

HOUSE LABOR AND HUMAN RESOURCES COMMITTEE SUBSTITUTE FOR
HOUSE BILL 426

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

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 AND TYPE OF POSITION; 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. "classified employee" means an employee of the
state or a state agency who is not an exempt employee;

~~A.~~ B. "contract" means an agreement with a state

1 agency for:

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

4 (2) the furnishing of any material, supplies
5 or equipment;

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

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

10 (5) a licensing arrangement;

11 (6) a loan or loan guarantee; or

12 (7) the purchase of financial securities or
13 instruments;

14 [~~B.~~] C. "department" means the department of
15 information technology, or its successor agency;

16 [~~C.~~] 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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underscored material = new
[bracketed material] = delete

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

7 (1) a school district, including the local
8 school board for that school district; or

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

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

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

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

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

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1 department, division, bureau, board, commission or committee of
2 the executive, legislative or judicial branch of state
3 government and includes any office or officer thereof."

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

6 "10-16D-3. SUNSHINE PORTAL--DEPARTMENT DUTIES.--

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

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

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

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

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

25 (2) a monthly summary of the state's

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1 investment accounts;

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

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

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

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

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

17 (8) quarterly consensus revenue estimates;

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

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

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

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1 ~~(12)~~ (11) a directory of all classified and
2 exempt employee positions, identified by state agency, position
3 title, salary and the name of the individual that holds the
4 position and specifying whether the position is a classified or
5 exempt position; provided that the following shall not be
6 identified on the sunshine portal:

7 (a) the name and information pertaining
8 to an undercover peace officer; and

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

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

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

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

24 ~~(16)~~ (15) a link to the state auditor's web
25 site for the purpose of accessing financial audits;

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1 [~~(17)~~] (16) a link to New Mexico's statutes;

2 [~~(18)~~] (17) a link to the New Mexico

3 Administrative Code;

4 [~~(19)~~] (18) a link to the secretary of state's
5 web sites for lobbyist regulation;

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

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

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

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

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

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