

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 601

BY STATE AFFAIRS COMMITTEE

AN ACT

1 RELATING TO THE PUBLIC RECORDS ACT; AMENDING SECTION 74-101, IDAHO CODE,
2 TO PROVIDE AN EXCEPTION; AMENDING SECTION 74-102, IDAHO CODE, TO PRO-
3 VIDE THAT A PUBLIC RECORD REQUEST SHALL SPECIFICALLY DESCRIBE RECORDS
4 SOUGHT; AMENDING SECTION 74-107, IDAHO CODE, TO PROVIDE FOR CERTAIN
5 TAX COMMISSION RECORDS, CERTAIN RECORDS REGARDING UNCLAIMED PROPERTY
6 AUDITS, AND CERTAIN RECORDS REGARDING THE IDAHO PETROLEUM CLEAN WATER
7 TRUST FUND; AND AMENDING SECTION 74-109, IDAHO CODE, TO REVISE PROVI-
8 SIONS REGARDING CERTAIN LEGISLATIVE RECORDS EXEMPT FROM DISCLOSURE AND
9 TO REMOVE PROVISIONS REGARDING CERTAIN RECORDS.
10

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

12 SECTION 1. That Section 74-101, Idaho Code, be, and the same is hereby
13 amended to read as follows:

14 74-101. DEFINITIONS. As used in this chapter:

15 (1) "Applicant" means any person formally seeking a paid or volunteer
16 position with a public agency. "Applicant" does not include any person seek-
17 ing appointment to a position normally filled by election.

18 (2) "Copy" means transcribing by handwriting, photocopying, duplicat-
19 ing machine and reproducing by any other means so long as the public record is
20 not altered or damaged.

21 (3) "Custodian" means the person or persons having personal custody and
22 control of the public records in question.

23 (4) "Independent public body corporate and politic" means the Idaho
24 housing and finance association as created in chapter 62, title 67, Idaho
25 Code.

26 (5) "Inspect" means the right to listen, view and make notes of public
27 records as long as the public record is not altered or damaged.

28 (6) "Investigatory record" means information with respect to an iden-
29 tifiable person, group of persons or entities compiled by a public agency or
30 independent public body corporate and politic pursuant to its statutory au-
31 thority in the course of investigating a specific act, omission, failure to
32 act, or other conduct over which the public agency or independent public body
33 corporate and politic has regulatory authority or law enforcement author-
34 ity.

35 (7) "Law enforcement agency" means any state or local agency given law
36 enforcement powers or which has authority to investigate, enforce, prose-
37 cute or punish violations of state or federal criminal statutes, ordinances
38 or regulations.

39 (8) "Local agency" means a county, city, school district, municipal
40 corporation, district, public health district, political subdivision, or
41 any agency thereof, or any committee of a local agency, or any combination
42 thereof.

1 (9) "Person" means any natural person, corporation, partnership, firm,
2 association, joint venture, state or local agency or any other recognized
3 legal entity.

4 (10) "Prisoner" means a person who has been convicted of a crime and is
5 either incarcerated or on parole for that crime or who is being held in cus-
6 tody for trial or sentencing.

7 (11) "Public agency" means any state or local agency as defined in this
8 section.

9 (12) "Public official" means any state, county, local district, inde-
10 pendent public body corporate and politic or governmental official or em-
11 ployee, whether elected, appointed or hired.

12 (13) "Public record" includes, but is not limited to, any writing con-
13 taining information relating to the conduct or administration of the pub-
14 lic's business prepared, owned, used or retained by any state agency, in-
15 dependent public body corporate and politic or local agency regardless of
16 physical form or characteristics. Provided, however, that personal notes
17 created by a public official solely for his own use shall not be a public
18 record as long as such personal notes are not shared with any other person or
19 entity.

20 (14) "Requester" means the person requesting examination and/or copy-
21 ing of public records pursuant to section 74-102, Idaho Code.

