

HOUSE BILL 276

**57TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2025**

INTRODUCED BY

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and Michael Padilla and Art De La Cruz

FOR THE NEW MEXICO FINANCE AUTHORITY OVERSIGHT COMMITTEE

AN ACT

RELATING TO PUBLIC-PRIVATE PARTNERSHIPS; CREATING THE PUBLIC-PRIVATE PARTNERSHIP FUND AND THE PUBLIC-PRIVATE PARTNERSHIP PROGRAM; REQUIRING THE LOCAL GOVERNMENT DIVISION OF THE DEPARTMENT OF FINANCE AND ADMINISTRATION, IN CONSULTATION WITH THE NEW MEXICO FINANCE AUTHORITY, TO PROVIDE GRANTS TO PUBLIC PARTNERS TO COMPLETE BROADBAND PROJECTS AND TRANSPORTATION PROJECTS; REQUIRING RULEMAKING; PROVIDING THAT APPROPRIATIONS FROM THE PUBLIC PROJECT REVOLVING FUND MAY BE MADE TO THE PUBLIC-PRIVATE PARTNERSHIP FUND; EXEMPTING PUBLIC-PRIVATE PARTNERSHIP AGREEMENTS FROM THE PROCUREMENT CODE; MAKING AN APPROPRIATION.

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

SECTION 1. [NEW MATERIAL] PUBLIC-PRIVATE PARTNERSHIP FUND--CREATED--PURPOSE--PUBLIC-PRIVATE PARTNERSHIP PROGRAM--

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1 DISTRIBUTIONS.--

2 A. As used in this section:

3 (1) "authority" means the New Mexico finance  
4 authority;

5 (2) "broadband project" means a project to  
6 develop, repair, replace or maintain the state facilities or  
7 infrastructure used to provide internet, including the  
8 electronics, equipment, transmission facilities, fiber-optic  
9 cables and any other item directly related to a system capable  
10 of transmission of internet protocol or other formatted data at  
11 current federal communications commission minimum speed  
12 standard, all of which will be owned and used by a provider of  
13 internet access services;

14 (3) "division" means the local government  
15 division of the department of finance and administration;

16 (4) "private partner" means an individual, a  
17 foreign or domestic corporation, a general partnership, a  
18 limited liability company, a limited partnership, a joint  
19 venture, a business trust, a public benefit corporation, a  
20 nonprofit entity or other private business entity or any  
21 combination thereof;

22 (5) "public partner" means the state or any of  
23 its branches, agencies, departments, boards, instrumentalities  
24 or institutions and all political subdivisions of the state;

25 (6) "public-private partnership" means an

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1 arrangement between one or more public partners and one or more  
2 private partners for the development of a broadband project or  
3 a transportation project; and

4 (7) "transportation project" means studies,  
5 planning, design, construction and maintenance of  
6 transportation infrastructure located in this state.

7 B. The "public-private partnership fund" is created  
8 as a nonreverting fund in the state treasury. The public-  
9 private partnership fund consists of distributions from the  
10 public project revolving fund, appropriations, income from  
11 investment of the public-private partnership fund, gifts,  
12 grants and donations. The division shall administer the  
13 public-private partnership fund, and money in the public-  
14 private partnership fund is appropriated to the division to  
15 administer the public-private partnership program.

16 Disbursements from the public-private partnership fund shall be  
17 made by warrant of the secretary of finance and administration  
18 pursuant to vouchers signed by the director of the division or  
19 the director's designee.

20 C. The "public-private partnership program" is  
21 created and shall be administered by the division. The  
22 division shall, in consultation with the authority, evaluate  
23 and provide grants to fund proposed transportation projects and  
24 broadband projects.

25 D. A public partner shall apply to receive a grant

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1 on forms and in a manner prescribed by the division, which  
2 shall include the public-private partnership agreement executed  
3 by the public partner and private partner. When determining an  
4 award pursuant to this section, the division shall:

5 (1) undertake a cost-benefit analysis of the  
6 proposed public-private partnership in comparison to a  
7 traditional project that is managed by a public partner;

8 (2) determine whether the application of  
9 procurement rules normally applicable to the public partner  
10 would delay or increase the cost of the proposed public  
11 project;

12 (3) consider other financing available to  
13 complete the project, including matching financing provided by  
14 the private partner; and

15 (4) consider the likelihood of the broadband  
16 project's or transportation project's completion.

17 E. In addition to the requirements provided  
18 pursuant to Subsection D of this section, the division shall  
19 base its decision to award a grant for the completion of a:

20 (1) broadband project on:

21 (a) whether the proposed project  
22 supports the expansion of broadband as estimated by the amount  
23 of private properties and commercial properties that would  
24 receive internet as a result of the project; or

25 (b) the need to develop, repair, replace

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1 or maintain the state facilities or infrastructure used to  
2 provide internet with existing broadband infrastructure based  
3 on the geographic area served by the project; and

4 (2) transportation project on whether the  
5 project is necessary to study, plan, design, construct or  
6 maintain transportation infrastructure or facilities and is  
7 currently delayed by the public partner due to cost or the  
8 procurement process.

