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**AGENCY BILL ANALYSIS - 2025 REGULAR SESSION**

**WITHIN 24 HOURS OF BILL POSTING, UPLOAD ANALYSIS TO [AgencyAnalysis.nmlegis.gov](http://AgencyAnalysis.nmlegis.gov) and email to [billanalysis@dfa.nm.gov](mailto: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//7/25 *Check all that apply:*  
**Bill Number:** HB290 Original  Correction   
 Amendment  Substitute

**SECTION II: FISCAL IMPACT**

**APPROPRIATION (dollars in thousands)**

Appropriation		Recurring or Nonrecurring	Fund Affected
FY25	FY26		
\$0	\$0		

(Parenthesis ( ) indicate expenditure decreases)

**REVENUE (dollars in thousands)**

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY25	FY26	FY27		
\$0	\$0	\$0		

(Parenthesis ( ) indicate revenue decreases)

**ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)**

	FY25	FY26	FY27	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
<b>Total</b>						

(Parenthesis ( ) Indicate Expenditure Decreases)

Duplicates/Conflicts with/Companion to/Relates to: Relates to HJR11

**SECTION III: NARRATIVE**

**BILL SUMMARY**

HB290 (the Bill) proposes the creation of the Vibrant Communities program at the Department of Finance and Administration to allow for the funding of public purpose projects being carried out by nonprofit organizations. This Bill would include an annual appropriation of funding to DFA for the program and require regular reporting to the Governor, Legislature, and Legislative Finance Council.

The Bill is contingent on passage of House Joint Resolution 11, a proposed constitutional amendment that liberalizes anti-donation restrictions against providing public financial assistance directly to nonprofit organizations, and subsequent approval by voters.

### **FISCAL IMPLICATIONS**

The Bill calls out an appropriation by the legislature, but does not have a specific dollar expenditure related to the legislation. There will be DFA administrative expenses related to the oversight and management of this program, some of which likely overlap with existing DFA program activities under capital outlay and appropriations.

### **SIGNIFICANT ISSUES**

A large amount of public purpose work is carried out by nonprofit organizations around the state. Nonprofit driven public projects have significant benefits including reduced barriers to procurement, ability to leverage charitable and outside grant funding, and are insulated from changes in political prioritization surrounding particular social and public purpose activities. Because of this, they are often able to deliver projects more expeditiously and with lower cost than public projects. There are also a wide range of essential public purpose activities that are best managed by nonprofit third parties, rather than being implemented directly by governmental entities.

The current restrictions created by the Anti-Donation Clause create significant administrative complexity for deploying public funding for nonprofit-led public purpose projects. This includes limiting improvements to existing public purpose facilities that are not owned by local governments and complicated lease mechanisms between nonprofits and local governments to show in-kind value that create significant complexity for DFA, local governments, and non-profits alike.

### **PERFORMANCE IMPLICATIONS**

The administrative complexity of the current approach to providing public support to nonprofit public purpose projects often delays projects, increases administrative burden at DFA, other state agencies that administer local capital outlay projects, and with local governments, and pull nonprofit capacity away from its core work of providing services.

Having a performance-based application process could help more systematically prioritize projects and move away from more anecdotal approaches related to state funding currently utilized. The current processes require a local government to prioritize projects locally, bring those forward for support for appropriations or capital outlay, proceed through a legislative session, then await the start of a fiscal year, and additional time to execute agreements between the state and local government, then the local government in complex agreements with nonprofit providers. This time delay from conception of a project to receipt of funding is a significant risk window for any form of construction project where price changes, fluctuation in interest rates, changes in partner capacity, and changes to other funding sources can threaten the project's ultimate viability.

### **ADMINISTRATIVE IMPLICATIONS**

There is an administrative burden associated with the design and operation of the programs. Some of this will take the place of other processes currently used. If designed well it has the potential for streamlining some existing processes.

## **CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP**

### **TECHNICAL ISSUES**

### **OTHER SUBSTANTIVE ISSUES**

Given the breadth of scope of public purpose projects and the number of qualifying entities in New Mexico, demand for funding through the Vibrant Communities Program is likely to be extremely high. High demand will certainly outpace available funding, as is true with local capital outlay requests today. HB290 will require close coordination between the Governor, DFA, and the legislature on Vibrant Communities Program project lists and interplay with local capital outlay requests, to reduce duplication and streamline processes.

Section 6 of HB290 includes a process for qualifying entities to submit *preliminary* applications to DFA. It then states that DFA will create a list of projects that meet all requirements and provide the list to the legislature and the Governor. HB290 does not explain what happens with that list and when, if ever, *final* applications are required and to whom. As drafted, it is unclear what happens between DFA's preparation of the list of qualified preliminary applications and legislative appropriation and authorization of specific projects.

### **ALTERNATIVES**

An alternative approach would be to create specific exemption based on activity such as LEDA or the Affordable Housing Act.

### **WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL**

The state would forgo the opportunity to expand its financial support and partnership with nonprofit partners in addressing critical community issues.

### **AMENDMENTS**