22 (15) "State agency" means every state officer, department, division,
23 bureau, commission and board or any committee of a state agency including
24 those in the legislative or judicial branch, except the state militia and the
25 Idaho state historical society library and archives.

26 (16) "Writing" includes, but is not limited to, handwriting, typewrit-
27 ing, printing, photostating, photographing and every means of recording,
28 including letters, words, pictures, sounds or symbols or combination
29 thereof, and all papers, maps, magnetic or paper tapes, photographic films
30 and prints, magnetic or punched cards, discs, drums or other documents.

31 SECTION 2. That Section 74-102, Idaho Code, be, and the same is hereby
32 amended to read as follows:

33 74-102. PUBLIC RECORDS -- RIGHT TO EXAMINE. (1) Every person has a
34 right to examine and take a copy of any public record of this state and there
35 is a presumption that all public records in Idaho are open at all reasonable
36 times for inspection except as otherwise expressly provided by statute.

37 (2) The right to copy public records shall include the right to make
38 photographs or photographic or other copies while the records are in the pos-
39 session of the custodian of the records using equipment provided by the pub-
40 lic agency or independent public body corporate and politic or using equip-
41 ment designated by the custodian.

42 (3) Additionally, the custodian of any public record shall give the
43 person, on demand, a certified copy of it if the record is of a nature permit-
44 ting such copying or shall furnish reasonable opportunity to inspect or copy
45 such record.

46 (4) A public agency or independent public body corporate and politic
47 may require that a request for public records be submitted to it in a writing
48 that specifically describes the subject matter and records sought, includ-
49 ing a specific date range for when the records sought were created. The

1 requesting party shall be as specific as possible when requesting records.
2 A request shall describe records sought in sufficient detail to enable the
3 public body to locate such records with reasonable effort. A request shall
4 also provide the requester's name, mailing address, e-mail address and
5 telephone number. A request for public records and delivery of the public
6 records may be made by electronic mail.

7 (5) The custodian shall make no inquiry of any person who requests a
8 public record, except:

9 (a) To verify the identity of the requester in accordance with section
10 74-113, Idaho Code; or

11 (b) To ensure that the requested record or information will not be
12 used for purposes of a mailing or telephone list prohibited by section
13 74-120, Idaho Code, or as otherwise provided by law; or

14 (c) As required for purposes of protecting personal information from
15 disclosure under chapter 2, title 49, Idaho Code, and federal law.

16 (6) The custodian shall not review, examine or scrutinize any copy,
17 photograph or memoranda in the possession of any such person and shall extend
18 to the person all reasonable comfort and facility for the full exercise of
19 the right granted under this act.

20 (7) Nothing herein contained shall prevent the custodian from main-
21 taining such vigilance as is required to prevent alteration of any public
22 record while it is being examined.

23 (8) Examination of public records under the authority of this section
24 must be conducted during regular office or working hours unless the custo-
25 dian shall authorize examination of records in other than regular office or
26 working hours. In this event, the persons designated to represent the cus-
27 todian during such examination shall be entitled to reasonable compensation
28 to be paid to them by the public agency or independent public body corporate
29 and politic having custody of such records, out of funds provided in advance
30 by the person examining such records, at other than regular office or working
31 hours.

32 (9) The public agency or independent public body corporate and politic
33 may provide the requester information to help the requester narrow the scope
34 of the request or to help the requester make the request more specific when
35 the response to the request is likely to be voluminous or require payment as
36 provided in subsection (10) of this section.

37 (10) (a) Except for fees that are authorized or prescribed under other
38 provisions of Idaho law, no fee shall be charged for the first two (2)
39 hours of labor in responding to a request for public records, or for
40 copying the first one hundred (100) pages of paper records that are re-
41 quested.

42 (b) A public agency or independent public body corporate and politic or
43 public official may establish fees to recover the actual labor and copy-
44 ing costs associated with locating and copying documents if:

45 (i) The request is for more than one hundred (100) pages of paper
46 records; or

47 (ii) The request includes records from which nonpublic informa-
48 tion must be deleted; or

1 (iii) The actual labor associated with responding to requests for
2 public records in compliance with the provisions of this chapter
3 exceeds two (2) person hours.

