FACT SHEET

WYOMING LEGISLATIVE SERVICE OFFICE

PUBLIC RECORDS ACT MULTISTATE COMPARISON

May 2026

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During the 2025 interim, the Legislative Service Office (LSO) prepared a research memorandum surveying public records laws in Wyoming and surrounding states (**Appendix A**) and a supplemental memorandum summarizing the Texas Public Information Act (**Appendix B**) for the Joint Corporations, Elections & Political Subdivisions Interim Committee. This fact sheet summarizes the findings from the 2025 research memoranda and outlines any changes surrounding states have made to public records laws since the memorandum's completion. Wyoming and Nebraska made no changes over the last year. Changes to Colorado, South Dakota, Texas, and Utah laws did not substantively affect the analysis contained in **Appendix A** or in **Appendix B**. Idaho and Montana public records laws resulted in changes to LSO's 2025 analysis; those changes are reflected in the table below followed by a detailed explanation. **Appendix C** provides the current fee schedule Wyoming state agencies charge for public records requests.

State Law	Response Requirements	Fees	Record Types & Exemptions	Penalties
Wyoming Public Records Act *W.S. 16-4-201 to 16-4-205*	If the entity has the records: **Immediately**, with exceptions. All records must be released **within 30 days** unless good cause for delay. If the entity does not have the records: Notification within **7 days**.	**Fees must be reasonable** and within statutory parameters, depending on the entity type. No fees may be charged if records are inspected only. State agencies may charge fees pursuant to a set fee schedule provided in **Appendix C**.	A public record is any information in physical form in furtherance of business by a governmental entity. Entities **may not grant access** to records if inspection would violate state or federal law or court rules. *See Appendix A, page 5 for full list.*	Anyone who knowingly or intentionally withholds public records without just cause may be liable for **up to $750**, to be recovered in a **civil action** and **damages** may be assessed by the court.

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State Law	Response Requirements	Fees	Record Types & Exemptions	Penalties
Colorado Open Records Act *C.R.S. §§ 24-72-200.1 to 24-72-206*	If the entity has the records: **Immediately** if readily available, or **within 3 days** if not readily available with an **option to extend by 7 days**.	Unless fees for certain records are specific by law, fees are typically up to **25 cents per standard page** or **actual cost** for non-standard formats. If retrieval work exceeds an hour, entities may **charge $30 per hour**, adjusting for inflation. Requestors are also responsible for transmission costs.	A public record is any document held by public entities related to legal functions or the use of public funds. Entities **may not grant access** to records if inspection would violate state or federal law, court rules, or legislative rules related to lobbying. *See Appendix A, pages 8-9.*	Anyone alleging a violation may **apply to the appropriate district court to release records** after providing written notice to the entity with no resolution within 14 days. A misdemeanor penalty was repealed in 2017.
Idaho* Public Records Act *Idaho Code §§ 74-101 to 74-127*	For Idaho residents: Entity must **respond within 3 days** and may extend to 10 days to fulfill request. For non-residents: Entity must **respond within 21 days** and may extend to 35 days to fulfill request.	For paper records: Entities **may not charge** for the first 2 hours of labor or the first 100 pages, then entities **may charge fees** based on actual labor and copying costs. For electronic records: Entities **may charge fees** to cover direct costs, labor fees, and attorney redaction fees.	A public record is any document containing information about public business that is prepared or retained by public entities. Entities **may not grant access** to records that are specifically exempted by Idaho statutes. *See Appendix A, page 11.*	Within 180 days of receiving a denial, a requestor **may file a complaint with the appropriate district court** to request that the records be released. Entity officials who deliberately deny a valid request may receive a **fine up to $1,000**.
Montana* Public Records Act *M.C.A. §§ 2-6-1001 to 2-6-1504*	For readily available records: Entities must acknowledge request within 5 days and **fulfill request within 5 days of acknowledgement**. For more complex requests: Entities must acknowledge within 5 days and **provide 90-day or 6-month timeframe depending on the request**.	**Fees vary** based on the type of record requested. **Entities may charge**: 1) up to $25 an hour; 2) actual cost; 3) copying/media costs; 4) a convenience fee; and 5) other reasonable costs.	A public record is any material created or retained by a public entity used to conduct official business. Entities **may not grant access** to records that, if inspected, would pose a demonstrable threat to public facilities. Records restrictions must be narrowly tailored.	If a **request is denied or** if a public entity that is not a local government **fails to respond as required**, the requestor may **take legal action in the appropriate district court** and may recover costs and attorney's fees.

* See explanation of substantive changes to Idaho and Montana public records laws since 2025 following the table.

State Law	Response Requirements	Fees	Record Types & Exemptions	Penalties
Nebraska Public Records Statutes *N.R.S. §§ 84-712 to 84-712.09*	Entities must **respond within 4 business days** by: 1) providing a cost estimate and access to records; 2) denying the request with appropriate legal basis; or 3) explaining delays and offering new timeline.	Entities **may charge fees for providing copies of public records**, not to exceed actual cost of copies, materials, labor, analysis, or equipment. Entities may also charge additional fees for labor **over 4 hours**.	A public record is any document or record belonging to public entities unless a specific law or rule prohibits its disclosure. Entities **may not grant access** to records that are specifically exempted by Nebraska statutes. *See Appendix A, page 15.*	Officials who violate public records laws may be **removed from office** and may be charged with a misdemeanor, which carries a penalty of up to **3 months' imprisonment**, a **$500 fine**, or both.
South Dakota Public Records Statutes *S.D.C.L. §§ 1-27-1 to 1-27-48*	South Dakota law does not specify a required response time.	Entities **may charge reasonable fees** for records services to cover equipment and software costs and may charge **extra fees if more than 1 hour of staff time** is dedicated to the request. Entities must **provide a cost estimate if fees exceed $50** and the requestor must confirm acceptance of cost.	A public record is any document or record created or held by public entities unless specifically exempted by law or rule. Entities **may not grant access** to records that are specifically exempted by statute, ordinance, or rule. *See Appendix A, page 17.*	Within 90 days of receiving a denial or disagreeing with a cost estimate, a requestor **may file a civil suit or a complaint** with the Office of Hearing Examiners. The court may **impose penalties up to $50 per day of delay** or award legal expenses.
Utah Government Records Access & Management Act *U.C.A. §§ 63G-2-101 to 63G-2-901*	Entities **must respond within 10 days, or 5 days if the request is deemed to benefit the public**. Responses must: 1) approve and provide records; 2) formally deny the request; 3) redirect to another entity; or 4) notify requestor of circumstances surrounding delay and estimated date of fulfillment.	Entities **may charge reasonable fees** to recover actual cost of providing records **after the first 15 minutes**. Depending on the level of request, fees may include staff time or use of electronic services. Hourly rates **cannot exceed** the salary of the lowest-paid qualified employee.	A public record is any material that is prepared or retained by public entities that can be reproduced by photocopy or other means. Entities **may not grant access** to records that are restricted by court rule or state or federal law, or if records are considered "private," "controlled," or "protected" by Utah law. *See Appendix A, pages 19-20.*	Anyone who knowingly or intentionally withholds public records without just cause may be guilty of a misdemeanor, which carries a penalty of up to **6 months' imprisonment**, **fines up to $1,000**, or both.

State Law	Response Requirements	Fees	Record Types & Exemptions	Penalties
Texas Public Information Act *Tex Gov't Code §§ 522.001 to 522.047*	**Entities must respond "promptly**," meaning as soon as possible given the circumstances and without delay. If there is a **cost associated** or if the request will **require programming and data manipulation**, entities must provide the requestor with a written statement detailing the circumstances within **20 days** of the request and only fulfill the request if the requestor responds within 30 days.	Entities **may charge reasonable fees** related to providing the information, including cost of materials, labor, and overhead and the Public Information Act outlines other necessary conditions for a public entity to charge a requestor. Entities must **provide an itemized statement if fees exceed $40** and the requestor must confirm acceptance of cost.	A public record is information produced or maintained by a public entity by law or in connection with the transaction of official business. Entities **may not grant access** to records only when expressly provided by the Public Information Act. Entities must request that the Attorney General confirm whether information is exempt from disclosure. *See Appendix B, pages 2-3.*	A requestor may file suit to compel the disclosure of records. The court may **award costs and attorney fees**. Anyone who **willfully destroys or alters public information** is guilty of a **misdemeanor**, which carries a penalty of up to **3 months in jail, fines up to $4,000**, or both. Any **public information officer who negligently fails to disclose** information is guilty of a **misdemeanor**, which carries a penalty of **6 months in jail, fines up to $1,000**, or both.

