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STATE

SPECIFIC STATUTORY WORDING

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1. Alabama	<p>Ala. Code §36-12-40 Rights of citizens to inspect and copy public writings; exception for public library registration and circulation records. Every citizen has a right to inspect and take a copy of any public writing of this state, except as otherwise expressly provided by statute. Provided however, registration and circulation records and information concerning the use of the public, public school or college and university libraries of this state shall be exempted from this section. Provided further, any parent of a minor child shall have the right to inspect the registration and circulation records of any school or public library that pertain to his or her child.</p>
2. Alaska	<p>Alaska Stat. §40.25.120 Public records; exceptions; certified copies. (a) Every person has a right to inspect a public record in the state, including public records in recorders' offices, except (10) records or information pertaining to a plan, program, or procedures for establishing, maintaining, or restoring security in the state, or to a detailed description or evaluation of systems, facilities, or infrastructure in the state, but only to the extent that the production of the records or information (A) could reasonably be expected to interfere with the implementation or enforcement of the security plan, program, or procedures; (B) would disclose confidential guidelines for investigations or enforcement and the disclosure could reasonably be expected to risk circumvention of the law; or (C) could reasonably be expected to endanger the life or physical safety of an individual or to present a real and substantial risk to the public health and welfare.</p>
3. Arizona	<p>SB 1167, under consideration in the 2003 legislative session, exempts "2. ANY INFORMATION DETERMINED BY FEDERAL LAW OR A FEDERAL AGENCY TO BE EXEMPT FROM DISCLOSURE UNDER THE FREEDOM OF INFORMATION ACT (P.L. 89-554; 80 STAT. 383; 5 UNITED STATES CODE SECTION 552) IS EXEMPT FROM DISCLOSURE UNDER THIS CHAPTER AND TITLE 39, CHAPTER 1.</p>
4. Arkansas	<p>Ark. Stat. Ann. indicate a specific exemption for records is required but 25-10-105 does not provide one for water or utilities; however "(11) Records containing measures, procedures, instructions, or related data used to cause a computer or a computer system or network, including telecommunication networks, or applications thereon, to perform security functions, including, but not limited to, passwords, personal identification numbers, transaction authorization mechanisms, and other means of preventing access to computers, computer systems or networks, or any data residing therein;" would likely exempt information on the computerized functions of such utilities.</p>
5. California	<p>§6254(z) of the California Government Code exempts: (z) Records obtained pursuant to paragraph (2) of subdivision (c) of Section 2891.1 of the Public Utilities Code. (aa) A document prepared by a local agency that assesses its vulnerability to terrorist attack or other criminal acts intended to disrupt the public agency's operations and that is for distribution or consideration in a closed session. Nothing in this section prevents any agency from opening its records concerning the administration of the agency to public inspection, unless disclosure is otherwise prohibited by law. Nothing in this section prevents any health facility from disclosing to a certified bargaining agent relevant financing information pursuant to Section 8 of the National Labor Relations Act.</p>

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National Conference of State Legislatures

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ASSEMBLY JUDICIARY
DATE: 4/1/03 ROOM: 3138 EXHIBIT D
SUBMITTED BY: Christy Cannon

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6. Colorado

Colo. Rev. Stat. §24-72-204(XVI) exempts from disclosure "Specialized details of security arrangements or investigations." Section XVII further explains the specialized details stating "...Nothing in this subparagraph (XVII) shall prohibit the custodian from transferring such records to the office of preparedness, security, and fire safety in the department of public safety, the governing body of any city, county, or city and county, or any federal, state, or local law enforcement agency; except that the custodian shall not transfer any record received from a nongovernmental entity without the prior written consent of such entity unless such information is already publicly available. For purposes of this section, records received by the office of preparedness, security, and fire safety in the department of public safety in connection with the performance of its duties and records received by any state agency or political subdivision of the state from or on behalf of the office of preparedness, security, and fire safety shall constitute specialized details of security arrangements or investigations.

7. Connecticut

Conn. Gen. Stat. §1-14,1-210(19) exempts: Records, the disclosure of which the Commissioner of Public Works or, in the case of records concerning Judicial Department facilities, the Chief Court Administrator, has reasonable grounds to believe may result in a safety risk, including the risk of harm to any person, any state-owned or leased institution or facility or any fixture or appurtenance and equipment attached to, or contained in, such institution or facility. Such records shall include, but are not limited to:
(A) Security manuals or reports, including emergency plans contained or referred to in such security manuals;
(B) Engineering and architectural drawings of state-owned or leased institutions or facilities;
(C) Operational specifications of security systems utilized at any state-owned or leased institution or facility, except that a general description of any such security system and the cost and quality of such system, may be disclosed;
(D) Training manuals prepared for state-owned or leased institutions or facilities that describe, in any manner, security procedures, emergency plans or security equipment;
(E) Internal security audits of state-owned or leased institutions or facilities;
(F) Minutes or recordings of meetings of the Department of Public Works or the Judicial Department, or portions of such minutes or recordings, that contain or reveal information relating to security or other records otherwise exempt from disclosure under this subdivision; and
(G) Logs or other documents that contain information on the movement or assignment of security personnel at state-owned or leased institutions or facilities;
(20) Records of standards, procedures, processes, software and codes, not otherwise available to the public, the disclosure of which would compromise the security or integrity of an information technology system.