4 (c) A public agency or independent public body corporate and politic or
5 public official may establish a copying fee schedule. The fee may not
6 exceed the actual cost to the agency of copying the record if another fee
7 is not otherwise provided by law.

8 (d) For providing a duplicate of a computer tape, computer disc, mi-
9 crofilm or similar or analogous record system containing public record
10 information, a public agency or independent public body corporate and
11 politic or public official may charge a fee, uniform to all persons that
12 does not exceed the sum of the following:

13 (i) The agency's direct cost of copying the information in that
14 form;

15 (ii) The standard cost, if any, for selling the same information
16 in the form of a publication;

17 (iii) The agency's cost of conversion, or the cost of conversion
18 charged by a third party, if the existing electronic record is con-
19 verted to another electronic form.

20 (e) Fees shall not exceed reasonable labor costs necessarily incurred
21 in responding to a public records request. Fees, if charged, shall re-
22 flect the personnel and quantity of time that are reasonably necessary
23 to process a request. Fees for labor costs shall be charged at the per
24 hour pay rate of the lowest paid administrative staff employee or pub-
25 lic official of the public agency or independent public body corporate
26 and politic who is necessary and qualified to process the request. If
27 a request requires redactions to be made by an attorney who is employed
28 by the public agency or independent public body corporate and politic,
29 the rate charged shall be no more than the per hour rate of the lowest
30 paid attorney within the public agency or independent public body cor-
31 porate and politic who is necessary and qualified to process the public
32 records request. If a request is submitted to a public agency or inde-
33 dependent public body corporate and politic that does not have an attorney
34 on staff, and requires redactions by an attorney, the rate shall be no
35 more than the usual and customary rate of the attorney who is retained by
36 the public agency or independent public body corporate and politic for
37 that purpose.

38 (f) The public agency or independent public body corporate and politic
39 shall not charge any cost or fee for copies or labor when the requester
40 demonstrates that the requester's examination and/or copying of public
41 records:

42 (i) Is likely to contribute significantly to the public's under-
43 standing of the operations or activities of the government;

44 (ii) Is not primarily in the individual interest of the requester
45 including, but not limited to, the requester's interest in litiga-
46 tion in which the requester is or may become a party; and

47 (iii) Will not occur if fees are charged because the requester has
48 insufficient financial resources to pay such fees.

49 (g) Statements of fees by a public agency or independent public body
50 corporate and politic shall be itemized to show the per page costs for

1 copies, and hourly rates of employees and attorneys involved in re-
 2 sponding to the request, and the actual time spent on the public records
 3 request. No lump sum costs shall be assigned to any public records re-
 4 quest.

5 (11) A requester may not file multiple requests for public records
 6 solely to avoid payment of fees. When a public agency or independent public
 7 body corporate and politic reasonably believes that one (1) or more re-
 8 questers is segregating a request into a series of requests to avoid payment
 9 of fees authorized pursuant to this section, the public agency or inde-
 10 pendent public body corporate and politic may aggregate such requests and
 11 charge the appropriate fees. The public agency or independent public body
 12 corporate and politic may consider the time period in which the requests have
 13 been made in its determination to aggregate the related requests. A public
 14 agency or independent public body corporate and politic shall not aggregate
 15 multiple requests on unrelated subjects from one (1) requester.

16 (12) The custodian may require advance payment of fees authorized by
 17 this section. Any money received by the public agency or independent pub-
 18 lic body corporate and politic shall be credited to the account for which
 19 the expense being reimbursed was or will be charged, and such funds may be
 20 expended by the agency as part of its appropriation from that fund. Any por-
 21 tion of an advance payment in excess of the actual costs of labor and copying
 22 incurred by the agency in responding to the request shall be returned to the
 23 requester.

