

Summer 2007

Industries' Proprietary Information and the Freedom of Access to State-Held Information: A Review of the Law and Its Implications for Special Interest Businesses

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Recommended Citation

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**INDUSTRIES' PROPRIETARY INFORMATION AND
THE FREEDOM OF ACCESS TO STATE-HELD INFORMATION:
A REVIEW OF THE LAW AND ITS IMPLICATIONS
FOR SPECIAL INTEREST BUSINESSES**

Shannon E. Martin*
Jessica Brophy**

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I. INTRODUCTION

Every state in the United States has laws that make government documents available for inspection.¹ Many of these state laws are variously referred to as “freedom of information,”² “freedom of access,”³ or “public information access”⁴ acts. These various state laws also include exemptions or exceptions to the general provisions of open access. As technology has changed, government business practices and security concerns have altered the public needs for and uses of government-held information in the twenty-first century. Many states are now re-examining what the rights and responsibilities of holding and releasing government-gathered information ought to be. The following research reviews one aspect of the current debate and focuses on how Maine is proactively re-evaluating its freedom of access laws in light of business practices and state contracts.

II. BACKGROUND

Maine’s Freedom of Access Act (FOAA), signed into law in 1975, “declares that public proceedings exist to aid in the conduct of the people’s business.”⁵ The section goes on to note that government action should be “taken openly and that the records of their actions be open to public inspection and their deliberations be conducted openly.”⁶ Maine’s FOAA specifically 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 business⁷

1. For a web site examining the openness of the states’ records’ see the Marion Brechner Citizen Access Project at <http://www.citizenaccess.org> (last visited Apr. 17, 2007).

2. *See, e.g.*, ARK. CODE ANN. § 25-19-101 (Supp. 2005).

3. *See, e.g.*, ME. REV. STAT. ANN. tit. 1, § 401 (1989).

4. *See, e.g.*, ME. REV. STAT. ANN. tit. 1, § 531 (Supp. 2006).

5. ME. REV. STAT. ANN. tit. 1, § 401.

6. *Id.*

7. ME. REV. STAT. ANN. tit. 1, § 402(3) (Supp. 2006).

This definition is followed by fifteen exemptions⁸ with the most recent being personal contact information of public employees.⁹

During the intervening years between the initial legislation and today, the Maine legislature and the state's courts have provided hundreds of exceptions to the general principle articulated in Maine's FOAA.¹⁰ These exemptions have ranged from provisions of the Maine Dairy and Nutrition Council¹¹ to the data collection and dissemination of toxic use and hazardous waste reports generated by the Toxics Use, Toxics Release and Hazardous Waste Reduction Program.¹²

More recently, Maine initiated several programs to support new and expanding industry in the state.¹³ These include the Pine Tree Development Zones,¹⁴ Maine Quality Centers and Governor's Training Initiative,¹⁵ as well as technology tax credits and reimbursements.¹⁶ The intention is to encourage new businesses to supersede the older industries that are struggling in today's markets. The nexus of Maine's FOAA and its industry initiatives is where tax dollars support research and how that research should or could be made public, especially to competitors within particular industries.

Many state governments are struggling with the problem of public access to government-held information that lawmakers may not have envisioned as public information. For example, the Alaska Attorney General was asked in 1978 to issue an opinion on whether the Alyeska Pipeline Service Company documents filed with the State Pipeline Coordinator's Office should be available as public documents to

8. *Id.* § 402(3)(A)–(O) (Supp. 2006).

9. ME. REV. STAT. ANN. tit. 1, § 402(O).

10. See ME. REV. STAT. ANN. tit. 1, §§ 401–521 & annots. (1989 & Supp. 2006); see also COMM. TO STUDY COMPLIANCE WITH MAINE'S FREEDOM OF ACCESS LAWS, 121st LEG., FINAL REPORT, 1st Reg. Sess., app. F (2004), <http://www.maine.gov/legis/opla/foarptapp.pdf> (last visited Mar. 22, 2007).

11. All meetings and records of the council are subject to the provisions of Title 1, chapter 13, subchapter 1, except that by majority vote of those members present records and meetings of the board may be closed to the public when public disclosure of the subject matter of the records or meetings would adversely affect the competitive position of the milk industry of the State or segments of that industry. The Commissioner of Agriculture, Food and Rural Resources and those members of the Legislature appointed to serve on the joint standing committee of the Legislature having jurisdiction over agricultural, conservation and forestry matters have access to all material designated confidential by the council.

ME. REV. STAT. ANN. tit. 7, § 2998-B(1)(C)(2) (Supp. 2006) (footnote omitted).

12. "The commissioner shall ensure the confidentiality of any information designated as confidential or a trade secret." ME. REV. STAT. ANN. tit. 38, § 2309(1) (2001).

13. See State of Maine, Starting a Business, <http://www.maine.gov/portal/business/starting.html> (last visited Mar. 22, 2007) (providing assistance for people looking to start a new business); see also Maine & Company, Solutions for Business, <http://www.maineeco.org/Incentives.php> (last visited Mar. 22, 2007) (explaining the programs Maine has implemented to spur business development).

14. Maine & Company, Solutions for Business, http://www.maineeco.org/Pine_Tree_Zones.php (last visited Mar. 22, 2007).

15. *Id.* http://www.maineeco.org/Training_Programs.php (last visited Mar. 22, 2007).

16. *Id.* http://www.maineeco.org/Tax_Incentives.php (last visited Mar. 22, 2007).

the competing Northwest Pipeline Company.¹⁷ The attorney general's memorandum said that these documents were probably public records.¹⁸ In 1981, the Kansas Court of Appeals considered whether Southwestern Bell Telephone Company could protect as trade secrets, from the Kansas equivalent of the FOAA, documents submitted to the state supporting a requested rate increase.¹⁹

Every state in the nation has similar examples of exemptions that specifically affect business and industry.²⁰ Washington allows exemptions for information about the specifics of financing life sciences research.²¹ Another similar example is that South Carolina requires that university foundations who receive public funds in the form of federal grants for research must respond to requests for public information,²² while Oregon courts question the fees imposed for access to logs kept by a university for animal research facilities.²³ And in a slightly different view, the Louisiana Court of Appeals found that a committee concerned with the oversight of a state agency that deals with experiments on animals was not governed by state information access laws because the committee was controlled by federal regulations.²⁴ The lists of exemptions are unique to each state, as are the eligible public reviewers. Several states require that information access is made available only to state residents or citizens.²⁵

The following research reviews some of the specific exemptions affecting industry and business. Maine is used as an example so that both advocates and detractors of any state's FOAA laws can assess the usefulness of the statutes and exemptions within each state's commercial environment.