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8. Delaware

Del. Code Ann. §100002 (16) a. The following records, which, if copied or inspected, could jeopardize the security of any structure owned by the State or any of its political subdivisions, or could facilitate the planning of a terrorist attack, or could endanger the life or physical safety of an individual:

1. Response procedures or plans prepared to prevent or respond to emergency situations, the disclosure of which would reveal vulnerability assessments, specific tactics, specific emergency procedures or specific security procedures.
 2. Building plans, blueprints, schematic drawings, diagrams, operational manuals or other records of mass transit facilities, bridges, tunnels, emergency response facilities or structures, buildings where hazardous materials are used or stored, arenas, stadiums, waste and water systems, electric transmission lines and substations, high-pressure natural gas pipelines and compressor stations, and telecommunications networks facilities and switching equipment, the disclosure of which would reveal the building's or structure's internal layout, specific location, life, safety and support systems, structural elements, surveillance techniques, alarm or security systems or technologies, operational and transportation plans or protocols, or personnel deployments. Records that disclose the substances being used or stored on a given piece of property are public records; however, records which disclose the specific location on that property of the substances being used or stored may be disclosed only if the chief administrative officer of the agency from which the record is requested determines that disclosure will not jeopardize the security of any structure owned by the State or any of its political subdivisions, or will not facilitate the planning of a terrorist attack, or will not endanger the life or physical safety of an individual.
 3. Records of any building or structure operated by the State or any of its political subdivisions, the disclosure of which would reveal the building's or structure's life, safety and support systems, surveillance techniques, alarm or security systems or technologies, operational and evacuation plans or protocols, or personnel deployments.
 4. Records prepared to prevent or respond to emergency situations identifying or describing the name, location, pharmaceutical cache, contents, capacity, equipment, physical features or capabilities of individual medical facilities, storage facilities, or laboratories established, maintained or regulated by the State or any of its political subdivisions.
 5. Those portions of records assembled, prepared or maintained to prevent, mitigate or respond to criminal acts, the public disclosure of which would have a substantial likelihood of threatening public safety. The only items that are protected from disclosure by this paragraph are:
 - A. Specific and unique vulnerability assessments or specific and unique response or deployment plans, including compiled underlying data collected in preparation of or essential to the assessments or to the response or deployment plans; and
 - B. Records not subject to public disclosure under federal law that are shared by federal or international agencies and information prepared from national security briefings provided to state or local government officials related to domestic preparedness for criminal acts against United States citizens or targets.
 6. Nothing in this subsection shall be deemed to prohibit the disclosure of information necessary to comply with the requirements of Chapter 8 of Title 26, the Underground Utility Damage Prevention and Safety Act.
- b. Nothing in this paragraph shall interfere with the right of any committee of the General Assembly to hear information in the committee at the request of the committee chair or, if appropriate, to hear information in an executive session of the committee, or to subpoena information pursuant to § 705 of this title.

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9. District of Columbia	<p>DC Statute §2-534(10) exempts "Any specific response plan, including any District of Columbia response plan, as that term is defined in § 7-2301(1), and any specific vulnerability assessment, either of which is intended to prevent or to mitigate an act of terrorism, as that term is defined in § 22-3152(1).</p> <p>§7-2301(1A) defines response plan as " the plan for public emergency preparedness and prevention prepared pursuant to § 201 of the Disaster Relief Act of 1974 (42 U.S.C. § 5121) and § 7- 2302.</p> <p>Terrorism is very broadly defined in §22-3152(1) and appears to include almost any type of attack designed to cripple DC, the US or cause harm or disruption to the citizens of either.</p>
10. Florida	<p>Fla. Stat. §119.071 General exemptions from inspection or copying of public records.--A security system plan or portion thereof for:</p> <p>(1) Any property owned by or leased to the state or any of its political subdivisions; or</p> <p>(2) Any privately owned or leased property</p> <p>which plan or portion thereof is in the possession of any agency, as defined in s. 119.011, is confidential and exempt from the provisions of s. 119.07(1) and s. 24(a), Art. I of the State Constitution. As used in this section, the term a "security system plan" includes all records, information, photographs, audio and visual presentations, schematic diagrams, surveys, recommendations, or consultations or portions thereof relating directly to the physical security of the facility or revealing security systems; threat assessments conducted by any agency as defined in s. 119.011 or any private entity; threat response plans; emergency evacuation plans; sheltering arrangements; or manuals for security personnel, emergency equipment, or security training. This exemption is remedial in nature and it is the intent of the Legislature that this exemption be applied to security system plans received by an agency before, on, or after the effective date of this section. Information made confidential and exempt by this section may be disclosed by the custodial agency to another state or federal agency to prevent, detect, guard against, respond to, investigate, or manage the consequences of any attempted or actual act of terrorism, or to prosecute those persons who are responsible for such attempts or acts, and the confidential and exempt status of such information shall be retained while in the possession of the receiving agency. This section is subject to the Open Government Sunset Review Act of 1995, in accordance with s. 119.15, and shall stand repealed on October 2, 2006, unless reviewed and saved from repeal through reenactment by the Legislature.</p>

