The chief executive officer of the institution is responsible for compliance with state law and these provisions when any indebtedness is incurred. (7-1-93)

05. Eastern Idaho Technical College. Eastern Idaho Technical College is not authorized to borrow money under chapter 38, title 33, Idaho Code. (7-1-93)

06. Expenditure of Excess Revenue. Expenditure of project revenues over and above that pledged or otherwise encumbered to meet the indebtedness requires prior approval of the Board. (7-1-93)

101. ACQUISITION, DISPOSAL, AND PROTECTION OF REAL AND PERSONAL PROPERTY AND SERVICES.

01. Authority. The Board may acquire, hold, and dispose of real and personal property pursuant to Article IX, Section 10, Idaho Constitution, and Sections 3-107(2), 33-2202, and 33-2211(3), Idaho Code. (7-1-93)

a. Temporary permits. Permits to make a temporary and limited use of real property under the control of an agency or institution may be issued by the agency or institution without prior Board approval. (7-1-93)

b. Board approval of other transfers. (7-1-93)

i. Leases to use real property under the control of an agency or institution require prior Board approval. (7-1-93)

ii. Easements to make a permanent use of real property under the control of an agency or institution require prior Board approval. (7-1-93)

iii. The transfer by an agency or institution of any other interest in real property requires prior Board approval. (7-1-93)

c. Execution. All easements, deeds, and leases must be executed and acknowledged by the president of the Board or another officer designated by the Board and attested to and sealed by the secretary of the Board as

- being consistent with Board action. (7-1-93)
02. Procedure for Acquiring an Interest in Real Property. (7-1-93)
- a. Any interest in real property acquired for the University of Idaho must be taken in the name of the Board of Regents of the University of Idaho. (7-1-93)
- b. Any interest in real property acquired for any other agency or institution under the governance of the Board must be taken in the name of the state of Idaho by and through the State Board of Education. (7-1-93)
- c. This does not preclude a foundation or other legal entity separate and apart from an agency or institution under Board governance from taking title to real property in the name of the foundation or other organization for the present or future benefit of the agency or institution. (7-1-93)
- d. Acquisition of an option, lease, or any other present or future interest in real property, other than a temporary permit, by or on behalf of an agency or institution requires prior Board approval. (7-1-93)
- e. Appraisal. An independent appraiser must be hired to give an opinion of fair market value before an agency or institution acquires fee simple title to real property. (7-1-93)
- f. Method of sale -- exchange of property. The Board will provide for the manner of selling real property under its control, giving due consideration to Section 33-601(4), applied to the Board through Section 33-2211(5), and to Chapter 3, Title 58, Idaho Code. The Board may exchange real property under the terms, conditions, and procedures deemed appropriate by the Board. (7-1-93)
03. Lease of Office Space. Leases of office space by any agency or institution except the University of Idaho are acquired by and through the Department of Administration pursuant to Section 67-5708, Idaho Code. All leases of office or classroom space by any agency or institution require prior approval of the Board. (7-1-93)
04. Personal Property and Services. (7-1-93)
- a. Purchasing procedures. All property that is not real property must be purchased consistent with Sections 67-5715 through 67-5737, Idaho Code, and Executive Order No. 78-6, except that the University of Idaho may acquire such property directly and not through the Department of Administration. Each agency institution must designate an officer with overall responsibility for all purchasing procedures. (7-1-93)
- b. Board approval. Purchases of equipment, either in total or through time purchase or other financing agreements, between twenty-five thousand dollars (\$25,000) and one hundred fifty thousand dollars (\$150,000) require prior approval by the executive director. The executive director must be expressly advised when the recommended bid is other than the lowest qualified bid. Purchases exceeding one hundred fifty thousand dollars (\$150,000) require prior Board approval. (7-1-93)
- c. Purchase of services. For policies pertaining to purchase of services, see Board Policy Manual, Section V, Subsection I,2. (7-1-93)
05. Data Processing. All acquisitions of data processing equipment in amounts between twenty-five thousand dollars (\$25,000) and one hundred fifty thousand dollars (\$150,000) must be reviewed and approved by the executive director prior to such acquisition. Prior Board approval is required for acquisitions over one hundred fifty thousand dollars (\$150,000). Purchases of equipment, supplies, and materials in amounts less than twenty-five thousand dollars (\$25,000) may be acquired through normal institutional processes. (7-1-93)
- a. Administrative systems. Acquisition or development of new administrative software or systems that materially affect the administrative operations of the institution by adding new services must be reviewed with the executive director before beginning development. When feasible, such development will be undertaken as a joint endeavor by the four institutions and with overall coordination by the Office of the State Board of Education. (7-1-93)