24 (13) A public agency or independent public body corporate and politic
 25 shall not prevent the examination or copying of a public record by contract-
 26 ing with a nongovernmental body to perform any of its duties or functions.

27 (14) Nothing contained herein shall prevent a public agency or indepen-
 28 dent public body corporate and politic from disclosing statistical informa-
 29 tion that is descriptive of an identifiable person or persons, unless pro-
 30 hibited by law.

31 (15) Nothing contained herein shall prevent a public agency or inde-
 32 pendent public body corporate and politic from providing a copy of a public
 33 record in electronic form if the record is available in electronic form and
 34 if the person specifically requests an electronic copy.

35 (16) A public agency, elected official or independent public body cor-
 36 porate and politic shall designate a custodian or custodians for all public
 37 records, which includes any public official having custody of, control of,
 38 or authorized access to public records and also includes all delegates of
 39 such officials, employees or representatives.

40 SECTION 3. That Section 74-107, Idaho Code, be, and the same is hereby
 41 amended to read as follows:

42 74-107. RECORDS EXEMPT FROM DISCLOSURE -- TRADE SECRETS, PRODUCTION
 43 RECORDS, APPRAISALS, BIDS, PROPRIETARY INFORMATION, TAX COMMISSION, UN-
 44 CLAIMED PROPERTY, PETROLEUM CLEAN WATER TRUST FUND. The following records
 45 are exempt from disclosure:

46 (1) Trade secrets including those contained in response to public
 47 agency or independent public body corporate and politic requests for pro-
 48 posal, requests for clarification, requests for information and similar
 49 requests. "Trade secrets" as used in this section means information, in-

1 cluding a formula, pattern, compilation, program, computer program, device,
2 method, technique, process, or unpublished or in-progress research that:

3 (a) Derives independent economic value, actual or potential, from not
4 being generally known to, and not being readily ascertainable by proper
5 means by other persons who can obtain economic value from its disclosure
6 or use; and

7 (b) Is the subject of efforts that are reasonable under the circum-
8 stances to maintain its secrecy.

9 (2) Production records, housing production, rental and financing
10 records, sale or purchase records, catch records, mortgage portfolio loan
11 documents, or similar business records of a private concern or enterprise
12 required by law to be submitted to or inspected by a public agency or sub-
13 mitted to or otherwise obtained by an independent public body corporate and
14 politic. Nothing in this subsection shall limit the use which can be made
15 of such information for regulatory purposes or its admissibility in any en-
16 forcement proceeding.

17 (3) Records relating to the appraisal of real property, timber or min-
18 eral rights prior to its acquisition, sale or lease by a public agency or in-
19 dependent public body corporate and politic.

20 (4) Any estimate prepared by a public agency or independent public body
21 corporate and politic that details the cost of a public project until such
22 time as disclosed or bids are opened, or upon award of the contract for con-
23 struction of the public project.

24 (5) Examination, operating or condition reports and all documents re-
25 lating thereto, prepared by or supplied to any public agency or independent
26 public body corporate and politic responsible for the regulation or supervi-
27 sion of financial institutions including, but not limited to, banks, savings
28 and loan associations, regulated lenders, business and industrial develop-
29 ment corporations, credit unions, and insurance companies, or for the regu-
30 lation or supervision of the issuance of securities.

31 (6) Records gathered by a local agency or the Idaho department of com-
32 merce, as described in chapter 47, title 67, Idaho Code, for the specific
33 purpose of assisting a person to locate, maintain, invest in, or expand busi-
34 ness operations in the state of Idaho.

35 (7) Shipping and marketing records of commodity commissions used to
36 evaluate marketing and advertising strategies and the names and addresses of
37 growers and shippers maintained by commodity commissions.

38 (8) Financial statements and business information and reports submit-
39 ted by a legal entity to a port district organized under title 70, Idaho Code,
40 in connection with a business agreement, or with a development proposal or
41 with a financing application for any industrial, manufacturing, or other
42 business activity within a port district.

