

2011-2012

**PUBLIC PRIVATE
PARTNERSHIPS HOUSE
SELECT COMMITTEE**

MINUTES

HOUSE SELECT COMMITTEE ON PUBLIC PRIVATE PARTNERSHIPS

2011-2012 Session

CHAIRS



Representative
Tim Moffitt



Representative
Bill Brawley

MEMBERS



Representative
Becky Carney



Representative
Jim Crawford



Representative
David Lewis



Representative
Danny McComas



Representative
William C. McGee



Representative
Rodney Moore



Representative
Tom Murry



Representative
Bill Owens



Representative
Fred Steen

House Select Committee on Public Private Partnership

COMMITTEE MEMBERS

REPRESENTATIVE TIM MOFFITT

Co-Chair

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1025 Legislative Building
tim.moffitt@ncleg.net

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Fax: (919) 754-3317

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County: Buncombe
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Email: tim.moffitt@emoffitt.com

REPRESENTATIVE BILL BRAWLEY

Co-Chair

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REPRESENTATIVE DAVID LEWIS

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REPRESENTATIVE DANNY McCOMAS

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REPRESENTATIVE WILLIAM C. MCGEE

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REPRESENTATIVE TOM MURRY

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Email:

REPRESENTATIVE BILL OWENS

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Fax: (252) 335-9006

REPRESENTATIVE FRED STEEN

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Fax: (919) 754-3195

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County: Rowan
Phone: (704) 857-0857
Email: steen@ctc.net



Office of Speaker Thom Tillis
North Carolina House of Representatives
Raleigh, North Carolina 27601-1096

HOUSE SELECT COMMITTEE ON
PUBLIC-PRIVATE PARTNERSHIPS

TO THE HONORABLE MEMBERS OF THE
NORTH CAROLINA HOUSE OF REPRESENTATIVES

Section 1. The House Select Committee on Public-Private Partnerships (hereinafter "Committee") is established by the Speaker of the House of Representatives pursuant to G.S. 120-19.6(a1) and Rule 26 of the Rules of the House of Representatives of the 2011 General Assembly.

Section 2. The Committee consists of the 11 members listed below, appointed by the Speaker of the House of Representatives. Members serve at the pleasure of the Speaker of the House of Representatives. The Speaker of the House of Representatives may dissolve the Committee at any time.

Representative Tim Moffitt, Co-Chair
Representative Bill Brawley, Co-Chair
Representative Danny McComas
Representative Bill McGee
Representative Tom Murry
Representative David Lewis
Representative Fred Steen
Representative Jim Crawford
Representative Becky Carney
Representative Bill Owens
Representative Rodney Moore

Section 3. The Committee may study issues related to public-private partnerships, including examination of the appropriate authority for State, regional, and local government units to engage in public-private partnerships for public capital projects through a regulatory framework. As part of its study, the Committee may study infrastructure banks and any other relevant issues it deems appropriate.

HOUSE SELECT COMMITTEE ON PUBLIC-PRIVATE PARTNERSHIPS

Section 4. The Committee shall meet upon the call of its Co-Chairs. A quorum of the Committee shall be a majority of its members.

Section 5. The Committee, while in the discharge of its official duties, may exercise all powers provided for under G.S. 120-19 and Article 5A of Chapter 120 of the General Statutes.

Section 6. Members of the Committee shall receive per diem, subsistence, and travel allowance as provided in G.S. 120-3.1.

Section 7. The expenses of the Committee including per diem, subsistence, travel allowances for Committee members, and contracts for professional or consultant services shall be paid upon the written approval of the Speaker of the House of Representatives pursuant to G.S. 120-32.02(c) and G.S. 120-35 from funds available to the House of Representatives for its operations.

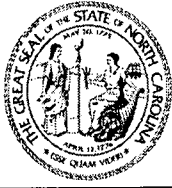
Section 8. The Legislative Services Officer shall assign professional and clerical staff to assist the Committee in its work. The Director of Legislative Assistants of the House of Representatives shall assign clerical support staff to the Committee.

Section 9. The Committee may submit an interim report on the results of the study, including any proposed legislation, on or before May 1, 2012, by filing a copy of the report with the Office of the Speaker of the House of Representatives, the House Principal Clerk, and the Legislative Library. The Committee shall submit a final report on the results of its study, including any proposed legislation, to the members of the House of Representatives prior to the convening of the 2013 General Assembly by filing the final report with the Office of the Speaker of the House of Representatives, the House Principal Clerk, and the Legislative Library. The Committee terminates upon the convening of the 2013 General Assembly or upon the filing of its final report, whichever occurs first.

Effective this the 15th day of September, 2011.



Thom Tillis
Speaker



NORTH CAROLINA GENERAL ASSEMBLY
Legislative Services Office

George R. Hall, Legislative Services Officer

Research Division
300 N. Salisbury Street, Suite 545
Raleigh, NC 27603-5925
Tel. 919-733-2578 Fax 919-715-5460

O. Walker Reagan
Director

~~October 18, 2011~~

Corrected to reflect the addition of Mr. Mark Bondo as staff to the Committee.
Revised and sent October 20, 2011

The Honorable Timothy Moffitt, Co-Chair
House Select Committee on Public-Private Partnerships
North Carolina House of Representatives
16 West Jones Street, Room 1025
Raleigh, NC 27601-1056

Dear Representative Moffitt,

Congratulations on your designation as Co-Chair of the House Select Committee on Public-Private Partnerships.

I have asked Ms. Heather Fennell, Ms. Trina Griffin, and Mr. Greg Roney, with the Research Division; Mr. Mark Bondo, Ms. Amna Cameron and Ms. Karlynn O'Shaughnessy with the Fiscal Research Division, to serve as staff to this Committee. In accordance with the Committee's directions as expressed through the Co-Chairs, they will aid in all aspects of the Committee's work, and will attend the meetings of the Committee when it convenes upon the call of the Co-Chairs. Please note that all these individuals also will be responsible for staffing other study committees and commissions during the Interim.

Should you wish to contact Ms. Fennell, Ms. Griffin, and Mr. Roney, they may be reached by telephone at (919) 733-2578. Mr. Bondo, Ms. Cameron, and Ms. O'Shaughnessy may be reached at (919) 733-4910.

My best wishes to you and the Committee in its work. If I may be of any service to you or the Committee, please contact me.

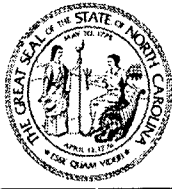
Yours truly,

O. Walker Reagan
Director of Research

OWR/tmp

cc: Hon. Thom Tillis, Speaker
Hon. William Brawley, Jr., Co-Chair
Mr. George Hall
Mr. Mark Trogdon
Ms. Nicole McGuinness
Ms. Sarah Wolfe
Ms. Heather Fennell

Ms. Trina Griffin
Mr. Greg Roney
Mr. Mark Bondo
Ms. Amna Cameron
Ms. Karlynn O'Shaughnessy
Ms. Becky Cook
Mr. Brian Peck



NORTH CAROLINA GENERAL ASSEMBLY
Legislative Services Office

George R. Hall, Legislative Services Officer

Research Division
300 N. Salisbury Street, Suite 545
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Tel. 919-733-2578 Fax 919-715-5460

O. Walker Reagan
Director

~~October 18, 2011~~

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Revised and sent October 20, 2011

The Honorable William Brawley, Jr., Co-Chair
House Select Committee on Public-Private Partnerships
North Carolina House of Representatives
16 West Jones Street, Room 1313
Raleigh, NC 27601-1056

Dear Representative Brawley,

Congratulations on your designation as Co-Chair of the House Select Committee on Public-Private Partnerships.

I have asked Ms. Heather Fennell, Ms. Trina Griffin, and Mr. Greg Roney, with the Research Division; and Mr. Mark Bondo, Ms. Amna Cameron, and Ms. Karlynn O'Shaughnessy with the Fiscal Research Division, to serve as staff to this Committee. In accordance with the Committee's directions as expressed through the Co-Chairs, they will aid in all aspects of the Committee's work, and will attend the meetings of the Committee when it convenes upon the call of the Co-Chairs. Please note that all these individuals also will be responsible for staffing other study committees and commissions during the Interim.

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My best wishes to you and the Committee in its work. If I may be of any service to you or the Committee, please contact me.

Yours truly,

O. Walker Reagan
Director of Research

OWR/tmp

cc: Hon. Thom Tillis, Speaker
Hon. Timothy Moffitt, Co-Chair
Mr. George Hall
Mr. Mark Trogdon
Ms. Nicole McGuiness
Ms. Sarah Wolfe
Ms. Heather Fennell

Ms. Trina Griffin
Mr. Greg Roney
Mr. Mark Bondo
Ms. Amna Cameron
Ms. Karlynn O'Shaughnessy
Ms. Becky Cook
Mr. Brian Peck

Melissa Carter (Rep. Moffitt)

From: Gloria McLaughlin (Financial Services)
Sent: Wednesday, November 02, 2011 1:58 PM
To: Melissa Carter (Rep. Moffitt)
Subject: Postage Code

Melissa,

The mail room said that you had used Account # 8515 for the House Select Committee on **Public-Private Partnerships**.

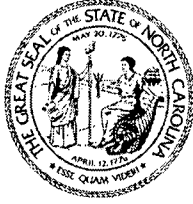
That number is incorrect and was rejected at the postage meter. The number you should use in the future is **1120-8638** and use the green postage slip (which I think you did, anyway).

I am not sure if we gave you that number, but we have restructured and renumbered all the committees. Sorry for any confusion, and if you have questions, call me at 733-7419.

Thanks
Gloria

**2011-2013 Committee Budget Estimate
House Select Committee on Public-Private Partnerships**

1) Legislative Members Subsistence	\$8,580.00
\$104.00 Legislative Subsistence	
X 11 Number of Legislative members	
X 1.5 Half of Members using Two Days of Subsistence	
X 5 Number of Meetings	
= <u> \$8,580.00</u> Total Legislative Members Subsistence	
2) Non-Legislative Members Subsistence	\$0.00
\$116.00 * Non-Legislative Members Subsistence	
X 0 Number of Non-Legislative Members	
X 1.5 Half of Non-Legislative Members using Two Days Subsistence	
X 0 Number of Meetings	
= <u> \$0.00</u> Total Non-Legislative Members Subsistence	
* \$101.05 Daily Per Diem Rate Plus \$15 Committee Per Diem Rate (GS138-5)	
3) Travel Expenses	\$3,850.00
a) Legislative Members	
\$70.00 Round Trip Reimbursement (Based on 242 miles @ \$0.29 per mile*)	
X 11 Number of Legislative Members	
X 5 Number of Meetings	
= <u> \$3,850.00</u> Total Travel for Legislative Members	
b) Non-Legislative Member	
\$73.00 Round Trip Reimbursement (Based on 242 miles @ \$0.30 per mile*)	
X 0 Number of Non-Legislative Members	
X 0 Number of Meetings	
= <u> \$0.00</u> Total Travel for Non-Legislative Members	
* 242 Miles is an Average per Member based on the Total Certified Round Trip Mileage	
4) Clerical Staff	\$4,090.00
\$818.00 * Average Salary with Benefits for 5 day work week	
X 5 Number of Meetings	
= <u> \$4,090.00</u> Total Clerical Staff	
* Average Weekly Wages for LA, CAI, CAII & CAIII with Fringes Added.	
5) Professional Staff	\$0.00
6) Special Travel and Expenses	\$0.00
7) Postage and Telephone Expenses	\$250.00
8) Supplies	\$250.00
9) Coping and Printing	\$500.00
10) Reserve	\$0.00
Total	\$17,520.00



NORTH CAROLINA GENERAL ASSEMBLY
Raleigh, North Carolina 27601

November 2, 2011

MEMORANDUM

TO: Members, House Select Committee on Public Private Partnerships
FROM: Representative Tim Moffitt and Representative Bill Brawley
SUBJECT: Meeting Notice

DAY	DATE	TIME	ROOM
Monday	December 12, 2011	11:00 AM	1228/1327 LB

Parking for non-legislative members of the committee/commission is available in the visitor parking deck #75 located on Salisbury Street across from the Legislative Office Building. Parking is also available in the parking lot across Jones Street from the State Library/Archives. You can view a map of downtown by visiting <http://www.ncleg.net/graphics/downtownmap.pdf>.

If you are unable to attend or have any questions concerning this meeting, please contact Melissa Carter at (919) 715-3012.

cc: Committee Record
Interested Parties

Corrected Notice – Time Change

**NORTH CAROLINA HOUSE OF REPRESENTATIVES
COMMITTEE MEETING NOTICE
AND
2011-2012 SESSION**

You are hereby notified that the Committee on **House Select Committee on Public-Private Partnerships** will meet as follows:

DAY & DATE: Monday, December 12, 2011
TIME: 1:30 PM
LOCATION: 1228/1327 LB
COMMENTS:

Respectfully,
Representative Moffitt, Chair
Representative Brawley, Chair

I hereby certify this notice was filed by the committee assistant at the following offices at **3 PM** o'clock on **November 29, 2011**.

- Principal Clerk
- Reading Clerk – House Chamber

Melissa Carter (Committee Assistant)

HOUSE SELECT COMMITTEE ON PUBLIC PRIVATE PARTNERSHIPS

Rep. Bill Brawley

Rep. Tim Moffitt

**Monday, December 12, 2011
Room 1228, Legislative Building
1:30 p.m.**

- I. Welcome and Introduction of Members**
- II. Committee Charge**
 - Committee Staff
- III. Overview of Public Private Partnerships**
 - Jason Jolley, Senior Research Director, UNC Center for Competitive Economies
- IV. Public Private Partnerships in North Carolina**
 - Mary Nash Rusher, Partner, Hunton & Williams
- V. Committee Discussion**
- VI. Adjournment**

HOUSE SELECT COMMITTEE ON PUBLIC-PRIVATE PARTNERSHIPS

Monday, December 12, 2011

11:00 a.m.

Room 1228/1327 Legislative Building

MINUTES

The House Select Committee on Public-Private Partnerships met on Monday, December 12, 2011 at 11:00 a.m. in Room 1228/1327 of the Legislative Building. Representatives Moffitt, Brawley, Carney, Crawford, Lewis, McGee, R. Moore, Murry, and Steen attended.

Representative Brawley presided. He welcomed the Committee members and introduced the Sergeant at Arms and staff members. He also recognized Representative Russell Capp, a former member, thanking him for his presence. He then asked Greg Roney of the Research Division to read the charge of the committee. Greg Roney read the charge. Representative Brawley asked for a motion to adopt the committee budget. Representative R. Moore moved adoption of the budget. The motion carried unanimously.

PRESENTATIONS

An Introduction to Public-Private Partnerships

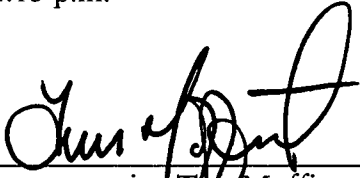
Dr. Jason Jolley, Ph.D., Senior Research Director at the UNC Center for Competitive Economies, was introduced to provide an overview of public-private partnerships. Dr. Jolley gave a presentation titled "An Introduction to Public Private Partnerships (PPPs)", which is attached (see Attachment 1). At the completion of his presentation, there were not any questions posed.

Public-Private Partnerships in North Carolina

Ms. Mary Nash Rusher, a partner at Hunton & Williams, was introduced to give a presentation titled "Public-Private Partnerships in North Carolina" regarding the use, structure, benefits, and hurdles of public-private partnerships in North Carolina. The presentation is attached (see Attachment 2).

Representative Brawley adjourned the committee at 12:15 p.m.

Representative Bill Brawley, Co-Chair



Representative Tom Moffitt, Co-Chair



Melissa Carter, Committee Clerk

An Introduction to Public-Private Partnerships (PPPs)

G. Jason Jolley, Ph.D.
Senior Research Director,
UNC Center for Competitive Economies
Adjunct Assistant Professor,
Kenan-Flagler Business School

December 12, 2011

Overview

- What are PPPs?
- PPP Structures
- Mega-Projects
- Successful examples

Public-Private Partnerships

- Long-term contract between public and private sector where private sector performs service delivery
- Payments made over life of contract to private sector (by public sector or users)
- Design, construction, financing, and operation of public infrastructure by private sector

Source: Yescombe (2007)

Benefits

- PPPs leverage of public dollars with private capital to finance and/or deliver service
- May shift cost burden away from general taxes on public to specific user fees for those receiving benefit
 - Example: public funded freeway vs. privately financed toll road

Typical Public Sector Project

- Design-Bid-Build typical public sector procurement
- Public sector funds full costs, including overruns
- Public sector specifies design or bids design and then bids for construction based on design

Source: Yescamha (2007)

How is PPP different?

- Public sector specifies desired "outputs" or public service the facility will provide
- Private sector design-finance-build-operate facility to meet those public service needs
- Private sector receives payments over life of PPP contract to repay financing costs and yield returns to investors
- Shifts risk from public authority to private sector (i.e. project company).

Source: Yescamha (2007)

Common PPP Models

- Design Build : private sector responsible for design and construction at fixed price; cost overruns risk transferred
- Operation-Maintenance: Private sector responsible for operation and maintenance. Public retain ownership.
- Design-Build-Finance-Operate: private sector owns project and controls service delivery for fixed period of time (~25 years) before transferring asset back to public sector
- Build-Own-Operate: private sector retains ownership of asset in perpetuity, but gov. purchases services for fixed length of time.

Project Finance

- Project finance key to understanding PPPs
 - Highly leveraged, nonrecourse debt
 - Lending occurs against cash-flow generated by project
 - Concession allows private sector to collect user fees
 - SPV (special purpose vehicle) created with no liability beyond project or recourse to sponsor

Project Finance for Road Concession

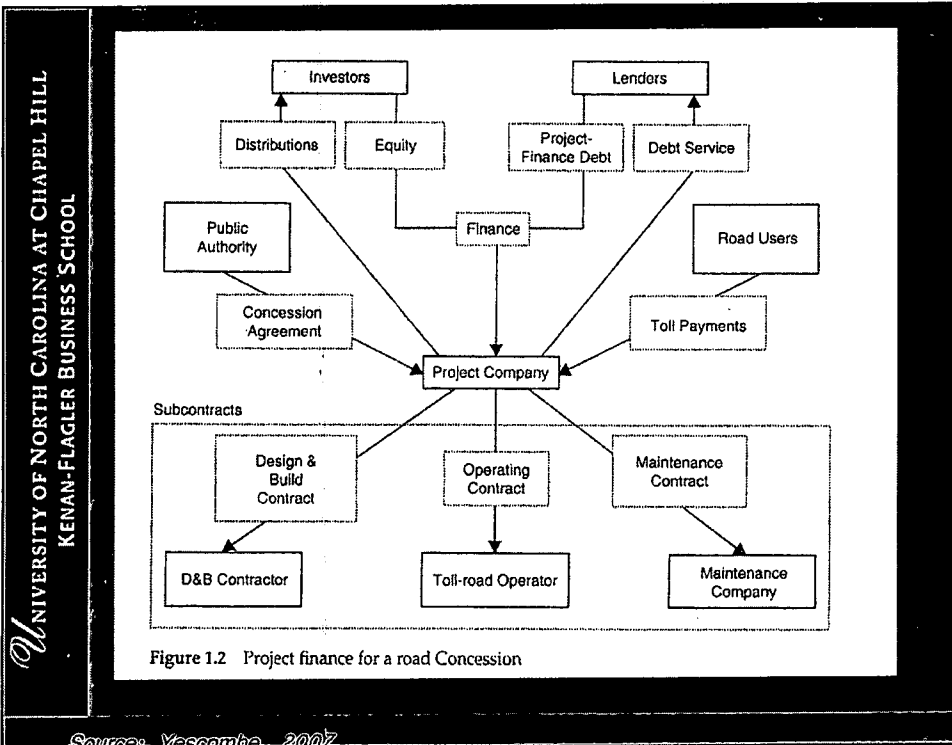
- Project company owned by private investors
- Financed through shareholder equity and project-finance debt
- Concession agreement with public authority. Allows for collection of tolls from road users, but does not usually involve payment by or to public authority
- Cash flow after operating expenses (operating and maintenance contracts) goes first to debt service and then to investors.

Source: Yescamha 2007

Subcontracts: Road Concession

- Design and build contract—contractor agrees to design and construct the completed road and related works (toll booths) to required specs at fixed schedule and price
- Operating contract—toll operation company provides services such as manning toll booths, minor repairs, accident management
- Maintenance contract—maintenance company provides road maintenance services

Source: Yescamha 2007



- UNIVERSITY OF NORTH CAROLINA AT CHAPEL HILL
KENAN-FLAGLER BUSINESS SCHOOL
- ## Risks
- Construction period
 - Technological risk
 - Environmental risk
 - Operation period
 - Market risk (price fluctuations)
 - Political risk
- Source: Yescombe, 2007

Technological Risk

- Project may be unique and not easily replicated in other places
- Engineering and design failures
- Lead to delays in construction and cost escalation

Environmental Risks

- Adverse environmental impacts and hazards
- Delay project and lead to cost escalation
- Require costly mitigation
- Discover of important archaeology or fossils on site

Market Risk

- General operating risks related to higher operating costs or maintenance costs than projected
 - Due to price fluctuations or miscalculation
- Revenue risks with volatility in price and demand
- Change in interest rates or inflation

Political Risk

- Projects in emerging markets have higher premiums on borrowers due to political risks
- Involvement of multilateral development banks (MDBs) or export credit agencies mitigates this risk
- MDBs are “institutions that provide financial support and professional advice for economic and social development activities in developing countries” (World Bank)
 - Typically World Bank Group and its regional development banks.
- Change in laws or leadership change

Risk Management Strategies

- Risks retained by public authority/government
- Risks transferred to and retained by project company
- Risk transferred to project company, which tries to reallocate to subcontractors, use insurance, or sponsor guarantees
- Risk transferred to end users in concession agreement by having right to impose higher fees

Principles of Risk Transfer

- Maximize VfM (Value for Money). Transfer risk to those best able to control them at the lowest cost
- Public authority/gov retains risk private sector cannot contain cost effectively
- Those that retains risks should benefit from upside as well.

Concessions in Transportation

- In concession model, usage risk usually taken by project company
- Yescombe, a British project finance expert, estimates 10% of road concessions are financial failures (Flyvberg—has worse estimates).

Road failures

- Too optimistic view of traffic forecasts
- Difficult valuing time saved by drivers
- Lower use by higher tolled vehicles like trucks
- Slower than projected growth in traffic
- Competing connecting roads not considered in projections

Usage Risks

- In models where public authority pays service fee based on availability for use, then usage risks may occur
- Example: contract to pay to use a school facility, but it is no longer in demand due to population changes.
- Contract to use hospital, but changes in medical procedures render set-up obsolete.

Mega-Projects

- Large infrastructure projects costing >\$500 Million
- Cost requires PPP structures and complex contracting.
- Many have high failure rates

Why Mega-Projects Fail

- Large cost overruns
 - 44.7% for rail
 - 33.8% for bridges/tunnels
 - 20.4% for roads
- In accuracy of travel forecasts
 - -51.4% for rail
 - 9.5% for road

Rest Elvishera

Why do these project fail?

- Technical (inadequate data and models)
- Psychological (optimism bias)
- Political-economic (strategic misrepresentation)

Technical

- Honest mistakes
- Lack of experienced forecasters
- Unreliable/outdated data
- In appropriate models
- Largely rejected as a major cause

Report: Elvwhltera

Psychological

- Explanation where political and organization pressure is low
- Optimism bias
- Cognitive biases in how humans process information
- Involuntarily spin scenarios of success and overlook potential for mistakes

Report: Elvwhltera

Political-economic strategies

- Planners and promoters deliberately overstate benefits and underestimate costs
- Doing so increases likelihood of funding, while honest assessments decrease likelihood.
- Competition for scarce resources
- Especially prone when there is high political or organizational pressure

Rest. Elvblara

Machiavelli's Formula

- Underestimate costs +
- Overestimated revenues +
- Undervalued environmental impacts +
- Overvalued development effects =
- Project approval!

Inverted Darwinism. Survival of the un-fittest.

Rest. Elvblara

Reference Class Forecasting (RCF)

- Identify reference class of past projects
- Establish probability distribution
- Compare project relative to the class
- Commonly results in higher expected costs and risks of cost overrun.
- Provides an "outside" view of risks.

Bent Flyvbjerg

Successful PPPs

- Chesapeake Forest
- Union Station
- Alameda Corridor

Chesapeake Forest

- Eastern Shore divested forestry holdings in eastern shore of Chesapeake Bay. Maryland lacked funds to purchase and manage lands. Jobs at stake.
- PPP purchased and managed land. Public sector monitors environmental practices and PPP managers forest in sustainable way.
- Timber harvest income makes project economically self-sustained. Generates revenue for local/state gov
- Contributes to water quality improvements in bay and keeps land out of non-forested uses

Union Station, Washington D.C.

- 1981 Union Station in disrepair, unoccupied, and in danger of demolition
- USDOT took control of project and entered PPP for restoration
- USDOT, D.C. city gov. (\$40M), Amtrak (\$70M), and a private developer (\$50M equity financing). \$160M, 5 year project. Reintroduced train and urban mass transit in addition to retail, dining and entertainment.
- Private developer pays base rent indexed for inflation and profits from operation are shared with private developer and Redevelopment corporation. Amtrak funds repaid by station revenue.

Alameda Corridor

- 20 mile express freight rail line that links the ports of Los Angeles and Long Beach to the national rail network in Los Angeles.
- Goal of reducing congestion and promoting economic development
- ½ public; ½ private funds. Estimated cost of \$1.8B, actual cost of \$2.4B.
- Yet, usage has allowed loan to be paid off 28 years ahead of schedule

HUNTON &
WILLIAMS

Public-Private Partnerships in North Carolina

December 12, 2011

Mary Nash Rusher, Esq.
Hunton & Williams LLP
421 Fayetteville Street
Suite 1400
Raleigh, NC 27601
919-899-3066

Hunton & Williams LLP • www.hunton.com

HUNTON &
WILLIAMS

What does "PPP" mean?

- PPP Refers to a wide range of relationships between the public and the private sector
- Can refer to relationships that work both ways:
 - Public sector provides support, financing, incentives for private development

or

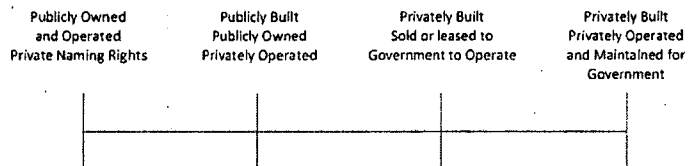
 - Private sector develops, builds, finances, and/or operates projects in conjunction with the public sector that would ordinarily be undertaken by the public body
 - Could be as little private involvement as naming rights or as much as complete ownership and operation

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What does "PPP" mean?

(cont'd)

- Relationships relating to public enterprises or assets fall along a continuum of ownership and control between government and private sector



- Can include different levels of involvement for public and private sectors
- Different levels of involvement/ownership can come at different times in life of asset

What does "PPP" mean?

(cont'd)

- Key question in understanding nature of relationship between public and private entities
 - Who will build it?
 - Who will own it?
 - Who will operate it?
 - Who will maintain it?
 - Who will finance it?
 - Who will receive "profit" (e.g. excess revenue, if any) from it?
 - Can private sector deliver reliable services faster and/or at less cost to the public and make a profit at the same time?

Benefits and Hurdles for PPP

Benefits:

Potential to transfer construction , timeline, financing risk to private sector

Potential to reduce overall project costs and compress timeline; take advantage of experienced construction team; move away from low bid

Project can benefit from tax benefits (historic, New Market, depreciation, etc.)

Pitfalls:

Private sector expects a market return

High transaction costs

Private financing more expensive

Concerns about public assets in private hands

Use of PPP Structure in North Carolina

- PPPs in financing and development of private assets or public assets for private projects (e.g. infrastructure for private development)
 - Incentives
 - IDB's and Exempt Facility Bonds
 - Tax Increment Financing (TIFs)
 - Assessments and special assessment district financings
 - Hybrid arrangements (e.g., "synthetic" TIFs)
- PPPs in development and operation of revenue generating assets
 - Water and sewer systems
 - Solid waste disposal systems
 - Toll roads and bridges

Use of PPP Structure in North Carolina (cont'd)

- PPPs in development and operation of public assets
 - Jails
 - Public parking decks
 - Convention Center/Hotel
 - Schools
 - Stadiums
- PPPs in support of private development
 - Roads and sidewalks
 - Water/Sewer extensions
 - Parking Decks

Issues to Consider

- Constitutional prohibition against lending public credit to private party (N.C. Constitution, Article V § 3)
- Public bidding laws relating to construction of public assets (N.C.G.S. Ch. 143, Art. 8)
 - Often requires statutory exception (for example, there are specific exceptions in legislation for TIFs and Special Assessment District Projects and for NC Turnpike Authority)
- Cost of borrowing
 - Taxable rates for the private sector (unless tax exempt financing available) versus tax exempt rates for a governmental entity
 - Credit quality of the developer versus government
- Effect of private involvement on ability of public entity to get tax-exempt financing
- Value to developer of ability to take depreciation of asset

PPP for Private Assets

- Various tools state and local governments can use to encourage investment and economic development
 - Incentives
 - State: JDIG Grants
 - One North Carolina Fund
 - Work force training at community colleges
 - Various tax credits and tax breaks
 - Research and Development tax credit
 - North Carolina Ports tax credit
 - Sales tax reduction on manufacturing machinery
 - Local: Economic development grants – Cash grants financed by property taxes
 - Construction of infrastructure for industry
 - Low cost buildings, low cost leases of locally owned buildings

Tax-Exempt Private Activity Bonds

“Public” Financing through Private Activity Bonds

- County industrial facility and pollution control financing authority or the North Carolina Capital Facilities Finance Agency issues bonds at a tax-exempt rate, lends the proceeds to a private company for certain purposes authorized by Internal Revenue Code and North Carolina law
- Credit of State and county not pledged
- Allows private company to borrow at lower tax-exempt interest rate
- Interest on income from bonds exempt from federal and North Carolina income taxes

Private Activity Bonds

(cont'd)

- Industrial development bonds: allows tax exempt financing of manufacturing facilities (up to \$10 million);
- Exempt facility bonds: allows tax exempt financing of specific types of privately owned property
 - Privately owned water service
 - Solid waste disposal
 - Airports
 - Private industry projects at public ports

Tax Increment Financing (TIFs):

In 2004 the voters of the State of North Carolina approved an amendment to the North Carolina Constitution to allow for tax increment financing (known as "project development financing" in North Carolina statutes)

- Local governments issue bonds that are repaid from the increase in property taxes that result from the increase in tax value from improved property
- Government designates the development financing district; improvements made, and increased tax revenues collected in, the district

Tax Increment Financing (TIFs)

(cont'd)

- TIF allowed for a number of types of facilities:
 - airport facilities
 - auditoriums, arenas, stadiums, civic centers
 - art galleries and museums
 - parking facilities
 - sanitary sewer systems
 - storm sewers and flood control facilities
 - water systems
 - public transportation facilities
 - industrial parks
 - community college facilities
 - school facilities
 - low or moderate income housing
 - electric systems, gas systems
 - streets and sidewalks
- Facilities financed with TIF's that are part of a development plan may be constructed by a private company; the public bidding laws do not apply unless the parties elect for them to apply

Tax Increment Financing (TIFs)

(cont'd)

- Examples in North Carolina:
 - \$21,500,000 in financing approved for entertainment complex in Roanoke Rapids
 - \$25,000,000 (plus costs of issuance) in public infrastructure financing approved for the mixed use development of a former Brownfield site in the Town of Woodfin (Buncombe County)
 - First series of Woodfin bonds issued 8/2008 (\$12,960,000)
 - \$95,000,000 in public infrastructure financing approved for Phase I of the North Carolina Research Campus in Kannapolis (No bonds yet offered for sale).

Special Assessment Financing

- Counties and cities are authorized to make special assessments against benefited property within the county or city for the purpose of financing construction, reconstructions, and renovating certain type of infrastructure as set forth in N.C.G.S. Chapter 153A, Article 9 and 9A (for counties) and Chapter 160A-20, Article 10 and 10A (for cities)
 - Permitted projects are the same as the project that can be financed with TIFs (SB 97, ratified 8/6/09)
 - SB 97 also permits special assessments to finance the installation of distributed generation renewable energy sources or energy efficiency improvements that are permanently fixed to residential, commercial, industrial or other real property
 - Assessments can be pledged to secure revenue bonds or as additional security for TIFs

Special Assessment Financing

- Payment for projects can come from variety of financing sources, including GO's, revenue bonds and TIFs
- Assessments paid in annual installments – not to exceed 30 installments; assessments are due on date property taxes are due
- Requires petition signed by owners of 66% of assessed value of all real property to be assessed, public hearing and period (10 days) during which petition can be withdrawn
- If a project funded through assessments is funded 25% or less by GO bonds or a unit's general fund and is to be built by a private party, the public bidding rules do not apply unless the parties elect for them to apply

PPP for Revenue Producing Infrastructure

Water and Sewer Systems – Several Models

- Government owns the system, and contracts with private company to operate and maintain the system; IRS rules allow this arrangement (up to 20-year term) even in a system financed with tax-exempt bonds; OR
- Government purchases system previously owned by private operator; OR
- Government sells system to private operator that operates it under N.C. Utility Commission (NCUC) oversight; OR
- Private entity uses tax-exempt financing (exempt facility bonds under IRC § 142(a)(4)) to build and operate private system under NCUC oversight

PPP for Solid Waste Disposal Systems

Government contracts with private sector to handle collection and disposal of residential and commercial garbage

- Private companies such as Waste Industries, Republic Services, Waste Management
- Capital investment in private assets can be financed on a tax-exempt basis as solid waste disposal facilities under IRC Section 142(a)(6)
- Another model: Government owns the landfill, but contracts for some or all of the steps in collection and disposal to be done by private company – collection and hauling, transfer stations, recycling
- Other solid waste options in “green” sector: tax credit bonds to finance landfill gas-to-energy projects (with power sold to public utility)

N.C. Turnpike Authority (NCTA) (NCGS § 136-89.180 et seq.)

- NCTA has the power to construct certain specific highway toll projects, and can issue revenue bonds supported by toll revenues
- NCTA is directed to solicit competitive proposals for developer to be included in the construction of certain, turnpike projects
- NCTA permitted to use alternative contracting methods (other than public bidding laws) for construction so long as NCTA documents that it will expedite timing or lower cost or otherwise serve the public interest

- NCTA has two projects underway:
 - Triangle Expressway (opened December 2011): financed by the issuance of bonds secured by the future revenues from the toll road and Build America Bonds
 - Design-Build construction process overseen by NCTA and NCDOT
 - Mid-Currituck Bridge: NCTA has entered into a Predevelopment Agreement with the Currituck Development Group, LLC ("CDG")
 - CDG and NCTA will work together to design, construct and finance Mid-Currituck Bridge
 - Arrangement may include operation and maintenance by CDG

- State of North Carolina used PPP model to construct 7 jails
 - Legislation permitted the North Carolina Infrastructure Finance Corporation (NCIFC) to enter into construction contracts with private company to construct jails in Alexander, Anson, Scotland, Greene, Bertie, Pamlico and Avery Counties, using prototype design
 - RFP used to choose the private company, setting forth prototype design, but public bidding rules not required
 - Jails were then leased to State of North Carolina under a lease purchase agreement
 - For the early deals, taxable financing used for construction financing; later deals used tax exempt financing

- Parking Decks
 - Raleigh: Progress Energy building
 - Progress Energy built the parking deck while it was building its headquarters office building; once completed, it sold the deck to the City
 - City issued debt to purchase the deck; Progress retained the right to certain spaces
 - Charlotte: Parking in Metropolitan Midtown Development
 - The City of Charlotte and Mecklenburg County made economic development grants to the Metropolitan Midtown developer to pay a portion of the costs of constructing a parking deck.
 - City and County received no ownership interests
 - Reimbursement payments to the developer equal to tax increment generated over a period of years (10) and subject to a ceiling on aggregate payments.

