

APPENDIX I

**OVERVIEW OF STATES WITH SIGNIFICANT TRANSPORTATION
PUBLIC PRIVATE PARTNERSHIP (“PPP”) AUTHORITY (As of June 2011)**

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State	Statute	Comments
1. AK	<p>ALASKA</p> <p>http://wwwcf.fhwa.dot.gov/exit.cfm?link=http://www.knikarmbridge.com/documents/HB0471Z_000.pdf</p> <p>STAT. § 19.75</p> <p>http://www.knikarmbridge.com/documents/AmendedAS19.75BYSCSCSHB471.pdf</p>	<p>Authorizes the Knik Arm Bridge and Toll Authority (KABATA) to utilize a PPP to finance, design, construct, operate and maintain the Knik Arm bridge to connect the Municipality of Anchorage and the Matanuska-Susitna Borough. KABATA has authority to set and collect tolls.</p>
2. AL	<p>ALA. CODE §§ 23-1-80 to 23-1-95</p> <p>http://www.legislature.state.al.us/CodeofAlabama/1975/132328.htm.</p> <p>ALA. CODE § 23-2-144</p> <p>http://law.onecle.com/alabama/highways-roads-bridges-and-ferries/23-2-144.html</p>	<p>§§ 23-1-80: Authorizes the Alabama Department of Transportation and county commissions to establish toll roads, toll bridges, ferries or causeways or allow for their operation by private parties. No express provision regarding unsolicited proposals.</p> <p>§ 23-2-144: Authorizes the Alabama Toll Road, Bridge and Tunnel Authority to enter into agreements for design-build, DBOM, DFBOM, leases, licenses, franchises, concessions and other PPP forms for toll road, bridge or tunnel projects.</p>
3. AZ	<p>ARIZ. REV. STAT. § 28-7701 et seq.</p> <p>http://www.azleg.state.az.us/FormatDocument.asp?inDoc=/ars/28/07701.htm&Title=28&DocType=ARS</p>	<p>Authorizes the Arizona Department of Transportation to provide for the development and operation of eligible facilities using a broad range of PPP models, including pre-development agreements, design-build, DBOM, DBFOM and long-term concessions.</p> <p>Sets forth flexible procurement and selection guidelines, and authorizes unsolicited proposals from private entities.</p>

State	Statute	Comments
		<p>Authorizes flexible tolling arrangements and imposes no toll limitations (e.g., no limit on type of vehicle or hour restrictions); allows the Department to accept less than 100 percent performance bonds; exempts PPPs from state, local and property taxes; requires all projects be subject to Arizona's Five Year Transportation Facilities Construction Program; limits initial concessions terms to 50 years, which may be extended; authorizes eminent domain in favor of a PPP project.</p>
<p>4. CA</p>	<p>CAL. PUB. CONT. CODE §§ 6800 to 6813 http://www.leginfo.ca.gov/cgi-bin/displaycode?section=pcc&group=06001-07000&file=6800-6813</p> <p>CAL. STS. & HIGH. CODE § 143 http://www.leginfo.ca.gov/cgi-bin/displaycode?section=shc&group=00001-01000&file=90-155.6</p> <p>CAL. GOV. CODE §§ 5956 to 5956.10 http://www.leginfo.ca.gov/cgi-bin/displaycode?section=gov&group=05001-06000&file=5956-5956.10</p> <p>CAL. PUB. UTIL. CODE § 130242 http://www.leginfo.ca.gov/cgi-bin/displaycode?section=puc&group=130001-131000&file=130220-130245</p> <p>CAL. PUB. CONT. CODE §§ 20360 to 20369 http://www.leginfo.ca.gov/cgi-bin/displaycode?section=pcc&group=20001-21000&file=20360-20369</p> <p>CAL. PUB. UTIL. CODE § 40075 http://www.leginfo.ca.gov/cgi-bin/displaycode?section=puc&group=400</p>	<p>PCC 6800: Expands existing Design-Build Demonstration Program. Authorizes state and local transportation entities, if authorized by the California Transportation Commission, to use design-build on up to five local and ten state projects.</p> <p>S&H 143: Authorizes regional transportation agencies, and the California Department of Transportation (Caltrans) in collaboration with regional transportation agencies, to enter lease agreements with public or private entities for transportation projects; solicited and unsolicited proposals authorized.</p> <p>GC 5956: Authorizes a government agency to solicit proposals from and enter into agreements with private parties for the design, construction, reconstruction or lease of fee-producing infrastructure, including commuter and light rail systems, highways, bridges and tunnels. Precludes use of state funding. Limits lease terms to 35 years.</p> <p>PUC 130242: Authorizes the Los Angeles Metropolitan Transportation Authority to procure a combination of professional services, such as design, construction, operations and maintenance, under one contract. Requires low-bid selection.</p> <p>PCC 20360: Authorizes the Los Angeles County Transportation Commission to enter into contracts with private entities for various services, including planning, design and construction of rail transit projects. Projects may not be funded from local tax revenues or statements, although such funds may be used for credit enhancement; must include system linking LAX and Palmdale airports.</p> <p>PUC 40075: Authorizes the Orange County Transportation Authority (OCTA) to contract with</p>

