

1 SENATE BILL 472

2 **53RD LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2017**

3 INTRODUCED BY

4 Sander Rue

5  
6  
7  
8  
9  
10 AN ACT

11 RELATING TO THE SUNSHINE PORTAL; EXPANDING THE INFORMATION  
12 REQUIRED TO BE POSTED ON THE SUNSHINE PORTAL; IDENTIFYING  
13 CONFIDENTIAL INFORMATION NOT TO BE POSTED ON THE SUNSHINE  
14 PORTAL.

15  
16 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

17 SECTION 1. Section 10-16D-2 NMSA 1978 (being Laws 2010,  
18 Chapter 34, Section 2, as amended) is amended to read:

19 "10-16D-2. DEFINITIONS.--As used in the Sunshine Portal  
20 Transparency Act:

21 A. "contract" means an agreement with a state  
22 agency for:

23 (1) the rendition of services, including  
24 professional services;

25 (2) the furnishing of any material, supplies

.207032.4

underscored material = new  
[bracketed material] = delete

1 or equipment;

2 (3) the construction, alteration or repair of  
3 any public building or public work;

4 (4) the acquisition, sale or lease of any land  
5 or building;

6 (5) a licensing arrangement;

7 (6) a loan or loan guarantee; or

8 (7) the purchase of financial securities or  
9 instruments;

10 B. "department" means the department of information  
11 technology, or its successor agency;

12 C. "exempt employee" means an employee of the state  
13 or a state agency who is in a policymaking or supervisory  
14 position and who serves at the discretion of the agency head or  
15 at the discretion of an appointee of the agency head;

16 D. "expenditure" means:

17 (1) for a state agency, a disbursement of  
18 state or federal funds by the state agency, whether or not the  
19 funds have been appropriated by the legislature; or

20 (2) for a local education provider, a  
21 disbursement of federal, state or other funds by the local  
22 education provider;

23 E. "federal funds" means money received by a state  
24 agency from the federal government or one of its branches,  
25 departments, agencies, offices, officers or instrumentalities;

.207032.4

underscored material = new  
[bracketed material] = delete

1           F. "financial information" means the state's  
2 information or data provided by the department of finance and  
3 administration concerning the expenditure of public money;

4           ~~[F.]~~ G. "local education provider" means:

5                   (1) a school district, including the local  
6 school board for that school district; or

7                   (2) a locally chartered or state-chartered  
8 charter school, including the governing body of that charter  
9 school;

10           ~~[G.]~~ H. "revenue" means:

11                   (1) for a state agency, money received by the  
12 state agency and deposited into the general fund or another  
13 state fund. "Revenue" includes money from taxes, fines, fees,  
14 royalties, federal funds and other sources but does not include  
15 money deposited into a state suspense fund; or

16                   (2) for a local education provider, all money  
17 received by the local education provider, including federal and  
18 state grants, state distributions, property tax revenues and  
19 donations; ~~[and~~

20           ~~[H.]~~ I. "state agency" means the New Mexico state  
21 government or any department, division, institution, board,  
22 bureau, commission or committee of state government and  
23 includes any office or officer ~~[of any of the above]~~ thereof;

24           J. "sunshine portal" means the single, internet  
25 website that is the primary source of public information about

underscored material = new  
[bracketed material] = delete

1 the activity of the state government; and

2 K. "transparency website" means a website provided  
3 by a state agency for the purpose of providing the public with  
4 information for the purpose of providing governmental  
5 transparency and accountability to taxpayers."

6 SECTION 2. Section 10-16D-3 NMSA 1978 (being Laws 2010,  
7 Chapter 34, Section 3, as amended) is amended to read:

8 "10-16D-3. SUNSHINE PORTAL--DEPARTMENT DUTIES.--

9 A. The department [~~with the department of finance~~  
10 ~~and administration~~] shall develop, operate and maintain [~~a~~  
11 ~~single internet web site that is~~] the sunshine portal, that is  
12 free, user-friendly, searchable and accessible to the public,  
13 [~~known as the "sunshine portal"~~] to host the state's financial  
14 and public information for the purpose of governmental  
15 transparency and accountability to taxpayers.

