



## P O L I C Y   B R I E F

### The Benefits of Public Private Partnerships (P3s) to Upgrade State Transportation Infrastructure and How Federal Efforts Would Undermine Them

As cash-strapped states look to improve their infrastructure, they increasingly look towards public private partnerships (P3s) – collaborations between governments and private companies. These collaborative projects prove to be an efficient strategy to modernize or expand the transportation infrastructure.

The word “privatizing” often carries a negative or extreme connotation. Public private partnerships however, remove the taxpayer burden of paying for infrastructure improvements, while leaving oversight and accountability functions in the hands of government, thereby striking a balance between full state-ownership and outright privatization. At the same time they yield taxpayer savings in terms of cost and time.

And while nearly two dozen states have enacted or are debating legislation to facilitate such public private partnerships, a federal legislative effort put forth by Senators Jeff Bingaman (D-MN) and Chuck Grassley (R-IA) would undermine states’ ability to enter into these partnerships. A report issued by several private equity firms estimated earlier this year that there are roughly \$180 billion in private dollars targeted for infrastructure investment, which could finance some \$450 billion in projects.

However, much of that money will likely be invested in Europe and Australia due to more favorable conditions for public private partnerships, and the two bills introduced by Sens. Bingaman and Grassley will serve as a further disincentive for private capital to flow to the United States for such projects.

#### S.884, “Transportation Equity for All Americans Act”

S.884 would change the formula of the allocation of federal highway dollars to exclude “privatized highways.”

In the context of this bill, “privatized highway” means a highway subject to an agreement giving a private entity control over the operation of the highway and ownership over the toll revenues from the operation of the highway

⇒ *Would essentially apply to any highway under a public-private partnership agreement.*

States with such privatized highways will have the number of lane miles and vehicle miles traveled excluded from consideration as factors in the formula for apportionment of federal highway funds.

Among the states potentially affected by the legislation because they either have engaged in public private partnerships for highways or are considering to do so are: AL, AZ, CA, CO, FL, GA, IN, MI, MS, PA, P.R., NC, NV, NY, TX, VA.

⇒ *Not a spending cut, but change of apportionment formula, states without public private partnerships to receive more funding.*

⇒ *Discrimination against states that have turned to public private partnerships, penalizing states that are looking for innovative ways to improve their infrastructure while at the same time saving taxpayer dollars.*

⇒ *Disincentive for states to engage in public-private partnerships, as well as disincentive for private investment.*

⇒ *Amounts to a federalization of what should be a state/local decision regarding the disposition of assets.*

## S.885, Transportation Access for All Americans Act

S.885 would increase the depreciation period for “applicable leased highway property” (property subject to an applicable lease and placed in service before the date of such lease) from 15 to 45 years and increases the amortization period for intangible assets relating to leased highways to be no “less than the term of the applicable lease.”

The bill amounts to a corporate income tax increase.

⇒ *Increasing the depreciation/amortization period results in a corporate tax increase, and is as such a violation of the Taxpayer Protection Pledge<sup>1</sup> unless the increase is offset completely with other income tax cuts.*

The underlying assumption of corporate welfare is misguided.

⇒ *The benefits of the shorter depreciation/amortization period flow through to the owner of the asset (state/local governments), not the private investor, due to the structure of the competitive bidding processes.*

⇒ *The loss of the depreciation tax benefit will be priced by the private sector, resulting in a lower bid. Consequently, the bill merely transfers wealth from the states to the Federal government.*

⇒ *Note too, that under government operations, assets do not pay taxes at all.*

Absent the private investment, the taxpayer share/subsidy would likely be 100%.

⇒ *The shorter depreciation/amortization period may be considered a “subsidy” to a project. However one should note that if these projects are not financed by the private sector, taxpayers will be on the hook for 100% of the cost.*

<sup>1</sup> 34 Senators and 172 Congressmen have signed the Taxpayer Protection Pledge. In so doing, they promised to their constituents and the American people that they would “oppose any net reduction or elimination of deductions or credits...”

## Why Public Private Partnerships? A Tale of Two Transportation Packages

### Indiana

In 2006, the state began a long-term lease of the Indiana Toll Road. The deal landed the state \$3.85 billion in new funds, allowing them to fully fund a transportation investment program. Indiana’s credit rating also improved, saving the state millions of dollars in interest. Further, Hoosiers are earning about \$6 of interest per second on the deal, amounting to more than \$500,000 per day or \$189 million per year.

### Minnesota

In February 2008, the state legislature passed a \$6.6 billion transportation infrastructure plan funded by an 8.5-cent gas tax increase, new licensing fees for vehicles, and a sales tax increase on select counties in metropolitan areas. It was the largest tax increase in the state’s history. While Governor Pawlenty vetoed the measure, it was overridden by tax-and-spend lawmakers.

The Indiana public private partnership brought in guaranteed revenue for the state, grew the economy, and allowed for infrastructure improvements without straddling taxpayers with an increased burden, while Minnesota did the complete opposite. The state is now relying on a revenue source that varies with the price of gasoline and sales in metropolitan areas, while simultaneously slamming taxpayers with a new multi-billion dollar tax burden.

Whether through leasing projects for revenue to firms that establish true “user fees” (such as the Indiana Toll Road) or through saving money by paying smaller fixed payments to private firms that improve or create new infrastructure, public private partnerships are an innovative answer to big-government transportation projects.

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