9 F. The division shall promulgate rules to  
10 administer the public-private partnership program, including  
11 procedures:

12 (1) for a public partner to apply for grants  
13 from the program;

14 (2) to evaluate a proposed project; provided  
15 that the division shall:

16 (a) apply procurement, accounting and  
17 governmental conduct standards in evaluating a public partner's  
18 proposal and public-private partnership agreement;

19 (b) consider the recommendations of the  
20 authority; and

21 (c) ensure an expedited review process;

22 (3) to award grants to a public partner to  
23 complete the public project; and

24 (4) to safeguard public funds.

25 G. The authority shall:

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1 (1) evaluate the financial risks of the  
2 proposed transportation project or broadband project; and

3 (2) promulgate rules as necessary to recommend  
4 projects to the division.

5 H. Money in the public-private partnership fund may  
6 be used to cover the administrative costs of the authority in  
7 complying with this section."

8 SECTION 2. Section 6-21-6.1 NMSA 1978 (being Laws 1994,  
9 Chapter 145, Section 2, as amended) is amended to read:

10 "6-21-6.1. PUBLIC PROJECT REVOLVING FUND--APPROPRIATIONS  
11 TO OTHER FUNDS.--

12 A. At the end of each fiscal year, after all debt  
13 service charges, replenishment of reserves and administrative  
14 costs on all outstanding bonds, notes or other obligations  
15 payable from the public project revolving fund are satisfied,  
16 an aggregate amount not to exceed thirty-five percent of the  
17 governmental gross receipts tax proceeds distributed to the  
18 public project revolving fund in the preceding fiscal year less  
19 all debt service charges and administrative costs of the  
20 authority paid in the preceding fiscal year on bonds issued  
21 pursuant to this section may be appropriated by the legislature  
22 from the public project revolving fund to:

23 (1) the following funds for local  
24 infrastructure financing:

25 (a) the wastewater facility construction  
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1 loan fund for purposes of the Wastewater Facility Construction  
2 Loan Act;

3 (b) the rural infrastructure revolving  
4 loan fund for purposes of the Rural Infrastructure Act;

5 (c) the solid waste facility grant fund  
6 for purposes of the Solid Waste Act;

7 (d) the drinking water state revolving  
8 loan fund for purposes of the Drinking Water State Revolving  
9 Loan Fund Act;

10 (e) the water and wastewater project  
11 grant fund for purposes specified in the New Mexico Finance  
12 Authority Act; or

13 (f) the local government planning fund  
14 for purposes specified in the New Mexico Finance Authority Act;  
15 [~~or~~]

16 (2) the public-private partnership fund for  
17 purposes specified in Section 1 of this 2025 act; or

18 [~~(2)~~] (3) the cultural affairs facilities  
19 infrastructure fund.

20 B. The authority and the department of finance and  
21 administration in coordination with the New Mexico finance  
22 authority oversight committee may recommend annually to each  
23 regular session of the legislature amounts to be appropriated  
24 to the funds listed in Subsection A of this section."

25 SECTION 3. Section 13-1-98 NMSA 1978 (being Laws 1984,  
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1 Chapter 65, Section 71, as amended by Laws 2023, Chapter 149,  
2 Section 2 and by Laws 2023, Chapter 174, Section 1) is amended  
3 to read:

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

6 A. procurement of items of tangible personal  
7 property or services by a state agency or a local public body  
8 from a state agency, a local public body or external  
9 procurement unit except as otherwise provided in Sections  
10 13-1-135 through 13-1-137 NMSA 1978;

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

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

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

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

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1 public, school and state libraries for access by the public;

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

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

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

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

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

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

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

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1 M. contracts entered into by a local public body  
2 with a private independent contractor for the operation, or  
3 provision and operation, of a jail pursuant to Sections 33-3-26  
4 and 33-3-27 NMSA 1978;

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

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

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

18 Q. contracts with professional entertainers;

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

25 S. contracts for service relating to the design,

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1 engineering, financing, construction and acquisition of public  
2 improvements undertaken in improvement districts pursuant to  
3 Subsection L of Section 3-33-14.1 NMSA 1978 and in county  
4 improvement districts pursuant to Subsection L of Section  
5 4-55A-12.1 NMSA 1978;

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

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

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

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

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

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

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

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

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

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

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

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

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1 EE. contracts entered into by the crime victims  
2 reparation commission to distribute federal grants to assist  
3 victims of crime, including grants from the federal Victims of  
4 Crime Act of 1984 and the federal Violence Against Women Act of  
5 1994;

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

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

12 HH. public-private partnership agreements for the  
13 performance of a broadband project or a transportation project  
14 pursuant to Section 1 of this 2025 act;

15 ~~[HH-]~~ II. contracts entered into by the forestry  
16 division of the energy, minerals and natural resources  
17 department to distribute federal grants to nongovernmental  
18 entities and individuals selected through an application  
19 process conducted by the United States department of  
20 agriculture, the United States department of the interior or  
21 any division or bureau thereof for programs for wildfire  
22 prevention or protection, urban forestry, forest and watershed  
23 restoration and protection, reforestation or economic  
24 development projects to advance the use of trees and wood  
25 biomass for hazardous fuel reduction; and

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[~~HH.~~] JJ. procurements exempt from the Procurement  
Code as otherwise provided by law."

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