- Charlotte: Revitalization of Elizabeth Avenue
 - The City of Charlotte agreed to purchase up to 1000 condominium parking spaces in new decks built as part of a revitalization of Elizabeth Avenue.
 - City used COPs debt to purchase spaces but only after:
 - total incremental tax revenue from project area exceeds \$25,000,000 and
 - total area incremental revenue exceeds 110% of COPs debt service
 - County funds 1/2 of debt service from its share of incremental tax revenue
 - Upon retirement of COPs debt, City will convey pro rata share of spaces to County
 - Developer has right to buy back the spaces for greater of fair market value or debt payoff amount

- Conference Center/Hotel
 - Raleigh:
 - City of Raleigh, Developer and Hotel Owner entered into an agreement pursuant to which the City leased land to the Hotel owner under a Ground Lease; Developer built a full service hotel, which includes a conference center, meeting space and ballroom.
 - Upon substantial completion of the project, the hotel was "condominiumized", so that the hotel became one unit and the conference center a separate unit. The City purchased the conference center unit from the hotel owner, and entered into a long term lease back to the hotel owner of the conference center at a nominal cost.
 - The City borrowed money that was used on a pari passu basis with the private investment to pay costs of developing the hotel and conference center. The city also undertook to provide 200 parking spaces for the hotel and conference center guests.

- Sports Arena
 - Charlotte:
 - The City of Charlotte entered into a complex series of agreements with the owner of the NBA Franchise (Bobcats) to finance the construction of a new downtown arena complex
 - Arena is owned by the City
 - Arena is subject to long term lease and operating agreements in favor of the Bobcats
 - Food and beverage revenue is used to service third party debt
 - Bulk of financing provided by City issued COPs

- Charlotte Museum Complex
 - Private Developer, as part of the construction of an office/retail/residential redevelopment of a downtown block agrees to include space for three separate museums and a theater facility
 - City finances the construction costs of the cultural facilities through COPs
 - Components constructed as separate condominium units
 - Upon completion, museums are conveyed to City.
 - Debt Service on COPs provided by
 - incremental taxes from the commercial portion of the development and
 - vehicle rental tax

- Local Road Construction
 - On a least two separate occasions Charlotte has reimbursed developers for the cost of road construction or improvements as a development incentive. Typically, City and Developer agreed on road costs subject to reimbursement. After roads are completed City will begin reimbursement of costs over a period of time (usually 10 years) equal to 45% (but up to 90% in high priority areas) of the tax increment generated by the incentivized private development, but not to exceed previously agreed upon maximums
 - IKEA Boulevard
 - New connector road between Tyvola and Billy Graham Parkway (old Coliseum redevelopment)
 - Project included both public and private funding, public and private construction, and public and private operation
 - Example of "synthetic" TIF

Public Schools – Statute NCGS §§ 115C-531-532 intended to allow for "PPPs" for schools

- Statute contemplates that developer/private party will build the school and lease it to school district
- Must be a capital lease (i.e., school district will own the school at the end of the lease for a nominal sum; developer cannot take depreciation)
- Developer must enter construction contract in compliance with public bidding rules; therefore, no true design-build possible
- Iredell, Wake, Cumberland, Mecklenburg, and Rockingham Counties (maybe others) all considered and even started down the road to implement; none could find savings in time or money sufficient to justify

Other possibilities under existing law:

Developer could get its own financing and build the school and then sell it to the school district/county upon completion

- Issues:

- getting school board/county to commit up front to purchase a school two-three years in future
- developer financing may be more expensive than county financing
- what assurances does developer have that county will have debt capacity 2-3 years out?
- how much control can school board have over design and characteristics without triggering public bidding laws?

Some argue existing statute (NCGS 115C-530) permits a developer to construct a school and lease it to school board

- Allows developer to take depreciation and take advantage of tax credits for "green" aspects of the school
- Fosters innovative use of school property by teaming up with others in the community for use of portions of the school

Concerns:

- Taxable financing based on credit strength of developer not county
- Concerns about school district's ability to control construction, meet department of insurance standards for school building
- Public bidding laws still apply

Other ways to provide financing for public infrastructure

- Infrastructure Bank - Existing
 - Revolving loan fund for specific project
 - DOT – roads (Federal grants)
 - Water project (Federal and state grants)
- Statewide infrastructure banks
 - Various models: generally designed to get funds to less credit worthy local governments in order to assist them in building infrastructure
 - revolving funds; must have initial funding
 - state puts its credit strength behind borrowing
 - state funds debt service reserve fund on appropriation basis
 - Initial funding: pension plans, state appropriations

- Important to focus on what public and private sector hope to accomplish with any PPP proposed – what is the objective?
 - Achieve faster/cheaper construction?
 - Shift or share construction costs/risk?
 - Shift or share operating/maintenance risk?
 - Shift financing risk?
 - Foster economic development in a particular area?
 - Create new funding source?
- Legislation should be drafted with particular objective in mind

**HUNTON &
WILLIAMS**

Questions?

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VISITOR REGISTRATION SHEET

HS Comm on Public Private Partnerships
 Name of Committee Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME

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Jose Hayes	NCHBA
Jake Cashion	NC Chamber
Jay Stem	NCAA
Barry Summers	Arhville
Anthony Pecoraro	WCTA
Rep. Pecoraro	WCTA
Chuck Stone	SEANC
David Starling	NCDST
Elizabeth Bise	Brooks Pien
Mark J. Hall	NCSBA

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Joe Crawford	Accenture
Britton Allen	Allen Law Offices
Brady Allen	" "
CSHells	TSS
John Merritt	MWC LLC
Harry Lyd	" "
Aubrey Incorvaia	DOC
Matt Gross	NLDC
Michelle Frazier	MFB
Jane S. Shaw	J.W. Pope Center for Higher Ed Policy
Chris Agren	WA

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HS COMM ON Public Private Partnerships
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NAME

FIRM OR AGENCY AND ADDRESS

Suzanna Davis

Gov Office

Colin Myer

FMI

Ken Melton

K.M.A.

Dave Siskin

CAU

**NORTH CAROLINA HOUSE OF REPRESENTATIVES
COMMITTEE MEETING NOTICE
AND
2011-2012 SESSION**

You are hereby notified that the Committee on **House Select Committee on Public-Private Partnerships** will meet as follows:

DAY & DATE: Tuesday, January 10, 2012
TIME: 3:00 PM
LOCATION: 1228/1327 LB
COMMENTS:

Respectfully,
Representative Moffitt, Chair
Representative Brawley, Chair

I hereby certify this notice was filed by the committee assistant at the following offices at **1 PM** o'clock on **December 13, 2011**.

- Principal Clerk
- Reading Clerk – House Chamber

Melissa Carter (Committee Assistant)

Corrected Notice – ROOM CHANGE

**NORTH CAROLINA HOUSE OF REPRESENTATIVES
COMMITTEE MEETING NOTICE
AND
2011-2012 SESSION**

You are hereby notified that the Committee on **House Select Committee on Public-Private Partnerships** will meet as follows:

DAY & DATE: Tuesday, January 10, 2012

TIME: 3:00 PM

LOCATION: 643 LOB

COMMENTS:

Respectfully,
Representative Moffitt, Chair
Representative Brawley, Chair

I hereby certify this notice was filed by the committee assistant at the following offices at **11 AM** o'clock on **January 03, 2011**.

- Principal Clerk
 Reading Clerk – House Chamber

Melissa Carter (Committee Assistant)

HOUSE SELECT COMMITTEE ON PUBLIC PRIVATE PARTNERSHIPS

Rep. Bill Brawley

Rep. Tim Moffitt

*Tuesday, January 10, 2011
Room 643, Legislative Office Building
3:00 p.m.*

I. Public-Private Partnerships

Leonard Gilroy, M.A., Director of Government Reform, Reason Foundation

II. Best Practices for Public-Private Partnerships

Fergus Hodgson, Director of Fiscal Policy Studies, John Locke Foundation

III. Statutory Frameworks of Public-Private Partnerships, the Virginia PPEA Statute

Christopher D. Lloyd, Senior Vice President and Director of Infrastructure and Economic Development, McGuireWoods Consulting

IV. Committee Discussion

V. Adjournment

HOUSE SELECT COMMITTEE ON PUBLIC-PRIVATE PARTNERSHIPS

Tuesday, January 10, 2012
3:00 p.m.
Room 643 Legislative Office Building

MINUTES

The House Select Committee on Public-Private Partnerships met on Tuesday, January 10, 2012 at 3:00 p.m. in Room 643 of the Legislative Office Building. Representatives Moffitt, Brawley, Carney, Crawford, McGee, R. Moore, Murry, Owens, and Steen attended.

Representative Moffitt presided. He welcomed the Committee members and introduced the Sergeant at Arms and staff members.

PRESENTATIONS

An Overview of Public-Private Partnerships

Mr. Leonard Gilroy, M.A., Director of Government Reform for the Reason Foundation, was introduced to give an overview of public-private partnerships. Mr. Gilroy gave a presentation titled "The Emerging PPP Paradigm: Overview and Outlook", which is attached (see Attachment 1). Mr. Gilroy also provided a an article as a handout titled "Building a World-Class Infrastructure PPP Program in Puerto Rico" (see Attachment 2).

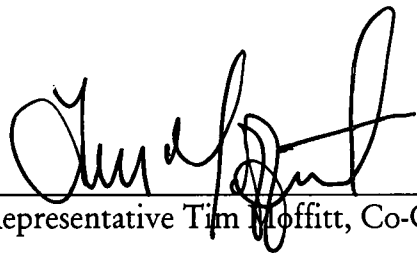
Best Practices for Public-Private Partnerships

Mr. Fergus Hodgson, Director of Fiscal Policy Studies at the John Locke Foundation, was introduced to give a presentation regarding the best practices for public-private partnerships in North Carolina context. The dialogue of his presentation is attached (see Attachment 3). Mr. Hodgson also provided a handout titled "Regional Brief: First Annual North Carolina County Privatization Survey" (see Attachment 4).

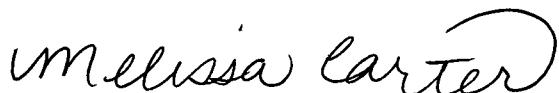
Statutory Frameworks of Public-Private Partnerships

Mr. Christopher D. Lloyd, Senior Vice President and Director of Infrastructure and Economic Development at McGuire Woods Consulting, was introduced to give a presentation about the Statutory Frameworks of Public-Private Partnerships, specifically in regards to the Virginia PPEA Statute. His presentation was titled "Best Practices for Public-Private Partnerships", which is attached (see Attachment 5).

Representative Moffitt adjourned the committee at 4:42 p.m.



Representative Tim Moffitt, Co-Chair



Melissa Carter, Committee Clerk

The Emerging PPP Paradigm: Overview and Outlook



Reason

January 10, 2012
North Carolina House Select Committee
on Public-Private Partnerships
Raleigh, NC

Leonard Gilroy
Director of Government Reform
Reason Foundation | reason.org

Public-Private Partnerships (PPPs) Defined



- PPPs—a.k.a. privatization, contracting out, outsourcing, competitive sourcing, competitive tendering—is simply a contract between governments and private sector (for-profit and nonprofit) firms in the delivery of public services.
- Ranges from simple contracting to large-scale asset sales and joint ventures; taps private capital in most powerful versions.
 - Involves some combination of operations, maintenance, design, construction and/or financing in delivery of assets or services.
- PPPs are simply policy tools—they can be effective when used well and ineffective when used incorrectly.
- PPPs introduce competition into an otherwise monopolistic system of public service delivery.
- Competition promotes innovation, cost savings, efficiency and greater effectiveness in serving the shifting demands of customers.

Competition is Key to 21st Century Government



- Government's role is evolving from service provider to provider & broker of services
- Government has come to rely far more on networks of public, private and non-profit organizations
- PPPs now seen as a proven policy management tool to deliver better services at a lower cost
- "[T]he fastest way to save money and increase value is to force public institutions to compete."—David Osborne and Peter Hutchinson, *The Price of Government*

Competition is Key to 21st Century Government (cont'd)



- "It is better for the public to procure at the market whatever the market can supply; because there it is by competition kept up in its quality, and reduced to its minimum price."—Thomas Jefferson, 1808
- "It is not a government's obligation to provide services, but to see that they are provided."—former New York Governor Mario Cuomo
- "Privatize everything you can."—Chicago Mayor Richard Daley's advice to incoming DC mayor



Surging Interest in PPPs

- Fiscal conditions driving increasing interest in PPPs, from small-scale outsourcing to infrastructure PPPs that leverage private \$\$.
- Transportation is leading edge of U.S. infrastructure PPP market:
 - 31 states have transportation PPP enabling legislation.
 - New 2011 PPP legislation in Ohio, Illinois, Connecticut.
 - Over \$7B in Texas highway PPP projects under construction; over \$2B underway in Florida and Virginia each.
- PPP wave is starting to broaden to include social infrastructure:
 - VA's Public-Private Education Facilities & Infrastructure Act (2002)
 - Puerto Rico's PPP program (2009)
 - TX Senate Bill 1048 (2011): PPPs for schools, water & wastewater projects, transit, ports and other public use facilities.



Common Goals of PPPs

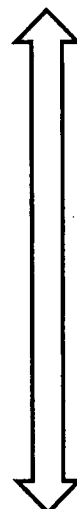
- **Cost Savings**
 - Rule of thumb—10-25% on average (+/-)
- **Service/Quality Improvements**
 - Competitive bidding; performance guarantees
- **Innovation**
 - Static processes, red tape obstacles to public sector innovation
- **Enhanced Risk Management**
 - Key risks (cost, delivery, liabilities) can be transferred from public to private sector
- **Accelerated Delivery**
 - Competitive contracting, performance incentives
- **In the case of infrastructure PPPs, deploying private capital to develop/rebuild public assets**
 - Toll roads, higher education facilities, parking assets, courthouses, etc.

Where Can Governments Apply PPPs?



- Vehicle fleet operations, maintenance & ownership
- Core IT infrastructure & network, web & data processing
- Administrative support services (e.g., HR, payroll, accounting, mail, printing, etc.)
- Risk management (claims admin, loss prevention, etc.)
- Park operations & maintenance
- Road, building, facility maintenance
- Facilities financing, operations & maintenance
- Higher education facility construction (including financing), maintenance & non-instructional services
- Corrections and mental health (facility construction and management; health care & food services; programming)
- Revenue-generating assets (toll roads, liquor stores, parking assets, etc.)
- Core infrastructure (roads/transit, water, airports, schools, etc.)

Outsourcing



PPPs

State Policymakers are Thinking Bigger on PPPs



- Examples:
 - *Puerto Rico*: created PPP Authority in 2009; since 2010, entered into PPP to rebuild 100 K-12 schools; signed \$1.4 billion toll road lease; initiated San Juan airport modernization PPP procurement.
 - *Ohio*: in 2011, enacted transportation PPP law; converted economic development agency to a PPP; soliciting advisors for Ohio Turnpike & state lottery leases.
 - *Illinois*: 10-year lottery management PPP underway to generate \$1 billion in new revenues to state; new transportation PPP law in 2011.
 - *Georgia*: Large-scale, secure-site facility maintenance PPP for 48 facilities across Dept. of Corrections, Juvenile Justice, GfBI; new law authorizing water reservoir PPPs.
 - *Virginia*: has used PPP authority to develop highways, rebuild psychiatric and correctional facilities, modernize state IT architecture, revamp Interstate maintenance and more.

Local Policymakers Continue to Embrace PPPs



Examples:

- *Chicago*: >\$3B in parking asset and toll road leases under former Mayor Daley. Mayor Rahm Emanuel announced PPP for recycling services in 2011.
- *Indianapolis*: entered into 50-year, \$620 million concession with ACS to operate parking meter system; various other outsourcing projects.
- *Los Angeles*: LA MTA pursuing several PPP highway projects; current PPP initiatives for L.A. Zoo, animal shelter; pursued PPP for nine city parking garages in 2010.
- *Charlotte*: 16+ year successful managed competition program; dozens of city services competed (public vs. private).
- *GA Contract Cities*: Sandy Springs incorporates as "contract city" in 2005; contractors provide nearly 100% of non-safety operational and admin services; 2 other cities incorporated & use similar model; now ~150,000 Metro Atlanta citizens served by largely privatized city gov't.

Keys to Success: Some Global Best Practices in PPPs



- Establish PPP center of excellence to guide process, implementation
 - Central management, consolidated expertise
 - Enterprise-wide approach brings consistency
 - "Best value" selection
 - Conduct business case/Value for Money analysis for projects
 - Examples: Puerto Rico PPP Authority, Partnerships BC
- Establish clear, predictable legal framework for PPPs
 - No legislative approval of PPP contracts (political risk)
 - Allow blending of public and private funds to finance projects
- In infrastructure, attract market interest with a project pipeline
 - Don't pursue PPP projects, build a PPP *program*
 - Broaden scope beyond transportation to social infrastructure

Keys to Success: Some Global Best Practices in PPPs



- Develop performance metrics and goals, and build these goals and benchmarks into the contract.
 - Tie vendor payment to performance.
- Utilize “best value” contracting.
 - “Low bid” isn’t necessarily the “best” bid—governments should choose the best mix of quality, cost and other factors.
- Develop strong oversight and monitoring and protocols before entering into a contract to ensure compliance.
 - Government’s role does not end with contract signing; rather, role shifts to rigorous monitoring and contract management.
- Communicate early and often with stakeholders, public, media

Ongoing Challenges for PPPs



- *Education gap*: lack of public, policymaker understanding.
- *Skills gap*: states and local governments have limited PPP procurement expertise.
- *Management gap*: PPPs are paradigm shift in public management.
- *Policy gap*: weak legal & policy framework.

- *Opposition*: public sector labor, environmental orgs, ideologues.
- *Fear*: loss of public control; sale vs. lease; profit.
- *Inertia*: public systems can be slow to embrace change, innovation.
- *Complexity*: many steps from concept to implementation.

- Risks of the status quo are poorly understood.

Questions?



Reason

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Reason Foundation

<http://reason.org>

<http://reason.org/news/show/puerto-rico-ppp-infrastructure>

 Reason Foundation


Building a World-Class Infrastructure PPP Program in Puerto Rico

Interview with David Alvarez, executive director of the Puerto Rico Public-Private Partnerships Authority



Leonard Gilroy

September 8, 2011

Since taking office in January 2009, Puerto Rico Governor Luis Fortuño's administration has taken bold actions to address the territory's chronic deficits and unsustainable debt, including dramatically cutting expenditures, optimizing government operations and passing a broad-ranging new law in 2009 inviting private investors to modernize or develop new infrastructure across a variety of sectors. 

That law, Act No. 29, authorizes any government agency to enter into public-private partnerships (PPPs) with private firms for the design, construction, financing, maintenance or operation of public facilities, with a set of priority projects that include toll roads, transit, energy, water/wastewater facilities, solid waste management and ports. The law also established a new Public Private Partnership Authority (PPPA), a new center of excellence within the Government Development Bank responsible for identifying, evaluating and selecting PPP projects and for monitoring and enforcing the terms of PPP contracts.

In two short years, the PPPA has built a world-class PPP program and has already seen some major successes that other states can learn from. For example, to help modernize K-12 school facilities and improve academic performance, the PPPA has launched the "Schools for the 21st Century" PPP program, under which Puerto Rico is contracting with private operators to design, build and maintain approximately 100 schools across Puerto Rico; over 60 of these contracts were already in place by July 2011. And in June 2011, the PPPA selected a winning bidder for a 40-year, \$1.08 billion concession to operate the PR-22 and PR-5 toll roads. PPPA officials have also been laying the groundwork for a long-term lease of San Juan's international airport, and the Authority expects to initiate a procurement in the fall of 2011.

In this August 2011 interview with Reason Foundation's Leonard Gilroy, Puerto Rico PPPA executive director David Alvarez discusses the development of Puerto Rico's PPP program, the benefits of having a centralized PPP program with a broad scope across infrastructure sectors, and the central role of the PPP program in Puerto Rico's economic development strategy.

Leonard Gilroy, Reason Foundation: Over the last two years, Puerto Rico has significantly shifted its approach to infrastructure development by embracing public-private partnerships as a major component of the state's strategy to fill the funding gap. Can you describe the fiscal and economic factors that prompted that shift and what the role is for PPPs moving forward?

David Alvarez, Puerto Rico Public-Private Partnership Authority: There were very clear and recognized needs for restoring investment in infrastructure. It's not a secret that our share of investing in infrastructure (as a percentage of GDP) has declined substantially since the early-2000s. So we have a very clear need to put money back into infrastructure. This also included a need for recurring maintenance for infrastructure.

Given that need, there was a huge limitation, which is Puerto Rico's credit and fiscal situation. Along with having among the largest deficits in the nation, our bonds are not AAA-rated, so we have a very limited credit facility and capability at this point. So we had to look for alternative ways and were in that sense obligated to look at PPPs and make it work for us.

The first thing that everyone—including Reason Foundation, who participated in the very early stages—recommended was that we approve PPP-enabling legislation as the initial step. Then we realized that we had the opportunity to create a true PPP program, as opposed to doing one project here and then another five years later.

So we decided to build a program, and that's how we look at it and the Governor [Luis Fortuño] refers to it—*a program*.

Gilroy: Up to this point, most states have taken piecemeal approaches to PPPs, with a heavy focus on transportation projects. However, Puerto Rico's PPP program goes much further than most states, extending beyond transportation to other types of infrastructure. Can you describe the scope of the Commonwealth's PPP program?

Alvarez: The scope of the program is very broad. We decided to include in the legislation—not the projects themselves, but the areas that we can pursue, the different infrastructure types. We actually have nine areas listed in the PPP legislation in Puerto Rico. We can go from transportation to energy to water. We can do schools, social infrastructure, corrections, information technology—so it's a very broad scope.

We decided to start the program with the projects that were most ready to go into the pipeline and out to the market. For example, we focused first on "brownfield" projects [Editor's note: "brownfield" PPPs cover the operation and/or capital investment in existing public assets]. The schools project [Schools for the 21st Century] was one where the need was high for investment in school infrastructure, so we knew that this was a priority project. A lot of these are renovations of existing schools, so this is not like a "greenfield" project where you need a lot of permitting, etc. [Editor's note: "greenfield" PPPs cover the private sector construction, operation and/or financing of new public assets.] All of the greenfield PPP opportunities that Puerto Rico has need a lot of permits and environmental work to be completed.

So we started with something that we could manage well. Then we moved into the toll roads project with another brownfield transaction. And that's how we started to move across different asset classes.

We can do a variety of different projects, which is fascinating and gives the opportunity to talk to the public about the PPP concept without attaching it to a project—a toll road or an airport. So you can do a lot of education about the PPP concept itself, which is very useful. Then when you get to a particular project, you can relate to your concept again and how it applies to a toll road or a school or a correctional facility. So that gives us a lot of room for action.

Gilroy: Another interesting aspect of Puerto Rico's PPP program is that it utilizes a centralized structure for all PPP decision-making, as opposed to having individual agencies pursue PPPs on their own (common in other states). Can you describe the role of the PPP Authority, and what benefits you expect to see from a centralized approach?

Alvarez: In the centralized approach, the role that we play is the coordinators of the entire process. For example, if we're working on a project with the Puerto Rico Aqueduct & Sewer Authority, we offer a process that is transparent, we offer in-house knowledge on PPPs, and we work with their teams to ensure that they're following a process that has been proven to be successful. And when I say "process," I mean the actual steps of a procurement.

We also work in the very early stages in the pre-planning of a project if it still needs some structure. Continuing with the same example, if the Aqueduct & Sewer Authority comes to us with an idea for a potential PPP project, then we can help them finalize and put the idea together in a way that will be welcomed by the private market, rather than they themselves running the project, which is the traditional way.

So we help in different areas. First, we offer a clear process to follow that everyone knows. We also provide help in the very initial stages if the project is not yet defined. We can help reinforce agency efforts and even hire consultants to finalize the structuring of the project and run it through the process.

And then at the end, we work at that end tail of the process, which is the awarding and even the communications of the project, helping to explain the project to the people. There's a lot of assistance that we can provide, and the agencies find that very valuable.

Gilroy: Given that you started with a blank sheet of paper, how did you go about setting up the PPP Authority? Did you rely on internal experts well versed in PPP issues, did you hire outside advisors, or some sort of blend?

Alvarez: The PPP Authority was created in the PPP Act, and to set it up we borrowed some resources from the Government Development Bank for Puerto Rico. What helped us a lot was that in the early stage we looked for a consultant. We ran an RFP process where we tried to look for consultants who had experience in setting up programs. So at this point, we were not looking for a consultant that was an expert in transportation projects. We were looking for a consultant that had experience in dealing with government on the sell side and had experience building PPP programs.

So we hired consultants with that kind of profile, and they helped us build up the program. And that was very useful, in that what we did at the very beginning has been kept all along with the program. We have made little tweaks in the process based on experience, but the essence of the entire process and the program has stayed close to what the consultants helped us develop.

What they did is really nothing that we couldn't have done, but if we would have done it ourselves, it would have taken us a much longer time. For example, the consultants put together all of the best practices from around the world. So they gave us a class, a course, in their recommendations on best practices in PPPs. And we borrowed from that, and we took the best practices from different areas, applied them and made them ours. The consultant put this together for us in a week and a half. For us, it would have taken much longer to put together, so the consultants really helped us expedite setting up the program. And at the end of the day, in setting up a program, focusing on best practices is essential.

Gilroy: What would you say makes Puerto Rico an attractive place for PPP investors, relative to other states?

Alvarez: First of all, we have the legal framework that we've put around PPPs that provides certainty and requires a clear process. That's the most important part.

There are still things we can do to improve the process and the PPP legislation. As we learn, we're thinking about different amendments that could be adopted to improve the PPP legislation in Puerto Rico. But to have it in place, and to have a specific process that goes beyond the act and into details—we have procurement regulations, for example—we offer a great process that provides certainty to investors.

The second thing is that as a program, we have more opportunities. We can have a pipeline and won't run a risk of running out of projects. Or just doing one project one year

and another project in three years. I'm not criticizing those types of programs, but Puerto Rico is a small island, so we need to go across assets with a pipeline of opportunities.

Also, we have proven the process to be successful. We had the toll roads PPP, for example, and the schools PPP, so we had quick wins early in the program, and that has helped us a lot at building a reputation in the market. And we look forward to continuing to deliver successes.

Last, the political commitment is there. Everyone in the administration is behind PPPs and wants to see them work, so they put in all the effort to make them work and that speaks for itself. It's important to have that commitment, and it's attractive for investors.

Gilroy: Can you describe the process that the Authority uses to advance PPP projects? How do you evaluate whether a PPP makes sense in a given situation, and how do you ensure that the public receives good value for money?

Alvarez: Among the best practices we adopted, an important one was the use of Value-for-Money (VfM) analysis, which we run for every project—before issuing an RFQ, before internally deciding whether the project is a good PPP opportunity, we run a VfM analysis.

And before getting to the VfM analysis, we do a thorough screening of the project. Prior to VfM we do a three-step process that allows us to evaluate the project. We start first with an initial review. What is the public reaction or acceptance of the project? Is it commercially viable? Has there been precedent? Have other jurisdictions done it before?

The second step is a fatal flaw analysis. Are there legal impediments to doing the project? If there's one project that does not require additional legislation, and another one that requires additional legislation for doing a PPP, or additional permitting or legislative approvals, then we will put those on the scale and will probably go with the one that does not have those legal impediments.

And the last step before VfM is a more detailed review of the project or asset in which we have more extended criteria. We do that even before moving into the VfM analysis, so there's a lot of discussion that goes into a project before deciding that a PPP is what we want to do.

After doing the VfM analysis we still have to go to the board of directors of the PPP Authority and meet their test and prove why a PPP makes sense. So once we get to the market, we have done a great amount of homework regarding the project and a lot of the topics have been studied and looked at, so it has to go through all of that process before we decide that.

The VfM analysis has to be released to the public, so we always have a transparent point of reference to refer citizens to. I can say that citizens like to see that, and they feel more

confident that it's a transparent process and that gives them comfort. And every time we do a VfM report and put it on the website, we also do a roundtable with the local business press and explain the results. Communication with the public is ongoing. We do it at the very early stages, we never stop doing it until we award the contract, and it's always an ongoing effort.

So in deciding whether a project is a PPP we want to take to the market, we go through this type of analysis, and we think the approach offers us discipline and prepares us for the procurement.

Gilroy: Though your PPP program is still young, you've already negotiated a 40-year, \$1 billion lease of the PR-22 and PR-5 toll roads and are nearing a procurement for a long-term lease of the Luis Muñoz Marín International Airport in San Juan. Thus far, can you point to some of the demonstrable benefits you've already seen from competition and public private partnerships?

Alvarez: One clear example that we have is accelerated investment. In the schools program, for example, we were able to bring a project that was going to be procured 10 years from now and make it happen today. We dedicated a lot of time up front in the project analysis, but once we put it out to the market and were able to award the contract, the construction started quickly. They started designing at the same time they started working at the schools to take the windows apart, removing doors, and preparing the site. So action and investment started happening very quickly, and citizens could see it happening.

And that's a good example. I'm still amazed that at this same time last year, we were just thinking about this project. We were doing an RFQ then, and now we have more than 60 schools under construction with contracts already awarded. And that's what we want—we want jobs being created and investment happening.

On the toll roads, we're still working on reaching the financial close, but the same thing will happen there. We will require investment to happen on the front end so that people start seeing the difference. So we're expecting that within three months after financial close we'll start seeing differences in those toll roads. We'll start seeing new pavements. We'll start seeing new signage, and the lighting along the toll road will be renovated.

And that's very different from the traditional methods, where you have to wait until one step is completed before you start the next one, and you have all of the different bureaucratic steps that you have to take within government to proceed. PPPs are more expedited. The procurement takes a little longer on the front end, but the project becomes expedited once you award the contract, and that's a major difference.

Gilroy: Puerto Rico is going beyond other states by bringing PPPs to K-12 education through a large-scale facility modernization program, the Schools for the 21st Century initiative. What prompted this initiative, and what do you expect to achieve

through PPPs in K-12 education?

Alvarez: There was a clear need. Public schools were highly deteriorated, and we had a very deficient maintenance program. In Puerto Rico, the traditional way we had done maintenance is a "design-bid-build" type of program, where maintenance is conducted by the public sector in several steps. So our maintenance was very deficient, and there was deteriorated infrastructure across the public school system. We needed to do something, and that was the first trigger.

There wasn't the time to expend in contracting the full, 100 percent design, and then doing a bid process, and then doing the construction—we wanted to do it fast because there was a sense of urgency. That's why we designed a PPP procurement in a way that the design, build and maintenance elements were all consolidated and transferred to the private sector.

The incredible need for investing in schools brings other things that are difficult to quantify, but you know they are there. For example, underperformance in academics, and students dropping out of school because they don't feel comfortable in the facility, or they don't feel encouraged or motivated by the type of school they're going to. Maybe it's a deteriorating school or an old school that was built 30 years ago, and they want to see new things.

So at the end of the day, with this school program we're tackling infrastructure challenges, but the ultimate goal for us is to improve academic performance of students. We're trying to go in an indirect way towards academic performance by providing and delivering better infrastructure, with the goal for students to perform better at school—to keep more people in school and to get better results. That's the ultimate goal of the program, really.

Gilroy: Puerto Rico is actively pursuing a long-term lease of Luis Muñoz Marín International Airport in San Juan. What are your goals with this airport PPP, and what factors do you think prompted the airlines to support the project (a key requirement for airport privatization under federal law)?

Alvarez: Today, we have an average airport. We have the busiest and largest airport in the Caribbean, but it's not really what we would like to have. We have aspirational goals, and we want to make it a world-class airport.

But there was the limiting factor that the Ports Authority did not have the funds to take it to that level, so we decided to look for a PPP to partner with the private sector to finance and undertake the renovation, operation and management of the airport.

Besides having a lack of funds to invest in infrastructure—to have renovated terminals and things like that—there was also the maintenance aspect. We have a high cost facility, and at the end of the day, the maintenance is not the best. So there's an operational part—a maintenance component—to it in which we want to ensure that the airport is better kept, run more efficiently, and run with a focus on making the traveler experience better.

So all of those factors combined to make us decide that partnering with the private sector made sense for this infrastructure, and the airlines generally agreed with that analysis. And they were looking for a better traveling experience for their customers, and they wanted to have a better operational landscape. And like us, they were tired of having a new director come every time the administration changes and changed plans, trying new and different plans for the airport. The lack of continuity is a difficult challenge for an airport, which needs continuity in order to take it to the next level. The airlines agreed with that, and they were willing to endorse that approach and are willing to look at new ways to deliver the airport now.

And we appreciate their support. We want to increase traffic—being on an island, your main airport is a major driver of economic development and economic growth. So we want to increase people coming to Puerto Rico. They don't even have to choose Puerto Rico as their final destination, but we want them to stop here or do a connecting flight here.

The airlines have told us that they're approaching this project with open mind, because they agree with us and believe that partnering with the private sector will make more sense for Puerto Rico's international airport.

Gilroy: Outside of roads, schools and the airport, what other types of PPPs do you expect to advance in the near term? Where do you see the PPP program going from here?

Alvarez: There are two areas that we want to explore more: social infrastructure and "greenfield" projects. And those can be combined, of course—you can have a greenfield project that's also a social infrastructure project.

In social infrastructure, we're definitely not finished with the schools. The 21st Century schools program is an initial step in the right direction, and I think we would like to expand this program over time. But we're not finished with the schools.

We're also looking into areas in social infrastructure that have been proven before. We're not trying to invent the wheel. We're looking into correctional facilities. We're increasingly educating ourselves on hospitals and how PPPs have been used in Canada and other places. We're not ready to structure a project in hospitals yet, but we're doing the learning now on how those are done.

In transportation, we will increasingly look to greenfields. Puerto Rico has some very interesting greenfield transportation opportunities, including an extension of PR-22 that's been in Puerto Rico's pipeline for 20 years. We would like to find ways to put that into our pipeline and make that happen.

So we're increasingly looking to greenfields and increasingly looking to social infrastructure. Also, energy is an area we'd like to move into, and also water. We're

continuing to develop the pipeline.