State	Statute	Comments
	01-41000&file=40070-40081 CAL. PUB UTIL. CODE § 40183 http://www.leginfo.ca.gov/cgi-bin/displaycode?section=puc&group=4001-41000&file=40180-40187	any private corporation to operate or make improvements to transit services, facilities, equipment or operations. PUC 40183: Authorizes OCTA to lease or contract use of its transit facilities to any operator, including any private corporation.
5. CO	COLO. REV. STAT. § 32-9-128.5 COLO. REV. STAT. §§ 43-1-1201 to 43-1-1209 COLO. REV. STAT. § 43-3-202 to 202.5 COLO. REV. STAT. § 43-4-806 http://www.michie.com/colorado/lpext.dll?f=templates&fn=main-h.htm&cp	§ 32-9-128.5: Authorizes the Regional Transportation District to issue Private Activity Bonds (PABs) and loan proceeds from such PABs to private businesses so that private businesses can finance mass transit projects. §§ 43-1-1201 to 43-1-1209: Authorizes the Colorado Department of Transportation to use PPPs to design, finance, construct, operate, maintain or improve a broad range of projects including toll roads, turnpikes and high-occupancy toll lanes. Authorizes solicited and unsolicited proposals. § 43-3-202.5: Authorizes the Colorado Department of Transportation to use PPPs to design, finance, construct, operate, maintain, reconstruct or improve a turnpike project, including new and existing highways, tunnels, toll tunnels, bridges and toll houses. § 43-4-806: Creates a High-Performance Transportation Enterprise, within the Colorado Department of Transportation, to seek out a broad range of PPP opportunities, including design-build and concession agreements, to complete surface transportation projects.
6. DE	DEL. CODE ANN. tit. 2, §§ 2001 to 2012 http://delcode.delaware.gov/title2/c020/index.shtml	Authorizes the Delaware Department of Transportation to receive solicited and unsolicited proposals for PPP projects, including highway, bridge, maritime port, rail and other transit systems.

