

IN THE SENATE

SENATE BILL NO. 1365

BY STATE AFFAIRS COMMITTEE

AN ACT

1 RELATING TO UNCLAIMED PROPERTY AND THE PUBLIC RECORDS ACT; AMENDING SEC-
2 TION 9-340C, IDAHO CODE, TO PROVIDE THAT PERSONAL INFORMATION RELATED
3 TO UNCLAIMED PROPERTY IS EXEMPT FROM DISCLOSURE; AND AMENDING SECTION
4 9-340F, IDAHO CODE, TO PROVIDE THAT THE AUDIT METHODOLOGY OF THE UN-
5 CLAIMED PROPERTY PROGRAM IS EXEMPT FROM DISCLOSURE.
6

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

8 SECTION 1. That Section 9-340C, Idaho Code, be, and the same is hereby
9 amended to read as follows:

10 9-340C. RECORDS EXEMPT FROM DISCLOSURE -- PERSONNEL RECORDS, PER-
11 SONAL INFORMATION, HEALTH RECORDS, PROFESSIONAL DISCIPLINE. The following
12 records are exempt from disclosure:

13 (1) Except as provided in this subsection, all personnel records of
14 a current or former public official other than the public official's pub-
15 lic service or employment history, classification, pay grade and step,
16 longevity, gross salary and salary history, status, workplace and employing
17 agency. All other personnel information relating to a public employee or ap-
18 plicant including, but not limited to, information regarding sex, race, mar-
19 ital status, birth date, home address and telephone number, applications,
20 testing and scoring materials, grievances, correspondence and performance
21 evaluations, shall not be disclosed to the public without the employee's or
22 applicant's written consent. Names of applicants to classified or merit
23 system positions shall not be disclosed to the public without the appli-
24 cant's written consent. Disclosure of names as part of a background check
25 is permitted. Names of the five (5) final applicants to all other positions
26 shall be available to the public. If such group is less than five (5) final-
27 ists, then the entire list of applicants shall be available to the public. A
28 public official or authorized representative may inspect and copy his per-
29 sonnel records, except for material used to screen and test for employment.

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

38 (3) Information and records submitted to the Idaho state lottery for
39 the performance of background investigations of employees, lottery retail-
40 ers and major procurement contractors; audit records of lottery retailers,
41 vendors and major procurement contractors submitted to or performed by the
42 Idaho state lottery; validation and security tests of the state lottery for

1 lottery games; business records and information submitted pursuant to sec-
2 tions 67-7412(8) and (9) and 67-7421(8) and (9), Idaho Code, and such docu-
3 ments and information obtained and held for the purposes of lottery security
4 and investigative action as determined by lottery rules unless the public
5 interest in disclosure substantially outweighs the private need for protec-
6 tion from public disclosure.

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

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

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

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

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

18 (e) Vital statistics records; and

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

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

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

36 (7) Employment security information, except that a person may agree,
37 through written, informed consent, to waive the exemption so that a third
38 party may obtain information pertaining to the person, unless access to
39 the information by the person is restricted by subsection (3) (a), (3) (b)
40 or (3) (d) of section 9-342, Idaho Code. Notwithstanding the provisions of
41 section 9-342, Idaho Code, a person may not review identifying information
42 concerning an informant who reported to the department of labor a suspected
43 violation by the person of the employment security law, chapter 13, title 72,
44 Idaho Code, under an assurance of confidentiality. As used in this section
45 and in chapter 13, title 72, Idaho Code, "employment security information"
46 means any information descriptive of an identifiable person or persons that
47 is received by, recorded by, prepared by, furnished to or collected by the
48 department of labor or the industrial commission in the administration of
49 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 or independent public body
5 corporate and politic pursuant to a statutory requirement for licensing,
6 certification, permit or bonding.

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

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

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

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

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

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

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

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

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

43 (18) Records of the department of health and welfare relating to a sur-
44 vey, resurvey or complaint investigation of a licensed nursing facility
45 shall be exempt from disclosure. Such records shall, however, be subject to
46 disclosure as public records as soon as the facility in question has received
47 the report, and no later than the fourteenth day following the date that
48 department of health and welfare representatives officially exit the facil-
49 ity pursuant to federal regulations. Provided however, that for purposes

1 of confidentiality, no record shall be released under this section which
2 specifically identifies any nursing facility resident.

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

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

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

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

14 (c) Mortgage portfolio loan documents;

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

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

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

39 (23) Records and information contained in the trauma registry created
40 by chapter 20, title 57, Idaho Code, together with any reports, analyses and
41 compilations created from such information and records.

