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Policy Paper

Reinventing the Building of Schools

The Real Legacy of Public-Private-Partnership (P3) Schools in Nova Scotia

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Halifax, Nova Scotia

May 2017

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About the Author

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Dr. Bennett is a Halifax author, education professor, policy researcher and news commentator. Prior to completing his doctorate at the University of Toronto, Paul earned an Hons. B.A. in History and Political Science (York), a M.A. in History (York), and a B.Ed. from the University of Toronto. Over a career spanning four decades, Paul has taught high school history, authored three national textbooks, headed two leading independent schools, produced many policy papers and written or co-authored eight books. His three most recent books are *The Grammar School: Striving for Excellence in a Public School World* (2009), and *Vanishing Schools, Threatened Communities; The Contested Schoolhouse in Maritime Canada,* 1850 -2010 (2011), and *The Last Stand: Schools, Communities and the Future of Rural Nova Scotia* (2013).

Today Paul is primarily an education policy analyst and commentator, producing regular columns for *The Chronicle Herald, The Globe and Mail,* and *The National Post* and a variety of other publications. His most recent academic articles have appeared in *The Journal of Sports History, Historical Studies in Education, Acadiensis, Canadian Issues,* and the *Royal Nova Scotia Historical Society Journal.*

Over the past seven years, he has produced major policy papers for the Atlantic Institute for Market Studies, the Northern Policy Institute, the Society for Quality Education, and the Canadian Accredited Independent Schools Association. He specializes in K-12 educational policy, education history, educational standards, school governance, teacher education, and special education services.

Currently, Paul serves as Chair of the Board of the Halifax Regional Library Board, and Vice Chair of the Board at Churchill Academy, a Dartmouth school for students with learning challenges.

Executive Summary

The current research report, *Reinventing the Building of Schools,* seeks to dispel the enduring myths associated with Nova Scotia's foray into Public-Private Partnership (P3) schools from their inception in the mid-1990s until the present. With the 20-year P3 school contracts expiring over the next few years, it seemed to be an opportune time to take stock of the successes and shortfalls, to assess the real value of the whole initiative, to identify a few public policy lessons, and to suggest a few ways to build upon the P3 schools legacy in school planning, innovation, and management.

Public criticisms of the P3 school deals have been overstated and amplified by politically-driven research which makes little or no reference to the later participation of OMERS, a major Ontario union pension fund. The critical issue is not whether the province should purchase or "buy-out" the private contractors or not, but how we can sustain the innovative impulse unlocked by the first generation of P3s – nurture the innovative ideas, re-capture entrepreneurial spirit, and move ahead with a more flexible, integrated and responsive school building process.

Recent public revelations about "queue jumping" in the N.S. school construction approvals process also suggest that political interference in deciding where schools are built or renovated is a public issue of considerable concern. Building upon research conducted for this policy paper and the lessons gleaned from recent Nova Scotia Auditor General reports, I suggest that the Government of Nova Scotia, the Department of Education and Early Childhood Development, regional school boards, and potential private sector partners consider and act upon the following recommendations:

1. Make school capital planning a higher priority of the government and initiate a multi-year school construction and renovation planning process.
2. Establish a Capital Asset Management Framework (CAMF) and expand the range of strategic options from public procurement to alternative service models. End the current counterproductive division of responsibilities in school planning between the department and school boards.
3. Build upon the foundation laid by public-private partnerships by establishing "Partnerships NS," as a P3 advisory committee, tapping into entrepreneurial innovation.
4. Expand the network of school-level facilities management teams from P3 schools to regular schools, as a demonstration of community engagement.

5. Conduct a comprehensive audit of the P3 school planning and management venture assessing the hard lessons, community impact, costs and benefits to the public.
6. Develop a new set of provincial guidelines for identifying P3s, including clear performance standards and criteria for selection.
7. Establish criteria for evaluating progress in reinventing school planning and management process, drawing upon the latest research in public sector management, including value-for-money (VfM) analysis and P3 screening.

Introduction:

Innovation Injection and Rejection

"We believe P3 models are largely misunderstood and often misrepresented in public discussion…."

— Paul LaFleche, Deputy Minister of Transportation and Infrastructure Renewal, Testimony, Public Accounts Committee, Nova Scotia Legislature, January 25, 2017.

Nova Scotia's Public-Private Partnership (P3) schools have attracted more than their share of "scare stories" since their inception two decades ago. The first ventures, graphically symbolized by the new Horton High School in Wolfville, NS, tagged the "Taj Mahal," built at a total cost of over $30-million, cemented in the public mind the image that private-public partnerships drove costs up, exemplified lavish spending, and enriched private developers (Sheppard 1998). In December 2015, the public reputation of P3 schools took another hit. An Access to Information release obtained by the Nova Scotia Government and General Employees Union (NSGEU) rolled out some big cost figures: the total inventory of 39 public-private partnership schools, over 20-years, would cost provincial taxpayers at least $726-million, including $47.2 million for Horton H.S., representing $400 million in total principal and $326 million in interest payments (Gorman 2015).

News reports highlighted the enormous costs, with no reference whatsoever to comparable estimates for public procurement alternatives. The Canadian Centre for Policy Alternatives (CCPA) seized on the cost figures, warned that the numbers could ultimately reach $1-billion, and recommended that the government exercise its "buy-out" option when the 20-year leases began to expire, starting in June 2016 (CCPA-NS, 2016).

The massive experiment with P3 schools in Nova Scotia from 1996 to 2001 was a period of radical innovation in school construction with difficult-to-assess results. Over the course of the first six projects, the province and the private developers essentially reinvented school design, building, and management to break the traditional mold and inject a little private sector entrepreneurial spirit into the rather formulaic public capital procurement process (NS, PAC *Hansard* 2017; McCulloch 2017). A Nova Scotia Auditor General's report in 1998, focusing on the first school completed, O'Connell Drive Elementary School in Porter's Lake, NS, found the province's decision to classify the lease agreement as an operating expense instead of a capital lease to be unjustified, and dealt a fatal blow to the rather "dodgy" plan to transfer the debt for school construction "off-book" in the province (Auditor General 1998). In the absence of a reliable public sector comparator, critics of P3s feasted on the revelations. The public reputation of such projects never really recovered in Nova Scotia and far beyond, in other provincial school jurisdictions.

Lost in the ongoing public debate over P3 schools was any real reference to the ultimate success and positive impact of the thirty-nine P3 schools for students, parents, school boards, and local taxpayers. Nor was there any recognition of the exciting possibilities for "reinventing government" unlocked by the P3 "big bang" in Nova Scotia. The purpose of this research report is to re-assess the actual Nova Scotia experience with P3 schools and to right the balance. It demonstrates that, under certain circumstances, public-private ventures, effectively monitored and managed, can be an innovative and sensible means of achieving desired public purposes.

From the outset, the Nova Scotia P3 schools initiative was attacked as a "privatization" scheme that threatened to subvert public education (Dobbin 2002; Shaker 2003). Most of the more authoritative, independent analyses recognized it as "a cautionary tale," but (at the same time) critical in closing the education infrastructure gap (Deloitte Research 2006, 24). Scaling back the original plan to build 55 such schools in 1999 made good business sense because of evidence of "a variety of political and other problems, including cost overruns driven by project "gold plating" (i.e. increasing school standards, expensive site selection), weak government management, and problems with the contract terms" (Meek 2001). Few dispute the fact that the P3 school program allowed the province to bring far more new schools into operation. In fact, by 2006, privately-operated schools accounted for about 14 per cent of the total square footage in the province's schools (Deloitte Research 2006, 24). Despite the scare stories, the only value-for-money study of Nova Scotia's P3 school building program, conducted in 1999-2000 by KPMG, was unable to answer the key question of whether the P3 schools actually cost more than those that would have been built by conventional public procurement means (KPMG 2000; PAC, *Hansard* 2003).

Leading critics of P3 schools simply dismiss such contradictory research findings and persist in claiming that the whole venture was a "bad deal" for Nova Scotians. In June of 2016, the Canadian Centre for Policy Alternatives (CCPA-NS) issued a summary report on Nova Scotia's Public-Private Partnership Schools (P3s), entitled *Private Profit at the Public Price,* that attempted to bury one of Atlantic Canada's most adventuresome forays into reinventing the building of schools. "The P3 schools program in Nova Scotia," the CCPA-NS media release declared, "was a failure that cost Nova Scotians tens of millions more than the traditional system procurement system." With the twenty-year leases on thirty-nine P3 schools expiring, it claimed that "buy-out" was the only option to put an end to the whole venture (CCPA-NS 2016).