43 (9) Names and addresses of seed companies, seed crop growers, seed crop
44 consignees, locations of seed crop fields, variety name and acreage by vari-
45 ety. Upon the request of the owner of the proprietary variety, this infor-
46 mation shall be released to the owner. Provided however, that if a seed crop
47 has been identified as diseased or has been otherwise identified by the Idaho
48 department of agriculture, other state departments of agriculture, or the
49 United States department of agriculture to represent a threat to that par-
50 ticular seed or commercial crop industry or to individual growers, infor-

1 mation as to test results, location, acreage involved and disease symptoms
2 of that particular seed crop, for that growing season, shall be available
3 for public inspection and copying. This exemption shall not supersede the
4 provisions of section 22-436, Idaho Code, nor shall this exemption apply to
5 information regarding specific property locations subject to an open burn-
6 ing of crop residue pursuant to section 39-114, Idaho Code, names of persons
7 responsible for the open burn, acreage and crop type to be burned, and time
8 frames for burning.

9 (10) Information obtained from books, records and accounts required in
10 chapter 47, title 22, Idaho Code, to be maintained by the Idaho oilseed com-
11 mission and pertaining to the individual production records of oilseed grow-
12 ers.

13 (11) Records of any risk retention or self-insurance program prepared
14 in anticipation of litigation or for analysis of or settlement of potential
15 or actual money damage claims against a public entity and its employees or
16 against the industrial special indemnity fund except as otherwise discov-
17 erable under the Idaho or federal rules of civil procedure. These records
18 shall include, but are not limited to, claims evaluations, investigatory
19 records, computerized reports of losses, case reserves, internal documents
20 and correspondence relating thereto. At the time any claim is concluded,
21 only statistical data and actual amounts paid in settlement shall be deemed
22 a public record unless otherwise ordered to be sealed by a court of competent
23 jurisdiction. Provided however, nothing in this subsection is intended to
24 limit the attorney-client privilege or attorney work product privilege oth-
25 erwise available to any public agency or independent public body corporate
26 and politic.

27 (12) Records of laboratory test results provided by or retained by the
28 Idaho food quality assurance laboratory. Nothing in this subsection shall
29 limit the use which can be made, or availability of such information if used,
30 for regulatory purposes or its admissibility in any enforcement proceeding.

31 (13) Reports required to be filed under chapter 13, title 62, Idaho
32 Code, identifying electrical or natural or manufactured gas consumption
33 data for an individual customer or account.

34 (14) Voluntarily prepared environmental audits, and voluntary disclo-
35 sures of information submitted on or before December 31, 1997, to an environ-
36 mental agency, which are claimed to be confidential business information.

37 (15) Computer programs developed or purchased by or for any public
38 agency or independent public body corporate and politic for its own use. As
39 used in this subsection, "computer program" means a series of instructions
40 or statements which permit the functioning of a computer system in a manner
41 designed to provide storage, retrieval and manipulation of data from the
42 computer system, and any associated documentation and source material that
43 explain how to operate the computer program. Computer program does not in-
44 clude:

- 45 (a) The original data including, but not limited to, numbers, text,
46 voice, graphics and images;
- 47 (b) Analysis, compilation and other manipulated forms of the original
48 data produced by use of the program; or
- 49 (c) The mathematical or statistical formulas that would be used if the
50 manipulated forms of the original data were to be produced manually.

1 (16) Active investigative records and trademark usage audits of the
2 Idaho potato commission specifically relating to the enforcement of chapter
3 12, title 22, Idaho Code, until the commencement of formal proceedings as
4 provided by rules of the commission; purchase and sales information sub-
5 mitted to the Idaho potato commission during a trademark usage audit, and
6 investigation or enforcement proceedings. Inactive investigatory records
7 shall be disclosed unless the disclosure would violate the standards set
8 forth in subsection (1) (a) through (f) of section 74-124, Idaho Code. Noth-
9 ing in this subsection shall limit the use which can be made, or availability
10 of such information if used, for regulatory purposes or its admissibility in
11 any enforcement proceeding.

