

LFC Requester:

AGENCY BILL ANALYSIS - 2025 REGULAR SESSION
WITHIN 24 HOURS OF BILL POSTING, UPLOAD ANALYSIS TO
AgencyAnalysis.nmlegis.gov and email to billanalysis@dfa.nm.gov
(Analysis must be uploaded as a PDF)

SECTION I: GENERAL INFORMATION

{Indicate if analysis is on an original bill, amendment, substitute, or a correction of a previous bill}

Date Prepared: 2/10/2025 *Check all that apply:*
Bill Number: /H276-341 Original Correction
 Amendment Substitute

Sponsor: Rep. Garratt **Agency Name and Code:** DFA-341
Short Title: PUBLIC-PRIVATE PARTNERSHIPS FUND & **Number:** _____
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SECTION II: FISCAL IMPACT

APPROPRIATION (dollars in thousands)

| Appropriation | | Recurring or Nonrecurring | Fund Affected |
|---------------|------|---------------------------|---------------|
| FY25 | FY26 | | |
| N/A | N/A | Recurring | |
| | | | |

(Parenthesis () indicate expenditure decreases)

REVENUE (dollars in thousands)

| Estimated Revenue | | | Recurring or Nonrecurring | Fund Affected |
|-------------------|------|------|---------------------------|---------------|
| FY25 | FY26 | FY27 | | |
| N/A | N/A | N/A | | |
| | | | | |

(Parenthesis () indicate revenue decreases)

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

| | FY25 | FY26 | FY27 | 3 Year Total Cost | Recurring or Nonrecurring | Fund Affected |
|--------------|------|----------|----------|-------------------|---------------------------|---------------|
| Total | 0 | \$506.17 | \$506.17 | \$1,012.35 | R | |

(Parenthesis () Indicate Expenditure Decreases)

Duplicates/Conflicts with/Companion to/Relates to:
Duplicates/Relates to Appropriation in the General Appropriation Act

SECTION III: NARRATIVE

BILL SUMMARY

Synopsis: HB276 aims to streamline the development of transportation and broadband infrastructure projects by leveraging public-private partnerships.

Key provisions include:

- **Creation of the Public-Private Partnership Fund:**
 - The Public-Private Partnership Fund is established as a nonreverting fund in the state treasury.
 - Distributions from the public project revolving fund, appropriations, investment income, gifts, grants, and donations fund the Public-Private Partnership Fund.
 - The Local Government Division (LGD) of the Department of Finance and Administration (DFA) administers the fund.
- **Public-Private Partnership Program:**
 - LGD administers the program in consultation with the New Mexico Finance Authority (NMFA).
 - This program will provide grants to public partners for eligible broadband and transportation projects.
 - LGD will be required to engage in rulemaking to establish procedures for grant applications, project evaluations, and fund disbursements.
- **Grant Application and Evaluation:**
 - Public partners must submit a public-private partnership agreement along with a grant application.
 - LGD must conduct a cost-benefit analysis, consider the impacts of procurement rules, evaluate available financing, and assess the likelihood of project completion.
 - Specific criteria for broadband and transportation projects are outlined.
- **Amendments to Existing Statutes:**
 - § 6-21-6.1, NMSA 1978 is amended to allow appropriations from the public

project revolving fund (PPRF) to the public-private partnership fund.

- § 13-1-98, NMSA 1978 is amended to include a procurement code exemption for public-private partnership agreements related to broadband and transportation projects.

FISCAL IMPLICATIONS

Overall, while HB276 aims to enhance broadband and transportation infrastructure development through public-private partnerships, it will require careful financial management and oversight to balance the potential benefits with the costs of establishing and administering the new fund and program.