Source: Information compiled by LSO staff from surveyed states' public records laws (April 2026).

NON-SUBSTANTIVE CHANGES TO PUBLIC RECORDS LAWS SINCE 2025

Colorado enacted House Bill 1195, which allows first responders and spouses to request the confidentiality of their addresses listed in their voter registration records, effective August 6, 2025.[1]

South Dakota amended public records statutes to clarify the list of records exempt from public disclosure and to make grammatical changes.[2] Changes will be effective July 1, 2026.

[1] Colorado 2025 House Bill 1195, First Responder Voter Registration Record Confidentiality, **https://leg.colorado.gov/bills/hb25-1195**.
[2] South Dakota 2026 House Bill 1092, An act to update provisions pertaining to open records, **https://mylrc.sdlegislature.gov/api/Documents/305664.pdf**.

Utah has allowed public entities to classify documents as "private," "controlled," or "protected" based on certain criteria to exempt them from public release since 1991.[3] Beginning May 6, 2026, Utah extended the definition of "protected" records to include emergency response plans or incident reports related to drinking water or wastewater facilities.[4]

Texas enacted House Bill 4219, effective September 1, 2025, which updated a specific response timeframe to 10 business days when public entities determine no information is responsive to a request or if information is required to be withheld. Texas also updated the process for when a public entity fails to respond to a request and grants authority to requestors to send written complaints to the Attorney General.[5]

SUBSTANTIVE CHANGES TO PUBLIC RECORDS LAWS SINCE 2025

Idaho enacted 2025 House Bill 253, amending several sections of the Idaho Public Records Act to classify requestors as "residents" and "nonresidents" and apply separate standards depending on the requestor's classification. The primary change affecting LSO's 2025 analysis is to Idaho Code § 74-103, which governs requirements for public entity responses.

Prior to this change, public entities were required to respond to a request for records within three working days, regardless of the requestor's residence. Public entities could respond in writing (1) granting the request, (2) denying the request, or (3) extending the request deadline by seven days.

Effective July 1, 2025, public entities must now classify responses based on the requestor's residences. If an Idaho resident requests records, the public entity must respond within three working days and (1) grant the request, (2) deny the request, or (3) extend the time needed to fulfill the request up to a total of 10 working days. If a nonresident requests records, the public entity must respond by granting, denying, or extending the deadline within 21 calendar days of receipt. If a public entity requires more time to fulfill a nonresident request, the entity is allowed to extend the deadline to 35 calendar days following the request. If a public entity fails to respond to either a resident request or a nonresident request within the allotted time, the request is considered denied and may be appealed.[6]

[3] Utah Code Ann. § 63G-2-201(3) & (4).
[4] Utah 2026 House Bill 19, Drinking Water Utilities Amendments, **https://le.utah.gov/~2026/bills/static/HB0019.html**.
[5] Texas 2025 House Bill 4219, **https://capitol.texas.gov/tlodocs/89R/billtext/html/HB04219F.HTM**.
[6] Idaho Code § 74-103.

Montana enacted House Bill 264, which now exempts Department of Fish, Wildlife, and Parks records on hunted or trapped animals' location data and telemetry frequencies from release.[7]

Effective July 1, 2026, Montana public entities will transition from charging fees not to exceed actual costs of fulfilling a records request to following a specific fee schedule depending on the type of record being requested. If records are available for immediate inspection, or if a request is for a single, specific, and readily available record, a public entity may charge (1) up to $25 an hour, (2) actual costs, (3) copying and media costs, (4) a convenience fee, and (5) other reasonable costs. If a request is more complex, the public entity may charge the same fees and may also charge a $5 filing fee. If a request is for a combination of the classifications above, the public entity may only charge the allowable fees one time.[8]

Finally, effective July 1, 2026, if a person requests records from any public entity that is not a local government and does not receive a response in the required timeframe, the person may file a complaint in district court. Previously, this action was only available to requestors of executive branch agencies.[9]

If you have any further questions, please do not hesitate to contact LSO Research at 777-7881.

[7] Montana 2025 House Bill 264, **https://archive.legmt.gov/content/Sessions/69th/Contractor_index/CH0433.pdf**.
[8] Montana 2025 House Bill 100, **https://archive.legmt.gov/content/Sessions/69th/Contractor_index/CH0479.pdf**.
[9] *Id.*

Appendix A

WYOMING LEGISLATIVE SERVICE OFFICE

Research Memorandum

SURVEY OF PUBLIC RECORDS LAWS IN WYOMING AND NEIGHBORING STATES

May 2025

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QUESTION: Compare and contrast public records laws in Wyoming and neighboring states.

INTRODUCTION: This memorandum surveys public records access laws in Wyoming and neighboring states (Colorado, Idaho, Montana, Nebraska, South Dakota, and Utah). The memorandum compares the following elements of public records access laws:

- Definition of public records;
- Who may access public records;
- Records exempt from disclosure;
- Response timeframe;
- Fees for accessing public records and waivers; and
- Remedies for denial of access and potential penalties.

The memorandum consists of two major sections. The first section presents a comparative analysis of the elements across the states. The second section offers a detailed, state-by-state examination of each component.

Appendix A summarizes the information in a table.

I. INTERSTATE COMPARISON AND ANALYSIS

Definition of Public Records

Wyoming defines public records as information in physical form created, accepted, or obtained by a governmental entity. Public records must also relate to official functions or the transaction of public business unless it is privileged or confidential by law. Wyoming's definition differs from most other states' in specifying that public records only include information in physical form.[1] In

[1] The term is "physical form" is defined broadly in Wyoming statutes to include but not limited to "written, aural, visual, electronic or other physical form."

contrast, Montana, Nebraska, South Dakota, and Utah define records as public regardless of format.

Another difference in Wyoming's definition is the requirement for public records to relate to official functions or public business. Definitions in Colorado and Idaho are similar, as they also include language that covers all documents related to the legal functions or public business of public entities. Notably, Colorado goes a step further by including documents related to the use of public funds. The other states surveyed define public records more broadly, encompassing any document belonging to, used by, or maintained by a public entity.

Similar to Wyoming, most of the other states surveyed exempt documents deemed confidential by law. However, Idaho's definition is distinctive in explicitly excluding personal notes made by public officials, provided they are not shared with others.

Who May Access Public Records

Wyoming law allows any person to inspect public records during government business hours except as otherwise provided by law. Other surveyed states have comparable laws with similar language and limited variation. In addition to statutes, Montana has enshrined access to public records in its constitution, stating: "No person shall be deprived of the right to examine documents or to observe the deliberations of all public bodies or agencies of state government and its subdivisions, except in cases in which the demand of individual privacy clearly exceeds the merits of public disclosure." The word "person" in statutes generally includes natural persons as well as corporations, partnerships, limited liability companies, and other types of businesses or associations.[2]

Records Exempt from Disclosure

States exempt certain kinds of government records from disclosure. The records exempt from disclosure are generally records that would be harmful to individuals or would otherwise harm the public interest if disclosed. For example, individual medical records and trade secrets are specifically exempt from disclosure in each examined state's statutes except Montana.[3] Wyoming and Colorado statutes list which records may be withheld from disclosure if disclosure would be contrary to public interest and which records must be withheld from disclosure. Nebraska, Utah, and South Dakota, however, only list records which are specifically withheld from disclosure. Wyoming and Montana statutes include catch-all provisions that permit withholding of information in certain circumstances without listing the applicable documents.