Nova Scotia's rather grand experiment with P3 schools two decades ago is now coming to an ignominious end. Since August of 2016, the Province has, in stages, retreated from leasing schools and announced that it would be purchasing most of the 39 schools constructed in the late 1990s under successive Liberal and Conservative governments. With the 20-year initial leases expiring, the province is preparing to pay millions of dollars more to extricate itself from the school capital finance partnerships. By March of 2017, the total cost of buying-out the P3 schools totalled an additional $149.8-million (Flinn 2017) and will be added to the provincial debt in 2020 (Flinn 2016).

Big decisions are, once again, being made in haste, according to N.S. Auditor General Michael Pickup, and serious questions arise about how and why it has happened. That June 2016 CCPA report was doubtless timed to tip the balance in favour of a total buy-back of the leased assets, at a time when the province is already burdened with a $16-billion debt. Two reports by successive Nova Scotia Auditors General, in February 2010 and in November 2016, tilt in a different direction (AG 2010 and 2016). Taken together, the more recent AG reports tend to raise serious questions about public sector management, providing ample evidence of poorly worded contracts, structural disconnects, lax public oversight and ossified infrastructure management practices. Comparing school building and operation costs of the P3s with traditional public procurement costs is not impossible and, as shown in this report, presents a completely different picture of the real legacy of Nova Scotia's public-private partnerships in the education sector.

Background Context:

Why Turn to Public-Private Partnerships (P3s) for New Schools?

"Reinventing public institutions is Herculean work. To succeed you must find strategies that set off chain reactions in your organization or system, dominoes that will set all others falling. In a phrase, you must be strategic."

— David Osborne, "Reinventing Government: What a Difference a Strategy Makes", Global Forum on Reinventing Government, Vienna, Austria, June 2007.

Governments in the 1990s, in Nova Scotia and elsewhere, were struggling with staggering debt, facing mounting concerns about aging school facilities, and looking for alternatives. Entering into private-public partnerships allowed the province to undertake a major rebuild of schools while transferring the financial risk to private developers (NS, PAC, *Hansard* 2003). The appeal of private sector involvement was broader than financial because policy-makers also sought to apply lessons learned in private sector business to improve the performance of government in delivering schools and related public education services. Inspired by public sector reform in the United Kingdom, Australia and New Zealand, a "reinvention movement" made its appearance in Nova Scotia with the arrival in 1993 of the John Savage Liberal Government (Clancy, Bickerton, Haddow, Stewart 2000, 74-75).

The ideal of progressive reform of government services had lost its former lustre by the 1990s, particularly among a civil service frustrated by bureaucratic obstacles and a public increasingly dissatisfied with the delivery of services (Barzelay 1992). Determined to close what was viewed as an "innovation gap," a new breed of "reinvention" reformers believed that the traditional bureaucratic form of regulatory government would benefit from an infusion of the "entrepreneurial spirit." Nova Scotia Finance Minister Bernie Boudreau's 1994 *Government by Design* plan echoed the school restructuring philosophy popularized in David Osborne and Ted Gaebler's 1992 book, *Reinventing Government:* "State government and school boards would steer the system but let others row" (Osborne and Gaebler 1993, 314). An injection of private business innovation was necessary to transform the public management *status quo* where "public agencies utilize resources inefficiently," were "stuck in out-moded routines," "insensitive to citizen's concerns" and "run more for the benefit of employees than clients" (Altshuler and Behn 1997, 4). When it came to building schools on a massive scale, governments looked to tap into private business to develop a “flexible, dynamic, project-oriented matrix” and “organic forms of organization” that would be superior to the traditional “mechanistic-bureaucratic form” (Lynn, 1997, 91) commonly associated with conventional school capital planning, finance, and construction.

The whole idea of reinventing school design, building, and management adopted by the Savage government from 1993 to 1996 was borne of that broader “reinvention movement” aimed at public sector reform as well as better management of public finances (Clancy, Bickerton, Haddow, Stewart 2000, 74-75). Facing mounting provincial debt, damaged credit ratings and a backlog of school construction, Savage and his finance minister found an exciting new prescription in David Osborne and Ted Gaebler’s 1992 bestseller, *Reinventing Government: How the Entrepreneurial Spirit is Transforming the Public Sector.* Premier Savage and his cabinet may have embraced radical restructuring, but they did so for more pragmatic than ideological reasons. The problem, in Osborne and Gaebler’s words, was “not too much or too little government but the wrong kind of government.”

In the September 1993 Throne Speech and companion budget, Savage and his ministers committed themselves to “client-centred government.” That meant delivering public services differently “through the eyes of those being served, rather than the vantage point of those delivering the service – the government and bureaucracy.” His finance minister telegraphed what was to happen: “Innovative ways to deliver programs and services will be developed, and traditional barriers to change will be removed.” As Nova Scotia’s “reinvention architects,” they sought to transform the “special interest state” in health, education, municipal services, and social assistance and enlisted Education Minister John MacEachern in a series of education reforms, including the development of P3 schools (Clancy et al. 2000, 75).

The earliest P3 school was the Evergreen Park School constructed between 1994 and 1996 in Moncton, New Brunswick, but the new venture came under its heaviest fire in Nova Scotia. Public sector unions opposed such agreements, fearing that they posed a threat to union contracts, wage rates, and long-term job security (Loxley 2010, 83, 91-93). During the 1998 provincial election, the ballooning costs of the new P3 Horton High School being built in Education Minister Robert Harrison’s home riding became a lightning rod, when NDP leader Robert Chisholm contrasted “Robbie Harrison’s Taj Mahal” with his own high school which had to “sell cupcakes to buy window blinds” (Bennett 2011, 137-138). While the P3 schools did serve a purpose, removing the school construction backlog, by the time that the Liberal government of Savage’s successor Russell MacLellan was defeated in July 1999, defending P3 schools became politically risky in the province (Dobbin 2002).

The original Liberal plan to construct fifty-five P3 schools was scaled-down to thirty-three in 1999 by the incoming Conservative government of John Hamm. While the new Education Minister, Jane Purves, considered P3 schools too costly with "extras [that] taxpayers cannot afford," Finance Minister Neil LeBlanc was more concerned by a process "too out of control" (Meek 2001). Late in 1999, LeBlanc commissioned the Halifax auditing firm KPMG to study the costs and benefits of P3 school construction. The consulting firm produced a 31-page research report but was unable to answer the central question – whether it was cheaper to build P3 schools or government-built and funded capital projects.

"We are not in a position," the report concluded, "to say definitively whether the P3 projects did or did not achieve value for money" (KPMG 2000). Without access to suitable public sector comparator, in the form of traditional school construction projects, the consultants were unable to answer the critical question, but did propose a few improvements in the P3 procurement process.

Building Too Many, Too Fast:

The P3 Schools Construction Program, 1993- 2001

"One of the most persistent threads of policy controversy set loose by the Savage government became known as the P3 program…Essentially this was a new approach to financing public works, made possible by the virtual disappearance of capital budgets during the deficit crisis years."

— Peter Clancy, James Bickerton, Rodney Haddow, and Ian Stewart,
The Savage Years: The Perils of Reinventing Government in Nova Scotia (2000).

The partnership approach adopted in establishing Nova Scotia's P3 schools sprang from the Savage government's desire to bring private money and management skills to school planning, capital financing, and operations. Facing a mounting debt and a credit crisis, the Savage government sought private partners to raise the capital and also sought a way of circumventing the slow, time-consuming School Capital Construction procurement process (NS, PAC, *Hansard* 2003). The other reasons for involving private developers were clear: to secure the sizable amount of financing, tap into new management capacities, acquire access to innovative technology, and improve public service delivery. With private developers investing their own resources, it was believed that they would have a strong incentive to closely monitor the projects to ensure the best possible return on their investment. Building in financial incentives was expected to help steer and keep a check on the private contractors' behaviour. Under the P3 school agreements, financial incentives were aligned to require the private partners to share in the risks and rewards, improving the likelihood of a successful, cost-effective outcome with social gains for school systems and the broader community. Securing that private capital for school construction with proper incentives for cost efficiencies was intended to help keep down operational costs. The biggest advantage of all was that P3s promised to make new school infrastructure available much more expeditiously than conventional public procurement, with its maze of regulations and processes (Poschmann 2003 and 2017).

