

1 HOUSE BILL 226

2 **56TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2023**

3 INTRODUCED BY

4 Raymundo Lara

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9  
10 AN ACT

11 RELATING TO PROCUREMENT; EXEMPTING CERTAIN PURCHASES OF  
12 INSTRUCTIONAL MATERIALS FROM THE PROCUREMENT CODE; EXCLUDING  
13 THE PURCHASES OF INSTRUCTIONAL MATERIALS FROM PROCUREMENT  
14 THROUGH THE STATE PURCHASING AGENT.

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

17 SECTION 1. A new Section 13-1-63.1 NMSA 1978 is enacted  
18 to read:

19 "13-1-63.1. [NEW MATERIAL] DEFINITION--INSTRUCTIONAL  
20 MATERIALS.--"Instructional materials" means school textbooks  
21 and other educational media that are used as the basis for  
22 instruction, including combinations of textbooks, learning  
23 kits, supplementary materials and electronic media."

24 SECTION 2. Section 13-1-98 NMSA 1978 (being Laws 1984,  
25 Chapter 65, Section 71, as amended by Laws 2019, Chapter 48,

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1 Section 13 and by Laws 2019, Chapter 63, Section 1) is amended  
2 to read:

3 "13-1-98. EXEMPTIONS FROM THE PROCUREMENT CODE.--The  
4 provisions of the Procurement Code shall not apply to:

5 A. procurement of items of tangible personal  
6 property or services by a state agency or a local public body  
7 from a state agency, a local public body or external  
8 procurement unit except as otherwise provided in Sections  
9 13-1-135 through 13-1-137 NMSA 1978;

10 B. procurement of tangible personal property or  
11 services for the governor's mansion and grounds;

12 C. printing and duplicating contracts involving  
13 materials that are required to be filed in connection with  
14 proceedings before administrative agencies or state or federal  
15 courts;

16 D. purchases of publicly provided or publicly  
17 regulated gas, electricity, water, sewer and refuse collection  
18 services;

19 E. purchases of books, periodicals, instructional  
20 materials and training materials in printed, digital or  
21 electronic format from the publishers, designated public-  
22 education-department-approved instructional material  
23 depositories or copyright holders thereof and purchases of  
24 print, digital or electronic format library materials by  
25 public, school and state libraries for access by the public;

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1 F. travel or shipping by common carrier or by  
2 private conveyance or to meals and lodging;

3 G. purchase of livestock at auction rings or to the  
4 procurement of animals to be used for research and  
5 experimentation or exhibit;

6 H. contracts with businesses for public school  
7 transportation services;

8 I. procurement of tangible personal property or  
9 services, as defined by Sections 13-1-87 and 13-1-93 NMSA 1978,  
10 by the corrections industries division of the corrections  
11 department pursuant to rules adopted by the corrections  
12 industries commission, which shall be reviewed by the  
13 purchasing division of the general services department prior to  
14 adoption;

15 J. purchases not exceeding ten thousand dollars  
16 (\$10,000) consisting of magazine subscriptions, web-based or  
17 electronic subscriptions, conference registration fees and  
18 other similar purchases where prepayments are required;

19 K. municipalities having adopted home rule charters  
20 and having enacted their own purchasing ordinances;

21 L. the issuance, sale and delivery of public  
22 securities pursuant to the applicable authorizing statute, with  
23 the exception of bond attorneys and general financial  
24 consultants;

25 M. contracts entered into by a local public body

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1 with a private independent contractor for the operation, or  
2 provision and operation, of a jail pursuant to Sections 33-3-26  
3 and 33-3-27 NMSA 1978;

4 N. contracts for maintenance of grounds and  
5 facilities at highway rest stops and other employment  
6 opportunities, excluding those intended for the direct care and  
7 support of persons with handicaps, entered into by state  
8 agencies with private, nonprofit, independent contractors who  
9 provide services to persons with handicaps;

10 O. contracts and expenditures for services or items  
11 of tangible personal property to be paid or compensated by  
12 money or other property transferred to New Mexico law  
13 enforcement agencies by the United States department of justice  
14 drug enforcement administration;

15 P. contracts for retirement and other benefits  
16 pursuant to Sections 22-11-47 through 22-11-52 NMSA 1978;

17 Q. contracts with professional entertainers;

18 R. contracts and expenditures for legal  
19 subscription and research services and litigation expenses in  
20 connection with proceedings before administrative agencies or  
21 state or federal courts, including experts, mediators, court  
22 reporters, process servers and witness fees, but not including  
23 attorney contracts;

