PPP Legislation in 2011

- Total Number of States with PPP Enabling Legislation: 31*
  - 16 states considered PPP-related legislation this year
  - 23 introduced bills - 7 enacted
    - 2010: 52 introduced bills - 11 enacted
- Ohio enacted legislation authorizing PPPs
- Bills still pending in California, Michigan, New York and Pennsylvania
Ohio HB 114

- Comprehensive enabling legislation
  - Authorizes state DOT to enter into transportation PPPs
  - Establishes procedures for selecting a proposal
  - No legislative approval requirements
  - Limits the agreement to a two-year period
  - Any agreement can be renewed on a two-year basis if legislature provides sufficient appropriations to the DOT
Arkansas HB 1842

- Allows regional mobility authorities to enter into PPPs for:
  - Rail
  - Waterways
  - Trails
Arizona SB 1270

- Current PPP enabling legislation allows state DOT to enter into PPPs for any "eligible facility"
- Broadens definition of "eligible facility"
- Allows concession agreements to contain clauses for:
  - Rent
  - Advertising
  - Sponsorship fees or service fees
- Allows state DOT to continue collecting tolls once agreement ends
Indiana SB 473

- Removes certain provisions requiring legislative approval
- Transfers the approval process to the governor
- Requires the Budget Committee to review within 90 days if PPP is a toll road
- Retains legislative approval for I-69 and a toll road on a part of an interstate highway south of Indianapolis
Texas SB 1048

- Allows concession agreements for PPPs:
  - Ferries
  - Mass transit facilities
  - Parking structures
  - Port facilities (among others)
- Excludes financing, design, construction, maintenance or operation of a highway in the state highway system
Texas SB 19

- Establishes a streamlined process for toll project development
- Creates a first right of refusal guarantee for local toll entities to build future toll projects
- Allows tolling entities to complete environmental and other pre-project development work more quickly with the goal of expediting the process
Washington HB 1175

- Budget bill
- Appropriates $425,000 to evaluate the potential for financing state transportation projects using PPPs
- Study must compare costs, advantages and disadvantages of various forms of PPPs to conventional financing
- Study must evaluate whether PPPs serve the defined public interest and, to the extent possible, identify the lowest-cost and best-value model for each project that best protects the public interest
- Final report is due to the House and Senate Transportation Committees on December 16, 2011
Pending Bills

- California SB 475
- Illinois HB 1091
- Michigan HB 4131 and SB 410
- New York SB 5445
- Pennsylvania HB 3 and SB 344
Contact Information and Additional Resources

- Nicholas Farber
  National Conference of State Legislatures
  Denver, Colorado
  nicholas.farber@ncsl.org
  (303) 856-1433

- NCSL Transportation Funding Legislation Database: http://www.ncsl.org/?tabid=13597
- NCSL PPP Partners Project: http://www.ncsl.org/?tabid=17528