III. LITERATURE REVIEW

Concerns about public access to government-held information are not new. Scores of articles and books have explained the value of information access laws,

17. Memorandum from Avrum M. Gross, Att'y Gen., Alaska, to Robert E. LeResche, Comm'r, Alaska Dep't of Natural Res. (April 10, 1980) (on file with authors).

18. *Id.* at 3.

19. *Sw. Bell Tel. Co. v. State Corp.* Comm'n, 629 P.2d 1174, 1182–83 (Kan. Ct. App. 1981).

20. See COMM. TO STUDY COMPLIANCE WITH MAINE'S FREEDOM OF ACCESS LAWS, *supra* note 10, and Appendix.

21. WASH. REV. CODE ANN. § 42.56.270(14) (West Supp. 2007).

22. *Weston v. Carolina Research & Dev. Found.*, 303 S.C. 398, 404–05, 401 S.E.2d 161, 165 (1991).

23. *In Def. of Animals v. Or. Health Sci's Univ.*, 112 P.3d 336, 353 (Or. Ct. App. 2005).

24. *Dorson v. State*, 657 So. 2d 755 (La. Ct. App. 1995).

25. ALA. CODE § 36-12-40 (LexisNexis Supp. 2006); ARK. CODE ANN. § 25-19-105(a)(1)(A) (Supp. 2005); DEL. CODE ANN. tit. 29, § 10003(a) (2003); GA. CODE ANN. § 50-18-70(b) (2006); MONT. CODE ANN. § 2-6-102(1) (2005); N.J. STAT. ANN. § 47:1A-1 (West 2003); S.D. CODIFIED LAWS § 1-18C-5 (2003); TENN. CODE ANN. § 10-7-503(a) (Supp. 2006); VA CODE ANN. § 2.2-3704 (2005). Other states with confusing language include: Alaska, ALASKA STAT. § 40.25.120(a)(2003) ("Every person has a right to inspect a public record in the state."); Nebraska, NEB. REV. STAT. § 84-712 (1999) ("all citizens of this state, and all other persons interested in the examination of the public records"); and New Hampshire, N.H. REV. STAT. ANN. § 91-A:4(I) (2002) ("every citizen . . . has the right to inspect all public records").

and they have frequently pointed to the difficulties in enforcement as well as accessibility at both the state and federal levels.²⁶ In Maine particularly, a 1999 article in the *Maine Bar Journal* noted dozens of exemptions that permitted government discussion and deliberation in secret despite FOAA laws.²⁷ However, few articles have examined the issue of government-sponsored private sector research and the requirements of public access to that information.

Among the few examples is an article published in 1989 that discussed the value and need for chemical toxicity data to be more broadly available and distributed.²⁸ The author suggested that frequently the most current information about research advances and dangers was developed by industries with little incentive to share the information with a broader public.²⁹ The author asserted that it was in the public's best interest to promote the sharing of such information in order to save lives and reduce liability related to chemical exposure.³⁰ The author concluded that information access laws, like Freedom of Information Act or FOAA, have functioned only as reactive tools in research and development industries and their surrounding communities, rather than as proactive information-distribution facilitators for these constituencies.³¹

Similarly, in 2003, research by Reichman and Uhler suggested that science data generators often used intellectual property rights to protect information from circulation rather than encourage distribution as many scholars insist is appropriate.³² Their article reports that since universities and scientists have increasingly commercialized their research products, the willingness to share data with other researchers has suffered.³³ Now it seems there are high transaction costs for inter-university data exchanges where there used to be a far freer flow of information.³⁴ The authors continue by suggesting that "[a]s relations between universities and industry become more intense, the ability of the industrial partners to impose restrictions on the open availability of research data also increases."³⁵ Reichman and Uhler further argue against a database protection law because it

26. See, e.g., Henry H. Perritt, Jr., *Sources of Rights to Access Public Information*, 4 WM. & MARY BILL RTS. J. 179 (1995); Charles J. Wichmann III, Note, *Ridding FOIA of Those "Unanticipated Consequences": Repaving a Necessary Road to Freedom*, 47 DUKE L.J. 1213, 1216–17 (1998); Richard L. Fricker, *Information, Please: Is the FOIA a Myth?*, 76 A.B.A.J., June 1990, at 57.

27. Sigmund D. Schutz, *Freedom of Access Law: It's Not Easy Keeping Secrets*, ME. B. J., Apr. 1999, at 138, 138.

28. Mary L. Lyndon, *Information Economics and Chemical Toxicity: Designing Laws to Produce and Use Data*, 87 MICH. L. REV. 1795, 1795–96 (1989).

29. *Id.*

30. *Id.* at 1808–09.

31. *Id.* at 1825–35.

32. See J.H. Reichman & Paul F. Uhler, *A Contractually Reconstructed Research Commons for Scientific Data in a Highly Protectionist Intellectual Property Environment*, 66 LAW & CONTEMP. PROBS. 315, 319–20 (2003).

33. *Id.* at 341–43.

34. *Id.* at 404–08.

35. *Id.* at 461.

“would remove data from their traditional public domain status under copyright law”³⁶:

Database rights, when added to other economic and technical pressures, could thus become the hub of an enclosure process that progressively fences off the public domain for scientific data and undermines its functions. This process could greatly reduce the flow of data as a basic input into both scientific research and the national system of innovation.³⁷

The authors encourage, instead, that the results of research funded by the government should be pooled, facilitating more access rather than less.³⁸

IV. RESEARCH QUESTIONS

This Article addresses the conflict between Maine’s FOAA and Maine’s industry in deeming what information should be publicly available despite its possible characterization as proprietary. The following questions guided the research:

1. What are the areas of law among the *Maine Revised Statutes* that provide exemptions to the general FOAA laws which might require private industries to disclose proprietary-sensitive information?
2. Which industries are vulnerable?
3. What information is excluded from public view?
4. Are there instances of disclosure when industry thought the information should have been protected?
5. What were the effects of this disclosure?
6. Are there similar situations in other states?

V. RESEARCH METHODS

Statutes, case law, news articles, and committee reports were collected and reviewed by using Lexis’s libraries for state law and news. Search strings included the title of a state’s particular law and were developed with words like *proprietary*, *trade secret*, *disclose*, *business*, and *industry* in order to limit hits. Cases were then examined for relevancy and organized by state and then year. For example, search strings such as “(freedom w/1 access) or (FOA) and disclos! and proprietary” or “(freedom w/1 access) public and disclos! and grant” in Maine cases returned five and thirty-eight hits respectively, as of May 18, 2005.