24 S. contracts for service relating to the design,  
25 engineering, financing, construction and acquisition of public

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1 improvements undertaken in improvement districts pursuant to  
2 Subsection L of Section 3-33-14.1 NMSA 1978 and in county  
3 improvement districts pursuant to Subsection L of Section  
4 4-55A-12.1 NMSA 1978;

5 T. works of art for museums or for display in  
6 public buildings or places;

7 U. contracts entered into by a local public body  
8 with a person, firm, organization, corporation or association  
9 or a state educational institution named in Article 12, Section  
10 11 of the constitution of New Mexico for the operation and  
11 maintenance of a hospital pursuant to Chapter 3, Article 44  
12 NMSA 1978, lease or operation of a county hospital pursuant to  
13 the Hospital Funding Act or operation and maintenance of a  
14 hospital pursuant to the Special Hospital District Act;

15 V. purchases of advertising in all media, including  
16 radio, television, print and electronic;

17 W. purchases of promotional goods intended for  
18 resale by the tourism department;

19 X. procurement of printing, publishing and  
20 distribution services for materials produced and intended for  
21 resale by the cultural affairs department;

22 Y. procurement by or through the public education  
23 department from the federal department of education relating to  
24 parent training and information centers designed to increase  
25 parent participation, projects and initiatives designed to

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1 improve outcomes for students with disabilities and other  
2 projects and initiatives relating to the administration of  
3 improvement strategy programs pursuant to the federal  
4 Individuals with Disabilities Education Act; provided that the  
5 exemption applies only to procurement of services not to exceed  
6 two hundred thousand dollars (\$200,000);

7 Z. procurement of services from community  
8 rehabilitation programs or qualified individuals pursuant to  
9 the State Use Act;

10 AA. purchases of products or services for eligible  
11 persons with disabilities pursuant to the federal  
12 Rehabilitation Act of 1973;

13 BB. procurement, by either the department of health  
14 or Grant county or both, of tangible personal property,  
15 services or construction that are exempt from the Procurement  
16 Code pursuant to Section 9-7-6.5 NMSA 1978;

17 CC. contracts for investment advisory services,  
18 investment management services or other investment-related  
19 services entered into by the educational retirement board, the  
20 state investment officer or the retirement board created  
21 pursuant to the Public Employees Retirement Act;

22 DD. the purchase for resale by the state fair  
23 commission of feed and other items necessary for the upkeep of  
24 livestock;

25 EE. contracts entered into by the crime victims

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1 reparation commission to distribute federal grants to assist  
2 victims of crime, including grants from the federal Victims of  
3 Crime Act of 1984 and the federal Violence Against Women Act of  
4 1994;

5 FF. procurement by or through the early childhood  
6 education and care department of early pre-kindergarten and  
7 pre-kindergarten services purchased pursuant to the Pre-  
8 Kindergarten Act;

9 GG. procurement of services of commissioned  
10 advertising sales representatives for New Mexico magazine; and

11 HH. procurements exempt from the Procurement Code  
12 as otherwise provided by law."

13 SECTION 3. Section 13-1-99 NMSA 1978 (being Laws 1984,  
14 Chapter 65, Section 72, as amended) is amended to read:

15 "13-1-99. EXCLUDED FROM CENTRAL PURCHASING THROUGH THE  
16 STATE PURCHASING AGENT.--Excluded from the requirement of  
17 procurement through the state purchasing agent but not from the  
18 requirements of the Procurement Code are the following:

- 19 A. procurement of professional services;  
20 B. small purchases having a value not exceeding one  
21 thousand five hundred dollars (\$1,500);  
22 C. emergency procurement;  
23 D. procurement of highway construction or  
24 reconstruction by the department of transportation;  
25 E. procurement by the judicial branch of state

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1 government;

2 F. procurement by the legislative branch of state  
3 government;

4 G. procurement by the boards of regents of state  
5 educational institutions named in Article 12, Section 11 of the  
6 constitution of New Mexico;

7 H. procurement by the state fair commission of  
8 tangible personal property, services and construction under  
9 twenty thousand dollars (\$20,000);

10 I. purchases [~~from the~~] of instructional [~~material~~  
11 ~~fund~~] materials;

12 J. procurement by all local public bodies;

13 K. procurement by regional education cooperatives;

14 L. procurement by charter schools;

15 M. procurement by each state health care  
16 institution that provides direct patient care and that is, or a  
17 part of which is, medicaid certified and participating in the  
18 New Mexico medicaid program; and

19 N. procurement by the public school facilities  
20 authority."

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