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

45 (25) The physical voter registration card on file in the county clerk's
46 office; however, a redacted copy of said card shall be made available consis-
47 tent with the requirements of this section. Information from the voter reg-
48 istration card maintained in the statewide voter registration database, in-
49 cluding age, will be made available except for the voter's driver's license
50 number, date of birth and, upon a showing that the voter comes within the pro-

1 visions of subsection (30) of this section or upon showing of good cause by
2 the voter to the county clerk in consultation with the county prosecuting
3 attorney, the physical residence address of the voter. For the purposes of
4 this subsection good cause shall include the protection of life and property
5 and protection of victims of domestic violence and similar crimes.

6 (26) File numbers, passwords and information in the files of the health
7 care directive registry maintained by the secretary of state under section
8 39-4515, Idaho Code, are confidential and shall not be disclosed to any per-
9 son other than to the person who executed the health care directive or the re-
10 vocation thereof and that person's legal representatives, to the person who
11 registered the health care directive or revocation thereof, and to physi-
12 cians, hospitals, medical personnel, nursing homes, and other persons who
13 have been granted file number and password access to the documents within
14 that specific file.

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

19 (a) If requested by a law enforcement agency, to the law enforcement
20 agency; or

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

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

29 (29) Documents and records related to continuing education and record-
30 keeping violations that are maintained by the Idaho board of veterinary
31 medicine under the provisions of section 54-2118(1) (b), Idaho Code, pro-
32 vided the requirements set forth therein are met.

33 (30) The Idaho residential street address and telephone number of an
34 eligible law enforcement officer and such officer's residing household mem-
35 ber(s) as provided for in chapter 58, title 19, Idaho Code, except under the
36 following circumstances:

37 (a) If directed by a court order, to a person identified in the court
38 order;

39 (b) If requested by a law enforcement agency, to the law enforcement
40 agency;

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

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

46 (31) Nothing in this section shall prohibit the release of information
47 to the state controller as the state social security administrator as pro-
48 vided in section 59-1101A, Idaho Code.

49 (32) Personal information including, but not limited to, property val-
50 ues, personal and business addresses, phone numbers, dates of birth, social

1 security and driver's license numbers or any other identifying numbers or
2 information maintained by the administrator of the unclaimed property law
3 set forth in chapter 5, title 14, Idaho Code. Nothing in this subsection
4 shall prohibit the release of names, last known city of residence, property
5 value ranges and general property information by the administrator for the
6 purpose of reuniting unclaimed property with its owner.

7 SECTION 2. That Section 9-340F, Idaho Code, be, and the same is hereby
8 amended to read as follows:

9 9-340F. RECORDS EXEMPT FROM DISCLOSURE -- DRAFT LEGISLATION AND SUP-
10 PORTING MATERIALS, TAX COMMISSION, UNCLAIMED PROPERTY, PETROLEUM CLEAN WA-
11 TER TRUST FUND. The following records are exempt from disclosure:

12 (1) Records consisting of draft legislation and documents specifically
13 related to such draft legislation or research requests submitted to the leg-
14 islative services office by a member of the Idaho legislature for the purpose
15 of placing such draft legislation into a form suitable for introduction as
16 official proposed legislation of the legislature of the state of Idaho, un-
17 less the individual legislator having submitted or requested such records or
18 research agrees to waive the provisions of confidentiality provided by this
19 subsection.

20 (2) All papers, physical and electronic records and correspondence or
21 other supporting materials comprising the work papers in the possession of
22 the legislative services office or the director of legislative performance
23 evaluations prior to release of the related final audit and all other records
24 or materials in the possession of the legislative services office or the di-
25 rector of legislative performance evaluations that would otherwise be con-
26 fidential or exempt from disclosure.

27 (3) Records consisting of draft congressional and legislative redis-
28 tricting plans and documents specifically related to such draft redistrict-
29 ing plans or research requests submitted to the commission staff by a member
30 of the commission for reapportionment for the purpose of placing such draft
31 redistricting plan into form suitable for presentation to the full member-
32 ship of the commission, unless the individual commission member having sub-
33 mitted or requested such plans or research agrees to waive the provisions of
34 confidentiality provided by this subsection.

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

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

41 (6) Underwriting and claims records of the Idaho petroleum clean water
42 trust fund obtained pursuant to section 41-4905, 41-4909, 41-4911A, 41-4912
43 or 41-4912A, Idaho Code. Provided however, that this subsection shall not
44 prevent the Idaho petroleum clean water trust fund's submittal to the Idaho
45 department of environmental quality, or other regulatory agencies of infor-
46 mation necessary to satisfy an insured's corrective action requirement un-
47 der applicable federal or state standards in the event of a release into the
48 environment from a petroleum storage tank; and provided further that noth-
49 ing in this subsection shall prevent the Idaho petroleum clean water trust

1 fund from providing auditing, reporting, or actuarial information as other-
2 wise required of it pursuant to section 41-4919, 41-4925A, 41-4928, 41-4930,
3 41-4932, 41-4937 or 41-4938, Idaho Code.