36. *Id.*

37. *Id.* at 461–62.

38. *Id.* at 462.

In searching for parallel situations in other states, the researchers acknowledge that freedom of information access laws vary in naming conventions. To more successfully search both the Lexis state law and news libraries, search strings were sought through proper name identification by searching first through the Marion Brechner Citizen Access Project.³⁹ The Maine Freedom of Access Coalition reports as well as Maine legislative committee reports were accessed through web sites as noted. Search strings for state cases outside of Maine included “(open w/1 records) or (freedom w/1 information) and disclos! and busin! or industr!” for Kentucky; “(public w/2 records) and disclos! and busin! or industr!” for Colorado; and “(freedom w/1 information) and disclos! and busin! or industr!” for Delaware. Variations of this string returned as few as six hits (Alaska) and as many as 552 hits (Texas).

VI. FINDINGS

Maine’s FOAA declares that all government-held documents are public records with the exception of those records exempt from review.⁴⁰

39. Marion Brechner Citizen Access Project, <http://www.citizenaccess.org/> (last visited Apr. 17, 2007).

40. ME. REV. STAT. ANN. tit. 1, § 402(3) (Supp. 2006). Exemptions include the following:

- A. Records that have been designated confidential by statute;
- B. Records that would be within the scope of a privilege against discovery or use as evidence recognized by the courts of this State in civil or criminal trials if the records or inspection thereof were sought in the course of a court proceeding;
- C. Legislative papers and reports until signed and publicly distributed in accordance with legislative rules, and records, working papers, drafts and interoffice and intraoffice memoranda used or maintained by an Legislator, legislative agency or legislative employee to prepare proposed Senate or House papers or reports for consideration by the Legislature or any of its committees during the legislative session or sessions in which the papers or reports are prepared or considered or to which the paper or report is carried over;
- D. Material prepared for and used specifically and exclusively in preparation for negotiations, including the development of bargaining proposals to be made and the analysis of proposals received, by a public employer in collective bargaining with its employees and their designated representatives;
- E. Records, working papers, interoffice and intraoffice memoranda used by or prepared for faculty and administrative committees of the Maine Maritime Academy, the Maine Community College System and the University of Maine System. The provisions of this paragraph do not apply to the boards of trustees and the committees and subcommittees of those boards, which are referred to in subsection 2, paragraph B;
- F. Records that would be confidential if they were in the possession or custody of an agency or public official of the State or any of its political or administrative subdivisions are confidential if those records are in the possession of an association, the membership of which is composed exclusively of one or more political or administrative subdivisions of the State; of boards, commissions, agencies or authorities of any such subdivisions; or of any combination of any of these entities;
- G. Materials related to the development of positions on legislation or materials that are related to insurance or insurance-like protection or services which are in

There are, however, exceptions beyond the fifteen specifically listed in the Title 1

the possession of an association, the membership of which is composed exclusively of one or more political or administrative subdivisions of the State; of boards, commissions, agencies or authorities of any such subdivisions; or of any combination of any of these entities;

H. Medical records and reports of municipal ambulance and rescue units and other emergency medical service units, except that such records and reports must be available upon request to law enforcement officers investigating criminal conduct;

I. Juvenile records and reports of municipal fire departments regarding the investigation and family background of a juvenile fire setter;

J. Working papers, including records, drafts and interoffice and intraoffice memoranda, used or maintained by any advisory organization covered by subsection 2, paragraph F, or any member or staff of that organization during the existence of the advisory organization. Working papers are public records if distributed by a member or in a public meeting of the advisory organization;

K. Personally identifying information concerning minors that is obtained or maintained by a municipality in providing recreational or nonmandatory educational programs or services, if the municipality has enacted an ordinance that specifies the circumstances in which the information will be withheld from disclosure. This paragraph does not apply to records governed by Title 20–A, section 6001 and does not supersede Title 20–A, section 6001–A;

L. 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;

M. Records or information describing the architecture, design, access authentication, encryption or security of information technology infrastructure and systems. Records or information 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;

N. Social security numbers in the possession of the Department of Inland Fisheries and Wildlife; and

O. Personal contact information concerning public employees, except when that information is public pursuant to other law. For purposes of this paragraph:

(1) “Personal contact information” means home address, home telephone number, home facsimile number, home e-mail address and personal cellular telephone number and personal pager number; and

(2) “Public employee” means an employee of a governmental entity, as defined in Title 14, section 8102, subsection 2, except that “public employee” does not include elected officials.

Id. § 402(3)(A)–(O).

original act that number in the hundreds.⁴¹ According to a recent review by a legislative committee, the following titles of the *Maine Revised Statutes* include FOAA exclusion provisions:

Title 1 General Provisions, *Title 3* Legislature, *Title 4* Judiciary, *Title 5* Administrative Procedures, *Title 7* Agriculture and Animals, *Title 8* Amusements and Sports, *Title 9-A* Maine Consumer Credit Code, *Title 9-B* Financial Institutions, *Title 10* Commerce and Trade, *Title 12* Conservation, *Title 13* Maine Business Corporation Act, *Title 14* Court Procedure—Civil, *Title 15* Court Procedure—Criminal, *Title 16* Court Procedure—Evidence, *Title 18-A* Probate Code, *Title 19-A* Domestic Relations, *Title 20-A* Education, *Title 21-A* Elections, *Title 22* Health and Welfare, *Title 23* Highways, *Title 24* Insurance, *Title 24-A* Maine Insurance Code, *Title 25* Internal Security and Public Safety, *Title 26* Labor and Industry, *Title 27* Libraries, History, Culture and Art, *Title 28-A* Liquors, *Title 29-A* Motor Vehicles, *Title 30-A* Municipalities and Counties, *Title 32* Professions and Occupations, *Title 33* Property, *Title 34-A* Corrections, *Title 34-B* Behavioral and Developmental Services, *Title 35-A* Public Utilities, *Title 36* Taxation, *Title 37-B* Defense, Veterans and Emergency Management, *Title 38* Waters and Navigation, and *Title 39-A* Workers' Compensation.⁴²

These exemptions range from Attorney General investigative reports⁴³ to Lobster Promotion Council market studies and promotion plans,⁴⁴ from hazardous air pollutant emissions records⁴⁵ to Applied Technology Development Center System records.⁴⁶ This range of exemptions is not unusual among states across the country. As noted earlier, many exemptions in other states concern trade secrets and proprietary information that are important to companies' progress and competitors' advantage.⁴⁷

41. See COMM. TO STUDY COMPLIANCE WITH MAINE'S FREEDOM OF ACCESS LAWS, *supra* note 10, at 1 (stating the committee's purpose); *id.* app. F, <http://www.maine.gov/legis/opla/foarptapp.pdf> (last visited Mar. 22, 2007).