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11. Georgia	<p>Ga. Code §38-3-2.</p> <p>(a) Because of the existing and increasing possibility of the occurrence of emergencies or disasters resulting from manmade or natural causes or enemy attack; in order to ensure that preparations of this state will be adequate to deal with such emergencies or disasters; generally to provide for the common defense and to protect the public peace, health, and safety; and to preserve the lives and property of the people of this state, it is found and declared to be necessary:</p> <p>(1) To create a state emergency management agency and to authorize the creation of local organizations for emergency management in the political subdivisions of the state;</p> <p>(2) To confer upon the Governor and upon the executive heads of governing bodies of the political subdivisions of the state the emergency powers provided in Articles 1 through 3 of this chapter;</p> <p>(3) To provide for the rendering of mutual aid among the political subdivisions of the state, with other states, and with the federal government with respect to the carrying out of emergency management functions; and</p> <p>(4) To authorize the establishment of such organizations and the taking of such steps as are necessary and appropriate to carry out Articles 1 through 3 of this chapter.</p> <p>(b) It is further declared to be the purpose of Articles 1 through 3 of this chapter and the policy of this state that all emergency management functions of this state be coordinated to the maximum extent with the comparable functions of the federal government, including its various departments and agencies; of other states and localities; and of private agencies of every type, to the end that the most effective preparation and use may be made of the nation's manpower, resources, and facilities for dealing with any emergency or disaster that may occur.</p>
12. Hawaii	<p>Hawaii Rev. Stat. §92F-13 Government records; exceptions to general rule. This part shall not require disclosure of:</p> <p>(3) Government records that, by their nature, must be confidential in order for the government to avoid the frustration of a legitimate government function;</p> <p>(4) Government records which, pursuant to state or federal law including an order of any state or federal court, are protected from disclosure</p>
13. Idaho	<p>Idaho Code §9-340B(3) exempts from disclosure: (b) Records of buildings, facilities, infrastructures and systems held by or in the custody of any public agency only when the disclosure of such information would jeopardize the safety of persons or the public safety. Such records may include emergency evacuation, escape or other emergency response plans, vulnerability assessments, operation and security manuals, plans, blueprints or security codes. For purposes of this section "system" shall mean electrical, heating, ventilation, air conditioning and telecommunication systems.</p>
14. Illinois	<p>5 ILCS 140/7 exempts information specifically prohibited from disclosure by federal or State law or rules and regulations adopted under federal or State law.</p>
15. Indiana	<p>Ind. Code §5-14-3-4 exempts from disclosure those records "declared confidential by state statute; declared confidential by rule adopted by a public agency under specific authority to classify public records as confidential granted to the public agency by statute; those required to be kept confidential by federal law.</p>

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16. Iowa	<p>In 2002 the Legislature added an exemption for the following to the state's Freedom of Information act (Iowa Code §22.7):</p> <p>45. Records of a public airport, municipal corporation, municipal utility, jointly owned municipal utility, or rural water district organized under chapter 357A, where disclosure could reasonably be expected to jeopardize the security or the public health and safety of the citizens served by a public airport, municipal corporation, municipal utility, jointly owned municipal utility, or rural water district organized under chapter 357A. Such records include but are not limited to vulnerability assessments and information included within such vulnerability assessments; architectural, engineering, or construction diagrams; drawings, plans, or records pertaining to security measures such as security and response plans, security codes and combinations, passwords, passes, keys, or security or response procedures; emergency response protocols; and records disclosing the configuration of critical systems or infrastructures of a public airport, municipal corporation, municipal utility, jointly owned municipal utility, or rural water district organized under chapter 357A. This subsection is repealed effective June 30, 2007.</p> <p>46. The critical asset protection plan or any part of the plan prepared pursuant to section 29C.8 and any information held by the emergency management division that was supplied to the division by a public or private agency or organization and used in the development of the critical asset protection plan to include, but not be limited to, surveys, lists, maps, or photographs. However, the administrator shall make the list of assets available for examination by any person. A person wishing to examine the list of assets shall make a written request to the administrator on a form approved by the administrator. The list of assets may be viewed at the division's offices during normal working hours. The list of assets shall not be copied in any manner. Communications and asset information not required by law, rule, or procedure that are provided to the administrator by persons outside of government and for which the administrator has signed a nondisclosure agreement are exempt from public disclosures. The emergency management division may provide all or part of the critical asset plan to federal, state, or local governmental agencies which have emergency planning or response functions if the administrator is satisfied that the need to know and intended use are reasonable. An agency receiving critical asset protection plan information from the division shall not disseminate the information without prior approval of the administrator.</p>
17. Kansas	<p>Kan. Stat. Ann. §45-221(12) exempts from disclosure "Records of emergency or security information or procedures of a public agency, or plans, drawings, specifications or related information for any building or facility which is used for purposes requiring security measures in or around the building or facility or which is used for the generation or transmission of power, water, fuels or communications, if disclosure would jeopardize security of the public agency, building or facility."</p>
18. Kentucky	<p>KRS 61.878(1) exempts from disclosure "(k) All public records or information the disclosure of which is prohibited by federal law or regulation; and (l) Public records or information the disclosure of which is prohibited or restricted or otherwise made confidential by enactment of the General Assembly."</p>
19. Louisiana	<p>La. Rev. Stat. §44:3 exempts "Records of prosecutive, investigative, and law enforcement agencies, and communications districts</p> <p>A. Nothing in this Chapter shall be construed to require disclosures of records, or the information contained therein, held by the offices of the attorney general, district attorneys, sheriffs, police departments, Department of Public Safety and Corrections, marshals, investigators, public health investigators, correctional agencies, communications districts, intelligence agencies, or publicly owned water districts of the state, which records are:</p> <p>(3) "Records containing security procedures, investigative training information or aids, investigative techniques, investigative technical equipment or instructions on the use thereof, criminal intelligence information pertaining to terrorist-related activity, or threat or vulnerability assessments collected or obtained in the prevention of terrorist-related activity, including but not limited to physical security information, proprietary information, operational plans, and the analysis of such information, or internal security information;"</p>

