

IN THE SENATE

SENATE BILL NO. 1234

BY EDUCATION COMMITTEE

AN ACT

RELATING TO PUBLIC RECORDS; AMENDING SECTION 74-106, IDAHO CODE, TO PROVIDE THAT THE NAMES OF THE TOP THREE FINALIST APPLICANTS FOR THE PRESIDENCY OF A PUBLIC FOUR-YEAR INSTITUTION SHALL BE MADE AVAILABLE TO THE PUBLIC.

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

SECTION 1. That Section 74-106, Idaho Code, be, and the same is hereby amended to read as follows:

74-106. RECORDS EXEMPT FROM DISCLOSURE -- PERSONNEL RECORDS, PERSONAL INFORMATION, HEALTH RECORDS, PROFESSIONAL DISCIPLINE. The following records are exempt from disclosure:

(1) Except as provided in this subsection, all personnel records of a current or former public official other than the public official's public service or employment history, classification, pay grade and step, longevity, gross salary and salary history, including bonuses, severance packages, other compensation or vouchered and unvouchered expenses for which reimbursement was paid, status, workplace and employing agency. All other personnel information relating to a public employee or applicant including, but not limited to, information regarding sex, race, marital status, birth date, home address and telephone number, social security number, driver's license number, applications, testing and scoring materials, grievances, correspondence and performance evaluations, shall not be disclosed to the public without the employee's or applicant's written consent. Names of applicants to classified or merit system positions shall not be disclosed to the public without the applicant's written consent. Disclosure of names as part of a background check is permitted. Names of the three (3) final applicants for the public four-year postsecondary institution president positions and the five (5) final applicants to all other positions shall be available to the public. If such group is less than five (5) finalists, or less than three (3) finalists for the public four-year postsecondary institution president positions, then the entire list of applicants shall be available to the public. A public official or authorized representative may inspect and copy his personnel records, except for material used to screen and test for employment.

(2) Retired employees' and retired public officials' home addresses, home telephone numbers and other financial and nonfinancial membership records; active and inactive member financial and membership records and mortgage portfolio loan documents maintained by the public employee retirement system. Financial statements prepared by retirement system staff, funding agents and custodians concerning the investment of assets of the public employee retirement system of Idaho are not considered confidential under this chapter.

1 (3) Information and records submitted to the Idaho state lottery for  
2 the performance of background investigations of employees, lottery retail-  
3 ers and major procurement contractors; audit records of lottery retailers,  
4 vendors and major procurement contractors submitted to or performed by the  
5 Idaho state lottery; validation and security tests of the state lottery for  
6 lottery games; business records and information submitted pursuant to sec-  
7 tions 67-7412(8) and (9) and 67-7421(8) and (9), Idaho Code, and such docu-  
8 ments and information obtained and held for the purposes of lottery security  
9 and investigative action as determined by lottery rules unless the public  
10 interest in disclosure substantially outweighs the private need for protec-  
11 tion from public disclosure.

12 (4) Records of a personal nature as follows:

13 (a) Records of personal debt filed with a public agency or independent  
14 public body corporate and politic pursuant to law;

15 (b) Personal bank records compiled by a public depositor for the pur-  
16 pose of public funds transactions conducted pursuant to law;

17 (c) Records of ownership of financial obligations and instruments of a  
18 public agency or independent public body corporate and politic, such as  
19 bonds, compiled by the public agency or independent public body corpo-  
20 rate and politic pursuant to law;

21 (d) Records, with regard to the ownership of, or security interests in,  
22 registered public obligations;

23 (e) Vital statistics records; and

24 (f) Military records as described in and pursuant to section 65-301,  
25 Idaho Code.

26 (5) Information in an income or other tax return measured by items of  
27 income or sales, which is gathered by a public agency for the purpose of ad-  
28 ministering the tax, except such information to the extent disclosed in a  
29 written decision of the tax commission pursuant to a taxpayer protest of a  
30 deficiency determination by the tax commission, under the provisions of sec-  
31 tion 63-3045B, Idaho Code.

32 (6) Records of a personal nature related directly or indirectly to the  
33 application for and provision of statutory services rendered to persons  
34 applying for public care for people who are elderly, indigent or have mental  
35 or physical disabilities, or participation in an environmental or a public  
36 health study, provided the provisions of this subsection making records  
37 exempt from disclosure shall not apply to the extent that such records or  
38 information contained in those records are necessary for a background check  
39 on an individual that is required by federal law regulating the sale of  
40 firearms, guns or ammunition.

41 (7) Employment security information, except that a person may agree,  
42 through written, informed consent, to waive the exemption so that a third  
43 party may obtain information pertaining to the person, unless access to the  
44 information by the person is restricted by subsection (3)(a), (3)(b) or  
45 (3)(d) of section 74-113, Idaho Code. Notwithstanding the provisions of  
46 section 74-113, Idaho Code, a person may not review identifying information  
47 concerning an informant who reported to the department of labor a suspected  
48 violation by the person of the employment security law, chapter 13, title 72,  
49 Idaho Code, under an assurance of confidentiality. As used in this section  
50 and in chapter 13, title 72, Idaho Code, "employment security information"

1 means any information descriptive of an identifiable person or persons that  
2 is received by, recorded by, prepared by, furnished to or collected by the  
3 department of labor or the industrial commission in the administration of  
4 the employment security law.