Nova Scotia took the plunge into P3 school construction with considerable zeal. Upon taking office, the Savage government confronted two formidable barriers in school capital planning. Aging schools and a school construction backlog presented a problem requiring some $90-million in capital costs over three years, but so did changes in accounting standards that required the government to go "on book" for the costs of new schools (i.e., to record the borrowing costs for new schools rather than transferring them to the accounts of individual school boards) (AG 1997).

Such a change would add another $217-million to the province's net debt and even more for each additional school. This would not only be politically unpalatable, but also stymie the government's ambitious plan to restructure the school system. Shifting the costs to operating leases with private developers became, much to the chagrin of Nova Scotia's Auditor General, "the determining factor" in proceeding with the venture (Salmon, PAC, *Hansard* 1998).

The Savage government found some justification for proceeding with P3s in two supportive 1997 reports, the Department of Finance's *Transferring Risk in Public-Private Partnerships* (NS Finance 1997) and an independent consultant's report on P3s relating mostly to municipalities. Rightly or wrongly, the second report forecast that public-private partnerships would – in theory – be more affordable, more efficient, and provide better quality facilities than the traditional public sector plan-bid-build approach (NS Finance 1997). Claiming that the province could not afford to go it alone, Savage and his cabinet talked-up the advantages of public-private partnerships to provide the needed infrastructure and engaged four private developers – the Hardman Group, Nova Learning, Scotia Learning and Ashford Investments – to build first six schools, then another 33, all over a five-year period (CCPA-NS 2016, 10). Exploring such innovations in school building was consistent with the Savage Liberals' bold educational restructuring agenda from 1993 to 1998 that encompassed reducing school districts from 21 to 7, reducing the education budget from $806.5 million to $766.5 million, introducing school-based management, and establishing school-advisory councils (Clancy et al., 2000, 158-159).

In accepting the P3 model for school construction, the Nova Scotia government was persuaded that private sector expertise and resources could be harnessed to address public needs. *The Guide to Strategic Partnering,* prepared in 1997 by Anderson Consulting Services, not only explained the concept, but set out the reasons municipalities should consider what were termed PPPs. Public sector bodies, the document claimed, could expect to achieve some or all of the following benefits:

- Construction Cost Savings
- Operational Savings
- Faster Implementation
- Preserved or Improved Levels of Service
- Risk Sharing
- Financing Options
- Avoidance of Capital Debt
- Enhanced Public Management
- Greater Performance Measurement
- Increased Public Sector Revenues
- Enhanced Economic Development
- Innovative Solutions
- Realize the Value of Under-Utilized Assets
- Enhanced Facility Maintenance
- True Costing and True Value
- Arms-Length Independence

The Guide also attempted to promote more private sector involvement in a wide range of formerly public service functions, including project design, financing, procurement and construction, operations, and maintenance. It even provided a primer on the various forms of public-private partnering from Privatization/Design-Build-Own-Operate (DBOO) to Design-Build-Own-Transfer-Operate (DBOTO) and everything in between, including maintaining public operations and maintenance functions (NS Finance 1997, 1-10).

TABLE 1

Comparison of Conventional Public Procurement and P3 Procurement

	Conventional Procurement	P3 Procurement
Process	Separate phases (Design, Finance, Build, Operate) procured separately in a "design-bid-build" model through a series of contracts at each juncture of the project.	All phases (two or more) are integrated to carry the project through from design to build to fixturing to operation – and several projects can be "bundled" in a comprehensive series of agreements.
Contracts	Short-term agreements for tendering specific phases of design, construction, FF&E (fixturing) and operation. Conventional builds utilize stipulated price contracts or construction management contracts with contracts for sub-trades.	Longer-term contracts covering the useful life of the asset, extending to 20 or 30 years, covering complete services and assuming risk. Include capital refresh sinking fund for ongoing maintenance.
Financing	Funded through public debt borrowing at government rates through the issuing of bonds. Limited to regular payments to contractors based upon work completed to date.	A substantial share of project cost is financed through project-specific equity and debt. Equity provided by consortium partners usually makes up less than 20 per cent of the project financing.
Contract Specifications	(Prescriptive Specifications) Public agency specifies the exact inputs required for the facility, but specific outputs or performance standards may not be spelled out in the contract.	(Performance Specifications) Deliverables are specified in terms of outputs, entrusting oversight to public partner. Specified outputs include functional design requirements, and operational standards.
Payment Schedule	Monthly payments are normally made to contractors based upon percentage of project completed. Up to 90 per cent of cost may be paid in monthly installments. Final payment paid upon delivery of project, after the builders' lien holdback.	Private contractor expected to bear all the capital costs and paid only for defined assets or services upon project completion – in a performance-based contract.
Cost Controls	Award contracts to lowest bidders and highly dependent upon effectiveness of public oversight over costly design errors and change orders.	Close collaboration between design-build team at all stages minimizes costly design errors and change orders. Buildings designed more effectively by team to achieve cost efficiencies. Risk transferred to contractors better able to handle risk.

Source: Adapted from Conference Board of Canada, *Dispelling the Myths: A Pan-Canadian Assessment of Public-Private Partnerships for Infrastructure Investments* (Ottawa: Conference Board of Canada, January 2010), Table 1, p. 3.

Public-private partnerships do offer some advantages over conventional public procurement for major capital projects which will incur sizable publicly-backed debt. The most successful projects are those that efficiently achieve public purposes, like the provision of new schools, while shifting the risks and rewards between the contracting parties (Poschmann 2003). Critical to the arrangement are contracts which provide an acceptable level of public transparency and yet respect the proprietary rights of private companies to structure projects, financing, and performance contracts in ways that reduce costs and ensure a fair return on their investments. In the case of P3 schools in the 1990s, the P3s did provide the province with access to new money, expanded managerial skills, project management expertise, and innovative ideas for school design and service delivery. It was also viewed as potentially preferable to the existing public procurement model. With so much invested in a project, the province expected and anticipated that private contractors would be more inclined than public managers to properly monitor the construction and to more carefully monitor the operation's ongoing performance (Poschmann 2003 and 2017). Deviations from the normal P3 arrangement in the N.S. education sector, such as sub-contracting back to the school boards, was not envisaged in the original plan for Nova Scotia.

The sheer scale and scope of the Nova Scotia P3 school construction program was staggering, especially in comparison with traditional year-to-year school capital infrastructure development. Table 1, Summary of the P3 Schools Lease Payments and Buy-Out Prices, constructed by the Canadian Centre for Policy Alternatives (CCPA) based upon raw data accessed by FOIPOP from the Department of Education, estimates that the cost of leases for the total inventory of 39 schools was $726-million, with 45 per cent of the total coming from interest payments (Gorman 2015). While the data set is incomplete, coming from only three of the four private developers, a statistical procedure known as mean substitution was used to provide estimates for the missing data. Nova Scotia's Auditor General has pegged the costs higher, estimating that total costs for 31 of the schools over the life of the leases will be $830-million (AG 2010). Round that figure up to include the eight missing schools and the total cost may be over $1-billion. It is likely that the discrepancy may be attributed to additional costs above and beyond the lease totals, including project development costs, sinking fund payments, and maintenance (CCPA-NS 2016, 17).

Building too many schools too fast was the undoing of the Nova Scotia venture with P3 schools. Nova Scotia's Finance Minister under John Hamm was sanguine in March 2001 about what led to the undoing of the ambitious P3 school construction program. The first six schools were too expensive, too politically contentious, and "too out of control." "I don't blame the developers or the school boards," LeBlanc said. "It was the province that didn't grab control of this. There weren't enough ground rules up front for controlling costs" (Meek 2001). Based upon the KPMG findings, the P3 school construction projects were simply not carefully planned or monitored by provincial education officials, giving local school committees and private developers too much leeway, resulting in costly design changes, including oversized gyms, bigger classroom sizes, and upgraded computer infrastructure (Meek 2001, McCulloch 2017).