16 B. No later than October 1, 2010, the department  
17 shall create the architecture and the information exchange  
18 process for the collection and electronic publication of the  
19 state's financial information.

20 C. No later than July 1, 2011, the sunshine portal  
21 shall be available for public access and include updated  
22 information as required by Subsection D of this section.

23 D. The sunshine portal shall provide, at a minimum,  
24 access to the following information:

25 (1) the state's financial information,

.207032.4

underscored material = new  
[bracketed material] = delete

1 including:

2 (a) the state's cash balances by account  
3 or fund;

4 ~~[(2)]~~ (b) a monthly summary of the  
5 state's investment accounts;

6 ~~[(3)]~~ (c) annual operating budgets for  
7 each state agency with monthly expenditures by category;

8 ~~[(4)]~~ (d) contracts that a state agency  
9 enters into for the lease, sale or development of state land  
10 and state contracts that have a total contract price of more  
11 than twenty thousand dollars (\$20,000), naming the recipient of  
12 the contract, the purpose of the contract and the amounts  
13 expended. No later than January 1, 2017, the information  
14 provided shall also include

15 ~~[(a) the name of the recipient of the  
16 contract;~~

17 ~~(b) the purpose of the contract;~~

18 ~~(c) the amounts expended on the  
19 contract;~~

20 ~~(d)]~~ a copy of or an internet ~~[web site]~~  
21 website link to a copy of the contract document, including  
22 amendments and ~~[(e)]~~ a copy of or an internet ~~[web site]~~  
23 website link to a copy of a resident certificate issued  
24 pursuant to Section 13-1-22 NMSA 1978 and used in the award of  
25 a contract;

.207032.4

underscored material = new  
[bracketed material] = delete

1                    [~~(5)~~] (e) the revenue that the state  
2 received in the preceding month by source, such as type of tax,  
3 fee, fine, administrative fee or other collection category;

4                    (f) approved budget adjustment requests  
5 by state agency and affected budget category;

6                    (g) quarterly consensus revenue  
7 estimates;

8                    (h) reversions and cash balances by  
9 state agency and fund;

10                    (i) an annual summary within three  
11 months after the end of the fiscal year, or as soon thereafter  
12 as the information becomes available, of the state's fiscal  
13 health, including the state budget, revenues and expenditures  
14 for the previous fiscal year and projected revenues and  
15 operating budgets for the current fiscal year; and

16                    (j) additional information, as required  
17 by rule of the department of finance and administration, that  
18 will assist the public in understanding state government  
19 operations and the use of taxpayer dollars;

20                    (2) information concerning appropriations,  
21 including:

22                    [~~(6)~~] (a) special appropriations  
23 received outside the general appropriation act by each state  
24 agency and the purpose of those appropriations; and

25                    [~~(7)~~] ~~approved budget adjustment requests by~~

.207032.4

underscoring material = new  
[bracketed material] = delete

1 ~~state agency and affected budget category;~~

2 ~~(8) quarterly consensus revenue estimates;~~

3 ~~(9) reversions and cash balances by state~~  
4 ~~agency and fund;~~

5 ~~(10)]~~ (b) appropriations for capital  
6 projects, identified by project location, type of project and  
7 funding source;

8 ~~[(11) a directory of all employee positions,~~  
9 ~~other than exempt employee positions, identified only by state~~  
10 ~~agency, position title and salary;~~

11 ~~(12) a directory of all exempt employee~~  
12 ~~positions, identified by state agency, position title, salary~~  
13 ~~and the name of the individual that holds the position;]~~

14 (3) a directory of all employee positions  
15 identified by state agency, position title, exempt employee or  
16 classified employee status, salary and the name of the  
17 individual that holds the position; provided that the following  
18 shall be confidential and not be identified on the sunshine  
19 portal or any other transparency website:

20 (a) the name and information pertaining  
21 to an undercover peace officer;

22 (b) the name and information of an  
23 employee who filed for an order of protection pursuant to the  
24 Family Violence Protection Act or other order of protection  
25 pursuant to state or federal law; and

.207032.4

underscored material = new  
[bracketed material] = delete

1                   (c) the name and information of an  
2 employee from its directory of all employee positions if it is  
3 determined by the state agency or local education provider that  
4 publishing the employee's name would endanger the employee's  
5 personal safety or the safety of others;