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20. Maine	<p>MRSA §402:3 defines "public records" as "any written, printed or graphic matter or any mechanical or electronic data compilation from which information can be obtained, directly or after translation into a form susceptible of visual or aural comprehension, that is in the possession or custody of an agency or public official of this State or any of its political subdivisions, or is in the possession or custody of an association, the membership of which is composed exclusively of one or more of any of these entities, and has been received or prepared for use in connection with the transaction of public or governmental business or contains information relating to the transaction of public or governmental business" and §402:3(L) exempts "Records describing security plans, security procedures or risk assessments prepared specifically for the purpose of preventing or preparing for acts of terrorism, but only to the extent that release of information contained in the record could reasonably be expected to jeopardize the physical safety of government personnel or the public. Information contained in records covered by this paragraph may be disclosed to the Legislature or, in the case of a political or administrative subdivision, to municipal officials or board members under conditions that protect the information from further disclosure. For purposes of this paragraph, "terrorism" means conduct that is designed to cause serious bodily injury or substantial risk of bodily injury to multiple persons, substantial damage to multiple structures whether occupied or unoccupied or substantial physical damage sufficient to disrupt the normal functioning of a critical infrastructure.</p>
21. Maryland	<p>Md. Code Ann. State Government §10-618 provides</p> <p>(j) (1) Subject to paragraph (2) of this subsection, a custodian may deny inspection of:</p> <p>(i) response procedures or plans prepared to prevent or respond to emergency situations, the disclosure of which would reveal vulnerability assessments, specific tactics, specific emergency procedures, or specific security procedures;</p> <p>(ii) 1. building plans, blueprints, schematic drawings, diagrams, operational manuals, or other records of airports and other mass transit facilities, bridges, tunnels, emergency response facilities or structures, buildings where hazardous materials are stored, arenas, stadiums, and waste and water systems, the disclosure of which would reveal the building's or structure's internal layout, specific location, life, safety, and support systems, structural elements, surveillance techniques, alarm or security systems or technologies, operational and transportation plans or protocols, or personnel deployments; or</p> <p>2. records of any other building or structure owned or operated by the State or any of its political subdivisions, the disclosure of which would reveal the building's or structure's life, safety, and support systems, surveillance techniques, alarm or security systems or technologies, operational and evacuation plans or protocols, or personnel deployments; or</p> <p>(iii) records prepared to prevent or respond to emergency situations identifying or describing the name, location, pharmaceutical cache, contents, capacity, equipment, physical features, or capabilities of individual medical facilities, storage facilities, or laboratories established, maintained, or regulated by the State or any of its political subdivisions.</p> <p>(2) The custodian may deny inspection of a part of a public record under paragraph (1) of this subsection only to the extent that the inspection would:</p> <p>(i) jeopardize the security of any structure owned or operated by the State or any of its political subdivisions;</p> <p>(ii) facilitate the planning of a terrorist attack; or</p> <p>(iii) endanger the life or physical safety of an individual.</p>
22. Massachusetts	<p>Mass. Gen. L ch 4, §7 exempts (n) records, including, but not limited to, blueprints, plans, policies, procedures and schematic drawings, which relate to internal layout and structural elements, security measures, emergency preparedness, threat or vulnerability assessments, or any other records relating to the security or safety of persons or buildings, structures, facilities, utilities, transportation or other infrastructure located within the commonwealth, the disclosure of which, in the reasonable judgment of the record custodian, subject to review by the supervisor of public records under subsection (b) of section 10 of chapter 66, is likely to jeopardize public safety.</p>

