

IN THE SENATE

SENATE BILL NO. 1225, As Amended

BY EDUCATION COMMITTEE

AN ACT

1 RELATING TO EDUCATION; AMENDING CHAPTER 37, TITLE 33, IDAHO CODE, BY THE AD-  
2 DITION OF A NEW SECTION 33-3734, IDAHO CODE, TO ESTABLISH PROVISIONS RE-  
3 GARDING PRESIDENT SEARCHES FOR STATE INSTITUTIONS OF HIGHER EDUCATION;  
4 AMENDING SECTION 74-106, IDAHO CODE, TO REVISE PROVISIONS REGARDING  
5 CERTAIN RECORDS EXEMPT FROM DISCLOSURE; AND DECLARING AN EMERGENCY.  
6

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

8 SECTION 1. That Chapter 37, Title 33, Idaho Code, be, and the same is  
9 hereby amended by the addition thereto of a NEW SECTION, to be known and des-  
10 ignated as Section 33-3734, Idaho Code, and to read as follows:

11 33-3734. PRESIDENT SEARCHES. (1) For all president searches announced  
12 and conducted by the Idaho state board of education for state institutions of  
13 higher education, the board shall:

14 (a) Conduct a thorough search process that includes periodic updates to  
15 the public; and

16 (b) Assemble a search committee to recommend a candidate to the board  
17 for the board's final decision.

18 (2) The search committee shall consist of, at a minimum:

19 (a) Two (2) members of the Idaho state board of education;

20 (b) Two (2) individuals currently employed by the state institution of  
21 higher education searching for a president, one (1) of whom shall be a  
22 member of the faculty;

23 (c) Two (2) alumni of the state institution of higher education search-  
24 ing for a president;

25 (d) One (1) member of the foundation of the state institution of higher  
26 education searching for a president; and

27 (e) One (1) at-large community member.

28 (3) The search committee shall:

29 (a) Respect and protect candidate confidentiality; and

30 (b) Review prospective candidates and make its recommendation to the  
31 board in closed executive sessions.

32 (4) If the board is not satisfied with the finalist selected and recom-  
33 mended by the search committee, the board may direct the search committee to  
34 resume the search process until the board is satisfied with the committee's  
35 recommendation.

36 (5) The name of the sole finalist shall be made available to the public  
37 no less than ten (10) business days before the final decision is made by the  
38 board.

39 (6) The board shall take final hiring action of a president in an open  
40 and public board meeting.

1 SECTION 2. That Section 74-106, Idaho Code, be, and the same is hereby  
2 amended to read as follows:

3 74-106. RECORDS EXEMPT FROM DISCLOSURE -- PERSONNEL RECORDS, PER-  
4 SONAL INFORMATION, HEALTH RECORDS, PROFESSIONAL DISCIPLINE. The following  
5 records are exempt from disclosure:

6 (1) Except as provided in this subsection, all personnel records of  
7 a current or former public official other than the public official's pub-  
8 lic service or employment history, classification, pay grade and step,  
9 longevity, gross salary and salary history, including bonuses, severance  
10 packages, other compensation or vouchered and unvouchered expenses for  
11 which reimbursement was paid, status, workplace and employing agency. All  
12 other personnel information relating to a public employee or applicant,  
13 including but not limited to information regarding sex, race, marital sta-  
14 tus, birth date, home address and telephone number, social security number,  
15 driver's license number, applications, testing and scoring materials,  
16 grievances, correspondence and performance evaluations, shall not be dis-  
17 closed to the public without the employee's or applicant's written consent.  
18 Names of applicants to classified or merit system positions shall not be  
19 disclosed to the public without the applicant's written consent. Disclosure  
20 of names as part of a background check is permitted. ~~Names of the five (5)~~  
21 ~~final applicants~~ The name of the sole finalist to all other positions shall  
22 be available to the public. ~~If such group is less than five (5) finalists,~~  
23 ~~then the entire list of applicants shall be available to the public.~~ A public  
24 official or authorized representative may inspect and copy his personnel  
25 records, except for material used to screen and test for employment.

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

34 (3) Information and records submitted to the Idaho state lottery for  
35 the performance of background investigations of employees, lottery retail-  
36 ers and major procurement contractors; audit records of lottery retailers,  
37 vendors and major procurement contractors submitted to or performed by the  
38 Idaho state lottery; validation and security tests of the state lottery for  
39 lottery games; and business records and information submitted pursuant to  
40 sections 67-7412(8) and (9) and 67-7421(8) and (9), Idaho Code, and such  
41 documents and information obtained and held for the purposes of lottery se-  
42 curity and investigative action as determined by lottery rules, unless the  
43 public interest in disclosure substantially outweighs the private need for  
44 protection from public disclosure.