State	Statute	Comments
7. FL	<p>FLA. STAT. § 334.30</p> <p>http://www.flsenate.gov/Laws/Statutes/2010/334.30</p> <p>FLA. STAT. §§ 338.22 to 338.251</p> <p>http://www.leg.state.fl.us/STATUTES/index.cfm?App_mode=Display_Statute&URL=Ch0338/titl0338.htm&StatuteYear=2009&Title=-_2009-_Chapter_338</p>	<p>§ 334.30: Authorizes the Florida Department of Transportation to receive or solicit PPP proposals to build, operate, own or finance transportation facilities. The Department may use PPPs for both new toll facilities and long-term leases of existing facilities; the Florida Legislature must approve leases of existing toll facilities.</p> <p>Limits PPP agreements to 50-year terms. Authorizes 75-year terms if authorized by the Secretary of Transportation; authorizes longer terms if approved by the Florida Legislature.</p> <p>Authorizes the Department to use eminent domain for PPP projects.</p> <p>§§ 338.22 to 338.251: Authorizes the Florida Turnpike Enterprise to contract with private entities to develop, construct, improve, maintain, operate and manage the Florida Turnpike System (which includes limited access toll highways and associated feeder roads).</p>
8. GA	<p>GA. CODE. ANN. §§ 32-2-78 to 32-2-81</p> <p>http://www.lexis-nexis.com/hottopics/gacode/default.asp</p>	<p>Authorizes Georgia DOT to solicit proposals for PPPs for projects identified by Georgia DOT and reported to the State Transportation Board that (1) (a) are on the state-wide transportation improvement program or (b) otherwise identified, that afford the greatest gains in congestion mitigation or promotion of economic development, and (2) have not been initiated within two years of the report and lack funding. § 32-2-81 provides design-build authority.</p>
9. IN	<p>IND. CODE § 8-15.5</p> <p>http://www.in.gov/legislative/ic/code/title8/ar15.5/</p> <p>IND. CODE § 8-15.7</p> <p>http://www.in.gov/legislative/ic/code/title8/ar15.7/</p> <p>IND. CODE §§ 8-23-7-22 to 8-23-7-25</p> <p>http://www.in.gov/legislative/ic/code/title8/ar23/ch7.html</p>	<p>§ 8-15.5: Authorizes the Indiana Financing Authority to enter into toll road PPPs with private entities. Under a PPP, a private entity may be responsible for a broad range of project delivery services, including planning, design, finance, construction, operation, maintenance and improvement.</p> <p>§ 8-15.7: Authorizes the Indiana DOT to use PPPs to develop, finance or operate a transportation facility. Authorizes private entities to impose user fees. Authorizes the Indiana DOT to use revenue from one PPP project to develop, finance and operate other PPP projects.</p> <p>§§ 8-23-7-22 to 8-23-7-25: Sets forth the process for the Indiana DOT and the Indiana Finance Authority to convert free highways into toll roads; all conversions require governor approval. If the Indiana DOT decides to convert a free highway into a toll road, it may enter into a public-private partnership pursuant to § 8-15.7.</p>

State	Statute	Comments
10. KS	<p>KAN. STAT. ANN. § 68-2314a; §§ 75-5801 et seq.</p> <p>http://kansasstatutes.lesterama.org/Chapter_68/Article_23/68-2314a.html</p> <p>http://kansasstatutes.lesterama.org/Chapter_75/Article_58/</p>	<p>Authorizes the Kansas Department of Transportation to use design-build methodology for innovative pavement management demonstration projects.</p>
11. LA	<p>LA. REV. STAT. § 48:2072</p> <p>http://www.legis.state.la.us/lss/lss.asp?doc=103018</p> <p>LA. REV. STAT. §§ 48:2084 to 48:2084.15</p> <p>http://www.legis.state.la.us/lss/lss.asp?folder=122</p>	<p>Authorizes the Louisiana Transportation Authority to pursue PPPs; authorizes user-fee based funding sources.</p> <p>Authorizes the Authority to approve solicited and unsolicited PPP proposals. The Authority's approval is subject to the private entity's entering into a comprehensive agreement with the Authority.</p> <p>Authorizes the Authority to accelerate selection, review, and documentation timelines for certain proposals if the Authority deems projects have a high probability of success and require no substantial state funding. Authorizes the Authority to convey public property to the private entity and use eminent domain acquire property for a project.</p>
12. MA	<p>MASS. GEN. LAWS ch. 6C §§ 62-73</p> <p>http://www.mass.gov/legis/laws/seslaw09/sl090025.htm</p>	<p>Creates the Massachusetts Department of Transportation and authorizes the Department in conjunction with the Public-Private Partnership Infrastructure Oversight Commission, to enter into DBOM and DBFOM contracts for the sale, lease, operation and maintenance of a transportation facility within the commonwealth.</p> <p>Limits PPPs to 50-year terms; longer terms authorized if approved in writing by the governor.</p> <p>Authorizes solicited and unsolicited proposals. The Department must protect private entities' confidential or proprietary information.</p>

