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**Statement of  
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**Before the  
Subcommittee on Highways, Transit, and Pipelines  
Committee on Transportation and Infrastructure  
U.S. House of Representatives**

**Hearing on “Understanding Contemporary Public Private Highway Transactions: The  
Future of Infrastructure Finance?”**

**May 24, 2006**

Good afternoon, Mr. Chairman, Ranking Member DeFazio and Members of the Committee. My name is Karen Hedlund and I am a partner of the law firm of Nossaman, Guthner, Knox & Elliott, LLP. It is my pleasure to speak to you today about how State Departments of Transportation (DOTs) and local transportation agencies are implementing their public-private partnership (PPP) programs. My firm has had the privilege of advising over a dozen States on PPP procurements, including Colorado, Delaware, Florida, Georgia, Indiana, Minnesota, North Carolina, Oregon, Texas, Utah, Virginia and Washington. This morning I will address how various States have crafted PPP legislation, how they go about procuring private investment in their transportation projects, some of the “lessons learned” from their endeavors and current trends. I will conclude with a note on the support and oversight provided to State and local agencies by the federal government.

Long-term tollway leases, such as the recent transaction for the Chicago Skyway and the Indiana Tollroad, have garnered most of the headlines. However, it should be recognized that most of the PPP activity in the States actually has revolved around the development of *new* transportation facilities. I will focus my remarks on these transactions.

Why are States Increasingly Embracing PPPs for Project Implementation?

The vast majority of transportation projects are still being funded from traditional sources, including State gas and vehicle taxes and federal highway trust fund appropriations. But today State and local transportation agencies are increasingly looking to supplement these sources with private investment. While PPPs are but one “tool in the tool box,” their increased use is due to a number of factors: the growing gap between needs and traditional resources; the reluctance at both the State and federal levels to increase or index transportation taxes; the enactment of several important federal policy initiatives; and the completion of a number of landmark PPP

transactions that have demonstrated the hearty appetite of the private capital markets for US transportation projects.

The modern use of public-private partnerships in the transportation arena originated over 15 years ago with California's enactment of AB 680 and adoption by the Commonwealth of Virginia of its Public-Private Transportation Act of 1995. Today over 21 States have adopted legislation authorizing the use of public-private agreements for the design, construction, financing and operation of transportation facilities. (See Exhibit A to this Statement).

The number of States with PPP legislation grows each year. Recent enactments include Indiana's new law authorizing a PPP approach to finance, build and operate the I-69 extension from Indianapolis to Evansville. Utah has adopted legislation authorizing public-private tollway development agreements. This month, the Alaska legislature passed a bill authorizing the use of a PPP to finance the long-sought Knik Arm Bridge near Anchorage. Last week, California's Legislature sent to the Governor a new statute permitting PPP development of 8 projects, including several directed to benefit goods movement.

In addition, PPP bills recently have been introduced or proposed in several other jurisdictions, including New York, Ohio, New Jersey and Missouri.

#### How do the States Procure Private Partners?

In 2005, the Nossaman firm was tasked by FHWA to survey State enabling laws relative to public private partnerships and analyze their key elements. A copy of this report can be found at <http://www.fhwa.dot.gov/ppp/legislation.htm>. Most of the authorizing statutes followed the model established by Virginia's 1995 PPTA law in providing guidance to the States' transportation agencies as to the procedures they should follow in procuring private partners and the criteria they should use in evaluating proposals and negotiating agreements.

Most States authorize the responsible public entity to solicit requests for PPP proposals for improvement of specific systems, corridors or routes. Many States may also accept unsolicited proposals, which enable the private sector to offer projects that the public entity might not otherwise have considered, provided that they satisfy the criteria outlined in the governing statutes and regulations, and are consistent with the State's overall transportation plans. Competition is incorporated in the unsolicited process by requirements for the public entity to invite competitive proposals within specified periods designed to permit adequate time for the preparation, submission and evaluation of competitive proposals.