[2] In eight states not surveyed in this memorandum, access to public records is limited to state residents.

[3] Mont. Const. art. II § 9 (The Montana Constitution states "No person shall be deprived of the right to examine documents…except in cases in which the demand of individual privacy clearly exceeds the merits of public disclosure.").

Response Timeframe

Except for South Dakota, all surveyed states set specific timeframes to respond to public access requests. Wyoming and Colorado require the immediate release of readily available records but differ on the release of other records. While Wyoming requires the release of documents in 30 days, Colorado requires a response, and not necessarily a release, within three days, which may be extended by seven days under certain circumstances. Other states are similar to Colorado in setting a specific timeframe extension for extenuating circumstances. The range of days goes from three days in Idaho to 10 days in Utah. Utah differs from other states in providing for a shortening of the response timeframe to five days if the request would benefit the public.

Fees for Accessing Public Records and Waivers

All surveyed states authorize public entities to charge fees for responding to public records requests. While no state charges solely for inspecting records, states—including Wyoming—impose fees for copying, duplicating, or reformatting public records. These fees generally reflect the actual cost of reproduction and may also include staff time spent locating and retrieving records. Additionally, fees may cover the use of specialized equipment not readily available to the public entity to respond to a request. Some states, including Wyoming, do not specify fee amounts for copies or staff time, while others establish fixed rates in their public records laws. For example, Colorado law stipulates that the cost of copying a page may not exceed 25 cents, and the hourly rate for staff time is set at $30, with adjustments for inflation every five years. Other states, such as Idaho and Utah, provide that the hourly rate for staff time may not exceed the rate of the lowest qualified employee. Additionally, some states—including Idaho, Colorado, Nebraska, and Utah—offer a certain number of copies or staff time hours free of charge before fees apply. Some states, including South Dakota, require prepayment if the project cost of responding to the request exceeds a certain amount.

Some states, including Colorado, Idaho, South Dakota, and Utah, provide fee waivers if the requester can demonstrate that releasing the records is of public interest, is not for personal gain, or the requester experiences financial hardship.

Remedies for Denial of Access and Potential Penalties

All surveyed states provide remedies for individuals denied access to public records. In Wyoming, a requester may appeal a denial by filing a civil lawsuit in district court or submitting a complaint to the public records ombudsman for mediation. In Nebraska and South Dakota, a person may also appeal in court or to an alternative authority—the Attorney General in Nebraska or the Office of Hearing Examiners in South Dakota. In Montana and Idaho, the only available recourse is to file a lawsuit. Colorado and Utah differ by requiring that a requester first attempt to resolve the issue with the custodian of the public record before initiating a lawsuit.

Penalties for wrongfully withholding public records vary across the states surveyed. In Wyoming, the penalty is $750. Idaho imposes a higher penalty of $1,000. In South Dakota, the responsible agency may be fined up to $50 per day for delayed release. Utah and Nebraska treat wrongful withholding as a misdemeanor, punishable by fines, imprisonment, or both. In addition to these penalties, some states permit the prevailing party to recover attorney fees. Colorado and Montana, while not specifying criminal or financial penalties, do allow the recovery of attorney fees by the prevailing party.

2. STATE ANALYSIS

WYOMING

Definition: Wyoming statutes define public records as any information in a physical form created, accepted, or obtained by a governmental entity in furtherance of its official function and transaction of public business which is not privileged or confidential by law.[4]

Who may access public records: Any person may inspect all public records at reasonable times during business hours of a governmental entity, except as provided in law.[5]

Records Exempt from Disclosure: Wyoming statutes provide that a custodian of public records may not grant access to public records if the inspection would violate state statute, federal law, or any rules promulgated by the state's supreme court or any court. Wyoming statutes list which records may be withheld from disclosure if disclosure would be contrary to public interest and which records must be withheld from disclosure.

A custodian of public records ***may*** withhold disclosure of the following documents if disclosure would be contrary to the public interest:

- Records of investigations;
- Tests questions and other examination data for licensing;
- Agency memoranda or letters;
- Contents of real estate appraisals;
- Information jeopardizing the security of government structures, facilitating a terrorist attack, or endangering a person's life;
- Applications for president of a college or university; or
- Sensitive wildlife location data.[6]

A custodian of public records ***must*** deny inspections of data on:

- Individual persons;
- Adoption records;
- Personnel files except as reviewed by duly elected and appointed officials;
- Letters of reference;
- Trade secrets;
- Private archives;
- Hospital records;
- Library patron transactions;
- 911 emergency telephone system information;
- Internal personnel rules;
- State security systems;
- Individual diagnoses of disease;
- Income tax return information held by a government entity;
- Workers' compensation claims information;

[4] W.S. §16-4-201(a)(v).
[5] W.S. §16-4-202(a).
[6] W.S. §16-4-203(b).

- Consensus Revenue Estimating Group (CREG) records;
- Certain peace officer information;
- Any records of the Investment Funds Committee; or
- Geographic wildlife information.[7]

Wyoming statutes also give custodians discretion to apply to the district court for an order to withhold public records if disclosure of the record's contents would "do substantial injury to the public interest."[8]

Response Timeframe: Wyoming law requires agencies to release readily available records immediately unless the release impairs the agency's operations.[9] If the agency does not have the records, the agency must notify the requester within seven business days and provide contact information for the correct custodian, if known.[10] If the records are in use or storage, the agency must forward the request to the appropriate person within seven business days.[11] All records must be released within 30 calendar days unless there is good cause for delay.[12] If good cause exists, the agency must release the records on a mutually agreed date.[13] If both parties fail to agree, the requester may file a complaint with the ombudsman or the district court to assess whether the custodian has shown good cause.[14] In making this determination, the ombudsman or court may consider whether the records are legally privileged or confidential or if their release would hinder the government's ability to fulfill other responsibilities.[15]

Fee Policy: Wyoming statutes allow requesters to obtain copies of public records for a reasonable fee. If statutes prescribe specific fees for certain records, the custodian must apply the statutory fees. The statutes explicitly prohibit charging fees for simply inspecting records. All state agencies may adopt rules and regulations establishing fees for public records requests.[16]

If the custodian does not have the facilities to make copies, requesters must be allowed to make copies under the custodian's supervision, preferably where the records are. The custodian may establish reasonable schedules and fees for supervising the copying process. If additional facilities are needed, the requester must cover the associated costs.[17]

Process and Penalty for Denial of Access: Any person denied access to public records, either due to a governmental entity's failure to release records by a mutually agreed date or to comply with an ombudsman's order, may seek remedy by applying to the district court for an order requiring the records custodian to justify the denial and, if appropriate, compelling release of the

[7] W.S. §16-4-203(d).
[8] W.S. §16-4-203(g).
[9] W.S. §16-4-202(c)(ii).
[10] W.S. §16-4-202(b).
[11] W.S. §16-4-202(c)(i).
[12] W.S. §16-4-202(c)(iii).
[13] W.S. §16-4-202(c)(iv).
[14] W.S. §16-4-202(c)(v).
[15] *Id.*
[16] W.S. §16-4-204(a).
[17] W.S. §16-4-204(b).

records. Alternatively, the person may file a complaint with the ombudsman, who may mediate the dispute, establish deadlines for release, and waive any fees imposed by the governmental entity.[18]

Wyoming statutes provide that anyone who knowingly or intentionally withholds public records without just cause may be liable for up to $750, which can be recovered in court, along with any damages assessed by the court.[19]

[18] W.S. §16-4-203(f).
[19] W.S. §16-4-205.

COLORADO:

Definition: Colorado statutes define public records as all documents created, maintained, or held by the state, its agencies, institutions, nonprofit organizations, or local government entities, related to legal functions or use of public funds.[20]

Who may access public records: Colorado law allows any person to inspect all public records by any person at reasonable times. The official custodian of records can set reasonable rules to protect the records and prevent disruption to their duties.[21]

Exemptions: Colorado statutes provide that a custodian of public records may not grant access to public records if the inspection would **(1)** violate state statute, federal law, or any rules promulgated by the state's supreme court or any court, or **(2)** be contrary to the requirements of any joint rule of the legislature about lobbying practices.[22] Colorado statutes list which records may be withheld from disclosure if disclosure would be contrary to public interest and which records must be withheld from disclosure.

