

LFC Requester:

Cally Carswell

AGENCY BILL ANALYSIS - 2025 REGULAR SESSION**WITHIN 24 HOURS OF BILL POSTING, UPLOAD ANALYSIS TO****[AgencyAnalysis.nmlegis.gov](https://www.legis.nm.gov/AgencyAnalysis) 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:** February 10, 2025 *Check all that apply:***Bill Number:** HB276 Original Correction
Amendment Substitute

Sponsor: Joy Garratt, Patricia Lundstrom, Cathrynn Brown, Michael Padilla, and Art De La Cruz
Public Private Partnerships for Broadband and Transportation Funds

Agency Name and Code Number: Office of Broadband Access and Expansion - 36100

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SECTION II: FISCAL IMPACT**APPROPRIATION (dollars in thousands)**

Appropriation		Recurring or Nonrecurring	Fund Affected
FY25	FY26		
Dependent on Tax Revenue	Dependent on Tax Revenue	Recurring	Public Project Revolving Fund
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
Total	Unknown	Unknown	unknown			

(Parenthesis () Indicate Expenditure Decreases)

Duplicates/Conflicts with/Companion to/Relates to: N/A
Duplicates/Relates to Appropriation in the General Appropriation Act: HB2

SECTION III: NARRATIVE

BILL SUMMARY

Synopsis: This bill creates the “Public-Private Partnership Fund” as a non-reverting fund in the state treasury, to be administered by the Local Government Division (LGD) of DFA. It establishes a public-private partnership program (P3) for the DFA to evaluate and provide grants to public entities to support P3s for transportation projects and broadband projects. The bill sets criteria for LGD to evaluate grant applications and directs LGD to promulgate relevant rules. HB267 also adds the Public-Private Partnership Fund as an eligible fund to receive appropriations from the Public Project Revolving Fund. Finally, it exempts public-private partnership agreements for transportation and broadband projects from the Procurement Code.

FISCAL IMPLICATIONS

Contributions to the Public Private Partnership Fund will vary each year and are subject to legislative appropriation.

SIGNIFICANT ISSUES

OBAE has received just under \$1 billion in state and federal funding to implement broadband infrastructure projects throughout the New Mexico. Despite this significant investment, the New Mexico Broadband Strategic Plan estimates that the state requires between \$2.2 billion and \$5.5 billion dollars of capital investment to achieve complete connectivity.

The creation of the Public-Private Partnership Fund would provide another possible funding pathway to fill this statewide funding gap. Additional funding for public partners in a P3 for a broadband project could address new connectivity for unserved New Mexicans, as well as the long-term maintenance of broadband infrastructure built through other funding sources.

PERFORMANCE IMPLICATIONS

The DFA may need to collaborate with OBAE on broadband applications to ensure that there is no unintentional duplication of funding or overbuilding, as each agency will be funding broadband infrastructure.

ADMINISTRATIVE IMPLICATIONS

The bill creates a Procurement Code exemption for P3 agreements for transportation and broadband projects under Section 1, which should significantly lessen the administrative burden for all partners to the associated P3 agreement. The Procurement Code exemption will enhance opportunities for LGC grant awardees and private partners to work together on project financing, construction, operation and/or maintenance of underlying projects and may reduce administrative overhead.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

None.

TECHNICAL ISSUES

The bill mandates that applications for grant funding “include the public-private partnership agreement executed by the public partner and private partner.”

This requirement is a catch-22 and will create technical barriers to applications. A typical public-private partnership agreement cannot be fully executed without designating the financial contributions of each partner and a proposed project schedule.

With the requirement to submit the P3 agreement along with the grant application, the public partner will be forced to commit to contributing an amount prior to knowing if the application was successful, and the private partner will be forced to commit to a project schedule without knowing whether the procurement code will apply.

This creates significant risk for both entities, and may deter the development of public-private partnerships for the purposes of this fund.

OTHER SUBSTANTIVE ISSUES

ALTERNATIVES

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

AMENDMENTS

OBAE recommends the mandate that applications for grant funding “include the public-private partnership agreement executed by the public partner and private partner,” be removed as particular guidelines and parameters for applications would be more appropriately addressed in the anticipated rulemaking.