42. For a complete list by section number and subject, see COMM. TO STUDY COMPLIANCE WITH MAINE'S FREEDOM OF ACCESS LAWS, *supra* note 10, app. F, <http://www.maine.gov/legis/opla/foarptapp.pdf> (listing all statutes found to grant exemptions from the general rule that all government records are available to the public for review).

43. ME. REV. STAT. ANN. tit 4, § 809 (Supp. 2006).

44. *Id.* tit 12, § 6455 (Supp. 2006).

45. *Id.* tit. 38, § 585-C(2)(D) (Supp. 2006).

46. *Id.* tit. 5, § 15321(3)(D) (Supp. 2006).

47. For a more detailed list of the kinds of exemptions relevant for business and industry, see Appendix.

A. Case Law

Case law has refined some of the exemptions in Maine. For example, in a case involving Champion International Corporation, its Bucksport paper mill, and the town of Bucksport, the Maine Supreme Judicial Court found that documents supplied to the tax assessor's office in aid of getting a tax abatement were protected from FOAA inspection because the documents were trade secrets.⁴⁸ A lower court, however, held that documents provided by Northern Mattress proving its business losses after a fire in Fairfield did not meet the burden of good cause to support the issuance of a protective order against FOAA inspection.⁴⁹ More recently, the Maine Supreme Judicial Court ruled that while the state allows injunctive relief from FOAA disclosure, four criteria must be met.⁵⁰ The burden of proving that these four criteria have been met is placed on the party seeking the injunction.⁵¹ The criteria include that the disclosure of the information will cause irreparable injury to the entity requesting the injunction, that the injury outweighs any harm to the information-seeking entity, that "it has a likelihood of success on the merits," and that "the public interest will not be adversely affected by granting the injunction."⁵²

B. Information and Industry

The statutory exemptions for Maine's government-held information can generally be grouped into the following categories of industry or business: agriculture and aquaculture, environmental and geological inventory, technology, public utilities, health industries, and finance. The following is a more specific list of the FOAA information exemptions in each of the aforementioned groups.⁵³

1. *Agriculture*⁵⁴: Market research and development fund pre-application reports and grant applications; Department of Agriculture, Food, and Rural Resources reports that are requested by suppliers to remain confidential; Maine Potato Board records when the board votes for confidentiality; minimum standards reports for potato planting; Maine Agriculture Bargaining Board records before final decisions are made; ginseng license application records; and pesticide control reports.

48. Bangor Publ'g Co. v. Town of Bucksport, 682 A.2d 227, 228 (Me. 1996).

49. N. Mattress, Inc. v. Town of Fairfield, No. CV-94-154, 1995 Me. Super. LEXIS 439, at *1, *5 (Me. Super. Ct. Dec. 13, 1995).

50. Bangor Historic Track, Inc. v. Dep't of Agric., 837 A.2d 129, 132–33 (per curiam).

51. *Id.* at 132.

52. *Id.*

53. See *supra* note 42.

54. The exemptions related to agriculture are distributed throughout titles 7, 13, and 36 of the *Maine Revised Statutes Annotated*.

2. *Aquaculture*⁵⁵: Reports of sales of aquacultured Atlantic salmon; Commission of Marine Resources statistics; Maine Sardine Council tax records, plant pack data, and quality control information; and Aquaculture Monitoring Program information designated confidential by the supplying party.
3. *Environmental and Geological Inventory*⁵⁶: Archaeological site location information held by state entities; Department of Environmental Protection trade secrets reports and records; and Department of Environmental Protection information designated by the supplier to remain confidential, except where it pertains to emissions data.
4. *Technology*⁵⁷: Maine Technology Investment Fund proprietary information; Commission on Biotechnology ongoing experiments information; computer programs and technical data provided to a state agency for use in data processing or telecommunications; and Manufactured Housing Board information considered trade secrets.
5. *Public Utilities and Energy Resources*⁵⁸: Protective orders issues by the Public Utilities Commission; information related to reported violations of public utilities law; customer information, including payment and credit histories; Petroleum Market Share records reported to the Attorney General; and gasoline and heating oil assets acquisition reports reported to the Attorney General prior to sale.
6. *Health Industries*⁵⁹: Health care records identifying patients or treatment; results of HIV tests; mental examinations of criminal defendants; alcoholism and drug treatment patient records; board of registration, hospital peer review, quality assurance, and professional compliance review records; health maintenance organization (HMO) records that identify patients or treatments; Department of Mental Health and Mental Retardation records identifying patients or treatments; sterilization proceeding records; applications to the Maine Managed Care Insurance Plan Demonstration; abortion and miscarriage reports; reported information of notifiable diseases to Bureau of Health; administration of

55. The exemptions related to aquaculture are distributed throughout titles 10 and 12 of the *Maine Revised Statutes Annotated*.

56. The exemptions related to environmental and geological inventory are distributed throughout title 38 of the *Maine Revised Statutes Annotated*.

57. The exemptions related to technology are distributed throughout titles 5 and 10 of the *Maine Revised Statutes Annotated*.

58. The exemptions related to public utilities and energy resources are distributed throughout titles 10 and 35-A of the *Maine Revised Statutes Annotated*.

59. The exemptions related to health industries are distributed throughout titles 4, 5, 22, 24, 24-A, 32, and 34-B of the *Maine Revised Statutes Annotated*.

Medicaid Program and licensing or certification; Healthcare Finance Commission records; occupational disease reporting; participants in Marijuana Therapeutic Research program; medical and insurance information in the possession of a retirement system; information or records under the Maine Emergency Medical Services Act; State Board of Nursing records that identify any patients; records of proceedings of hospital medical staff review committees; medical malpractice claim screening panels; and Maine Health Care Finance Commission information designated confidential or privileged.

7. *Financial Records*⁶⁰: Financial institution account records; Bureau of Financial Institutions records; Consensus Economic Forecasting Commission information that concerns tax reports supplied by the state tax assessor; employment tax increment financing program records; and Small Enterprise Growth Program confidential records.