Gilroy: Can you describe what the transition was like from an institutional perspective? Puerto Rico had been doing things a certain way for many years and then embarked on an entirely new course. What was the learning curve like, and what lessons would you offer to another state preparing to undertake a similar process?

Alvarez: In terms of our program, the learning curve has been very steep, but you have to dedicate time to it. You have to educate yourself and your team about the precedents, what other projects have been done out there, what you can borrow, what you don't like—you have to dedicate time to your internal education.

In terms of the rest of government, now you have a centralized office chasing projects to put into a PPP procurement pipeline, and we have found some internal resistance to the idea within government. The best solution for that is to have quick wins at the beginning.

In the schools program, now our Department of Education can say, "why not do the rest of the schools this way?" If you can, take 15–20 schools in your state, try to procure them as PPPs, see the results, and learn from that. And once people start seeing the results, they will want more of it.

The same thing happens with toll roads. If people see a good program that delivers results, that allows us to pay down debt, and that will deliver world-class highways, they will want to see more PPP projects.

But at the beginning, there's some resistance. We work with the different government entities to make it work for them and make sure that the projects will respond to their needs. We dedicate a lot of time to that.

If I could recommend something to other states, I would suggest that they try to start with a project that they can handle as a PPP, learn the lessons from that one, and take those lessons and replicate that with other projects and assets. That's a good way to start a program. Try to get those quick wins.

Also, you need to have good consultants on board that will not only educate you on U.S. precedents but also international precedents. There's a lot to learn from international precedents—Canadian, European, Latin American experiences with PPPs, for example. Try to learn from those, discuss all of those ideas internally, and see what direction your state wants to go.

And you should make a commitment to creating a centralized program. You will have a more robust pipeline, more opportunities, and more investment coming into your state in different areas. For example, we wanted to have one project going in each particular area. Now we have one in schools and one in toll roads, and we expect to have one in the

airport sector soon and another in corrections. All of a sudden you put that together and it's over \$2 billion in investment that will be in different areas going simultaneously. And that's a large benefit.

Gilroy: You've framed Puerto Rico's PPP initiative in terms of economic development being the primary focus. Can you explain that further?

Alvarez: In that sense we have departed from precedent. We're not doing PPPs because they're a financial transaction. Now it's important to get cost savings—that's important. And when you're doing a brownfield transaction, you should maximize your lump-sum payment—that's important too.

But for us, we really want to deliver investment and fresh capital and investment to the local economy—that's economic development. At the same time we want people to sponsor that infrastructure—we want people to use the toll roads, to feel better at the airport, and to choose the schools we're renovating as their preferred schools. It should be a clear decision in the mind of the users.

And for us, that goes a great deal further than just the financial aspect of the project. Yes, it is a transaction in its essence. And yes we want to maximize value and lump-sum payments.

But we want to bring new capital to be invested in infrastructure, and we want people to perceive infrastructure differently. We don't have to do projects the traditional way if we can have better results through an alternative way. Once people start embracing that, they will want more—more world-class infrastructure—and they will continue to support the PPP concept.

In terms of economic development, all of our projects will have requirements for capital improvements—fresh capital and new investment. People want jobs being created, and we have told people that PPPs create jobs—and they do—but they might not if you only care about the financial transaction, because then you might be trying to reduce capital investment—or not have any requirements for investment. And that probably would not create as many jobs as if you had the capital investment requirements in the project.

For us, it's a major economic development measure. We like to put it in the context of new jobs, new investment, new capital, and new partners for Puerto Rico too. We're not purely interested in the financial transaction, because we don't think that approach will get us the results that we want in economic development.

David Alvarez is the Executive Director of the Puerto Rico Public-Private Partnerships Authority. Prior to his appointment at the Public-Private Partnerships Authority, Mr. Alvarez served as Senior Advisor and Special Aid to the Chairman and President of the

Government Development Bank for Puerto Rico and as Chief Analyst at Santander Securities and Santander BanCorp Puerto Rico. Mr. Alvarez holds a Master of Science in Urban and Regional Planning from Florida State University and a Bachelors degree in Economics from West Virginia University.

This article will be featured in a forthcoming edition of Reason Foundation's Innovators in Action report.

Leonard Gilroy is Director of Government Reform

[Print This](#)



House Select Committee on Public Private Partnerships

Tuesday, January 9, 2012

North Carolina Context

Thank you to this committee and my fellow presenters for participating in this gathering. Len laid out an excellent overview, and I commend his work and that of the Reason Foundation.

I'm a new member of the John Locke Foundation, and I'm available for an ongoing dialogue regarding P3. Today, though, I would like to complement Len's presentation with a few North Carolina contextual considerations and areas to consider first, so as to motivate legislators to pursue P3.

Firstly, I want to echo Len's point that the P3 prospect is not a matter of partisanship. Rather, it is a question of how to harness competition to cost-effectively and accurately serve constituent needs. Presumably only insiders who benefit from waste would oppose the provision of higher quality services at lower costs to taxpayers. That's why there is a need to fill the education gap, to make people aware of the opportunity presented by the P3 shift.

Before I get into the meat of what state legislators can do in this realm of streamlining and asset sales, though, I would like to clarify this term "public-private partnership," since I see it generating confusion.

The fact is that, to some degree, all government activity is a P3. In other words, government officials must contract with either private individuals—that is, hire people—or private firms to get anything done. So that public-private partnership is always there.

Within our frame of discussion, though, we have two questions. First, what needs to be retained in the government realm at all? Second, of what we consider to be legitimate government activities and the properties associated with them, how high up along the chain can we go in delegating these activities to competing, privately held firms?

In addressing those questions, we also do well to keep in mind our context, one of an urgent fiscal condition. The State Budget Solutions Project has noted North Carolina's total debt at nearly \$100 billion or \$30,000 per private sector employee. Yet, contrary to public perception and despite limited tax revenues, North Carolina's state-level government spending has continued to increase. Even after we discount for inflation, in total it increased by 4 percent between fiscal years 2009 and 2011.

This problem is not going away. Even leading into this fiscal year, as many of you will be well aware, the state faced a \$2.6 billion shortfall that had to be closed. And this struggle to cover spending means North Carolina is becoming more subservient to federal officials. It now relies on federal aid for 33 percent of total spending.

P3s and the return of assets to the private sector are proven, powerful tools to address the state's fiscal dilemma. So, where to start?

Keep in mind that many state activities or properties, those that have neither economic nor constitutional basis, would be better off simply sold to private entities. In these instances, P3 mechanics are not the issue, rather it is political will to let go of wasteful albatrosses. Examples are plentiful, from the state's parking complexes to its aquariums.

The three aquariums, for example, already generate enough revenue to cover half of their expenses, and there seems little doubt they would thrive under private operation. It's time to let them and their \$40 million worth of properties go, but they are just one example.

In fact, the state auditor, Beth Wood, has noted that North Carolina has approximately 15,000 properties, but a *comprehensive list does not exist*. And the preliminary lists that do exist do not match. When the executive branch can't even work out how many properties it has, let alone the level to which they are all insured, it's time for a clean up—be that in the form of private sale or consolidation under private management.

On the other hand, there are many state activities and properties that do fit comfortably within a broad understanding of the legitimate role of government, and these components of government would benefit from greater delegation to non-governmental firms. The state corrections system, which costs \$1.4 billion each year, is perhaps the best example that would benefit from P3, and easily so.

In the case of prisons, a private contractor already operates three in North Carolina, but that is only three out of the approximately 70 in total. Numerous studies affirm that these privately run prisons save money for taxpayers in the range of 10 to 15 percent.

Not only could this be expanded, but a peculiar legal interpretation bars sheriffs from contracting out their jail operations. So, in this instance, legislators could expand P3 to both include more privately operated prisons and tweak the relevant law to allow for private jail activities as well.

Between the corrections and the aquarium spectrum, though, there is an array of alternatives for which greater P3 delegation can be utilized. For more evidence, I recommend people see the John Locke Foundation's annual survey of privatization at the county level. It documents that counties from all across the state are already engaged in a whole host of P3 activities, from lawn care to tax collection.

County willingness to use P3 testifies to both its political feasibility and the win-win outcome: competition brings lower costs and superior quality. If it's good enough for the counties, it's good enough for the state.

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First Annual North Carolina County Privatization Survey

DR. MICHAEL SANERA AND KEVIN MUNGER
NOVEMBER 2011

INTRODUCTION

County governments all over North Carolina are saving money by privatizing services. In an effort to assist in the exchange of information about these activities, the John Locke Foundation conducted a survey of all 100 counties asking county managers to tell us about governmental activities that they currently supply privately. We also asked them if they had problems in the past with a privatized activity that had caused them to return the activity to government provision.

Appendix A of this report contains the results of that survey. Appendix B contains the survey instrument. We asked managers to report their privatization activities in one of four categories: competitive sourcing, public/private partnerships (PPP), contracting out, and asset sales (see the descriptions below). We encouraged managers to respond by providing them with a hard-copy survey form and an online survey. We followed up with a reminder letter and phone call.

We received responses from 44 out of 100 N.C. counties, which we list in Appendix A. With a few exceptions, we list the information in Appendix A as we received it from the county. We have also listed county contact names and phone numbers for those who might want more detailed information about a county's privatization activities.

We have supplied a copy of this report to all 100 county managers and county commissioners in the state. We hope this report will stimulate more discussion of privatization among the counties and that counties that did not participate in this year's survey or did not have privatization activities to report will participate in the survey next year.

WHAT IS PRIVATIZATION?

Privatization is an umbrella term used to describe several techniques that increase competition in the public sector. One of the primary differences between the public and private sectors is competition. Private-sector entrepreneurs must constantly find a way to cut costs and lower prices or risk a competitive disadvantage. On the other

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For more information

See the following chapters from the John Locke Foundation's *City and County Issue Guide 2011*:

- **Competitive Sourcing**
johnlocke.org/site-docs/research/2011issueguide/06competitivesourcing.html
- **Fresh Water and Wastewater Services**
johnlocke.org/site-docs/research/2011issueguide/08freshwater.html
- **Parks and Recreation**
johnlocke.org/site-docs/research/2011issueguide/09parksandrecreation.html
- **Public Transit**
johnlocke.org/site-docs/research/2011issueguide/11publictransit.html
- **Stadiums, Water Parks, Restaurants, etc.**
johnlocke.org/site-docs/research/2011issueguide/12stadiums.html
- **Convention Centers**
johnlocke.org/site-docs/research/2011issueguide/13conventioncenters.html

hand, the public sector can be characterized as a monopoly provider. Government departments and agencies are often the only service provider, but when it has competition from the private sector, the government has unfair access to taxpayer funds. Often governments increase their budgets, not by satisfying customers, but by satisfying special-interest groups who lobby for budget increases. Taxpayers and citizens alike benefit from the consideration of privatization techniques because increased competition often lowers costs and improves the quality of services

Regional Brief No. 83 • November 10, 2011

Dr. Michael Sanera

*Director of Research and Local Government Studies
at the John Locke Foundation*

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Research Intern at the John Locke Foundation

Explaining the Different Types of Privatization

<i>Type</i>	<i>Explanation</i>
Competitive Sourcing	Uses a bidding process for service contracts, which allows private-sector service providers to compete with public-sector agencies. If, for example, the county wanted to have open competition for the provision of landfill operations, the existing county workers would submit a bid in competition with private companies. The lowest bid, public or private, would receive the contract to provide the service.
Public/Private Partnership	A joint venture between a government department and a private firm to provide some service or perform some function. PPPs are commonly used in building government offices, water-treatment plants, and other capital projects.
Contracting Out	The public sector contracts with a private or nonprofit firm to deliver a service that previously had been provided by government personnel. Taxpayers can benefit because the contracts are open to competitive bidding. The government maintains control through the terms of the contract. Common examples are food service in schools and county jails, parks management, and wastewater treatment.
Asset Sales	A way for governments to increase revenues and cut maintenance costs by shedding nonessential property or commercial-type enterprises. In addition, some governments have sold buildings, then leased back needed space. The budget crisis in California has prompted the state to consider selling the L.A. Coliseum, San Quentin Prison, and a number of state fairgrounds. Asset sales are also called divestiture.

Appendix A. Results of the Survey

The table below and across the next few pages lists the response from county managers to our survey of their counties' privatization activities. They are listed according to the four categories for privatization — competitive sourcing, public/private partnerships (PPPs), contracting out, and asset sales — as well as any deprivatization activities.

Forty-four counties responded to our survey. The following 56 counties did not:

Ashc	Chatham	Duplin	Guilford	Lenoir	Perquimans	Rutherford	Wake
Avery	Cherokee	Durham	Henderson	Mecklenburg	Person	Sampson	Washington
Beaufort	Clay	Edgecombe	Hertford	Mitchell	Randolph	Stokes	Watauga
Bertie	Cleveland	Franklin	Hoke	Nash	Richmond	Swain	Wayne
Brunswick	Columbus	Gates	Hyde	New Hanover	Robeson	Tyrell	Wilkes
Buncombe	Cumberland	Graham	Jackson	Pamlico	Rockingham	Union	Wilson
Burke	Davie	Granville	Lee	Pasquotank	Rowan	Vance	Yancey

Below are the results of the survey. It is listed by each responding county and includes the county's privatization actions, additional information the county wished to add, and county contact information.

County	Action	Additional Information	County Contact
Alamance	Contracting Out Recycling Vehicle maintenance 2007: Courthouse security 2010: Employee health clinic Competitive Sourcing 2010: Employee health clinic Public/Private Partnerships 1990s: Economic development with chamber		Craig Honeycutt 336.228.1312
Alexander	Contracting Out 1999: Landfill services 2004: Jail medical Competitive Sourcing 1999: Landfill services 2004: Jail medical	Alexander County started operating a license tag agency last year, after the operator retired. They submitted an application to the state to perform this service, and it will be a better way to collect taxes on vehicles in the future.	Rick French 828.632.9332
Alleghany	Contracting Out Garbage service contracts		Don Adams 336.372.4179

County	Action	Additional Information	County Contact
Anson	<p>Contracting Out Minor maintenance/repairs Courthouse restoration Courthouse security</p> <p>Asset Sales Hobbes Upchurch</p>		Lawrence Gatwood 704.994.2676
Bladen	<p>Contracting Out 2004: Jail medical EMS/Director SW Center 1980s: Doctor/Therapist 2001: Security/Health 2002: EMS billing 1980s: Fire departments and mutual aid</p> <p>Competitive Sourcing 1980s: Fire departments and mutual aid</p> <p>Asset Sales 2011: Bladen County Hospital/Cape Fear Valley Health System 2010: Fitness center</p>		Gregory J. Martin 910.862.6701
Cabarrus	<p>Contracting Out Jail maintenance</p>		John Day 704.920.2895
Caldwell	<p>Competitive Sourcing Lawncare</p>		Stan Kiser 828.757.1300
Camden	<p>Contracting Out Landfill operation</p> <p>Contracting Out Solid waste services</p>		Randall Woodruff 252.338.1919
Carteret	<p>Contracting Out 1990: Manage solid waste convenience site and hauling of waste</p>		Russell Overman 252.728.8450
Caswell	<p>Contracting Out 2008: Waste systems operation</p>	Caswell County's departments are operated on such a small scale that privatizing does not make sense. They are, however, looking at increasing court system security and have done research that suggests that a private security firm would be more cost effective.	Kevin Howard 336.694.4193

0111-22

<i>County</i>	<i>Action</i>	<i>Additional Information</i>	<i>County Contact</i>
Catawba	<p>Contracting Out Board of Commissioners Emergency services facilities Finance personnel Public health Sheriff's department Social services</p> <p>Competitive Sourcing Sheriff's department Social services tax Technology Utilities</p>		Jennifer Macc 828.465.8207
Chowan	<p>Contracting Out 2010: Lawn maintenance 2010: Child support enforcement</p> <p>Asset Sales 2009: Albemarle Learning Center 2010: Gilden Rescue Building</p>		Paul Parker 252.482.8431
Craven	<p>Contracting Out 1991: Solid waste convenient center hauling, janitorial services, tax billing, water billing 1992: Solid waste recycling 1995: Jail food service 2001: Senior meals program 2006: Jail medical services 2010: HVAC maintenance, child support enforcement</p> <p>Competitive Sourcing 2006: Jail medical services</p>		Harold Blizzard 252.636.6600
Currituck	<p>Contracting Out 1990s: Cleaning, janitorial, landscaping, and fire services 1990s: Solid waste collection and disposal 1990s: Lifeguard services 1990s: Animal shelter operations</p> <p>Competitive Sourcing 1990s: Animal shelter operations</p> <p>Public/Private Partnerships 2011: Exploring PPP for wastewater treatment and disposal</p>		Dan Scanlon 252.232.2075

County	Action	Additional Information	County Contact
Dare	<p>Contracting Out 1996: Animal control and animal shelter operations</p> <p>Public/Private Partnerships 1997: Children and Youth Partnership (Smart Start, etc.) 2006: Community Care Clinic (indigent and uninsured healthcare) 2007: Hatteras Island Meals (elderly home delivered meals in unserved area) 2008: Dare County Arts Council (old courthouse reuse)</p>		David Clawson 252.475.5731
Davidson	<p>Contracting Out Lawn care, janitorial, and jail food/health/laundry</p> <p>Asset Sales Sale of building 2004: Sale of health certificate</p>		Robert C. Hyatt 336.242.2200
Forsyth	<p>Contracting Out 1972: Solid waste disposal for unincorporated areas 2007: Ambulance billing and collection 1993: Inmate medical services 1992: Convalescent/BLS ambulance services</p> <p>Competitive Sourcing 1992: Convalescent/BLS ambulance services</p> <p>Deprivatization Custodial services in various county buildings (including the courthouse) was contracted until around 2000-01. Constant complaints from judges/public about cleanliness resulted in hiring county employees to take over cleaning of county facilities.</p>		Ronda D. Tatum 336.703.2891
Gaston <i>(partial)</i>	<p>Contracting Out (partial) 1977: Laundry services, EMS services—squads, alternative sentencing, jail meals, public safety, radio maintenance Before 1984: Library security At least since 1988: Copier Management 1988: Lawn maintenance and jail health care Prior to 2003: NAPA – fleet maintenance At least since 1983: Mental health outside transportation At least 10 years: EMS – monthly billing Prior to 2003: Museum services — Schiele Museum 2003: Tax collection — lockbox service, commercial appraisals, grants administration — CDBG scattered site</p>		Bryant Morchad 704.866.3038

County	Action	Additional Information	County Contact
Gaston <i>(continued)</i>	Contracting Out <i>(continued)</i> 2007: Network Security Monitoring 2008: Human Relations 2010: Parking services at courthouse, landfill—energy conversion, debt collection, GEMS/tax revenue collection, printer maintenance, Robert Segal drug testing Public/Private Partnerships 2010: Trail building at parks — MOU with nonprofits		Bryant Morehead 704.866.3038
Greene	Contracting Out Water tank maintenance, janitorial services, IT/HVAC services, vehicle maintenance Competitive Sourcing Vehicle maintenance		Don L. Davenport 252.747.3446
Halifax	Contracting Out 1998: Waste collection and disposal Deprivatization We had contracted out grounds maintenance services for about seven years before stopping the service in 2009. With rising costs and revenues decreasing to counties, we had no choice but to cut costs. Our in-house maintenance staff now do grounds maintenance at our county buildings. Also, the County is in the beginning stages of building its own transfer station. We have been contracting with Waste Industries (formerly Waste Management) for about 13 years and again, due to rising costs and no other company to dispose of our waste, the County is planning to have a transfer station running by June 2013. We are not sure at this point if we will continue to contract out collection, but are likely to send out an RFP for collection.	The past few years have been difficult for counties. Revenues have been declining and costs have been increasing. They have had to cut some of their service contracts or change vendors for various services. The alternative would have been to reduce staff, which would only aggravate the already high unemployment rate and need for services.	Dia Denton 252.583.1131
Harnett <i>(partial)</i>	Contracting Out Jail food/medical services, yardwork/lawncare/snow removal, volunteer fire department, custodial work Competitive Sourcing Custodial work	Contracts out beds at the jail — gets paid to house inmates from other counties.	Scott Sauer 920.893.7555

6/11/13 >>

County	Action	Additional Information	County Contact
<p>Harnett <i>(continued)</i></p>	<p>Public/Private Partnerships 1992: Harnett Forward Together Committee: volunteer businessmen working with county on industrial/corporate construction</p> <p>Asset Sales Govdeals</p>		<p>Scott Saucier 920.893.7555</p>
<p>Haywood</p>	<p>Contracting Out 2007: EMS billing services > 10 years; engineering/architecture services > 10 years; construction projects that exceed capabilities of Maintenance Dept.</p> <p>Competitive Sourcing 2009: Custodial and cleaning supplies/equipment</p> <p>Public/Private Partnerships 2008: Wellness clinic with contracted physician and assistant 2006: Detention center: physician contract with county nurse</p> <p>Asset Sales 2011: Fisk Building 2011: Will place Health Dept. Annex II on market and completion of former Wal-Mart @ paragon parking</p>	<p>Planning to sell the old county hospital next year.</p>	<p>Marty Stamey 828.452.6625</p>
<p>Iredell</p>	<p>Contracting Out Inmate health services Inmate food services 2006: EMS billing 1986: Lock box service for tax collections</p> <p>Competitive Sourcing 1986: Lock box service for tax collections 2001: Janitorial services</p> <p>Deprivatization Solid waste: utilized a private contractor to haul waste from county-operated transfer stations to landfill. Discontinued because of maintenance issues, not willing to haul late loads, and not as flexible as employees under the county's control.</p>		<p>Mr. Tracy Jackson 704.878.5037</p>

APPENDIX 3

County	Action	Additional Information	County Contact
Johnston	<p>Contracting Out EMS units Landfill services/heavy machinery Water irrigation maintenance</p> <p>Public/Private Partnerships Johnston County Workforce Development Center; with pharmaceuticals company</p> <p>Asset Sales Various goods by auction and egov</p> <p>Deprivatization Used to contract out more EMS services, now there's a mixture of public and private EMS units</p>		Rick Hester 919.989.5100
Jones	<p>Contracting Out 2006: EMS billing 2009: Water meter reading 2009: Curbside pick-up solid waste services 2011: Tax bill printing</p> <p>Competitive Sourcing 2011: Tax bill printing</p>		Franky Howard 252.448.7571
Lincoln	<p>Contracting Out Solid waste</p>		George A. Wood 704.736.8471
Macon	<p>Contracting Out Solid waste</p>		Jack Horton 828.349.2025
Madison	<p>Deprivatization County contracted out Child Support Enforcement Program in 1997 and took the program back around 1999. The company providing the service went out of business and sold their interest to another company. County took back mowing contract to save money in 2009. Currently being completed by existing Maintenance Dept. staff. County chose to bring the program back in-house.</p>		Steve Garrison 828.649.2854
Martin	<p>Contracting Out 2002: Computer support/data processing</p>		Cindy Ange 252.789.4330

County	Action	Additional Information	County Contact
McDowell	<p>Asset Sales Govdeals for small things</p> <p>Deprivatization Child support services</p> <p>Contracting Out 1989: Landfill operation 1992: Convenient center site security</p>		Charles R. Abernathy 828.652.7121
Montgomery	<p>Contracting Out Landfill, transport, construction, water/sewer</p>		Lance L. Metzler 910.576.4221
Moore	<p>Competitive Sourcing Water/sewer</p>		T. McSwain 910.947.6363
Northampton	<p>Contracting Out 1993: Curbside solid waste collection 1993: Curbside recycling services</p>		Wayne Jenkins 252.534.2501
Onslow	<p>Contracting Out 1998: Tourism development operations 1994: Material recycling</p> <p>Competitive Sourcing 2008: County vehicle maintenance 2011: Jail food service 2011: Jail laundry service</p> <p>Public/Private Partnerships 2010: Public safety memorial construction</p> <p>Asset Sales 2009-present: Various land parcels throughout county (this is ongoing; we advertise on our website and seek to sell all property which does not have value to the public).</p>		Jeff Hudson 910.347.4717
Orange	<p>Contracting Out 1988: Urban curbside recycling 1994: Household hazardous waste 2001: Food waste recycling</p> <p>Deprivatization 1994-04: Rural curbside recycling dropped for cost, poor performance 1987-95: Dropoff site recycling dropped for poor performance/unreliability</p>		Paul Laughton 919.245.2152

County	Action	Additional Information	County Contact
Pender	Contracting Out 2000: MSW convenience sites management and MSW hauling 2000: Water utility system maintenance 2005: Tax payment processing		Rick Benton 910.259.1200
Pitt	Contracting Out 2010: Convenience center sites (rural trash collection) 2006: GovDeals.com (sale of surplus items) Public/Private Partnerships 2011: Installation of solar panels at jail 2003: Construction/renovation of housing		Scott Elliot 252.902.2950
Polk	Contracting Out 2003: Mental health 2010: Adult day care Public/Private Partnerships 2003: Mental health 2010: Adult day care Asset Sales 2009: Manufacturing facility Deprivatization Cleaning of buildings cheaper and higher quality in-house		Ryan Whitson 828.894.3301
Scotland	Contracting Out 2001: Medical home health services 2001: Manpower at recycling sites 2007: Medical care in county jail Public/Private Partnerships Medical oversight for health department		Kevin Patterson 910.277.2410
Stanly <i>(partial)</i>	Contracting Out Many years: Lawn maintenance/landscaping Many years: Janitorial services 2008: Jail inmate food service 2011: Criminal Justice Partnership—substance abuse services Competitive Sourcing (partial) 2011: Criminal Justice Partnership—substance abuse services 2008: In-home aide care—senior services		Andy Lucas 704.986.3600

3/16/10 >>

County	Action	Additional Information	County Contact
Stanly <i>(continued)</i>	<p>Competitive Sourcing <i>(continued)</i> Many years: Lawn maintenance/landscaping Many years: Solid waste services, numerous other services</p> <p>Asset Sales Vehicles, other equipment; auctions done via Gov Deals on a bi-annual basis</p> <p>Contracting Out Ambulance services</p>		Andy Lucas 704.986.3600
Surry			Dennis Thompson 336.401.8201
Transylvania		They looked at contracting out janitorial services but the bid came back higher than in-house costs. They continue to look at DRCAS, a vehicle maintenance joint agreement with the City of Brevard, and will be considering operation of their landfill.	Arthur C. Wilson, Jr. 828.884.3194
Warren	<p>Contracting Out 1980s: Solid waste hauling 2009: In-home aid services 2011: Housekeeping for buildings/facilities</p> <p>Public/Private Partnerships Ephraim Place subdivision (CDBG housing project) developed in conjunction with local nonprofit agency</p> <p>Contracting Out 2010: Janitorial services</p>		Linda T. Worth 252.257.3115
Yadkin			Aaron Chul 336.679.4200

Appendix B. Survey Sent to County Managers

Date

Dear county manager,

County elected and administrative leaders are currently working with residents to investigate innovative solutions to the fiscal crisis. One cost-saving approach is to privatize certain public services. For example, Haywood County is currently looking into the possibility of contracting out its landfill operations.

In an effort to share privatization success stories, as well as problems, we are asking you and other county managers to help us gather information about privatization activities at the county level.

We respectfully request that you assist in this effort by completing and returning the short, two-page survey included with this letter. Or you can fill out the survey online at <https://www.surveymonkey.com/s/PrivatizationSurvey>. The pass word is "assets."

We have included a *self-addressed stamped envelope* for your convenience.

I have also enclosed definitions of different types of privatization and some examples for your review. The most common types of privatization include, contracting out, competitive sourcing, public private partnerships and asset sales.

Of course, we will provide you with a copy of the final report and we hope it will be useful to you in your efforts to solve the pressing fiscal problems faced by county government.

We sincerely appreciate your participation in this important research project. If you have any questions or concerns about the survey, please contact me by phone at 919-828-3876 or by email at msanera@johnlocke.org.

Sincerely,

Michael Sanera
Director of Research and Local Government Studies

Privatization Survey

John Locke Foundation

This survey is for _____ County

Name of person filling out Survey _____ Phone _____

(In case there are follow-up questions)

Does your county currently engage in any of the following types of privatization?

(Please refer to the attached definitions and examples.)

1. Contracting Out ____ Yes ____ No

If yes, please list the activity and the year you began contracting out this activity

Activity	Date

2. Competitive Sourcing ____ Yes ____ No

If yes, please list each activity and the year you began competitive sourcing this activity

Activity	Date

3. Public Private Partnerships ____ Yes ____ No

If yes, please list each activity and the year you began the PPP for activity

Activity	Date

4. Asset Sales ____ Yes ____ No:

If yes, please list major assets sold during the last 5 years and the year when you sold it.

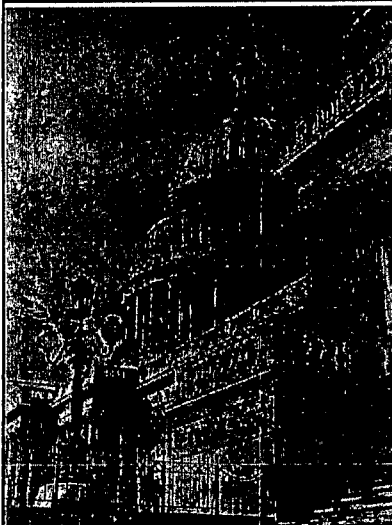
Activity	Year of Sale

5. If you have engaged in privatization of government services in the past and stopped the practice, please list the services, the years, and the reason why this activity was shifted back to the government sector.

Services	Years	Reason

Please provide any additional information, comments and/or suggestions here:
 (Information entered here will be kept *strictly confidential*.)

____ Please check here if you would like a copy of the final report.
Thank you very much for your assistance with this survey.



Best Practices for Public Private Partnerships

North Carolina House Select Committee on Public-Private Partnerships
Christopher D. Lloyd
January 10, 2012

www.mcguirewoodsconsulting.com

Why Create a Statutory Framework?

- Creates a consistent, repeatable, predictable process for alternative project delivery
- Ensures transparency and accountability to the public
- Increases competition and value delivery
- Signals legislative support for the process
- Checks and balances to reduce project delivery problems
- Spur innovation and creative project approaches
- Separate acts for transportation and social infrastructure is desirable because of differences in project scope, cost, delivery and approvals

PPP: Dispelling the Myths

- Not a panacea
- Not free money
- Not a finance tool
- Not secret negotiations
- Not privatization
- Not the sole purview of "big business" and "mega-contractors"

Why Use the P3 Delivery Method?

- Seeking "best in class" project concepts and delivery
- Limit state financial participation
- Risk transfer
- Single point of responsibility/turnkey delivery
- Staff augmentation without additional bureaucracy
- Integrate alternative funding sources and methods

Policy Issues Related to P3

- Amount of legislative oversight
- Creation of a P3 Office
- Interface with Local Government Commission

Oversight = Striking the Balance

- Strict controls over accountability, transparency and conflicts should be maintained by the executive branch
- Legislative involvement should come later in the process once the project is more well developed
- Legislative involvement should relate to consultation (perhaps through a standing committee or special commission) and identification of issues that could impact long-term debt commitments of the state
- Legislature retains ultimate power through appropriations process

Ensuring Accountability – A P3 Office

- Establishment of a P3 office can level the playing field in negotiations – need to be seen as an “equal” in negotiations
- P3 office should act as an unbiased advocate for the P3 process and work to speed project delivery through state and local bureaucracies
- Help to set priorities among projects
- Not act as a barrier to innovative and creative project development and delivery
- Should be separated from, but linked to, executive branch agencies with regulatory and implementation responsibility

Role of the Local Government Commission

- Additional hurdle unique to North Carolina
- Can help advise local governments on complex financial transactions
- May want to consider expedited process for certain financial transactions

Keys To Success

- Internal champion for project and process
- Fair and balanced contracts
- Skilled negotiators willing to say "yes" but also willing to resist political pressure and protect the state
- Tangible state participation (financial, land, etc.)
- Inclusive of public and other key stakeholders

State Policy Developments

- Virginia — seen as the leader (1995 and 2002 acts)
- Texas — new law took effect September 1, 2011
- Maryland — under consideration for 2012 session
- Georgia — adopted in 2011 for water projects
- Florida — legislation under consideration for 2012
- Utah — adopted for IT only
- California — Long Beach Courthouse deal seen as bringing the Canadian model to the US

Virginia PPP Success Stories

- Utilities – HRSD, Prince William, Augusta, Fredericksburg
- Public Safety – Fredericksburg, Frederick, Stafford
- Courts/Municipal Office – Spotsylvania, Chesapeake, Manassas Park, Fredericksburg
- K-12 – Northumberland, Stafford, Falls Church
- Corrections – State and regional facilities
- Transportation – VDOT mega-projects, local road maintenance and construction
- Parking – Winchester, Roanoke City, Fairfax, Fredericksburg

THANK YOU

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Committee Sergeants at Arms

NAME OF COMMITTEE HSB SGT. PUBLIC PRIVATE PARTNERSHIPS

DATE: 1-10-12

Room: 643

House Sgt-At Arms:

1. Name: CARLTON ADAMS
2. Name: DOUG HARRIS
3. Name: REGGIE SILLS
4. Name: BOB ROSS
5. Name: _____

Senate Sgt-At Arms:

1. Name: _____
2. Name: _____
3. Name: _____
4. Name: _____
5. Name: _____

VISITOR REGISTRATION SHEET

Public Private Partnerships 1-10-12
 Name of Committee Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME

FIRM OR AGENCY AND ADDRESS

PAUL BONEY	LS3P ARCHITECTS 434 FAYETTEVILLE ST. PAULBONEY@LS3P.COM SUITE 1700 RALEIGH, NC 27601
Jessie Hayes	NR HBA
Imeta Sebastian	L.A. Rep. Murry
Becki Gray	John Locke Foundation
BARRY SUMMERS	ASHTONVILLE NC
Diane Cheff	Institute for Emerging Issues
Melissa Troutman	NCACC
Karin Lammund	NCACC
Matt Gross	NCPC
Paul Meyer	NCLM
Chandra Taylor	SELC
Chuck Stone	SEARC

**NORTH CAROLINA HOUSE OF REPRESENTATIVES
COMMITTEE MEETING NOTICE
AND
2011-2012 SESSION**

You are hereby notified that the Committee on **House Select Committee on Public-Private Partnerships** will meet as follows:

DAY & DATE: Friday, February 17, 2012

TIME: 10:00 AM

LOCATION: 544 LOB

COMMENTS:

Respectfully,
Representative Moffitt, Chair
Representative Brawley, Chair

I hereby certify this notice was filed by the committee assistant at the following offices at **12 PM** o'clock on **February 07, 2011**.

- Principal Clerk
- Reading Clerk – House Chamber

Melissa Carter (Committee Assistant)

EQUIPMENT REQUEST FORM

To fill in this form type on a line and press the Tab key on the keyboard to get to the next line. Click on the appropriate check boxes to indicate the equipment you will need..

Room number 544 LOB

Date of meeting Friday, February 17, 2012

When ISD person should be there for setup 9:45 AM

Meeting start time 10:00 AM Meeting end time (estimate) 12:00 PM

Name of meeting House Select Committee on Public Private Partnerships

Division contact person Melissa Carter

NEEDS: Projector Laptop computer External Computer Speakers

ISD does not provide screens, extension cords, overhead projectors, tables or televisions/VCRs. For those items please contact Fred Williams in Financial Services.

