



# JTC Public-Private Partnership (P3) Work Group

Project Overview and Update for the Joint Transportation  
Committee

October 9, 2023



**CDM  
Smith**



# Overview

**5 min**

## **Overview of the P3 Work Group and Study proviso**

- Allegra Calder, BERK Consulting

**5 min**

## **Overview of P3s**

- Jeff Doyle, CDM Smith

**10 min**

## **Washington's experience with P3s and items to be addressed in the study**

Jeff Doyle, CDM Smith

**10 min**

## **Q&A**



# P3 Study and Work Group Overview



# P3 Study and Work Group proviso

from Section 204 of the 2023-25 Transportation Budget

- **Study and recommend a new statutory framework** for the department's public-private partnership program.
- **Review the 2012 joint transportation committee's "Evaluation of Public-Private Partnerships" study**, consisting of:
  - **an evaluation of the recommendations for replacing chapter 47.29 RCW** and
  - **development of a process for implementing public-private partnerships** that serve the defined public interest, including, but not limited to:
    - Protecting the state's ability to retain public ownership of assets constructed or managed under a public private partnership contract;
    - Allowing for the most transparency during the negotiation of terms of a public-private partnership agreement; and
    - Addressing the state's ability to oversee the private entity's management of the asset.
- **Identify any barriers to the implementation of funding models** that best protect the public interest, including statutory and constitutional barriers.
- May also **evaluate public-private partnership opportunities for**
  - required fish passage and culvert work on state highways,
  - for the construction of, replacement of, or commercial retail options within Washington state ferries' terminals, and
  - for other projects as determined by the work group.
- **Update the 2012 recommendations and devise an implementation plan** for the state.
- **Submit a preliminary report, including any recommendations or draft legislation**, to the office of the governor and the transportation committees of the legislature by **December 15, 2023**, and **a final report with draft legislation** to the same by **July 1, 2024**.

# Work Group membership

Work Group Member	Representative or Designee
<b>Joint Transportation Committee Executive Committee Members</b> (or designees)	<b>Co-Chair, Sen. Marko Liias</b> <b>Co-Chair, Rep. Jake Fey</b> <b>Sen. Curtis King</b> <b>Rep. Ed Orcutt</b>
<b>Office of the Governor</b>	<b>Debbie Driver</b> , Senior Policy Advisor - Transportation
<b>Secretary of Transportation</b> (or designee)	<b>Anthony Buckley</b> , Director of Innovative Partnerships, WSDOT
<b>State Treasurer</b> (or designee)	<b>Jason Richter</b> , Treasurer's Office
<b>Representative of a national nonprofit organization specializing in public-private partnership program development</b>	<b>Lisa Buglione</b> , AIAI
<b>Representative of the construction trades</b>	<b>Jennifer Ziegler</b> , National Construction Alliance
<b>Representative from an organization representing general contractors</b>	<b>Geoff Owen</b> , Kiewit Construction, Association of General Contractors of Washington

# What We Heard from Work Group Interviews

- Range of experience with, and understanding, of P3
- Openness to explore it as another tool for project delivery – won't solve all transportation needs
- Benefits noted include accelerated delivery, project bundling, innovation potential, opportunities to address other state needs
- Concerns about timeline and not wanting to be pressured to take action
- Desire to define success for the project and articulate the State of Washington's goals for P3
- Learn from and adapt what is done elsewhere - don't overcomplicate it - competition is national and has choices about where they work



# Overview of P3s



# P3 overview

## ■ P3 Definition

A competitively bid, performance-based contract between the public sector and the private sector (often several companies working together) to arrange financing, delivery, and typically long-term operations and maintenance of public infrastructure for residents.

### Sources:

- [Evaluation of Public Private Partnerships, Washington State JTC, January 2012](#)
- [The World Bank PPP Reference Guide 3.0](#)
- [USDOT Build America Bureau, Public-Private Partnerships \(P3\)](#)
- [FHWA Public-Private Partnership \(P3\) Procurement: A Guide for Public Owners, March 2019](#)

## ■ Common Features

- Private partner is contractually obligated to fulfill the project agreement (at risk of losing its investment and future revenue).
- Most often used for major, technically complex projects that carry greater risks.
- Lifecycle cost calculations, which includes financing costs, are key to determining whether a P3 delivery model is “worth it.”

## ■ Common Misconceptions

- Involves selling public assets to the private sector. *Reality: The public sector typically retains ownership of underlying assets and leases to the private partner.*
- Provides private funding for projects lacking public funding. *Reality: The private sector provides financing that must be repaid through existing or new revenue sources such as tolls, taxes or fees.*
- No open competition for contracts (including construction). *Reality: P3 teams may compete for contracts.*



# Conventional vs. P3 procurement

- Conventional delivery:**

A public entity controls design, construction, operations and maintenance phases and uses all public funding.

