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AN ACT

RELATING TO PROCUREMENT; REQUIRING THE PURCHASING DIVISION OF
THE GENERAL SERVICES DEPARTMENT TO SET A PROCUREMENT
REQUIREMENT FOR A MINIMUM PERCENTAGE OF THE TOTAL DOLLAR
AMOUNT OF FOOD PURCHASED BY STATE AGENCIES AND LOCAL PUBLIC
BODIES TO BE FOOD PRODUCED IN NEW MEXICO; REQUIRING A
BIENNIAL PROGRESS REPORT.

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

SECTION 1. A new section of the Procurement Code is
enacted to read:

"COMPETITIVE SEALED BIDS FOR FOOD PURCHASES--MINIMUM
PERCENTAGE REQUIREMENT--SATISFACTION OF MINIMUM PERCENTAGE
REQUIREMENT BY STATE AGENCIES AND LOCAL PUBLIC BODIES--
PROGRESS REPORT.--

A. For purposes of this section, "food" means any
solid or liquid substance intended for human consumption by
eating or drinking.

B. All competitive sealed bids for the procurement
of food purchased by state agencies or local public bodies
shall include a minimum percentage of the total dollar amount
of food purchased in New Mexico from food producers or
processors whose principal place of business is in
New Mexico. The minimum percentage requirement shall be no
less than:

1 (1) two percent by July 1, 2012;

2 (2) five percent by July 1, 2014; and

3 (3) ten percent by July 1, 2016.

4 C. All bidders making competitive sealed bids for
5 a contract to sell food to state agencies or local public
6 bodies shall, at the dates specified in Subsection B of this
7 section, satisfy the minimum percentage requirement for
8 competitive sealed bids for the procurement of food purchased
9 by state agencies or local public bodies.

10 D. The purchasing division of the general services
11 department shall set a procurement requirement for a minimum
12 percentage of the total dollar amount of food purchased by
13 state agencies or local public bodies to be food purchased in
14 New Mexico from food producers or processors whose principal
15 place of business is in New Mexico. The minimum percentage
16 requirement shall be set at no less than:

17 (1) two percent by July 1, 2012;

18 (2) five percent by July 1, 2014; and

19 (3) ten percent by July 1, 2016.

20 E. State agencies and local public bodies shall,
21 at the dates specified in Subsection D of this section,
22 satisfy the minimum percentage requirement for the
23 procurement of food produced or processed in New Mexico.

24 F. No later than December 1, 2011, and every
25 subsequent December 1 of an odd-numbered year, the New Mexico

1 department of agriculture shall prepare a biennial report on
2 the progress toward and success of each public agency and
3 local public body in reaching the minimum percentage
4 requirement. The New Mexico department of agriculture shall
5 distribute each report to the legislative finance committee,
6 the appropriate interim legislative committees and the
7 cabinet secretaries and shall post the report on the sunshine
8 portal. Public agencies, local public bodies and the
9 purchasing division of the general services department shall
10 provide the New Mexico department of agriculture with all the
11 information relevant to the minimum percentage requirement
12 requested by the New Mexico department of agriculture."

13 SECTION 2. Section 13-1-98 NMSA 1978 (being Laws 1984,
14 Chapter 65, Section 71, as amended) is amended to read:

15 "13-1-98. EXEMPTIONS FROM THE PROCUREMENT CODE.--The
16 provisions of the Procurement Code shall not apply to:

17 A. procurement of items of tangible personal
18 property or services by a state agency or a local public body
19 from a state agency, a local public body or external
20 procurement unit except as otherwise provided in Sections
21 13-1-135 through 13-1-137 NMSA 1978;

22 B. except as provided by Section 1 of this 2011
23 act, procurement of tangible personal property or services
24 for the governor's mansion and grounds;

25 C. printing and duplicating contracts involving

1 materials that are required to be filed in connection with
2 proceedings before administrative agencies or state or
3 federal courts;

4 D. purchases of publicly provided or publicly
5 regulated gas, electricity, water, sewer and refuse
6 collection services;

7 E. purchases of books and periodicals from the
8 publishers or copyright holders thereof;

9 F. travel or shipping by common carrier or by
10 private conveyance or to meals and lodging;

11 G. purchase of livestock at auction rings or to
12 the procurement of animals to be used for research and
13 experimentation or exhibit;

14 H. contracts with businesses for public school
15 transportation services;

16 I. except as provided by Section 1 of this 2011
17 act, procurement of tangible personal property or services,
18 as defined by Sections 13-1-87 and 13-1-93 NMSA 1978, by the
19 corrections industries division of the corrections department
20 pursuant to rules adopted by the corrections industries
21 commission, which shall be reviewed by the purchasing
22 division of the general services department prior to
23 adoption;

24 J. minor purchases not exceeding five thousand
25 dollars (\$5,000) consisting of magazine subscriptions,

1 conference registration fees and other similar purchases
2 where prepayments are required;