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23. Michigan	Mich. Comp. Laws §15.243(y) exempts "Records or information of measures designed to protect the security or safety of persons or property, whether public or private, including, but not limited to, building, public works, and public water supply designs to the extent that those designs relate to the ongoing security measures of a public body, capabilities and plans for responding to a violation of the Michigan anti-terrorism act, chapter LXXXIII-A of the Michigan penal code, 1931 PA 328, MCL 750.543a to 750.543z, emergency response plans, risk planning documents, threat assessments, and domestic preparedness strategies, unless disclosure would not impair a public body's ability to protect the security or safety of persons or property or unless the public interest in disclosure outweighs the public interest in nondisclosure in the particular instance."
24. Minnesota	Minn. Stat. §13.02 Subd. 9. Nonpublic data. "Nonpublic data" means data not on individuals that is made by statute or federal law applicable to the data: (a) not accessible to the public; and (b) accessible to the subject, if any, of the data.
25. Mississippi	Miss. Code Ann. § 25-61-11. Records exempted or privileged by law. The provisions of this chapter shall not be construed to conflict with, amend, repeal or supersede any constitutional or statutory law or decision of a court of this state or the United States which at the time of this chapter is effective or thereafter specifically declares a public record to be confidential or privileged, or provides that a public record shall be exempt from the provisions of this chapter.
26. Missouri	Mo. Rev. Stat. 610.021 exempts the following from disclosure (18) A municipal utility receiving a public records request for information about existing or proposed security systems and structural plans of real property owned or leased by the municipal utility, the public disclosure of which would threaten public safety, shall within three business days act upon such public records request, pursuant to section 610.023. Records related to the procurement of or expenditures relating to security systems shall be open except to the extent provided in this section; *(19) Existing or proposed security systems and structural plans of real property owned or leased by a public governmental body, the public disclosure of which would threaten public safety. Records related to the procurement of or expenditures relating to security systems shall be open except to the extent provided in this section. When seeking to close information pursuant to this exception, the public governmental body shall affirmatively state in writing that disclosure would impair the public governmental body's ability to protect the security or safety of persons or real property, and shall in the same writing state that the public interest in nondisclosure outweighs the public interest in disclosure of the records. This exception shall sunset on December 31, 2006; (20) Records that identify the configuration of components or the operation of a computer, computer system, computer network, or telecommunications network, and would allow unauthorized access to or unlawful disruption of a computer, computer system, computer network, or telecommunications network of a public governmental body. This exception shall not be used to limit or deny access to otherwise public records in a file, document, data file or database containing public records. Records related to the procurement of or expenditures relating to such computer, computer system, computer network, or telecommunications network, including the amount of moneys paid by, or on behalf of, a public governmental body for such computer, computer system, computer network, or telecommunications network shall be open except to the extent provided in this section; and
27. Montana	Mont. Code Ann. 2-6-102 (3) exempts "Records and materials that are constitutionally protected from disclosure are not subject to the provisions of this section. Information that is constitutionally protected from disclosure is information in which there is an individual privacy interest that clearly exceeds the merits of public disclosure, including legitimate trade secrets, as defined in 30-14-402, and matters related to individual or public safety."

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28. Nebraska

Neb. Rev. Stat. §84-712.05(8) Information solely pertaining to protection of the security of public property and persons on or within public property, such as specific, unique vulnerability assessments or specific, unique response plans, either of which is intended to prevent or mitigate criminal acts the public disclosure of which would create a substantial likelihood of endangering public safety or property; computer or communications network schema, passwords, and user identification names; guard schedules; or lock combinations
Records; federal government; exception.

Neb. Rev. Stat. §84-712.08 further states: "If it is determined by any federal department or agency or other federal source of funds, services, or essential information, that any provision of sections 84-712, 84-712.01, 84-712.03 to 84-712.09, and 84-1413 would cause the denial of any funds, services, or essential information from the United States Government which would otherwise definitely be available to an agency of this state, such provision shall be suspended as to such agency, but only to the extent necessary to prevent denial of such funds, services, or essential information.

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29. Nevada

Nev. Rev. Stat. §416.070(1) identifies areas where water utility information is protected:

NRS 416.010 Purpose of chapter. The purpose of this chapter is to meet effectively water and energy emergencies by providing for conservation, efficient utilization, production and allocation of water and energy in ways which will:

1. Carry out as necessary, national water and energy policies under federal water and energy laws;
2. Maintain vital services necessary for the peace, health, safety and welfare of the people of this state;
3. Promote the most efficient use of water and energy;
4. Lessen adverse impacts upon employment in and the economy and environment of this state;
5. Ensure to the extent reasonably possible equitable treatment of all regions of the state and all sectors of the economy, consistent with other necessary considerations; and
6. Promote and protect the interests of this state in the course of decisions to be made and actions to be taken under federal water and energy laws.

Under §416.040

NRS 416.040 Additional powers of governor. The governor or his designee may:

1. Request any state agency or political subdivision of the state to supply any information in its possession or readily accessible to it concerning the use, supply, source, allocation or distribution of water or energy.
2. Request any business, industry, trade association or other organization or person doing business or representing persons doing business in this state to supply any information in their possession or that can reasonably be assumed to be readily accessible to them concerning the use, supply, source, allocation or distribution of water or energy.
3. Issue a subpoena to any officer or agent of any such public or private entity to appear before him and give oral testimony or produce any relevant book, paper, account, memorandum or record as was requested under subsection 1 or 2 and as may be necessary to deal with any actual or impending water or energy emergency in this state.
4. Enter into contracts for consulting or other services and take any other actions as are necessary to carry out the purposes of this chapter.