C. *Legislative Review of Exemptions to FOAA*

In 2003, the legislature instructed a review committee, starting in 2008 and recurring every two years until 2014, to evaluate the many statutory exemptions found across the Maine Revised Statutes.⁶¹ The committee was charged with reviewing the statutes by title, in groups of five or sixteen titles each legislative session. The committee was also instructed to consider the following elements in determining whether the exception, or information exemption from review, should continue to stand:

- A. Whether a record protected by the exception still needs to be collected and maintained;
- B. The value to the agency or official or to the public in maintaining a record protected by the exception;
- C. Whether federal law requires a record to be confidential;
- D. Whether the exception protects an individual's privacy interest and, if so, whether that interest substantially outweighs the public interest in the disclosure of records;
- E. Whether public disclosure puts a business at a competitive disadvantage and, if so, whether that business's interest substantially outweighs the public interest in the disclosure of records;
- F. Whether public disclosure compromises the position of a public body in negotiations and, if so, whether that public body's interest

60. The exemptions related to Financial records are distributed throughout titles 5, 9-B, 10, and 36 of the *Maine Revised Statutes Annotated*.

61. ME. REV. STAT. ANN. tit. I, § 433(2) (Supp. 2006).

substantially outweighs the public interest in the disclosure of records;

G. Whether public disclosure jeopardizes the safety of a member of the public or the public in general and, if so, whether that safety interest substantially outweighs the public interest in the disclosure of records;

H. Whether the exception is as narrowly tailored as possible; and

I. Any other criteria that assist the review committee in determining the value of the exception as compared to the public's interest in the record protected by the exception.⁶²

VII. CONCLUSION

A review of the statutory exemptions beyond the Maine FOAA clearly indicates that some industries and business groups have successfully lobbied the legislature for certain protections. Those areas of proprietary or trade secrets that are now protected include agriculture and aquaculture, environmental and geological inventory, technology, public utilities, health, and finance industries. Outside of these particular exemptions, however, government-held information is considered public record and is available for public inspection upon request. Maine is not unique in providing special protections for some kinds of commercial interests. As noted earlier, there are many states with similar exclusions from their information access laws.

It is also evident that information which is deemed proprietary or as central to trade secrets by the originator, before it is supplied to a government agency, will be protected from disclosure by that agency.⁶³ Research reports supplied in pre-application or grant application materials will be protected if the applicant requests confidentiality. If the necessity for confidentiality is questioned, then the state court may review a request for protection or injunctive relief within the context of the four criteria supplied by the Maine Supreme Judicial Court in *Bangor Historic Track*.⁶⁴

Maine's legislative committee review will reassess the usefulness and viability of the exemptions within the *Maine Revised Statutes*. That review will begin in 2008 and will continue every two years until 2012⁶⁵ when all existing exemptions have been evaluated under the presumption that everyone and anyone has access to public records and that all government-held information is considered a public record.

The question that remains for states reconsidering their list of exemptions is whether favoring businesses and providing their special proprietary information

62. ME. REV. STAT. ANN. tit. 1, § 432(2) (Supp. 2006).

63. See *supra* note 41 and accompanying text and Appendix.

64. See *Bangor Historic Track, Inc., v. Dep't of Agric.*, 837 A.2d 129, 132 (Me. 2003) (per curiam); see also *supra* notes 50–52 and accompanying text.

65. ME. REV. STAT. ANN. tit. 1, § 433.

with exclusionary status benefits the state and citizens as a whole. The answer will rest with not only the guiding principles for establishing access rights, but also with the priorities of the state's current interests.

APPENDIX
INITIAL LIST OF STATES WITH EXEMPTIONS FOR INDUSTRY AND TECHNOLOGY

	Relevant Statute	Case Law	Kind of Industry or Business-Problem	Solution
Alabama	15 U.S.C. § 6802 (2000).	<i>Ex Parte</i> Nat'l W. Life Ins. Co., 899 So. 2d 218, 227 (Ala. 2004).	Insurance - Information in documents sought for discovery	Insurers failed to meet the burden of proof for a writ of mandamus to protect information from disclosure
Alaska	ALASKA STAT. § 40.25.110 (2006) (originally codified at ALASKA STAT. 09.25.110).	Memorandum from Avrum M. Gross, Att'y Gen., Alaska, to Robert E. LeResche, Comm'r, Alaska Dep't of Natural Res. (April 10, 1980) (on file with authors).	Contracts - Documents with technical information about pipeline building	Documents should be considered public records
Alaska	Alaska Stat. §§ 40.25.120(a)(4) (2006) (originally codified at ALASKA STAT. § 9.25.120(a)(4)).	Gwich'in Steering Comm. v. State, 10 P.3d 572, 576 (Alaska 2000).	Contracts- Documents relating to the opening of a wildlife refuge for oil exploration	Documents protected by "deliberative process" privilege
Arizona	ARIZ. CONST. art. IV, pt. 2 § 1(14)(A)-(F).	Ariz. Indep. Redistricting Comm'n v. Fields, 75 P.3d 1088, 1092, 1103 (Ariz. Ct. App. 2003).	Contracts - Documents filed with commission exchanged with third-party consultant	In camera inspection of documents required; case remanded
Arkansas	ARK. CODE ANN. §§ 25-19-105(a) to -105(b)(9)(A) (West 2002 & Supp. 2005).	Ark. Dep't. of Fin. v. Pharmacy Assoc's, Inc. 970 S.W.2d 217, 218 (Ark. 1998).	Health - Successful bidder's information	Disclosure judgment of lower court reversed; case dismissed
California	CAL. INSURANCE CODE § 1861.07 (West 2005); CAL. CODE REGS. tit. 10, § 2646.6(c) (2006).	State Farm Mut. Auto. Ins. Co. v. Garamedi, 88 P.3d 71, 76 (Cal. 2004).	Insurance - Insurance commission records	Disclosure required
Colorado	COLO. REV. STAT. ANN. § 24-72-204(3)(a) (West 2006).	City of Westminster v. Dogan Constr. Co., 930 P.2d 585, 586 (Colo. 1997) (en banc).	Contracts - Construction bids on projects and reference evaluations from third party companies	Documents exempt under the "letters of reference concerning employment" exemption