The direct involvement of an Ontario union pension fund, the Ontario Municipal Employees Retirement System (OMERS), in the Nova Scotia P3 initiative tended to blur the tidy lines normally drawn between public and private interests. Fifteen of the P3 schools were built by Ashford Investments in partnership with OMERS, through its wholly-owned subsidiary Borealis Infrastructure Management, based in Moncton, NB, and one other, already built, was acquired by OMERS at a cost of $162 million, financed by the issuing of bonds (Loxley 2010, 91-92). The union pension fund's involvement was a matter of concern for prominent P3 critics like University of Winnipeg economist John Loxley who openly mused about the union's complicity in supporting the venture. OMERS's role in aiding the private venture capitalists was viewed as aiding and abetting "bad public policy" and roundly criticized by other unions, most notably the Ontario branch of CUPE (CUPE-Ontario 2004, 9-11). Further alarms were raised when CCPA research revealed that borrowing costs were higher for Borealis (6.35%) than those of the province (5.6%), adding to the burden borne by the province. What was clear to Loxley was that not only the odour of the Nova Scotia P3 deals, but OMERS's "complicity" driven by "a narrow motive of maximizing returns" (Loxley 2010, 93).

Successes and Set-Backs:

Assessing the P3 Schools Record

"Comprehensive contract terms and management processes and procedures which ensure that services are paid for and received are essential to protecting the public interest. Our audit identified significant weaknesses in both of these areas."

— Jacques Lapointe, Auditor General, Nova Scotia,
Report of the Auditor General, February 2010.

Appearing before the Nova Scotia Legislature Public Accounts Committee on January 25, 2017, Paul LaFleche, Deputy Minister of Transportation and Infrastructure Renewal (DTIR), opened with an appeal to look again at the merits of public-private partnerships. "We believe that P3 models are largely misunderstood and often misrepresented in public discussion," he stated. To set the record straight, his presentation outlined "what they are and under what circumstances government might consider a project suitable for a P3 arrangement." "My remarks," he added, "are not meant to persuade or dissuade you on the merits of P3s but I do want to explain why government might consider these types of arrangements for large infrastructure projects, especially when it is in the best interests of taxpayers – in fact – only when it is the best interests" (NS, PAC *Hansard* 2017).

With the province engaged in planning a massive QEII Heath Sciences redevelopment project, including the demolition of the Centennial and Victoria Buildings at the VG site, and a series of related renovation projects, LaFleche was attempting to ensure that all options, including P3s remained on the table. Perhaps mindful of the cloud left hanging over the P3 schools venture, he and his senior staff emphasized the potential benefits of such partnerships. In testimony, he cited well-known examples of P3 projects such as the Cobequid Pass toll highway, the Halifax Convention Centre, and the Nova Scotia Correctional Facility in Burnside with only a passing reference to the P3 schools. "If the business case supports it," LaFleche said, "there can be mutual benefits for all partners involved in public-private partnerships." He then repeated the purported advantages: "P3s can be a way to deliver large infrastructure projects that speeds up delivery of the project and transfers day-to-day operating risk to the private partner – such as building upkeep and operational costs—while allowing the government partner to do what it does best in terms of operating its services to the public" (NS, PAC *Hansard* 2017). The implication was clear: do not throw the "P3 baby" out with the P3 schools bathwater.

Nova Scotia's massive plunge into P3 school construction may have been a "cautionary tale," but it was not without its remarkable successes. Given the dire state of provincial finances in June 1993, school capital planning and construction was in jeopardy. Barely recovered from the 1990 recession, the newly-elected Savage government faced a serious budget crisis with a mounting debt, declining provincial tax receipts and rising demands for social expenditures in health and education (Clancy et al. 2000, 54). A Price-Waterhouse financial review for the first quarter (April-June) of fiscal 1993-94 forecast a record deficit of $650 million, with declining revenues (Boudreau 1993). Following the September 1993 budget address, Minister Boudreau attempted to reassure the New York bond rating agencies, but Moody's downgraded Nova Scotia debt from A3 to A2 in the month that followed (Tibbetts 1993). The rising cost of provincial borrowing and the shrinking numbers of big lenders posed a grave danger to Nova Scotia and other debt-heavy provinces seeking to finance infrastructure projects (LaFleche 2017). With little "fiscal room," Savage and Boudreau were forced to look for creative alternatives and found a way forward by embracing the structural reform agenda of the "reinvention" movement. Influenced by Osborne and Gaebler's public management reform ideas, they began to see it as a "catalytic crisis" opening the door to an injection of private sector innovation and entrepreneurship. In purely pragmatic terms, initiating P3 schools provided an immediate solution to two challenges – leveraging more finance capital and transferring the costs "off-book" on the provincial finance ledger. The school finance strategy worked, for a time, allowing for a massive infusion of new capital, building need schools sooner, and putting off the debt reconciliation.

Adopting the P3 schools model succeeded in reducing the short-term cost of providing a record number of brand new schools, eventually totalling thirty-nine over five years. The initial costs borne by the Nova Scotia government were significantly less, particularly on a per school or per pupil space basis. Converting the capital leases into "service agreements" allowed the two parties, the government and private partners, to finance the projects "off-book" until 2001 when the Nova Scotia Auditor General weighed-in and ordered a $400-million capital charge be recorded in 2001. Out of the P3 partnerships, the province secured news schools in over 30 local communities and the annual contract payments in 2015-16 totalled $37.3 million, with an option to either purchase the schools for agreed-upon prices or return them to the private developers. The purchase prices will not be added to the provincial debt until 2020 and will not be amortized until that date. (Gorman 2015, Flinn 2016).

TABLE 2

Summary of Lease Payments and Buy-Out Prices

District (School)	Total Contract Payments	Total Principal Payments	Total Interest Payments	Buy-Out Price
Annapolis				
Champlain Elementary School	$10,559,760.00	$5,679,496.48	$4,880,263.52	$2,405,660.00
Horton High	$47,200,080.00	$27,500,448.94	$19,699,631.06	$13,338,600.00
Northeast King's Education Centre	$32,393,412.14	$17,083,552.70	$15,309,859.44	$7,857,612.00
Pine Ridge Elementary School	$21,401,760.00	$11,373,851.73	$10,027,908.27	$5,173,177.00
Cape Breton				
Cape Smokey Elementary School	$8,061,556.00	$4,413,837.01	$3,647,718.99	$2,010,659.00
Greenfield Elementary School	$14,871,876.19	$8,204,288.51	$6,667,587.68	$3,825,306.00
Harbourside Elementary School	$19,549,372.74	$10,733,681.87	$8,815,690.87	$5,100,544.00
Jubilee Elementary School	$11,333,273.00	$6,205,159.25	$5,128,113.75	$3,588,338.00
North Highland Elementary School	$8,013,610.00	$4,389,370.10	$3,624,239.90	$1,993,340.00
Riverside Elementary School	$11,685,169.03	$6,467,585.48	$5,217,583.55	$3,042,885.00
Sherwood Park Education Center - Sydney	$23,715,486.00	$12,897,884.28	$10,817,601.72	$6,600,000.00
Chignecto				
Amherst High School	$36,492,886.29	$20,036,603.83	$16,456,282.46	$10,000,000.00
Enfield Elementary	$10,898,400.00	$5,861,178.73	$5,037,221.27	$5,285,301.42
Maple Ridge Elementary School	$15,619,606.00	$9,058,736.48	$6,560,869.52	$4,550,000.00
Pictou Elementary	$10,238,160.00	$5,506,099.77	$4,732,060.23	$5,285,301.42
Riverside Education Center	$33,497,175.00	$16,176,430.77	$17,320,744.23	$8,950,000.00
Conseil Scholaire				
Ecole Beaubassin	$14,066,640.00	$8,050,774.05	$6,015,865.95	$5,285,301.42
Ecole Bois Joli	$14,470,560.00	$8,281,949.96	$6,188,610.04	$5,285,301.42
Halifax				
Bedford South School	$16,958,880.00	$9,094,100.95	$7,864,779.05	$5,285,301.42
Eastern Passage Education Center	$17,949,612.00	$10,258,718.79	$7,690,893.21	$5,285,301.42
Lockview High	$33,839,040.00	$19,317,359.50	$14,521,680.50	$5,285,301.42
Madeline Symonds Middle School	$18,055,200.00	$10,333,552.51	$7,721,647.49	$5,285,301.42
O'Connell Drive Elementary School	$13,038,940.50	$7,195,256.51	$5,843,683.99	$3,950,000.00
Park West School	$16,959,120.00	$9,120,645.01	$7,838,474.99	$5,285,301.42
Portland Estates School	$11,706,960.00	$6,296,024.02	$5,410,935.98	$5,285,301.42
Ridgecliff Middle School	$17,738,820.00	$10,118,809.59	$7,620,010.41	$5,285,301.42
Sackville Heights Elementary School	$11,706,960.00	$6,296,024.02	$5,410,935.98	$5,285,301.42
St. Margaret's Bay Elementary	$10,293,120.00	$5,891,072.31	$4,402,047.69	$5,285,301.42
South Shore				
Apostogan Consolidated Elementary School	$8,421,800.40	$4,614,452.86	$3,807,347.54	$2,056,885.00
Bayview Community School	$19,162,800.00	$10,333,780.55	$8,829,019.45	$4,371,572.00
Strait				
Antigonish Education Centre	$22,961,874.84	$12,689,106.09	$10,272,768.75	$5,899,606.00
Bayview Education Centre	$18,414,753.03	$10,158,759.49	$8,255,987.54	$4,819,494.00
Cape Breton Highlands Academy	$23,477,056.00	$13,030,296.48	$10,446,759.52	$6,061,083.00
Dalbrae Academy	$20,473,077.35	$11,312,048.61	$9,161,028.74	$5,377,555.00
East Antigonish Academy/Education Center	$26,503,880.48	$14,645,798.07	$11,858,082.41	$6,737,971.00
Richmond Academy	$21,144,849.29	$11,688,674.67	$9,456,174.62	$5,457,355.00
Tamarac Academy Education Centre	$22,267,646.97	$12,309,346.05	$9,958,300.92	$5,762,940.00
Tri-County				
Forest Ridge Academy	$9,913,920.00	$5,332,136.39	$4,581,783.61	$2,287,255.00
Meadowfields Community School	$21,509,760.00	$12,398,710.16	$9,111,049.84	$6,2000,000.00
TOTAL	**$726,566,853.25**	**$400,355,608.57**	**$326,211,244.68**	**$206,126,755.46**