Examples of public records a custodian **may** deny disclosing on the grounds that disclosure would be contrary to the public interest include:

- Records of investigations;
- Examination data;
- Details of research projects being conducted by the state;
- Real estate appraisals;
- Market analyses, records, and systems used by the Department of Transportation to evaluate bids and award contracts;
- Email addresses, telephone numbers, and home addresses provided by a person to an elected official or an agency, institution, or political subdivision of the state;
- Identifying information in motor vehicle license records;
- Specialized details of security arrangements or investigations or the physical and cyber assets of critical infrastructure; or
- Data or information on the specific location of certain plant species, an individual animal or group of animals, or an animal's breeding or nesting habitat.[23]

Examples of public records a custodian **must** deny disclosing include:
Medical, mental health, sociological, scholastic achievement data, and electronic health records;

[20] Colo. Rev. Stat. §24-72-202(6)(a)(I).
[21] Colo. Rev. Stat. §24-72-203(1)(a).
[22] Colo. Rev. Stat. §24-72-204(1).
[23] Colo. Rev. Stat. §24-72-204(2)(a).

- Marriage and civil union license applications;
- Letters of reference;
- Trade secrets, privileged information, and confidential commercial, financial, geological, or geophysical data furnished by or obtained from any person;
- Addresses and phone numbers of public school children, except to recruiting officers as decided locally; or
- Sexual harassment complaints and investigations.[24]

Response Timeframe: Colorado statutes require the immediate release of readily available records.[25] For records that are not readily available, public agencies must respond to public records requests within a reasonable time.[26] Colorado statutes consider reasonable time as three days or less.[27] In cases involving extenuating circumstances, the response period may be extended by up to seven additional days. The custodian of public records must notify the requester in writing of any such circumstances within the initial three-day period.[28]

Fee Policy and Waiver: Under Colorado law, anyone with the right to inspect public records may also request copies in the form of printouts, photographs, or digital files.[29] Custodians of public records must provide these copies and may charge a fee—typically up to 25 cents per standard page or the actual cost for non-standard formats.[30] If statutes set specific fees for certain records, the custodian must apply statutory rates.[31] Requesters may receive the records by mail, delivery service, fax, or email. The requester is responsible for transmission costs, except when the records are sent via email, which must be free. Custodians must receive payment or arrange for payment before sending the records.[32]

If the custodian cannot make copies, the requester may make copies under the custodian's supervision.[33] The requester bears the costs when special equipment or off-site facilities are required.[34] When a record must be generated through data manipulation or formatting, a separate fee may apply, not to exceed the actual cost of creating the record.[35] Additionally, custodians may

[24] Colo. Rev. Stat. §24-72-204(3)(a).
[25] Colo. Rev. Stat. §24-72-203(1).
[26] Colo. Rev. Stat. §24-72-203(3)(b).
[27] *Id.*
[28] *Id.*
[29] Colo. Rev. Stat. §24-72-205(1)(a).
[30] *Id*. & Colo. Rev. Stat. §24-72-205(5)(a).
[31] Colo. Rev. Stat. §24-72-205(1)(a).
[32] Colo. Rev. Stat. §24-72-205(1)(b).
[33] Colo. Rev. Stat. §24-72-205(2).
[34] *Id.*
[35] Colo. Rev. Stat. §24-72-205(3).

charge a research and retrieval fee after the first hour of work.[36] The fee started at $30 per hour and has been adjusted for inflation every five years.[37]

Custodians may waive or reduce fees for public interest purposes, including journalism or research.[38]

Process and Penalty for Denial of Access: A person denied access to a public record may ask the district court to review the denial. Before asking the district court, the person must provide the records custodian with a written notice at least 14 days in advance. During that time, the custodian must meet with the person to resolve the issue without going to court. If the case goes to court and the court finds the denial unjustified, the requester will be awarded attorney fees.[39]

[36] Colo. Rev. Stat. §24-72-205(6)(a).
[37] Colo. Rev. Stat. §24-72-205(6)(b).
[38] Colo. Rev. Stat. §24-72-205(6)(a).
[39] Colo. Rev. Stat. §24-72-204(5).

IDAHO

Definition: The Idaho Code defines public records as any document containing information about the public's business and is prepared, owned, used, or retained by any state, local, or independent government agency, regardless of format. Public officials' personal notes, however, do not qualify as public records if the notes are not shared with others.[40]

Who May Access Public Records: Every person has the right to examine and obtain copies of any public record held by the state. The Idaho Code presumes all public records to be open for inspection at all reasonable times.[41]

Exemptions: All government records are open to public inspection unless specifically exempted by Idaho statutes. The Idaho Public Records Act lists the types of records exempt from public disclosure, including:

- Records exempt due to federal or state laws/regulations;
- Certain court records and judicial working documents, except when needed for federal firearm background checks;
- Records related to vulnerable populations;
- Hospital and medical care records;
- Workers' compensation records;
- Health department disease records;
- Juvenile records;
- Records concerning:
    - Archaeological records and endangered species locations; or
    - Trade secrets, including academic research.[42]

Response Timeframe: A public agency must respond to a records request within three working days by either granting or denying the request.[43] If an agency needs more time to find the records, the agency must notify the requester in writing and extend the response time by seven days. If an agency must convert the requested records into another electronic format and the conversion cannot be achieved within 10 days, the agency must notify the requester in writing. In such cases, the agency and requester must agree on a reasonable timeline for delivery.

If a public agency fails to respond to a records request within 10 working days, the request is considered denied.[44] If an agency fully or partially denies a public records request, the agency must

[40] Idaho Code §74-101(13).
[41] Idaho Code §74-102.
[42] Idaho Code §§74-104 through 74-112.
[44] Idaho Code §74-103(3).

issue a written notice.[45] The agency must state the legal grounds for the denial, whether legal counsel was consulted, and clearly outline the requester's right to appeal along with the applicable timeline.

Fee Policy and Waivers: Under Idaho law, public agencies cannot charge for the first two hours of labor or the first 100 pages of paper records when responding to a public records request.[46] If a request exceeds time or page limits, agencies may charge fees based on actual labor and copying costs.[47]

For electronic records, agencies may charge a fee to cover the direct cost of copying, publication charges, and any necessary conversion costs. Labor fees must be reasonable and based on the hourly rate of the lowest-paid qualified staff. If redactions require an attorney, the fee must reflect the pay rate of the lowest-paid qualified in-house or contracted attorney.[48]

The Idaho Code allows fee waivers when the requester demonstrates that the request serves the public interest, is not made for personal or legal gain, and would not occur if fees were imposed.[49]

Process and Penalty for Denial of Access: If a public agency denies a records request, the requester may file a complaint and initiate a lawsuit in the district court where the records are located within 180 days of receiving the denial. The court must schedule a hearing within 28 days of the filing date. The public agency must preserve the requested records until the appeal period ends or the court issues a decision.[50]

If a government official improperly withholds public records, the court will order the official to either disclose the records or justify the refusal. If the court finds the refusal unjustified, the court will order the official to release the records. If the court finds the refusal justified, it will return the records and uphold the denial. The court may award costs and attorney fees to the prevailing party if the court deems the case frivolous.[51]

Idaho law provides that a public official who deliberately and in bad faith denies a valid request may receive a fine of up to $1,000. The winning party may also recover costs and reasonable attorney fees.[52]

[45] Idaho Code §74-103(4).
[46] Idaho Code §74-102(10)(a).
[47] Idaho Code §74-102(10)(b).
[48] Idaho Code §74-102(10)(e).
[49] Idaho Code §74-102(10)(f).
[50] Idaho Code §74-115.
[51] Idaho Code §74-116.
[52] Idaho Code §74-117.