	Relevant Statute	Case Law	Kind of Industry or Business-Problem	Solution
Connecticut	CONN. GEN. STAT. ANN. §§ 1-200, -211 (West 2000 & Supp. 2006) (originally codified at CONN. GEN. STAT. ANN. §§ 1-18(a), -19(a)).	Bd. of Trs. of Woodstock Acad. v. Freedom of Info. Comm'n, 436 A.2d 266, 271 (Conn. 1980).	Education - Operating records for academy	Academy nominally private but serves public function; disclosure required
Connecticut	CONN. GEN. STAT. ANN. § 1-200(1)(A) (West Supp. 2006).	Meri-Weather, Inc. v. Freedom of Info. Comm'n, 778 A.2d 1038, 1043 (Conn. Super. Ct. 2000), <i>aff'd</i> , 778 A.2d 1006, 1007 (Conn. App. Ct. 2001).	Nonprofit organization's records	Organization found by court to be a public body; disclosure required
Connecticut	CONN. GEN. STAT. ANN. § 1-210(b)(1) (West Supp. 2006).	Coal. to Save Horsebarn Hill v. Freedom of Info. Comm'n, 806 A.2d 1130, 1136 (Conn. App. Ct. 2002).	Education - Drafts of a proposed agreement between university and corporation for a joint development project	Preliminary drafts are exempt from disclosure; disclosure not required
Delaware	DEL. R. CIV. P. 26(c)(7).	Tolson v. Barnett & Wilson Surgical Assocs., No. OIC-05-040 (HDR), 2002 Del Super. LEXIS 57 (Del. Feb. 15, 2002).	Health - Prison healthcare manual from a private corporation	Corporation showed "good cause"; protective order granted
Florida	FLA. STAT. ANN. § 119.011(11) (West Supp. 2007) (originally codified at FLA. STAT. ANN. § 119.011(1) (West 2002)).	Booksmart Enter. v. Barnes & Noble Coll. Bookstores Inc., 718 So. 2d 227, 228-29 (Fla. Dist. Ct. App. 1998).	Education - Textbook list	Disclosure required
Florida	FLA. STAT. ANN. CH. 90.506 (West 1999).	Salick Health Care, Inc. v. Spunberg, 722 So. 2d 944, 947 (Fla. Dist. Ct. App. 1998) (<i>per curiam</i>).	Health - Contractual information	Case remanded to determine whether documents were privileged as trade secrets

	Relevant Statute	Case Law	Kind of Industry or Business-Problem	Solution
Georgia	GA. CODE ANN. § 50-18-70 (2006).	Ga. Dep't. of Natural Res. v. Theragenics Corp., 545 S.E.2d 904, 906 (Ga. 2001).	Contracts - Application materials from one corporation for the department	"Trade secret" information is exempt so long as entity makes "reasonable efforts to prevent disclosure"
Illinois	5 ILL. COMP STAT. ANN. 120/1.02 (West 2005).	Hopf v. Topcorp, Inc., 628 N.E.2d 311, 312 (Ill. App. Ct. 1993).	Education - Development of a research park by for-profit entities	For-profit entities, while serving a city, are not considered "subsidiary bodies" of the city; disclosure not required
Indiana	IND. CODE ANN. § 5-11-1-16 (LexisNexis 2001).	State Bd. of Accounts v. Ind. Univ. Found., 647 N.E.2d 342, 354-55 (Ind. Ct. App. 1995).	Nonprofit organization's records	Foundation's collection of funds for the university is private, not subject to auditing
Indiana	IND. CODE ANN. §§ 5-11-1-9(a), -1-16(e) (LexisNexis 2001 & Supp. 2006).	Ind. State Bd. of Accounts v. Consol. Health Group, Inc., 700 N.E.2d 247, 253 (Ind. Ct. App. 1998).	Health - Hospital records	Records of the part of the hospital legislatively designated as part of the Indiana University were subject to disclosure
Iowa	IOWA R. CIV. P. 1.504 (West 2002) (originally codified at IOWA R. CIV. P. 123(g)).	Farnum v. G.D. Searle & Co., 339 N.W.2d 384, 391 (Iowa 1983).	Product - Company's FDA New Drug Application	Burden of proof for confidentiality not met by corporation; protective order denied
Iowa	IOWA CODE ANN. § 22.2(2) (West 2001).	Gannon v. Bd. of Regents, 692 N.W.2d 31, 44 (Iowa 2005).	Nonprofit organization's records	Foundation performs a public function and its records are open to disclosure
Kansas	KAN. STAT. ANN. § 60-432 (2005).	S.W. Bell Tel. Co. v. State Corp. Comm'n, 629 P.2d 1174, 1176 (Kan. Ct. App. 1981).	Utilities - Telephone company records	Protective order denial vacated; documents protected from disclosure
Kentucky	KY. REV. STAT. ANN. §§ 61.870-884 (LexisNexis 2004 & Supp. 2006).	Se. United Medigroup, Inc. v. Hughes, 952 S.W.2d 195, 199-200 (Ky. 1997), <i>abrogated in part by Hoskins v. Maricle</i> , 150 S.W.3d 1 (Ky. 2004).	Insurance - Rate change records	Burden of proof for confidentiality met by insurance company; disclosure not required

	Relevant Statute	Case Law	Kind of Industry or Business-Problem	Solution
Louisiana	LA. REV. STAT. ANN. § 44:1 to :43 (1982 & Supp. 2007).	Dorson v. State, 657 So. 2d 755, 757 (La. Ct. App. 1995).	Research - Animal use records	University medical center's records not disclosable based on state law due to federal funding
Louisiana	LA. REV. STAT. ANN. § 44:1 to :43 (1982 & Supp. 2007).	Burkett v. UDS Mgmt. Corp., 741 So. 2d 838, 841 (La. Ct. App. 1999).	Public utility - Water works records	Corporation's records are public
Massachusetts	MASS. GEN. LAWS ANN. ch. 21C, § 12 (West 2002); MASS. GEN. LAWS ANN. ch. 66, § 10 (West Supp. 2006).	Gen. Chem. Corp v. Dep't of Env'tl. Quality Eng'g, 474 N.E.2d 183, 187-88 (Mass. App. Ct. 1985).	Chemical - Hazardous waste records	Disclosure judgment reversed; remanded
Massachusetts	MASS. GEN. LAWS ANN. ch. 175, § 19E (4)(12) (West Supp. 2006).	Ctr. for Ins. Research v. Ruthardt, 4 Mass. L. Rep 562 (1996).	Insurance - Demutualization records	Summary judgment barring disclosure denied
Michigan	MICH. COMP. LAWS ANN. §§ 15.231-.246 (West 2004).	Blue Cross & Blue Shield of Mich. v. Ins. Bureau Hearing Officer, 304 N.W.2d 499, 506-07 (Mich. Ct. App. 1981).	Insurance - Rate change records	Rate information subject to disclosure
Minnesota	MINN. STAT. ANN. § 13.51 subd. 2 (West 2005); MINN. R. CIV. P. 26.03.	Mall of Am. v. County of Hennepin, Nos. TC-16076; TC-21195; TC-16772; TC-22440; TC-18309; 1995 WL 461069, at *1-2 (Minn. T.C. Aug. 2, 1995).	Taxes - Property assessment records	Protective order granted
Mississippi	MISS. CODE ANN. § 75-9-106 (2002).	Am. Tobacco Co. v. Evans, 508 So. 2d 1057, 1062 (Miss. 1987).	Product - Tobacco paper additives	Writ of prohibition denied, information disclosed
Mississippi	MISS. CODE ANN. § 25-61-9(1) (2006); MISS. CODE ANN. § 75-26-3 (2000).	Caldwell & Gregory, Inc. v. Univ. of S. Miss., 716 So. 2d 1120, 1121 (Miss. Ct. App. 1998).	Education - Bid proposal disclosure	Disclosure judgment reversed upon appeal

