



TESTIMONY

Texas' 21st Century Transportation System and the Need for Enhanced Federal Surface Transportation Program Tools, Funding, and Flexibility

**Before the United States Senate
Committee on Environment and Public Works**

**John W. Johnson
Chairman
Texas Transportation Commission**

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INTRODUCTION

I am John W. Johnson, Commissioner of Transportation and chairman of the three-member Texas Transportation Commission that oversees the Texas Department of Transportation (TxDOT). I appreciate the opportunity to brief the committee on the importance of the Texas transportation system to the nation and our recommendations for the reauthorization of federal surface transportation programs now before the Congress.

The Texas Department of Transportation oversees the largest state highway agency-owned road system in the country, with 79,000 centerline miles and 187,000 lane miles. Texas has more interstate highway system miles (3,234) than any other state. Texas has 13,435 miles (8.2 percent) of the designated 165,000-mile National Highway System. Texas is home to more highway bridges than any other state in the nation, with 48,085 bridges in the statewide inventory, 10,555 of which are classified as deficient, and 2,138 of those deficient bridges are on the National Highway System. Statewide, Texans and visitors to Texas logged more than 218 billion vehicle miles of travel in 2000 on the 301,000-mile statewide roadway system (state and local roads). Texas has the largest rural population in the nation – that's 6,687,000 rural residents according to the 2000 census. Our urban population (14,049,000 by 2000 census counts) is the third largest in the United States.

According to a recent report of the Texas Governor's Business Council, the central issue for road conditions in Texas today is highway congestion. This study's goal is addressing highway congestion in the State. Urban traffic conditions have deteriorated substantially in urban areas, where two-thirds of Texans live, as traffic volumes have far outpaced roadway capacity improvements. Now, travel demand exceeds roadway capacity for several hours of a typical day in the larger urban areas. The size of the road system must increase to respond to dramatic population and business growth. Quality of service must improve to meet the needs of an increasingly affluent society with high values of time for both people and goods and to assure a vigorous business climate and quality of life.

Texas' population will increase from 20.8 million in 2000 to 29.6 million in 2025. Ninety percent of the growth, or almost 8 million more people, will live in Texas' metropolitan areas. Traffic congestion is getting worse. From 1990 to 2000, Texas' population grew 23 percent, the number of vehicles

increased 23 percent, the number of workers grew by 23 percent, and vehicle miles traveled increased by 41 percent.

However, the number of lane-miles increased by only 3 percent. From 1990 to 2000 traffic congestion has cost Texas 2.6 billion hours of delay (costing \$40 billion) and 4.5 billion gallons of wasted fuel (costing \$5.6 billion), bringing the total cost of delay to \$45.6 billion. During this same period TxDOT spent only \$37.4 billion on maintenance and new construction. If the current highway construction and maintenance spending trend continues, Texas will spend only \$140 billion over the next 25 years. The report suggests that at least another \$78 billion in highway investments are needed in Texas over the next 25 years to appropriately address the state's highway congestion. The results of such an increased investment could cut delays by 20 billion hours, save 31 billion gallons of fuel, provide 120,000 additional permanent jobs, reduce emissions by 775,000 tons of hydrocarbon pollutants, improve safety, and provide other benefits totaling \$511 billion.

U.S.-Mexico trade also continues to grow strongly. The Texas ports of entry handle nearly 80 percent of the surface trade across our borders, with over 85 percent of it being moved by truck. The border bridges at Texas ports recorded over 5.7 million truck movements in 1999. More than half of these had U.S. origins or destinations outside Texas. Trucks engaged in North American Free Trade Agreement (NAFTA)-related commerce comprise a significant portion of the truck traffic in Texas; based on modeled volumes, NAFTA truck traffic comprised 16.5 percent of all truck traffic on Texas highways.

NAFTA trade is hampered by choke points at the border. Texas infrastructure problems are only one of the factors in determining these choke points and in most cases not the principal factor; other contributing factors include border clearance through numerous, often uncoordinated, state and federal agencies, paperwork, staffing issues, and institutional and cultural issues. For example, border infrastructure is often located in congested downtown areas, complicating commercial traffic flows and aggravating the challenge of traffic congestion. Additionally, location in a fully developed area limits the possibilities for needed expansion.

