FISCAL IMPACT REPORT

SPONSOR	Campos	**ORIGINAL DATE** / **LAST UPDATED**	2/12/21	**HB**	
SHORT TITLE	Public-Private Partnership Act			**SB**	143
				ANALYST	Valenzuela

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY21	**FY22**	**FY23**		
	$1,000.0*	$2,000.0*	Recurring	Public Private Partnership Fund

*For illustrative purposes only. Assumes the fund is capitalized with an initial $40 million investment.
(Parenthesis ( ) Indicate Revenue Decreases)

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY21	FY22	FY23	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total		$250.0	$250.0	$500.0	Recurring	Public Private Partnership Fund

(Parenthesis ( ) Indicate Expenditure Decreases)

SOURCES OF INFORMATION
LFC Files

Responses Received From
Department of Transportation (DOT)

SUMMARY

Synopsis of Bill

Senate Bill 143 creates the Public-Private Partnership Act providing legal authority for governmental entities to enter into agreements with private entities to develop public transportation projects except toll roads. The bill creates a Public-Private Partnership (P3) Board staffed by the New Mexico Finance Authority (NMFA). The P3 Board would review and approve P3 agreements that meet a minimum threshold of agreements for greater than $10 million.

The bill would authorize NMFA to participate in the financing of the P3 agreements through a P3 project fund, established by the bill. NMFA would approve any financing for loans and grants from the fund. The bill includes standard language allowing NMFA to issue stand-alone revenue bonds as a form of financing of these projects and explicitly ensures any bonds issued for these projects are not an obligation of the state. Governmental entities pursuing a P3 agreement may apply for up to $75 thousand grant to assist in evaluating the feasibility of a proposed project.

SB143 is endorsed by the Legislative Finance Committee. The effective date of this bill is July 1, 2021.

FISCAL IMPLICATIONS

The bill does not contain an appropriation but does create the public-private partnership fund, which (1) may be used for grants up to $75 thousand, matched with 25 percent match from the private partner to study the feasibility of a proposed P3 project or (2) may be used to finance a portion of a P3 project.

Under the bill, the P3 Board and NMFA may use appropriations in the fund to cover any costs from implementation of the program. The estimate is $250 thousand of operating costs. Additionally, the bill provides for NMFA's ability to earn a rate of return, commensurate with the risk, on project financing. Assuming a 5 percent annual return and a $40 million appropriation to the P3 fund, NMFA could earn $2 million from interest earnings annually.

SIGNIFICANT ISSUES

New Mexico is often overlooked for private-sector investments in public infrastructure. More than 35 states have laws governing the use of public-private partnerships. New Mexico is not one of them. SB143 provides the statutory framework to ensure the projects develop in the public's interest.

Public-private partnerships have been completed throughout New Mexico on an ad-hoc basis with mixed results. Oversight of projects is left to a governing body that is a party to the agreement, which in some cases may not have the staff or expertise to fully analyze long-term financial obligations of the public-private partnership agreements. P3 agreements are complex. SB143 would provide support to governments to analyze the legal and financial issues of an agreement.

Enactment of the bill would provide governmental entities and private partners with a transparent set of guidelines, under which these partnerships can operate to ensure the public's interests are served. The P3 Board will be responsible for promulgating rules to implement the act, which would expound on the definitions, processes, and requirements of an agreement.

The bill outlines guardrails, or protections of the public interest in projects: (1) Each project must provide a cost-benefit analysis comparing the proposed project with the project, if developed under conventional government processes. (2) Each project must demonstrate support locally by having held public hearings and received support from local governmental bodies. (3) Each project must outline the procurement process for the project. (4) Each project must have met applicable state and federal laws such as those for environmental protection, employment and financing.

For any project over $10 million or for a term longer than five years, the P3 agreements must be reviewed and approved by the P3 Board. Anything below these thresholds must report the project to the P3 Board.

SB143 creates a nine-member board with members who have expertise in public project development or financing, including four cabinet secretaries (from the Economic Development Department, Department of Finance and Administration, General Services Department, and Department of Transportation). The NMFA chief executive officer will hold one seat and four public members would be appointed by the Legislative Council Service. The public members would have specific expertise in topics relevant to public-private partnerships and the chair would be selected from the public members.

Sections 5 and 6 of the bill establish the respective roles the P3 Board and NMFA and Section 12 requires NMFA to report activity of the P3 Board to the NMFA Oversight Committee by December 1 of each year.

Sections 8 and 13 address other federal or state laws for which compliance is necessary in a P3 agreement, including statutes on public works construction, procurement, and confidentiality in public records requests. Section 14 amends the Procurement Code to add a new exemption for projects undertaken pursuant to this act.

MFV/al