Nova Scotia's P3 schools in the second wave were delivered, in most cases, on time and on budget. Scanning the initial lease dates for the thirty-nine P3 school projects provides compelling evidence that most, if not all, opened close to their scheduled completion dates (CCPA-NS 2016). A detailed analysis of the nine schools built by Nova Learning Incorporated, produced by President/CEO Kirk McCulloch, demonstrates that the schools were not only constructed in a timely fashion, but, overall, at costs significantly less or comparable to traditional schools (Scotia Learning 2017). That is consistent with the detailed British research on their version of P3s, the Private Finance Initiative (PFI) projects, constructed during the 1990 to 2006-time period. Out of 600 operational new public facilities with PFI investment over those 15 years, some 200 or one-third were new and refurbished schools. A 2006 HM (Her Majesty's) Treasury study examined 61 PFI projects, in detail, and found that 89 per cent of the projects were delivered on time or early; all were delivered within public sector budgets with the exception of a few user change orders. With respect to PFI construction performance, the U.K. National Audit Office (NAO) confirmed in 2006 that over 75 per cent of the reviewed PFI projects were delivered on time or early, and in no case, did the public sector bear the cost of construction overruns, a significant improvement over public procurement projects (HM Treasury 2006, 4 and 5).

Building high quality schools was a priority in the Nova Scotia P3 construction program and, after 20 years, the thirty-nine schools are in good shape and reasonably well-maintained. Speaking to the Public Accounts Committee in January 2017, the DTIR Executive Director of Major Infrastructure Projects, John O'Connor, confirmed that they were "good buildings and built to a similar standard that we were using for our own buildings" (NS, PAC, *Hansard* 2017). The N.S. Auditor General's 2010 report found that, overall, the 13 principals of P3 schools surveyed were "satisfied with the level of services" in spite of the documented lapses and gaps in oversight by education sector management (AG 2010, 33). Senior Nova Scotia government officials speaking freely at a January 2017 Atlantic Association of Applied Economists session on Private-Public Partnerships were less reserved in their assessment of the total inventory of P3 schools. Recent assessments in preparation for deciding about whether to "buy out" the contracts revealed that they were in "excellent condition." The P3 schools, one official commented, were "better maintained" and "not comparable to regular schools with no regular maintenance plans" (Discussion Notes, AAAE 2017).

The first P3 school in Halifax Regional Municipality, O'Connell Drive Elementary School in Porter's Lake exemplifies, in some ways, the complexities involved in assessing the value of the whole venture. When it opened in September 1998, the P3 school built by Nova Learning won national accolades, winning first place in the "infrastructure" category in the Canadian Council for Public-Private Partnerships (CCPPP) Awards for Innovation and Excellence (CCPPP 1998). When the school's well water was found to be unsafe in 2000, possibly because of site selection, a water filtration system was installed, but Scotia Learning encountered difficulties with the Halifax Regional School Board in trying to get it connected and in operation. Students and teachers were required to drink bottled water for over a year, while both parties worked to resolve the matter (Shaker 2013 and McCulloch 2017). Sixteen years later, the province was quick to decide on purchasing O'Connell Drive Elementary, a well-designed 50,000 sq. ft. K-6 school in good condition in a growing community, for $3.9 million, one of two purchased for $13 million in July of 2016 (Gunn 2016).

One of the four private contractors, Nova Learning Centres, a consortium headed by Halifax developer George Armoyan, held firm to the letter of the agreements and exposed the P3 schools to public criticism (Shaker 2003). From the outset, Nova Learning sought to maximize its return on the investment in nine schools, exploiting holes in the P3 contracts allowing the private contractor to charge higher rates for community use of schools. Under the terms of the leases, the province was entitled to use the building for 3,500 hours a year, even though some claimed to use only half of that time. Armoyan and Nova Learning began charging several times the normal HRSB rates for renting a double or single gym for youth and adult community programs. Nova Learning took the matter to arbitration and won the case, securing the right to rent the building after school hours and set their own rates. It also secured a ruling that the private owner was entitled to a 35 per cent share of cafeteria food and vending machine sales, amounting to an estimated $50,000 a year. When it came to paying for computer upgrades in new classrooms, the arbitrator also sided with the Armoyan firm (Nova Learning v. Nova Scotia Government 2003, Shaker 2003). On the matter of paying for repairs caused by vandalism, Nova Learning challenged the province, again, insisting that it was not responsible for any vandalism repairs during extended school hours (Sherwood 2003). The actions of Armoyan and Nova Learning not only stirred up a "hornet's nest" but gave the other P3 private partners a bad name, even though they generally refrained from such overt profit-seeking activities (Jackson and Sherwood 2003).

Hidden Legacy:

Of Education Sector Mismanagement and the Innovation Quotient

"State governments and school boards would steer the system and let others row. They would set minimum standards, enforce goals… and establish the financing mechanisms necessary to achieve the standards and goals. But school districts would not operate the schools."

— David Osborne and Ted Gaebler, *Reinventing Government: How the Entrepreneurial Spirit is Transforming the Public Sector* (1992), p. 314.

Many of the contentious issues and setbacks associated with the P3 schools stemmed from poorly worded contracts, confusion over public-private responsibilities, and lax oversight by education authorities. Two recent Auditor General reports, in February 2010 and November 2016, identified a litany of concerns centring upon school board management competencies, the Education Department's inability to enforce contract compliance (AG 2010), and glaring weaknesses in school capital planning related to P3 and regular school construction and management (AG 2016). Public sector managers, in the Department and school boards, come in for the heaviest criticism for failing to negotiate "comprehensive contract terms" and for their laxity in "management processes which ensure services paid for and (sic) received are essential to protecting the public interest." Auditor Jacques Lapointe was particularly alarmed to learn that, over the 20-year life of the contracts, there was a forecasted $52 million shortfall in payments between the private developers and the regional school boards (AG 2010, 28).

