

1 SENATE BILL 145

2 **54TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2020**

3 INTRODUCED BY

4 Sander Rue

5
6
7
8
9
10 AN ACT

11 RELATING TO PUBLIC DOCUMENTS; REQUIRING THE PUBLICATION ON THE
12 SUNSHINE PORTAL OF AGREEMENTS TO COMPROMISE, ADJUST, SETTLE OR
13 PAY A CLAIM FOR DAMAGES OR OTHER RELIEF AGAINST ANY
14 GOVERNMENTAL ENTITY OR PUBLIC OFFICER OR EMPLOYEE; ELIMINATING
15 AN EXCEPTION TO PUBLIC INSPECTION FOR RECORDS PERTAINING TO
16 INSURANCE COVERAGE CREATED OR MAINTAINED BY THE RISK MANAGEMENT
17 DIVISION OF THE GENERAL SERVICES DEPARTMENT; CLARIFYING THE
18 AUTHORITY OF THE LEGISLATURE TO OBTAIN RECORDS PERTAINING TO
19 CERTAIN CLAIMS AGAINST GOVERNMENTAL ENTITIES, PUBLIC OFFICERS
20 OR PUBLIC EMPLOYEES; REMOVING THE ONE-HUNDRED-EIGHTY-DAY DELAY
21 IN RELEASING PUBLIC RECORDS PERTAINING TO CLAIMS AGAINST
22 GOVERNMENTAL ENTITIES, PUBLIC OFFICERS OR PUBLIC EMPLOYEES
23 AFTER THE OCCURRENCE OF CERTAIN EVENTS; CHANGING AND REMOVING
24 THE EVENTS THAT TRIGGER RELEASE OF PUBLIC RECORDS PERTAINING TO
25 CERTAIN CLAIMS AGAINST GOVERNMENTAL ENTITIES, PUBLIC OFFICERS

.216631.1

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

underscored material = new
[bracketed material] = delete

1 OR PUBLIC EMPLOYEES; ELIMINATING CRIMINAL PENALTIES FOR
2 REVEALING CONFIDENTIAL RECORDS PERTAINING TO CERTAIN CLAIMS
3 AGAINST GOVERNMENTAL ENTITIES, PUBLIC OFFICERS OR PUBLIC
4 EMPLOYEES.

5
6 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

7 SECTION 1. Section 10-16D-3 NMSA 1978 (being Laws 2010,
8 Chapter 34, Section 3, as amended) is amended to read:

9 "10-16D-3. SUNSHINE PORTAL--DEPARTMENT DUTIES.--

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

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

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

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

.216631.1

underscored material = new
[bracketed material] = delete

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

3 (2) a monthly summary of the state's
4 investment accounts;

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

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

12 No later than January 1, 2017, the information provided shall
13 also include:

14 (a) the name of the recipient of the
15 contract;

16 (b) the purpose of the contract;

17 (c) the amounts expended on the
18 contract;

19 (d) a copy of or an internet [~~web site~~]
20 website link to a copy of the contract document, including
21 amendments; and

22 (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;

.216631.1

underscored material = new
[bracketed material] = delete

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

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

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

9 (8) quarterly consensus revenue estimates;

10 (9) reversions and cash balances by state
11 agency and fund;

12 (10) appropriations for capital projects,
13 identified by project location, type of project and funding
14 source;

15 (11) a directory of all employee positions,
16 other than exempt employee positions, identified only by state
17 agency, position title and salary;

18 (12) a directory of all exempt employee
19 positions, identified by state agency, position title, salary
20 and the name of the individual that holds the position;

21 (13) information relating to local education
22 providers compiled and published by the public education
23 department pursuant to Section 10-16D-6 NMSA 1978;

24 (14) a link to an open meeting tracker [~~web~~
25 ~~site~~] website upon which each state agency shall post open