MONTANA

Definition: Subject to specific legal exemptions, all materials, regardless of format, created, used, or retained by a public agency during the conduct of official business constitute public information and are accessible to the public.[53]

Who May Access Public Records: Unique among the surveyed states, the Montana Constitution enshrines the right to consult public documents stating: "No person shall be deprived of the right to examine documents or to observe the deliberations of all public bodies or agencies of state government and its subdivisions, except in cases in which the demand of individual privacy clearly exceeds the merits of public disclosure."[54] In addition to the Montana Constitution, state law allows every person to examine and obtain a copy of any public information.[55]

Exemptions: Montana law permits restriction of access to records when disclosure poses a demonstrable threat to public facilities, particularly within sensitive environments like schools, prisons, or correctional facilities.[56] Montana law specifies that restrictions must be narrowly tailored, withholding only the minimum necessary information.[57] In addition, public agencies cannot deny information requests solely based on potential or pending litigation unless a specific statutory exemption applies.[58]

The Montana Code also provides that the Montana Historical Society may honor restrictions private donors impose on records. Such restrictions apply for a maximum of 50 years, after which the records must be released to the public.[59]

Response Timeframe: The Montana Code requires an agency to acknowledge receipt within five business days of receiving a public information request. Following acknowledgment, the agency is required to make the records available in a timely manner. If the request is for a single, specific, clearly identifiable, and readily available record—excluding requests related to a person or property—the agency must provide the record within five working days of acknowledgment. For more complex requests, the agency must provide an estimated timeframe for fulfillment, any applicable fees, and deliver the records within 90 days of acknowledgment, or within six months if a 90-day response is not feasible and a written explanation is provided.[60]

[53] Mont. Code Ann. 2-6-1002(11).
[54] Mont. Const. art. II § 9.
[55] Mont. Code Ann. 2-6-1003(1).
[56] Mont. Code Ann. 2-6-1003(2).
[57] *Id*.
[58] Mont. Code Ann. 2-6-1003(4).
[59] Mont. Code Ann. 2-6-1003(3).
[60] Mont. Code Ann. 2-6-1006.

Fee Policy and Waivers: The Montana Code allows public agencies to charge fees for fulfilling requests. The fee must not exceed the actual costs directly associated with fulfilling the request in the most cost-efficient and timely manner. All fees must be documented and may include charges for the time spent gathering the requested information. Additionally, the agency may require payment of the estimated fee before beginning to identify and collect the public records.[61] A 1996 executive order from the Office of the Governor set the statewide copying charge per page at 10 cents.

Montana statutes appear to be silent on waiving access fees.

Process and Penalty for Denial of Access: If a public agency denies a request for records, it must provide a written explanation for the denial.[62] If the requester believes the denial is unlawful, the requester can sue the agency in district court. Additionally, if an executive branch agency fails to respond to a records request within the required timeframe, the requester may also take legal action in district court. If the requester wins the lawsuit, the court may order the agency to pay the requester's legal costs, including attorney fees.

[61] Mont. Code Ann. 2-6-1006(1).
[62] Mont. Code Ann. 2-6-1009.

NEBRASKA

Definition: Nebraska law defines public records as all documents and records, in any format, belonging to the state, counties, cities, towns, or other local government entities, including their agencies and departments, unless a specific law or rule prohibits the disclosure of certain information.[63]

Who May Access Public Records: Unless specified by law, all citizens and interested persons can examine, make notes, and copy public records for free using their equipment during regular business hours. Nebraska law specifies that federal copyright law may limit the copying of public records.[64]

Exemptions: Nebraska statutes state that government records are public unless specifically exempted.[65] The public records that may be withheld from the public include:

- Student information;
- Medical records;
- Trade secrets;
- Attorney work products;
- Law enforcement records;
- Personal information of victims of sexual assault or sex trafficking;
- Real estate appraisals;
- Personnel information of public employees;
- Security records;
- Details about critical energy and electric infrastructure;
- Lottery division records;
- Public utility customer data;
- Legislative correspondence;
- Archeological and historical site information;
- Donor information;
- Library, archive, and museum materials;
- Employment applications;
- Retirement records;
- Financial information;
- Utility exchange records;
- Prescription drug information;
- Firearm records;
- Racing and gaming commission records;
- Cybersecurity records;
- Vital event records;
- Historical records; and
- Vital event certificate numbers.[66]

Response Timeframe: When a custodian of public records receives a written request for public records, the custodian must respond within four business days by either **(1)** providing an estimate of the cost and access to the records, **(2)** denying the request in writing with legal basis, or **(3)** explaining delays and offering a new timeline. The requester has ten business days to review the

[63] Neb. Rev. Stat §84-712.01(1).
[64] Neb. Rev. Stat §84-712(1).
[65] Neb. Rev. Stat. §84-712.01(1).
[66] Neb. Rev. Stat §84-712.05.

costs, modify the request, or withdraw it. If no response is received within ten days, the request is not processed.[67]

Fee Policy: Public bodies may charge a fee for providing copies of public records. The fee must not exceed the actual cost of making the copies, including the costs for materials, equipment, time for photocopies, computerized data printouts, and electronic data, including any necessary analysis or programming.[68] The Nebraska Supreme Court decided that public agencies can charge an extra fee for the time non-attorney staff spend reviewing public records beyond four hours.[69]

Process and Potential Penalty for Denial of Access: Public records statutes provide remedies for individuals denied access to public records. A requester may file a writ of mandamus in district court, where they must demonstrate their citizenship or interest, that the document is a public record, and that access was denied. If the public body opposes the writ, it must prove the record is exempt.[70]

Alternatively, requesters can petition the Attorney General to review non-compliance with public records laws. The Attorney General must decide within 15 calendar days. If the public body continues to withhold the records, the requester may file a lawsuit or ask the Attorney General to do so.[71] The court can order disclosure and other equitable relief, and the prevailing party may be awarded attorney fees.[72]

The statutes also specify penalties for officials who violate public records laws, including removal or impeachment from office, as well as misdemeanor charges that carry penalties of up to three months in prison, a $500 fine, or both.[73]

[67] Neb. Rev. Stat §84-712(4).
[68] Neb. Rev. Stat §84-712(4).
[69] Outline of Nebraska Public Record Statutes, Nebraska Attorney General, **https://ago.nebraska.gov/public-records** (last accessed April 14, 2025).
[70] Neb. Rev. Stat §84-712.03(1)(a).
[71] Neb. Rev. Stat §84-712.03(1)(b).
[72] Neb. Rev. Stat §84-712.07.
[73] Neb. Rev. Stat §84-712.09 & Outline of Nebraska Public Record Statutes, Nebraska Attorney General, **https://ago.nebraska.gov/public-records** (last accessed April 14, 2025).

SOUTH DAKOTA

Definition: South Dakota defines public records as all records and documents, in any format, created or held by state, county, municipal, or tax-supported government entities unless specifically exempted by law or rule.[74]

Who May Access Public Records: Unless specified by law, all citizens and interested persons can examine, make notes, and copy public records for free using their equipment during regular business hours. South Dakota law specifies that federal copyright law may limit the copying of public records.[75]

Exemptions: South Dakota law states public records may be inspected unless specifically exempted by statute, ordinance, or rule.[76] South Dakota statutes list the following records as not open to inspection and copying:

- Student records;
- Medical records;
- Trade secrets and details of state-funded research projects;
- Attorney work product;
- Law enforcement records;
- Appraisal records;
- Personnel records;
- Public property protection information;
- Gaming Commission security;
- Private citizen information;
- Library records;
- Public official communications;
- Archeological and historical site records;
- Donor information;
- Employment applications;
- Personally identifiable numbers;
- Emergency and disaster plans;
- Examination data;
- Personal records of officials;
- Court-ordered records;
- Camping or lodging information;
- Unreasonable release of personal information;
- Records that could endanger a person's life or safety;
- Internal agency records;
- Records of children in correctional facilities;
- Inmate disciplinary records;
- Records confidential per law or needed for federal programs;
- Investment-related litigation; or
- Medical services litigation.[77]

Response Timeframe: South Dakota law does not specify a required response time.

