

**SENATE BILL NO. 2209
with House Amendments
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Sixty-sixth
Legislative Assembly
of North Dakota

Introduced by

Senators Klein, Heckaman, Myrdal

Representatives Damschen, Devlin, Holman

1 A BILL for an Act to amend and reenact section 44-04-24 of the North Dakota Century Code,
2 relating to protection for records related to critical infrastructure and security planning,
3 mitigation, or threats.

4 **BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

5 **SECTION 1. AMENDMENT.** Section 44-04-24 of the North Dakota Century Code is
6 amended and reenacted as follows:

7 **44-04-24. Security system plan - Disaster and cybersecurity information - Exemption.**

8 1. A security system plan kept by a public entity is, and records regarding disaster
9 mitigation, preparation, response, vulnerability, or recovery, or for cybersecurity
10 planning, mitigation, or threat, are exempt from the provisions of section 44-04-18 and
11 section 6 of article XI of the Constitution of North Dakota.

12 2. As used in this section:

13 a. "Critical infrastructure" means public buildings, systems, including
14 telecommunications centers and computers, power generation plants, dams,
15 bridges, and similar key resources, and systems related to utility services, fuel
16 supply, energy, hazardous liquid, natural gas, or coal, whether physical or virtual,
17 so vital to the state that the incapacity or destruction of these systems would
18 have a debilitating impact on security, state economic security, state public health
19 or safety, or any combination of those matters.

20 b. "Security system plan" includes ~~all records;~~

21 (1) Records, information, photographs, audio and visual presentations,
22 schematic diagrams, surveys, recommendations, communications, or
23 consultations ~~or portions of any such plan~~ relating directly to the physical or
24 electronic security of a public facility, or any critical infrastructure, whether

- 1 owned by or leased to the state or any of its political subdivisions, or any
2 privately owned or leased critical infrastructure if the plan or a portion of the
3 plan is in the possession of a public entity; ~~threat~~
- 4 (2) Information relating to cybersecurity defenses, or threats, attacks, attempted
5 attacks, and vulnerabilities of cyber system operations relating directly to the
6 physical or electronic security of a public facility, or any critical infrastructure,
7 whether owned by or leased to the state or any of its political subdivisions,
8 or any privately owned or leased critical infrastructure if the information is in
9 the possession of a public entity;
- 10 (3) Threat assessments; ~~vulnerability~~
- 11 (4) Vulnerability and capability assessments conducted by a public entity, or
12 any private entity; ~~threat~~
- 13 (5) Threat response plans; and ~~emergency~~
- 14 (6) Emergency evacuation plans.
- 15 3. This exemption applies to security system plans received by a public entity before, on,
16 or after March 20, 2003.
- 17 4. Nothing in this section may be construed to limit disclosure required for necessary
18 construction, renovation, or remodeling work on a public building. Disclosure under
19 this subsection does not constitute public disclosure.
- 20 5. Records deemed exempt under this section and disclosed to another entity continue to
21 be exempt in the possession of the receiving entity.