.216631.1

underscored material = new
[bracketed material] = delete

1 meetings scheduled for the current month and the next month,
2 including the time and place of the meeting, the subject of the
3 meeting and an agenda;

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

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

10 (17) a link to New Mexico's statutes;

11 (18) a link to the New Mexico Administrative
12 Code;

13 (19) a link to the secretary of state's ~~[web~~
14 ~~sites]~~ websites for lobbyist regulation;

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

21 (21) an agreement to compromise, adjust,
22 settle or pay a claim for damages or other relief against any
23 governmental entity or public officer or employee that is
24 available for public inspection by New Mexico residents
25 pursuant to Section 15-7-9 NMSA 1978; and

.216631.1

underscored material = new
[bracketed material] = delete

1 [~~(21)~~] (22) additional information, as
2 required by rule of the department of finance and
3 administration, that will assist the public in understanding
4 state government operations and the use of taxpayer dollars.

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 website as new information is received but at least monthly,
9 include information from the previous month or year, where
10 relevant, for comparison purposes and maintain the [~~web-site~~]
11 website as the primary source of public information about the
12 activity of the state government."

13 SECTION 2. Section 15-7-9 NMSA 1978 (being Laws 1981,
14 Chapter 280, Section 1) is amended to read:

15 "15-7-9. CONFIDENTIALITY OF RECORDS [~~PENALTY~~].--

16 A. [~~The following~~] Records pertaining to claims for
17 damages or other relief against any governmental entity, public
18 officer or public employee created or maintained by the risk
19 management division of the general services department are
20 confidential and shall not be subject to any right of
21 inspection by any person [~~not~~] except a state officer, [~~member~~]
22 a body of the legislature or a state employee within the scope
23 of [~~his~~] the officer's, body's or employee's official duties;

24 [~~(1) records pertaining to insurance coverage;~~
25 ~~provided any record of a particular coverage shall be available~~

.216631.1

underscored material = new
[bracketed material] = delete

1 ~~to any public officer, public employee or governmental entity~~
2 ~~insured under such coverage; and~~

3 ~~(2) records pertaining to claims for damages~~
4 ~~or other relief against any governmental entity or public~~
5 ~~officer or employee; provided such records shall be subject to~~
6 ~~public inspection by New Mexico citizens one hundred eighty~~
7 ~~days after the latest of the following dates:~~

8 ~~(a) the date all statutes of limitation~~
9 ~~applicable to the claim have run] provided that the records~~
10 ~~shall be subject to public inspection on and after the earliest~~
11 ~~of:~~

12 ~~[(b)] (1) the date [all litigation involving~~
13 ~~the claim and the occurrence giving rise thereto has been~~
14 ~~brought to] a final judgment is issued resolving the claim and~~
15 ~~all appeals and rights to appeal have been exhausted;~~

16 ~~[(c) the date the claim is fully and~~
17 ~~finally settled; or~~

18 ~~(d) the date the claim has been placed~~
19 ~~on closed status]~~

20 ~~(2) the date final payment is issued pursuant~~
21 ~~to a judicial monetary award rendered by the court; or~~

22 ~~(3) the date a settlement agreement is signed~~
23 ~~by all of the parties.~~

24 B. Records protected pursuant to Subsection A of
25 this section shall be made available as necessary for purposes

.216631.1

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

1 of audit or defense. Any person performing such audit or
2 providing such defense shall keep such records confidential,
3 except as required otherwise by law.

4 ~~[C. Any person who reveals records protected~~
5 ~~pursuant to Subsection A of this section to another person in~~
6 ~~violation of this section is guilty of a misdemeanor and shall,~~
7 ~~upon conviction, be fined not more than one thousand dollars~~
8 ~~(\$1,000). The state shall not employ any person so convicted~~
9 ~~for a period of five years after the date of conviction.]"~~

10 SECTION 3. EFFECTIVE DATE.--The effective date of the
11 provisions of this act is July 1, 2020.