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HOUSE BILL 426

51ST LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2013

INTRODUCED BY

Monica Youngblood

AN ACT

RELATING TO STATE GOVERNMENT; EXPANDING THE DEFINITION OF
"STATE AGENCY" IN THE SUNSHINE PORTAL TRANSPARENCY ACT TO
INCLUDE ANY BRANCH OF STATE GOVERNMENT; REQUIRING THE DIRECTORY
OF STATE EMPLOYEE POSITIONS IN THE SUNSHINE PORTAL TO INCLUDE
IDENTIFICATION BY NAME; PROVIDING EXCEPTIONS.

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;

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- 1 (2) the furnishing of any material, supplies
- 2 or equipment;
- 3 (3) the construction, alteration or repair of
- 4 any public building or public work;
- 5 (4) the acquisition, sale or lease of any land
- 6 or building;
- 7 (5) a licensing arrangement;
- 8 (6) a loan or loan guarantee; or
- 9 (7) the purchase of financial securities or
- 10 instruments;

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

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

17 ~~D.~~] C. "expenditure" means:

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

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

24 [~~E.~~] D. "federal funds" means money received by a
25 state agency from the federal government or one of its

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1 branches, departments, agencies, offices, officers or
2 instrumentalities;

3 ~~[F.]~~ E. "local education provider" means:

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

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

9 ~~[G.]~~ F. "revenue" means:

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

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

19 ~~[H.]~~ G. "state agency" means ~~[the New Mexico state~~
20 ~~government or any department, division, institution, board,~~
21 ~~bureau, commission or committee of state government and~~
22 ~~includes any office or officer of any of the above]~~ an agency,
23 department, division, bureau, board, commission, committee,
24 office or institution, including educational institutions
25 designated by Article 12, Section 11 of the constitution of New

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1 Mexico, of the executive, legislative or judicial branch of
2 state government."

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

5 "10-16D-3. SUNSHINE PORTAL--DEPARTMENT DUTIES.--

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

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

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

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

22 (1) the state's cash balances by account or
23 fund;

24 (2) a monthly summary of the state's
25 investment accounts;

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1 (3) annual operating budgets for each state
2 agency with monthly expenditures by category;

3 (4) contracts that a state agency enters into
4 for the lease, sale or development of state land and state
5 contracts that have a total contract price of more than twenty
6 thousand dollars (\$20,000), naming the recipient of the
7 contract, the purpose of the contract and the amounts expended;

8 (5) the revenue that the state received in the
9 preceding month by source, such as type of tax, fee, fine,
10 administrative fee or other collection category;

11 (6) special appropriations received outside
12 the general appropriation act by each state agency and the
13 purpose of those appropriations;

14 (7) approved budget adjustment requests by
15 state agency and affected budget category;

16 (8) quarterly consensus revenue estimates;

17 (9) reversions and cash balances by state
18 agency and fund;

19 (10) appropriations for capital projects,
20 identified by project location, type of project and funding
21 source;

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

25 ~~(12)] (11) a directory of all [exempt]~~

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1 employee positions, identified by state agency, position title,
2 salary and the name of the individual that holds the position;
3 provided that the following shall not be identified on the
4 sunshine portal:

5 (a) the name and information pertaining
6 to an undercover peace officer; and

7 (b) the name and information of an
8 employee who has filed for an order of protection pursuant to
9 the Family Violence Protection Act or other order of protection
10 pursuant to state or federal law;

11 [~~13~~] (12) information relating to local
12 education providers compiled and published by the public
13 education department pursuant to Section 10-16D-6 NMSA 1978;

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

19 [~~15~~] (14) a link to the web site maintained
20 by the regulation and licensing department for the purpose of
21 accessing information relating to occupational licenses;

22 [~~16~~] (15) a link to the state auditor's web
23 site for the purpose of accessing financial audits;

24 [~~17~~] (16) a link to New Mexico's statutes;

25 [~~18~~] (17) a link to the New Mexico

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1 Administrative Code;

2 [~~(19)~~] (18) a link to the secretary of state's
3 web sites for lobbyist regulation;

4 [~~(20)~~] (19) an annual summary within three
5 months after the end of the fiscal year, or as soon thereafter
6 as the information becomes available, of the state's fiscal
7 health, including the state budget, revenues and expenditures
8 for the previous fiscal year and projected revenues and
9 operating budgets for the current fiscal year; and

10 [~~(21)~~] (20) additional information, as
11 required by rule of the department of finance and
12 administration, that will assist the public in understanding
13 state government operations and the use of taxpayer dollars.

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

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

22 **SECTION 3.** Section 10-16D-5 NMSA 1978 (being Laws 2010,
23 Chapter 34, Section 5) is amended to read:

24 "10-16D-5. PROTECTION OF CONFIDENTIAL INFORMATION--AGENCY
25 DISCRETION TO EXCLUDE NAMES FROM THE EMPLOYEE DIRECTORY.--

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A. Nothing in the Sunshine Portal Transparency Act shall require disclosure of information that is confidential by state or federal law.

B. Notwithstanding the requirements of Sections 10-16D-3 and 10-16D-6 NMSA 1978, a state agency or local education provider may exclude the name of an employee from its directory of all employee positions if it is determined by the state agency or local education provider that publishing the name would endanger the employee's personal safety or the safety of the public. The state agency shall include in the rules the factors to be used in determining whether to exclude the names of certain employees from the directory."

SECTION 4. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2013.