Records exempted

NRS §416.070 Confidentiality of information furnished at request of governor; protective order; penalty for disclosure.

1. Any information furnished under NRS 416.040 and designated as confidential by the person providing the information shall be maintained as confidential by the governor and any other person who obtains information which he knows to be confidential under this section.
2. The governor shall not make known in any manner any particulars of the information to any person other than those he designates in writing as having a need to know such information.
3. No subpoena or other judicial order may be issued compelling the governor or any other person to divulge or make known the confidential information, except when the information is relevant to proceedings under subsection 6.
4. Nothing in this section prohibits use of confidential information to prepare statistics or other general data for publication in such a manner that the identity of particular persons or business establishments is protected.
5. Any person or business establishment who is served with a subpoena to give oral testimony or to produce any book, paper, correspondence, memorandum, account, agreements or other document or record pursuant to this chapter may apply to any district court for a protective order as provided by Rule 26 of the Nevada Rules of Civil Procedure.
6. In addition to any other penalties provided by law, a person who willfully discloses confidential information in violation of this section is subject to removal from office or immediate dismissal from public employment.

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30. New Hampshire	N.H. Rev. stat. §91-A:5(VI) exempts "Records pertaining to matters relating to the preparation for and the carrying out of all emergency functions, including training to carry out such functions, developed by local or state safety officials that are directly intended to thwart a deliberate act that is intended to result in widespread or severe damage to property or widespread injury or loss of life."
31. New Jersey	N.J. Rev. Stat. §47:1A-1.1 exempts "emergency or security information or procedures for any buildings or facility which, if disclosed, would jeopardize security of the building or facility or persons therein; and security measures and surveillance techniques which, if disclosed, would create a risk to the safety of persons, property, electronic data or software"
32. New Mexico	Currently, N.M. Stat. §14-2-1 requires a specific exemption to withhold public records but none is in place for drinking water security.
33. New York	SB 382 in the 2003 legislative session would exempt "security and risk assessment information concerning drinking water and wastewater facilities" N.Y. Pub. Off. Law §47-6-87 allows records to be exempt from disclosure when (a) (records) are specifically exempted from disclosure by state or federal statute; (f) if disclosed would endanger the life or safety of any person; (i) if disclosed, would jeopardize an agency's capacity to guarantee the security of its information technology assets, such assets encompassing both electronic information systems and infrastructures
34. North Carolina	Enacted in 2002, NC Gen. Stat. §132-1.7 states that "public records...shall not include information containing specific details of public security plans and arrangements or the detailed plans and drawings of public buildings and infrastructure facilities. Information relating to the general adoption of public security plans and arrangements, and budgetary information concerning the authorization or expenditure of public funds to implement public security plans and arrangements, or for the construction, renovation, or repair of public buildings and infrastructure facilities shall be public records."
35. North Dakota	N. Dak. Gen. Code

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36. Ohio	<p>Ohio Rev. Code § 149.011 Definitions. As used in this chapter:</p> <p>(A) "Public office" includes any state agency, public institution, political subdivision, or any other organized body, office, agency, institution, or entity established by the laws of this state for the exercise of any function of government.</p> <p>Ohio Rev. Code § 149.433 Exemption of security and infrastructure records. (A) As used in this section:</p> <p>(1) "Act of terrorism" has the same meaning as in section <u>2909.21</u> of the Revised Code.</p> <p>(2) "Infrastructure record" means any record that discloses the configuration of a public office's critical systems including, but not limited to, communication, computer, electrical, mechanical, ventilation, water, and plumbing systems, security codes, or the infrastructure or structural configuration of the building in which a public office is located. "Infrastructure record" does not mean a simple floor plan that discloses only the spatial relationship of components of a public office or the building in which a public office is located.</p> <p>(3) "Security record" means either of the following:</p> <p>(a) Any record that contains information directly used for protecting or maintaining the security of a public office against attack, interference, or sabotage;</p> <p>(b) Any record assembled, prepared, or maintained by a public office or public body to prevent, mitigate, or respond to acts of terrorism, including any of the following:</p> <p>(i) Those portions of records containing specific and unique vulnerability assessments or specific and unique response plans either of which is intended to prevent or mitigate acts of terrorism, and communication codes or deployment plans of law enforcement or emergency response personnel;</p> <p>(ii) Specific intelligence information and specific investigative records shared by federal and international law enforcement agencies with state and local law enforcement and public safety agencies;</p> <p>(iii) National security records classified under federal executive order and not subject to public disclosure under federal law that are shared by federal agencies, and other records related to national security briefings to assist state and local government with domestic preparedness for acts of terrorism.</p> <p>(B) A record kept by a public office that is a security record or an infrastructure record is not a public record under section <u>149.43</u> of the Revised Code and is not subject to mandatory release or disclosure under that section.</p> <p>(C) Notwithstanding any other section of the Revised Code, a public office's or a public employee's disclosure of a security record or infrastructure record that is necessary for construction, renovation, or remodeling work on any public building or project does not constitute public disclosure for purposes of waiving division (B) of this section and does not result in that record becoming a public record for purposes of section <u>149.43</u> of the Revised Code.</p>
37. Oklahoma	Okla. Stat. §51-24A.13 provides that "Records coming into the possession of a public body from the federal government or records generated or gathered as a result of federal legislation may be kept confidential to the extent required by federal law."