5 (8) Any personal records, other than names, business addresses and  
6 business phone numbers, such as parentage, race, religion, sex, height,  
7 weight, tax identification and social security numbers, financial worth or  
8 medical condition submitted to any public agency or independent public body  
9 corporate and politic pursuant to a statutory requirement for licensing,  
10 certification, permit or bonding.

11 (9) Unless otherwise provided by agency rule, information obtained as  
12 part of an inquiry into a person's fitness to be granted or retain a license,  
13 certificate, permit, privilege, commission or position, private associa-  
14 tion peer review committee records authorized in title 54, Idaho Code. Any  
15 agency that has records exempt from disclosure under the provisions of this  
16 subsection shall annually make available a statistical summary of the number  
17 and types of matters considered and their disposition.

18 (10) The records, findings, determinations and decisions of any prelit-  
19 igation screening panel formed under chapters 10 and 23, title 6, Idaho Code.

20 (11) Complaints received by the board of medicine and investigations  
21 and informal proceedings, including informal proceedings of any committee  
22 of the board of medicine, pursuant to chapter 18, title 54, Idaho Code, and  
23 rules adopted thereunder.

24 (12) Records of the department of health and welfare or a public health  
25 district that identify a person infected with a reportable disease.

26 (13) Records of hospital care, medical records, including prescrip-  
27 tions, drug orders, records or any other prescription information that  
28 specifically identifies an individual patient, prescription records main-  
29 tained by the board of pharmacy under sections 37-2726 and 37-2730A, Idaho  
30 Code, records of psychiatric care or treatment and professional counseling  
31 records relating to an individual's condition, diagnosis, care or treat-  
32 ment, provided the provisions of this subsection making records exempt from  
33 disclosure shall not apply to the extent that such records or information  
34 contained in those records are necessary for a background check on an indi-  
35 vidual that is required by federal law regulating the sale of firearms, guns  
36 or ammunition.

37 (14) Information collected pursuant to the directory of new hires act,  
38 chapter 16, title 72, Idaho Code.

39 (15) Personal information contained in motor vehicle and driver records  
40 that is exempt from disclosure under the provisions of chapter 2, title 49,  
41 Idaho Code.

42 (16) Records of the financial status of prisoners pursuant to subsec-  
43 tion (2) of section 20-607, Idaho Code.

44 (17) Records of the Idaho state police or department of correction re-  
45 ceived or maintained pursuant to section 19-5514, Idaho Code, relating to  
46 DNA databases and databanks.

47 (18) Records of the department of health and welfare relating to a sur-  
48 vey, resurvey or complaint investigation of a licensed nursing facility  
49 shall be exempt from disclosure. Such records shall, however, be subject to  
50 disclosure as public records as soon as the facility in question has received

1 the report, and no later than the fourteenth day following the date that de-  
2 partment of health and welfare representatives officially exit the facility  
3 pursuant to federal regulations. Provided however, that for purposes of  
4 confidentiality, no record shall be released under this section that specif-  
5 ically identifies any nursing facility resident.

6 (19) Records and information contained in the registry of immunizations  
7 against childhood diseases maintained in the department of health and wel-  
8 fare, including information disseminated to others from the registry by the  
9 department of health and welfare.

10 (20) Records of the Idaho housing and finance association (IHFA) relat-  
11 ing to the following:

12 (a) Records containing personal financial, family, health or similar  
13 personal information submitted to or otherwise obtained by the IHFA;

14 (b) Records submitted to or otherwise obtained by the IHFA with regard  
15 to obtaining and servicing mortgage loans and all records relating to  
16 the review, approval or rejection by the IHFA of said loans;

17 (c) Mortgage portfolio loan documents;

18 (d) Records of a current or former employee other than the employee's  
19 duration of employment with the association, position held and loca-  
20 tion of employment. This exemption from disclosure does not include the  
21 contracts of employment or any remuneration, including reimbursement  
22 of expenses, of the executive director, executive officers or commis-  
23 sioners of the association. All other personnel information relating  
24 to an association employee or applicant including, but not limited to,  
25 information regarding sex, race, marital status, birth date, home ad-  
26 dress and telephone number, applications, testing and scoring materi-  
27 als, grievances, correspondence, retirement plan information and per-  
28 formance evaluations, shall not be disclosed to the public without the  
29 employee's or applicant's written consent. An employee or authorized  
30 representative may inspect and copy that employee's personnel records,  
31 except for material used to screen and test for employment or material  
32 not subject to disclosure elsewhere in the Idaho public records act.

33 (21) Records of the department of health and welfare related to child  
34 support services in cases in which there is reasonable evidence of domestic  
35 violence, as defined in chapter 63, title 39, Idaho Code, that can be used  
36 to locate any individuals in the child support case except in response to a  
37 court order.

