

LFC Requester:

Cally Carswell

**NMDOT BILL ANALYSIS
2025 REGULAR SESSION**

{Include the bill no. in the email subject line, e.g., HB2, and only attach one bill analysis and related documentation per email message}

SECTION I: GENERAL INFORMATION

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

Check all that apply:

Date Prepared: February 12, 2025

Original Amendment

Bill No. HB 276

Correction Substitute

Sponsor: Joy Garratt, Patricia A. Lundstrom,
Cathrynn N. Brown, Michael
Padilla, and Art De La Cruz

Agency/ Code: NMDOT - 805 – Office of General Counsel

Person Writing Analysis: Greg Cole & Christina Baca

Short Title Public-Private Partnerships
Fund & Program

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SECTION II: FISCAL IMPACT

APPROPRIATION (dollars in thousands)

Not applicable.

REVENUE (dollars in thousands)

Not applicable.

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY26	FY27	FY28	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total	See Fiscal Impact Below					

(Parenthesis () Indicate Expenditure Decreases)

SECTION III: NARRATIVE

BILL SUMMARY

House Bill 276 (HB 276) establishes the Public-Private Partnership Fund (P3F) as a non-reverting fund administered by the Local Government Division (Division) of the Department of Finance and Administration to administer the Public-Private Partnership Program (P3P). The P3P is created and administered by the Division, in consultation with the New Mexico Finance Authority (NMFA), to evaluate and provide grants to fund proposed transportation and broadband projects,

as defined in the bill. HB 276 also directs the Division when determining an award under the P3P, and requires the Division to promulgate rules to administer the P3P. Further, HB 276 directs NMFA to evaluate the financial risks of proposed transportation and broadband projects under the P3P, and to promulgate rules as necessary to recommend projects to the Division. The P3F may be used to cover any NMFA administrative costs in carrying out these directions.

HB 276 amends the Public Project Revolving Fund, NMSA 1978, Section 6-21-6.1, to add the P3F as a potential recipient of the governmental gross receipts tax proceeds distributed to the Public Project Revolving Fund.

HB 276 amends Exemptions from the Procurement Code, NMSA 1978, Section 13-1-98, to exempt public-private partnership (P3) agreements for the performance of broadband and transportation projects from provisions of the Procurement Code.

FISCAL IMPLICATIONS

HB 276 would implement a procedural change allowing public partners to consider an alternate method of project delivery for broadband and transportation projects within the P3P. At this time, any estimate of the fiscal or administrative impact to NMDOT based on use of the P3P as a delivery method for transportation projects would be speculative.

If HB 276 was enacted, NMDOT would consider use of the P3P and sources of private funding when evaluating available project delivery methods and timelines. NMDOT would also consider additional P3P criteria, once developed and promulgated by the Division.

SIGNIFICANT ISSUES

While having the ability to quickly procure broadband and transportation projects when needed can be beneficial, especially in rural areas where it is difficult to find providers, exempting P3 agreements from the provisions of the Procurement Code for the performance of a broadband or transportation project can pose significant complications. Constructing infrastructure or disturbing soils without proper procurement to include environmental and structural evaluations will lead to future complications that could be costly if not properly procured.

NMDOT notes that procurements using an exemption often lack competitive solicitations, and lend themselves to the ability to award to one vendor over others which creates a risk of being overcharged for services procured.

PERFORMANCE IMPLICATIONS

Public partners may be able to shift a portion of the risks of design, construction, and financing of a qualifying transportation project to the private sector in exchange for the public partner's long-term obligations under a P3 agreement.

ADMINISTRATIVE IMPLICATIONS

As stated above, any administrative impact would be speculative at this time. NMDOT notes that a public partner will have continuing project oversight obligations concerning administration of the P3 agreement, as well as ongoing operations and maintenance obligations for a broadband or

transportation project once construction is complete, which may require use of dedicated FTE for the life of each project.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

None noted.

TECHNICAL ISSUES

HB 276 could be amended to clarify that P3 agreements are intended for transportation and broadband projects, the use of which generates user fees or other recurring operational revenue. This change may help to address a concern that all opportunities to use private funding for a transportation or broadband project would be subject to the P3P process. See suggested Amendment #1 below.

OTHER SUBSTANTIVE ISSUES

None noted.

ALTERNATIVES

None noted.

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

NMDOT will continue to plan its multi-modal transportation program based on applicable federal and state funding sources and the use of traditional project delivery methods.

AMENDMENTS

NMDOT requests the following amendments to HB 276, as discussed in “Technical Issues”;

1. Amend Section 1 (A)(6) as follows:

(6) “public-private partnership” means an arrangement between one or more public partners and one or more private partners for the development of a broadband project or a transportation project that generates user fees; and