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38. Oregon	<p>Or. Rev. Stat. §192.501(23) exempts "Records or information that would reveal the security measures taken or recommended to be taken to protect:</p> <ul style="list-style-type: none"> (a) An officer or employee of a public body; (b) Buildings or other property used or owned by a public body; (c) Information processing, communication or telecommunication systems, including the information contained therein, that are used or operated by a public body; or (d) Those operations of the Oregon State Lottery the security of which are subject to study and evaluation under ORS 461.180 (6)"
39. Pennsylvania	<p>Or. Rev. Stat. §192.502(8) further exempts "Any public records or information the disclosure of which is prohibited by federal law or regulations." Public record, as defined in 65 Pa. Cons. Stat. §66.1, does not include " any record, document, material, exhibit, pleading, report, memorandum or other paper, access to or the publication of which is prohibited, restricted or forbidden by statute law or order or decree of court, or which would operate to the prejudice or impairment of a person's reputation or personal security, or which would result in the loss by the Commonwealth or any of its political subdivisions or commissions or State or municipal authorities of Federal funds"</p>
40. Rhode Island	<p>R.I. Gen. Laws §46-15.3-5.1 Water supply systems management plans. - (A) All parties involved in the supply, transmission, and/or distribution of drinking water shall prepare, maintain, and carry out a water supply system management plan as described by this chapter. This requirement applies, without limitations, to:</p> <p>R.I. Gen. Laws §46-15.3-7.5 (a) Municipalities and water suppliers subject to the requirements of § 46-15.3-5.1 of this chapter shall file a copy of all plans and amendments thereto with the water resources board.</p> <p>The plans shall be treated as confidential documents. The water resources board shall establish procedures that permit parties that review the plans under rules adopted by the water resources board to obtain sensitive information essential to performance of their reviews, including minimum measures necessary to transmit, use, store, and maintain such sensitive information under conditions that insure its security to the maximum possible. These procedures may include designation of those persons within each reviewing agency authorized to use or inspect sensitive information, and exclusion of all others.</p>

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41. South Carolina

S.C. Code Ann. §30-4-45. Information concerning safeguards and off-site consequence analyses; regulation of access; vulnerable zone defined.

(A) The director of each agency that is the custodian of information subject to the provisions of 42 U.S.C. 7412(t)(7)(H), 40 CFR 1400 "Distribution of Off-site Consequence Analysis Information", or 10 CFR 73.21 "Requirements for the protection of safeguards information", must establish procedures to ensure that the information is released only in accordance with the applicable federal provisions.

(B) The director of each agency that is the custodian of information, the unrestricted release of which could increase the risk of acts of terrorism, may identify the information or compilations of information by notifying the Attorney General in writing, and shall promulgate regulations in accordance with the Administrative Procedures Act, Sections 1-23-110 through 1-23-120(a) and Section 1-23-130, to regulate access to the information in accordance with the provisions of this section.

(C) Regulations to govern access to information subject to subsections (A) and (B) must at a minimum provide for:

- (1) disclosure of information to state, federal, and local authorities as required to carry out governmental functions; and
- (2) disclosure of information to persons who live or work within a vulnerable zone.

For purposes of this section, "vulnerable zone" is defined as a circle, the center of which is within the boundaries of a facility possessing hazardous, toxic, flammable, radioactive, or infectious materials subject to this section, and the radius of which is that distance a hazardous, toxic, flammable, radioactive, or infectious cloud, overpressure, radiation, or radiant heat would travel before dissipating to the point it no longer threatens serious short-term harm to people or the environment.

Disclosure of information pursuant to this subsection must be by means that will prevent its removal or mechanical reproduction. Disclosure of information pursuant to this subsection must be made only after the custodian has ascertained the person's identity by viewing photo identification issued by a federal, state, or local government agency to the person and after the person has signed a register kept for the purpose.

42. South Dakota

S.D. Codified Laws Ann. §1-27-1. Records open to inspection -- Sale of lists. If the keeping of a record, or the preservation of a document or other instrument is required of an officer or public servant under any statute of this state, the officer or public servant shall keep the record, document, or other instrument available and open to inspection by any person during normal business hours.

§1-27-3. Records declared confidential or secret. Section 1-27-1 shall not apply to such records as are specifically enjoined to be held confidential or secret by the laws requiring them to be so kept.