38 (22) Records of the Idaho state bar lawyer assistance program pursuant  
39 to chapter 49, title 54, Idaho Code, unless a participant in the program au-  
40 thORIZES the release pursuant to subsection (4) of section 54-4901, Idaho  
41 Code.

42 (23) Records and information contained in the time sensitive emergency  
43 registry created by chapter 20, title 57, Idaho Code, together with any re-  
44 ports, analyses and compilations created from such information and records.

45 (24) Records contained in the court files, or other records prepared as  
46 part of proceedings for judicial authorization of sterilization procedures  
47 pursuant to chapter 39, title 39, Idaho Code.

48 (25) The physical voter registration application on file in the county  
49 clerk's office; however, a redacted copy of said application shall be made  
50 available consistent with the requirements of this section. Information

1 from the voter registration application maintained in the statewide voter  
2 registration database, including age, will be made available except for  
3 the voter's driver's license number, date of birth and, upon a showing that  
4 the voter comes within the provisions of subsection (30) of this section or  
5 upon showing of good cause by the voter to the county clerk in consultation  
6 with the county prosecuting attorney, the physical residence address of the  
7 voter. For the purposes of this subsection, good cause shall include the  
8 protection of life and property and protection of victims of domestic vio-  
9 lence and similar crimes.

10 (26) File numbers, passwords and information in the files of the health  
11 care directive registry maintained by the secretary of state under section  
12 39-4515, Idaho Code, are confidential and shall not be disclosed to any per-  
13 son other than to the person who executed the health care directive or the re-  
14 vocation thereof and that person's legal representatives, to the person who  
15 registered the health care directive or revocation thereof, and to physi-  
16 cians, hospitals, medical personnel, nursing homes, and other persons who  
17 have been granted file number and password access to the documents within  
18 that specific file.

19 (27) Records in an address confidentiality program participant's file  
20 as provided for in chapter 57, title 19, Idaho Code, other than the address  
21 designated by the secretary of state, except under the following circum-  
22 stances:

23 (a) If requested by a law enforcement agency, to the law enforcement  
24 agency; or

25 (b) If directed by a court order, to a person identified in the order.

26 (28) Except as otherwise provided by law relating to the release of in-  
27 formation to a governmental entity or law enforcement agency, any personal  
28 information including, but not limited to, names, personal and business ad-  
29 dresses and phone numbers, sex, height, weight, date of birth, social secu-  
30 rity and driver's license numbers, or any other identifying numbers and/or  
31 information related to any Idaho fish and game licenses, permits and tags un-  
32 less written consent is obtained from the affected person.

33 (29) Documents and records related to alternatives to discipline that  
34 are maintained by the Idaho board of veterinary medicine under the provi-  
35 sions of section 54-2118(1)(b), Idaho Code, provided the requirements set  
36 forth therein are met.

37 (30) The Idaho residential street address and telephone number of an el-  
38 igible law enforcement officer and such officer's residing household mem-  
39 ber(s) as provided for in chapter 58, title 19, Idaho Code, except under the  
40 following circumstances:

41 (a) If directed by a court order, to a person identified in the court  
42 order;

43 (b) If requested by a law enforcement agency, to the law enforcement  
44 agency;

45 (c) If requested by a financial institution or title company for busi-  
46 ness purposes, to the requesting financial institution or title com-  
47 pany; or

48 (d) If the law enforcement officer provides written permission for dis-  
49 closure of such information.

1 (31) All information exchanged between the Idaho transportation de-  
2 partment and insurance companies, any database created, all information  
3 contained in the verification system and all reports, responses or other  
4 information generated for the purposes of the verification system, pursuant  
5 to section 49-1234, Idaho Code.

6 (32) Nothing in this section shall prohibit the release of information  
7 to the state controller as the state social security administrator as pro-  
8 vided in section 59-1101A, Idaho Code.

9 (33) Personal information including, but not limited to, property val-  
10 ues, personal and business addresses, phone numbers, dates of birth, social  
11 security and driver's license numbers or any other identifying numbers or  
12 information maintained by the administrator of the unclaimed property law  
13 set forth in chapter 5, title 14, Idaho Code. Nothing in this subsection  
14 shall prohibit the release of names, last known city of residence, property  
15 value ranges and general property information by the administrator for the  
16 purpose of reuniting unclaimed property with its owner.

17 (34) Any personal information collected by the secretary of state, pur-  
18 suant to section 67-906(1) (b), Idaho Code, for the purpose of allowing indi-  
19 viduals to access the statewide electronic filing system authorized in sec-  
20 tion 67-906, Idaho Code, and any notification e-mail addresses submitted as  
21 part of a lobbyist's registration under section 67-6617, Idaho Code, of an  
22 employer, client, or designated contact for the purpose of electronic noti-  
23 fication of that employer, client, or designated contact of a report filed  
24 under section 67-6619, Idaho Code.