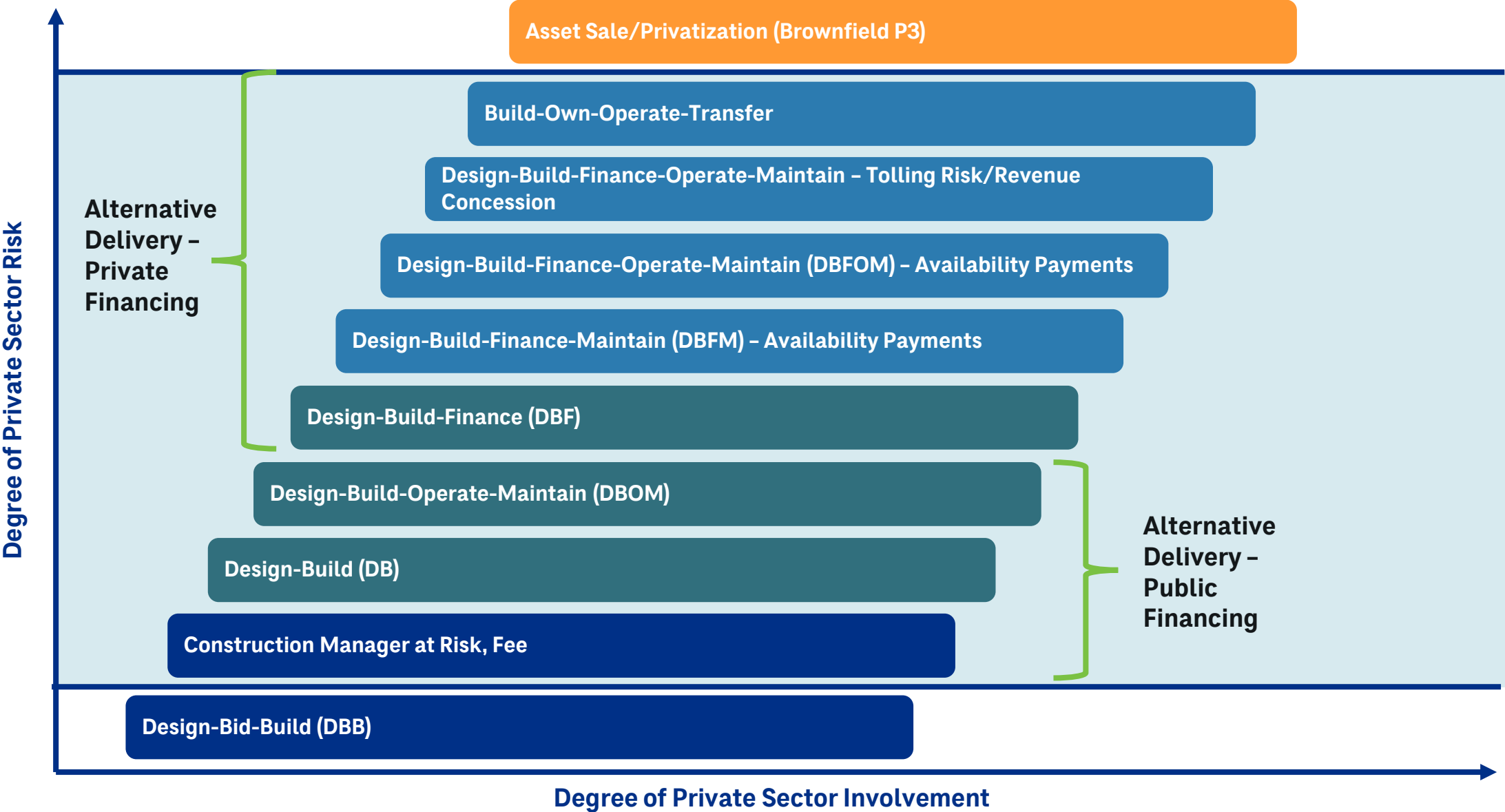
- P3 delivery:**

A private partner engages in some mixture of design, construction, financing, operations, and maintenance. The private partner assumes a varying degree of risks and potential benefits.