6                   [(-13)] (4) information relating to local  
7 education providers compiled and published by the public  
8 education department pursuant to Section 10-16D-6 NMSA 1978;  
9 and

10                   (5) links to transparency websites maintained  
11 by state agencies, including:

12                   [(-14)] (a) a link to an open meeting  
13 tracker [~~web-site~~] website upon which each state agency shall  
14 post open meetings scheduled for the current month and the next  
15 month, including the time and place of the meeting, the subject  
16 of the meeting and an agenda;

17                   [(-15)] (b) a link to the [~~web-site~~]  
18 website maintained by the regulation and licensing department  
19 for the purpose of accessing information relating to  
20 occupational licenses;

21                   [(-16)] (c) a link to the state auditor's  
22 [~~web-site~~] website for the purpose of accessing financial  
23 audits;

24                   [(-17)] (d) a link to New Mexico's  
25 statutes;

.207032.4



underscored material = new  
[bracketed material] = delete

1                    [~~(18)~~] (e) a link to the New Mexico  
2 Administrative Code; and

3                    [~~(19)~~] (f) a link to the secretary of  
4 state's [~~web sites~~] websites for lobbyist regulation

5                    [~~(20)~~] ~~an annual summary within three months~~  
6 ~~after the end of the fiscal year, or as soon thereafter as the~~  
7 ~~information becomes available, of the state's fiscal health,~~  
8 ~~including the state budget, revenues and expenditures for the~~  
9 ~~previous fiscal year and projected revenues and operating~~  
10 ~~budgets for the current fiscal year; and~~

11                    [~~(21)~~] ~~additional information, as required by~~  
12 ~~rule of the department of finance and administration, that will~~  
13 ~~assist the public in understanding state government operations~~  
14 ~~and the use of taxpayer dollars].~~

15                    E. State agencies shall provide updated financial  
16 information as frequently as possible but at least monthly.

17                    F. The department shall update the [~~web site~~]  
18 website as new information is received but at least monthly,  
19 [~~include~~] including information from the previous month or  
20 year, where relevant, for comparison purposes and maintain the  
21 [~~web site~~] website as the primary source of public information  
22 about the activity of the state government."

23                    SECTION 3. Section 10-16D-4 NMSA 1978 (being Laws 2010,  
24 Chapter 34, Section 4) is amended to read:

25                    "10-16D-4. RULES PROMULGATION--COMPLIANCE REQUIRED.--

.207032.4

underscored material = new  
[bracketed material] = delete

1           A. Pursuant to the State Rules Act, the department  
2 shall promulgate rules necessary to implement the architecture,  
3 information exchange process and maintenance of the sunshine  
4 portal pursuant to the Sunshine Portal Transparency Act.

5           B. Pursuant to the State Rules Act, the department  
6 of finance and administration shall promulgate rules to carry  
7 out the provisions of the Sunshine Portal Transparency Act.

8           C. Pursuant to the State Rules Act, the department  
9 shall promulgate rules to create the architecture and the  
10 information exchange process for the collection and electronic  
11 publication of the state's public information that is not  
12 financial information.

13           ~~[G.]~~ D. All state agencies shall comply with the  
14 provisions of the Sunshine Portal Transparency Act and rules  
15 promulgated by the department and the department of finance and  
16 administration pursuant to that act."

17           SECTION 4. Section 10-16D-5 NMSA 1978 (being Laws 2010,  
18 Chapter 34, Section 5) is amended to read:

19           "10-16D-5. PROTECTION OF CONFIDENTIAL INFORMATION.--

20           A. Nothing in the Sunshine Portal Transparency Act  
21 shall require disclosure of information that is confidential by  
22 state or federal law, rule or regulation.

23           B. No agency shall be required to post on the  
24 sunshine portal or any transparency website information for  
25 which the agency head has made a written determination that

.207032.4

underscoring material = new  
~~[bracketed material] = delete~~

1 prevailing public interest is against publishing that type of  
2 information on the internet."

3 SECTION 5. EFFECTIVE DATE.--The effective date of the  
4 provisions of this act is July 1, 2017.

5 - 11 -

6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25