Statutes generally afford the public entity considerable flexibility in the types of agreements they may enter into and the specific procurement process so that they may to more easily select the one that is most appropriate for a particular project. Contracts are awarded on the basis of "best value" taking into account both short and long-term benefits of the project proposal. Proposals to finance well-defined projects that have cleared the environmental process may be solicited on the basis of "hard money" bids. These can include the amount of franchise fees to be paid by the private party, the amount of required public investment, and/or limits on return on investment or

future user fee levels. Private participation in projects that are still in the early development stage may be solicited based on the amount of funding the developer is willing to advance at its cost and risk for preliminary engineering, traffic and revenue studies and permitting activities, in return for the right of exclusive negotiation of the final terms for construction and operation. If such negotiations are ultimately unsuccessful, the agency retracts the right to re-bid the project. It should be noted, however, that the private sector is generally unwilling to accept the risk of NEPA approvals due to significant uncertainties about the time required to obtain such approvals and the ultimate outcome.

State laws or regulations typically require that proposers first demonstrate their qualifications to undertake a project based on relevant experience in development, design, construction, financing and/or operation of projects with attributes similar to the project being procured; the financial resources they bring to the undertaking and their legal structure. Short-listing of the most qualified proposers limits the number of final proposals that the agency must consider to those that are backed by qualified teams.

State law or regulations also outline what should be incorporated in a responsive proposal meriting review by the public entity, with flexibility given to the agency to add additional requirements relating to a specific project procurement. These typically include such items as a description of the proposer's technical approach, its financial plan, an estimate of its design and construction costs, the development timeline, the anticipated financial commitment of the parties, including equity, debt and other financing mechanisms, the monetary or other benefit to the public sector, assumptions about toll rates and other user fees, and proposed caps on rates of return and/or proposed revenue sharing with the public sector.

Authorizing statutes generally address who has user fee rate-setting authority and under what circumstances may they be changed or otherwise reviewed. States laws generally leave to contract negotiation when and by how much tolls can be modified by the private operator.

In our experience State and local transportation agencies take great care in managing the solicitation and review process, and in negotiating final agreements. These are time-intensive undertakings, and they assign their most senior and qualified public servants to the task. Months of effort are usually required to develop procurement documents and related agreements, including consideration of comments from the public and industry. Additional months are taken up in and in the detailed evaluation of final proposals and negotiation of implementation agreements. Outside engineering, planning, environmental and legal consultants are brought in to advise on the numerous technical issues that arise, and to give the agency the benefit of their experience on similar undertakings elsewhere in the country and around the world. Many States also establish review committees made up of representatives of various stakeholders outside the DOTs, as well as seeking the approval of the State's transportation commissions.

The States vary in the extent to which the State legislature is involved in project selection. Some enactments limit authority to engage in PPPs to specified projects, or limit the number or location of projects. Some laws require submission of projects or agreements to the State legislature's transportation committees for review, although few require legislative approval of

final agreements. The latter is viewed as creating a “political risk” that would discourage proposers from expending the significant sums – not infrequently in the millions of dollars—in preparing proposals.

Other public policy issues sometimes addressed in legislative enactments include: whether tolls must be removed upon termination of the agreement; conversion of existing non-tolled highways to tolled projects; and maintenance of competitive routes or restriction on “non-compete” agreements. Most states leave the resolution of these issues to a case-by-case determination by the sponsoring agency.

### What Projects are the States Procuring with PPPs?

#### *Texas*

Texas’ PPP program may be the largest in the United States, if not in the world. TxDOT plans to use PPPs as the primary method for delivering new highway projects throughout the state. No less than ten major projects are currently under PPP contract, in procurement or negotiations, or in preparation for competitive procurements.

They include the state’s Trans Texas Corridors 35 and 69, multi-billion dollar long-term projects to create new multi-modal transportation and utility corridors across the state. In early 2006 the state selected a joint venture of Spanish concessionaire Cintra and local contractor Zachry as its strategic business partner for the TTC-35 and is in active negotiation for the first PPP facility to be financed and built under it – SH 130 Segments 5&6. In March 2006 Cintra Zachry unveiled plans for a new 600-mile, grade-separated freight line in the TTC-35 corridor, running from Dallas-Fort Worth to the Mexican border. The plan relies primarily on private financing, with potential additional funding from the Texas Rail Relocation Fund.