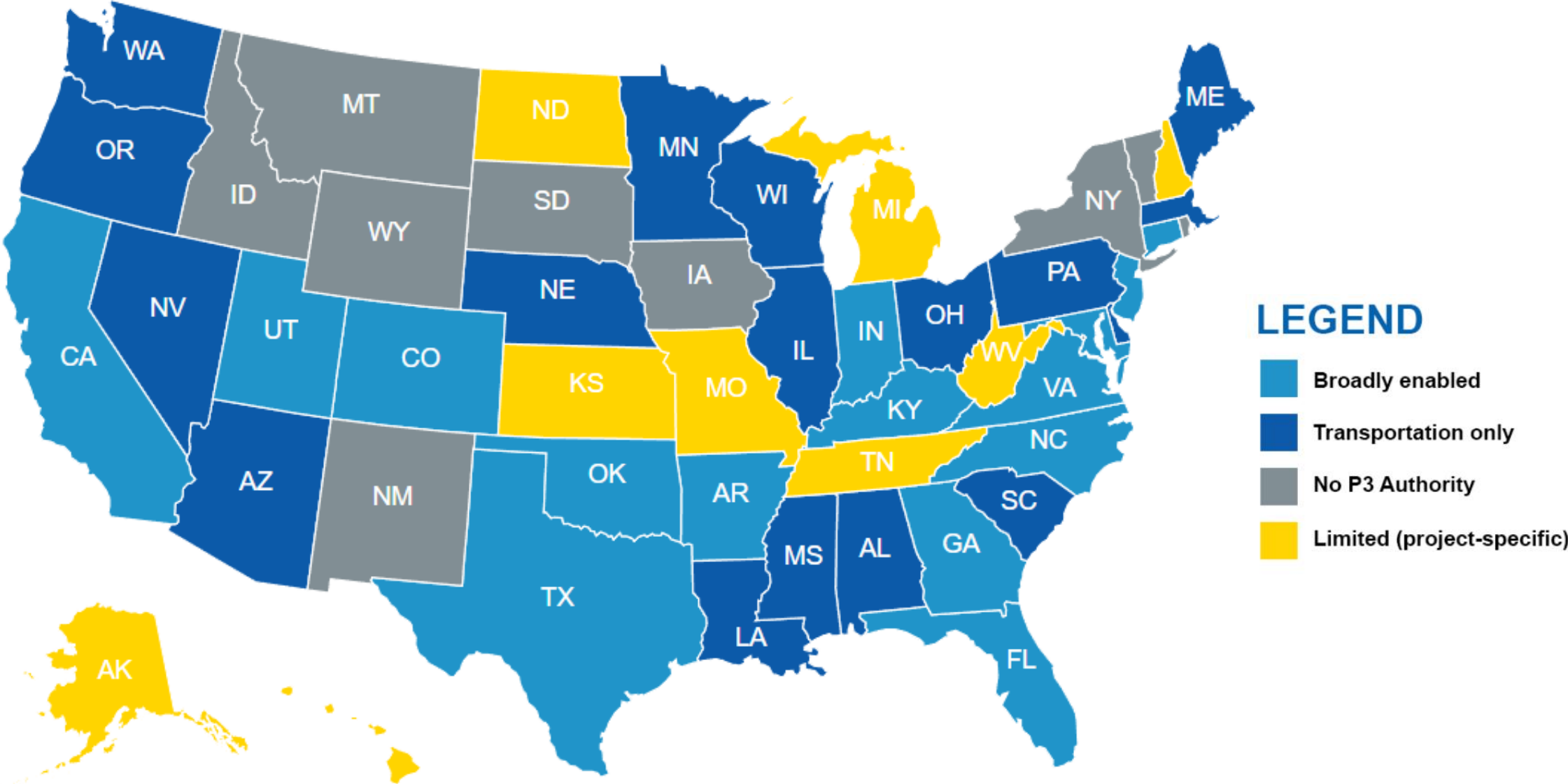
	Conventional	P3 Projects
<b>Types</b>	Design-Bid-Build	Design-Build-Finance Design-Build-Finance-Maintain Design-Build-Finance-Operate-Maintain
<b>Risk</b>	Public sector shoulders all design, construction, operations and maintenance risks	Risk shared between public and private partners
<b>Contracts</b>	Succession of separate (and multiple) contracts	Integration of two or more project phases
<b>Financing</b>	Public financing	Private financing (except design-build)
<b>Bidding</b>	Generally lowest bidder (construction)	Best-value bidder

Source: Adapted from [FHWA Office of Innovative Program Delivery, Center for Innovative Finance Support](#)