- **Creation of the Public-Private Partnership Fund:**

- Under § 6-21-6.1, NMSA 1978 provides for an annual distribution of an aggregate amount not to exceed thirty-five percent (35%) of the governmental gross receipts tax proceeds distributed to the public project revolving fund for appropriation by the legislature for a number of different public infrastructure projects.
- Under HB276, the Public-Private Partnership Fund will become an eligible destination for these funds. No set amount is allocated for distributions under the Public-Private Partnership Fund.

- **Grant Funding for Projects:**

- HB276 mandates the provision of grants to public partners for broadband and transportation projects. This will necessitate building a balance in the public-private partnership fund, impacting the state's budget and financial planning and adding another source of state funding for certain infrastructure projects.

- **Administrative Costs:**

- DFA will incur administrative costs to manage the public-private partnership program, including rulemaking, evaluating grant applications, conducting cost-benefit analyses, and ensuring compliance with the program's rules.
 - LGD does not currently have the technical expertise to establish appropriate evaluation criteria and conduct cost-benefit analyses.
 - LGD anticipates relying on consultation with other state agencies and consultants to help establish evaluation criteria and develop a cost-benefit analysis framework
 - LGD estimates this process will require 3,824 work hours per year (2 FTEs) for a total cost of \$201,260 to evaluate grant applications and ensure compliance with program rules.

- However, the bill does not explicitly allow for leveraging the Public-Private Partnership Fund through other forms of financial assistance.
- Due to the diversity of potential projects and diversity of potential needs, allowance for loan guarantees, issuance of bonds, and/or application for/leveraging of federal financial assistance.

ADMINISTRATIVE IMPLICATIONS

Overall, HB276 will require significant administrative efforts to establish and manage the new fund and program, develop and implement rules, process and evaluate grant applications, and ensure proper oversight and accountability of public funds.

- **Establishment of the Public-Private Partnership Fund:**

- LGD will be responsible for administering the new fund. This includes managing its finances, processing distributions, and ensuring compliance with its purpose.

- **Creation and Management of the Public-Private Partnership Program:**

- LGD will need to develop and implement the public-private partnership program. This involves creating application forms, establishing evaluation criteria, and setting up procedures for awarding grants.
- LGD will also need to consult with the New Mexico Finance Authority to evaluate and provide grants for proposed broadband and transportation projects.
 - Additionally, LGD anticipates consulting with DFA's Infrastructure Planning and Development Division, the Office of Broadband Access and Expansion, and the Department of Transportation regarding the types of projects eligible for this funding.
 - Consulting these entities would help ensure that rulemaking processes and grant award selections incorporate both programmatic considerations and technical expertise.

- **Rulemaking Requirements:**

- LGD must promulgate rules to administer the program, including procedures for grant applications, project evaluations, and fund disbursements. This will require drafting, reviewing, and finalizing rules, as well as potentially holding public hearings or consultations.

- **Grant Application and Evaluation Process:**

- LGD will need to process grant applications from public partners, which includes reviewing public-private partnership agreements, conducting cost-benefit analyses, and assessing the impact of procurement rules on project costs and

timelines.

- LGD must also consider other financing options and the likelihood of project completion when evaluating applications.
- **Coordination with the New Mexico Finance Authority:**
 - LGD will work closely with the New Mexico Finance Authority, which will evaluate the financial risks of proposed projects and recommend projects to the division. This requires ongoing communication and collaboration between the two entities.
- **Oversight and Accountability:**
 - LGD must ensure that public funds are safeguarded and used appropriately. This includes applying procurement, accounting, and governmental conduct standards in evaluating proposals and agreements.
 - LGD must also ensure an expedited review process to facilitate timely project completion.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

SB206, Procurement Changes, includes a new definition of “public private partnership agreement” and excludes public private partnership agreements from the contract term limit for professional services contracts.

TECHNICAL ISSUES

N/A.

OTHER SUBSTANTIVE ISSUES

Nationwide, P3s are utilized to advance energy, drinking water and wastewater infrastructure projects, yet these are not included in HB276.

ALTERNATIVES

N/A.

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

N/A.

AMENDMENTS

N/A.