3 K. except as provided by Section 1 of this 2011
4 act, municipalities having adopted home rule charters and
5 having enacted their own purchasing ordinances;

6 L. the issuance, sale and delivery of public
7 securities pursuant to the applicable authorizing statute,
8 with the exception of bond attorneys and general financial
9 consultants;

10 M. except as provided by Section 1 of this 2011
11 act, contracts entered into by a local public body with a
12 private independent contractor for the operation, or
13 provision and operation, of a jail pursuant to Sections
14 33-3-26 and 33-3-27 NMSA 1978;

15 N. contracts for maintenance of grounds and
16 facilities at highway rest stops and other employment
17 opportunities, excluding those intended for the direct care
18 and support of persons with handicaps, entered into by state
19 agencies with private, nonprofit, independent contractors who
20 provide services to persons with handicaps;

21 O. contracts and expenditures for services or
22 items of tangible personal property to be paid or compensated
23 by money or other property transferred to New Mexico law
24 enforcement agencies by the United States department of
25 justice drug enforcement administration;

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

3 Q. contracts with professional entertainers;

4 R. contracts and expenditures for litigation
5 expenses in connection with proceedings before administrative
6 agencies or state or federal courts, including experts,
7 mediators, court reporters, process servers and witness fees,
8 but not including attorney contracts;

9 S. contracts for service relating to the design,
10 engineering, financing, construction and acquisition of
11 public improvements undertaken in improvement districts
12 pursuant to Subsection L of Section 3-33-14.1 NMSA 1978 and
13 in county improvement districts pursuant to Subsection L of
14 Section 4-55A-12.1 NMSA 1978;

15 T. works of art for museums or for display in
16 public buildings or places;

17 U. except as provided by Section 1 of this 2011
18 act, contracts entered into by a local public body with a
19 person, firm, organization, corporation or association or a
20 state educational institution named in Article 12, Section 11
21 of the constitution of New Mexico for the operation and
22 maintenance of a hospital pursuant to Chapter 3, Article 44
23 NMSA 1978, lease or operation of a county hospital pursuant
24 to the Hospital Funding Act or operation and maintenance of a
25 hospital pursuant to the Special Hospital District Act;

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

3 W. purchases of promotional goods intended for
4 resale by the tourism department;

5 X. procurement of printing services for materials
6 produced and intended for resale by the cultural affairs
7 department;

8 Y. procurement by or through the public education
9 department from the federal department of education relating
10 to parent training and information centers designed to
11 increase parent participation, projects and initiatives
12 designed to improve outcomes for students with disabilities
13 and other projects and initiatives relating to the
14 administration of improvement strategy programs pursuant to
15 the federal Individuals with Disabilities Education Act;
16 provided that the exemption applies only to procurement of
17 services not to exceed two hundred thousand dollars
18 (\$200,000);

19 Z. procurement of services from community
20 rehabilitation programs or qualified individuals pursuant to
21 the State Use Act;

22 AA. purchases of products or services for eligible
23 persons with disabilities pursuant to the federal
24 Rehabilitation Act of 1973;

25 BB. except as provided by Section 1 of this 2011

1 act, procurement, by either the department of health or Grant
2 county or both, of tangible personal property, services or
3 construction that are exempt from the Procurement Code
4 pursuant to Section 9-7-6.5 NMSA 1978;

5 CC. contracts for investment advisory services,
6 investment management services or other investment-related
7 services entered into by the educational retirement board,
8 the state investment officer or the retirement board created
9 pursuant to the Public Employees Retirement Act;

10 DD. the purchase for resale by the state fair
11 commission of feed and other items necessary for the upkeep
12 of livestock; and

13 EE. contracts entered into by the crime victims
14 reparation commission to distribute federal grants to assist
15 victims of crime, including grants from the federal Victims
16 of Crime Act and the federal Violence Against Women Act."

17 SECTION 3. Section 13-1-98.2 NMSA 1978 (being Laws
18 2003, Chapter 187, Section 1, as amended) is amended to read:

19 "13-1-98.2. ADDITIONAL EXEMPTIONS FROM THE PROCUREMENT
20 CODE.--Except as provided by Section 1 of this 2011 act, the
21 provisions of the Procurement Code do not apply to contracts
22 entered into by a local public body with a person, firm,
23 organization, corporation, association or state educational
24 institution named in Article 12, Section 11 of the
25 constitution of New Mexico for:

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- A. the operation and maintenance of a hospital pursuant to Chapter 3, Article 44 NMSA 1978;
 - B. the lease or operation of a county hospital pursuant to the Hospital Funding Act;
 - C. the operation and maintenance of a hospital pursuant to the Special Hospital District Act; or
 - D. the use of county buildings pursuant to Section 4-38-13.1 NMSA 1978."
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