State	Statute	Comments
13. MD	<p>MD. CODE REGS. 11.07.06</p> <p>http://www.dsd.state.md.us/comar/subtitle_chapters/11_Chapters.htm.</p> <p>TRANSPORTATION PUBLIC-PRIVATE PARTNERSHIP (TP3) GUIDELINES, http://www.mdtta.maryland.gov/About/tp3Guidelines.html</p>	<p>Creates the Transportation Public-Private Partnership Program which authorizes the Maryland Transportation Authority (MdTA), on behalf of the Maryland Department of Transportation, to enter into PPPs for new, expanded, or rehabilitated transportation facilities, including railroads and transit systems.¹</p> <p>Additional legislative authority, however, may be needed depending on the form of the transaction. There is also no express provision regarding the acceptance of unsolicited proposals for highway projects.</p> <p>Provides PPP guidelines for the use of MdTA.</p>
14. ME	<p>ME. REV. STAT. ANN. TITLE 23 § 4251</p> <p>http://www.mainelegislature.org/legis/statutes/23/title23sec4251.html</p>	<p>Authorizes the Maine DOT to enter into a PPP for the financing, development, operation, management, ownership, leasing or maintenance of a transportation facility. The law applies to projects when the Maine DOT estimates that the capital cost of the project are \$25,000,000 or more, or when it would involve placing tolls on existing transportation facilities. Maine DOT may accept solicited and unsolicited proposals. Maine DOT must obtain approval by the legislature before entering into an agreement with a private entity.</p>

¹ According to a 1996 Attorney General opinion referenced in the annotations to this statute, MdTA has authority to construct toll roads using certain forms of PPPs. See MD 81 Op. Att'y Gen. (issued 2/2/96).

State	Statute	Comments
15. MI	<p>MICH. COMP. LAWS § 472.1 to 472.36 http://www.legislature.mi.gov/(S(wcuneino4w4cuj55ftscn2zc))/mileg.aspx?page=getObject&objectName=mcl-Act-35-of-1867</p> <p>MICH. COMP. LAWS § 124.401 to 124.406 http://www.legislature.mi.gov/(S(t0pftg55c hnxmwiz3ukejoq2))/mileg.aspx?page=getObject&objectName=mcl-124-406</p> <p>2009 Michigan State Budget, § 384(1)</p>	<p>Sets forth requirements for forming nonprofit street railway companies (i.e., light rail). One or more persons may organize a street railway for the purpose of acquiring, owning, constructing, furnishing, equipping, completing, operating, improving, and maintaining a street railway system. Provides for the establishment of transit development finance zones to finance projects.</p> <p>Authorizes metropolitan transportation authorities to enter service contracts and agreements with private parties for construction or operation of public transportation facilities.</p> <p>Authorizes \$2.5 million for the Michigan Department of Transportation to continue preliminary legal, financial, traffic and revenue studies, permitting, engineering and other ancillary work for the Department to solicit PPP proposals for the Detroit River International Crossing.²</p>
16. MN	<p>MINN. STAT. ANN. §§ 160.85</p> <p>http://www.revisor.leg.state.mn.us/revisor/pages/statute/statute_chapter_toc.php?chapter=160.</p>	<p>Authorizes a Road Authority to solicit proposals or accept unsolicited proposals from and enter into development agreements with private operators to develop, finance, design, construct, improve, rehabilitate, own, and operate toll facilities.</p>
17. MO	<p>MO. REV. STAT. §§ 227.600 to 227.699</p> <p>http://www.house.mo.gov/billtracking/bill_s091/biltxt/truly/HB0683T.HTM</p> <p>MO. REV. STAT. §§ 238.300 to 238.367</p> <p>http://www.moga.state.mo.us/STATUTE/S/C238.HTM</p> <p>MO. REV. STAT. §§ 238.400 to 238.412</p> <p>http://www.moga.state.mo.us/STATUTE/S/C238.HTM</p>	<p>Expands Missouri's Public-Private Partnership Transportation Act, authorizing the Highways and Transportation Commission to preliminarily approve PPPs for pipeline, ferry, river port, airport, railroad, light rail or other mass transit facilities. The Commission requires approval by popular vote to pursue project types not specifically authorized by legislation (e.g., highways). All projects must be approved by majority vote of the state's Joint Committee on Transportation Oversight. No express provision authorizes solicited and unsolicited proposals.</p> <p>Establishes the Missouri Transportation Corporation Act, which authorizes the creation by private parties of special purpose non-profit corporations, or transportation corporations, to obtain rights-of-way for and assist in the planning and design of transportation facilities, including mass transit facilities. No express provision authorizes solicited and unsolicited proposals.</p> <p>Authorizes transit authorities to plan, construct, operate, maintain, or lease to or contract with others for operation and maintenance of infrastructure facilities including passenger</p>

² The Michigan Department of Transportation plans to submit PPP proposals to the legislature by May 1, 2010; the Michigan Legislature plans to adopt or reject authorizing legislation by the full legislative bodies by June 1, 2010.