Notes or special requests:

They will not need a screen if there are TV's in the room.

HOUSE SELECT COMMITTEE ON PUBLIC PRIVATE PARTNERSHIPS

Rep. Bill Brawley

Rep. Tim Moffitt

*Friday, February 17, 2012
Room 544, Legislative Office Building
10:00 a.m.*

- I. **The Future Zoo Expansion and Governance**
Dr. David Jones, Director, North Carolina Zoo
- II. **Counties and Public Private Partnerships**
Kevin Leonard, Director of Government Relations, North Carolina Association of County Commissioners (NCACC)
Bob Murphy, Nash County Manager
- III. **Committee Discussion**
- IV. **Adjournment**

HOUSE SELECT COMMITTEE ON PUBLIC-PRIVATE PARTNERSHIPS

Friday, February 17, 2012
10:00 a.m.
Room 544 Legislative Office Building

MINUTES

The House Select Committee on Public-Private Partnerships met on Friday, February 17, 2012 at 10:00 a.m. in Room 544 of the Legislative Office Building. Representatives Moffitt, Brawley, Crawford, McGee, R. Moore, and Owens.

Representative Brawley presided. He welcomed the Committee members and introduced the Sergeant at Arms and staff members.

PRESENTATIONS

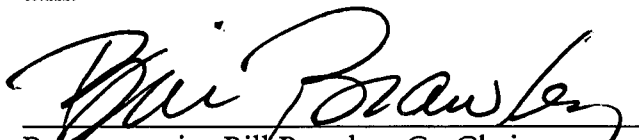
An Overview of Public-Private Partnerships

Dr. David Jones, Director of the North Carolina Zoo, was introduced to give his presentation titled "The Future Zoo Expansion and Governance", which is attached (see Attachment 1).

Best Practices for Public-Private Partnerships

Mr. Kevin Leonard, Director of Government Relations, North Carolina Association of County Commissioners (NCACC), and Mr. Bob Murphy, Nash County Manager, were introduced to give a presentation regarding public-private partnerships in North Carolina at both a state and county level. The presentation was titled "Counties and Public Private Partnerships", which is attached (see Attachment 2).

After a brief committee discussion, Representative Brawley adjourned the committee at 11:11 a.m.


Representative Bill Brawley, Co-Chair


Melissa Carter, Committee Clerk

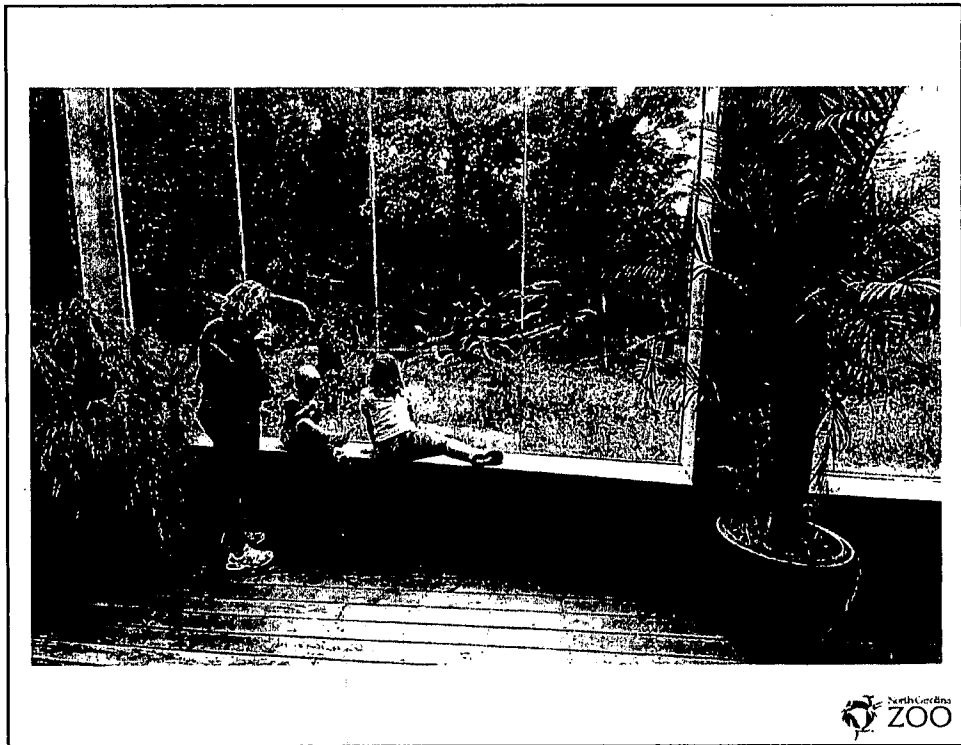
*House Public/Private Committee Presentation
Friday, February 17th, 2012*

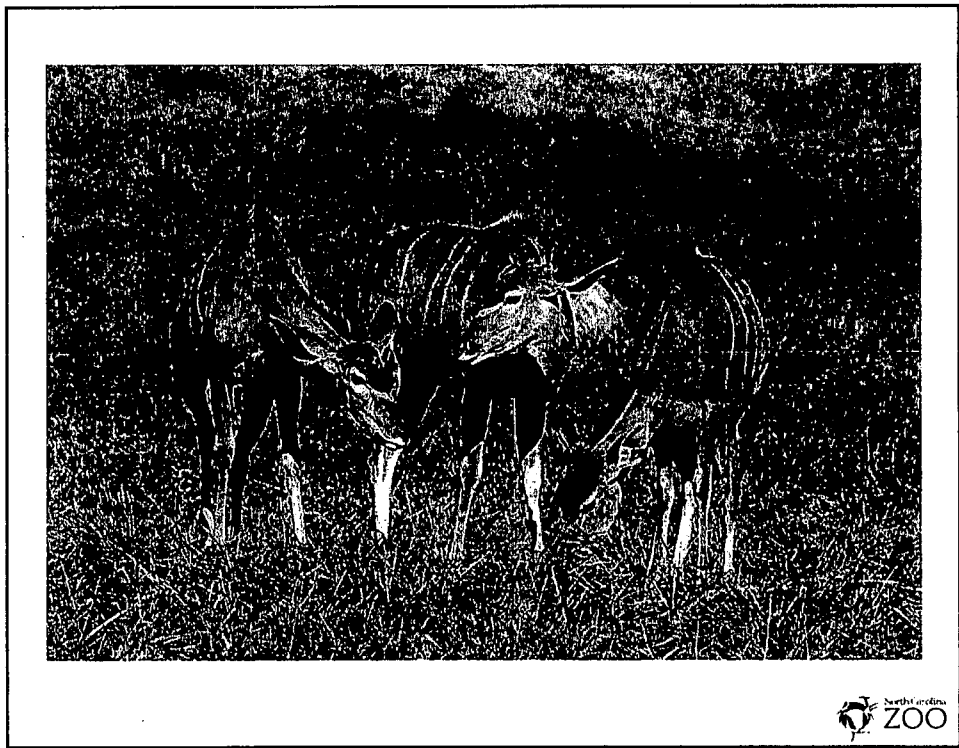
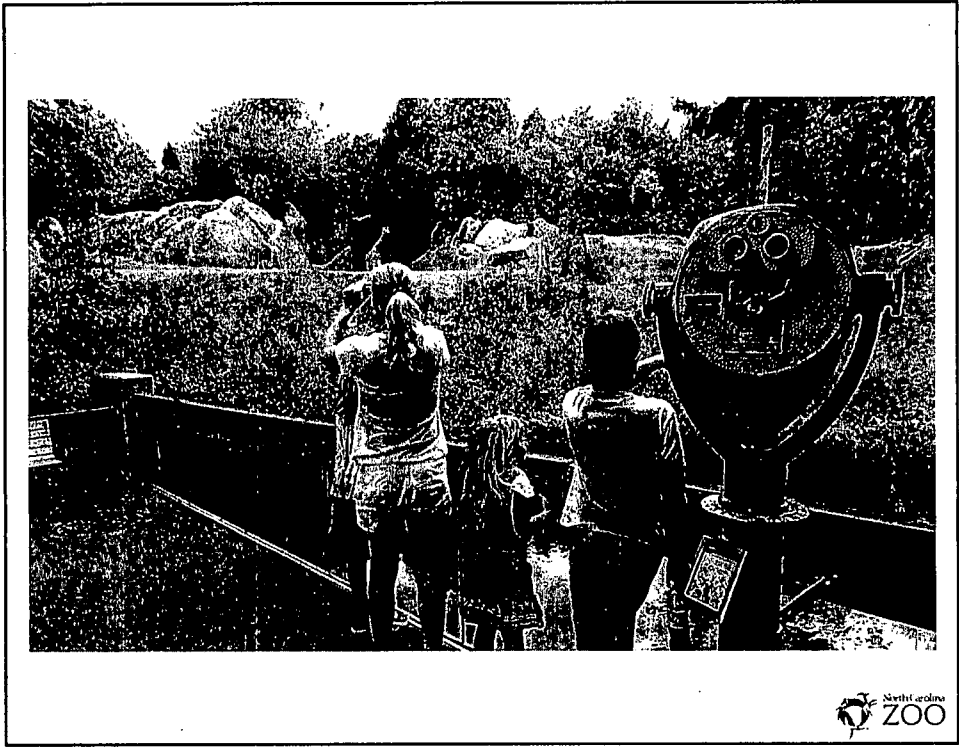


North Carolina Zoo

*The Future Zoo
Expansion and Governance*





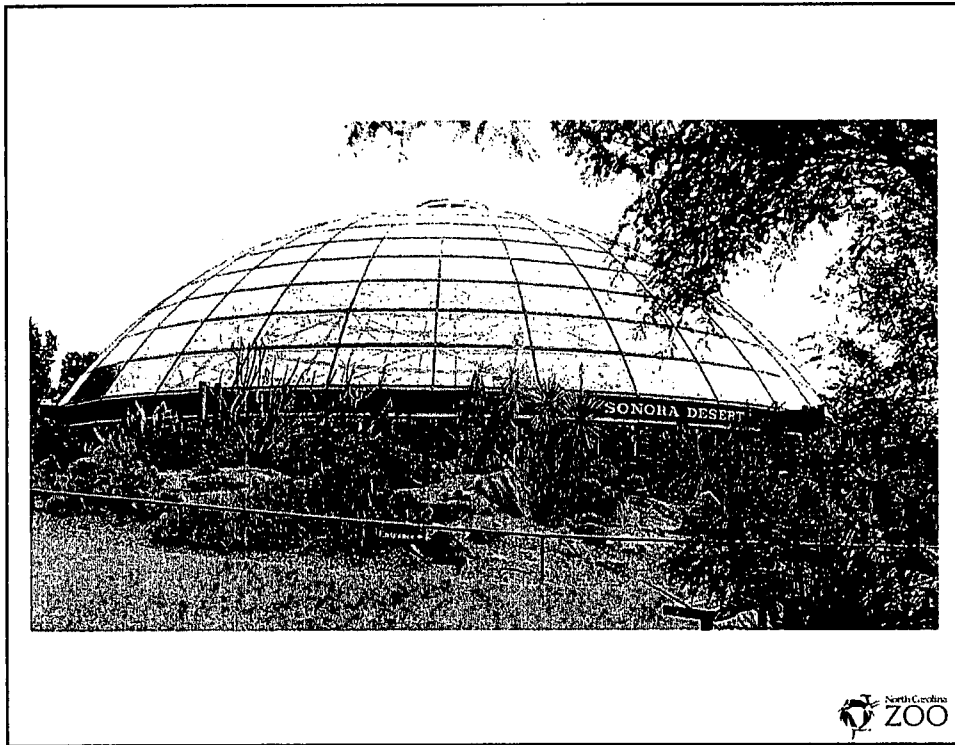
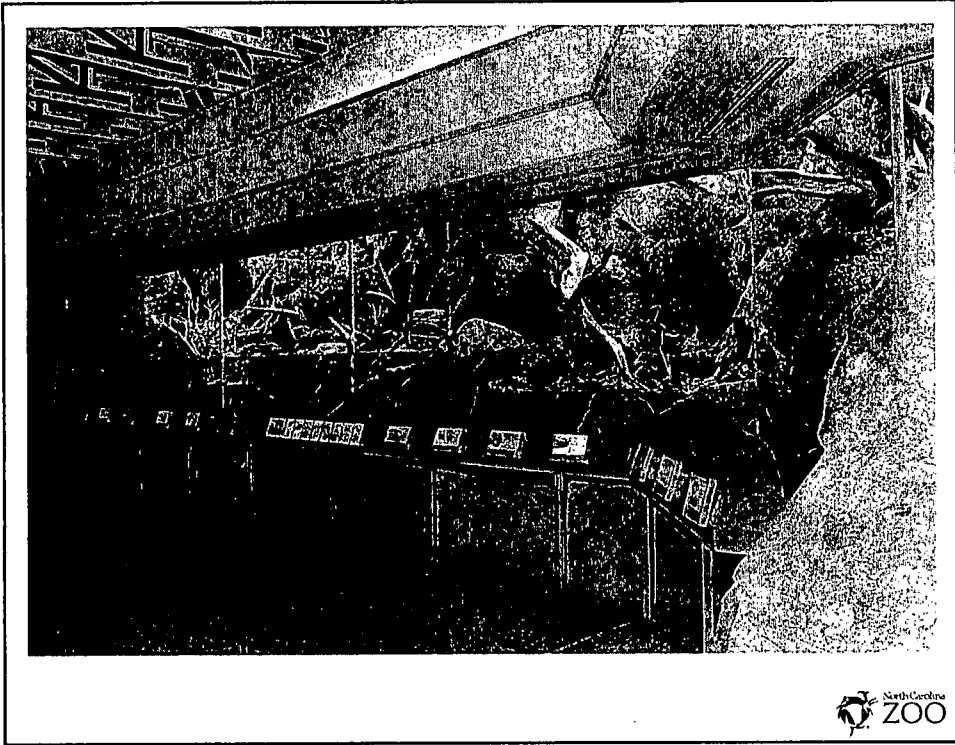


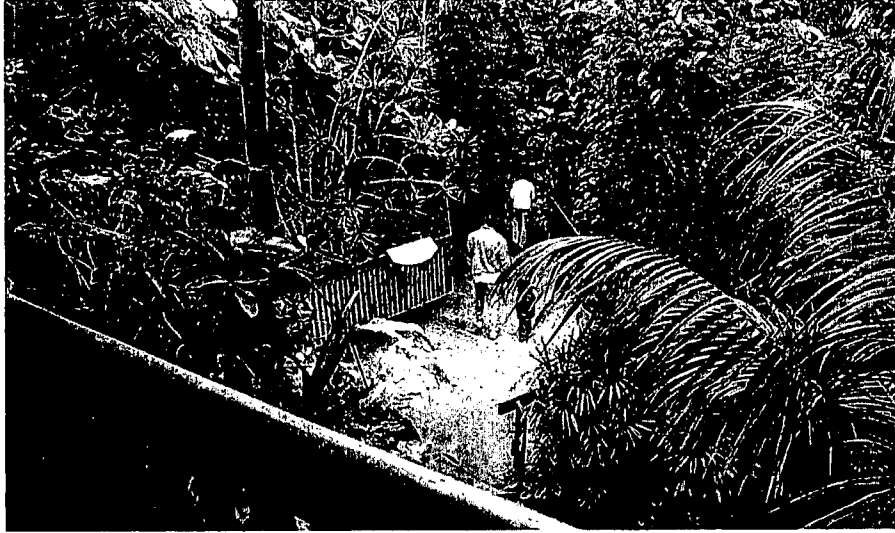


North Carolina
ZOO



North Carolina
ZOO





North Carolina
ZOO

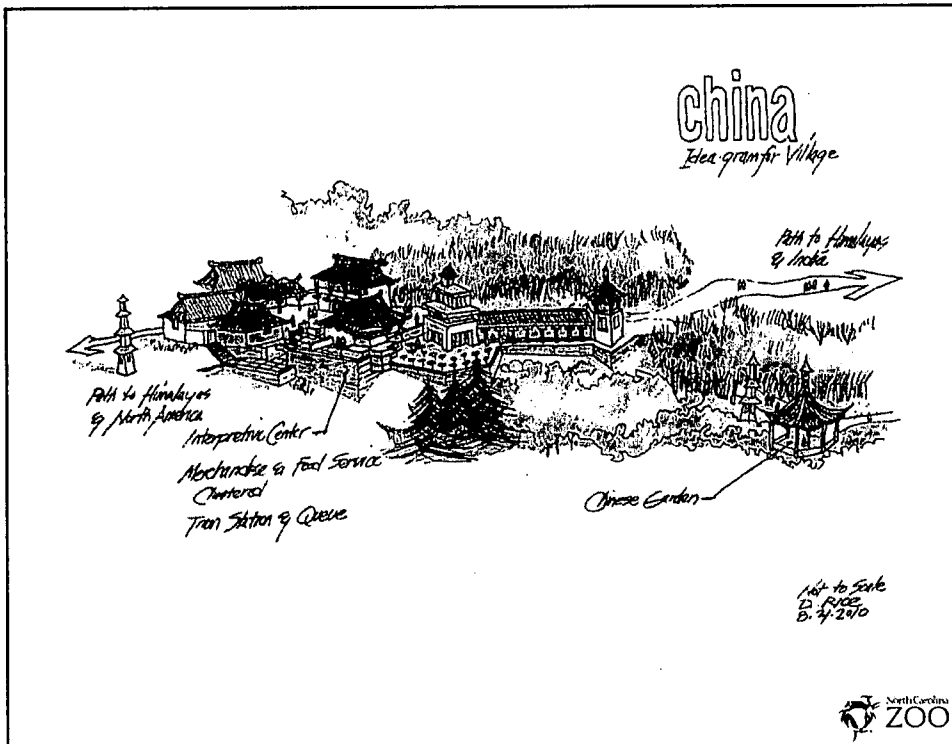


North Carolina
ZOO



North Carolina Zoo

Expansion Plans



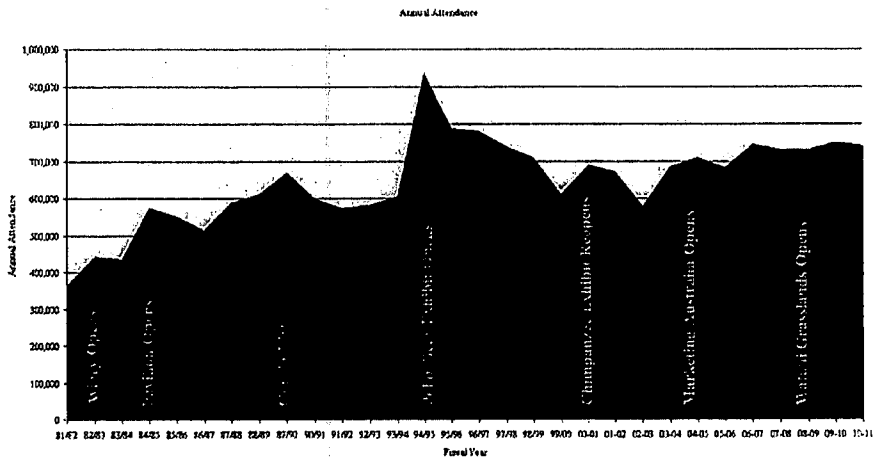
Asia

- *Estimated cost for development is approximately \$110 Million*
- *This addition would add approximately 300,000 visitors each year*
- *Additional visitation would increase Zoo total income from \$7 Million dollars each year to \$13 Million*
- *The \$6 Million difference would be sufficient to offset the costs*

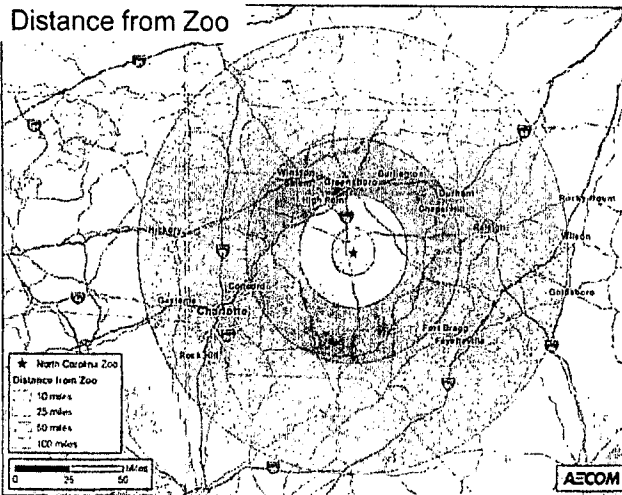


North Carolina Zoo

Annual Attendance by Fiscal Year



Resident Market



North Carolina Population

<i>25 Mile Radius</i>	<i>.27 Million</i>
<i>50 Mile Radius</i>	<i>1.8 Million</i>
<i>100 Mile Radius</i>	<i>(2011 Population Estimate) 7.5 Million</i>
<i>100 Mile Radius</i>	<i>(2014 Population Estimate) 8.2 Million</i>



Peripheral Land

- *Zoo must create its own "Critical Mass"*
- *Heavy regional competition for Water Parks and Family Entertainment Centers*
- *Most of competing facilities are located in Urban Areas*



Peripheral Land

Enhanced Option

- *250-300 Rooms. 4-Star Standard*
- *50 upscale cabins with 4-8 beds each*
- *Expanded restaurant and retail facilities*
- *Significant family oriented recreation facilities-
water, adventure play, biking and horses*
- *Would support \$105 Million dollar investment*
- *Operating net income \$11 Million dollars (24%)*



Annual Economic Impact

Existing Zoo Facilities

<i>Expenditures:</i>	<i>\$146 Million</i>
<i>Employment:</i>	<i>1,655 Jobs</i>
<i>Tax Impact:</i>	<i>\$2.9m Randolph County</i>
	<i>\$5.3m State of North Carolina</i>



Annual Economic Impact

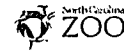
Peripheral Land

Enhanced Peripheral land plus existing Zoo

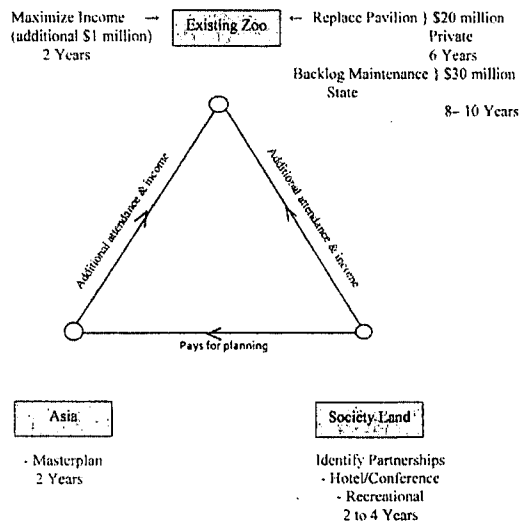
Expenditures: \$264 Million

Employment: 2,630 Jobs

Tax Impact: \$5.3m Randolph County
\$9.7m State of North Carolina



The Zoo's Triangular Relationship





North Carolina Zoo Governance Study Update

Why Zoos Consider a Shift in Governance

- *75% of AZA accredited zoos under private management – most with public partners – true PPP... (public/private partnership)*
- *Creates an entrepreneurial business approach*
- *Provides flexibility in response to staffing & visitors*
- *Allows for cost efficiencies by eliminating the duplication of efforts and in purchasing services*

approx. 10%



Why Zoos Consider a Shift in Governance

- *Creates market-based pricing strategies*
- *Offers a re-investment strategy as “what is earned at the Zoo is invested in the Zoo”*
- *Strengthen private financial support for the Zoo*
 - *Investment in new facilities, exhibits and attractions*
 - *Provides new opportunities to engage the regional & State-wide communities*
- *Solidify the Zoo’s annual funding structure*

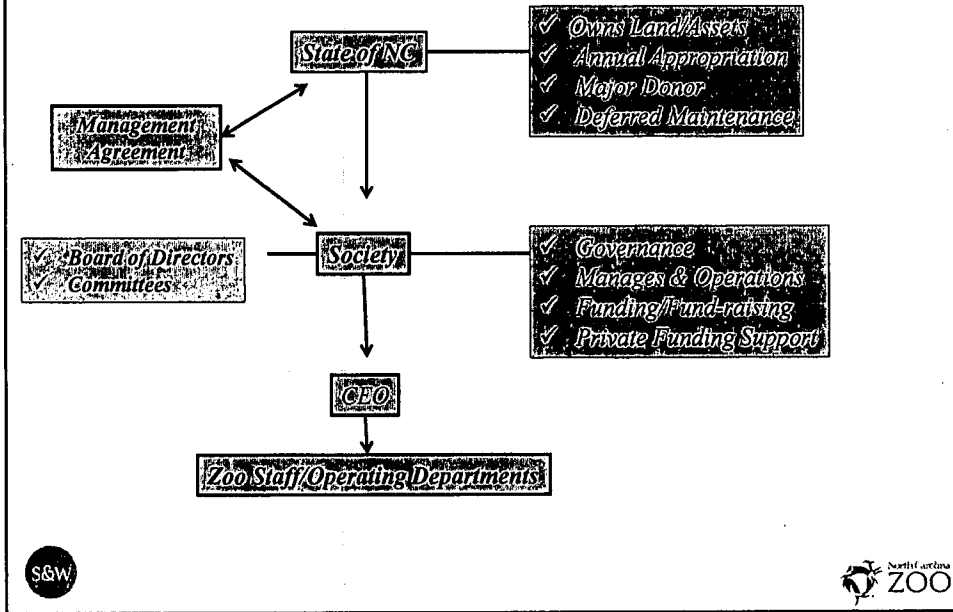


Why Zoos Consider a Shift in Governance

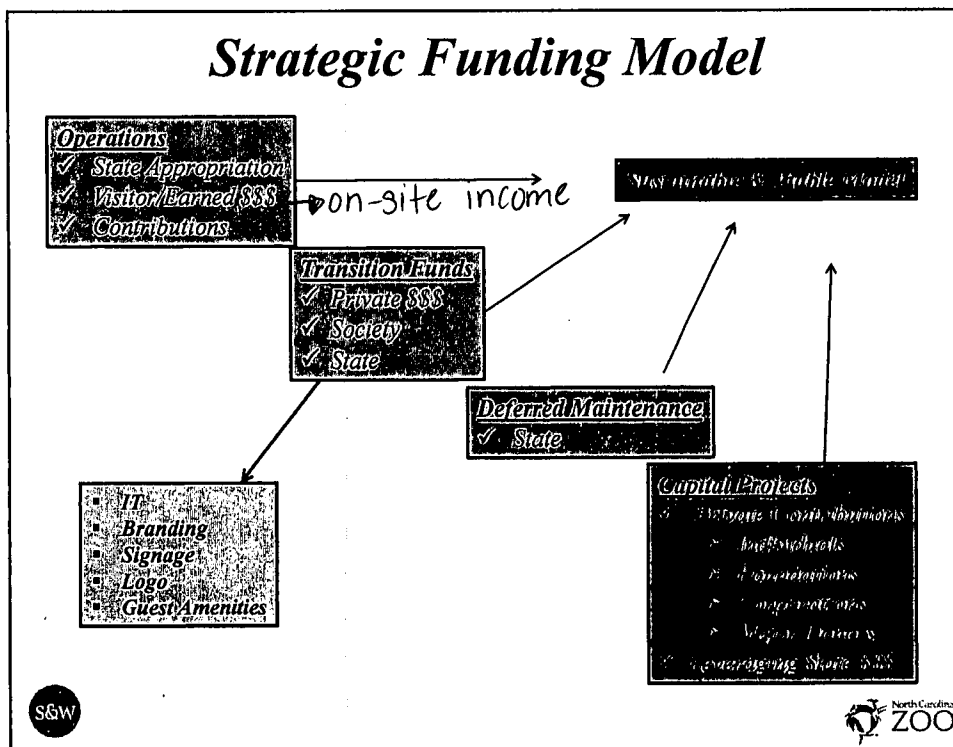
- *Develop strategic partnerships to increase income and investment*
- *Speed up decision making process*
- *Encourage a management culture best suited to the Zoo’s Needs*
- *Enables long-term planning and resultant timely actions 10-15 yrs. in advance.*



Potential Organizational Structure under PPP Structure



Strategic Funding Model

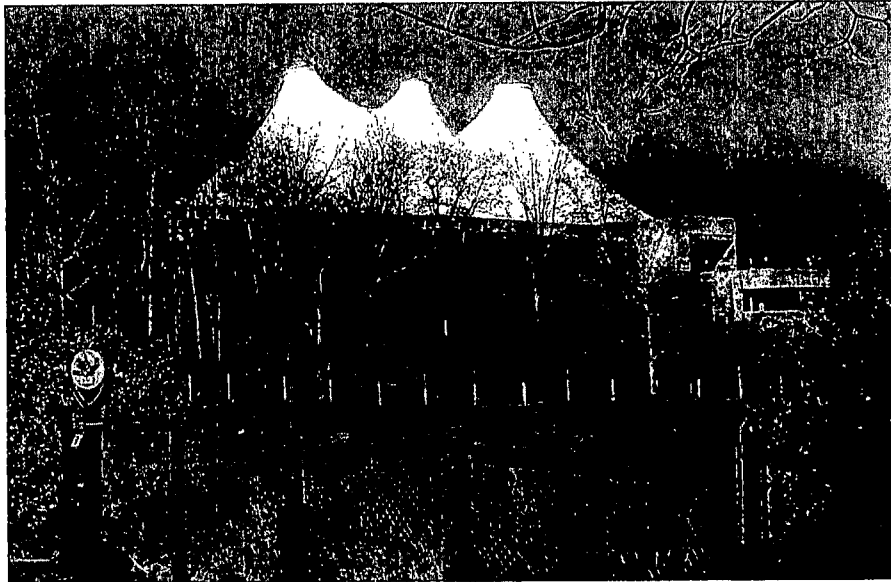


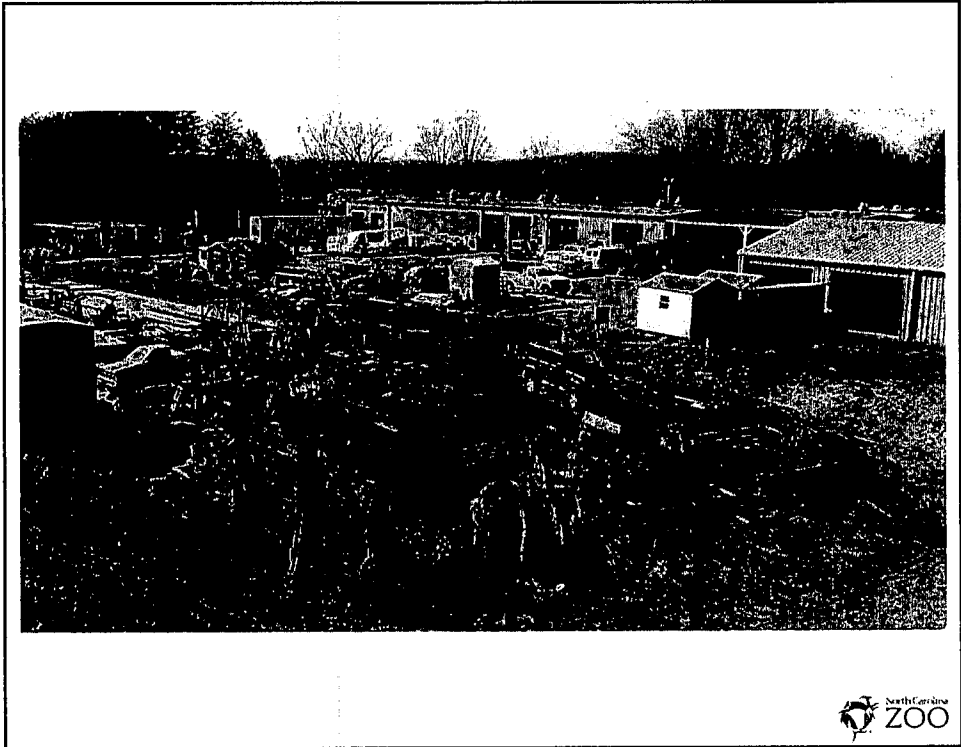
Deferred Maintenance

<i>Building Repairs</i>	<i>19.0 m</i>
<i>Exhibits/Fencing/Glass</i>	<i>4.0 m</i>
<i>Parking/Roads/Paths</i>	<i>2.5 m</i>
<i>Heavy Vehicles</i>	<i>2.0 m</i>
<i>Water/Sewer/Irrigation</i>	<i>1.5 m</i>
<i>Electrical/Energy</i>	<i><u>1.0 m</u></i>
	<i>30.0 Million</i>



⊕ Donors more likely to give \$ for new exhibits than they are for "deferred maintenance".





Transition Needs

- *Technology-phones/computers/servers/software*
- *Signage-Banners/Branding/On-site Signs*
- *Equipment-Vehicle Replacements/Maintenance*
- *Training-Employees and Volunteers*
- *Master Planning-Must be updated*



Appropriations

FY	Actual Attendance	Actual State Appropriation
2001-02	671,619	\$7,363,259
2001-03	576,093	\$8,253,189
2003-04	676,956	\$8,075,991
2004-05	709,030	\$8,688,470
2005-06	682,977	\$9,437,318
2006-07	746,650	\$10,957,664
2007-08	729,500	\$11,472,868
2008-09	729,615	\$11,483,834
2009-10	749,627	\$11,131,782
2010-11	741,119	\$11,451,024



Key Points

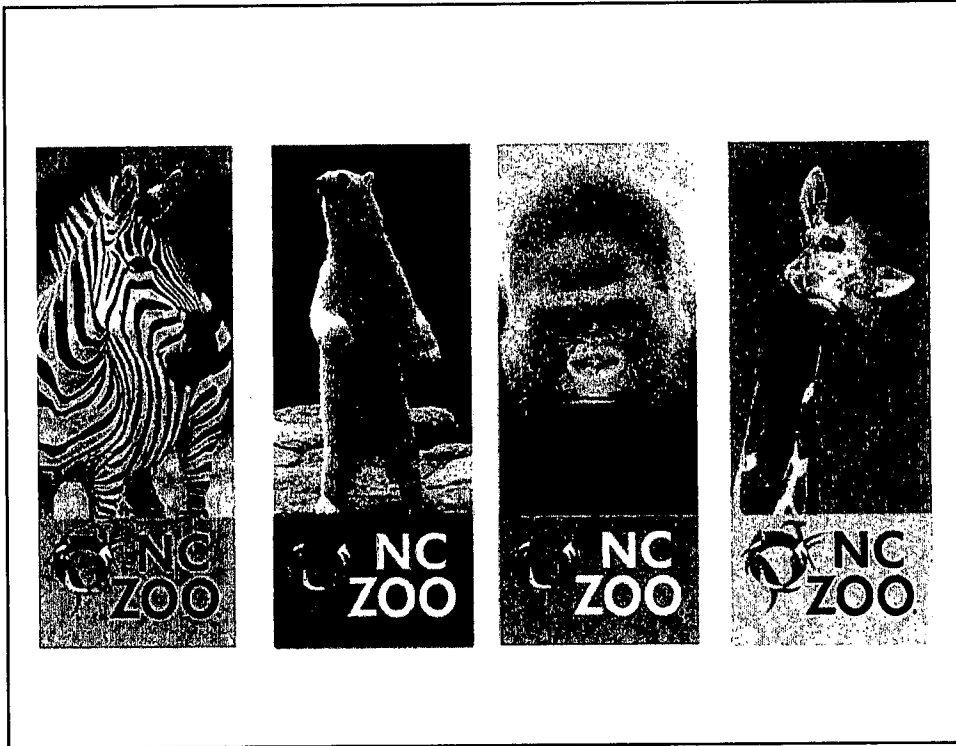
- *\$10 Million in appropriations*
- *\$5 Million a year for 6 years to catch up on backlog maintenance (Total \$30 Million)*
- *\$3 Million transition*



Key Points

- *Maintenance of High Quality, World Class Facility*
- *Flexible, Entrepreneurial, Time Sensitive Business Approach*
- *Increased Private Support*
- *Creation of Income Generating Partnerships*







Counties and Public Private Partnerships

Presentation to the House Select Committee on Public Private Partnerships

Presented by

Kevin Leonard, NCACC – Director of Government Relations

Bob Murphy, Nash County Manager

Friday, February 17, 2012



Counties and Public Private Partnerships

This presentation has two parts....