06. Disposal of Property. Sale, surplus disposal, trade-in, or exchange of property must be consistent with Section 67-5722, Idaho Code, except that the University of Idaho may dispose of such property directly and not through the Department of Administration. (7-1-93)

a. Disposal of property. Sale, surplus disposal, trade-in, or exchange of property with a value greater than fifteen thousand dollars (\$15,000) requires prior Board approval. (7-1-93)

b. First refusal. When the property has a value greater than five thousand dollars (\$5,000), the agency or institution must first make a good faith effort to give other agencies and institutions under Board governance the opportunity of first refusal to the property before it turns the property over to the Department of Administration or otherwise disposes of the property. (7-1-93)

c. Sale of services. The sale of any services or rights (broadcast or other) of any agency or institution not specifically addressed in Subsection 101.06 of this chapter requires prior approval of the Board when it is reasonably expected that the proceeds of such action may exceed fifteen thousand dollars (\$15,000). Any sale of such services or rights must be conducted via an open bidding process or other means that maximizes the returns in revenues, assets, or benefits to the agency or institution. (7-1-93)

d. Inter-agency transfer. Transfer of property from one Board agency or institution to another agency or institution under Board governance may be made without participation by the State Board of Examiners or the Department of Administration, but such transfers of property with a value greater than fifteen thousand dollars (\$15,000) require prior Board approval. (7-1-93)

e. Inventory. An inventory of all items of chattel property valued at two hundred fifty dollars (\$250) or more owned or leased by any agency or institution must be maintained in cooperation with the Department of Administration as required by Section 67-5746, Idaho Code. (7-1-93)

07. Emergency. If the executive director of the Office of the State Board of Education finds or is informed that an emergency exists, he may consider and approve a purchase or disposal of equipment or services otherwise requiring prior Board approval. The agency or institution must report the transaction in the financial section of its agenda at the next regular Board meeting together with a justification for the emergency action. (7-1-93)

08. Insurance. Each agency and institution must ensure that all insurable real and personal property under its control is insured against physical loss or damage and that its employees are included under any outstanding policy of public liability insurance maintained by the state of Idaho. All insurance must be acquired through the State Department of Administration or any successor entity. (7-1-93)

09. Vehicle Use. Vehicles owned or leased by an agency or institution must be used solely for agency or institutional purposes. Employees may not, with certain exceptions, keep institutional vehicles at their personal residences. Exceptions to this policy include the chief executive officers of the institutions and other employees who have received specific written approval from the chief executive officer of the institution or agency. Each agency and institution is to be certain that the state of Idaho, or the Board of Regents in the case of the (7-1-93)

102. CONSTRUCTION PROJECTS.

01. Initial Project Approvals. Without regard to the source of funding, proposals by any agency or institution under the governance of the Board to make capital improvements, either in the form of renovation or addition to or demolition of existing facilities, when the cost of the project is estimated to be between fifty thousand dollars (\$50,000) and one hundred thousand dollars (\$100,000), must first be submitted to the executive director for review and approval. Without regard to the source of funding, proposals by any agency or institution under the governance of the Board to make capital improvements, either in the form of renovation or addition to or demolition of existing facilities or construction of new facilities, when the cost of the project is estimated to exceed one hundred thousand dollars (\$100,000), must first be submitted to the Board for its review and approval. Budgets for maintenance, repair, and upkeep of existing facilities must be submitted for Board review and approval as a part of the annual operating budget of the agency or institution. Specific projects requiring prior Board approval (as noted in the preceding paragraph) may be listed in the operating budget with a brief description when it is presented to the

