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# A BILL FOR AN ACT

RELATING TO THE DEPARTMENT OF EDUCATION.

**BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:**

1           SECTION 1. The legislature finds that the department of  
2 education is the largest department in the State with two  
3 hundred ninety-five schools and forty-two thousand salaried and  
4 part-time employees. As such, the department of education must  
5 procure numerous goods, services, and construction to run its  
6 operations. The legislature also finds that the Hawaii public  
7 procurement code mandates that the department of education  
8 comply with procurement laws for its purchases when triggered by  
9 certain threshold amounts. Exempting the department of  
10 education from certain small purchase procurement requirements  
11 will help the department timely procure necessary goods,  
12 services, and construction.

13           The legislature further finds that the electronic  
14 procurement system, due to its complicated and onerous nature,  
15 places a heavy burden on school administrators seeking to  
16 address repair and maintenance backlogs and further strains the  
17 already limited time and resources of these school



1 administrators. Additionally, with the recent influx of federal  
2 funding and various conditions attached thereto, including the  
3 maintenance of effort provisions within the Coronavirus Aid,  
4 Relief, and Economic Security Act, the department of education  
5 needs to have additional flexibility to expend federal funds in  
6 a timely manner.

7 The purpose of this Act is to provide procurement  
8 exemptions for the department of education.

9 SECTION 2. Chapter 302A, Hawaii Revised Statutes, is  
10 amended by adding a new section to part V to be appropriately  
11 designated and to read as follows:

12 "§302A- Procurement; educational goods and services;  
13 small purchases. Notwithstanding section 103D-305(c) or any  
14 other law to the contrary, the department may procure goods and  
15 services of less than \$100,000 without using an electronic  
16 procurement system; provided that the procurement shall be  
17 subject to the rules governing procurements of less than  
18 \$25,000; provided further that, based on specifications and with  
19 adequate reasonable competition, a procurement of:

- 20 (1) At least \$5,000 but less than \$15,000 shall require at  
21 least three quotations; and



1        (2) At least \$15,000 but less than \$100,000 shall require  
2                    at least three quotations in writing."

3            SECTION 3. Chapter 302A, Hawaii Revised Statutes, is  
4 amended by adding a new section to subpart A of part VI to be  
5 appropriately designated and to read as follows:

6            "§302A- Procurement; educational construction; small  
7 purchases. Notwithstanding section 103D-305(c) or any other law  
8 to the contrary, the department may procure construction of less  
9 than \$250,000 without using an electronic procurement system;  
10 provided that the procurement shall be subject to the rules  
11 governing procurements of less than \$25,000; provided further  
12 that, based on specifications and with adequate reasonable  
13 competition, a procurement of:

14            (1) At least \$5,000 but less than \$15,000 shall require at  
15                    least three quotations; and

16            (2) At least \$15,000 but less than \$250,000 shall require  
17                    at least three quotations in writing."

18            SECTION 4. Section 103D-102, Hawaii Revised Statutes, is  
19 amended by amending subsection (b) to read as follows:

20            "(b) Notwithstanding subsection (a), this chapter shall  
21 not apply to contracts by governmental bodies:



- 1           (1) Solicited or entered into before July 1, 1994, unless  
2           the parties agree to its application to a contract  
3           solicited or entered into prior to July 1, 1994;
- 4           (2) To disburse funds, irrespective of their source:
- 5           (A) For grants as defined in section 42F-101, made by  
6           the State in accordance with standards provided  
7           by law as required by article VII, section 4, of  
8           the state constitution; or by the counties  
9           pursuant to their respective charters or  
10          ordinances;
- 11          (B) To make payments to or on behalf of public  
12          officers and employees for salaries, fringe  
13          benefits, professional fees, or reimbursements;
- 14          (C) To satisfy obligations that the State is required  
15          to pay by law, including paying fees, permanent  
16          settlements, subsidies, or other claims, making  
17          refunds, and returning funds held by the State as  
18          trustee, custodian, or bailee;
- 19          (D) For entitlement programs, including public  
20          assistance, unemployment, and workers'