I-635 Managed Lanes, the TTC-69, Loop 1604/US281 and SH121 are in active procurement. A procurement for the SH161 will commence this year. Procurement preparation recently began for the SH121/SH114 Connector known as the Funnel, and IH820/35W, with initial procurement documents scheduled to be issued in 2007.

At the local level, the Harris County Toll Road Authority, which built and operates 83 miles of toll roads in the Houston area, is undertaking comparative studies for retaining, selling or leasing them.

#### *Other Active States*

Several other states have active PPP programs, planning and procurements underway. The most active are Virginia, Oregon, Georgia, Florida and Indiana.

Virginia has one of the longest histories using PPPs, many of which have materialized from unsolicited proposals permitted under its law. VDOT is currently in negotiation of proposals to finance and construct the 56-mile I-95/395 HOT and HOV lanes project from the 14th Street

Bridge to Massaponax as well as HOT lanes on the Capital Beltway (I-495) in Northern Virginia. In February 2006, VDOT issued a Solicitation for Proposals for the development and/or operation of the new U.S. Route 460 between Petersburg and Suffolk. Other current PPP projects include the reconstruction of the I-81 to add dedicated tolled truck (TOT) lanes and other improvements and the Dulles Corridor Metrorail Extension. Proposals submitted for a long-term lease for the Commonwealth's Dulles Toll Road have been suspended pending negotiation of a transfer of the toll road to the Metropolitan Washington Airports Authority (MWAA) to facilitate financing of the second leg of the Metrorail extension to Dulles Airport. The airport authority may continue to consider private proposals to operate the toll road.

In October 2005 Oregon DOT signed a pre-development agreement for three potential highway concession projects with a consortium headed by Macquarie Infrastructure Group. These projects are at various stages of environmental planning and feasibility analysis. Macquarie has committed to advance almost all the cost of the pre-development work in exchange for exclusive negotiating rights to implement those projects that prove to be feasible.

The Florida Department of Transportation is pursuing concession proposals for the Miami Port Tunnel connecting the Port of Miami's island facilities to the interstate highway system. In May 2006, FDOT short-listed three international teams for a procurement and contract award scheduled in early 2007. The Tampa-Hillsborough County Expressway Authority is procuring a concession for a new \$200M limited access alignment and interchange at I-275.

Georgia's Department of Transportation is currently proceeding with two major unsolicited proposals received in 2004. The first is a proposed concession for new improvements in the I-75/I-575 Northwest Corridor. The proposed improvements include two design concepts: HOT lanes with variable pricing which will also serve as the guideway for a bus rapid transit (BRT) system, and mandatory truck-only toll lanes. The second proposal is for a concession to develop and operate HOT lanes on GA 400 between Highway 20 and I-85 and on I-285 between I-75 and I-85. Last week Georgia received a new PPP proposal put truck-only toll lanes on portions of western I-285 between I-75 and I-20, and I-20.

The State of Washington is developing administrative rules under its new PPP legislation, modeled after Oregon's. Under its law, no tolls are permitted on a project except by specific approval of the legislature. Separately, the State Transportation Commission issued a tolling study in January 2006 that recommends a statewide tolling and pricing policy as a new funding source and congestion management tool.

### What are the Important Trends in the Use of PPPs?

#### *Leveraging public funds with private investment*

California's AB 680 was premised on the notion that privately developed tollroads should not require any contribution of public funds. A corollary to this principal was that opportunities for private investment should only be offered for projects that were low on the State's priority list, reserving for traditional public financing the most urgently needed projects. Since that time

States have come to understand that there are few new projects that can be financed solely on the basis of toll revenue. States are also recognizing that, given the overall inadequacy of public dollars, combining public and private investment dollars in highly congested corridors is the most effective tool to advance these urgent projects over the shortest time horizon.

Today, most State laws permit public contributions to PPP projects in the form of grants or loans, and authorize the State to cooperate with the private sponsors in obtaining needed TIFIA credit support or private activity bond allocations.

#### *Infusion of long-term equity*

Until recently, the majority of PPP projects in the United States did not involve long-term equity investment by the private sponsors. These teams, typically led by large US construction and engineering firms would risk substantial sums in developing proposals and bringing them to financial close, but they sought the return on their “sweat equity” primarily through developer fees paid at close of financing and through profit built into the associated design-build contracts. Long-term equity investments were also discouraged by tax laws that made such projects ineligible for lower-cost tax-exempt debt financing.

