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HOUSE BILL 436

50TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2011

INTRODUCED BY
James E. Smith

AN ACT

RELATING TO GOVERNMENT TRANSPARENCY; AMENDING THE SUNSHINE
PORTAL TRANSPARENCY ACT TO REQUIRE THAT CERTAIN PUBLIC SCHOOL
INFORMATION BE AVAILABLE ON THE SUNSHINE PORTAL, TO CLARIFY
CERTAIN PROVISIONS AND TO ALLOW ACCESS TO ADDITIONAL
INFORMATION.

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

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

"10-16D-1. SHORT TITLE.--~~[This act]~~ Chapter 10, Article
16D NMSA 1978 may be cited as the "Sunshine Portal Transparency
Act"."

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

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

2 A. "department" means the department of information
3 technology, or its successor agency;

4 B. "exempt employee" means an employee of the state
5 or a state agency who is in a policymaking or supervisory
6 position and who serves at the discretion of the agency head or
7 at the discretion of an appointee of the agency head;

8 C. "expenditure" means:

9 (1) for a state agency, a disbursement of
10 state or federal funds by [~~the~~] the state agency, whether or not
11 the funds have been appropriated by the legislature; or

12 (2) for a local education provider, a
13 disbursement of federal, state or other funds by the local
14 education provider;

15 D. "federal funds" means money received by a state
16 agency from the federal government or one of its branches,
17 departments, agencies, offices, officers or instrumentalities;

18 E. "local education provider" means:

19 (1) a school district, including the local
20 school board for that school district; or

21 (2) a locally chartered or state-chartered
22 charter school, including the governing body of that charter
23 school;

24 [~~E.~~] F. "revenue" means:

25 (1) for a state agency, money received by [~~the~~]

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1 the state agency and deposited into the general fund or another
2 state fund. "Revenue" includes money from taxes, fines, fees,
3 royalties, federal funds and other sources but does not include
4 money deposited into a state suspense fund; or

5 (2) for a local education provider, all money
6 received by the local education provider, including federal and
7 state grants, state distributions, property tax revenues and
8 donations; and

9 ~~[F-]~~ G. "state agency" means the New Mexico state
10 government or any department, division, institution, board,
11 bureau, commission or committee of state government and
12 includes any office or officer of any of the above."

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

15 "10-16D-3. SUNSHINE PORTAL--DEPARTMENT DUTIES.--

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

23 B. No later than October 1, 2010, the department
24 shall create the architecture and the information exchange
25 process for the collection and electronic publication of the

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1 state's financial information.

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

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

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

9 (2) a monthly summary of the state's
10 investment accounts [~~under the control of the state investment~~
11 ~~council~~];

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

14 (4) contracts that a state agency enters into
15 for the lease, sale or development of state land [~~or if they~~
16 ~~have a total value~~] and state contracts that have a total
17 contract price of more than twenty thousand dollars (\$20,000),
18 naming [~~both~~] the recipient [~~and~~] of the contract, the purpose
19 of the contract and the amounts expended;

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

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

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

3 (8) quarterly consensus revenue estimates;
4 [~~8~~] (9) reversions and cash balances by
5 state agency and fund;

6 [~~9~~] (10) appropriations for capital
7 projects, identified by project location, type of project and
8 funding source;

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

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

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

18 [~~12~~] (14) a link to an open meeting tracker
19 web site upon which each state agency shall post open meetings
20 scheduled for the current month and the next month, including
21 the time and place of the meeting, the subject of the meeting
22 and an agenda;

23 (15) a link to the list of individuals who are
24 delinquent in child support payments, as published by the human
25 services department pursuant to Section 40-4A-17 NMSA 1978;

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1 (16) a link to the web site maintained by the
2 regulation and licensing department for the purpose of
3 accessing information relating to occupational licenses;

4 (17) a link to the state auditor's web site
5 for the purpose of accessing financial audits;

6 [~~(13)~~] (18) a link to New Mexico's statutes;

7 [~~(14)~~] (19) a link to the New Mexico
8 Administrative Code;

9 [~~(15)~~] (20) a link to the secretary of state's
10 web sites for lobbyist regulation;

11 [~~(16)~~] (21) an annual summary within three
12 months after the end of the fiscal year, or as soon thereafter
13 as the information becomes available, of the state's fiscal
14 health, including the state budget, revenues and expenditures
15 for the previous fiscal year and projected revenues and
16 operating budgets for the current fiscal year; and

17 [~~(17)~~] (22) additional information, as
18 required by rule of the department of finance and
19 administration, that will assist the public in understanding
20 state government operations and the use of taxpayer dollars.

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

23 F. The department shall update the web site as new
24 information is received but at least monthly, include
25 information from the previous month or year, where relevant,

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1 for comparison purposes and maintain the web site as the
2 primary source of public information about the activity of the
3 state government."

4 SECTION 4. A new section of the Sunshine Portal
5 Transparency Act, Section 10-16D-6 NMSA 1978, is enacted to
6 read:

7 "10-16D-6. [NEW MATERIAL] LOCAL EDUCATION PROVIDERS--
8 REQUIRED INFORMATION--PUBLICATION BY PUBLIC EDUCATION
9 DEPARTMENT ON THE SUNSHINE PORTAL.--

10 A. Commencing no later than July 1, 2012, and on a
11 continuing basis thereafter, each local education provider
12 shall provide the following information to the public education
13 department for online publication on the sunshine portal, in a
14 downloadable format, for free public access:

15 (1) the annual operating budget, commencing
16 with the budget for fiscal year 2012;

17 (2) salary schedules and policies;

18 (3) a directory of the local education
19 provider's employee positions by school name, title and salary;

20 (4) monthly expenditures by category;

21 (5) monthly revenue by source; and

22 (6) an inventory of all real property owned by
23 the local education provider, including the location of the
24 property, the size of the property, a description of the
25 improvements on the property and a description of the use of

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1 the property.

2 B. As soon as practicable after July 1, 2011, the
3 public education department shall begin working with the
4 department of information technology to create a monthly data
5 extract from applicable computer database systems. As
6 information is received pursuant to Subsection A of this
7 section, the public education department, working with the
8 department of information technology, shall publish the
9 information on the sunshine portal.

10 C. The public education department and each local
11 education provider that maintains a web site shall have a link
12 to the sunshine portal on its web site."

13 SECTION 5. TEMPORARY PROVISION--IMPLEMENTATION.--

14 A. The information required by Paragraph (13) of
15 Subsection D of Section 10-16D-3 NMSA 1978 shall be available
16 on the sunshine portal as soon as possible, but no later than
17 October 1, 2012.

18 B. The information required by Paragraphs (15),
19 (16) and (17) of Subsection D of Section 10-16D-3 NMSA 1978
20 shall be available on the sunshine portal as soon as possible,
21 but no later than January 1, 2012.

22 SECTION 6. EFFECTIVE DATE.--The effective date of the
23 provisions of this act is July 1, 2011.