TxDOT alone cannot solve all of the border trade transportation problems, but we will continue to monitor the problems, identify potential strategies, and recommend solutions for addressing them. TxDOT has placed a great emphasis on infrastructure development along the Texas-Mexico border. TxDOT will continue to monitor the development and implementation of NAFTA, study its impact on our system, and plan and schedule appropriate improvements to meet the needs of international trade.

The department has made significant commitments to improving the border region's transportation system. From 1998 to 1993, the border received 5.6 percent of state transportation dollars and from 1994 to 2000 that share grew to 9.8 percent. For 2001 to 2004, we plan to spend 12.2 percent of state transportation dollars along the border. Beyond the immediate future, TxDOT has plans in place to direct more than \$1.8 billion to the border region over the next ten years.

In coordination with the Texas Department of Public Safety, we are planning eight motor carrier safety inspection stations along the border. Estimated cost of the stations is \$115 million. TxDOT and our university research partners have developed a model border crossing prototype that will combine state and federal agencies at one location to improve the flow of truck traffic through these key entry points.

The entire country, not just Texas, benefits from NAFTA. Texas should not be forced to fund the full financial burden of needed infrastructure improvements to handle the international trade agreement.

Texans paid \$2.6 billion in federal motor fuels taxes into the Highway Trust Fund in FY 2002. However, Texas' FY 2002 obligation limitation was set at only \$1.73 billion. Our state has received a rate of return of only about 88 cents on the dollar on our motor fuels tax payments through the federal-aid highway program distributions under TEA 21 (1998-2003).

Our citizens are not just looking to the federal program to handle our transportation needs; state fuels tax revenues in 2000 totaled more than \$6 billion. However, one quarter of these state revenues are directed to the state's public school fund and are not available for transportation purposes. Our most recent annual highway construction letting volume exceeded \$5 billion. And yet, our identified transportation needs exceed our available funds by a two to one ratio.

TEXAS REAUTHORIZATION PRIORITIES

Texas has a lot at stake in the work now on the congressional agenda. While it is a time of tight budgets at both the national and state levels, Texas needs to be able to do more with the resources we have to meet the tremendous transportation demands of our growing and diverse state.

In every reauthorization effort, TxDOT's objectives remain the same:

- To protect and enhance the federal investment in transportation infrastructure;
- To capture for Texas the largest possible share of federal transportation dollars; and
- To give state and local governments the broadest possible discretion over the federal transportation dollars we do bring home to Texas.

As my colleague on the commission, Ric Williamson, indicated in his testimony to this committee's September 25, 2002 joint hearing with the Committee on Finance, Texas is working hard to create the financing tools we need to make the most out of our available transportation dollars. At the state level, we are developing new opportunities to use bonding and other private sector financing options to leverage our public sector funds to address our transportation needs. At the same time, we are working closely with our state and local partners to improve the efficiency with which we deliver needed

transportation improvements in both urban and rural situations. However, if we are to be able to take full advantage of these new areas of opportunity, we need Congress to untie our hands.

During its 78th Session, the Texas Legislature passed, and Governor Rick Perry signed, HB 3588, landmark transportation legislation that redefines the way infrastructure is delivered in our state. HB 3588 permanently establishes the Trans Texas Corridor as the next-generation transportation facility to move people across the state. As envisioned, this long-range response to the transportation needs of Texas will be a multi-use, statewide transportation corridor that will include toll roads, high-speed passenger and freight rail, regional freight and commuter rail, and underground transportation for water, petroleum, gas, and telecommunications. Designed to be a much faster and safer transportation of people and freight, the Trans Texas Corridor will include four multi-modal, high priority corridors approximately 1,200 feet wide. Implementing this vision, one of the largest transportation projects in the state's history, is expected to take 50 years or more.

HB 3588 also enhances the ability of local governments, acting through Regional Mobility Authorities, to deliver infrastructure much faster, and it offers new project delivery methods that will have travelers using new facilities much more quickly.