The last year has seen a resurgence in projects to be developed using the “concession” model, with project sponsor’s equity at risk to the long-term performance of the project. This change is in part a result of the provision in SAFETEA-LU authorizing \$15 billion in tax-exempt private activity bonds, and in part from entry into the US market of international players with experience in billions of dollars of projects financed under the private the concession model throughout the rest of the world. As noted above, the concession approach is currently being utilized in procurements for numerous new projects in Texas, Oregon and Florida.

#### *Use of PPPs for non-tolled projects*

Private equity investment presupposes a revenue stream from which the private investor can earn a return. The revenue stream, however, does not have to consist of an interest in tolls or other fees imposed directly on users of the project. Great Britain has used “shadow tolling” support their PFI program. Today, the Florida Department of Transportation, in the first procurement of its kind in the United States, is offering annual “availability payments” to prospective concessionaires willing to build, own and operate a new non-tolled tunnel to the Port of Miami. Payments will be made directly to the concessionaire by FDOT based on hours of lane availability of and such other factors as safety and compliance with operating and maintenance standards.

#### What is the Federal Role in State PPP Procurements?

PPPs are primarily a State undertaking, and procurements are governed in the first instance by State laws and regulations. Where federal funds are contributed to a project, FHWA oversight insures compliance with applicable federal requirements. The federal regulatory environment continues its evolution in support of transportation PPPs.

*Special Experimental Programs (SEP-14, SEP-15)*

FHWA has long sought to remove barriers to the use innovative procurement processes through Special Experimental Programs, SEP-14 and SEP-15. SEP-15 established in 2004 allows use of experimental features on Federal-aid projects to test project delivery techniques that might otherwise be restricted by FHWA regulations or policy. Intended to encourage experimentation in the entire project development process, SEP-15 specifically aims at increasing private investment, project management flexibility, innovation and efficiency, and promoting timely project implementation and new revenue streams. SEP-15 cannot be used to modify the application of environmental laws.

Most recently the SEP-15 procedure has been accessed to permit the TIFIA office to put in place for a Texas project a conditional term sheet and draft credit agreement in advance of proposer selection in a competitive PPP solicitation.

*TIFIA*

The Transportation Infrastructure Finance and Innovation Act (TIFIA) authorized under TEA-21 enhances the feasibility of PPP financing by providing subordinated debt to projects on advantageous terms. SAFETEA-LU included amendments to TIFIA to improve its suitability to the PPP environment. It expands the types of eligible projects and expressly authorizes direct assistance to private operators. In addition, for existing eligible projects, it permits refinancing of project debt, provided a portion of the refinance proceeds is used to complete, expand or upgrade the project. The new private operator of Virginia's Pocahontas Parkway is expected to take advantage of the refinancing provision to extend the highway to the Richmond International Airport.

*\$15 Billion Private Activity Bonds*

SAFETEA-LU also made available to equity investors in highways and intermodal facilities tax-exempt financing that had long been a staple of private airport, transit, water and wastewater projects. Previously highway and projects were eligible for tax-exempt financing only if there was no significant revenue sharing, no private equity and no long term operating contracts. Thus federal income tax laws effectively precluded a project from combining tax-exempt financing and concession-type PPPs. The lower interest cost of the \$15 billion in private activity bonds to be allocated by the Secretary of Transportation will help make economically feasible Title 23 funded projects that would otherwise prove infeasible with higher cost taxable debt.

*Interstate Tolling Programs*

Finally, SAFETEA-LU expanded the authorization for tolling projects on the interstate highway system. Indiana and Texas are expected to access this authority for development of their portions of I-69, a new interstate extending from the Texas border to Canada. The Express Lanes program will facilitate capacity expansions of congested urban corridors through the use of time of day

pricing and electronic tolling. And our overtaxed and deteriorated Interstates, such as I-81 in Virginia and I-70 in Missouri can be reconstructed and expanded using toll revenues to attract private investment where state and federal dollars are otherwise limited or unavailable.