12 (17) All records copied or obtained by the director of the department of
13 agriculture or his designee as a result of an inspection pursuant to section
14 25-3806, Idaho Code, except:

15 (a) Records otherwise deemed to be public records not exempt from dis-
16 closure pursuant to this chapter; and

17 (b) Inspection reports, determinations of compliance or noncompliance
18 and all other records created by the director or his designee pursuant
19 to section 25-3806, Idaho Code.

20 (18) All data and information collected by the division of animal indus-
21 tries or the state brand board pursuant to the provisions of section 25-207B,
22 Idaho Code, or rules promulgated thereunder.

23 (19) Records disclosed to a county official by the state tax commission
24 pursuant to subsection (4) (c) of section 63-3029B, Idaho Code.

25 (20) Records, data, information and materials collected, developed,
26 generated, ascertained or discovered during the course of academic research
27 at public institutions of higher education if the disclosure of such could
28 reasonably affect the conduct or outcome of the research, or the ability of
29 the public institution of higher education to patent or copyright the re-
30 search or protect intellectual property.

31 (21) Records, data, information and materials collected or utilized
32 during the course of academic research at public institutions of higher ed-
33 ucation provided by any person or entity other than the public institution
34 of higher education or a public agency.

35 (22) The exemptions from disclosure provided in subsections (20) and
36 (21) of this section shall apply only until the academic research is pub-
37 licly released, copyrighted or patented, or until the academic research
38 is completed or terminated. At such time, the records, data, information,
39 and materials shall be subject to public disclosure unless: (a) another
40 exemption in this chapter applies; (b) such information was provided to the
41 institution subject to a written agreement of confidentiality; or (c) public
42 disclosure would pose a danger to persons or property.

43 (23) The exemptions from disclosure provided in subsections (20) and
44 (21) of this section do not include basic information about a particular
45 research project that is otherwise subject to public disclosure, such as the
46 nature of the academic research, the name of the researcher, and the amount
47 and source of the funding provided for the project.

48 (24) Records of a county assessor, the state tax commission, a county
49 board of equalization or the state board of tax appeals containing the fol-
50 lowing information: (i) lists of personal property required to be filed pur-

1 suant to section 63-302, Idaho Code, and operating statements required to
2 be filed pursuant to section 63-404, Idaho Code; and (ii) confidential com-
3 mercial or financial information including trade secrets. Except with re-
4 spect to lists of personal property required to be filed pursuant to section
5 63-302, Idaho Code, and the operator statements required to be filed pur-
6 suant to section 63-404, Idaho Code, it shall be the responsibility of the
7 taxpayer to give notice of its claim to exemption by stamping or marking each
8 page or the first page of each portion of documents so claimed. No records
9 that are exempt pursuant to this subsection shall be disclosed without the
10 consent of the taxpayer except as follows:

11 (a) To any officer, employee or authorized representative of the state
12 or the United States, under a continuing claim of confidentiality, as
13 necessary to carry out the provisions of state or federal law or when
14 relevant to any proceeding thereunder.

15 (b) In the publication of statistics or reports as long as the statis-
16 tics or reports do not reasonably lead to the identification of the spe-
17 cific taxpayer or information submitted by taxpayers exempt pursuant to
18 this subsection.

19 (c) To the board of tax appeals or the district court as evidence or
20 otherwise in connection with an appeal of the taxpayer's property tax
21 assessment, but only if the board or the court, as applicable, has en-
22 tered a protective order specifying that the taxpayer information may
23 not be disclosed by any person conducting or participating in the action
24 or proceeding, except as authorized by the board or the court in accor-
25 dance with applicable law.

26 (d) Nothing in this subsection shall prevent disclosure of the follow-
27 ing information:

- 28 (i) Name and mailing address of the property owner;
- 29 (ii) A parcel number;
- 30 (iii) A legal description of real property;
- 31 (iv) The square footage and acreage of real property;
- 32 (v) The assessed value of taxable property;
- 33 (vi) The tax district and the tax rate; and
- 34 (vii) The total property tax assessed.