[74] S.D. Codified Laws § 1-27-1.1.
[75] S.D. Codified Laws § 1-27-1.
[76] S.D. Codified Laws § 1-27-1.1.
[77] S.D. Codified Laws §1-27-1.5; S.D. Codified Laws §1-27-1.9; and S.D. Codified Laws §1-27-10.

Fee Policy: Public record custodians may charge a reasonable fee for specialized services such as providing copies of records to cover costs such as equipment and software. However, public entities are not required to purchase new equipment or software to generate records in different formats. If a request exceeds one hour of staff time, an extra charge for the additional staff time to locate, assemble, or reproduce the records may apply.[78]

For requests with projected costs over $50, the custodian must provide an estimate to the requester, who must confirm acceptance and agree to pay. The custodian may also waive or reduce fees if it serves the public interest.[79]

Process and Penalty for Denial of Access: If a public record officer denies a request or a requester disagrees with the fee estimate or response time, the requester may take legal action within 90 days.[80] The requester may file a civil lawsuit or submit a notice of review to the Office of Hearing Examiners.[81] Upon receiving the notice of review, the Office will notify the public record officer, who has 10 business days to respond. After reviewing the submission, the Office of Hearing Examiners will issue findings and a decision and may hold a hearing if needed.

If the Office's decision orders the release of records or reduced fees, the public entity must comply within 30 days or file an appeal.[82]

If a requester files a lawsuit or appeals the Office of Hearing Examiners' decision to court, and the court finds the public entity unreasonably delayed the release of records, it may impose a penalty of up to $50 for each day of delay. In addition, the court may award cost disbursements. Any civil penalties collected will be deposited into the state general fund.[83]

[78] S.D. Codified Laws §1-27-35.
[79] S.D. Codified Laws §1-27-36.
[80] S.D. Codified Laws §1-27-38.
[81] *Id.*
[82] S.D. Codified Laws §1-27-40.1.
[83] S.D. Codified Laws §1-27-40.2.

UTAH

Definition: Utah law defines a public record as any book, letter, document, paper, map, plan, photograph, film, card, tape, recording, electronic data, or other material, regardless of its physical form, that is prepared, owned, received, or retained by a governmental entity or political subdivision, and where the information in the original can be reproduced by photocopy or other mechanical or electronic means.[84]

Who May Access Public Records: Under Utah law, any person has the right to inspect a public record free of charge and to make a copy of a public record during normal working hours.[85]

Exemptions: Utah exempts from public access any records restricted by court rule, state statute, federal statute, or federal regulation, including those governed by conditions for participation in state or federal programs or receipt of state or federal funds. Additionally, Utah statutes indicate records which are "private," "controlled," or "protected" as defined by Utah statutes are not considered public and are exempt from public access.[86]

The list of protected records includes:

- Trade secrets;
- Commercial or non-individual financial information;
- License examination information;
- Records related to transactions involving real or personal property;
- Identifying information used by the State Tax Commission;
- Locations of protected historic, prehistoric, paleontological, or biological resources;
- Records subject to attorney-client privilege;
- Collective bargaining information;
- Records where disclosure could threaten life, government property, correctional facilities, or reveal Board of Pardons recommendations;
- Health records of individuals; and
- Protected records that if released may result in security problems or financial speculation, unfair competition, and financial stability.[87]

The list of private records includes:

- Records concerning an individual's unemployment insurance eligibility;
- Records on an individual's medical history; and

[84] Utah Code Ann. § 63G-2-103(23) & (25)(a).
[85] Utah Code Ann. § 63G-2-201(1).
[86] *Id.*
[87] Utah Code Ann. § 63G-2-305.

- Records from a public library which could identify a patron;
- Personal identifying information from a voter's voter registration card;
- Records of drug/alcohol testing of a state employee.[88]

A record is considered controlled if:

- The record contains an individual's medical, psychiatric, or psychological data;
- The governmental entity controlling the records believes information release would be detrimental to an individual's mental health or safety or would violate normal professional practice and medical ethics; and
- The governmental entity has properly classified the record.[89]

Fee Policy: Utah law allows government entities to charge reasonable fees to recover actual costs of providing public records, with approval from the entity's executive officer.[90] When requests require compiling records in non-standard formats, fees may include staff time for compilation, formatting, retrieval, and customization. For electronic records beyond basic word processing, fees may also cover incremental costs of electronic services and expenses for formatting or interfacing information to meet specific requirements.[91]

The hourly rate cannot exceed the salary of the lowest-paid qualified employee, and the first 15 minutes of staff time must be free.[92] Entities may require prepayment for fees expected to exceed $50 or if the requester has unpaid fees from previous requests.[93] Agencies are encouraged to waive fees when record release benefits the public, when the requester is the subject of the record, or when the requester demonstrates financial hardship.[94]

Response Timeframe: Utah law stipulates that public entities respond to public records requests within 10 business days, or five business days if the request is deemed to benefit the public. Responses must either approve and provide records, formally deny the request, redirect the requester if records are maintained elsewhere, or notify the requester of extraordinary circumstances delaying response—including both an explanation of those circumstances and a specific availability date for the requested records.[95]

Process and Penalty for Denial of Access: A person denied access to public records or a fee waiver may appeal to the governmental entity's chief administrative officer within 30 days.[96] The chief administrative officer must respond within 10 days of receiving the appeal notice.[97] If the

[88] Utah Code Ann. § 63G-2-302.
[89] Utah Code Ann. § 63G-2-304.
[90] Utah Code Ann. § 63G-2-203(1).
[91] Utah Code Ann. § 63G-2-203(2).
[92] Utah Code Ann. § 63G-2-203(2)(b) & (c).
[93] Utah Code Ann. § 63G-2-203(8)(a).
[94] Utah Code Ann. § 63G-2-203(4).
[95] Utah Code Ann. § 63G-2-203(4).
[96] Utah Code Ann. § 63G-2-401(1)(a).
[97] Utah Code Ann. § 63G-2-401(5).

requester demonstrates that an expedited decision benefits the public, statutes limit the response timeframe to five days.[98] Failure to respond within the specified time is considered a denial of the appeal. If the appeal is denied, the requester may seek mediation from the government records ombudsman or appeal to the State Records Committee, district court, or a local appeals board.[99] On appeal, a court may order the confidential treatment of records which are not exempt from disclosure if there are compelling reasons to restrict the records or if the benefits of records restriction are clearly greater than the benefits of records disclosure.[100]

Any person who knowingly or intentionally withholds public records without just cause may be guilty of a misdemeanor, which includes potential penalties of up to six months in jail and fines of up to $1,000.[101]

If you have any further questions, please do not hesitate to contact LSO Research and Evaluation at 777-7881.

[98] *Id.*
[99] Utah Code Ann. § 63G-2-402.
[100] Utah Code Ann. § 63G-2-405.
[101] Utah Code Ann. § 63G-2-801(3)(a).

Appendix A

	Exemptions to Public Records	Response Timeframe	Information on Fees	Remedies for Denial of Access	Penalties for Withholding
Wyoming	Certain records may be exempted from disclosure and certain records must be exempted from disclosure.	**Readily available documents:** immediate release. **If not readily available:** must contact custodian within seven business days. **All records:** released within 30 calendar days, absent good cause.	Copies and staff time.	May appeal to district court or file complaint to the ombudsman.	$750, along with any damages assessed by the court.
Colorado	All government records are open to public inspection unless specifically exempted by statutes.	**Readily available documents:** immediate release. **If not readily available:** three business days, extendable by seven business days.	Actual costs, copies (max: $.25/page), and staff time ($30/hour adjusted for inflation). Cost waivers are available for public interest purposes.	Must first attempt to resolve with custodian, then may appeal to district court.	Prevailing side may recover attorney fees.
Idaho	All government records are open to public inspection unless specifically exempted by statutes.	Public agency must respond to requests within three business days, extendable by seven business days.	Actual costs, copies (first 100 pages free), and staff time (first two hours free). Cost waivers are available for public interest purposes.	May initiate lawsuit in district court within 180 days of denial.	$1000, plus attorney fees.
Montana	Under the Montana Constitution, "No person shall be deprived of the right to examine documents…except in cases in which the demand of individual privacy clearly exceeds the merits of public disclosure." Under Montana statutes, records may be withheld from disclosure if disclosure would pose a threat to public facilities.	Must acknowledge request within five business days and provide most documents within five business days of acknowledgement. More complex requests may be fulfilled within 90 business days.	Actual costs, copies (Max $.10/page) and staff time.	May appeal to district court.	Prevailing side may recover legal fees.