- 1 compensation programs, established by state or  
2 federal law;
- 3 (E) For dues and fees of organizations of which the  
4 State or its officers and employees are members,  
5 including the National Association of Governors,  
6 the National Association of State and County  
7 Governments, and the Multi-State Tax Commission;
- 8 (F) For deposit, investment, or safekeeping,  
9 including expenses related to their deposit,  
10 investment, or safekeeping;
- 11 (G) To governmental bodies of the State;
- 12 (H) As loans, under loan programs administered by a  
13 governmental body; and
- 14 (I) For contracts awarded in accordance with  
15 chapter 103F;
- 16 (3) To procure goods, services, or construction from a  
17 governmental body other than the University of Hawaii  
18 bookstores, from the federal government, or from  
19 another state or its political subdivision;
- 20 (4) To procure the following goods or services which are  
21 available from multiple sources but for which



- 1 procurement by competitive means is either not  
2 practicable or not advantageous to the State:
- 3 (A) Services of expert witnesses for potential and  
4 actual litigation of legal matters involving the  
5 State, its agencies, and its officers and  
6 employees, including administrative  
7 quasi-judicial proceedings;
  - 8 (B) Works of art for museum or public display;
  - 9 (C) Research and reference materials including books,  
10 maps, periodicals, and pamphlets, which are  
11 published in print, video, audio, magnetic, or  
12 electronic form;
  - 13 (D) Meats and foodstuffs for the Kalaupapa  
14 settlement;
  - 15 (E) Opponents for athletic contests;
  - 16 (F) Utility services whose rates or prices are fixed  
17 by regulatory processes or agencies;
  - 18 (G) Performances, including entertainment, speeches,  
19 and cultural and artistic presentations;
  - 20 (H) Goods and services for commercial resale by the  
21 State;



- 1 (I) Services of printers, rating agencies, support
- 2 facilities, fiscal and paying agents, and
- 3 registrars for the issuance and sale of the
- 4 State's or counties' bonds;
- 5 (J) Services of attorneys employed or retained to
- 6 advise, represent, or provide any other legal
- 7 service to the State or any of its agencies, on
- 8 matters arising under laws of another state or
- 9 foreign country, or in an action brought in
- 10 another state, federal, or foreign jurisdiction,
- 11 when substantially all legal services are
- 12 expected to be performed outside this State;
- 13 (K) Financing agreements under chapter 37D; [~~and~~]
- 14 (L) Education materials including textbooks,
- 15 supplies, implements, tools, machinery,
- 16 computers, electronic devices, or other goods
- 17 related to any education, training, or experience
- 18 required for participation in an educational
- 19 program; and
- 20 [~~(L)~~] (M) Any other goods or services which the policy
- 21 board determines by rules or the chief



1 procurement officer determines in writing is  
2 available from multiple sources but for which  
3 procurement by competitive means is either not  
4 practicable or not advantageous to the State; and

5 (5) Which are specific procurements expressly exempt from  
6 any or all of the requirements of this chapter by:

7 (A) References in state or federal law to provisions  
8 of this chapter or a section of this chapter, or  
9 references to a particular requirement of this  
10 chapter; and

11 (B) Trade agreements, including the Uruguay Round  
12 General Agreement on Tariffs and Trade (GATT)  
13 which require certain non-construction and  
14 non-software development procurements by the  
15 comptroller to be conducted in accordance with  
16 its terms."

17 SECTION 5. Statutory material to be repealed is bracketed  
18 and stricken. New statutory material is underscored.

19 SECTION 6. This Act shall take effect on June 30, 3000,  
20 and shall be repealed on June 30, 2026; provided that  
21 section 103D-102, Hawaii Revised Statutes, shall be reenacted in



- 1 the form in which is read on the day before the effective date
- 2 of this Act.



**Report Title:**

DOE; Procurement; Exemptions

**Description:**

Provides procurement exemptions for the Department of Education for certain goods, services, and construction. Effective 6/30/3000. Sunsets 6/30/2026. (HD1)

*The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.*