State	Statute	Comments
		transportation systems. This statute does not mention either design-build or PPPs.
18. MS	<p>MISS. CODE ANN. § 65-43-1 http://law.justia.com/codes/mississippi/2010/title-65/43/65-43-1/</p> <p>MISS. CODE ANN. § 65-43-3 http://law.justia.com/codes/mississippi/2010/title-65/43/65-43-3/</p> <p>MISS. CODE ANN. § 65-43-7 http://billstatus.ls.state.ms.us/2007/pdf/history/SB/SB2375.htm#title</p>	<p>Authorizes a governmental entity to construct, operate and maintain new toll road and toll bridges. Tolloed facilities authorized only if built alongside alternate, free facilities.</p> <p>Authorizes a government entity to contract with private entities for designing, financing, constructing, operating or maintaining toll roads or toll bridges. Solicited and unsolicited proposals are authorized. Best-value selection process is authorized. Limits contract term to 50 years; no extensions permitted. Toll collection must cease upon termination of contract.</p> <p>Authorizes board of supervisors, counties or municipalities to borrow money to fund projects. Authorizes use of project revenues, including grants or contributions from the federal government, to service bond debt.</p>
19. NC	<p>N.C. GEN. STAT. §136-18 (39) http://www.ncga.state.nc.us/enactedlegislation/statutes/html/bysection/chapter_136/gs_136-18.html</p> <p>N.C. GEN. STAT. § 136-28 (Westlaw cite: SB 648, NC LEGIS. 2009-235 (2009))</p> <p>N.C. GEN. STAT. §§ 136-89.180 to 136-89.198 http://www.ncleg.net/EnactedLegislation/Statutes/HTML/ByArticle/Chapter_136/Article_6H.html</p>	<p>Authorizes the North Carolina Department of Transportation to enter into PPPs with private entities to finance transportation infrastructure and to plan, design, develop, acquire, construct, equip, maintain, and operate existing rail and rail-adjoining properties.</p> <p>Authorizes the Department to form PPPs to engineer, design or construct improvements to the state highway system. The Department's authority under SB 648 expires December 31, 2011.</p> <p>Authorizes the North Carolina Turnpike Authority to develop, construct, operate and maintain up to nine toll facilities, including a toll bridge. Unsolicited proposals not authorized.</p>

State	Statute	Comments
20. NJ	N.J. STAT. ANN. §§ 27:25-1 et seq.	Authorizes New Jersey Transit to award contracts, based on competitive proposals, to the proposer that submitted the proposal determined to “be the most advantageous to the State, price and other factors considered.” ³
21. NV	NEV. REV. STAT. §§ 338.161 to 338.168 http://www.leg.state.nv.us/NRS/NRS-338.html#NRS338Sec161 .	Authorizes public bodies to accept unsolicited proposals to develop, construct, improve, maintain or operate transportation facilities. Toll bridge and toll road projects prohibited under this statute.
22. OH	OHIO REV. CODE ANN. § 5531.09 http://codes.ohio.gov/orc/5531 OHIO REV. CODE ANN. § 5531.12 http://codes.ohio.gov/orc/5531	<p>Authorizes the director of transportation to develop financing techniques that maximize private and local participation in financing projects.</p> <p>Authorizes the director to use the state infrastructure bank to provide financial assistance to public and private entities for qualified projects; such assistance shall be in the form of loan, loan guarantees, letters of credit, leases, lease-purchase agreements, interest rate subsidies, debt service reserves or other forms the director deems appropriate. A qualified project is any public or private transportation project including any project involving the maintaining, repairing, improving, or construction of any public or private highway, road, street, parkway, public transit, aviation, or rail project, and any related rights-of-way, bridges or tunnels.</p> <p>Creates State Transportation Finance Commission within the Ohio Department of Transportation and authorizes it to approve toll projects at locations approved by the director of transportation. Tolls not authorized on existing non-tolled facilities.</p>