	Exemptions to Public Records	Response Timeframe	Information on Fees	Remedies for Denial of Access	Penalties for Withholding
Nebraska	All government records are open to public inspection unless specifically exempted by statutes.	Must respond within four business days, then modify or fulfill the request within ten business days.	Actual costs, copies, and staff time.	May file writ of mandamus in district court or petition the state Attorney General. May file a lawsuit if agency continues to withhold.	Removal or impeachment of official, potential misdemeanor charge ($500 and/or max three months imprisonment).
South Dakota	Records which are defined by statute as "protected," controlled," or "private" are not considered public records and are exempt from public access.	Not specified.	Specialized services.	May file lawsuit or submit notice of review to the Office of Hearing Examiners within 90 days of denial.	$50 per day of delay, plus cost disbursements/civil penalties.
Utah	Certain records may be exempted from disclosure and certain records must be exempted from disclosure. Custodians may apply to the district court for an order to withhold public records if disclosure would "do substantial injury to the public interest."	Must respond within ten business days for most requests. Must respond within five days for requests with a public interest.	Actual costs, copies, and staff time. Cost waivers are available for public interest purposes. Agencies are encouraged to waive fees in certain cases.	May appeal to agency's chief administrative officer within 30 days. If appeal is denied, may seek mediation from the ombudsman or appeal to the State Records Committee, district court, or local appeals board.	May be considered a misdemeanor ($1000 and/or six months in jail).

Appendix B

WYOMING LEGISLATIVE SERVICE OFFICE

Research Memorandum

SUPPLEMENTAL MEMO: THE TEXAS PUBLIC INFORMATION ACT

April 2025

Prepared by Clayton Caldwell, Research Analyst

INTRODUCTION

A research memorandum surveying the public records laws in Wyoming and surrounding states was prepared for the Joint Corporations, Elections & Political Subdivisions Committee. This memorandum was prepared as an additional supplement and describes the Texas Public Information Act. The memorandum summarizes the following elements of Texas public records law:

- Definition of public records;
- Who may access public records
- Records exempt from disclosure
- Response timeframe;
- Fees for accessing public records and waivers; and
- Remedies for denial of access and potential penalties.

DEFINITION

"Public information" is defined by the Texas Public Information Act as information written, produced, collected, assembled, or maintained by a governmental body, for a governmental body that owns or has the right of access to the information, or written by an individual officer of a governmental body working in an official capacity.[1] Under Texas statutes, information is public if produced under a law or ordinance or in connection with the transaction of official business.[2] Any electronic communications on any device pertaining to official governmental business are considered public information.[3]

[1] Tex. Gov't. Code Ann. § 552.002(a).
[2] *Id.*
[3] Tex. Gov't. Code Ann. § 552.002(a-2).

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Under the Texas Public Information Act, the following are not considered governmental bodies:

- The judiciary;[4]
- Economic development entities receiving less than $1 million per year from a state agency or political subdivision;
- Economic development entities that do not have the authority to make decisions or recommendations on behalf of a state agency or political subdivision regarding tax abatements; and
- Economic development entities that do not meet certain staffing, spending, and financial reporting requirements.[5]

WHO MAY ACCESS PUBLIC RECORDS

Texas law states that "each person is entitled, unless otherwise expressly provided by law, at all times to complete information about the affairs of government."[6] In addition, members, agencies, or committees of the Texas Legislature may request public information, including confidential information, for legislative purposes.[7] Texas statutes indicate a governmental body is not required to accept or comply with a request for information from an incarcerated individual or an incarcerated individual's agent.[8]

RECORDS EXEMPT FROM DISCLOSURE

The Texas Public Information Act states that withholding of or limiting access to public information is not authorized unless expressly provided by the Act.[9] Information which is not confidential but exempted from disclosure is considered public information after the 75th anniversary of the date the information was created.[10] Texas statutes provide a non-exhaustive list of kinds of information that are considered public unless made confidential and that cannot be ordered by a court to be withheld unless the information is considered confidential.[11] The list includes:

- A completed report, audit, evaluation, or investigation made of, for, or by a governmental body;
- The name, sex, ethnicity, salary, title, and dates of employment for each employee of a governmental body;

[4] Tex. Gov't. Code Ann. § 552.0035 (Access to information from the judiciary is governed by the rules of the Texas Supreme Court or other applicable laws and rules.).
[5] Tex. Gov't. Code Ann. § 552.003(1)(B).
[6] Tex. Gov't. Code Ann. § 552.001.
[7] Tex. Gov't. Code Ann. § 552.008 (Providing confidential information for legislative purposes does not waive or affect the confidentiality of the information.).
[8] Tex. Gov't. Code Ann. § 552.028.
[9] Tex. Gov't. Code Ann. § 552.006.
[10] Tex. Gov't. Code Ann. § 552.0215.
[11] Tex. Gov't. Code Ann. § 552.022(b).

- All working papers, research material, and information used to estimate the need or expenditure of public funds by a governmental body;
- Policy statements or interpretations adopted or issued by the agency; and
- Information also contained in a public court record.[12]

Additional information listed in statutes as public information includes employee/trustee information in the public employee pension system, certain kinds of government contracting information, and government investment information.[13]

Texas law specifically lists the kinds of information which are exempt from the Texas Public Information Act. The exemptions include:

- Confidential information;
- Personal information that would constitute a clearly unwarranted invasion of personal privacy if disclosed;
- Information related to ongoing or upcoming litigation involving the state or a political subdivision;
- Draft or working papers involved in preparing or evaluating proposed legislation;
- Certain law enforcement, corrections, and prosecutorial information;
- Private communications or correspondence of an elected office holder which would constitute an invasion of privacy if disclosed;
- Trade secrets; and
- Student records.[14]

RESPONSE TIMEFRAME

Texas statutes do not provide a minimum amount of time for information requests.[15] Officers of public information must, however, produce public information for inspection "promptly," meaning as soon as possible given the circumstances and without delay.[16] If the requested information is unavailable at the time of request due to being in active use or storage, the officer for public information must certify the fact in writing to the requestor and set the date and hour when the information will be available.[17] The officer must also certify in writing when the information will

[12] Tex. Gov't. Code Ann. § 552.022.
[13] Tex. Gov't. Code Ann. §§ 552.0221, 552.0222, and 552.0225 (Texas statutes separately list information which is not exempt and cannot be ordered by a court to be withheld unless confidential and other information which is not exempt but does not have a provision stating it cannot be ordered by a court to be withheld.).
[14] Tex. Gov't. Code Ann. §§ 552.0225 through 552.163.
[15] Will Trevino, *Texas Public Information Act Laws Made Easy,* Texas Municipal League, 8 (2021), **https://www.tml.org/DocumentCenter/View/1834/Texas-Public-Information-Act-Made-Easy---2022-PDF?bidId=**.
[16] Tex. Gov't. Code Ann. § 552.221(a).
[17] Tex. Gov't. Code Ann. § 552.221(c).

be available if the information cannot be provided within ten business days.[18] If the requestor does not examine the provided information within ten business days of being provided, the requestor is considered to have withdrawn the request.[19]

A governmental body must provide the requestor a written statement if fulfilling the public information request will require programming or data manipulation, if fulfilling the request is not feasible, or if the information could be provided in the requested form only with a cost of programming and data manipulation.[20] The statement must indicate if the information requested is not available in the requested form, the form in which the information is available, the resources required to retrieve the information, and an estimation of costs for providing the information.[21] The governmental body must provide the statement within 20 days and is not required to fulfill the request unless the requestor indicates within 30 days that the requestor wants the information in the requested form or in an alternate form in which the information is available.[22]