1

Counties and Broadband
NASH County's Experience

2

What is a PPP?
Real World Examples



Some Background about Counties and Broadband

- 2010 – Legislative Broadband Debate
 - Counties largely on the sideline due to a lack of statutory authority

- 2010-2011 – NCACC Legislative Goals Process
 - **GOAL: Authorize counties to offer broadband through partnership or direct service** – Seek legislation to authorize counties to provide high-speed internet through direct county service or public-private partnerships.



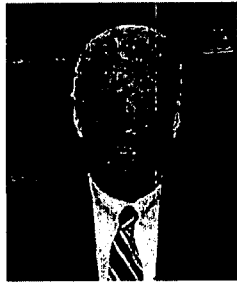
Some Background about Counties and Broadband

- 2011 – NCGA
 - H129 Level Playing Field/Local Gov't Competition

- 2011 – NCGA
 - H593 - Allow County Grants for Broadband
 - Rep. Collins - NASH County Only (Enacted)
 - H592 - Study County Public-Private Partnerships
 - Collins; Howard; Tolson; Carney;



NASH County's Experience



Robert M. Murphy, County Manager
bob.murphy@nashcountync.gov
120 West Washington Street, Suite 3072
Nashville, NC 27856
Phone: 252-459-9800 Fax: 252-459-9817



10:42 am

10:43 am.
⊗ Bill Brawley
Recognizes
Rep. Angela
Bryant (D-Nash,
Halifax County)
for being
Present for
Constituents).

NASH County's Experience

• Population = 97K



- County had been studying Broadband
- Willing to have conversations with private partners
- Legal uncertainty about authority to proceed
- H593 Allowed the conversation to proceed (Rep. Collins)



Kevin Leonard 7 @ 10:51 am

What is a PPP?
Real World Examples



County / State Partnership

- Counties are the key delivery system for state services
- Many "Core" Services are statutorily required to be delivered at the county level



What is a PPP?

- “Not real sure what a PPP is, but we contract some of our services out ... some EMS services are provided by a non-profit rescue squad.”
- Counties have been working with non-profits to assist with delivery of services for years.
 - Statutes grant broad authority to counties through their budgetary process
 - Public safeguards are required (Public Hearings / Audits)

} *quote taken from survey conducted by staff.



Examples

- BUNCOMBE COUNTY:
 - “The County Strategic Plan includes a goal specific to exploring public-private partnerships for non-core services (i.e. those services a County is not mandated to directly provide). This allows the County to reinvest savings into core services as well as invest in community partners thus strengthening community sustainability.”

PPP's for NON-core services.
(NON-required services).



Examples

- **BUNCOMBE COUNTY**
 - Community Investment
 - Performance Standards Built-in to all contracts
 - By resolution, if 10% or more of the non-profits funding comes from the county, their books are open to the public
 - Public has input into the process at the budget level



Examples

- **VANCE COUNTY**
 - “Vance County has successfully used relationships with private partners over the years to accomplish projects that would not otherwise have been possible.”



- Complete renovation of former hospital building into apartments for senior citizens (County government and private developer)
- Complete renovation of former school building into apartments for senior citizens (County government, public schools, and private developer)



Public Schools

- 2005 – SB2009 - AN ACT TO ALLOW CAPITAL LEASE FINANCING FOR PUBLIC SCHOOLS.
- Authorized school boards (county funding) into lease agreements – existing or new school buildings...lease could not exceed 40 years
- Originally to sunset in July 2011 – Change last session to July 1, 2015
- No applications have been received by the LGC for this type of arrangement



Suggestions

- Retain Flexibility that allows counties to continue what they're doing
- Extend the Broadband Authority to All Counties
- Address State Agency Barriers to encouraging or facilitating PPP (Regulatory)



Suggestions

- Dedicated funds from the state budget should be set aside for matching grant funds for the creation of public-private partnerships associated with small business development including education and training. This should be in addition to funds available through the Community Development Block Grant Program and the Small Business Center.



Thank You!

Questions?



Contact Information

Kevin Leonard

North Carolina Association of County Commissioners

Director of Government Relations

kevin.leonard@ncacc.org

919-715-4369



Committee Sergeants at Arms

NAME OF COMMITTEE Public-Private Partnership Com

DATE: 2-17-2012

Room: 544

House Sgt-At Arms:

1. Name: ~~Fred Harris~~

2. Name: Doug Harris

3. Name: Reggie Sills

4. Name: _____

5. Name: _____

Senate Sgt-At Arms:

1. Name: _____

2. Name: _____

3. Name: _____

4. Name: _____

5. Name: _____

VISITOR REGISTRATION SHEET

HS Committee on Public Private Partnership 2-17-12
Name of Committee Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME

FIRM OR AGENCY AND ADDRESS

Math Gross	NCC
Mary Wilder	DENR
Kevin LEONARD	NCAAC
Bob Murphy	Nash County
Latonia Strickland	NCAAC
Kari Bergness	DENR
Michelle Frazier	MFS
Richard Vick	ST Wooten Corporation
BERRY JANKINS	CAROLINA A G C
Sonny Aberdeen	TWC
Steve Brewer	CTL

VISITOR REGISTRATION SHEET

H.S. Comm. on Public Private part 2-17-12
 Name of Committee Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME

FIRM OR AGENCY AND ADDRESS

PAUL BONEY	LSBP ARCHITECTS 343 FAYETTEVILLE ST. SUITE 1700 RALEIGH NC 27601
Bob Kruban	North Carolina's Construction News 127 College Ave, Durham, NC 27713
Sarah Wolfe	McGuire Woods
Carole Woodward	NC Telecom Assoc.
Jessi Hayes	NC HBA
Mark Gault	NCSBA
David Coe	HP
Mitch Leonard	SEANC
David Crawford	AIA North Carolina
SOLARI	DSJ
HERB CRAWFORD	AT&T

VISITOR REGISTRATION SHEET

HS Comm. on public-private part
Name of Committee

2-17-12
Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME

FIRM OR AGENCY AND ADDRESS

Heather Barnett

Williams Muller

Jay Stem

NCAA

**NORTH CAROLINA HOUSE OF REPRESENTATIVES
COMMITTEE MEETING NOTICE
AND
2011-2012 SESSION**

You are hereby notified that the Committee on **House Select Committee on Public-Private Partnerships** will meet as follows:

DAY & DATE: Tuesday, April 3, 2012
TIME: 2:00
LOCATION: 544 LOB
COMMENTS:

Respectfully,
Representative Moffitt, Chair
Representative Brawley, Chair

I hereby certify this notice was filed by the committee assistant at the following offices at **3 PM** o'clock on **March 26, 2011**.

- Principal Clerk
- Reading Clerk – House Chamber

Melissa Carter (Committee Assistant)

Corrected Notice

NORTH CAROLINA HOUSE OF REPRESENTATIVES COMMITTEE MEETING NOTICE AND 2011-2012 SESSION

You are hereby notified that the Committee on **House Select Committee on Public-Private Partnerships** will meet as follows:

DAY & DATE: Wednesday, April 4, 2012

TIME: 11:00

LOCATION: 544 LOB

COMMENTS:

Respectfully,
Representative Moffitt, Chair
Representative Brawley, Chair

I hereby certify this notice was filed by the committee assistant at the following offices at **10 AM** o'clock on **March 30, 2011**.

- Principal Clerk
- Reading Clerk – House Chamber

Melissa Carter (Committee Assistant)

EQUIPMENT REQUEST FORM

To fill in this form type on a line and press the Tab key on the keyboard to get to the next line. Click on the appropriate check boxes to indicate the equipment you will need..

Room number 544 LOB

Date of meeting Wednesday, April 4, 2012

When ISD person should be there for setup 10:45 PM

Meeting start time 11:00 PM Meeting end time (estimate) 1:00 PM

Name of meeting House Select Committee on Public Private Partnerships

Division contact person Melissa Carter

NEEDS: Projector Laptop computer External Computer Speakers

ISD does not provide screens, extension cords, overhead projectors, tables or televisions/VCRs. For those items please contact Fred Williams in Financial Services.

Notes or special requests:

They will not need a screen if there are TV's in the room.

HOUSE SELECT COMMITTEE ON PUBLIC PRIVATE PARTNERSHIPS

Rep. Bill Brawley

Rep. Tim Moffitt

**Wednesday, April 4, 2012
Room 544, Legislative Office Building
11:00 a.m.**

- I. NCDOT Public-Private Partnerships and P3 Financing**
Mark Foster, Chief Financial Officer, NC Department of
Transportation
- II. Committee Discussion**
- III. Adjournment**

HOUSE SELECT COMMITTEE ON PUBLIC-PRIVATE PARTNERSHIPS

Wednesday, April 4, 2012
11:00 a.m.
Room 544 Legislative Office Building

MINUTES

The House Select Committee on Public-Private Partnerships met on Wednesday, April 4, 2012 at 11:00 a.m. in Room 544 of the Legislative Office Building. Representatives Moffitt, Brawley, Crawford, McGee, Owens, and Steen were in attendance.

Representative Moffitt presided. He welcomed the Committee members and introduced the Sergeant at Arms and staff members.

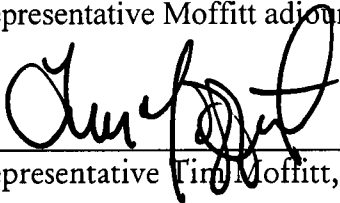
PRESENTATIONS

North Carolina Department of Transportation

Mr. Mark Foster, Chief Financial Officer at the North Carolina Department of Transportation, was introduced to give his presentation titled "NC DOT Public Private Partnerships: P3's Financing", which is attached (see Attachment 1).

After a brief committee discussion, Representative Moffitt recognized Representative Ross, who was in attendance, as former-Chair of the Committee. He stated that she has been a great resource for his fellow co-Chair, Representative Brawley, and thanked her for attending. Representative Moffitt announced that the next meeting of the Public Private Partnerships Committee will take place on April 18, 2012 at 9:30 a.m., which is set aside to discuss the North Carolina Zoo. He also announced that there will be a follow-up Committee meeting on April 24, 2012 at 2:00 p.m. to conclude that work.

Representative Moffitt adjourned the committee at 11:42 a.m.

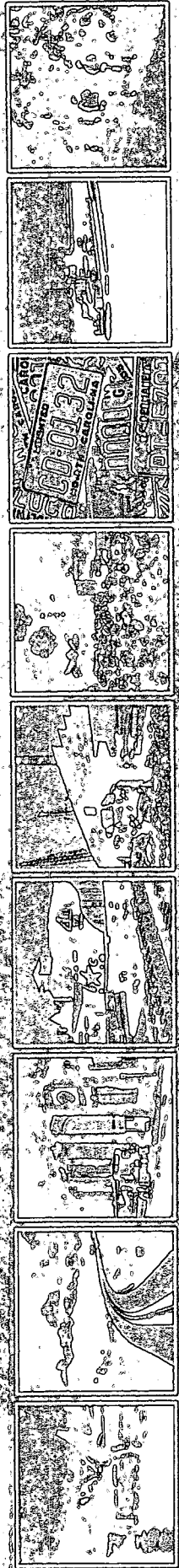
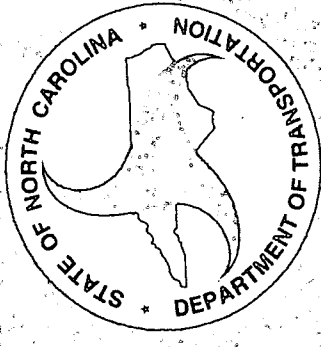


Representative Tim Moffitt, Co-Chair



Melissa Carter, Committee Clerk

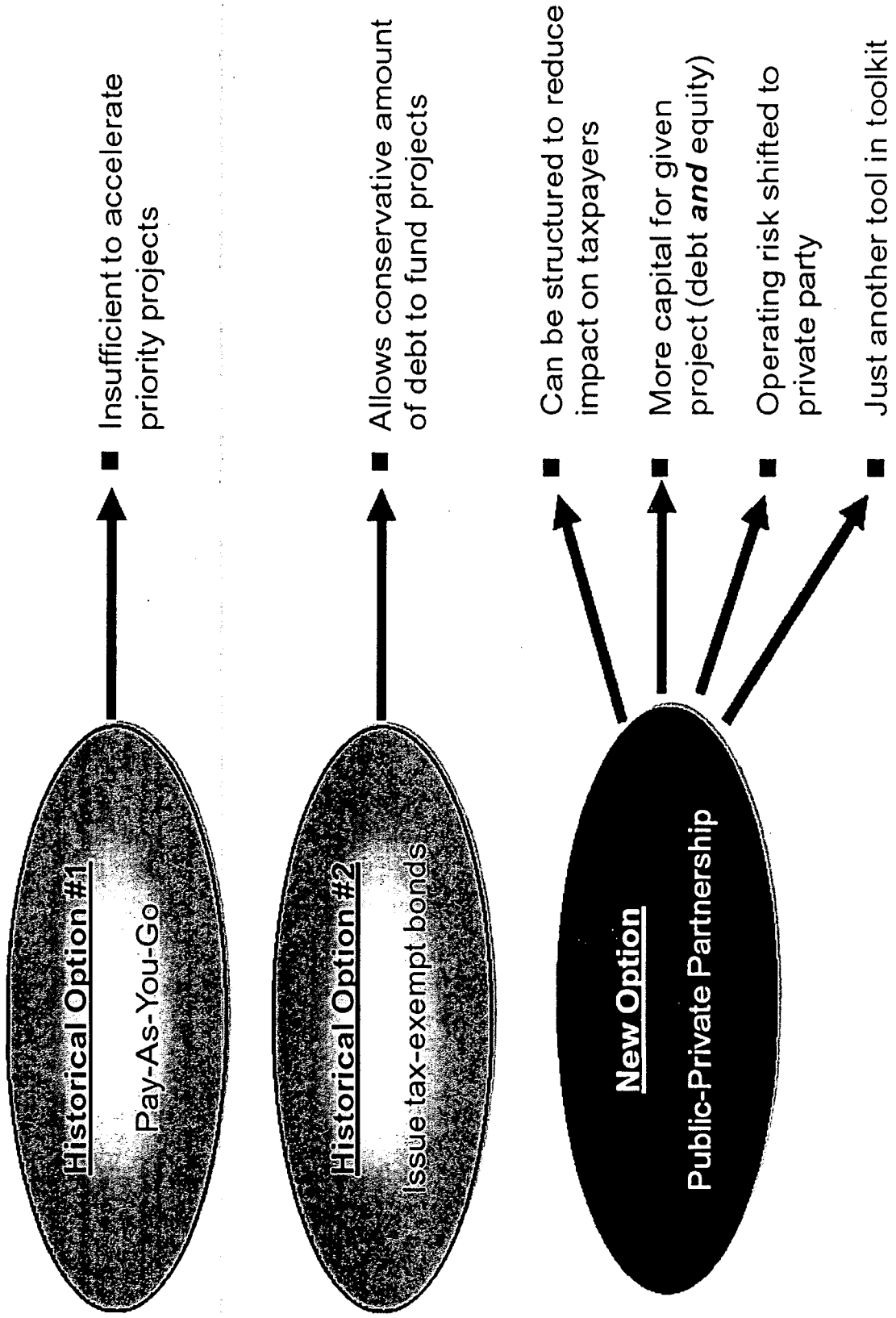
Attachment #1



NCDOT Public Private Partnerships P3's Financing

Mark Foster, Chief Financial Officer
April 4, 2012

Public-Private Partnerships (P3's) provide a new source of capital for state and local governments



Public-Private Partnerships (PPP's) are:

- Not revolutionary
 - Used in a number of sector infrastructure
 - Over 300 year of experience in the US
 - First ones for transportation and water
 - More widely used in other countries
 - Europe, Asia, Latin America, Canada, etc.
- Don't answer all challenges
- Does provide a valuable tool

What is PPP?

A Public-Private Partnership is a contractual agreement between a public agency (federal, state or local) and a private sector entity. Through this agreement, the skills and assets of each sector (public and private) are shared in delivering a service or facility for the use of the general public. In addition to the sharing of resources, each party shares in the risks and rewards potential in the delivery of the service and/or facility

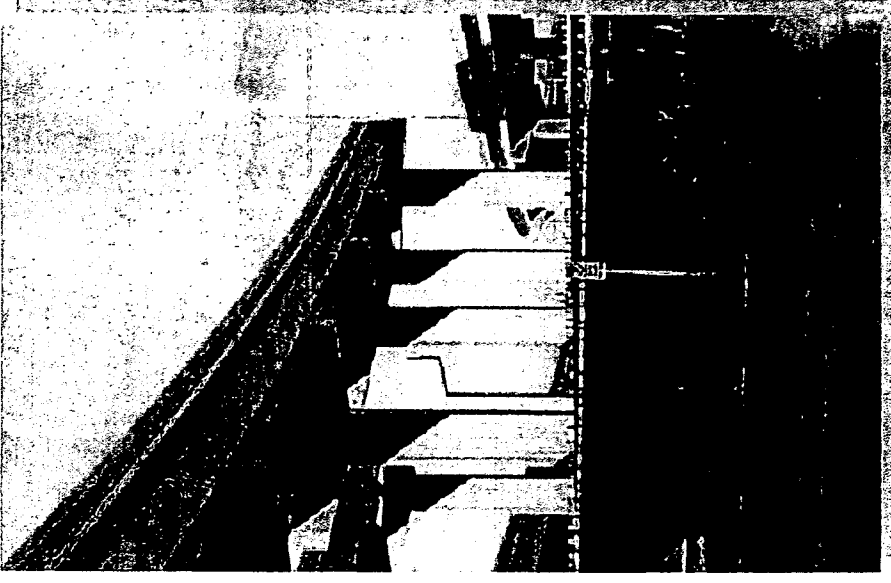


Sectors Where P3's Have Been Used

- Transportation
- Water/Wastewater
- Urban Development
- Energy
- Financial Management
- Schools
- Prisons

P3's Benefits

- Value of Money
 - Optimal Risk Allocation
 - Improved Delivery
- Private Sector Expertise
 - Increased Competition
 - Broader Investor Base
 - Increase Technologies
 - Management Expertise
- Public Interest Protected
 - Contract Safeguards
 - Economic Benefits Contractually Defined



- The Secret is to Balance the Strengths of Both Sectors

Why so few P3's – Private Sector Concerns

- Public sector will advance projects without the clear legal authority or political ability to close
- Public decision-making is opaque
- Public sector makes decisions slowly and in broad collaborative manner
- Public sector will self-perform financeable projects and try to use P3's for difficult ones
- Public sector will advance P3 project(s) without a clear business case
- Public sector will not clearly define project benefits or will do the math wrong
- Decision makers are subject to shifting political constraints

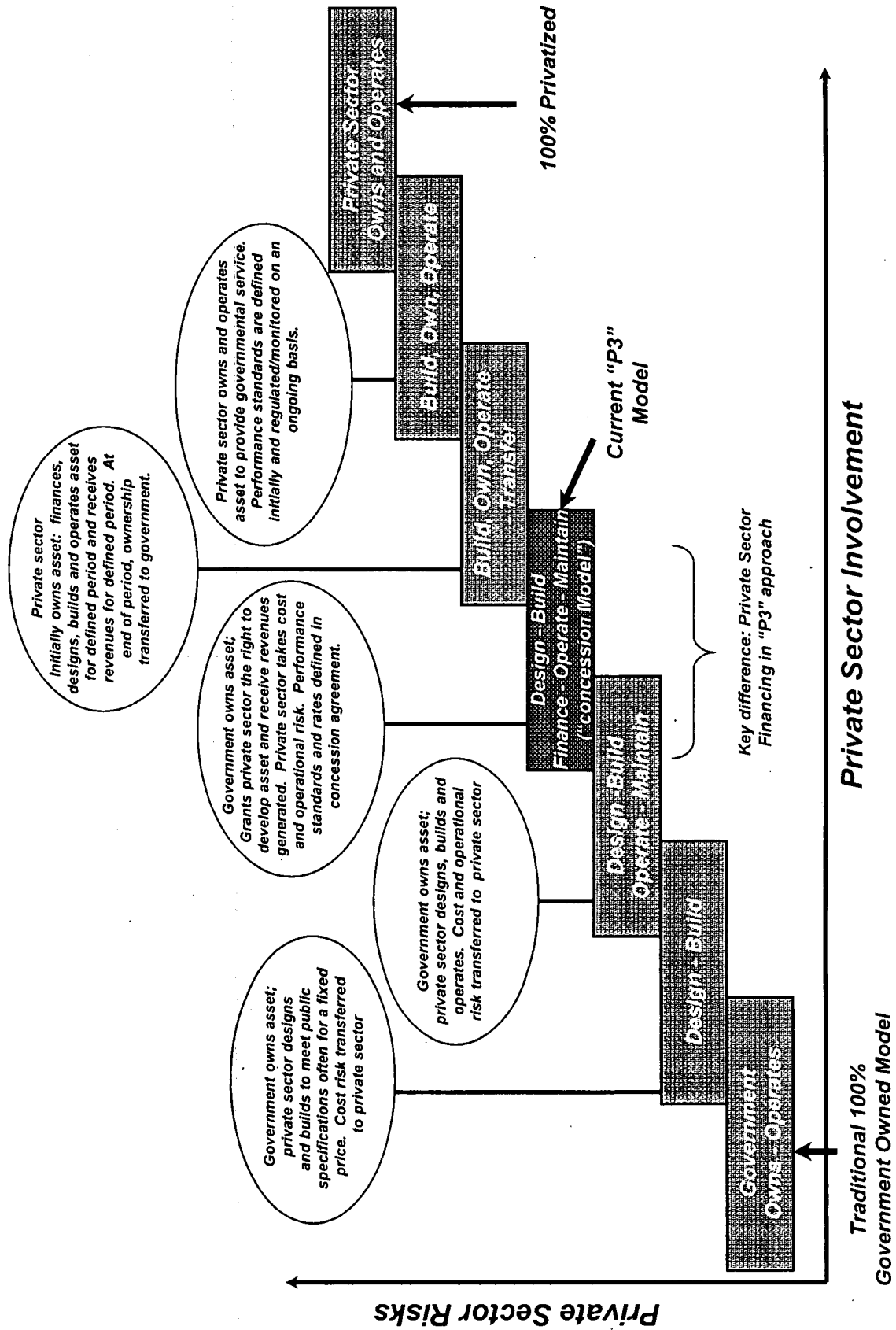
Why so few P3's – Public Sector Concerns

- Private sector does not understand that decisions are not project decisions but program decisions
- P3's take too long to develop and close
- P3's can be hard to explain to the public, especially if they involve new user fees or existing assets
- Private sector does not appreciate how much staff/management time P3's require when compared to traditional procurement
- Private sector has unreasonable time expectations
- Private sector motivations are suspect
- Private sector staffing can be intimidating

NCDOT Vision for P3's

- A valuable tool in tool box
- Not just for use when all else fails
- Multimodal corridor and system approach versus one-off projects
- Stakeholder support
- Programmatic process for P3's similar to design-build success
 - Carefully selected partners
 - Clear performance outcomes

Spectrum of Private Sector Risk and Involvement



NCDOT Public Private Partnerships Policy & Procedures

- Authority in Session Law 2006-230; 3 revisions in Legislative Session '07 & '08
- Covers roads, bridges, highways, rail, & other transportation infrastructure - from planning through operations
- Formal PPP Policy adopted by NCDOT board in June 2009
- Independent of policy adopted by NC Turnpike Authority but uses same/similar language in key areas for consistency

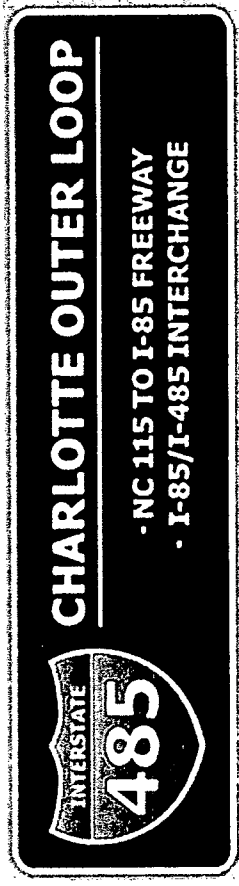
Active P3's within NCDOT

- **Design Build / Design Build Finance**
 - 61 Design Build projects active/complete to date
 - 13 Projects Advertised for future award
 - Charlotte projects accelerated up to 7 years with cost savings \$130M
 - Express Design-Build Program
 - 309 Bridges - packaged in groups of 10 for economies of scale
- **Contractual Agreements**
 - Authorize public/private sector role in delivery and financing of transportation projects (30 - 50 per month)
- **Interstate Maintenance**
 - Contractor maintains 135 miles (I-77, I-85, I-485 & I-277)
 - Mecklenburg & Cabarrus counties
- **Mid-Currituck Bridge, I-77 HOT lanes**

Design Build Finance

Charlotte Projects Accelerated

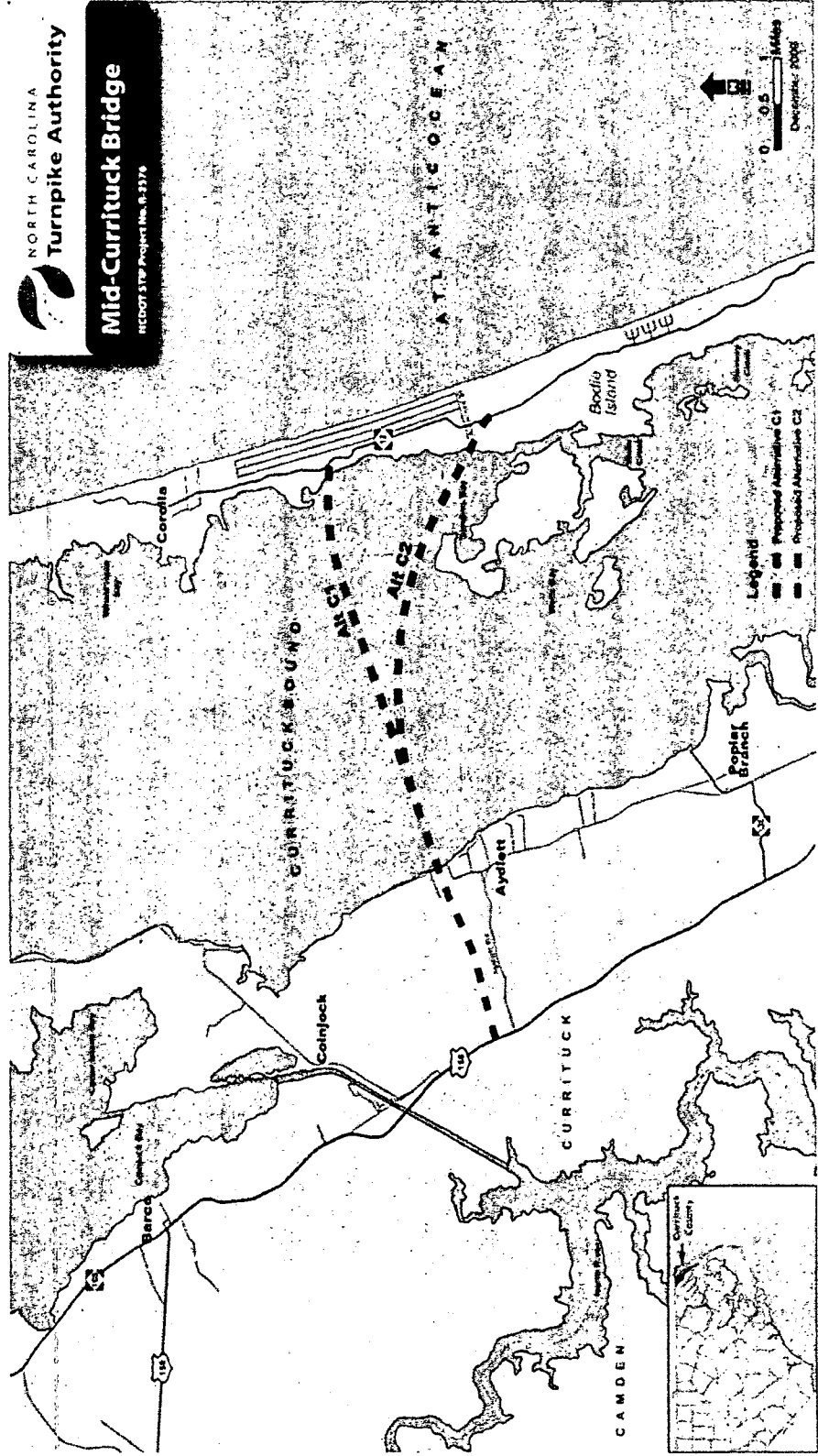
- Projects Fast Facts
 - I-485, I-85, & Interchange
 - Original Estimate - \$540M
 - Actual Cost - \$410M
 - Cost Savings - \$130M
 - Finance Plan Includes - \$150M GARVEE Bonds & Contractor's Financing
 - Design Build Finance Contract
 - Accelerated delivery up to 7 years
 - Reduces overall construction time
 - Extends contract payments
 - Allows the contractor to make innovations that save taxpayer's money



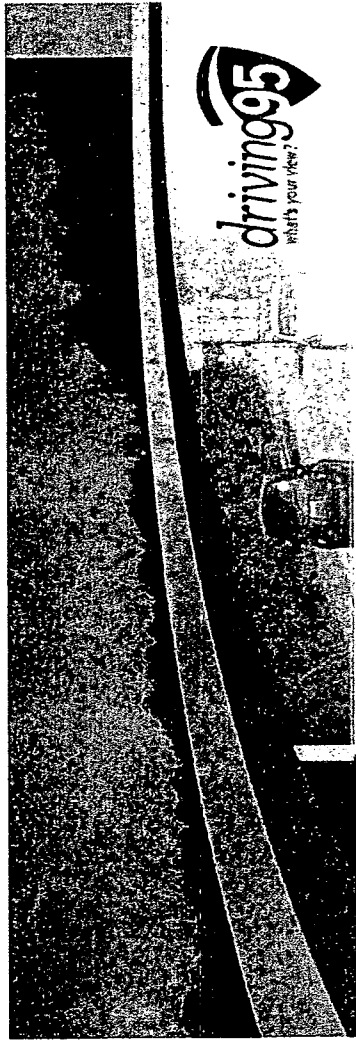
Mid-Currituck Bridge

Public Private Partnership

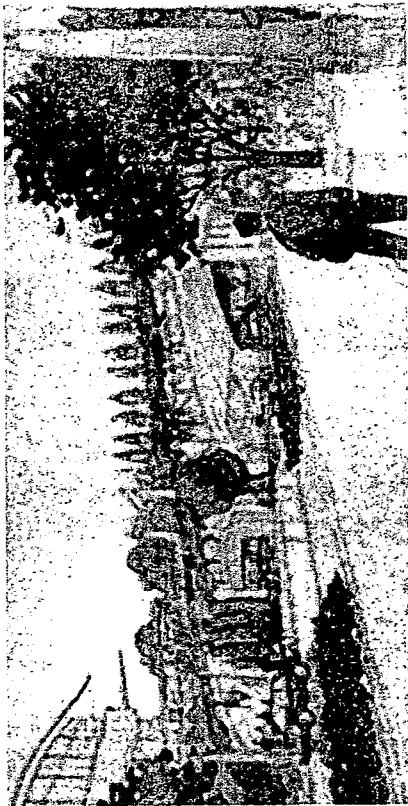
Financial analysis including evaluation of private financing versus traditional toll financing underway



Potential P3 Opportunities



Charlotte "Gateway Station"
commuter rail and transit multi-modal center



Fast Lanes
GET THERE!