The Department of Education's management of the P3 service contracts did not pass the test in the February 2010 performance audit. The Provincial Auditor identified, in exacting detail, the shortcomings of the public managers and was surprisingly "soft" on the private developers throughout the report. Public management oversight was found sadly lacking in a whole range of management and compliance areas, including student health and safety, staff criminal reference checks, fire safety inspections, and CPR training. It was unclear as to whether this might apply more broadly to the situation in regular public schools. Over half of the P3 schools reviewed (18 out of 31) had held joint Facilities Management Team meetings. School officials were not effective in monitoring lease/service payments and, in one case, by December 2008, had failed to collect $61,000 due as a result of annual inflation adjustments.

For one-third of the tested schools (5 out of 15), staff were unable to provide data on how operating payments were determined, more than ten years after the commencement of the leases. The Department still did not have a comprehensive P3 school contract management manual and two key management staff had retired, leaving the positions vacant from March 2008 to December 2008. The Auditor also found serious holes in the contracts which lacked specificity when it came to cleaning standards and maintenance response times and contained no process to monitor private developer performance. It was abundantly clear that the Auditor found the Department ill-prepared to "hold the developers accountable and effectively manage the contracts" (AG 2010, 37-40).

Regional school boards (RSBs) fared no better and, in the case of the Cape Breton Victoria Regional School Board, Lapointe was scathing in his assessment of board managers for sub-contracting maintenance and operations back to the board, transferring risks back to the government. On top of the RSB subcontracting problem, the audit turned up contract calculation errors involving hundreds of thousands of dollars (AG 2010, 40-45). None of the Auditor General's 2010 findings amounted to much of an endorsement of public sector management of school facilities, with or without P3 agreements.

From the outset, Nova Scotia public education authorities recognized that they were breaking new ground in the provision and management of school infrastructure. When KPMG conducted its 1998 study looking at whether P3s were a good deal or not, the consultants were unable to answer the question. Conservative Education Minister Jane Purves, speaking in the Legislative Assembly in March 2000, put it this way: "Our consultant told us that they couldn't answer the question about whether P3 financing was good value for money because the proper analysis had not been done before the projects began. But since no other government had ever attempted such a construction program, we lacked a public-school comparator." Then came a rather prophetic forecast of what was to follow: "What the consultant could do was give us the tools to do an up-front analysis, using proper comparators, before we go forward with any more public-private partnerships" (NSLA, *Hansard* 2000).

School management officials involved in overseeing the P3 school contract arrangements were more forthcoming in acknowledging their initial challenges. Speaking before the Public Accounts Committee in April 2003, three senior management officials were quite honest about changing school capital planning processes requiring them to venture outside their realm of experience. The Department of Education's Director of Facilities, Charles Clattenburg, was most comfortable outlining the conventional steps in the School Capital Construction process and testified that sizable cost escalations in the case of two schools, Horton High School and Meadowfields School in Yarmouth County, were the direct result of program enhancements, including larger gymnasia, requested by the local school boards and negotiated by the private developers in community consultations. Negotiating the P3 contracts for the first six projects was so new to the Nova Scotia government that the contract negotiations were delegated to a private sector law firm. Looking back in April 2003, John Traves, Director of Legal Services at the Justice Department, offered this post-mortem: "I don't believe there was value for money for the first six." That is why, he explained, the government decided to "bundle" the next 33 projects into bigger deals, aiming to achieve economies of scale through "bundling" with three private development contractors. Summarizing his experience, Clattenburg conceded: "We've had some good successes and we have had some problems in the P3 process. It's been a learning curve" (NS, PAC *Hansard* 2003).

Bundling the second wave of P3 projects made the massive construction venture more manageable for the province and likely more cost-effective in terms of school cost per square foot. By then, the Education Department had Traves as in-house legal counsel and was better equipped to deal face-to-face with private developers as project partners. Taking on all 39 projects over such a short time line proved to be the supreme test for public sector managers steeped in a more methodical, sequenced model of school capital planning and construction. One example of what went wrong was the structuring of the contracts limiting school boards to 3,500 hours and leaving the setting of community rental rates to the private managers of the facilities (NS, PAC *Hansard* 2003). Years later, in February 2017, senior government staff, in a private briefing conceded that if the P3 process was "out of control," it was because "too many were undertaken all at once" and because it "takes time to build up the expertise" (AAAE Notes 2017).

School capital planning has advanced significantly since the "big bang" of P3 schools from 1996 to 2001. Better processes have emerged to establish school capital funding limits and to allocate funding to schools and communities based upon an assessment of needs. Examining the province's budgeting for school construction and renovations from 2012-13 to 2016-17, Auditor General Michael Pickup found that a relatively stable $80 million or so a year was approved by the Education Department. His most recent report on School Capital Planning also clearly indicated that there is still plenty of room for improvement (Auditor General 2016, Doucette 2016). Since the spring of 2015, school boards are required to conduct a Long-Range Outlook as part of the School Review process, but that inventory of the province's 400 schools provides only a very basic summary of building conditions. For its part, the Department does nothing further with the information, leaving the province without a full assessment of the "condition of good repair" of the buildings in operation, including the P3 schools.

Decision-making responsibilities for capital planning are still divided between the Department and the regional school boards, despite being interdependent with one another. The Department is responsible for approving new schools and renovations, while the boards entrusted with closing schools and reallocating students to make best use of existing facilities (Auditor General 2016, 29-30). In cases where schools are recommended for closure, such as Pentz and Petite Riviere in the South Shore Regional Board of Education, transition plans are completely disrupted when the province fails to approve funding for the proposed new school (Lee 2017, CBC Nova Scotia 2017).

The decision-making process in school construction became a live public issue in March of 2017. A Global News Maritimes investigation, conducted by provincial legislature reporter Marieka Walsh, provided clear evidence of what was described as “queue jumping” in school construction. Documents released through N.S. access to information included scorecards for schools that were “pushed ahead” of others higher on the waiting list for new builds or renovations. Out of 17 school projects approved in 2014-15, six schools were approved to jump the queue, five of which were in government-held ridings. In the case of the Tatamagouche School, in Education Minister Karen Casey’s riding, the cabinet overruled provincial bureaucrats who provided documentation to support the conclusion there was “no benefit demonstrated” for the project. When asked to justify the decision, senior Education Department official Heather Fairburn offered the justification that “some factors” cannot be “adequately expressed on a scoresheet” (Walsh, Global News 2017). Whatever the explanation, the revelations severely damaged the credibility of the provincial ranking and approvals process in school capital planning. It also suggested the need for significant governmental reform.

Deciding on the future of P3 schools posed a bigger challenge. Facing a few major decisions involving the fate of the 39 P3 schools involving as much as $200 million in potential “buy-out” costs, the Department was hamstrung by the existing school planning process, essentially dependent upon school board closure decisions before deciding on whether to retain nearby P3 schools. With the 20-year lease expiry date approaching in 2016-17, the province was compelled to extend deadlines and make decisions in hasty fashion without evidence of detailed case-by-case analysis. Not only did the division of school planning responsibilities disrupt sound, integrated school capital planning; it also left the Department in the lurch and rushed in making decisions on whether or not to purchase a few P3 schools at the end of their 20-year lease agreements (Auditor General 2016, 30, 35-38).

Twenty years on, P3s are no longer a new public sector management strategy. P3s-or PPPs – or PFIs – are common in most countries and in some Canadian provinces. The "cautionary tale" of Nova Scotia's P3 schools may well have dampened the public appetite for such ventures in Atlantic Canada, but not in the United Kingdom, Australia, or British Columbia (Conference Board 2013, Boothe et al. 2015). While Nova Scotia school capital decisions are still made on a traditional government cycle of one year, the government has acquired, over time, more expertise and experience in structuring alternative financing arrangements and managing public-private partnership schools. With the recent addition of a senior Education Department facilities planner, the Department of Transportation and Infrastructure Renewal team is much better equipped to assess and potentially oversee new school construction and renovations, including possible future P3 projects. While the future of P3 schools is very much in question, determined to a large extent by political considerations, the province is capable of initiating, guiding and properly managing major P3 projects, most likely in the health and transportation sector. "We are now in a different place," Deputy Minister LaFleche says, "with 20 years of experience" (Private Briefing, DTIR 2017).