	Relevant Statute	Case Law	Kind of Industry or Business-Problem	Solution
Missouri	MO. ANN. STAT. §§ 610.010(4)(f), .021 (West 2006).	N. Kan. City Hosp. Bd. of Trustees v. St. Luke's Northland Hosp., 984 S.W.2d 113, 117, 122 (Mo. Ct. App. 1998).	Health - Quasi-municipal entity, disclosure of hospital records	Hospital board of trustees not a separate entity; disclosure required
Montana	MONT. CONST. art. II, § 9; MONT. ADMIN. R. 42.2.701 (2006).	Associated Press, Inc. v. Mont. Dep't of Revenue, 4 P.3d 5, 13 (Mont. 2000).	Taxes - Coal producers' tax information	Rule 42.2.701 found unconstitutional; judgment for nondisclosure reversed and case remanded
Nevada	42 U.S.C. §§ 4601-4655 (2000); 49 C.F.R. § 24.9(b) (2006); NEV. REV. STAT. ANN. § 342.105 (LexisNexis 2002).	City of Reno v. Reno Gazette-Journal, 63 P.3d 1147, 1150 (Nev. 2003).	Contracts - Land acquisition bids	Disclosure judgment reversed upon appeal due to application of federal rules
New Hampshire	N.H. REV. STAT. ANN. § 91-A:5 (LexisNexis Supp. 2006).	Menge v. City of Manchester, 311 A.2d 116, 119 (N.H. 1973).	Taxes - Field card record disclosures	Disclosure judgment upheld
New Hampshire	N.H. REV. STAT. ANN. § 91-A (LexisNexis 2004 & Supp. 2006); N.H. REV. STAT. ANN. § 210:21 (LexisNexis 2001).	Op. N.H. Att'y Gen. No. 84-190-I (Oct. 31, 1984), 1984 N.H. AG LEXIS 20.	Taxes - Fish and Game Commission fur trappers' reports	Nondisclosure recommended excepting a subpoena from the IRS
New Jersey	21 C.F.R. § 20.111(d) (2006).	Hammock v. Hoffmann-Laroche, Inc., 635 A.2d 533, 538-39 (N.J. Super. Ct. App. Div. 1993), <i>rev'd</i> , Hammock <i>ex rel.</i> Hammock v. Hoffmann-Laroche, Inc., 662 A.2d 546 (N.J. 1995).	Product - Accutane (acne drug) information	No common law rights to discover trade secrets for trial.

	Relevant Statute	Case Law	Kind of Industry or Business-Problem	Solution
New Jersey	N.J. STAT. ANN. §§ 47:1A-1 to :1A-13 (West 2005).	Bergen County Improvement Auth. v. N. Jersey Media Group, Inc., 851 A.2d 731, 733, 743 (N.J. Super. Ct. App. Div. 2004).	Taxes - Medical center financial statements	Disclosure judgment upheld
New Mexico	N.M. STAT. ANN. § 7-1-8(U)(3) (LexisNexis 2004).	Meridian Oil, Inc. v. N.M. Taxation & Revenue Dep't, 921 P.2d 327, 329, 332 (N.M. Ct. App. 1996).	Taxes - Oil company audit	Disclosure judgment reversed upon appeal
New York	N.Y. PUB. OFF. LAW §§ 84-90 (McKinney 2001).	Ragusa v. N.Y. State Dep't of Law, 578 N.Y.S.2d 959, 962, 965 (Sup. Ct. 1991).	Investigative materials - Information found during an investigation for price fixing	Disclosure required
New York	N.Y. PUB OFF. LAW § 86(3) (McKinney 2001).	Buffalo News, Inc. v. Buffalo Enter. Dev. Corp. 644 N.E.2d 277, 278-79 (N.Y. 1994).	Finances - Quasi-Governmental agency's financial records	Disclosure required; Agency is a public agency
New York	N.Y. PUB. OFF. LAW § 87(2)(d) (McKinney 2001).	Encore Coll. Bookstores, Inc. v. Auxiliary Serv. Corp. of State Univ. of N.Y. at Farmingdale, 663 N.E.2d 302, 304-05 (N.Y. 1995).	Education - Textbook order list	Subcontractor's list properly deemed exempt
New York	N.Y. PUB. OFF. LAW §§ 84-90 (McKinney 2001).	Lockheed Martin IMS Corp. v. N.Y. State Dep't of Family Assistance, 681 N.Y.S.2d 656, 657-58 (App. Div. 1998).	Contracts - Proposal for services to state office accepted, technical and cost portions requested via FOIA	Exemption application denied; disclosure required

