

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

HOUSE BILL 379

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

INTRODUCED BY

Nate Gentry and Timothy M. Keller

AN ACT

RELATING TO PUBLIC RECORDS; REQUIRING THE DEPARTMENT OF FINANCE AND ADMINISTRATION TO UPDATE THE SUNSHINE PORTAL WEB SITE IN REAL TIME; PROVIDING A PENALTY FOR VIOLATION OF THE INSPECTION OF PUBLIC RECORDS ACT; AMENDING AND ENACTING SECTIONS OF THE NMSA 1978.

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-3 NMSA 1978 (being Laws 2010, Chapter 34, Section 3) is amended to read:

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

underscoring material = new  
[bracketed material] = delete

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

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

8           B. No later than October 1, 2010, the department  
9 shall create the architecture and the information exchange  
10 process for the collection and electronic publication of the  
11 state's financial information.

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

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

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

19                   (2) a monthly summary of the state's  
20 investment accounts under the control of the state investment  
21 council;

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

24                   (4) contracts that a state agency enters into  
25 for the lease, sale or development of state land or if they

.183618.3

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

1 have a total value of more than twenty thousand dollars  
2 (\$20,000), naming both the recipient and purpose of the  
3 contract;

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

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

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

12 (8) reversions and cash balances by state  
13 agency and fund;

14 (9) appropriations for capital projects,  
15 identified by project location, type of project and funding  
16 source;

17 (10) a directory of all employee positions,  
18 other than exempt employee positions, identified only by state  
19 agency, position title and salary;

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

23 (12) a link to an open meeting tracker web  
24 site upon which each state agency shall post open meetings  
25 scheduled for the current month and the next month, including

.183618.3

underscored material = new  
[bracketed material] = delete

1 the time and place of the meeting, the subject of the meeting  
2 and an agenda;

3 (13) a link to New Mexico's statutes;

4 (14) a link to the New Mexico Administrative  
5 Code;

6 (15) a link to the secretary of state's web  
7 sites for lobbyist regulation;

8 (16) an annual summary within three months  
9 after the end of the fiscal year of the state's fiscal health,  
10 including the state budget, revenues and expenditures for the  
11 previous fiscal year and projected revenues and operating  
12 budgets for the current fiscal year; and

13 (17) additional information, as required by  
14 rule of the department of finance and administration, that will  
15 assist the public in understanding state government operations  
16 and the use of taxpayer dollars.

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

19 F. The department shall update the web site as new  
20 information is received but at least monthly and shall make  
21 every effort to contain real-time information as is reasonably  
22 and technically feasible. The web site shall include  
23 information from the previous month or year, where relevant,  
24 for comparison purposes and the department shall maintain the  
25 web site as the primary source of public information about the

.183618.3

underscored material = new  
[bracketed material] = delete

1 activity of the state government."

2 SECTION 3. A new section of the Inspection of Public  
3 Records Act is enacted to read:

4 "[NEW MATERIAL] CRIMINAL PENALTIES.--

5 A. A person who knowingly and in bad faith  
6 withholds public records subject to inspection pursuant to the  
7 Inspection of Public Records Act is guilty of a misdemeanor and  
8 upon conviction shall be punished by a fine of not more than  
9 five hundred dollars (\$500) for each offense.

10 B. A person who knowingly and willfully destroys  
11 public records in order to circumvent a request for records  
12 pursuant to the Inspection of Public Records Act is guilty of a  
13 fourth degree felony and shall be punished in accordance with  
14 the provisions of Section 31-18-15 NMSA 1978."

15 SECTION 4. EFFECTIVE DATE.--The effective date of the  
16 provisions of this act is July 1, 2011.