Who Benefited Most from P3 Schools?

Net Benefits and the Public Interest

"Public-private partnerships have a long history, but they recently have come to the fore as a way to make projects happen sooner and more cost effectively than they would if managed by the public sector alone."

— Finn Poschmann, *Private Means to Public Ends: The Future of Public-Private Partnerships.* CD Howe Commentary, No. 183, June 2003.

"We've had some good successes and we've had some problems in the P3 process. It's been a learning curve."

— Charles Clattenburg, Director of Facilities Management, Nova Scotia Department of Education, Testimony, Public Accounts Committee, Nova Scotia Legislature, April 9, 2003.

The most commonly asked question about Nova Scotia's P3 school venture is whether the province achieved value for the $726 million to $878 million spent over the 20-year span of the lease-to-purchase agreements. Recent reports commissioned by the Canadian Centre for Policy Alternatives, Nova Scotia Office, and supported by the Canadian Union of Public Employees (CUPE), have provided their definitive answer that Nova Scotia's P3 schools were a "financial failure" and purchasing the buildings will ensure that public schools are back safely under public ownership (CCPA-NS 2016, CUPE 2016). Completely missing from the CCPA-NS analysis was any reference to the participation of the Ontario municipal employees pension fund, OMERS, in partnership with Ashford Investments. The only comprehensive research study, conducted in 1999-2000 by KPMG, was unable to answer the critical question of whether the public got good value because of the absence of a public-sector comparator (KPMG 2000). Based upon the KPMG report and his own experience overseeing the contracts, Justice Department expert David Traves responded to the question carefully back in April 2003: "I feel you (Nova Scotians) received good value, but I think there is certainly room that… the province could have gotten better value." His governmental colleague, Darrell Youden of Education's Corporate Services, admitted that it was difficult for anyone to render any judgement four years into a 20-year arrangement (NS, PAC *Hansard* 2003).

Years later, officials in the Department of Transportation and Infrastructure Renewal are still reticent to render a clear judgement on deals done in the late 1990s. Furthermore, DTIR's in-house expert John O'Connor recently told Conservative MLA

Tim Houston before the Public Accounts Committee that government managers had, as of January 2017, "not gone back through a backward-analysis of all the deals for the P3 schools" (NS, PAC *Hansard* 2017).

The private partners may well have benefitted inordinately from the inexperience, confusion and ineptitude of government managers initially assigned to the file, particularly during the negotiation of the first six P3 school contracts. That was the damning assessment rendered by the Auditor General in his 2010 report on the management of the P3 schools (Auditor General 2010). Two developers were also paid by the province to deliver operating and maintenance services but subsequently subcontracted the work back to school boards for far less than the province had paid. That resulted in a windfall profit to the service provider of $52 million over the full term of the 20-year lease (Auditor General 2016, 37). It is also quite clear that one private partner, Nova Learning, took advantage of a loophole in its contracts to squeeze more of a profit out of after-school space rentals and food service proceeds (Shaker 2003).

One of the lead private developers, Kirk McCulloch, has countered the June 2016 CCPA-NS report, *Private Profit at a Public Price,* with a Value for Money (VfM) comparison of his own, utilizing data gleaned from the financial records for nine P3 schools built and managed by his own development company, Scotia Learning. His *Cost Comparison for all Scotia Learning Schools,* comparing the P3s to province-built schools, covers the full term of the 20-year leases and provides evidence that the province may well have come out ahead in the whole transaction. Originally prepared for the Government of Nova Scotia as a document meant to inform decision-makers in the Finance, Education, and Transportation and Infrastructure Renewal departments, it was updated recently for inclusion in this research report (McCulloch 2017).

The Scotia Learning Cost Comparison Schedule (Table 3, next page) includes all nine Scotia Learning schools, comparing the costs with a public-sector comparator, in this case, the estimated costs of province-built and financed schools. Each of the Scotia Learning Schools is broken out in terms of its detailed costing over the 20-year period, with the lease expiry dates and established option-to-purchase prices. It confirms that the first P3s (O'Connell Drive Elementary School and Riverside Education Centre) were costlier, but, overall, the province reaped a saving of $14.1 million over the life of the contracts. Without necessarily accepting the developer's detailed analysis, this much is clear: Bundling of P3 schools in the second phase worked to the advantage of the province and yielded a much better return for the taxpaying public (Scotia Learning 2017). "We can build school infrastructure for 10 to 15 per cent less than the province," the President of Scotia Learning maintains. "When it comes to P3 schools, we delivered value at the end of the day" (McCulloch 2017).

TABLE 3

Cost Comparison: All Schools Over 20 Year Lease plus Purchase

P3 (Actual) Compared to Province Built/Financed (Estimated)

Schools				P3 School Leases Over 20 Year Lease Term (Actual)				If Province Had Built and Financed Schools (Est.)			Net Cost/Saving to Province
School	Grade	Area (Sq. Ft.)	Lease Expiry	Total Net Lease Payments	Option Purchase Price	Option Price /Sq. Ft.	Total Cost Incl. Purchase	Total Interest Payments	Pricipal Repayment On Maturity	Total Cost	(positive=saving) (negative=cost)
O'Connell Drive Elementary School Porters Lake, Halifax Co.	P6	48,098	Jul.31.18	$14,435,657	$3,950,000	$82	$18,385,657	$10,247,677	$8.047,404	$18,295,081	-$90,576
Riverside Education Center Milford, Hants Co.	6-8	104,114	Jul.31.18	$31,632,563	$8,950,000	$86	$40,582,563	$22,542,468	$17,410,000	$39,952,468	-$630,095
Maple Ridge Elementary School Lance, Hants Co.	P-5	52,612	Jul.31.19	$15,653,862	$4,550,000	$86	$20,203,862	$11,981,060	$9,090,000	$21,071,060	$867,198
Meadowfields Community School Yarmouth, Yarmouth Co.	P-6	73,754	Jul.31.19	$21,420,060	$6,2000,00	$84	$27,620,060	$15,083,424	$11,759,732	$26,843,156	-$776,903
Forest Ridge Academy Barrington, Shelburne Co.	P-6	38,309	Aug.31.20	$9,913,961	$2,287,255	$60	$12,201,216	$7,702,330	$5,718,137	$13,420,467	$1,219,252
Champlain Elementary School Annapolis Royal, Annapolis Co.	P-5	41,096	Aug.31.20	$10,559,784	$2,585,592	$63	$13,145,376	$8,706,982	$6,463,981	$15,170,963	$2,025,587
Bayview Community School Mahone Bay, Lunenburg Co.	P-9	73,476	Oct.31.20	$19,162,740	$4,519,081	$62	$23,681,821	$15,141,180	$11,297,702	$26,438,882	$2,757,061
Pine Ridge Middle School Kingston, Kings Co.	6-8	83,719	Jan.31.21	$21,401,815	$5,173,177	$62	$26,574,992	$16,929,223	$12,932,943	$29,862,166	$3,287,173
Northeast Kings Education Centre Canning, Kings Co.	6-12	126,415	Aug.15.21	$32,393,412	$32,393,412	$62	$40,251,024	$26,106,915	$19,644,029	$45,750,944	$5,499,920
TOTAL		**641,593**		**$176,573,854**	**$46,072,717**	**$72**	**$222,646,571**	**$134,441,259**	**$102,363,928**	**$236,805,187**	**$14,158,616**

The P3 school venture succeeded in delivering building facilities and services far superior to the previous buildings and adhering to reasonably high quality standards. A whole succession of Auditors General reports from 1997 to 2016 picked holes in the public management of the P3 schools and identified a few examples of the first phase cost overruns, but raised few, if any questions, about the quality of the facilities. In April of 2003, the Cape Breton-Victoria Regional School Board confirmed, in a letter to Liberal MLA Russell MacKinnon, that their P3 schools were well received. "Without exception, these schools have been well accepted by the school communities, have provided students with enhanced physical facilities with special program areas, and have provided access for the communities to participate fully in student-centred activities" (NS, PAC *Hansard* 2003).

