Testimony Before the House Ways and Means Committee Regarding Leveraging the Tax Code for Infrastructure Investment

Prepared for: House Ways and Means Committee

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Date: May 19, 2021

Chairman Neal, Ranking Member Brady, and members of the Committee,

Thank you for the opportunity to testify before you today. I am Dr. Adrian Moore, vice president of Reason Foundation. I am a transportation economist with over 25 years of experience working on transportation funding policies, including being appointed by Congress to the National Surface Transportation Infrastructure Financing Commission in 2007.

Today I will speak briefly about a key tool for leveraging infrastructure investment that has been used on a bipartisan basis in the United States and even more widely overseas—public-private partnerships (P3s).

Since 1990, there have been 1,207 total P3 road projects globally.[1] These projects have garnered a total of $356 billion in private investment and the vast majority have been initiated since 2005. To date, the United States has been a small player in this story. While governments in Europe and Asia have embraced private-sector involvement in helping to build and operate transportation projects, the United States has remained politically reluctant to do so.

Thirty-seven states, the District of Columbia, and Puerto Rico have enacted P3 authorities, but actual projects have been concentrated in only 11 states, the Port Authority of New York and New Jersey, and Puerto Rico. Nevertheless, that provides a track record by which we can judge their success at helping to get infrastructure projects done in an efficient manner. Importantly, P3s provide a structure to allow private investors to help finance new infrastructure, which is then paid back with toll revenue or traditional revenue sources over a specified period. It is not new revenue, but a way to bring forward future revenue to pay for a project to be built.

These contracts truly are partnerships and involve a number of investors. A typical toll-financed P3 uses state funds for 14% of costs, private equity for 29%, a Transportation Infrastructure Finance and Innovation Act (TIFIA) loan for 27%, private activity bonds (PABs) for 23%, and bank financing and capitalized interest for 7%.

Public-private partnerships have several major advantages over traditional project delivery, including:

[1] World Bank Private Participation in Infrastructure database, https://ppi.worldbank.org/en/visualization

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1. Delivering needed infrastructure sooner. P3s can offer a way to finance major highway and infrastructure projects that otherwise might be built years later—or not at all—due to a lack of funding.

2. Offering the ability to raise large private sources of capital for toll projects. Rebuilding and modernizing our freeways and Interstates will be very costly. The long-term P3 model can raise significant investment capital for new and reconstructed transportation infrastructure because it is attractive to many different types of investors, including public pension funds and insurance companies.

3. Shifting financial risk from taxpayers to private investors. P3s parcel out duties and risks to the parties best able to handle them. The state remains responsible for items like public rights-of-way and environmental permitting. Private companies typically assume the risks associated with construction cost overruns and any possible traffic and revenue shortfalls.

4. Providing a more business-like approach. Compared with government highway providers, toll road companies tend to be more customer service–oriented and are quicker to adopt cost-saving technologies.

5. Helping enable major innovations. The incentive for private partners to innovate, solve difficult problems, and improve service can be a powerful tool. For example, the use of variable-priced tolls to mitigate traffic congestion was pioneered by a private highway operator on State Route 91 in California.

6. Saving time on project delivery. On average, new P3 construction is finished ahead of schedule. Compare that to design-build projects, which take 4% longer than scheduled, and traditional design-bid-builds, which take 11% longer than scheduled.

7. Saving money on project delivery. P3s can shield government sponsors from cost-overrun risks. Compare that to design-build projects, which on average face 1.5% cost overruns, and design-bid-builds, which on average face 13% cost overruns.

One example of a successful P3 worth considering is the Capital Beltway high-occupancy toll (HOT) lanes P3 project in Virginia. Virginia needed to add capacity to the Capital Beltway (I-495) due to growing population and traffic congestion. The Virginia Department of Transportation's (VDOT) cheapest option to widen the roadway would have cost $2.5 billion and displaced hundreds of residences. A private company offered an unsolicited proposal to design, build, finance, operate, and maintain (DBFOM) two HOT lanes in each direction at a total cost of $1.9 billion.

In a competitive bidding process, Fluor partnered with Transurban (creating an entity called Capital Beltway Express) to win a 75-year lease. The project financing is structured as follows: 1) $589 million in PABs, 2) a $589 million TIFIA loan, 3) a $409 million grant from VDOT, 4) $348 million in private equity, and 5) $47 million in interest income.

Not only did the project save the state hundreds of millions in costs but it also reduced taxpayers' financial risks. Because the HOT Lanes project opened during the Great Recession the roadway

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experienced traffic volumes and toll revenue below projections. Because the project was a P3, the private sector took a haircut in revenue but taxpayers were not responsible for those losses.

The Virginia P3 will also provide better-maintained roads. During the life of the contract, Capital Beltway Express must keep the lanes well maintained (smooth pavement quality, prompt snow removal, etc.). At the end of the 75-year lease, the project must be handed back to VDOT in a state of good repair - which is much more than can be said about many interstates and highways across the nation.

The project uses dynamically priced tolls to help manage congestion. Tolls rise and fall based on demand and ensure a congestion-free travel option adjacent to the regularly congested general-purpose lanes. And the P3 is also helping to improve public transit. Lanes provide a virtual busway for transit. Local transit agencies operate high-quality, reliable service in the HOT lanes.

The federal share of transportation spending on infrastructure would get more "bang for the buck" if federal tax and transportation funding policies removed barriers to and encouraged P3s where feasible:

- Currently, surface transportation private activity bonds (PABs) have a lifetime $15 billion volume cap, and nearly all of that $15 billion has been issued or allocated ($14.7 billion).[2] These are projects where the vast majority of the benefits accrue to the users, and as PABs are part of so many P3 transportation projects, that cap should be raised to at least $30 billion.
- Congress intended TIFIA to be a check-the-box process where as long as applicants met certain standards, they were eligible. Unfortunately, the U.S. Department of Transportation (USDOT) under multiple administrations has treated TIFIA more like a discretionary loan program. Since TIFIA applicants must have two investment-grade credit ratings, all applicants have the ability to repay funds. Congress should insist USDOT treat TIFIA as a check-the-box process, subject to funding availability.
- Give some priority of federal funding to projects that include private participation in a P3 structure.

[2] USDOT Build America Bureau, https://www.google.com/url?q=https://www.transportation.gov/buildamerica/financing/private-activity-bonds-pabs/private-activity-bonds

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