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HOUSE BILL 218

53RD LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2018

INTRODUCED BY

Kelly K. Fajardo

AN ACT

RELATING TO THE SUNSHINE PORTAL; EXPANDING THE INFORMATION
REQUIRED TO BE POSTED ON THE SUNSHINE PORTAL; PROVIDING FOR
WITHHOLDING CERTAIN INFORMATION ON THE SUNSHINE PORTAL OR OTHER
TRANSPARENCY WEBSITE.

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

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

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

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

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

(2) the furnishing of any material, supplies

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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. "electronic public information" means electronic
13 data, documents or other materials that are created or
14 maintained by a state agency and that relate to public
15 business;

16 [~~G-~~] D. "exempt employee" means an employee of the
17 state or a state agency who is in a policymaking or supervisory
18 position and who serves at the discretion of the agency head or
19 at the discretion of an appointee of the agency head;

20 [~~D-~~] E. "expenditure" means:

21 (1) for a state agency, a disbursement of
22 state or federal funds by the state agency, whether or not the
23 funds have been appropriated by the legislature; or

24 (2) for a local education provider, a
25 disbursement of federal, state or other funds by the local

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1 education provider;

2 ~~[E.]~~ F. "federal funds" means money received by a
3 state agency from the federal government or one of its
4 branches, departments, agencies, offices, officers or
5 instrumentalities;

6 G. "financial information" means the state's
7 information or data provided by the department of finance and
8 administration concerning the appropriation and expenditure of
9 money;

10 ~~[F.]~~ H. "local education provider" means:

11 (1) a school district, including the local
12 school board for that school district; or

13 (2) a locally chartered or state-chartered
14 charter school, including the governing body of that charter
15 school;

16 ~~[G.]~~ I. "revenue" means:

17 (1) for a state agency, money received by the
18 state agency and deposited into the general fund or another
19 state fund. "Revenue" includes money from taxes, fines, fees,
20 royalties, federal funds and other sources but does not include
21 money deposited into a state suspense fund; or

22 (2) for a local education provider, all money
23 received by the local education provider, including federal and
24 state grants, state distributions, property tax revenues and
25 donations; ~~[and~~

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1 H.] J. "state agency" means the New Mexico state
2 government or any department, division, institution, board,
3 bureau, commission or committee of state government and
4 includes any office or officer [~~of any of the above~~] thereof;

5 K. "sunshine portal" means the website that is the
6 primary source of electronic public information about the
7 activity of state government; and

8 L. "transparency website" means a state agency
9 website created for the purpose of providing electronic public
10 information and governmental transparency."

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

13 "10-16D-3. SUNSHINE PORTAL--DEPARTMENT DUTIES.--

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

21 B. No later than October 1, 2010, the department
22 shall create the architecture and the information exchange
23 process for the collection and electronic publication of the
24 state's financial information.

25 C. No later than July 1, 2011, the sunshine portal

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1 shall be available for public access and include updated
2 information as required by Subsection D of this section.

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

5 (1) the state's financial information,
6 including:

7 ~~[(1)]~~ (a) the state's cash balances by
8 account or fund;

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

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

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

20 ~~[(a) the name of the recipient of the~~
21 ~~contract;~~

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

23 ~~(c) the amounts expended on the~~
24 ~~contract;~~

25 ~~(d)]~~ 1) a copy of or an internet ~~[web~~

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1 ~~site]~~ website link to a copy of the contract document,
2 including amendments; and [~~(e)~~] 2) a copy of or an internet
3 [~~web-site]~~ website link to a copy of a resident certificate
4 issued pursuant to Section 13-1-22 NMSA 1978 and used in the
5 award of a contract;

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

9 (f) approved budget adjustment requests
10 by state agency and affected budget category;

11 (g) quarterly consensus revenue
12 estimates;

13 (h) reversions and cash balances by
14 state agency and fund;

15 (i) an annual summary within three
16 months after the end of the fiscal year, or as soon thereafter
17 as the information becomes available, of the state's fiscal
18 status, including the state budget, revenues and expenditures
19 for the previous fiscal year and projected revenues and
20 operating budgets for the current fiscal year; and

21 (j) additional information, as required
22 by rules promulgated by the department of finance and
23 administration;

24 (2) information concerning appropriations,
25 including:

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

6 [~~(15)~~] (b) a link to the [~~web-site~~]
7 website maintained by the regulation and licensing department
8 for the purpose of accessing information relating to
9 occupational licenses;

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

13 [~~(17)~~] (d) a link to New Mexico's
14 statutes;

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

17 [~~(19)~~] (f) a link to the secretary of
18 state's [~~web-sites~~] websites for lobbyist regulation; and

19 ~~[(20) an annual summary within three months~~
20 ~~after the end of the fiscal year, or as soon thereafter as the~~
21 ~~information becomes available, of the state's fiscal health,~~
22 ~~including the state budget, revenues and expenditures for the~~
23 ~~previous fiscal year and projected revenues and operating~~
24 ~~budgets for the current fiscal year; and~~

25 ~~(21) additional information, as required by~~

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1 ~~rule of the department of finance and administration, that will~~
2 ~~assist the public in understanding state government operations~~
3 ~~and the use of taxpayer dollars]~~

4 (6) any other electronic public information.

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

7 F. The department shall update the ~~[web site]~~
8 sunshine portal as new information is received but at least
9 monthly ~~[include]~~ for financial information, including
10 information from the previous month or year, where relevant,
11 for comparison purposes ~~[and maintain the web site as the~~
12 ~~primary source of public information about the activity of the~~
13 ~~state government]."~~

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

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

17 A. Pursuant to the State Rules Act, the department
18 shall promulgate rules necessary to implement the architecture,
19 information exchange process and maintenance of the sunshine
20 portal pursuant to the Sunshine Portal Transparency Act.

21 B. Pursuant to the State Rules Act, the department
22 of finance and administration shall promulgate rules to carry
23 out the provisions of the Sunshine Portal Transparency Act.

24 C. Pursuant to the State Rules Act, the department
25 shall promulgate rules to create the architecture and the

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1 information exchange process for the collection and electronic
2 publication of the state's electronic public information that
3 is not financial information.

4 [G.] D. All state agencies shall comply with the
5 provisions of the Sunshine Portal Transparency Act and rules
6 promulgated by the department and the department of finance and
7 administration pursuant to that act."

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

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

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

14 B. A state agency shall not be required to post on
15 the sunshine portal or a transparency website electronic public
16 information for which, because of confidentiality, safety or
17 privacy concerns, there is a public interest in not publishing
18 that information on a public website."

19 SECTION 5. EFFECTIVE DATE.--The effective date of the
20 provisions of this act is July 1, 2018.