### Conclusion

PPPs are but one “tool in the tool box” of project delivery mechanisms. However, given that Federal and State fuel taxes continue their long decline in the dollar value of projects they can support, PPPs will play an increasingly important role in delivery our largest and most complex transportation projects. The combination of federal support and private sector interest have strengthened the hand of state and local government officials willing to embrace the PPP project delivery tool. The continued careful and prudent use of this tool by the States should provide great benefits to the public in the years to come.



## State Laws Authorizing Public-Private Partnerships for Transportation Projects

(Reflects legislative developments through May 2006)<sup>1</sup>

State	Statute	Comments
1. AK	AS § 19.75.111 (PENDING)	HB 471 was approved by both houses of the Alaska State Legislature and is expected to be signed into law by the governor. It would authorize the Knik Arm Bridge and Toll Authority to utilize a PPP to finance, design, construct, operate and maintain the Knik Arm bridge.
2. AL	ALA. CODE §§ 23-1-80 to 23-1-95 <a href="http://www.legislature.state.al.us/CodeofAlabama/1975/132328.htm">http://www.legislature.state.al.us/CodeofAlabama/1975/132328.htm</a>	Authorizes the Alabama DOT and county commissions to establish toll roads, toll bridges, ferries or causeways or allow for their operation by private parties. No express provision regarding the solicitation or acceptance of unsolicited proposals.
3. AZ	ARIZ. REV. STAT. §§ 28-7701 to 28-7758 <a href="http://www.azleg.state.az.us/ArizonaRevisedStatutes.asp?Title=28">http://www.azleg.state.az.us/ArizonaRevisedStatutes.asp?Title=28</a>	Two pilot programs each allow up to two solicited and unsolicited proposals.
4. CA	CAL STS & HY CODE § 143(A) <a href="http://www.leginfo.ca.gov/cgi-bin/displaycode?section=shc&amp;group=00001-01000&amp;file=90-155.6">http://www.leginfo.ca.gov/cgi-bin/displaycode?section=shc&amp;group=00001-01000&amp;file=90-155.6</a>  CAL GOV CODE § 5956 <a href="http://www.leginfo.ca.gov/cgi-bin/displaycode?section=gov&amp;group=05001-06000&amp;file=5956-5956.10">http://www.leginfo.ca.gov/cgi-bin/displaycode?section=gov&amp;group=05001-06000&amp;file=5956-5956.10</a>	The legislation authorizing Caltrans to enter into PPPs (known as AB 680) was repealed in 2003; new legislation is pending pursuant to Governor Schwarzenegger's "GoCalifornia" transportation initiative (AB 1467).  This legislation (also known as AB 2660) authorizes PPPs for a range of "fee-producing infrastructure projects," but explicitly excludes the use of toll roads on state highways.
5. CO	COLO. REV. STAT. §§ 43-1-1201 to 1209 COLO. REV. STAT. §§ 43-4-801 to 812 COLO. REV. STAT. §§ 43-3-201 to 43-3-416 <a href="http://198.187.128.12/colorado/lpext.dll/Infobase/4/63f18?fn=document-frame.htm&amp;f=templates">http://198.187.128.12/colorado/lpext.dll/Infobase/4/63f18?fn=document-frame.htm&amp;f=templates</a>	Allows solicited and unsolicited proposals for PPPs.  Created a statewide tolling enterprise to finance, build, operate and maintain toll highways. Operated as a government-owned business within the Colorado DOT.  Provides PPP authority to Colorado DOT for specific projects including turnpikes and HOT lanes.

<sup>1</sup> This survey should not be construed as legal advice regarding any particular project in any state. Please contact [bchase@nossaman.com](mailto:bchase@nossaman.com) with any additions or corrections.