	Relevant Statute	Case Law	Kind of Industry or Business-Problem	Solution
New York	N.Y. EDUC. LAW §§ 5712-13 (McKinney 2001).	Alberton v. N.Y. State Coll. of Agric. & Life Sci. at Cornell Univ., 825 N.E.2d 585, 586, 590 (N.Y. 2005).	Research - Genetic engineering research information	Partial disclosure of documents requested including expenditure of state monies
North Carolina	N.C. GEN. STAT. §§ 132-1 to -9 (2003); N.C. GEN. STAT. § 66-152 (2005).	S.E.T.A. UNC-CH, Inc. v. Huffines, 399 S.E.2d 340, 341, 344 (N.C. Ct. App. 1991).	Research - Use of animals in research, Application - Federal law	Partial disclosure of documents requested; trial court decision of nondisclosure reversed
North Carolina	N.C. GEN. STAT. § 66-152(3) (2005); N.C. GEN. STAT. §§ 132-1 to -10 (2005).	Wilmington Star-News, Inc. v. New Hanover Reg'l Med. Ctr., Inc., 480 S.E.2d 53, 57 (N.C. Ct. App. 1997).	Contracts - Price lists in contract between corporation and hospital	Disclosure required
North Carolina	N.C. GEN. STAT. § 66-152(3) (2005); N.C. GEN. STAT. §§ 132-1 to -10 (2005).	State <i>ex rel.</i> Utils. Comm'n v. MCI Telecomms. Corp., 514 S.E.2d 276, 282-83 (N.C. Ct. App. 1999).	Utilities - Line reports	Disclosure judgment reversed upon appeal
North Dakota	N.D. CENT. CODE § 44-04-18 (2001).	Adams County Record v. Greater N.D. Ass'n, 529 N.W.2d 830, 838 (N.D. 1995).	Economic development - Nonprofit private organization	Nondisclosure judgment reversed upon appeal, remanded
Ohio	OHIO REV. CODE ANN. §§ 122.36, 166.05(E) (LexisNexis 2001 & Supp. 2006).	State <i>ex rel.</i> Jacobs v. Prudoff, 506 N.E.2d 927, 932-33 (Ohio Ct. App. 1986).	Contracts - Community development proposal	Community development records are public; remanded for consideration as trade secrets
Ohio	OHIO REV. CODE ANN. § 149.43 (LexisNexis Supp. 2006).	State <i>ex rel.</i> Besser v. Ohio State Univ., 721 N.E.2d 1044, 1051 (Ohio 2000); State <i>ex rel.</i> Besser v. Ohio State Univ., 732 N.E.2d 373, 379 (Ohio 2000).	Contracts - Property acquisition	Public agencies can have trade secrets; disclosure via in camera review required; judgment reversed

	Relevant Statute	Case Law	Kind of Industry or Business-Problem	Solution
Oklahoma	OKLA. STAT. ANN. tit. 51, §§ 24A.1–.3 (West 2006).	Farrimond v. State <i>ex rel.</i> Fisher, 8 P.3d 872, 874–75 (Okla. 2000).	Insurance - Insurance commission records	Insurance records are not government records and are not subject to public disclosure
Oregon	OR. REV. STAT. §§ 192.410–.505 (2005).	In Def. of Animals v. Or. Health Sci. Univ., 112 P.3d 336, 347 (Or. Ct. App. 2005).	Research - Use of animals in research, testing records	Names of companies and drugs, and names of staff, are exempt from disclosure
Pennsylvania	65 PA. CONS. STAT. ANN. §§ 66.1–.2 (West Supp. 2006).	Mooney v. Bd. of Trs. of Temple Univ., 292 A.2d 395, 396 (Pa. 1972).	Finances - Private university financial records	Private university is not state agency
South Carolina	S.C. CODE ANN. §§ 30-4-10 to -110 (2007).	Weston v. Carolina Research & Dev. Found., 303 S.C. 398, 404–05, 401 S.E.2d 161, 165 (1991).	Education - Public funds redirected from a university to a private corporation	Redirected university funds made private corporation a public agency, disclosure of information required
South Carolina	S.C. CODE ANN. §§ 30-4-10 to -40 (2007).	Campbell v. Marion County Hosp. Dist., 354 S.C. 274, 285–87, 580 S.E.2d 163, 169 (Ct. App. 2003).	Health - Disclosure of hospital salaries	Judgment reversed; hospital salary information not exempt from disclosure as trade secrets
Tennessee	TENN. CODE ANN. § 10-7-503 (Supp. 2006).	Cleveland Newspapers, Inc. v. Bradley County Mem’l Hosp. Bd. of Dirs., 621 S.W.2d 763, 764, 767 (Tenn. Ct. App. 1981).	Health - Disclosure of hospital salaries	Hospital is a public entity; disclosure of payroll records required

	Relevant Statute	Case Law	Kind of Industry or Business-Problem	Solution
Texas	TEX. GOV'T CODE ANN. §§ 552.001–.353 (Vernon 2004 & Supp. 2006).	Envoy Med. Sys. v. State, 108 S.W.3d 333, 335, 338 (Tex. App. 2003).	Insurance - Medical records	Applicants did not meet the burden of proof for exemption; disclosure required
Vermont	VT. STAT. ANN. tit. 1, §§ 315–20 (2003 & Supp. 2006).	Springfield Terminal Ry. Co. v. Agency of Transp., 816 A.2d 448, 451, 455 (Vt. 2002).	Contracts - Rail freight bids including financial records	Information is exempt from disclosure
Washington	WASH. REV. CODE ANN. §§ 42.56.040, .210, .540, .570 (2006 & Supp. 2007) (originally codified at §§ 42.17.250, .310, .330, .348).	Progressive Animal Welfare Soc'y v. Univ. of Wash., 884 P.2d 592, 598–602, 608 (Wash. 1994) (en banc).	Research - Unfunded grant proposal disclosure	Redacted version of unfunded grant proposal disclosed
Washington	WASH. REV. CODE ANN. § 42.56.210 (2006 & Supp. 2007) (originally codified at § 42.17.310); WASH. REV. CODE ANN. § 5.60.060(2)(a) (Supp. 2007).	Hangartner v. City of Seattle, 90 P.3d 26, 28, 33 (Wash. 2004) (en banc).	Contracts - Documents relating to construction of rail transit system	Nondisclosure judgment reversed and remanded upon appeal; disclosure not required if covered by the attorney-client privilege
West Virginia	W.VA. CODE ANN. §§ 29B-1-1 to -1-6 (LexisNexis 2002 & Supp. 2006); W.VA. CODE ANN. § 29B-1-2(3) (LexisNexis 2002).	4-H Rd. Cmty. Ass'n v. W.Va. Univ. Found., 388 S.E.2d 308, 312–13 (W. Va. 1989) (per curiam).	Finances - Coal lease information	Foundation is a private nonprofit fundraising entity; records not subject to disclosure
Wisconsin	WIS. STAT. ANN. § 107.15 (West 2002).	Noranda Exploration, Inc. v. Ostrom, 335 N.W.2d 596, 598 (Wis. 1983).	Product - Company's mineral exploration records	Portions of § 107.15 declared unconstitutional, no disclosure required

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