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In the Public Interest
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Testimony Concerning Senate Bill 920
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Committee on Transportation
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Distinguished Members of the Committee on Transportation:

In the Public Interest (ITPI) is a national non-profit research and policy center focused on government outsourcing and responsible contracting. It is committed to equipping citizens, public officials, advocacy groups, and researchers with the information, ideas, and other resources they need to ensure that public contracts with private entities are transparent, fair, well-managed, and effectively monitored, and that those contracts meet the long-term needs of communities.

We submit this testimony in opposition of SB 920, An Act Concerning Public Private Partnerships, in its current form. My organization has long studied public-private partnerships (P3s) and examined numerous contracts and deals from around the country. We have found that many of these deals present significant risks to the state and the public, including loss of public control of the asset, financial and budgetary risks, decreased affordability and accessibility, overly rosy projections that don't materialize, and the loss of transparency and accountability.

A state's P3 law is very important as it clarifies a state's objectives in P3 projects, sets the ground rules for its P3 process, and establishes basic requirements for contracts. SB 920 seeks to loosen the state's basic framework for P3 projects by allowing for a greater number of projects, broadening the types of P3 projects that state can engage in, removing the 50-year contract term limit, and removing the requirement for important analyses for projects with an operations or maintenance component. Moreover, the bill does not propose new language that would ensure that the public interest is protected in any resulting P3 contract. Specifically, we recommend that Connecticut's P3 law address the following:

- Maximum transparency and public participation: Currently, SB 920 does not address which state laws and policies related to public information apply to P3 contracts. Additionally, it does not address public participation within the P3 process. ITPI recommends specific designated opportunities for public, community, and stakeholder participation, especially for those impacted by a proposed project, at all important decision-making points, including the project selection, bidding, and contract award processes.

- Equity-based strategic project selection: What P3 projects a state considers and how they are selected has significant implications for its infrastructure planning efforts. Connecticut's P3 law should help ensure that project priorities aren't driven only by the opportunity for and magnitude of private investment returns, but rather are chosen to meet priority infrastructure needs, as well as community, employment, and economic needs.
- Broad and equitable access: Business models for privatized infrastructure may depend on user fees, such as tolls. While a private partner may seek to maximize revenues through regular increases in user fees, the state must ensure that user fee rates and their subsequent increases do not undermine the important public interest goal of benefiting all affected communities. SB 920 should address issues of affordability and access through the addition of requirements around strong public involvement and agency oversight over user fee rates.
- Resulting jobs should build the middle class: While SB 920 seeks to approve projects that will result in job creation and economic growth, it is currently silent on what resulting jobs will actually look like. By requiring private partners to adhere to job quality standards, Connecticut can build critical infrastructure while providing opportunities to lift disadvantaged populations out of poverty, strengthen the middle class, and ensure that private dollars benefit the local economy. All jobs created from resulting P3 projects, including construction, and long-term maintenance and operation jobs, should provide livable wages and decent benefits.
- Public interest contract provisions: Connecticut's P3 legislation should broadly determine which terms and conditions are allowed in an actual P3 contract. While we applaud the state for ensuring that non-complete clauses remain banned, we also recommend that the bill include limitations to compensation clauses within P3 contracts. For example, Maryland prohibits a private entity from being compensated for projects already in the state's capital improvement program and transportation program at the time the P3 was signed.[1] Additionally, SB 920 should include provisions that require contracts to meet or exceed important state standards. These include, but are not limited to, operations and maintenance standards, performance standards, environmental standards, labor standards, and more.

For more details about these and other best practices and policies in state P3 legislation, please see our publication, "Infrastructure Justice: Building Equity into Infrastructure Financing."

It is also important to note that there is a dangerous perception that P3s are "free money" or "new money," and this couldn't be further from the truth. In P3s, any financing arrangement or equity contribution from the private partner(s) must be paid back by the governmental entity with the very same sources for which all infrastructure is ultimately funded: taxes, tolls, and/or user fees. Furthermore, the cost of capital for private investment is typically much more expensive than tax-exempt bonding.

For more detailed information about these risks and examples of public-private partnerships that have experienced problems, please see our publication, "The Perils of Public-Private Partnerships."

[1] Maryland State General Assembly, House Bill 560, 433rd session, 2013.

Inserting private interests into the development of public infrastructure has proven to be difficult and even counterproductive when adequate care isn't taken to protect the public interest and include equity considerations and standards. Governmental entities have run into costly problems with P3s. Recently, Denver cancelled its P3 contract for the renovation and concession management of its airport due to escalating costs and delays, which cost the airport $183.6 million to settle all outstanding claims with the private partner.[2] Last year, Maryland paid $250 million in a settlement agreement to a private partner who walked away from the state's purple line light rail P3 project, which has been plagued with severe delays.[3] And in 2012, former Indiana Gov. Mike Pence signed off on an Indiana toll-road project, but subsequent analysis showed that the P3 deal was $137.3 million more expensive than if the state had used traditional borrowing. In 2017, the project failed as its investors slid toward bankruptcy. Halfway built, it was taken over by the state after two years of construction delays that caused increased traffic accidents and commute times.[4]

Governments often fail to fully consider the direct and indirect policy implications of these arrangements, the economic and fiscal impacts of long-term contracts and, perhaps most significantly, fail to seize opportunities to promote lasting economic growth. Too often governments have taken big risks based on unrealistic projections to justify specific infrastructure projects. Connecticut has an opportunity to mitigate these risks by clarifying its priorities, goals, and intentions, and setting ground rules in its P3 legislation that ensure the public interest is at the heart of any potential P3 arrangement.

In the Public Interest is happy to provide support to the Committee as Connecticut makes important policy decisions regarding its P3 policies and process. Thank you for your time and consideration.

[2] https://www.constructiondive.com/news/denver-airport-settles-with-fired-great-hall-p3-partner/574720/
[3] https://www.masstransitmag.com/rail/infrastructure/article/21164229/purple-line-settlement-reached-fluor-out-of-p3
[4] https://www.americanprogress.org/issues/economy/reports/2018/02/15/446720/public-private-partnerships-fail-look-southern-indianas-69-project/