# Project delivery structures



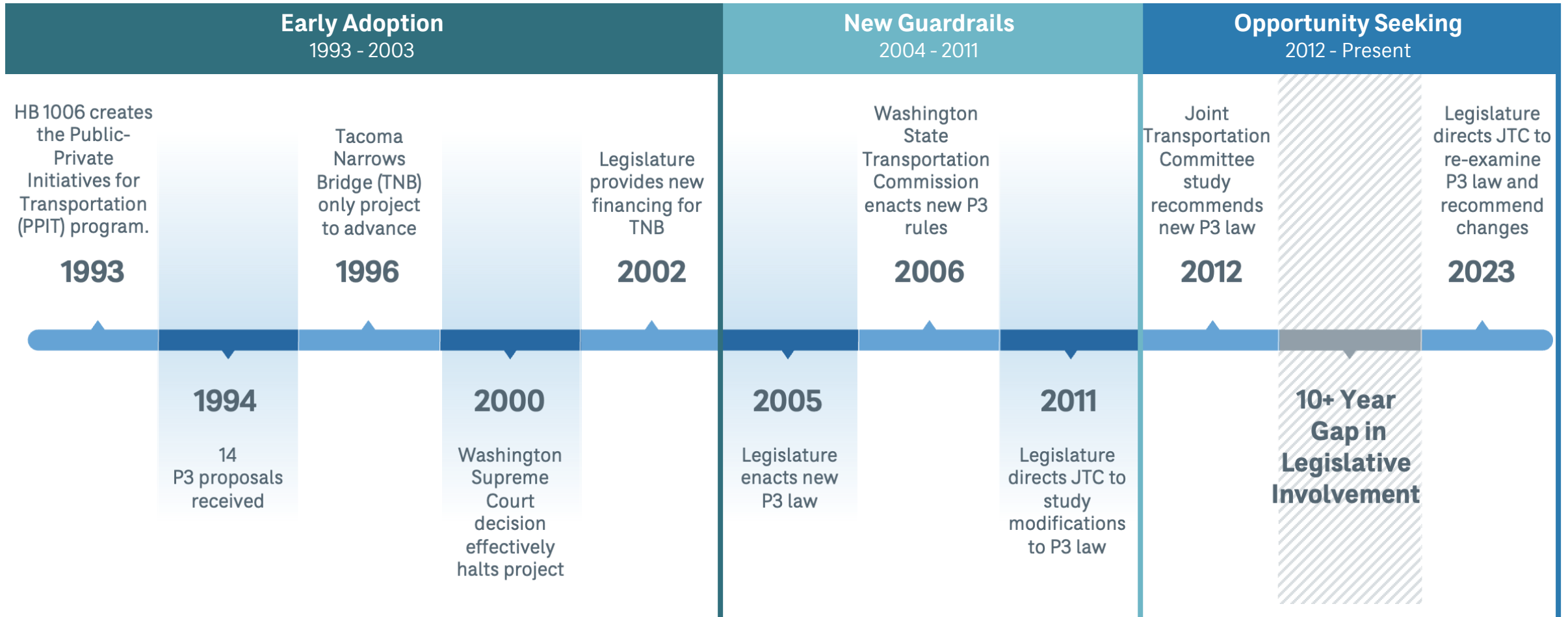
# United States P3 legislation



A blurred, high-angle photograph of a multi-lane highway with an overpass, overlaid with a dark blue gradient. The image is used as a background for the slide.

## Washington's experience with P3s and items to be addressed in the study

# Washington history with transportation P3s



# Tradeoff: security vs. opportunity



## Peak attribute of RCW 47.29:

Institutionalizes the least-cost public funding/financing approach used in the TNB project



## RCW 47.29's main drawback:

Limits opportunities to pursue new P3s for transportation projects, programs, or priorities.



# Washington's P3 statute: Examples of issues to examine

- Post-procurement review and approval process for P3 projects?
- Maintenance of public facilities must be provided in a manner consistent with collective bargaining agreements?
- Additional public involvement is required prior to (and after) execution of a P3 agreement?
- P3 projects cannot be financed with privately-issued debt?

# Each Work Group meeting has an overall objective, with specific agenda items and outcomes in support

## ✓ MEETING 1

September 2023



### Established common understanding

- Introductions by Work Group members, overview of the P3 study directive, Work Group meeting schedule, deliberation process, and ground rules.
- Overview of the fundamentals of P3s and key issues for Work Group consideration.
- Washington's experience with P3s, including a higher-level overview of RCW 47.29, Washington's current P3 law.

## ▶ MEETING 2

October 2023



### Review of P3 challenges and opportunities

- How other states have addressed P3s, in law and practice.
- Washington's ability to deliver large, complicated or innovative transportation projects under current laws and processes.
- Essential elements of a successful P3 enabling statute.
- Challenges and barriers to broader uses of P3s in Washington.

## ▶ MEETING 3

December 2023



### P3 statutory provisions and deliberation

- Review of P3 statutory framework and draft legislative language.
- Discussion of key issues to be resolved.
- Viability of select transportation projects under draft P3 enabling statute.
- Process and schedule for implementation plan development (2024) final report.





**Questions?**