State	Statute	Comments
6. DE	DEL. CODE ANN. tit. 2, part II, ch. 20, §§ 2001 to 2012 <a href="http://www.delcode.state.de.us/title2/c020/index.htm">http://www.delcode.state.de.us/title2/c020/index.htm</a> - TopOfPage	Authorizes solicited and unsolicited proposals for PPP projects, including highways and bridges.
7. FL	FLA. STAT. ANN. § 334.30 <a href="http://www.flsenate.gov/statutes/index.cfm?mode=View%20Statutes&amp;SubMenu=1&amp;App_mode=Display_Statute&amp;Search_String=&amp;URL=CH0334/SEC30.HTM">http://www.flsenate.gov/statutes/index.cfm?mode=View%20Statutes&amp;SubMenu=1&amp;App_mode=Display_Statute&amp;Search_String=&amp;URL=CH0334/SEC30.HTM</a> FLA. STAT. ANN. §§ 338.22 to 338.241 <a href="http://www.flsenate.gov/statutes/index.cfm?App_mode=Display_Statute&amp;URL=Ch0338/titl0338.htm&amp;StatuteYear=2005&amp;Title=%2D%3E2005%2D%3EChapter%20338">http://www.flsenate.gov/statutes/index.cfm?App_mode=Display_Statute&amp;URL=Ch0338/titl0338.htm&amp;StatuteYear=2005&amp;Title=%2D%3E2005%2D%3EChapter%20338</a>	Allows Florida DOT to receive or solicit proposals for PPPs. 1953 statute that established the Florida Turnpike Enterprise, which is on an enterprise basis within the Florida DOT.
8. GA	GA. CODE ANN. §§ 32-2-78 to 32-2-80 <a href="http://www.legis.state.ga.us/cgi-bin/gl_codes_detail.pl?code=32-2-1">http://www.legis.state.ga.us/cgi-bin/gl_codes_detail.pl?code=32-2-1</a>	In May of 2005, several significant amendments to this statute were enacted as S.B. 270. The statute now allows Georgia DOT to both receive and solicit proposals for PPPs. Potential competitors also have 135 days (instead of 90 days) to respond to an unsolicited proposal.
9. IN	IN CODE § 8-15.5	HB 1008 authorizes the Indiana Toll Road lease transaction. The legislation also establishes the process for entering into a public-private agreement on I-69 from Indianapolis to Evansville, and specifically prohibits the State from entering into such an agreement for any other road or project without further legislative approval. While similar in scope to the authorization for the Indiana Toll Road lease, there are a number of significant differences in the process for procuring an I-69 agreement. As an example, the I-69 PPA will be administered by INDOT, instead of the Indiana Finance Authority.

<b>State</b>	<b>Statute</b>	<b>Comments</b>
<b>10. LA</b>	LA. REV. STAT. §§ 48:1251 to 1281 LA. REV. STAT. §§ 48:2020 to 2037 <a href="http://www.legis.state.la.us/">HTTP://WWW.LEGIS.STATE.LA.US/</a>	Louisiana HB 1294, a bill to "authorize the Louisiana Transportation Authority to pursue public-private partnerships for the construction for certain transportation facilities," was passed by the House currently before the Senate.
<b>11. MD</b>	MD. TRANSPORTATION CODE ANN. § 8-204 <a href="http://198.187.128.12/maryland/lpext.dll/Infobase/572f8/5875a/58865/5887e?fn=document-">http://198.187.128.12/maryland/lpext.dll/Infobase/572f8/5875a/58865/5887e?fn=document-</a>	Maryland does not have a statute expressly authorizing highway PPPs. According to a 1996 Attorney General opinion referenced in the annotations to this statute, the Maryland Transportation Authority has authority to construct toll roads using certain forms of PPPs. <sup>2</sup>
<b>12. MN</b>	MINN. STAT. ANN. §§ 160.84 – 160.93 <a href="http://www.revisor.leg.state.mn.us/stats/160/">http://www.revisor.leg.state.mn.us/stats/160/</a>	Authorizes solicited and unsolicited PPPs for toll facilities. Authorizes HOT lanes.
<b>13. MO</b>	MO. REV. STAT. §§ 238:300 to 238:367 <a href="http://www.moga.state.mo.us/STATUTES/C238.HTM">http://www.moga.state.mo.us/STATUTES/C238.HTM</a>	Creates a special purpose non-profit corporation known as a Transportation Corporation as a vehicle for PPPs. No express provision regarding the solicitation or acceptance of unsolicited proposals.
<b>14. NV</b>	NEV. REV. STAT. §§ 338.161 to 168. <a href="http://www.leg.state.nv.us/NRS/NRS-338.html">http://www.leg.state.nv.us/NRS/NRS-338.html</a>	Authorizes public bodies to accept unsolicited proposals to develop, construct, improve, maintain or operate transportation facilities. Toll bridge and toll road projects, however, are prohibited under this statute.
<b>15. NC</b>	N.C. GEN. STATE. §§ 136-89.180 to 136-89.197 <a href="http://www.ncleg.net/EnactedLegislation/Statutes/HTML/ByArticle/Chapter_136/Article_6H.html">http://www.ncleg.net/EnactedLegislation/Statutes/HTML/ByArticle/Chapter_136/Article_6H.html</a>	North Carolina Turnpike Authority now authorized to develop, construct, operate and maintain up to nine toll facilities, including a toll bridge. Solicited process only.
<b>16. OR</b>	OR. REV. STAT. §§ 367.800 to 367.826. <a href="http://www.leg.state.or.us/ors/367.html">HTTP://WWW.LEG.STATE.OR.US/ORS/367.HTML</a> OR. REV. STAT. §§ 383.001 to 383.019 <a href="http://www.leg.state.or.us/ors/383.html">http://www.leg.state.or.us/ors/383.html</a> .	Establishes the Oregon Innovative Partnerships Program with detailed guidelines at OAR 731-070-0005 to 731-070-0360. Allows Oregon DOT to solicit and accept unsolicited PPPs for tollway projects.
<b>17. PR</b>	9 LEYES P.R. AN. §§ 2001 to 2021	This statute establishes a toll transportation facility authority with broad powers to authorize private participation in public highway projects.