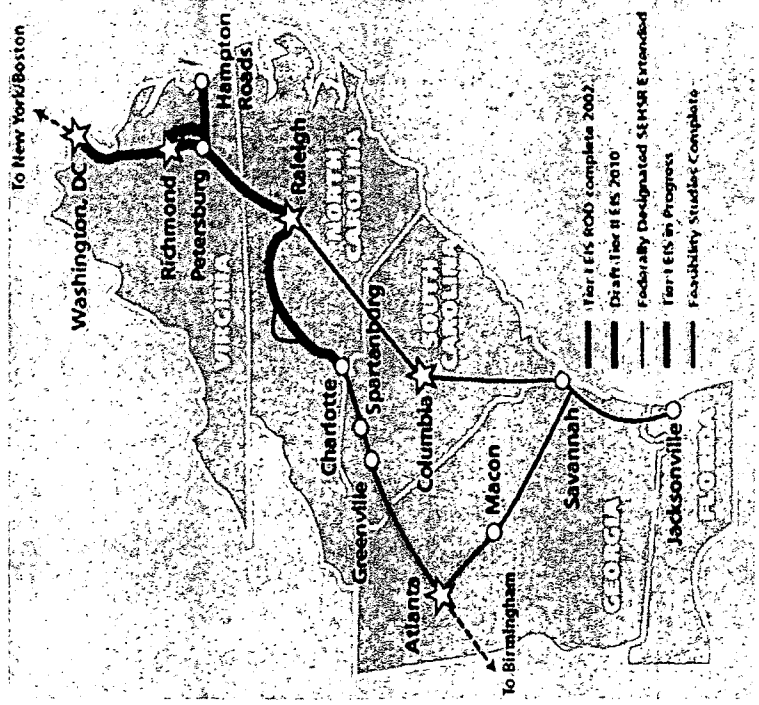
I-77 HOT Lanes

Rail Initiatives



- NCDOT adds third passenger service Raleigh to Charlotte
 - Ridership increases 46%
- \$545M to Accomplish Corridor Plan

- City of Charlotte LYNX Light Rail Passenger Service exceeds national growth rates





Seven Keys to Successful PPPs

- Public Sector Champion
- Statutory Authority
- Organized P3 Structure within Government
- Detailed Business Plan
- Bondable Revenue Stream
- Stakeholder Support
- Carefully Selected Partner(s)

Questions

Committee Sergeants at Arms

NAME OF COMMITTEE House Select Comm on Public
Private Partnership
DATE: 4/4/2012 Room: 544

House Sgt-At Arms:

1. Name: Young Bae
2. Name: Wayne Davis
3. Name: Martha Gadison
4. Name: _____
5. Name: _____

Senate Sgt-At Arms:

1. Name: _____
2. Name: _____
3. Name: _____
4. Name: _____
5. Name: _____

VISITOR REGISTRATION SHEET

U.S. Comm on Public Private Partnerships

Name of Committee

Date 4/4/12

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME

FIRM OR AGENCY AND ADDRESS

Diana Cherry
H. T. ARAICO

Institute for Emergency
NCDOT

Beau Memory

NCDOT

Jay Stem

NCAA

Tom Tallman

NSPE

Ricky Vick

ST Wooten Corporation

BERRY Jenkins

CAROLINAS A G

Elise Quick

Troutman Sanders

Sammy Robinson

TIC

BO Heath

McBride Wood

A. Allen

Allen Law PLLC

VISITOR REGISTRATION SHEET

Name of Committee

Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME

FIRM OR AGENCY AND ADDRESS

CHRIS NIDA	NCLM
Diane Cherry	IEE
Louis Steward	FTTF
Jake Cashion	NC Chamber
HERB COENSMAN	AT&T
DOUG HEERON	WILLIAMS MULLEN
Heather Banett	Williams Mullen
Jessie Hayes	NC HBA
Michelle Frazier	METS
Suzanne Beasley	SEANL
Kara Weiskar	Smith Anderson

VISITOR REGISTRATION SHEET

Name of Committee

Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME

FIRM OR AGENCY AND ADDRESS

NAME	FIRM OR AGENCY AND ADDRESS
Kelly Rusner	Intern of Deborah Ross

**NORTH CAROLINA HOUSE OF REPRESENTATIVES
COMMITTEE MEETING NOTICE
AND
2011-2012 SESSION**

You are hereby notified that the Committee on **House Select Committee on Public-Private Partnerships** will meet as follows:

DAY & DATE: Wednesday, April 18, 2012
TIME: 9:30 AM
LOCATION: 544 LOB
COMMENTS:

Respectfully,
Representative Moffitt, Chair
Representative Brawley, Chair

I hereby certify this notice was filed by the committee assistant at the following offices at **2 PM** o'clock on **April 04, 2011**.

- Principal Clerk
- Reading Clerk – House Chamber

Melissa Carter (Committee Assistant)

EQUIPMENT REQUEST FORM

To fill in this form type on a line and press the Tab key on the keyboard to get to the next line. Click on the appropriate check boxes to indicate the equipment you will need..

Room number 544 LOB

Date of meeting Wednesday, April 18, 2012

When ISD person should be there for setup 9:15 AM

Meeting start time 9:30 AM Meeting end time (estimate) 11:00 AM

Name of meeting House Select Committee on Public Private Partnerships

Division contact person Melissa Carter

NEEDS: Projector Laptop computer External Computer Speakers

ISD does not provide screens, extension cords, overhead projectors, tables or televisions/VCRs. For those items please contact Fred Williams in Financial Services.

Notes or special requests:

They will not need a screen if there are TV's in the room.

HOUSE SELECT COMMITTEE ON PUBLIC PRIVATE PARTNERSHIPS

Rep. Bill Brawley

Rep. Tim Moffitt

**Wednesday, April 18, 2012
Room 544, Legislative Office Building
9:30 a.m.**

- I. **Proposed Public Private Partnership for Zoo Expansion and Governance**
Dr. David Jones, Director, North Carolina Zoo
- II. **Review of Bill Draft: AN ACT TO CREATE A PUBLIC-PRIVATE PARTNERSHIP FOR THE NORTH CAROLINA ZOOLOGICAL PARK**
Gerry Cohen, Director, Bill Drafting
- III. **Committee Discussion**
- IV. **Instructions to Staff to Prepare Interim Committee Report**
- V. **Adjournment**

Next Meeting: Tuesday, April 24, 2012; Room 544; 2:00 pm

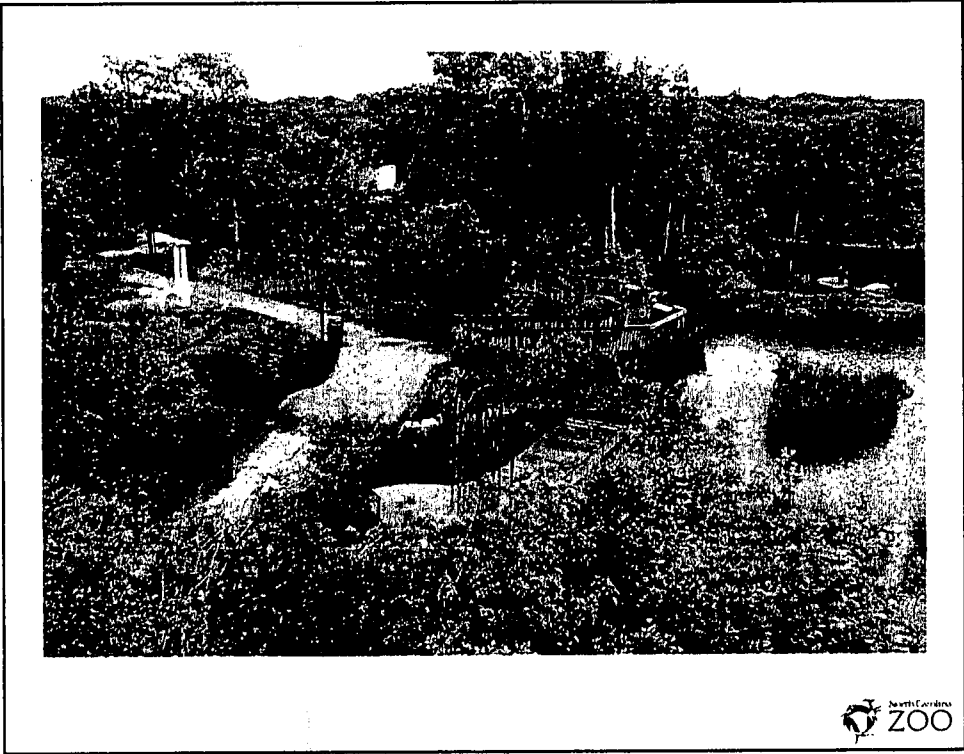
*House Public/Private Committee Presentation
Wednesday, April 18th, 2012*



North Carolina Zoo

*The Future Zoo
Governance and Expansion*

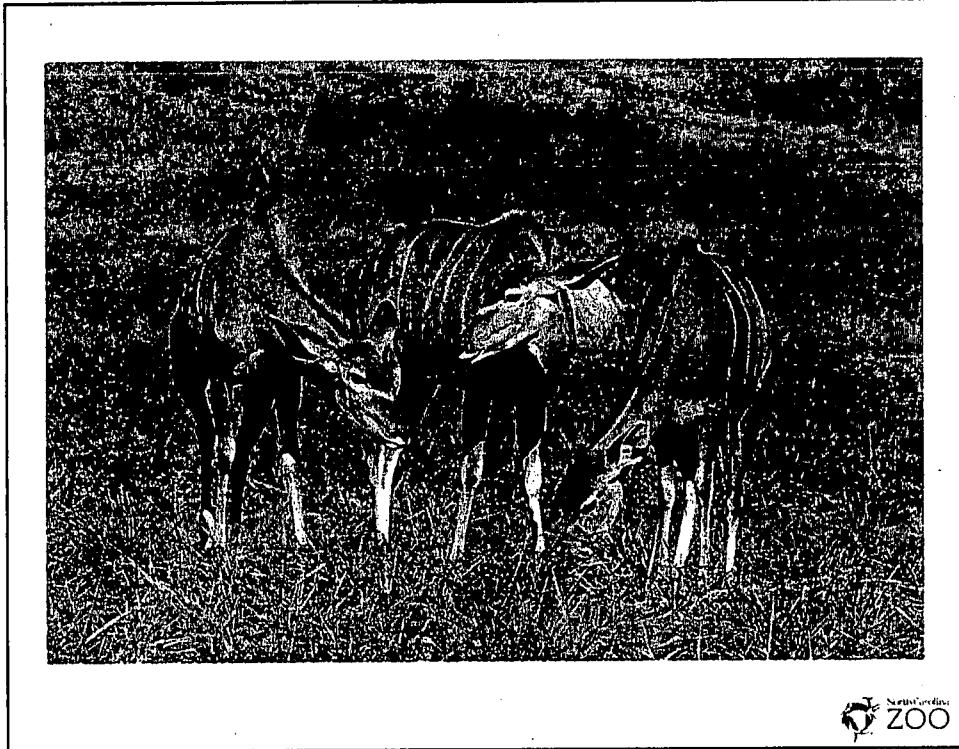


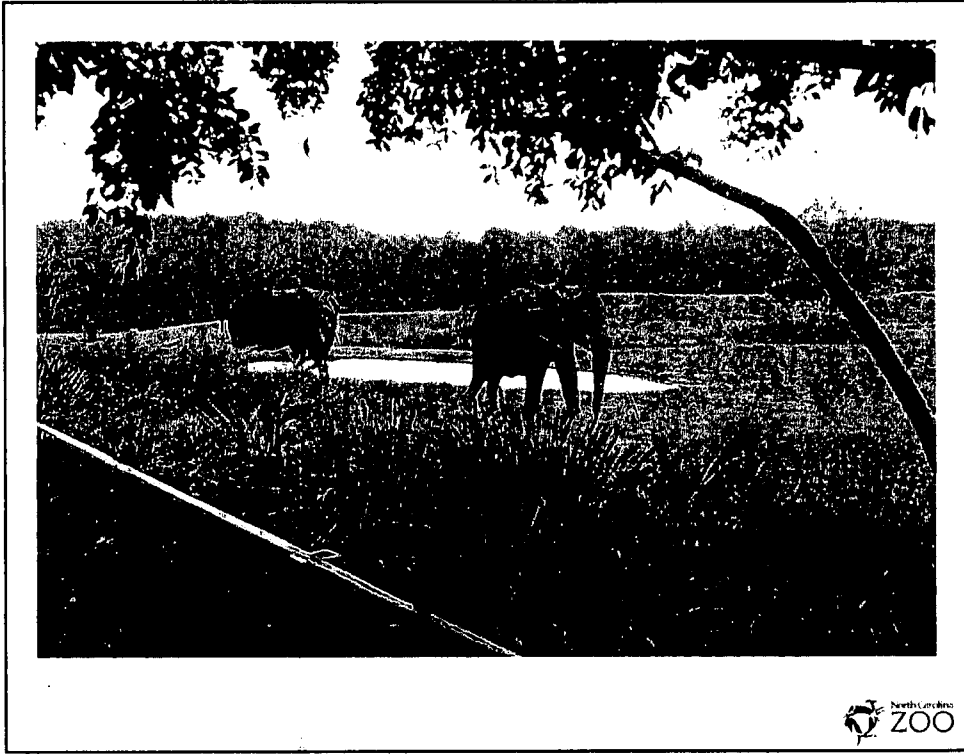
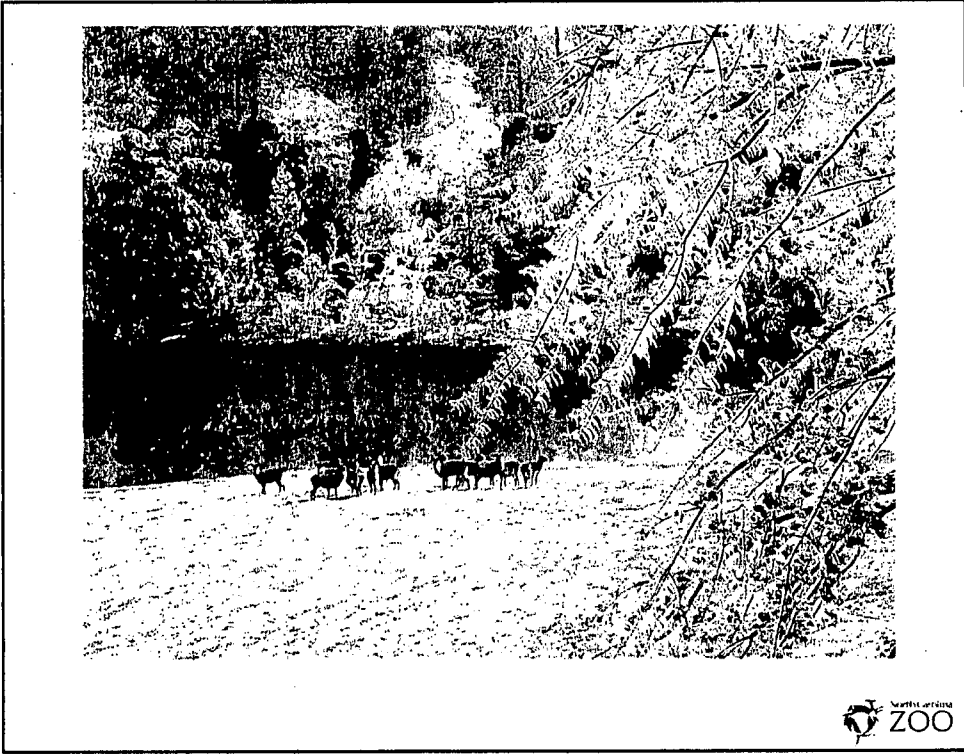


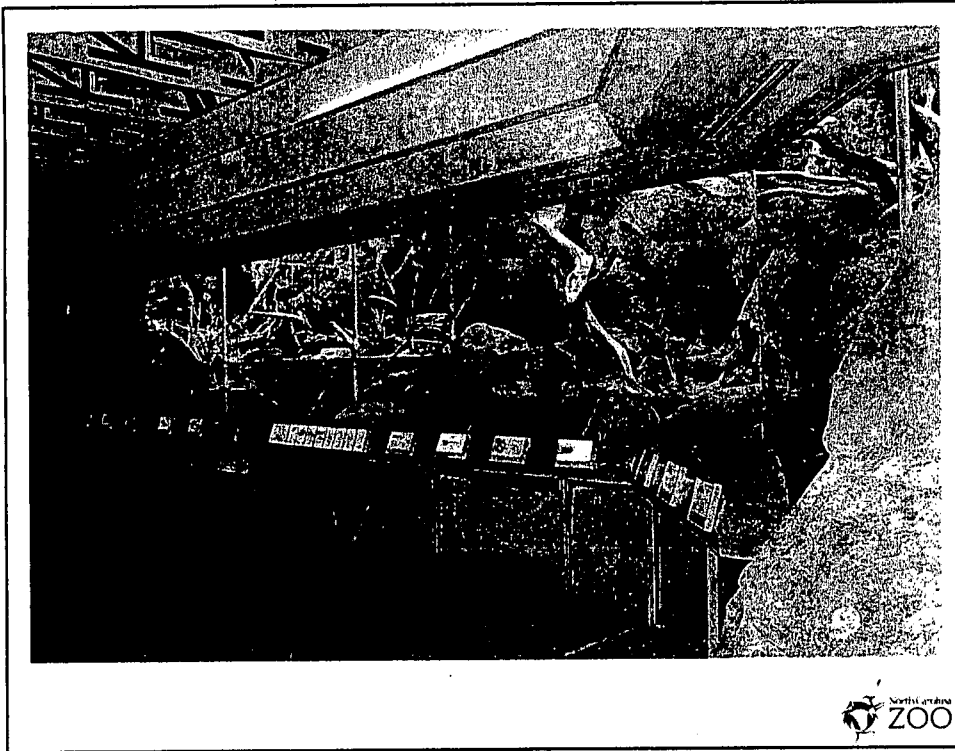
North Carolina
ZOO



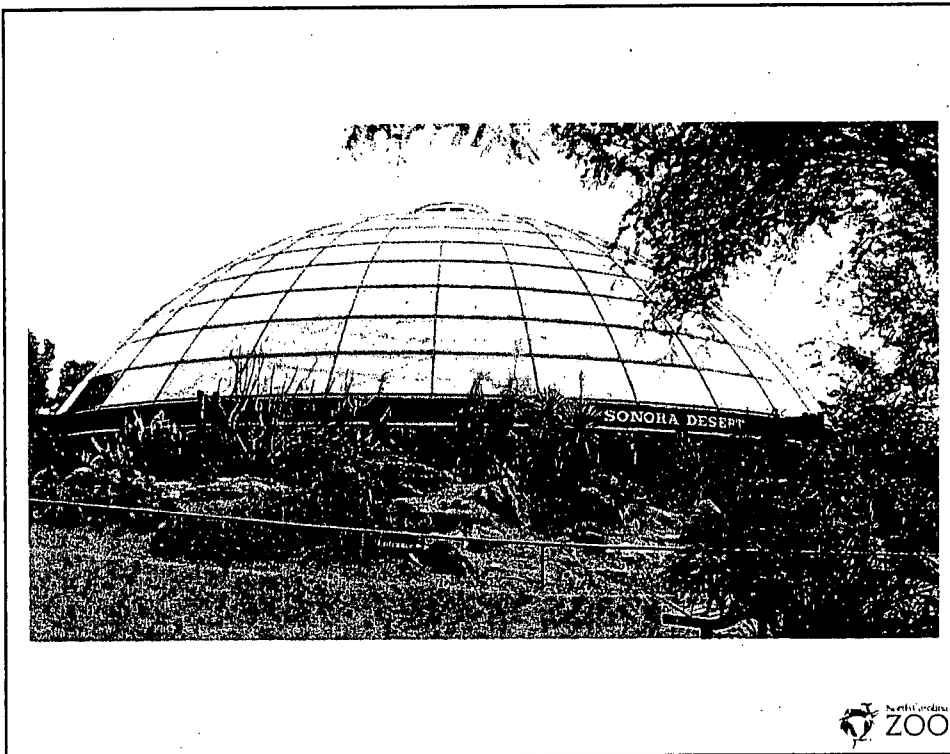
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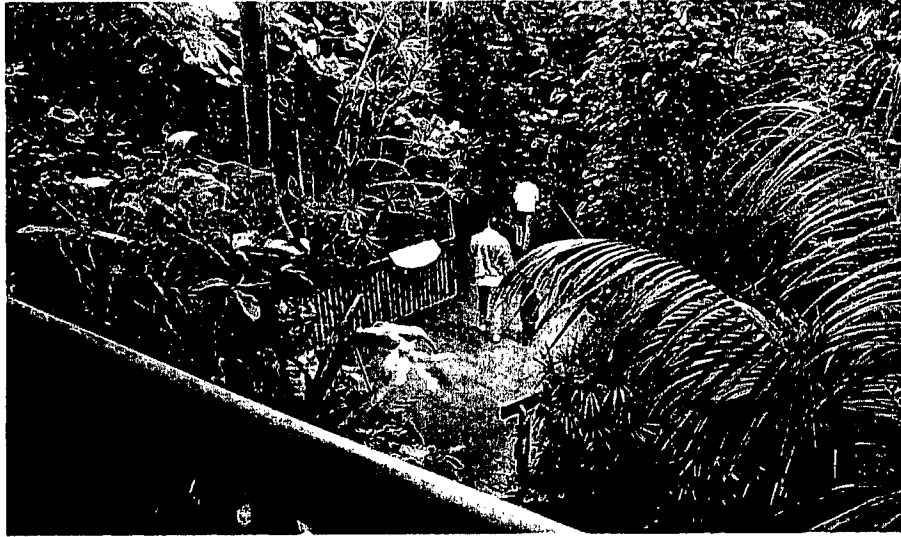




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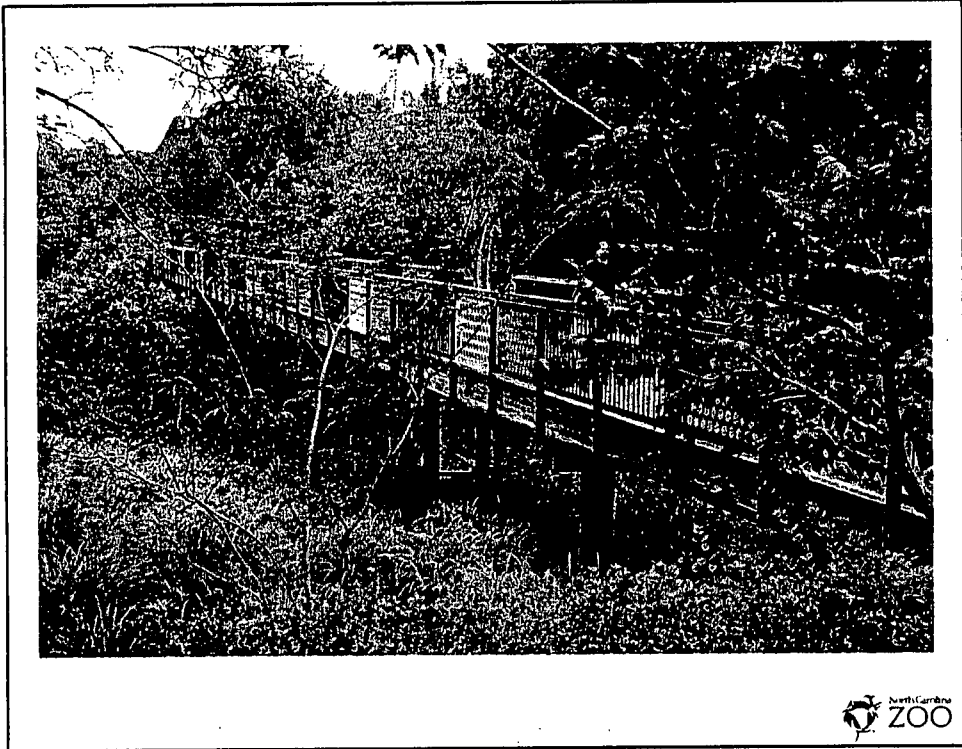
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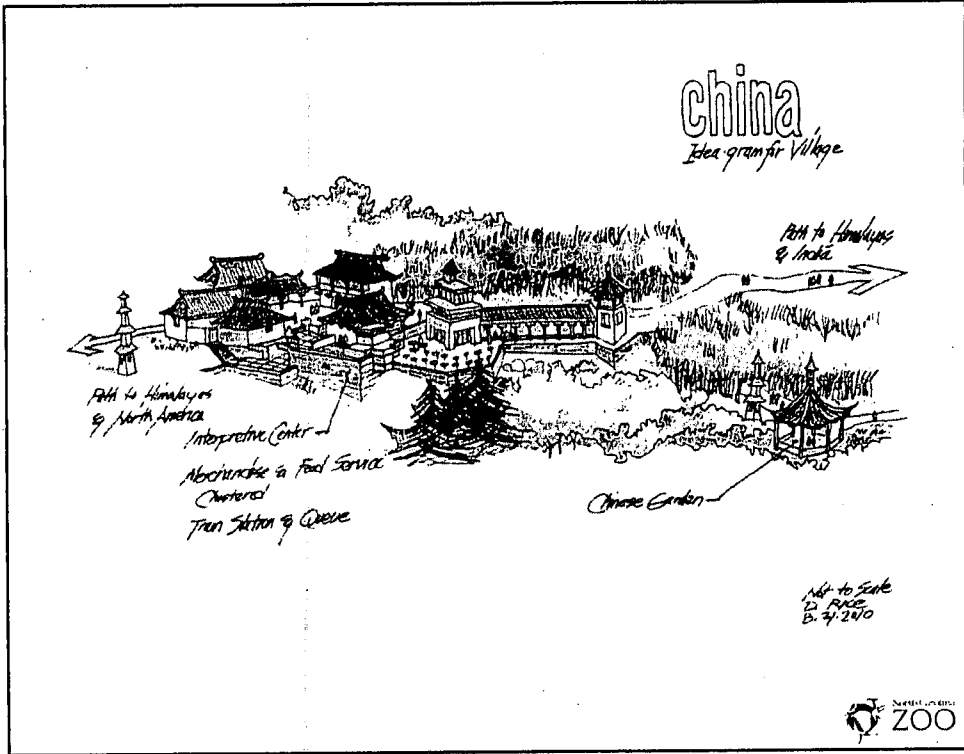
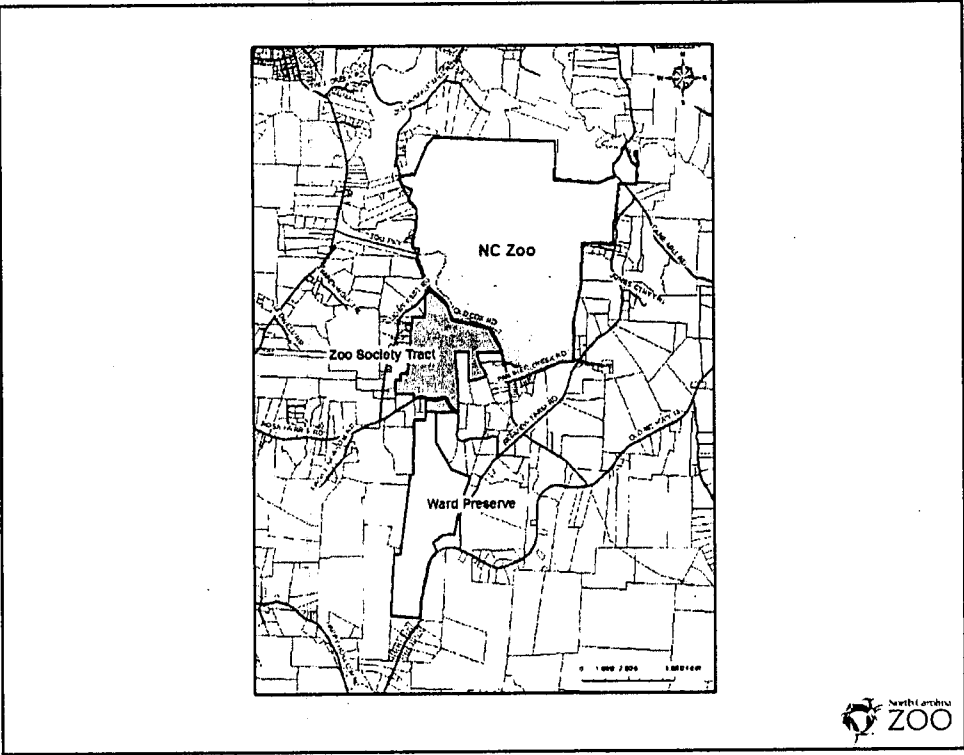


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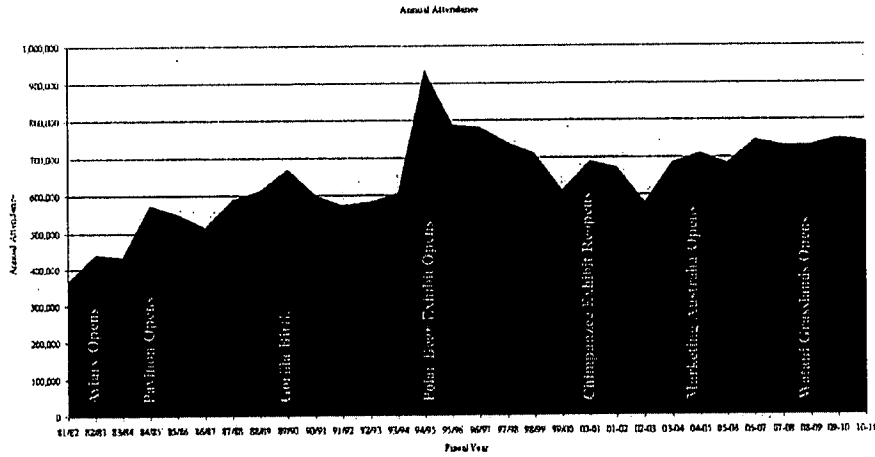
North Carolina Zoo

Expansion Plans

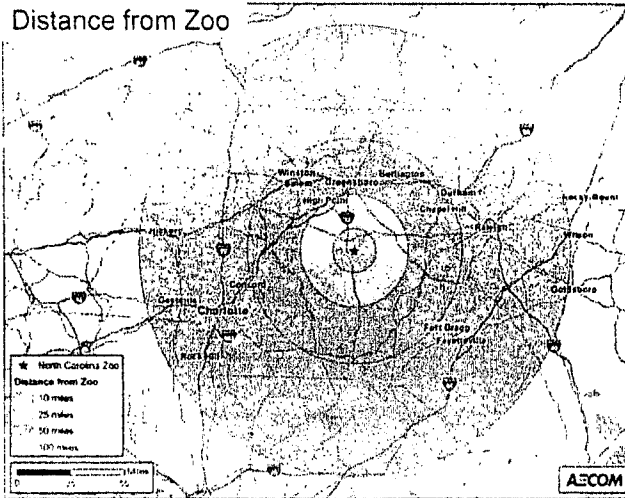


North Carolina Zoo

Annual Attendance by Fiscal Year



Resident Market



North Carolina Population

<i>25 Mile Radius</i>	<i>.27 Million</i>
<i>50 Mile Radius</i>	<i>1.8 Million</i>
<i>100 Mile Radius</i>	<i>(2011 Population Estimate) 7.5 Million</i>
<i>100 Mile Radius</i>	<i>(2014 Population Estimate) 8.2 Million</i>



Annual Economic Impact

Existing Zoo Facilities

<i>Expenditures:</i>	<i>\$146 Million</i>
<i>Employment:</i>	<i>1,655 Jobs</i>
<i>Tax Impact:</i>	<i>\$2.9m Randolph County</i>
	<i>\$5.3m State of North Carolina</i>



Annual Economic Impact

Peripheral Land

Enhanced Peripheral land plus existing Zoo

<i>Expenditures:</i>	<i>\$264 Million</i>
<i>Employment:</i>	<i>2,630 Jobs</i>
<i>Tax Impact:</i>	<i>\$5.3m Randolph County</i>
	<i>\$9.7m State of North Carolina</i>



North Carolina Zoo

Governance Study Update

Why Zoos Consider a Shift in Governance

- *75% of AZA accredited zoos under private management – most with public partners – true PPP... (public/private partnership)*
- *Creates an entrepreneurial business approach*
- *Provides flexibility in response to staffing & visitors*
- *Allows for cost efficiencies by eliminating the duplication of efforts and in purchasing services*



Why Zoos Consider a Shift in Governance

- *Creates market-based pricing strategies*
- *Offers a re-investment strategy as “what is earned at the Zoo is invested in the Zoo”*
- *Strengthen private financial support for the Zoo*
 - *Investment in new facilities, exhibits and attractions*
 - *Provides new opportunities to engage the regional & State-wide communities*
- *Solidify the Zoo’s annual funding structure*

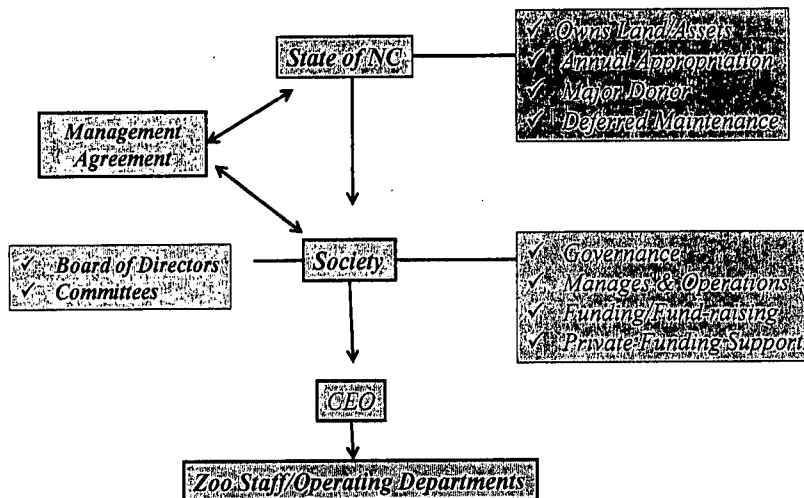


Why Zoos Consider a Shift in Governance

- Develop strategic partnerships to increase income and investment
- Speed up decision making process
- Encourage a management culture best suited to the Zoo's Needs
- Enables long-term planning and resultant timely actions



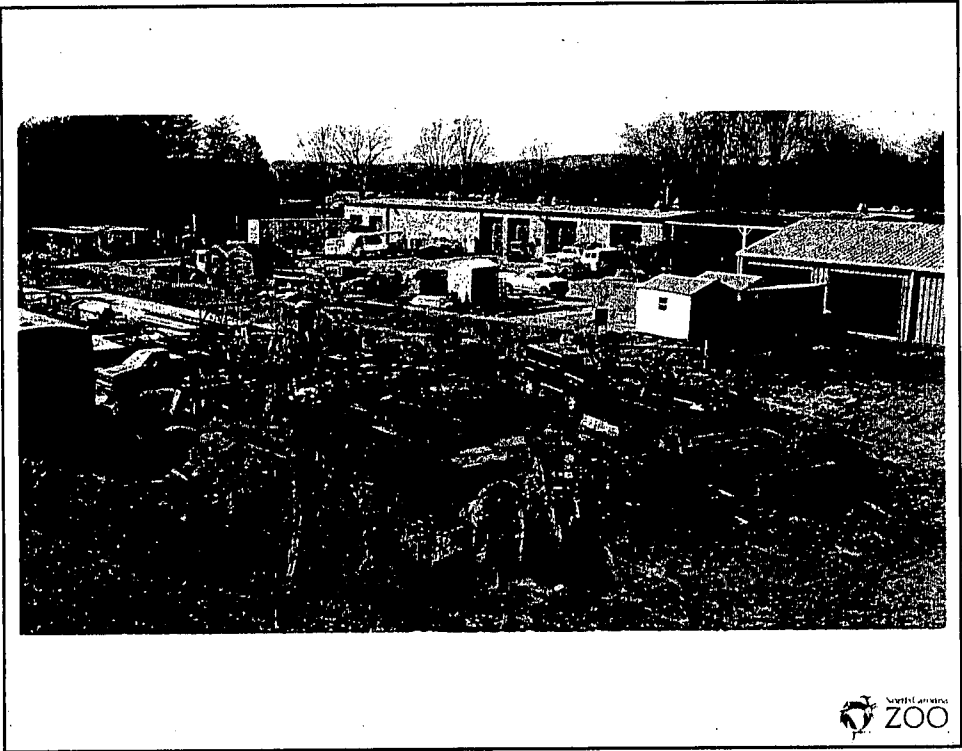
Potential Organizational Structure under PPP Structure



Deferred Maintenance

<i>Building Repairs</i>	<i>19.0 m</i>
<i>Exhibits/Fencing/Glass</i>	<i>4.0 m</i>
<i>Parking/Roads/Paths</i>	<i>2.5 m</i>
<i>Heavy Vehicles</i>	<i>2.0 m</i>
<i>Water/Sewer/Irrigation</i>	<i>1.5 m</i>
<i>Electrical/Energy</i>	<i><u>1.0 m</u></i>
	<i>30.0 Million</i>





Appropriations

FY	Actual Attendance	Actual State Appropriation
2001-02	671,619	\$7,363,259
2001-03	576,093	\$8,253,189
2003-04	676,956	\$8,075,991
2004-05	709,030	\$8,688,470
2005-06	682,977	\$9,437,318
2006-07	746,650	\$10,957,664
2007-08	729,500	\$11,472,868
2008-09	729,615	\$11,483,834
2009-10	749,627	\$11,131,782
2010-11	741,119	\$11,451,024



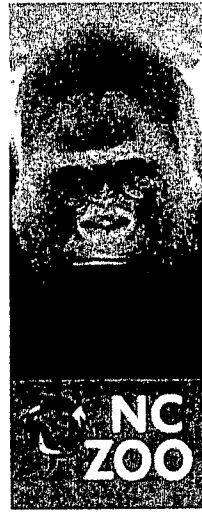
Key Points

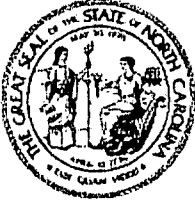
- *\$10 Million in appropriations*
- *\$5 Million a year for 6 years to catch up on backlog maintenance (Total \$30 Million)*
- *\$3 Million transition*



Key Points

- *Maintenance of High Quality, World Class Facility*
- *Flexible, Entrepreneurial, Time Sensitive Business Approach*
- *Increased Private Support*
- *Creation of Income Generating Partnerships*





Bill Draft 2011-LBz-422C: NC Zoo Public-Private Ptshp.