Access to a capital sinking fund, under the P3 school contracts, helped ensure that the schools were reasonably well maintained and deferred maintenance was kept to a minimum, especially in school boards where facilities management is a system-wide priority. With Scotia Learning's Maple Ridge Elementary School in East Hants, NS, under review for possible closure in January 2017, McCulloch described the

52,000-square foot building on a 4.5-hectare plot of land near Highway 2 in Lanz this way: "It's a well-designed, well-built and well-maintained school in excellent condition" (Campbell 2017a). A month later, the School Options Committee chaired by Milford lawyer Kerri-Ann Robson, wholeheartedly concurred with that assessment in recommending that it be retained and purchased by the province for $4.5 million, a figure far less than the $13 million to $15 million it would cost to construct today (Campbell 2017b). None of the 39 P3 school facilities across Nova Scotia has proven to have been shoddy in its construction or to have structural problems, as have some in Scotland and elsewhere (Johnson 2016).

Provincial and school board facilities staff concur on the effectiveness of school maintenance and repair in most of the P3 schools. Recent school reviews for closure in two rural counties, Pictou and East Hants, found the 20-year-old P3 elementary schools in 'good condition' and better maintained than most built and maintained by the province (Berry CBC News 2017; CCRSB Long Range Outlook 2015). Unlike school board-owned properties, the P3 schools are maintained through a sinking fund allocating some 40 cents per square foot for repairs per year. While the province also provided a technology management fund, at least one of the contractors sub-contracted with board staff to manage the "technology capital refresh" in their schools (McCulloch 2017). Any initial fears that the P3 schools would fall short of established standards were far off-the mark and, in fact, it may well be the reverse.

School authorities and public education research organizations, such as CCPA, start with the assumption that the public interest is always best protected when social infrastructure is under public management. Commissioned research studies, such as CCPA-BC's 2006 paper *Value for Money?* and CCPA-NS's 2016 report *Private Profit at a Public Price* are not only openly hostile to public-private partnerships, but dismissive of research that calls into serious question the effectiveness of public management of schools, with or without P3 contract arrangements. Most such research reports are ideologically-driven and that is clear from the conclusions they reach: "Schools are vital parts of our communities here in Nova Scotia, and they need to belong to the public, not private corporations" (CCPA-NS 2016, 30). Missing from such studies is any recognition or discussion of the dramatic changes remaking public sector management or of fundamental questions being asked about whether "public service delivery" is always the best way to serve the public interest (Dean 2011). Looking back over twenty years of experience with P3 schools, McCulloch waxed pragmatic: "We want to build the best school we can and, in the end, make a dollar." If the Nova Scotia P3 schools venture proves anything, it's that a little competition between civil servants, private contractors, and school board officials may be good for everyone.

The time of decision is upon us. In school districts across the Nova Scotia, the wake-up call came in September of 2016 when the public was alerted to the fact that dozens of P3 leases on privately-built, publicly-rented school buildings are expiring in four years, or, in a few cases, in 2019 and 2021. The actual time frame is shorter because the 20-year contracts require the province to give the landlord four years' notice of their intentions – whether to purchase the schools, close the schools and vacate, or enter into new lease agreements. The first school board to decide on the fate of its P3s was the Cape Breton-Victoria Regional School Board. Back in April 2016, six months ahead of the deadline clause, the CBVRSB advised the province that the province should dispose of two of its seven leased schools, Harbourside Elementary and Sherwood Park Education Centre (Farries 2016).

The Nova Scotia government is now deciding whether to retain the P3 schools and will likely elect to exercise its right to "buy-out" most of the contracts held by the four private developers, Scotia Learning, Nova Learning, Ashford Investments/OMERS, and the Hardman Group. Given all the public controversy surrounding the P3 schools initiative, since its inception, that is the safest political bet and the option that looks the most favourable in terms of costs to Nova Scotia taxpayers. In announcing a November 2016 decision to purchase 12 of the Scotia Learning Centres schools for $85.7 million, Education Minister Karen Casey set out what would become the standard rationale: "It was certainly in our best interest to purchase rather than lease," she told Canadian Press. "The lease would have been more expensive than the $85 million" (Doucette 2016). It is not shaping up as much of a negotiation, since the "buy-out" prices are stipulated in most, if not all, of the 20-year contracts.

Summary: Lessons Learned from Nova Scotia's P3 Schools Initiative

The Nova Scotia foray into Public-Private Partnership (P3) schools was tantamount to a "revolution" in school capital planning, innovation, and management. Critics of the massive P3 schools experiment are inclined to interpret the whole province-wide initiative as "a cautionary tale," marked more by cost overruns and mishaps than successes (CCPA-NS 2016). Public service managers acknowledge that the whole initiative, symptomatic of the entire John Savage structural reform agenda, took on "too much too fast" and presented them with a "steep learning curve" (Clancy et al. 2000). Claims that the Nova Scotia P3 school saga was a total "financial failure" are largely driven by ideological motivations and based almost entirely upon revelations surrounding the first few projects. In the case of Nova Learning, a good case can be made that the province gained financially over the life of the contract (McCulloch 2017). Whether the province achieved good value for the massive undertaking remains a matter in dispute, largely because of the absence of comprehensive data based upon a public-sector comparator.

Nova Scotia's P3 schools' initiative has been, in the words of a Nova Scotia Deputy Minister, "misunderstood and misrepresented" in public discussion. "We revolutionized school construction in this province," Nova Learning president Kirk McCulloch says in recalling the tremendous jolt of innovation generated by the initiative in the late 1990s. Far from being a strictly formulaic, bureaucratic school planning and construction process, the P3 community consultations broke new ground in designing innovative program spaces and responding to local school needs. Faced with initial resistance, the private developers also proved themselves capable of working collaboratively with school communities. "We had to build up credibility," McCulloch recalls, "and to win over communities expecting private developers to be looking out for their own interests" (McCulloch 2017). Recent decisions to purchase most of the P3 schools might suggest that the province is looking to return to business as usual in school capital planning, financing, and operations. Tapping into the business acumen and entrepreneurial spirit of private partners remains the best way to reinvent government service in the education sector. The success of P3s ultimately lies in developing the management capacities to steer the process and hold the private partners accountable for delivering better educational services (Boardman, Siemiatycki, Vining 2016). It would be a pity if the province slipped back into old habits given how much has been learned about how to embrace innovative school building models, how to build high quality schools, and how to exhibit more flexibility in responding to local community needs.

Recommendations:

Building Upon the Lessons

This research report has sought to dispel the enduring myths associated with the P3s and set the public record straight. Nova Scotia's ambitious P3 school experience produced some valuable lessons and suggests the need for a second phase of structural reform in school capital planning and construction.

Here are eight recommendations, gleaned from recent Auditor General reports and fully explained in this research paper, that build upon the largely unrecognized P3 schools legacy in school planning, innovation, and management:

1. Make School Capital Planning a Higher Priority and Initiate a Multi-Year Planning Process, focusing on improving the existing year-to-year, ad hoc School Capital Construction Plan process.

2. Establish a Capital Asset Management Framework (CAMF) for Education Infrastructure, modelled after British Columbia's CAMF (2002), to guide the review proposals for capital spending and provide a "strategic options analysis," including a full range of options: traditional procurement, alternative service delivery options, PPPs, asset trading or leveraging, and asset disposal.

3. Merge the current separate school facilities planning processes which divide the responsibilities for school approvals and school closures between the Department and school boards, and establish a provincial School Capital Infrastructure Committee to break the logjam.

4. Build upon the Foundations laid by Public-Private Partnerships by Establishing "Partnerships NS", a PPP Advisory Committee populated by private developers, architects, consultants, and facilities experts from outside of government.

5. Expand the Network of School-Level Facilities Management Teams to maintain the community partnerships and business relationships developed in the P3 schools.

6. Conduct a Comprehensive Audit of the P3 School Planning venture, providing a thorough backwards-analysis of the 39 P3 school projects assessing the hard lessons, community impact, costs and benefits to the public.

7. Develop a New Set of Provincial Guidelines for Identifying P3s, including clear performance standards and metrics, optimal size, exceeding a minimum threshold of between $40 million and $100 million; risk transfer assessment; and competitive market conditions, likely to produce at least three project bids.

8. Establish Criteria for Evaluating Progress in Reinventing School Planning and Management process, utilizing assessment resources and tools from the latest research in public sector management reform, including VfM analysis and P3 screening instruments.

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