<sup>2</sup> See MD 81 Op. Att’y Gen. (issued 2/2/96).

State	Statute	Comments
18. SC	S.C. CODE § 57-3-200 <a href="http://www.scstatehouse.net/code/t57c003.htm">http://www.scstatehouse.net/code/t57c003.htm</a> S.C. CODE § 57-5-1310 et. al. <a href="http://www.scstatehouse.net/code/t57c005.htm">http://www.scstatehouse.net/code/t57c005.htm</a>	Allows South Carolina DOT to enter into PPPs. Allows DOT to construct and operate turnpike facilities; § 57-5-1330(1)4 appears to permit SC DOT to use PPPs to develop these facilities. No express provision regarding the solicitation or acceptance of unsolicited proposals.
19. TX	TEX. TRANSP. CODE ANN. ch. 227, 361 and 370 <a href="http://www.capitol.state.tx.us/statutes/tn.toc.htm">http://www.capitol.state.tx.us/statutes/tn.toc.htm</a>	Allows TxDOT, the Texas Turnpike Authority, and Regional Mobility Authorities to accept solicited and unsolicited proposals for PPPs.
20. UT	UT. CODE ANN. §§ 63-56-502.5 and 72-6-201	SB 80 authorizes the Utah DOT, with approval from the Transportation Commission, to accept solicited and unsolicited proposals for PPPs involving tollway facilities through the use of “tollway development agreements.”
21. VA	VA. CODE ANN. §§ 56-556 to 56-575 <a href="http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+TOC5600000002200000000000">http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+TOC5600000002200000000000</a>	Virginia’s Public-Private Transportation Act of 1995 authorizes PPPs and was modified during the 2005 legislative session. Allows solicited and unsolicited proposals. Contains detailed guidelines to assist VDOT and other public entities in implementing this program.
22. WA	WASH. REV. CODE §§ 47.46.010 to 47.46.900 <a href="http://www.leg.wa.gov/rw/index.cfm?fuseaction=chapter&amp;chapter=47.46&amp;RequestTimeout=500">http://www.leg.wa.gov/rw/index.cfm?fuseaction=chapter&amp;chapter=47.46&amp;RequestTimeout=500</a>	New PPP enabling legislation was passed in May of 2005 (as H.B. 1541) The exclusive source of financing for WashDOT projects is state treasurer-issued indebtedness; and no such indebtedness, or expenditures from it, may occur without prior legislative approval. Presently, solicited proposals only, but unsolicited proposals may be accepted after 1/1/07.