2011-2012 General Assembly

Committee:	House Select Committee on Public-Private Partnerships	Date:	April 18, 2012
Introduced by:		Prepared by:	Greg Roney Committee Counsel
Analysis of:	2011-LBz-422C		

SUMMARY: *The Bill Draft would direct the North Carolina Department of Environment and Natural Resources (DENR) to enter into a public-private partnership with the North Carolina Zoological Society, Inc. (Zoo Society) to operate the North Carolina Zoological Park (Zoo).*

The public-private partnership would operate through a management agreement between DENR and the Zoo Society with the following terms:

- *Initial term of 25 years starting January 1, 2013 with renewal options;*
- *State pays \$10 million annually as a management fee;*
- *State transfers all personal property to the Zoo Society;*
- *State maintains ownership of all State land;*
- *Zoo Society maintains and operates Zoo.*

CURRENT LAW: DENR operates the NC Zoo. The General Assembly established the NC Zoological Park Council (Zoo Council) as part of DENR to advise DENR on Zoo matters. The Zoo Council consists of 15 members appointed by the Governor. Specifically, the Zoo Council's duties under G.S. 143B-335 include:

- (1) Advising on the basic concepts of the Zoo;
- (2) Approving conceptual plans for the Zoo and its buildings;
- (3) Advising on the construction, furnishings, equipment and operations of the Zoo;
- (4) Establishing admission fees with the approval of DENR;
- (5) Recommending programs to promote public appreciation of the Zoo;
- (6) Disseminating information on animals and the Zoo;
- (7) Developing effective public support of the Zoo; and
- (8) Soliciting financial and material support.

The Zoo Society is a private, nonprofit corporation recognized by the IRS as exempt from income taxation under section 501(c)(3) of the federal Internal Revenue Code.

BILL ANALYSIS: The Bill Draft would transfer the operations of the Zoo from DENR to the Zoo Society. The Bill Draft directs DENR to enter into a management agreement with the Zoo Society effective January 1, 2013 with renewal options. Additionally, the Bill Draft repeals the statutes authorizing the Zoo Council and transfers the duties of the Zoo Council to the Zoo Society including the management of any assets in the Special Zoo Fund.

To participate in the management agreement, the Bill Draft requires the Zoo Society to allow the Secretaries of DENR and Department of Administration to serve as board members. The Board of Directors of the Zoo Society will control the operation of the Zoo subject to the management agreement with DENR.

The State will transfer all personal property related to the Zoo to the Zoo Society under the management agreement with a return of the property to the State if the Zoo Society ceases to exist, enters bankruptcy,

Draft

Page 2

terminates its management agreement, or is incapable of maintaining the Zoo. The State will continue to own all real property (i.e., land) and retain control over the real property except that the Zoo Society controls naming rights on State land. Construction projects undertaken by the Zoo Society on State land with private funds are exempt from State oversight if the estimated cost is \$2 million or less.

The Bill Draft would appropriate by statute \$10 million annually as a management fee that will be prorated to \$5 million for the period January 1, 2013 to June 30, 2013. The Bill Draft also appropriates \$3 million to DENR for transition costs in the 2012-2013 fiscal year.

The main expected transition cost is severance wages for State employees currently working at the Zoo. DENR would no longer need the current State staff at the Zoo after the Zoo Society begins to operate the Zoo. The Zoo Society expects to hire most State employees working at the Zoo.

The Bill Draft states the intent of the General Assembly to appropriate \$5 million annually to the Zoo Society from Reserve for Repair and Renovation until a total of \$30 million has been appropriated to cure deferred maintenance at the Zoo.

BACKGROUND: The NC Zoo seeks the ability to operate without the restrictions placed on State entities including rules for State employees, State construction oversight, and State contracting with outside vendors. The Zoo also believes that fundraising would be more successful if donors saw immediate changes at the Zoo related to recent donations.

The main proposed benefit to the State is limiting annual appropriations to operate the Zoo to \$10 million (after the \$3 million transition costs and the \$30 million deferred maintenance are paid). In the last 4 fiscal years (2007-2011), the Zoo received slightly more than \$11 million each year. The Zoo believes that if the State continues to operate the Zoo then future appropriations will have to increase significantly to maintain the quality of the current Zoo. The State will also benefit from any new animal exhibits built by the Zoo Society to increase attendance and further charitable goals shared by the Zoo Society and State such as education.

The State owns the tract where the current Zoo is located and an additional nearby tract, called the Ward Preserve. The Zoo Society owns a third tract that sits between the current Zoo and the Ward Preserve. The Zoo Society believes long-term development potential exists for private hotel operators to locate new buildings on the Zoo Society land and use the Zoo facilities and Ward Preserve for their guests.

The Zoo Society currently operates as a private, nonprofit corporation and will continue to operate as a private entity under the management agreement. The Zoo Society will have tort liability (i.e., responsibility for accidents at the Zoo) for the Zoo operations and will pay any applicable taxes, such as the 3% privilege tax on admissions and the sales tax on any retail sales.

EFFECTIVE DATE: This Bill Draft is effective January 1, 2013, and the operations of the NC Zoo are also transferred January 1, 2013. The Bill Draft authorizes DENR to enter into the management agreement and act on any transitional requirements prior to January 1, 2013.

2011-LB-422C-SMTM-60 v5

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2011

H

D

BILL DRAFT 2011-LBz-422C [v.5] (03/30)

(THIS IS A DRAFT AND IS NOT READY FOR INTRODUCTION)

4/16/2012 1:02:13 PM

Short Title: NC Zoo Public-Private Ptshp. (Public)

Sponsors: Representative.

Referred to:

A BILL TO BE ENTITLED

AN ACT TO CREATE A PUBLIC-PRIVATE PARTNERSHIP FOR THE NORTH CAROLINA ZOOLOGICAL PARK.

The General Assembly of North Carolina enacts:

SECTION 1.(a) Part 22 of Article 7 of Chapter 143B of the General Statutes (North Carolina Zoological Park Council) is repealed.

SECTION 1.(b) Any assets of the Zoo Fund established under Part 22 of Article 7 of Chapter 143B of the General Statutes at the time of its repeal shall be administered by the Department of Environment and Natural Resources under the management agreement provided by G.S. 143-177 as amended by this act.

SECTION 2. Article 14 of Chapter 143 of the General Statutes reads as rewritten:

"§ 143-177. Right to receive gifts, gifts, operation and transfer of Zoo.

(a) Management agreement; transfer of Zoo. The North Carolina Department of Environment and Natural Resources is directed to enter into a management agreement with the North Carolina Zoological Society, Inc. (hereinafter in this Article "Society") for a term not to exceed 25 years with options to renew at the end of each term for the Society to maintain and operate the North Carolina Zoological Park (hereinafter in the Article "Zoo") with the following minimum duties with respect to the Zoo:

- (1) Operation.
- (2) Planning for and implementation of maintenance and expansion.
- (3) Providing construction, furnishings, and equipment.
- (4) Establishing and setting admission fees.
- (5) Promoting public appreciation.
- (6) Disseminating information on animals and the park.
- (7) Developing effective public support.
- (8) Soliciting financial and material support from various private sources within and without the State of North Carolina.

(b) State representation on Society board. As a condition of entering into the agreement, the Society shall amend its articles of incorporation, by laws, or other appropriate corporate document to provide that the Secretary of the Department of Environment and Natural Resources and the Secretary of the Department of Administration shall serve on its board of directors ex officio.



1 (c) General transfer language. As of January 1, 2013, all of the rights, privileges,
2 liabilities, and obligations of the North Carolina Zoological Park Council, not inconsistent with
3 the provisions of this section, shall, under the terms of the management agreement, be
4 transferred to and assumed by the board of directors of the Society.

5 (d) Governance of Zoo. As of January 1, 2013, the Zoo and the zoological programs
6 established or maintained by the Zoo shall be governed by the Society under the general
7 direction of its board of directors.

8 (e) Personal property transfer. To effect an orderly transition, the management
9 agreement shall detail the specific personal property of the State, both tangible and intangible,
10 that shall be transferred to the Society. The management agreement must also provide for
11 reversion of such personal property to the State or redirection by the State if the Society ceases
12 to exist, enters bankruptcy, terminates its management agreement with the State or in any other
13 way is incapable of maintaining the Zoo. The Department of Environment and Natural
14 Resources shall transfer to the Society, any personal property listed in the State asset inventory
15 that is necessary for the operation of the Zoo, including any relevant permits, registrations, and
16 licenses necessary, appropriate or convenient to ownership. If any fee or other payment is
17 required to effectuate the transfer, the Society shall pay the fee or other payment or reimburse
18 the Department of Environment and Natural Resources for any expenditure in relation to the
19 transfer.

20 (f) Real property transfer. All real property currently owned by the State and allocated
21 to the Zoo shall remain in title to the State, subject to all liability protections and immunities
22 afforded State property. The State shall retain property control over all State real property at the
23 Zoo except that the Society shall be afforded naming rights on land or fixtures owned by the
24 State.

25 (g) As provided in this subsection, the State shall retain design and construction
26 oversight of State-funded capital improvement projects at the Zoo and capital improvement
27 projects on State-owned property at the Zoo. To that end, the facility master plan and any plans,
28 specifications, construction schedules, and budgets for such projects estimated to require the
29 expenditure of over two million dollars (\$2,000,000) are subject to approval by the Department
30 of Environment and Natural Resources and by the Department of Administration to ensure that
31 State standards are met. The Society may choose to ask for review by those departments of
32 other capital improvement projects or capital improvement projects requiring expenditure of
33 lesser amounts. No other State approval or review is required, and state review and approval is
34 not required of capital improvement projects on Society owned property where there is no
35 State-funding of the project. This subsection shall be implemented as provided in the
36 management agreement required by this section. This subsection does not exempt any capital
37 improvement project from review and approval by the city or county having jurisdiction over
38 the property as may be required by law.

39 (h) Annual appropriations; Repair for Reserve and Renovation. As a management fee to
40 support operation of the Zoo, the sum of ten million dollars (\$10,000,000) shall be appropriated
41 annually by the State to the Society under the terms of the management agreement until the end
42 of its term, except for the 2012-2013 fiscal year it shall be the sum of five million dollars
43 (\$5,000,000) to annualize it to the January 1, 2013 effective date of the transfer. The Society
44 shall be eligible for allocations from the Reserve for Repair and Renovation to cover current
45 deferred maintenance on State property at the Zoo that as of January 1, 2012 totalled thirty
46 million dollars (\$30,000,000). It is the intent of the General Assembly that five million dollars
47 (\$5,000,000) annually shall be provided to the Society from the Reserve until a total of thirty
48 million dollars (\$30,000,000) has been satisfied. The allocation shall be administered by the
49 Department of Environment and Natural Resources.

1 (i) Transition costs. The sum of three million dollars (\$3,000,000) for the 2012-2013
2 fiscal year is appropriated from the General Fund to the Department of Environment and
3 Natural Resources for transition expenses necessary to implement this section.

4 (j) Audit. The Society shall be subject to audit by the State Auditor and the
5 Performance Evaluation Division of the General Assembly.

6 (j) In order to carry out the purposes of this Article, the Board is authorized Society
7 may to acquire by gift or will, absolutely or in trust, from individuals, corporations, or any
8 other source money or other property, or any interests in property, which may be retained, sold
9 or otherwise used to promote the purposes of this Article. The use of gifts shall be subject to
10 such limitations as may be imposed thereon by donors, notwithstanding any other provisions of
11 this Article.

12 **§ 143-177.1. North Carolina Zoological Park Fund.**

13 All gifts made to the ~~North Carolina Zoological Park Zoo~~ for the purposes of this Article
14 shall be exempt from every form of taxation including, but not by the way of limitation, ad
15 valorem, intangible, gift, inheritance and income taxation. Proceeds from the sale of any
16 property acquired under the provisions of this Article shall be deposited in the North Carolina
17 State treasury and shall be credited to the ~~North Carolina Zoological Park Zoo.~~

18 **§ 143-177.2. Cities and counties.**

19 Cities and counties are hereby authorized to expend funds derived from nontax sources and
20 to make gifts of surplus property, to assist in carrying out the purposes of this Article.

21 **§ 143-177.3. Sources of funds.**

22 (a) It is the intent of this Article that the funds for the creation, establishment,
23 construction, operation and maintenance of the ~~North Carolina Zoological Park Zoo~~ shall be
24 obtained primarily from private sources; however, the ~~Council Society~~, under the supervision
25 and approval and with the assistance of the Secretary of Environment and Natural Resources is
26 hereby authorized to receive and expend such funds as may from time to time become available
27 by appropriation or otherwise from the State of North Carolina; provided, that the ~~North~~
28 ~~Carolina Zoological Park Council Society~~ shall not in any manner pledge the faith and credit of
29 the State of North Carolina for any of its purposes. Real property of the State may not be
30 pledged as collateral by the Society in any financing, nor may the annual appropriation for
31 operating expenses be pledged as security in any financing.

32 (b) ~~The Council with the approval of the Secretary of Environment and Natural~~
33 ~~Resources is authorized to establish and set admission fees which are reasonable and consistent~~
34 ~~with the purpose and function of the North Carolina Zoological Park."~~

35 **SECTION 3.** The following statutes are repealed:

- 36 (1) G.S. 66-58(b)(26) (sale of items by the State – Umstead Act)
- 37 (2) G.S. 143-129.8A (public contracting exemptions for the Zoo)
- 38 (3) G.S. 143-135.9(e) (public contracting exemptions for the Zoo).

39 **SECTION 4.** This act is effective January 1, 2013, except that the Department of
40 Environment and Natural Resources and the North Carolina Zoological Society, Inc. may enter
41 into the management agreement provided by G.S. 143-177 as amended by this act at any time
42 prior to that date, and the Department of Environment and Natural Resources may also act on
43 any transitional requirements prior to that date.

DENR Recommended Changes to Zoo Legislation – April 17, 2012

1. Replace Section 2(a) from the language that Greg sent to committee on Friday with this Section 2(a).

Section 2

(a) "§ 143-177. Right to receive gifts, operation and transfer of Zoo.
 (a) Purpose; Management agreement; transfer of Zoo. The North Carolina Zoological Park (hereinafter in this Article "Zoo") maintains a diverse collection of plant and wildlife specimens in order to study, conserve, and introduce to people the species of the world. The North Carolina Department of Environment and Natural Resources is directed to enter into a management agreement with the North Carolina Zoological Society, Inc. (hereinafter in this Article "Society") for a term not to exceed 25 years with options to renew at the end of each term for the Society to maintain and operate the Zoo North Carolina Zoological Park (hereinafter in this Article "Zoo").

The Society will carry out the following minimum duties with respect to the Zoo:

- (1) ~~Providing for the Zoo's operations~~
- (2) Planning for and implementation of maintenance and expansion.
- (3) Providing construction, furnishings, and equipment.
- (4) Maintaining high standards of animal welfare and husbandry.
- (5) Carrying out research and practical conservation programs
- (6) Establishing and setting admission and other fees.
- (7) ~~Providing for the Zoo's operations~~
- (8) ~~Providing for the Zoo's operations~~
- (9) Developing effective public support.
- (10) Soliciting financial and material support from various private sources within and without the State of North Carolina.
- (11) Maintaining the highest possible standard in the Park's exhibits, landscaping and overall appearance.
- (12) Maintain AZA accreditation

New language

~~Vol. 100, Page 400~~

2. Modify Section 2(h) by putting into two sections: Section 2(h) and Section 2(h1) as described below.

(h) Annual appropriations. As a management fee to support operation of the Zoo, the sum of ten million dollars (\$10,000,000) shall be appropriated by the State to the Society under the terms of the management agreement until the end of its term, except for the 2012-2013 fiscal year it shall be the sum of five million dollars (\$5,000,000) to annualize it to the January 1, 2013 effective date of the transfer.

(h1) Repair for Reserve and Renovation. The Society shall be eligible for allocations from the Reserve for Repair and Renovation to cover current deferred maintenance on State

property at the Zoo that as of January 1, 2012 totaled thirty million dollars (\$30,000,000). It is the intent of the General Assembly that five million dollars (\$5,000,000) annually shall be provided to the Society from the Reserve until a total of thirty million dollars (\$30,000,000) has been satisfied. The allocation shall be administered by the Department of Environment and Natural Resources. For fiscal year 2012-2013, five million (\$5,000,000) shall be appropriated from the Repair and Renovation Reserve to the Department of Environment and Natural Resources and provided to the Society to cover deferred maintenance on State property at the Zoo.

New Language

3. Change effective date of legislation to as of June 30, 2013 (or July 1, 2013). The 'as of date' gives the zoo ability to implement earlier if feasible, but provides sufficient time for transition to the Zoo Society.
4. Modify Section 2(g), by replacing the existing Section 2(g) with what is below.

(g) Notwithstanding G.S. 143-341(3) and G.S. 143-135.1, the Society shall, with respect to the design, construction, or renovation of buildings, utilities, and other property developments of the Zoo requiring the estimated expenditure of public money of two million dollars (\$2,000,000) or less:

- (1) Conduct the fee negotiations for all design contracts and supervise the letting of all construction and design contracts.
- (2) Develop procedures governing the responsibilities of the Zoo and its affiliated and constituent institutions to perform the duties of the Department of Administration and the Director or Office of State Construction under G.S. 133-1.1(d) and G.S. 143-341(3).
- (3) Develop procedures and reasonable limitations governing the use of open-end design agreements, subject to G.S. 143-64.34 and the approval of the State Building Commission.
- (4) Use existing plans and specifications for construction projects, where feasible. Prior to designing a project, the Society shall consult with the Department of Administration on the availability of existing plans and specifications and the feasibility of using them for a project.

(g1) The Society may delegate its authority under subsection (a) of this section to a constituent or affiliated institution if the institution is qualified under guidelines adopted by the Society and approved by the State Building Commission and the Director of the Budget.

(g2) The Zoo shall use the standard contracts for design and construction currently in use for State capital improvement projects by the Office of State Construction of the Department of Administration.

(g3) A contract may not be divided for the purpose of evading the monetary limit under this section.

(g4) Notwithstanding any other provision of this Chapter, the Department of Administration shall not be the awarding authority for contracts awarded pursuant to this section.

(g5) The Society shall annually report to the State Building Commission the following:

- (1) A list of projects governed by this section.
- (2) The estimated cost of each project along with the actual cost.
- (3) The name of each person awarded a contract under this section.
- (4) Whether the person or business awarded a contract under this section meets the definition of "minority business" or "minority person" as defined in G.S. 143-128.2(g).

VISITOR REGISTRATION SHEET

House Select Comm on Public-Private Partnerships - 4-18-12
Name of Committee Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Cheryl Troner	NC Zoo Society
Sobari	DST
WILLIAM SPINDELL	WELLS CARE-ORG
Marilyn Wilder	PENIZ
Veronica Butcher Shingleton	OFFICE OF GOVERNOR
CHARLES SHAVB	NC ZOO EMPLOYEE
Kara Weishaar	NC Travel + tourism

VISITOR REGISTRATION SHEET

House Select Comm on Public-Private Partnerships- 04-18-12
 Name of Committee Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Alast Moffitt	
PERRY SAFRAN	
Matt Gross	NEC
Matt Gault	WCSBA
Mitch Leonard	SEAN
Suzanne Boring	SEAN
Chris Aoper	DOA
Betsy Boring	PFNC
Ermy Peterson	Tax
Jackie Cashion	NC Chambers
Michelle Frazer	MFRS

VISITOR REGISTRATION SHEET

House Select Comm on Public Private Partnerships - 04-18-12
 Name of Committee Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Mary Penny Thompson	DENTR
Diana Kees	DENR
Jim Klingler	NC Zoo Society
Mary Joann Pugh	NC ZOO
S M White, Jr.	NC Zoo Society
Diane Cheng	FEF
Thomasina Lockett	DST
David Crawford	AIAAC
BWD Phillips	TWC
Elizabeth Biss	Brooks Pierce
Mildred Jones	Sordam Price

**NORTH CAROLINA HOUSE OF REPRESENTATIVES
COMMITTEE MEETING NOTICE
AND
2011-2012 SESSION**

You are hereby notified that the Committee on **House Select Committee on Public-Private Partnerships** will meet as follows:

DAY & DATE: Tuesday, April 24, 2012
TIME: 2:00 PM
LOCATION: 544 LOB
COMMENTS:

Respectfully,
Representative Moffitt, Chair
Representative Brawley, Chair

I hereby certify this notice was filed by the committee assistant at the following offices at **2 PM** o'clock on **April 04, 2011**.

- Principal Clerk
- Reading Clerk – House Chamber

Melissa Carter (Committee Assistant)

EQUIPMENT REQUEST FORM

To fill in this form type on a line and press the Tab key on the keyboard to get to the next line. Click on the appropriate check boxes to indicate the equipment you will need..

Room number 544 LOB

Date of meeting Tuesday, April 24, 2012

When ISD person should be there for setup 1:45 PM

Meeting start time 2:00 PM Meeting end time (estimate) 4:00 PM

Name of meeting House Select Committee on Public Private Partnerships

Division contact person Melissa Carter

NEEDS: Projector Laptop computer External Computer Speakers

ISD does not provide screens, extension cords, overhead projectors, tables or televisions/VCRs. For those items please contact Fred Williams in Financial Services.

Notes or special requests:

They will not need a screen if there are TV's in the room.

HOUSE SELECT COMMITTEE ON PUBLIC PRIVATE PARTNERSHIPS

Rep. Bill Brawley

Rep. Tim Moffitt

*Tuesday, April 24, 2012
Room 544, Legislative Office Building
2:00 p.m.*

- I. Review of Draft Report
- II. Other Business
- III. Adjournment

HOUSE SELECT COMMITTEE ON PUBLIC-PRIVATE PARTNERSHIPS

Tuesday, April 24, 2012
2:00 p.m.
Room 544 Legislative Office Building

MINUTES

The House Select Committee on Public-Private Partnerships met on Tuesday, April 24, 2012 at 2:00 p.m. in Room 544 of the Legislative Office Building. Representatives Moffitt, Brawley, Carney, McGee, R. Moore, and Murry were in attendance.

Representative Moffitt presided. He welcomed the Committee members and introduced the Sergeant at Arms and staff members.

PRESENTATIONS

Review of Draft Interim Report

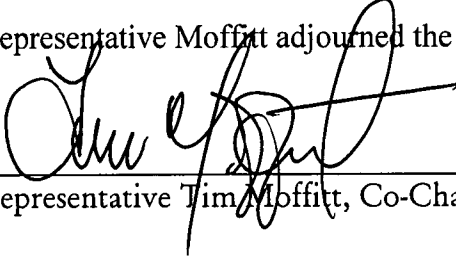
Mr. Greg Roney, from the Research Division at the North Carolina General Assembly, was introduced to give a summary and review of the Draft Interim Report (see Attachment 1).

Review of Legislative Proposal #1

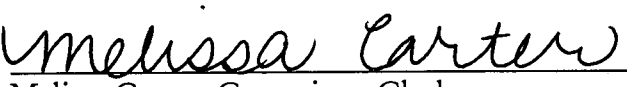
Mr. Gerry Cohen, Director of the Bill Drafting Division at the North Carolina General Assembly, was introduced to review Legislative Proposal #1 and the changes in the Bill since the last review at the previous meeting on Wednesday, April 18, 2012.

After the conclusion of the review Representative Moffitt asked for a motion to adopt the Interim Report. Representative Brawley moved for adoption of the Interim Report and it was seconded by Representative Murry. The Committee voted for and adopted the Interim Report and Legislative Proposal #1.

Representative Moffitt adjourned the committee at 2:24 p.m.

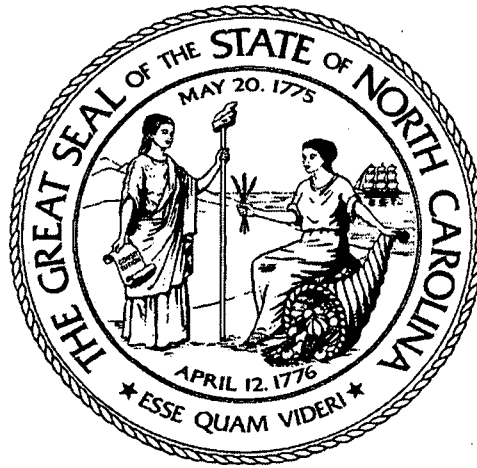


Representative Tim Moffitt, Co-Chair



Melissa Carter, Committee Clerk

NORTH CAROLINA GENERAL ASSEMBLY



**HOUSE SELECT COMMITTEE ON PUBLIC-
PRIVATE PARTNERSHIPS**

**INTERIM REPORT TO THE
2012 SESSION
of the
2011 GENERAL ASSEMBLY
OF NORTH CAROLINA**

APRIL, 2012

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REF

TRANSMITTAL LETTER

April 24, 2012

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TO THE MEMBERS OF THE 2012 REGULAR SESSION
OF THE 2011 GENERAL ASSEMBLY

The HOUSE SELECT COMMITTEE ON PUBLIC-PRIVATE PARTNERSHIPS,
respectfully submits the following interim report to the 2012 Regular Session of the
2011 General Assembly.

Rep. William Brawley (Co-Chair)

Rep. Tim D. Moffitt (Co-Chair)

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COMMITTEE PROCEEDINGS

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The House Select Committee on Public-Private Partnerships met six times after the 2011 Regular Session. The following is a brief summary of the Committee's proceedings. Detailed minutes and information from each Committee meeting are available in the Legislative Library.

The first and second Committee meetings, held December 12, 2011 and January 10, 2012, heard general presentations explaining public-private partnerships including the past experience with public-private partnerships in North Carolina and Virginia. During the third Committee meeting held February 17, 2012, the Committee heard presentations seeking legislative action to allow the NC Zoological Park and county governments to use public-private partnerships. The fourth Committee meeting, held April 4, 2012, heard a presentation by the NC Department of Transportation outlining the Department's ongoing experience with public-private partnerships.

The fifth Committee meeting considered the legislation sought by the NC Zoological Park during the third meeting. Appendix D of this Interim Report contains the presentation given by Dr. David Jones, Director of the NC Zoological Park, during the third meeting. Dr. Jones gave an abbreviated version of the same presentation during the fifth meeting.

The Committee discussed a bill draft and instructed staff to revise the draft for consideration on April 24, 2012 as a Committee recommendation. The Findings and Recommendations in this Interim Report reflect the Committee discussions on the NC Zoological Park during the third and fifth Committee meetings. The Legislative Proposal appears as Appendix C of this Interim Report. A summary for the Committee's Legislative Proposal appears in Appendix D of this Interim Report.

The Committee anticipates offering a final report as required by the Committee charge. The Committee Charge appears as Appendix B of this Interim Report.

FINDINGS AND RECOMMENDATIONS

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The House Select Committee on Public-Private Partnerships makes the following findings and recommendation to the 2012 Session of the 2011 General Assembly of North Carolina:

NC ZOOLOGICAL PARK

FINDINGS: The Committee finds the following:

1. The NC Zoological Park has successfully served its mission as one of the world's largest natural habitat zoos and has promoted education and the appreciation of animals. Additionally, the Zoo has increased the economic development of the surrounding communities through tourism.
2. The NC Department of Environment and Natural Resources (DENR) currently operates the NC Zoological Park. Within DENR, the NC Zoological Park Council is a 15-member board appointed by the Governor to advise DENR on Zoo matters.
3. The NC Zoological Park requested the Committee to consider legislation authorizing a public-private partnership for the Zoo. The Zoo seeks a public-private partnership arrangement that would not be subject to State rules for employees, construction, contracting, and potential reversion of appropriated or earned funds.
4. The NC Zoological Park needs significantly increased appropriations in future years to maintain the current quality of the Zoo. The Zoo also has \$30 million in deferred maintenance. The General Assembly has appropriated slightly more than \$11 million each year to the Zoo during the last 4 fiscal years (2007-2011).
5. Moving the operation of the Zoo to a public-private partnership would allow the Zoo to increase revenue without increasing the annual appropriation, maintain current quality, plan and build a long-term expansion with new exhibits, and increase private fundraising. The Zoo would need \$10 million annually from State appropriations to make the Zoo economically viable. The Zoo would also need \$30 million over 6 years for deferred maintenance because private donors do not desire to fund low-visibility infrastructure.

RECOMMENDATION: Therefore, the Committee recommends Legislative Proposal #1, *An Act to Create a Public-Private Partnership for the North Carolina Zoological Park*, which would direct the North Carolina Department of Environment and Natural Resources (DENR) to enter into a public private partnership with the North Carolina Zoological Society, Inc. (Zoo Society) to

operate the North Carolina Zoological Park under a management agreement between DENR and the Zoo Society starting January 1, 2013 with an initial term of 25 years.

DRAFT

COMMITTEE MEMBERSHIP

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2011-2012

Speaker of the House of Representatives Appointments:

Rep. Tim D. Moffitt (Co-Chair)
Rep. William Brawley (Co-Chair)

Rep. Becky Carney
Rep. James W. Crawford, Jr.
Rep. David R. Lewis
Rep. Daniel F. McComas
Rep. Wm. C. "Bill" McGee
Rep. Rodney W. Moore
Rep. Tom Murry
Rep. Bill Owens
Rep. Fred F. Steen, II

COMMITTEE CHARGE/STATUTORY AUTHORITY

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DRAFT



Office of Speaker Thom Tillis
 North Carolina House of Representatives
 Raleigh, North Carolina 27601-1096

HOUSE SELECT COMMITTEE ON
 PUBLIC-PRIVATE PARTNERSHIPS

TO THE HONORABLE MEMBERS OF THE
 NORTH CAROLINA HOUSE OF REPRESENTATIVES

Section 1. The House Select Committee on Public-Private Partnerships (hereinafter "Committee") is established by the Speaker of the House of Representatives pursuant to G.S. 120-19.6(a1) and Rule 26 of the Rules of the House of Representatives of the 2011 General Assembly.

Section 2. The Committee consists of the 11 members listed below, appointed by the Speaker of the House of Representatives. Members serve at the pleasure of the Speaker of the House of Representatives. The Speaker of the House of Representatives may dissolve the Committee at any time.

Representative Tim Moffitt, Co-Chair
Representative Bill Brawley, Co-Chair
Representative Danny McComas
Representative Bill McGee
Representative Tom Murry
Representative David Lewis
Representative Fred Steen
Representative Jim Crawford
Representative Becky Carney
Representative Bill Owens
Representative Rodney Moore

Section 3. The Committee may study issues related to public-private partnerships, including examination of the appropriate authority for State, regional, and local government units to engage in public-private partnerships for public capital projects through a regulatory framework. As part of its study, the Committee may study infrastructure banks and any other relevant issues it deems appropriate.

HOUSE SELECT COMMITTEE ON PUBLIC-PRIVATE PARTNERSHIPS

Section 4. The Committee shall meet upon the call of its Co-Chairs. A quorum of the Committee shall be a majority of its members.

Section 5. The Committee, while in the discharge of its official duties, may exercise all powers provided for under G.S. 120-19 and Article 5A of Chapter 120 of the General Statutes.


Section 6. Members of the Committee shall receive per diem, subsistence, and travel allowance as provided in G.S. 120-3.1.

Section 7. The expenses of the Committee including per diem, subsistence, travel allowances for Committee members, and contracts for professional or consultant services shall be paid upon the written approval of the Speaker of the House of Representatives pursuant to G.S. 120-32.02(c) and G.S. 120-35 from funds available to the House of Representatives for its operations.

Section 8. The Legislative Services Officer shall assign professional and clerical staff to assist the Committee in its work. The Director of Legislative Assistants of the House of Representatives shall assign clerical support staff to the Committee.

Section 9. The Committee may submit an interim report on the results of the study, including any proposed legislation, on or before May 1, 2012, by filing a copy of the report with the Office of the Speaker of the House of Representatives, the House Principal Clerk, and the Legislative Library. The Committee shall submit a final report on the results of its study, including any proposed legislation, to the members of the House of Representatives prior to the convening of the 2013 General Assembly by filing the final report with the Office of the Speaker of the House of Representatives, the House Principal Clerk, and the Legislative Library. The Committee terminates upon the convening of the 2013 General Assembly or upon the filing of its final report, whichever occurs first.

Effective this the 15th day of September, 2011.



Thom Tillis
Speaker

§ 120-19.6. Interim committee activity; rules.

(a) Upon a general directive by resolution of the house in question or upon a specific authorization of either the Speaker of the House, President of the Senate, President Pro Tempore of the Senate or the Speaker Pro Tempore of the House, any standing committee, select committee or subcommittee of either house of the General Assembly is authorized to meet in the interim period between sessions or during recesses of the General Assembly to consider specific bills or resolutions or other matters properly before the committee. No particular form of authority is needed, but this section is intended to promote better coordination by having a system of authorization for meetings of the committees of the General Assembly between sessions or during recesses. Meetings will be held in Raleigh, but with the approval of the Speaker or Speaker Pro Tempore, a House committee may meet elsewhere; and with the approval of the President or President Pro Tempore, a Senate committee may meet elsewhere. In addition, committees may meet at such places as authorized by specific resolution or action of either body of the General Assembly.

(a1) The Speaker of the House or the President Pro Tempore of the Senate may authorize, in writing, the creation of interim study committees to study and investigate governmental agencies and institutions and matters of public policy to assist that chamber in performing its duties in the most efficient and effective manner. The Speaker of the House or the President Pro Tempore of the Senate may appoint members of the relevant chamber, State officers and employees, and members of the public to the interim study committee. An interim study committee created under this subsection shall be deemed a committee of the relevant chamber for the purposes of this Article. Interim study committee members who are State officers and employees or members of the public shall receive subsistence and travel expenses as provided in G.S. 120-3.1, 138-5, or 138-6, as appropriate.

(b) In all other respects, committees shall function in the interim period between sessions or during recesses in the same manner and under the rules generally applicable to committees of the house in question of the General Assembly during the session of the General Assembly.