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

- 46 (a) Records of personal debt filed with a public agency pursuant to law;  
47 (b) Personal bank records compiled by a public depositor for the pur-  
48 pose of public funds transactions conducted pursuant to law;

1 (c) Records of ownership of financial obligations and instruments of a  
2 public agency, such as bonds, compiled by the public agency pursuant to  
3 law;

4 (d) Records with regard to the ownership of or security interests in  
5 registered public obligations;

6 (e) Vital statistics records;

7 (f) Military records as described in and pursuant to section 65-301,  
8 Idaho Code;

9 (g) Social security numbers; and

10 (h) The following personal data identifiers for an individual may be  
11 disclosed only in the following redacted format:

12 (i) The initials of any minor children of the individual;

13 (ii) A date of birth in substantially the following format:  
14 XX/XX/birth year;

15 (iii) The last four (4) digits of a financial account number in  
16 substantially the following format: XXXXX1234;

17 (iv) The last four (4) digits of a driver's license number or  
18 state-issued personal identification card number in substan-  
19 tially the following format: XXXXX350F; and

20 (v) The last four (4) digits of an employer identification number  
21 or business's taxpayer identification number.

22 (5) Information in an income or other tax return measured by items of  
23 income or sales that is gathered by a public agency for the purpose of admin-  
24 istering the tax, except such information to the extent disclosed in a writ-  
25 ten decision of the tax commission pursuant to a taxpayer protest of a defi-  
26 ciency determination by the tax commission, under the provisions of section  
27 63-3045B, Idaho Code.

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

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

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

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

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

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

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

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

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

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

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

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

42 (18) Records of the department of health and welfare relating to a sur-  
43 vey, resurvey or complaint investigation of a licensed nursing facility.  
44 Such records shall, however, be subject to disclosure as public records as  
45 soon as the facility in question has received the report and no later than the  
46 fourteenth day following the date that department of health and welfare rep-  
47 resentatives officially exit the facility pursuant to federal regulations.  
48 Provided however, that for purposes of confidentiality, no record shall be  
49 released under this section that specifically identifies any nursing facil-  
50 ity resident.

1 (19) Records and information contained in the registry of immunizations  
2 against childhood diseases maintained in the department of health and wel-  
3 fare, including information disseminated to others from the registry by the  
4 department of health and welfare.

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

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

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

12 (c) Mortgage portfolio loan documents;

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

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

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

37 (23) Records and information contained in the time sensitive emergency  
38 registry created by chapter 9, title 46, Idaho Code, together with any re-  
39 ports, analyses and compilations created from such information and records.

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

43 (25) The physical voter registration application on file in the county  
44 clerk's office; however, a redacted copy of said application shall be made  
45 available consistent with the requirements of this section. Information  
46 from the voter registration application maintained in the statewide voter  
47 registration database, including age, will be made available except for  
48 the voter's driver's license number, date of birth and, upon a showing that  
49 the voter comes within the provisions of subsection (30) of this section or  
50 upon showing of good cause by the voter to the county clerk in consultation

1 with the county prosecuting attorney, the physical residence address of the  
2 voter. For the purposes of this subsection, good cause shall include the  
3 protection of life and property and protection of victims of domestic vio-  
4 lence and similar crimes.

5 (26) Information in the files of the health care directive registry  
6 maintained by the department of health and welfare under section 39-4515,  
7 Idaho Code, is confidential and shall not be disclosed to any person other  
8 than to the person who executed an advance care planning document or the re-  
9 vocation thereof and that person's surrogate decision-maker, to the person  
10 who registered an advance care planning document or revocation thereof, and  
11 to physicians, hospitals, medical personnel, nursing homes, and other per-  
12 sons who have been granted access to the documents in the registry.

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

17 (a) If requested by a law enforcement agency, to the law enforcement  
18 agency; or

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

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

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

31 (30) The Idaho residential street address and telephone number of an  
32 eligible law enforcement or judicial officer and such officer's residing  
33 household members as provided for in chapters 58 and 62, title 19, Idaho  
34 Code, except under the following circumstances:

35 (a) If directed by a court order, to a person identified in the court  
36 order;

37 (b) If requested by a law enforcement agency, to the law enforcement  
38 agency;

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

42 (d) If the law enforcement or judicial officer provides written permis-  
43 sion for disclosure of such information.

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

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

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

12           (34) Any personal information collected by the secretary of state, pur-  
13 suant to section 67-906(1)(b), Idaho Code, for the purpose of allowing indi-  
14 viduals to access the statewide electronic filing system authorized in sec-  
15 tion 67-906, Idaho Code, except campaign contact phone numbers for candi-  
16 dates or committees, which shall be publicly available upon request; and any  
17 notification email addresses submitted as part of a lobbyist's registration  
18 under section 74-703, Idaho Code, of an employer, client, or designated con-  
19 tact for the purpose of electronic notification of that employer, client, or  
20 designated contact of a report filed under section 74-705, Idaho Code.

21           SECTION 3. An emergency existing therefor, which emergency is hereby  
22 declared to exist, this act shall be in full force and effect on and after its  
23 passage and approval.