Board for approval, and if approved by the Board, may be undertaken. (7-1-93)

02. Fiscal Revisions to Previously Approved Projects. Revised costs up to fifty thousand dollars (\$50,000) or two percent (2%) of the project cost (whichever is more) do not require additional approvals. Changes in project costs between fifty thousand dollars (\$50,000) and one hundred thousand dollars (\$100,000) or between two percent (2%) and five percent (5%) of project cost (whichever is more) must first be submitted to the executive director for review and approval. Changes in project costs of more than one hundred thousand dollars (\$100,000) or five percent (5%) of project cost (whichever is more) must first be submitted to the Board for its review and approval. (7-1-93)

03. Construction Contracts. (7-1-93)

a. The award of contracts for projects under the primary supervision of the University of Idaho or other Board agency; or (7-1-93)

b. The award of contracts for projects under the primary supervision of the University of Idaho or other Board agency or institution between fifty thousand dollars (\$50,000) and one hundred thousand dollars (\$100,000) is subject to the review and approval of the executive director. (7-1-93)

c. The award of contracts for projects under the primary supervision of the University of Idaho or other Board agency; or (7-1-93)

d. If a construction project is to be administered through a construction management contract where multiple construction contracts are issued by the construction manager, the Board's approval applies to the total project budget, the sum of all contracts, in excess of one hundred thousand dollars (\$100,000). (7-1-93)

e. If the executive director of the Board is informed that an emergency exists, he may consider and approve a construction contract otherwise requiring Board approval. The agency or institution must report the transaction in its agenda at the next regular Board meeting together with a justification for the emergency action. (7-1-93)

04. Change Orders. All change orders altering substantially the use of the project facility require the following approval: (7-1-93)

a. All change orders on projects under the primary supervision of a Board agency or institution that increase the project cost by twenty-five thousand dollars (\$25,000) but less than one hundred thousand dollars (\$100,000) require prior approval of the executive director. (7-1-93)

b. All change orders on projects under the primary supervision of a Board agency or institution that increase the project cost by one hundred thousand dollars (\$100,000) or more require prior approval of the Board. (7-1-93)

c. If the executive director of the Board is informed that an emergency exists, he may consider and approve a change order otherwise requiring prior Board approval. The agency or institution must report the transaction in its agenda at the next regular Board meeting together with a justification for the emergency action. (7-1-93)

05. Project Acceptance. Projects under the supervision of the Department of Administration are accepted by the Department on behalf of the Board and the state of Idaho. Projects under the supervision of an agency or institution are accepted by the agency or institution and the project architect. Projects under the supervision of the University of Idaho are accepted by the University on behalf of the Board of Regents. (7-1-93)

06. Statute and Code Compliance. (7-1-93)

a. All projects must be in compliance with Section 504 of the Rehabilitation Act of 1973 and must provide access to all persons. (7-1-93)

b. All projects must be in compliance with applicable state and local building and life-safety codes and applicable local land-use regulations as provided in chapter 41, title 39, and Section 67-6528, Idaho Code. (7-1-93)

c. In designing and implementing construction projects, due consideration must be given to energy conservation and long-term maintenance and operation savings versus short-term capital costs. (7-1-93)

07. Selection of Architects, Engineers, or Construction Managers. (7-1-93)

a. When a project is under the primary supervision of the Board of Regents or the Board and its agencies or institutions, contracts for architects, engineers, or construction managers and engineering services are subject to prior executive director review. (7-1-93)

b. When a project is under the primary supervision of the Board of Regents or the Board and its agencies or institutions, contracts for architects, engineers, or construction managers and engineering services are subject to prior Board review and approval when the fee exceeds twenty-five thousand dollars (\$25,000). (7-1-93)

08. Naming or Memorializing Buildings. Naming or memorializing buildings for other than to signify functional use requires prior approval of the Board. (7-1-93)