3 New Jersey Transit used this authority for Hudson-Bergen LRT and River LINE DBOM projects.

State	Statute	Comments
23. OR	OR. REV. STAT. §§ 367.800 to 367.826. http://www.leg.state.or.us/ors/367.html . OR. REV. STAT. §§ 383.001 to 383.019 http://www.leg.state.or.us/ors/383.html .	Establishes the Oregon Innovative Partnerships Program which authorizes the Oregon Department of Transportation to solicit and accept unsolicited proposals for PPPs for transportation projects, including transit. Authorizes the Department to solicit and accept unsolicited PPPs for tollway projects.
24. PR	P.R. LAWS ANN. tit. 9, §§ 2001 to 2021	This Spanish language statute establishes a toll transportation facility authority with broad powers to authorize private participation in public highway projects.
25. SC	S.C. CODE ANN. §§ 57-3-200 http://www.scstatehouse.net/code/tit157.htm .	Authorizes the South Carolina Department of Transportation to enter into agreements to finance, construct and maintain highways, roads, streets, and bridges.
26. TN	TENN. CODE ANN. § 54-3-101 et seq. http://www.michie.com/tennessee/lpext.dll?f=templates&fn=main-h.htm&cp=tncode	Authorizes the Tennessee Department of Transportation to contract with private parties, the federal government, or other governmental agencies for the purpose of developing or operating a toll way or toll facility. Design-build is expressly authorized. Tolling authority limited to Pilot Program projects which include either: two highways or two bridges; or one highway and one bridge.
27. TX	TEX. TRANSP. CODE ANN. §§ 223.001 to 223.209; 227.001 to 227.083; 228.001 to 228.254; 370.001 to 370.365 http://tlo2.tlc.state.tx.us/statutes/tn.toc.htm . TEX. TRANSP. CODE ANN. §§ 451.801 to 451.812	Authorizes the Texas Department of Transportation, the Texas Turnpike Authority, and Regional Mobility Authorities to accept solicited and unsolicited proposals for PPPs, and to enter into comprehensive development agreements. If the agreement provides for collection of tolls by the private entity, the terms of the agreement may not exceed 50 years, except that the terms may be increased to 70 years if certain requirements are satisfied. ⁴ Authorizes Metropolitan Transit Authorities to use a “hybrid delivery system” to procure transit facilities.

⁴ On July 2, 2009, Texas rejected SB17 and SB404, bills that would allow TxDOT to enter into long-term leases with private companies (the current law allowing for the 50 year contracts mentioned above expires Sept. 1, with the exception of a short list of proposed roads that have until 2011). The new law does authorize a \$2 billion transportation bonding bill but does not place bond revenues back in the fund.

State	Statute	Comments
	<p>http://tlo2.tlc.state.tx.us/statutes/tn.toc.htm</p> <p>TEX. LOC. GOV. CODE ANN. §§ 271.181 to 271.199</p> <p>http://tlo2.tlc.state.tx.us/statutes/lg.toc.htm</p>	<p>Authorizes local governmental entities to use best-value criteria to select design-builders for construction, rehabilitation, alteration, or repair of civil works projects, including transit projects.</p>
28. UT	<p>UTAH CODE ANN. §§ 63-56-502.5; 72-6-118; 72-6-201 to 72-6-206</p> <p>http://www.le.state.ut.us/~code/TITLE63/63_29.htm;</p> <p>http://www.le.state.ut.us/~code/TITLE72/72_06.htm.</p>	<p>Authorizes the Utah Department of Transportation, with approval from the Transportation Commission, to accept solicited and unsolicited proposals for PPPs involving toll way facilities through the use of “toll way development agreements.”</p>
29. VA	<p>VA. CODE ANN. §§ 56-556 to 56-575</p> <p>http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+TOC560000000220000000000000.</p>	<p>Establishes Public-Private Transportation Act of 1995 which authorizes PPPs for transportation facilities, including mass transit facilities. This statute authorizes solicited and unsolicited proposals, and contains detailed guidelines to assist VDOT and other public entities in implementing PPPs.</p>
30. WA	<p>WASH. REV. CODE §§ 47.29.010 to 47.29.900</p> <p>http://apps.leg.wa.gov/rcw/default.aspx?Cite=47.</p>	<p>Authorizes PPPs for transportation projects, which include capital or operating transit projects. Revenue-negative transit projects can be pursued under this statute, but if they are to be operated as public facilities, any indebtedness must be issued by the state treasurer.</p>