(c) Any committee during the interim period that meets upon specific authorization of the Speaker of the House, President of the Senate, President Pro Tempore of the Senate or Speaker Pro Tempore of the House shall limit its activities to those matters contained in the authorization, and shall suspend its activities upon written directive of such officer. Any interim committee that meets upon a directive by resolution of the house in question of the General Assembly shall limit its activities to those matters contained in the authorization. (1973, c. 543; 2001-491, s. 33.2.)

LEGISLATIVE PROPOSAL

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Legislative Proposal #1:
***An Act to Create a Public-Private Partnership
for the North Carolina Zoological Park***

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2011

H

D

HOUSE DRH90142-LBza-422E (03/30)

Short Title: NC Zoo Public-Private Ptshp. (Public)

Sponsors: Representative.

Referred to:

A BILL TO BE ENTITLED

AN ACT TO CREATE A PUBLIC-PRIVATE PARTNERSHIP FOR THE NORTH CAROLINA ZOOLOGICAL PARK, AS RECOMMENDED BY THE HOUSE SELECT COMMITTEE ON PUBLIC-PRIVATE PARTNERSHIPS.

The General Assembly of North Carolina enacts:

SECTION 1.(a) Part 22 of Article 7 of Chapter 143B of the General Statutes (North Carolina Zoological Park Council) is repealed.

SECTION 1.(b) Any assets of the Zoo Fund established under Part 22 of Article 7 of Chapter 143B of the General Statutes at the time of its repeal shall be administered by the Department of Environment and Natural Resources under the management agreement provided by G.S. 143-177 as amended by this act.

SECTION 2. Article 14 of Chapter 143 of the General Statutes reads as rewritten:

"Article 14.

"North Carolina Zoological Authority.

"§ 143-177. Right to receive gifts, gifts, operation, and transfer of Zoo.

(a) Purpose; Management Agreement; Transfer of Zoo. – The North Carolina Zoological Park (Zoo) maintains a diverse collection of plant and wildlife specimens in order to study, conserve, and introduce to people the species of the world. The North Carolina Department of Environment and Natural Resources is directed to enter into a management agreement with the North Carolina Zoological Society, Inc., (Society) for a term not to exceed 25 years with options to renew at the end of each term for the Society to maintain and operate the Zoo. The management agreement shall require that the Zoo provide free admission to North Carolina school students visiting the Zoo as part of an in-school tour group. The Society shall carry out the following minimum duties with respect to the Zoo:

- (1) Providing park and outreach operation.
- (2) Planning for and implementation of maintenance and expansion.
- (3) Providing construction, furnishings, and equipment.
- (4) Maintaining high standards of animal welfare and husbandry.
- (5) Carrying out research and practical conservation programs.
- (6) Establishing and setting admission fees.
- (7) Promoting public appreciation of animals and plants.

- 1 (8) Disseminating information about the Zoo and its programs.
2 (9) Developing effective public support.
3 (10) Soliciting financial and material support from various private sources
4 within and without the State of North Carolina.
5 (11) Maintaining the highest possible standards in the Zoo's exhibits,
6 landscaping, and overall appearance.
7 (12) Maintaining Association of Zoos and Aquariums (AZA) accreditation.

8 (b) State Representation on Society Board. – As a condition of entering into the
9 agreement, the Society shall amend its articles of incorporation, bylaws, or other
10 appropriate corporate document to provide that the Secretary of the Department of
11 Environment and Natural Resources or that Secretary's designee and the Secretary of the
12 Department of Administration or that Secretary's designee shall serve on its board of
13 directors ex officio.

14 (c) General Transfer Language. – As of January 1, 2013, all of the rights,
15 privileges, liabilities, and obligations of the North Carolina Zoological Park Council,
16 not inconsistent with the provisions of this section, shall, under the terms of the
17 management agreement, be transferred to and assumed by the board of directors of the
18 Society.

19 (d) Governance of Zoo. – As of January 1, 2013, the Zoo and the zoological
20 programs established or maintained by the Zoo shall be governed by the Society under
21 the general direction of its board of directors.

22 (e) Personal Property Transfer. – To effect an orderly transition, the management
23 agreement shall detail the specific personal property of the State, both tangible and
24 intangible, that shall be transferred to the Society. The management agreement must
25 also provide for reversion of such personal property to the State or redirection by the
26 State if the Society ceases to exist, enters bankruptcy, terminates its management
27 agreement with the State, or in any other way is incapable of maintaining the Zoo. The
28 Department of Environment and Natural Resources shall transfer to the Society any
29 personal property listed in the State asset inventory that is necessary for the operation of
30 the Zoo, including any relevant permits, registrations, and licenses necessary,
31 appropriate, or convenient to ownership. If any fee or other payment is required to
32 effectuate the transfer, the Society shall pay the fee or other payment or reimburse the
33 Department of Environment and Natural Resources for any expenditure in relation to
34 the transfer.

35 (f) Real Property Transfer. – All real property currently owned by the State and
36 allocated to the Zoo shall remain in title to the State. The State shall retain property
37 control over all State real property at the Zoo except that the Society shall be afforded
38 naming rights on land or fixtures owned by the State.

39 (g) Annual Appropriations. – As a management fee to support operation of the
40 Zoo, the sum of ten million dollars (\$10,000,000) shall be appropriated annually by the
41 State to the Society under the terms of the management agreement until the end of its
42 term; except for the 2012-2013 fiscal year, it shall be the sum of five million dollars
43 (\$5,000,000) to annualize it to the January 1, 2013, effective date of the transfer.

44 (h) Reserve for Repair and Renovation. – The Society shall be eligible for
45 allocations from the Reserve for Repair and Renovation to cover current deferred
46 maintenance on State property at the Zoo that as of January 1, 2012, totalled thirty

1 million dollars (\$30,000,000). It is the intent of the General Assembly that five million
2 dollars (\$5,000,000) annually shall be provided to the Society from the Reserve until a
3 total of thirty million dollars (\$30,000,000) has been satisfied. The allocation shall be
4 administered by the the Department of Environment and Natural Resources. As initial
5 implementation of this subsection, for the 2012-2013 fiscal year, the sum of five million
6 dollars (\$5,000,000) is appropriated from the Reserve for Repair and Renovation to the
7 Department of Environment and Natural Resources and provided to the Society to cover
8 deferred maintenance on State property at the Zoo.

9 (i) Transition Costs. – The sum of three million two hundred thousand dollars
10 (\$3,200,000) for the 2012-2013 fiscal year is appropriated from the General Fund to the
11 Department of Environment and Natural Resources for transition expenses necessary to
12 implement this section.

13 (j) Audit. – The Society shall be subject to audit by the State Auditor and the
14 Performance Evaluation Division of the General Assembly.

15 (k) In order to carry out the purposes of this Article, the Board is authorized
16 Society may to acquire by gift or will, absolutely or in trust, from individuals,
17 corporations, or any other source money or other property, or any interests in property,
18 which may be retained, sold or otherwise used to promote the purposes of this Article.
19 The use of gifts shall be subject to such limitations as may be imposed thereon by
20 donors, notwithstanding any other provisions of this Article.

21 **"§ 143-177.1. North Carolina Zoological Park Fund.**

22 All gifts made to the North Carolina Zoological Park Zoo for the purposes of this
23 Article shall be exempt from every form of taxation including, but not by the way of
24 limitation, ad valorem, intangible, gift, inheritance and income taxation. Proceeds from
25 the sale of any property acquired under the provisions of this Article shall be deposited
26 in the North Carolina State treasury and shall be credited to the North Carolina
27 Zoological Park Zoo.

28 **"§ 143-177.2. Cities and counties.**

29 Cities and counties are hereby authorized to expend funds derived from nontax
30 sources and to make gifts of surplus property, to assist in carrying out the purposes of
31 this Article.

32 **"§ 143-177.3. Sources of funds.**

33 (a) It is the intent of this Article that the funds for the creation, establishment,
34 construction, operation and maintenance of the North Carolina Zoological Park Zoo
35 shall be obtained primarily from private sources; however, the Council Society, under
36 the supervision and approval and with the assistance of the Secretary of Environment
37 and Natural Resources Resources, is hereby authorized to receive and expend such
38 funds as may from time to time become available by appropriation or otherwise from
39 the State of North Carolina; provided, that the North Carolina Zoological Park Council
40 Society shall not in any manner pledge the faith and credit of the State of North
41 Carolina for any of its purposes. Real property of the State may not be pledged as
42 collateral by the Society in any financing, nor may the annual appropriation for
43 operating expenses be pledged as security in any financing.

44 (b) The Council with the approval of the Secretary of Environment and Natural
45 Resources is authorized to establish and set admission fees which are reasonable and
46 consistent with the purpose and function of the North Carolina Zoological Park.

1 **"§ 143-177.4. Capital improvement projects.**

2 (a) As provided in this subsection, for any capital improvement projects on State
3 lands or when any State funds are used, the State shall retain design and construction
4 oversight in the following manner:

5 (1) Capital projects over two million dollars. – The facility master plan
6 and any plans, specifications, construction schedules, and budgets for
7 such projects which are estimated to require the expenditure of over
8 two million dollars (\$2,000,000) are subject to approval by the
9 Department of Environment and Natural Resources and by the
10 Department of Administration to ensure that State standards are met.

11 (2) Capital projects of two million dollars or less. – The Society shall,
12 with respect to the design, construction, or renovation of buildings,
13 utilities, and other property developments of the Zoo requiring the
14 expenditure of two million dollars (\$2,000,000) or less, take the
15 following actions:

16 a. Conduct the fee negotiations for all design contracts and
17 supervise the letting of all construction and design contracts.

18 b. Develop procedures governing the responsibilities of the Zoo to
19 perform the duties of the Department of Administration and the
20 Director or Office of State Construction under G.S. 133-1.1(d)
21 and G.S. 143-341(3).

22 c. Develop procedures and reasonable limitations governing the
23 use of open-end design agreements, subject to G.S. 143-64.34
24 and the approval of the State Building Commission.

25 d. Use existing plans and specifications for construction projects,
26 where feasible. Prior to designing a project, the Society shall
27 consult with the Department of Administration on the
28 availability of existing plans and specifications and the
29 feasibility of using them for a project.

30 e. The Society shall use the standard contracts for design and
31 construction currently in use for State capital improvement
32 projects by the Office of State Construction of the Department
33 of Administration.

34 f. A contract may not be divided for the purpose of evading the
35 monetary limit under this subsection.

36 g. Notwithstanding any other provision of Chapter 143 of the
37 General Statutes, the Department of Administration shall not be
38 the awarding authority for contracts awarded pursuant to this
39 subsection.

40 h. The Society shall report annually to the State Building
41 Commission the following:

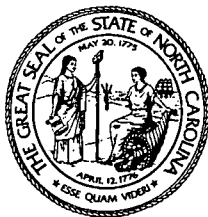
42 1. A list of projects governed by this subsection.

43 2. The estimated cost of each project along with the actual cost.

44 3. The name of each person awarded a contract under this
45 subsection.

SUPPORTING DOCUMENTATION

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Bill Draft 2011-LBza-422E: NC Zoo Public-Private Ptshp.

2011-2012 General Assembly

Committee:	House Select Committee on Public-Private Partnerships	Date:	April 24, 2012
Introduced by:		Prepared by:	Greg Roney Committee Counsel
Analysis of:	2011-LBza-422E		

SUMMARY: *The Bill Draft would direct the North Carolina Department of Environment and Natural Resources (DENR) to enter into a public-private partnership with the North Carolina Zoological Society, Inc. (Zoo Society) to operate the North Carolina Zoological Park (Zoo).*

The public-private partnership would operate through a management agreement between DENR and the Zoo Society with the following terms:

- *Initial term of 25 years starting January 1, 2013 with renewal options;*
- *State pays \$10 million annually as a management fee;*
- *State transfers all personal property to the Zoo Society;*
- *State maintains ownership of all State land;*
- *Zoo Society maintains and operates Zoo.*

CURRENT LAW: DENR operates the NC Zoo. The General Assembly established the NC Zoological Park Council (Zoo Council) as part of DENR to advise DENR on Zoo matters. The Zoo Council consists of 15 members appointed by the Governor. Specifically, the Zoo Council's duties under G.S. 143B-335 include:

- (1) Advising on the basic concepts of the Zoo;
- (2) Approving conceptual plans for the Zoo and its buildings;
- (3) Advising on the construction, furnishings, equipment and operations of the Zoo;
- (4) Establishing admission fees with the approval of DENR;
- (5) Recommending programs to promote public appreciation of the Zoo;
- (6) Disseminating information on animals and the Zoo;
- (7) Developing effective public support of the Zoo; and
- (8) Soliciting financial and material support.

The Zoo Society is a private, nonprofit corporation recognized by the IRS as exempt from income taxation under section 501(c)(3) of the federal Internal Revenue Code.

BILL ANALYSIS: The Bill Draft would transfer the operations of the Zoo from DENR to the Zoo Society. The Bill Draft directs DENR to enter into a management agreement

with the Zoo Society effective January 1, 2013 with renewal options. Additionally, the Bill Draft repeals the statutes authorizing the Zoo Council and transfers the duties of the Zoo Council to the Zoo Society including the management of any assets in the Special Zoo Fund.

To participate in the management agreement, the Bill Draft requires the Zoo Society to allow the Secretaries of DENR and Department of Administration, or their designees, to serve as board members. The Board of Directors of the Zoo Society will control the operation of the Zoo subject to the management agreement with DENR. The management agreement must also provide for free admission to North Carolina school students visiting the Zoo as part of an in school tour group.

The State will transfer all personal property related to the Zoo to the Zoo Society under the management agreement with a return of the property to the State if the Zoo Society ceases to exist, enters bankruptcy, terminates its management agreement, or is incapable of maintaining the Zoo. The State will continue to own all real property (i.e., land) and retain control over the real property except that the Zoo Society controls naming rights on State land.

The Bill Draft would enact a new statute, G.S. 143-177.4, that sets the level of State oversight of building projects at the Zoo when the project is located on State lands or when any State funds are used. For capital projects over \$2 million, DENR and the Department of Administration must approve the facility master plan and any plans, specifications, construction schedules, and budgets.

For capital projects of \$2 million or less, the Zoo Society can negotiate and award contracts for buildings, utilities, and other property developments under procedures developed by the Zoo Society to perform the duties of the Department of Administration and the Office of State Construction. The State Building Commission can approve procedures developed by the Zoo Society to use open-end design agreements. The Zoo Society must use existing plans and specifications for construction projects where feasible and must use the standard contracts for design and construction currently in use for State capital improvement projects. The Zoo Society must report annually to the State Building Commission the following: (1) a list of projects at or below \$2 million awarded under procedures developed by the Zoo Society; (2) the estimated and actual cost of each project; (3) the name of each person awarded a contract; and (4) whether the person awarded a contract meets the definition of minority business under G.S. 143-128.2(g).

Construction projects undertaken by the Zoo Society on private land with private funds do not require State approval unless the Zoo Society requests DENR and the Department of Administration review the project.

The Bill Draft would appropriate by statute \$10 million annually as a management fee that will be pro rated to \$5 million for the period January 1, 2013 to June 30, 2013. The Bill Draft also appropriates \$3 million to DENR for transition costs in the 2012-2013 fiscal year.

The main expected transition cost is severance wages for State employees currently working at the Zoo. DENR would no longer need the current State staff at the Zoo after

the Zoo Society begins to operate the Zoo. The Zoo Society expects to hire most State employees working at the Zoo.

The Bill Draft states the intent of the General Assembly to appropriate \$5 million annually to the Zoo Society from Reserve for Repair and Renovation until a total of \$30 million has been appropriated to cure deferred maintenance at the Zoo.

BACKGROUND: The NC Zoo seeks the ability to operate without the restrictions placed on State entities including rules for State employees, State construction oversight, and State contracting with outside vendors. The Zoo also believes that fundraising would be more successful if donors saw immediate changes at the Zoo related to recent donations.

The main proposed benefit to the State is limiting annual appropriations to operate the Zoo to \$10 million (after the \$3 million transition costs and the \$30 million deferred maintenance are paid). In the last 4 fiscal years (2007-2011), the Zoo received slightly more than \$11 million each year. The Zoo believes that if the State continues to operate the Zoo then future appropriations will have to increase significantly to maintain the quality of the current Zoo. The State will also benefit from any new animal exhibits built by the Zoo Society to increase attendance and further charitable goals shared by the Zoo Society and State such as education.

The State owns the tract where the current Zoo is located and an additional nearby tract, called the Ward Preserve. The Zoo Society owns a third tract that sits between the current Zoo and the Ward Preserve. The Zoo Society believes long-term development potential exists for private hotel operators to locate new buildings on the Zoo Society land and use the Zoo facilities and Ward Preserve for their guests.

The Zoo Society currently operates as a private, nonprofit corporation and will continue to operate as a private entity under the management agreement. The Zoo Society will have tort liability (i.e., responsibility for accidents at the Zoo) for the Zoo operations and will pay any applicable taxes, such as the 3% privilege tax on admissions and the sales tax on any retail sales.

EFFECTIVE DATE: This Bill Draft is effective January 1, 2013, and the operations of the NC Zoo are also transferred January 1, 2013. The Bill Draft authorizes DENR to enter into the management agreement and act on any transitional requirements prior to January 1, 2013.

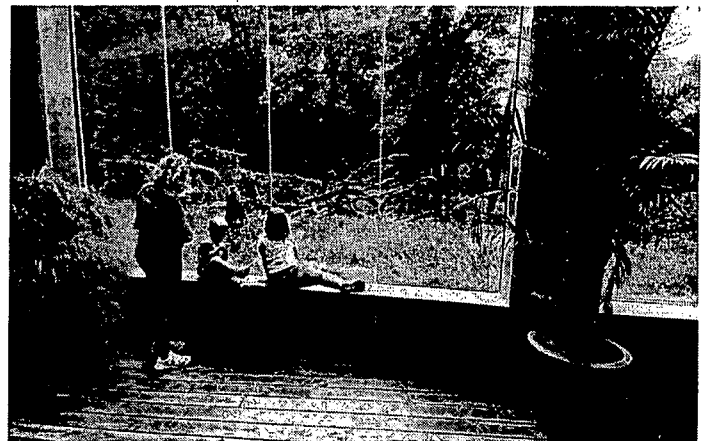
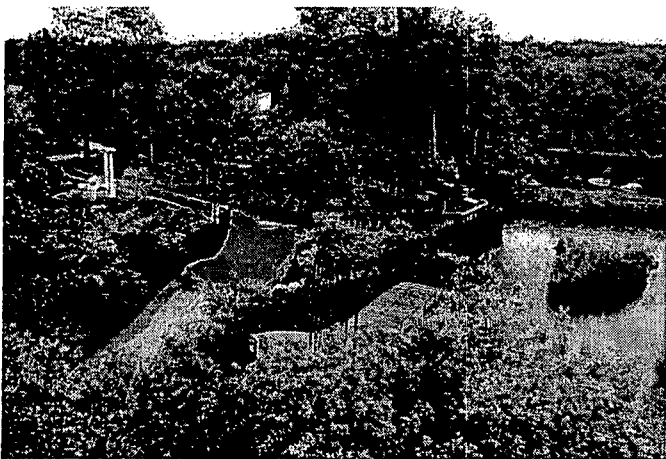
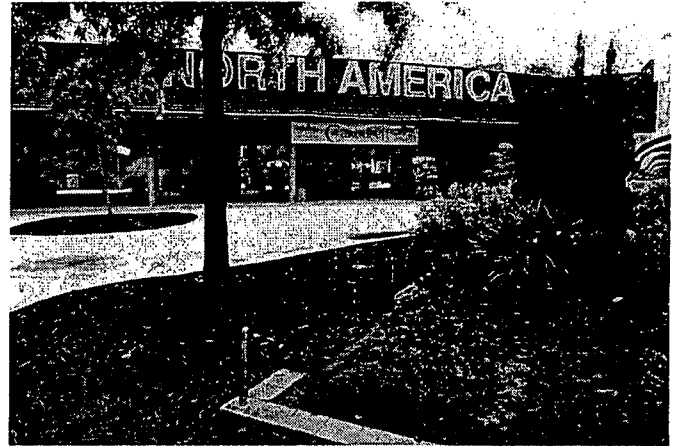
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*House Public/Private Committee Presentation
Friday, February 17th, 2012*



North Carolina Zoo

*The Future Zoo
Expansion and Governance*





World Center
ZOO



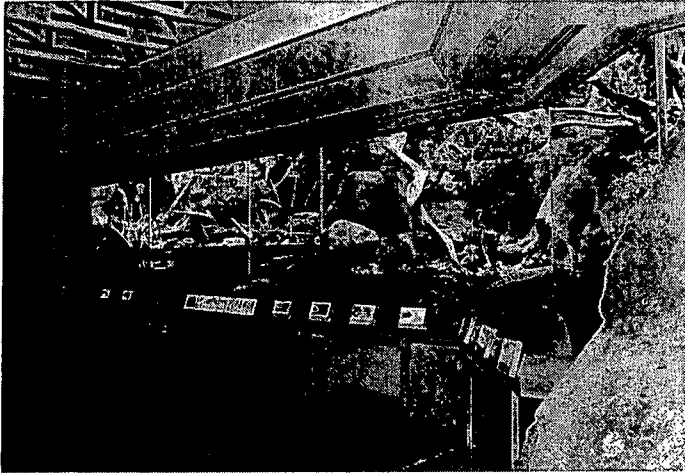
World Center
ZOO



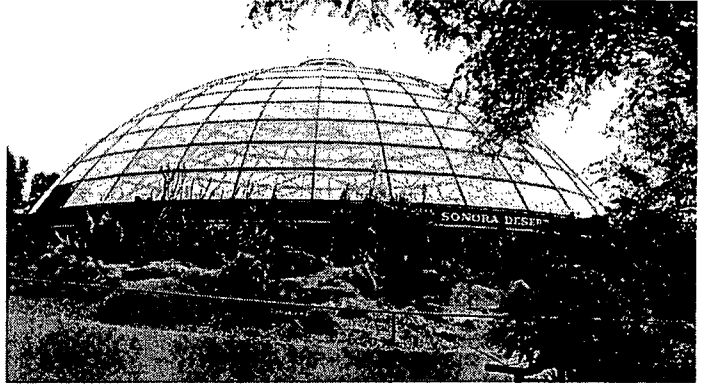
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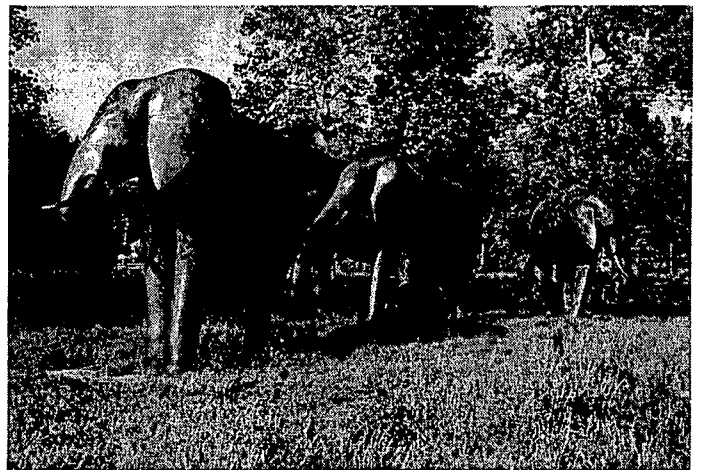
San Diego ZOO



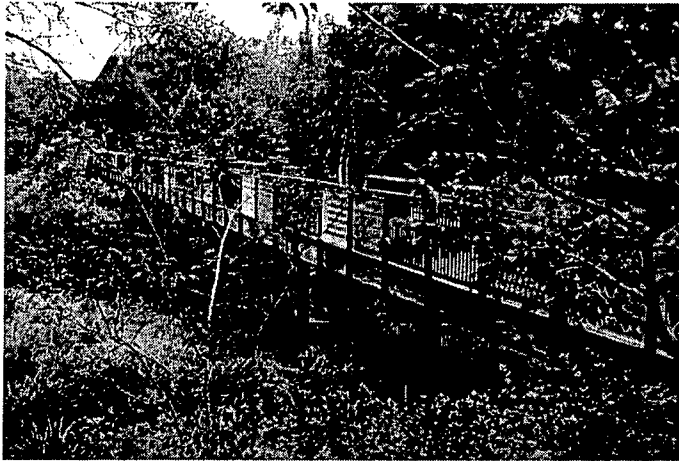
San Diego ZOO



San Diego ZOO

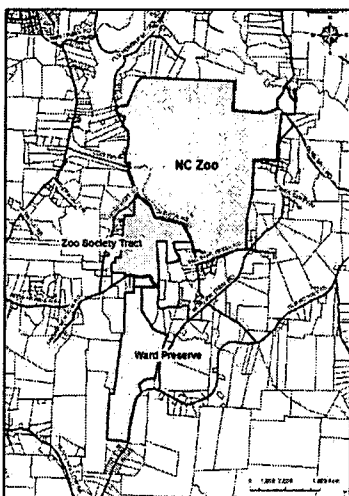


San Diego ZOO



North Carolina Zoo

Expansion Plans



Asia

- *Asia would occupy undeveloped space between the two existing parking lots*
- *Primary focus will be on China and India with some exhibits devoted to Southeast Asia*
- *This area will have the potential for exhibiting Tiger, Orangutan, Indian Rhinoceros, Snow Leopard, Camel, Colorful Pheasant and possibly Panda*



North Carolina Population

25 Mile Radius	.27 Million
50 Mile Radius	1.8 Million
100 Mile Radius	(2011 Population Estimate) 7.5 Million
100 Mile Radius	(2014 Population Estimate) 8.2 Million



Peripheral Land

- Zoo must create its own "Critical Mass"
- Heavy regional competition for Water Parks and Family Entertainment Centers
- Most of competing facilities are located in Urban Areas



Peripheral Land

Enhanced Option

- 250-300 Rooms. 4-Star Standard
- 50 upscale cabins with 4-8 beds each
- Expanded restaurant and retail facilities
- Significant family oriented recreation facilities- water, adventure play, biking and horses
- Would support \$105 Million dollar investment
- Operating net income \$11 Million dollars (24%)



Annual Economic Impact

Existing Zoo Facilities

Expenditures:	\$146 Million
Employment:	1,655 Jobs
Tax Impact:	\$2.9m Randolph County \$5.3m State of North Carolina

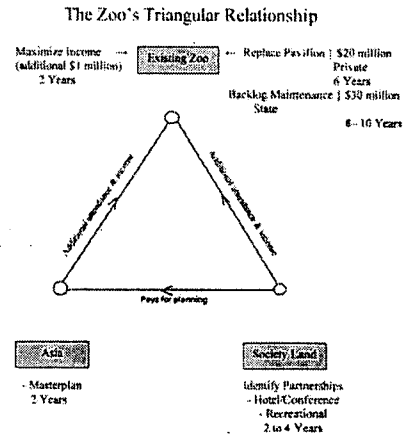


Annual Economic Impact

Peripheral Land

Enhanced Peripheral land plus existing Zoo

Expenditures: \$264 Million
 Employment: 2,630 Jobs
 Tax Impact: \$5.3m Randolph County
 \$9.7m State of North Carolina



North Carolina Zoo Governance Study Update

Why Zoos Consider a Shift in Governance

- 75% of AZA accredited zoos under private management – most with public partners – true PPP... (public/private partnership)
- Creates an entrepreneurial business approach
- Provides flexibility in response to staffing & visitors
- Allows for cost efficiencies by eliminating the duplication of efforts and in purchasing services



Why Zoos Consider a Shift in Governance

- Creates market-based pricing strategies
- Offers a re-investment strategy as "what is earned at the Zoo is invested in the Zoo"
- Strengthen private financial support for the Zoo
 - Investment in new facilities, exhibits and attractions
 - Provides new opportunities to engage the regional & State-wide communities
- Solidify the Zoo's annual funding structure

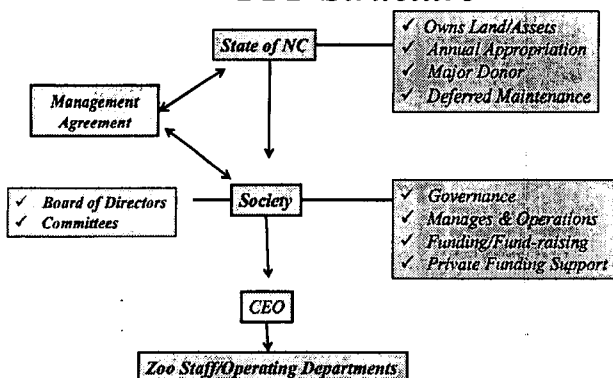


Why Zoos Consider a Shift in Governance

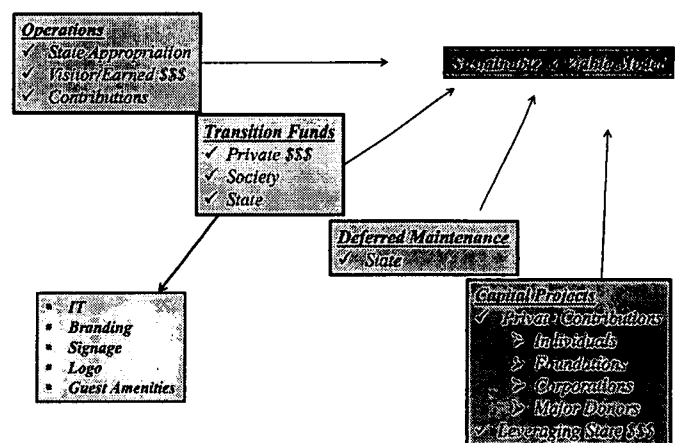
- Develop strategic partnerships to increase income and investment
- Speed up decision making process
- Encourage a management culture best suited to the Zoo's Needs
- Enables long-term planning and resultant timely actions



Potential Organizational Structure under PPP Structure

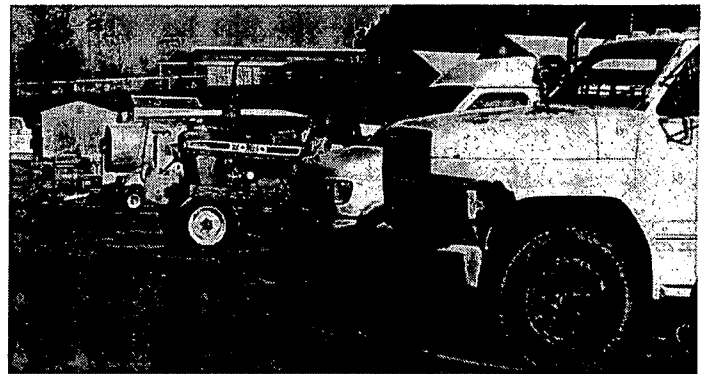
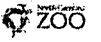
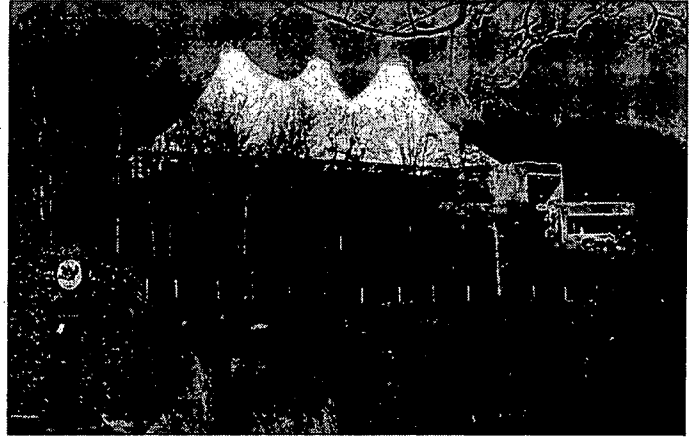


Strategic Funding Model



Deferred Maintenance

<i>Building Repairs</i>	<i>19.0 m</i>
<i>Exhibits/Fencing/Glass</i>	<i>4.0 m</i>
<i>Parking/Roads/Paths</i>	<i>2.5 m</i>
<i>Heavy Vehicles</i>	<i>2.0 m</i>
<i>Water/Sewer/Irrigation</i>	<i>1.5 m</i>
<i>Electrical/Energy</i>	<i><u>1.0 m</u></i>
	<i>30.0 Million</i>



Transition Needs

- *Technology-phones/computers/servers/software*
- *Signage-Banners/Branding/On-site Signs*
- *Equipment-Vehicle Replacements/Maintenance*
- *Training-Employees and Volunteers*
- *Master Planning-Must be updated*



Appropriations

FY	Actual Attendance	Actual State Appropriation
2001-02	671,619	\$7,363,259
2001-03	576,093	\$8,251,717
2003-04	676,956	\$8,075,987
2004-05	709,030	\$8,688,470
2005-06	682,977	\$9,437,318
2006-07	746,650	\$10,576,732
2007-08	729,500	\$11,472,868
2008-09	729,615	\$11,483,834
2009-10	749,627	\$11,131,782
2010-11	741,119	\$11,451,024



Key Points

- *\$10 Million in appropriations*
- *\$5 Million a year for 6 years to catch up on backlog maintenance (Total \$30 Million)*
- *\$3 Million transition*



Key Points

- *Maintenance of High Quality, World Class Facility*
- *Flexible, Entrepreneurial, Time Sensitive Business Approach*
- *Increased Private Support*
- *Creation of Income Generating Partnerships*





Committee Sergeants at Arms

NAME OF COMMITTEE HS on Public-Private Partnerships

DATE: 4.24.2012 Room: 544

House Sgt-At Arms:

1. Name: Larry Elliott
2. Name: Carlton Adams
3. Name: Fred Hines
4. Name: _____
5. Name: _____

Senate Sgt-At Arms:

1. Name: _____
2. Name: _____
3. Name: _____
4. Name: _____
5. Name: _____

VISITOR REGISTRATION SHEET

HS on Public-Private Partnerships

4.24.2012

Name of Committee

Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME

FIRM OR AGENCY AND ADDRESS

Mary Joartugh	NC ZOO
Kara Weishaar	NCTTC
Walden Jones	Jordan Price
Michelle Frazier	MATS
Jessi Hayes	NCHBA
Diana Rees	DENR
Mary Penny Thompson	DENR
Spens Fuggu	DOA
Chris Agnee	DOA
CHARLES SHAUB	NC ZOO
Betsy Brisley	PI NC

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FIRM OR AGENCY AND ADDRESS

East Johnson	Zoo Society
Neal Conroy	NC Ag. Soc.
Jason Sayers	Safran Law Offices
Ellis Powell	CAPA
Sarah Hardin	CenturyLink
Steve Brewer	CTC
Tommy Pearson	TWC
Bill Phillips	TWC
Anne Murtha	DCR
Suzanne Beasley	SEANC
Cady Thomas	NCAAR

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NAME

FIRM OR AGENCY AND ADDRESS

Jay Stem	NCAA
Michelle Wright	Curran
Kati Barnes	DENR
● Mary Wilder	DENR
David Griffin	DENR
David Knight	DENR
Ellie Quick	Trouthorn Seeders
Matt Farrell	NCSBA
Doug Lewis	DENR
SOLARI	DST
● Doug Heron	Williams Mullen