FEE POLICY

The Texas Attorney General establishes rules for each governmental body in determining charges for providing copies of requested public information.[23] The charges for providing a copy of public information are generally the reasonable costs related to providing the information, including costs of materials, labor, and overhead.[24] For requests for 50 or fewer pages of paper records, the charges are limited to the charge per page of photocopied records.[25] If charges include costs of labor, the requestor may require the governmental body's officer provide a statement of costs to the requestor.[26] The governmental body must provide the requestor with a written itemized statement of costs if the charges exceed $40.[27] If a less expensive alternative method of viewing the requested information is available, the itemized statement of costs must include a notice regarding the alternative method.[28] The information request is considered withdrawn if the requestor does not respond to the itemized statement within ten business days.[29] If copies are requested by mail, the

[18] Tex. Gov't. Code Ann. § 552.221(d).
[19] Tex. Gov't. Code Ann. § 552.225 (A requestor may request an additional ten business days to examine the requested information.).
[20] Tex. Gov't. Code Ann. § 552.231.
[21] *Id.*
[22] Tex. Gov't. Code Ann. § 552.231.
[23] Tex. Gov't. Code Ann. § 552.262 (A governmental body, but not a state government agency, may establish its own charges for public information requests, but the charges may not exceed the rules set by the Texas Attorney General by more than 25%.).
[24] Tex. Gov't. Code Ann. § 552.261(a).
[25] *Id* (Charges for 50 or fewer pages exclude materials, labor, and overhead. The charge limitation does not apply for records located in two or more separate buildings or in a remote storage facility.).
[26] Tex. Gov't. Code Ann. § 552.261(b).
[27] Tex. Gov't. Code Ann. § 552.2615(a).
[28] *Id.*
[29] Tex. Gov't. Code Ann. § 552.2615(b).

copies may be sent by first class mail and the requestor pays the postage and other applicable charges.[30]

An officer for public information may require a deposit or bond for anticipated costs if the estimated charges exceed $100 for a governmental body with more than 15 full-time employees or $50 for a governmental body with less than 16 full-time employees.[31] If one copy of public information is requested from a state agency by a member, agency, or committee of the Texas Legislature, the copy is provided without charge.[32] Charges for copies of public information may be reduced or waived if the governmental body determines providing copies of the information primarily benefits the general public.[33]

A governmental body may establish monthly and yearly limits for a requestor requiring large amounts of employee or personnel time.[34] A yearly limit may not be less than 36 hours and a monthly limit may not be less than 15 hours.[35] A requestor may be charged for labor time necessary to fulfill a request which exceeds the requestor's monthly or yearly limits.[36] Texas statutes include other necessary conditions for a governmental body to charge a requestor, including when information is disclosed but a copy is not requested.[37]

PROCESS AND PENALTY FOR DENIAL OF ACCESS

A governmental body that wishes to withhold information from public disclosure following a request for public information and considers the information to be exempt from disclosure must ask the Texas Attorney General to determine if the information is exempted from disclosure.[38] The governmental body must request a decision by the Texas Attorney General no later than ten business days after receiving the written request.[39] The governmental body must also provide the requestor:

- A written statement that the governmental body wishes to withhold the requested information and has asked for a decision by the Texas Attorney General; and
- A copy of the governmental body's communication to the Texas Attorney general asking for a decision.[40]

[30] Tex. Gov't. Code Ann. § 552.221(b)(2).
[31] Tex. Gov't. Code Ann. § 552.263(a).
[32] Tex. Gov't. Code Ann. § 552.264.
[33] Tex. Gov't. Code Ann. § 552.267.
[34] Tex. Gov't. Code Ann. § 552.275(a).
[35] Tex. Gov't. Code Ann. § 552.275(b).
[36] Tex. Gov't. Code Ann. § 552.275(e).
[37] Tex. Gov't. Code Ann. §§ 552.271 and 552.272.
[38] Tex. Gov't. Code Ann. § 552.301(a).
[39] Tex. Gov't. Code Ann. § 552.301(b).
[40] Tex. Gov't. Code Ann. § 552.301(d).

The Texas Attorney General must render a decision promptly and within 45 business days.[41] The governmental body must release the requested information if the Texas Attorney General determines the information is public[42] or file suit against the Texas Attorney General within 30 calendar days of receiving a decision from the Texas Attorney General.[43] Information is considered subject to public disclosure if the governmental body does not request a decision by the Texas Attorney General as required by statute.[44]

If a governmental body refuses to request the Texas Attorney General's decision or refuses to provide information determined by the Texas Attorney General to be public, a requestor or the Texas Attorney General may file suit for a writ of mandamus compelling the governmental body to disclose the information.[45] The district/county attorney must determine if a violation occurred and if an action will be brought against the governing body within 31 calendar days.[46] The court will assess litigation costs and reasonable attorney fees for a substantially prevailing plaintiff unless the court found the governmental body acted appropriately.[47]

A person who willfully destroys, mutilates, removes, or alters public information may be charged with a misdemeanor punishable by a fine of $25 to $4000 and/or jail time of three days to three months.[48] An officer of public information who, with criminal negligence, fails or refuses to disclose requested public information may be charged with a misdemeanor punishable by a fine of up to $1000 and/or jail time up to six months.[49]

If you have any further questions, please do not hesitate to contact LSO Research at 777-7881.

[41] Tex. Gov't. Code Ann. § 552.306(a) (The Texas Attorney General may extend the period for issuing a decision by ten business days.).
[42] Tex. Gov't. Code Ann. § 552.301(f).
[43] Tex. Gov't. Code Ann. § 552.324.
[44] Tex. Gov't. Code Ann. § 552.302.
[45] Tex. Gov't. Code Ann. § 552.321.
[46] Tex. Gov't. Code Ann. § 552.3215(g).
[47] Tex. Gov't. Code Ann. § 552.3221(a).
[48] Tex. Gov't. Code Ann. § 552.351.
[49] Tex. Gov't. Code Ann. § 552.353 (Reasonable belief that disclosure is not required, filing suit against the Texas Attorney General as required by statute, and reasonably following written instructions by the officer of public information are considered affirmative defenses to prosecution.).

Appendix C

WYOMING PUBLIC RECORDS ACT UNIFORM FEES FOR STATE AGENCIES

Pursuant to W.S. 16-4-204(e), the Department of Administration and Information adopted rules for Wyoming state executive branch agencies' use. The rules establish uniform procedures for state agencies to assess fees for producing public records.

State agencies may charge requestors after costs exceed $180 for production and construction of electronic public records. **Figure 1** summarizes costs for electronic public records after costs exceed $180. **Figure 2** summarizes copying costs for non-electronic public records.

Figure 1. Production & Construction Costs for Electronic Public Records.

Service *Per Single Request*	**Cost**
Up to $180.00 of production & construction costs	No cost
Clerical staff time	$15.50 per hour
IT staff time	$30.00 per hour
Professional staff time	$40.00 per hour
Programming & computer services	Actual cost

Source: Information compiled by LSO staff from Department of Administration and Information, Director's Office Rules, Ch. 2 § 4.

Figure 2. Copying Costs for Non-Electronic Public Records.

Copy	**Cost**
Standard (8.5 by 11 inch) - Black and White Copy	$0.10/page
Standard (8.5 by 11 inch) - Colored Copy	$0.60/page
Legal (8.5 by 14 inch) - Black and White Copy	$0.25/page
Legal (8.5 by 14 inch) - Colored Copy	$1.00/page
Other sheet size	Actual cost
Photograph	Actual cost
Utilization of an outside vendor for copying	Actual cost
Special instances (i.e., film)	Actual cost
Custodian's fee to supervise copying: • Clerical staff time • IT staff time • Professional staff time	 $15.50 per hour $30.00 per hour $40.00 per hour

Source: Information compiled by LSO staff from Department of Administration and Information, Director's Office Rules, Ch. 2 § 5.

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