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43. Tennessee	Tenn. Code §107-503(b) allows "The head of a governmental entity may promulgate rules in accordance with the Uniform Administrative Procedures Act, compiled in title 4, chapter 5, to maintain the confidentiality of records concerning adoption proceedings or records required to be kept confidential by federal statute or regulation as a condition for the receipt of federal funds or for participation in a federally funded program."
44. Texas	Tex. Government Code §10-7-503(b) states "Information is exempted from the requirements of Section 552.021 if it is information considered to be confidential by law, either constitutional, statutory, or by judicial decision."
45. Utah	Utah Code §63-2-201(3)(b) exempts "records to which access is restricted pursuant to court rule, another state statute, federal statute, or federal regulation, including records for which access is governed or restricted as a condition of participation in a state or federal program or for receiving state or federal funds." Utah Code §63-2-304 exempts (10) records the disclosure of which would jeopardize the life or safety of an individual; (11) records the disclosure of which would jeopardize the security of governmental property, governmental programs, or governmental recordkeeping systems from damage, theft, or other appropriation or use contrary to law or public policy;
46. Vermont	Vt. Stat. Ann. Tit. 1, §1-5-3-317 provides: (c) The following public records are exempt from public inspection and copying: (1) records which by law are designated confidential or by a similar term; (2) records which by law may only be disclosed to specifically designated persons;
47. Virginia	Va. Code §2.2-3705. Exclusions to application of chapter. A. The following records are excluded from the provisions of this chapter but may be disclosed by the custodian in his discretion, except where such disclosure is prohibited by law: 57. Plans to prevent or respond to terrorist activity, to the extent such records set forth specific tactics, or specific security or emergency procedures, the disclosure of which would jeopardize the safety of governmental personnel or the general public, or the security of any governmental facility, building, structure, or information storage system.
48. Washington	Wash. Rev. Code §42.17.310(wv) exempts "Those portions of records assembled, prepared, or maintained to prevent, mitigate, or respond to criminal terrorist acts, which are acts that significantly disrupt the conduct of government or of the general civilian population of the state or the United States and that manifest an extreme indifference to human life, the public disclosure of which would have a substantial likelihood of threatening public safety, consisting of: (i) Specific and unique vulnerability assessments or specific and unique response or deployment plans, including compiled underlying data collected in preparation of or essential to the assessments, or to the response or deployment plans; and (ii) Records not subject to public disclosure under federal law that are shared by federal or international agencies, and information prepared from national security briefings provided to state or local government officials related to domestic preparedness for acts of terrorism."
49. West Virginia	W. Va. Code §29B-1-4 The following categories of information are specifically exempt from disclosure under the provisions of this article: (S) Information specifically exempted from disclosure by statute;

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50. Wisconsin	<p>Wisc. Stat §19.36 Limitations upon access and withholding.</p> <p>(1) Application of other laws. Any record which is specifically exempted from disclosure by state or federal law or authorized to be exempted from disclosure by state law is exempt from disclosure under s. 19.35 (1), except that any portion of that record which contains public information is open to public inspection as provided in sub. (6).</p>
51. Wyoming	<p>Until 7/1/03: Wyo. Stat. §16-4-203. Right of inspection; grounds for denial; access of news media; order permitting or restricting disclosure; exception.</p> <p>(a) The custodian of any public records shall allow any person the right of inspection of the records or any portion thereof except on one (1) or more of the following grounds or as provided in subsection (b) or (d) of this section:</p> <p>(i) The inspection would be contrary to any state statute;</p> <p>(ii) The inspection would be contrary to any federal statute or regulation issued thereunder having the force and effect of law; or</p> <p>(iii) The inspection is prohibited by rules promulgated by the supreme court or by the order of any court of record.</p> <p>Effective 7/1/03 Wyo. Stat. §16-4-203 Right of inspection; grounds for denial; access of news media; order permitting or restricting disclosure; exceptions.</p> <p>(b) The custodian may deny the right of inspection of the following records, unless otherwise provided by law, on the ground that disclosure to the applicant would be contrary to the public interest:</p> <p>(vi) To the extent that the inspection would jeopardize the security of any structure owned, leased or operated by the state or any of its political subdivisions, facilitate the planning of a terrorist attack or endanger the life or physical safety of an individual, including:</p> <p>(A) Vulnerability assessments, specific tactics, emergency procedures or security procedures contained in plans or procedures designed to prevent or respond to terrorist attacks or other security threats;</p> <p>(B) Building plans, blueprints, schematic drawings, diagrams, operational manuals or other records that reveal the building's or structure's internal layout, specific location, life and safety and support systems, structural elements, surveillance techniques, alarms, security systems or technologies, operational and transportation plans or protocols, personnel deployments for airports and other mass transit facilities, bridges, tunnels, emergency response facilities or structures, buildings where hazardous materials are stored, arenas, stadiums and waste and water systems;</p> <p>(C) Records of any other building or structure owned, leased or operated by the state or any of its political subdivisions that reveal the building's or structure's life and safety systems, surveillance techniques, alarm or security systems or technologies, operational and evacuation plans or protocols or personnel deployments; and</p> <p>(D) Records prepared to prevent or respond to terrorist attacks or other security threats identifying or describing the name, location, pharmaceutical cache, contents, capacity, equipment, physical features, or capabilities of individual medical facilities, storage facilities or laboratories established, maintained, or regulated by the state or any of its political subdivisions.</p>

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