35 (25) Results of laboratory tests which have no known adverse impacts to
36 human health conducted by the Idaho state department of agriculture animal
37 health laboratory, related to diagnosis of animal diseases of individual an-
38 imals or herds, on samples submitted by veterinarians or animal owners un-
39 less:

40 (a) The laboratory test results indicate the presence of a state or fed-
41 erally reportable or regulated disease in animals;

42 (b) The release of the test results is required by state or federal law;
43 or

44 (c) The test result is identified as representing a threat to animal or
45 human health or to the livestock industry by the Idaho state department
46 of agriculture or the United States department of agriculture. Nothing
47 in this subsection shall limit the use which can be made, or availabil-
48 ity of such information if used, for regulatory purposes or its admis-
49 sibility in any enforcement proceeding, or the duty of any person to re-

1 port contagious or infectious diseases as required by state or federal
2 law.

3 (26) Results of laboratory tests conducted by the Idaho state depart-
4 ment of agriculture seed laboratory on samples submitted by seed producers
5 or seed companies. Nothing in this subsection shall limit the use which can
6 be made, or availability of such information pursuant to the provisions of
7 subsections (9) and (10) of section 22-418, Idaho Code.

8 (27) For policies that are owned by private persons, and not by a public
9 agency of the state of Idaho, records of policies, endorsements, affidavits
10 and any records that discuss policies, endorsements and affidavits that may
11 be required to be filed with or by a surplus line association pursuant to
12 chapter 12, title 41, Idaho Code.

13 (28) Individual financial statements of a postsecondary educational
14 institution or a proprietary school submitted to the state board of educa-
15 tion, its director or a representative thereof, for the purpose of regis-
16 tering the postsecondary educational institution or proprietary school pur-
17 suant to section 33-2402 or 33-2403, Idaho Code, or provided pursuant to an
18 administrative rule of the board adopted pursuant to such sections.

19 (29) Information submitted by insurance companies pursuant to section
20 41-612(17), Idaho Code.

21 (30) Documents, materials or other information submitted to the direc-
22 tor of the department of insurance as provided in chapter 64, title 41, Idaho
23 Code.

24 (31) Reports, information and other materials exempted by chapter 63,
25 title 41, Idaho Code.

26 (32) Records that identify the method by which the Idaho state tax com-
27 mission selects tax returns for audit review.

28 (33) Records that identify the method by which the administrator of the
29 unclaimed property law set forth in chapter 5, title 14, Idaho Code, selects
30 reports for audit review or conducts audit review of such reports and the
31 identity of individuals or entities under audit.

32 (34) Underwriting and claims records of the Idaho petroleum clean wa-
33 ter trust fund obtained pursuant to section 41-4905, 41-4909, 41-4911A,
34 41-4912, or 41-4912A, Idaho Code. Provided, however, that this subsection
35 shall not prevent the Idaho petroleum clean water trust fund's submittal to
36 the Idaho department of environmental quality or other regulatory agencies
37 of information necessary to satisfy an insured's corrective action require-
38 ment under applicable federal or state standards in the event of a release
39 into the environment from a petroleum storage tank; and provided further
40 that nothing in this subsection shall prevent the Idaho petroleum clean wa-
41 ter trust fund from providing auditing, reporting, or actuarial information
42 as otherwise required of it pursuant to section 41-4919, 41-4925A, 41-4928,
43 41-4930, 41-4932, 41-4937, or 41-4938, Idaho Code.