103. GRANTS AND CONTRACTS.

01. Approval of Grant and Contract Applications. All applications for grants and contracts that require the institution or agency to dedicate current funds or facilities or will obligate the institution or agency or state to dedicate future funding or significant facilities require approval by the executive director. Cost sharing or other types of in-kind matching requirements are not considered as dedicated commitments. If there is no dedicated funding or facilities obligation, the application shall be approved by the chief executive officer of the agency or institution. When requests for approval of such applications are presented to the executive director the following information must be included: (7-1-93)

a. Agency to which application is made. (7-1-93)

b. Amount of the proposal. (7-1-93)

c. Period of the grant or contract. (7-1-93)

d. Purpose of the grant or contract. (7-1-93)

e. Nature of obligations including amount of funds involved or facilities to be committed. (7-1-93)

02. Acceptance of Grants and Contracts. All grants and contracts accepted by the agency or institution must be reported to the executive director as soon as possible following receipt by the agency or institution of official notification. When grant or contract awards are presented to the executive director, the following information must be provided: (7-1-93)

a. Name of grantor or contractor. (7-1-93)

b. Amount of the grant or contract. (7-1-93)

c. Grant or contract period. (7-1-93)

d. Purpose of the grant or contract. (7-1-93)

e. Indicate nature of agency's or institution's obligations in the form of dedicated funding or dedication of significant facilities. If there is none, the following statement should be included: "No future state obligation will be incurred with the acceptance of this grant or contract." (7-1-93)

f. A statement on waiver of indirect costs which shall be worded as follows: "Waiver of indirect costs is \$ _____" (if exceeding ten thousand dollars (\$10,000)). (7-1-93)

03. Indirect Cost. (7-1-93)

a. The following indirect cost rates will be used by agencies and institutions under the governance of the Board for grant and contract services: (7-1-93)

i. For grants and contracts with the federal government, the indirect cost rates are those negotiated between the agency or institution and the federal government. The indirect cost rate may vary from one class of contract services to another, but agencies and institutions are encouraged to maximize indirect cost reimbursement rates. (7-1-93)

ii. For grants and contracts with other state of Idaho departments, the indirect cost rate is twenty percent (20%) of the total direct cost. (7-1-93)

iii. For grants and contracts with Idaho municipal, county, health district, joint planning, and other public non-profit agencies, the indirect cost rate is not less than twenty percent (20%) of total direct cost. (7-1-93)

iv. For grants and contracts with private entities, whether profit or non-profit, indirect costs are charged at either the negotiated federal indirect cost rate for research projects or twenty-five percent (25%) of total direct costs, whichever rate will generate the greater amount of revenue for the institution or the agency. (7-1-93)

b. Reduction or waiver of indirect costs. (7-1-93)

i. For good cause, the chief executive officer or designee of the agency or institution is authorized to reduce or waive indirect costs where indirect costs from a grant or contract are anticipated to be less than ten thousand dollars (\$10,000) over the life of the contract (including renewals or continuations) or when the granting authority does not allow indirect cost reimbursement. The executive director will from time to time require reports of the agencies and institutions on reductions or waivers of indirect costs. (7-1-93)

ii. Where indirect costs are anticipated to total more than ten thousand dollars (\$10,000) over the life of the contract, reduction, or waiver of indirect costs must be reported to the executive director. (7-1-93)

04. Restrictions on Contract Services. (7-1-93)

a. Prior to the consideration of any contract for services that is required to be submitted to the Board for approval, all agencies or institutions shall include in the agenda an opinion from legal counsel stating the proposed institution contract obligation is consistent with applicable rules and policies of the State Board of Education. The opinion statement shall include the name, address, and phone number of legal counsel. Contracts presented to the Board for consideration which do not contain this information shall be determined disapproved. Grants and those educational agreements designed for articulation or affiliation shall not be construed to be within the jurisdiction of this subsection unless a fiscal liability is created for the Board, its agencies or institutions. (7-1-93)

b. Research or consultant entities of agencies and institutions under the governance of the Board may not bid on contract services when it appears that the contract services are reasonably available from the private sector. (7-1-93)

c. If the product of contract work is to be privileged or its dissemination restricted, the agency or institution may not undertake the contract work without the written approval of the chief executive officer of the agency or institution. The chief executive officer must report all such approvals to the Board at its next scheduled meeting. (7-1-93)

104. -- 999. (RESERVED).