44 SECTION 4. That Section 74-109, Idaho Code, be, and the same is hereby
45 amended to read as follows:

46 74-109. ~~RECORDS EXEMPT FROM DISCLOSURE -- DRAFT LEGISLATION AND SUP-~~
47 ~~PORTING MATERIALS, TAX COMMISSION, UNCLAIMED PROPERTY, PETROLEUM CLEAN~~
48 ~~WATER TRUST FUND, RESEARCH, PERSONAL COMMUNICATIONS, PERSONALLY IDENTIFY-~~

1 ING INFORMATION, WORK PAPERS, AND DRAFT REDISTRICTING PLANS. The following
2 records are exempt from disclosure:

3 (1) Records consisting of draft legislation and documents specifically
4 related to such draft legislation or research requests submitted to the leg-
5 islative services office by a member of the Idaho legislature for the pur-
6 pose of placing such draft legislation into a form suitable for introduction
7 as official proposed legislation of the legislature of the state of Idaho,
8 unless the individual legislator having submitted or requested such records
9 or research agrees to waive the provisions of confidentiality provided by
10 this subsection, including requests for research or analysis submitted to
11 the legislative services office by a member of the Idaho legislature and any
12 documents related to such request.

13 (2) All papers, physical and electronic records and correspondence or
14 other supporting materials comprising the work papers in the possession of
15 the legislative services office or the director of legislative performance
16 evaluations prior to release of the related final audit and all other records
17 or materials in the possession of the legislative services office or the di-
18 rector of legislative performance evaluations that would otherwise be con-
19 fidential or exempt from disclosure Records consisting of personal communi-
20 cation by a member of the Idaho legislature or between members of the Idaho
21 legislature that does not relate to the conduct or administration of the pub-
22 lic's business.

23 (3) Personally identifying information relating to a private citizen
24 contained in a writing to or from a member of the Idaho legislature. As used
25 in this subsection, "private citizen" does not include a lobbyist registered
26 with the office of the secretary of state, a public official, or an individ-
27 ual who is communicating on behalf of an organization. As used in this sub-
28 section, "public official" has the same meaning as in section 74-101(12),
29 Idaho Code, except that it does not include elected or appointed members of
30 the Idaho legislature and legislative staff.

31 (4) Records consisting of or that are related to the work papers in the
32 possession of the director of legislative performance evaluations prior to
33 the release of the final performance evaluation.

34 (5) Records consisting of or that are related to the work papers in the
35 possession of the division of legislative audits prior to release of the re-
36 lated final audit.

37 (6) Records consisting of draft congressional and legislative redis-
38 tricting plans and documents specifically related to such draft redistrict-
39 ing plans or research requests submitted to the commission staff by a member
40 of the commission for reapportionment for the purpose of placing such draft
41 redistricting plan into form suitable for presentation to the full member-
42 ship of the commission, unless the individual commission member having sub-
43 mitted or requested such plans or research agrees to waive the provisions of
44 confidentiality provided by this subsection.

45 ~~(4) Records that identify the method by which the Idaho state tax com-~~
46 ~~mission selects tax returns for audit review.~~

47 ~~(5) Records that identify the method by which the administrator of the~~
48 ~~unclaimed property law set forth in chapter 5, title 14, Idaho Code, selects~~
49 ~~reports for audit review or conducts audit review of such reports and the~~
50 ~~identity of individuals or entities under audit.~~

1 ~~(6) Underwriting and claims records of the Idaho petroleum clean water~~
2 ~~trust fund obtained pursuant to section 41-4905, 41-4909, 41-4911A, 41-4912~~
3 ~~or 41-4912A, Idaho Code. Provided however, that this subsection shall not~~
4 ~~prevent the Idaho petroleum clean water trust fund's submittal to the Idaho~~
5 ~~department of environmental quality, or other regulatory agencies of infor-~~
6 ~~mation necessary to satisfy an insured's corrective action requirement un-~~
7 ~~der applicable federal or state standards in the event of a release into the~~
8 ~~environment from a petroleum storage tank; and provided further that noth-~~
9 ~~ing in this subsection shall prevent the Idaho petroleum clean water trust~~
10 ~~fund from providing auditing, reporting, or actuarial information as other-~~
11 ~~wise required of it pursuant to section 41-4919, 41-4925A, 41-4928, 41-4930,~~
12 ~~41-4932, 41-4937 or 41-4938, Idaho Code.~~