Even before Texas begins to take full advantage of these new tools at the state level, we are already serving as model for the nation in the use of the variety of transportation financing tools now available. The Central Texas Turnpike Project (CTTP) being developed as a state-maintained toll facility includes four project elements - SH 130, SH 45 North, Loop 1, and U.S. 183A. Currently, TxDOT is developing the first phase of the CTTP - the northern 49 miles of SH 130, SH 45 North, and Loop 1. These 65 miles of new toll roads in Central Texas will cost approximately \$2.9 billion. This includes right of way acquisition, utility adjustments, design, and construction. With the addition of required reserve funds, interest, insurance and issuance costs, the total estimated costs are \$3.6 billion. The four elements of the funding package include local contributions, state highway dollars, a \$916.76 million Transportation Infrastructure Finance and Innovation Act (TIFIA) loan, and the sale of bonds, which will be paid for through the collection of tolls. (The TIFIA loan is the largest such loan in the history of the program.) By using this mixture of public and private project financing instead of traditional pay-as-you-go financing, we will be able to shave at least 20 years off the project delivery time and have Texans using these facilities by December 2007. The CTTP will bring congestion relief to I-35 and surrounding arterial roads in Travis and Williamson counties, as well as the Central Texas region. Providing more transportation options for commuters, businesses, and motorists will improve mobility and safety in the region.

But Texas is not stopping with the CTTP in our efforts to deliver needed project faster. TxDOT is asking private companies to submit innovative strategies to build a high priority segment of the Trans Texas Corridor. TxDOT has requested competing proposals to develop the I-35 High Priority Trans Texas Corridor, extending from the Red River to the Mexican border.

This high priority corridor would generally parallel I-35. Portions of the I-37 and I-69 high priority Trans Texas Corridors may be included as necessary for connectivity and financing. The notice asks teams to submit plans to acquire, develop, design, construct, finance, maintain, and operate a combination of rail, roadway, and utility facilities for this high priority corridor. In addition, each team must include a description of the group's qualifications, experience, and expertise. Proposals will be evaluated based on the team's experience in developing large, complex projects and the financial and technical feasibility of the proposal. If a successful proposal is selected from the short list, TxDOT intends to enter into a comprehensive development agreement for this project. An agreement will allow the selected proposer to acquire, design, build, and partially finance the project.

Another key project for the future of Texas transportation is the ongoing development of Interstate 69 (I-69), which begins right here in Brownsville, extends to Texas' busiest port of entry at Laredo, and continues through Texas to Houston and Texarkana. Outside of Texas, the I-69 Corridor will provide a much needed mid-continent trade route connecting the United States' two largest trade partners – Mexico and Canada. Within Texas, I-69 will connect the Rio Grande Valley with the rest of the state with a controlled-access Interstate freeway facility and provide relief to Valley communities from the congestion of international trade traffic.

However, the I-69 corridor will be the nation's corridor. The benefits from international trade flow to all parts of United States. The states benefiting from that trade must bear an appropriate share of the cost to Texas to provide the transportation infrastructure necessary to support that trade. It is estimated that the entire I-69 corridor from Brownsville to Indiana will cost more than \$15 billion to construct. Within Texas, we estimate that the construction cost will run close to \$6 billion. If we are to build this vital international trade corridor quickly (i.e., over the next 6-10 years), we in Texas would need about \$800 million per year.

Of course, we cannot afford to sacrifice the transportation needs of the rest of Texas to build I-69. With current funding, we can only do about one out of every three projects that need doing. To make I-69 a reality without sacrificing other transportation needs in Texas, funding for I-69 must be over and above what Texas would otherwise receive in federal highway funds.

The new financing and planning tools that we now have available within the state and the enhanced federal tools we hope to see in the TEA 21 reauthorization at the federal level will go a long way toward making our plans for the future of I-69 in Texas (and the other major transportation projects in the state) a reality sooner for the people of Texas. A few enhancements to federal law will be necessary to fully realize the potential of HB 3588, I-69, and the Trans Texas Corridor, and the Senate Environment and Public Works Committee can help deliver those additional resources. In particular, our agenda calls for changes that will improve funding equity, enhance flexibility, and create innovative finance mechanisms to leverage available transportation funding.

Strengthen the Federal Investment in Transportation. We need Congress to strongly affirm what we all know to be true – that increased investment in transportation is a sound and efficient way to stimulate the economy, create and sustain jobs, and improve the efficient movement of goods and services so vital to the business community and our quality of life. We need Congress to continue to grow the federal transportation program investment and to strengthen the guarantees on those funds for the benefit of the nation.

Enhance Highway Funding Equity. Mr. Chairman, the reauthorization must include equity improvements in order for it to provide a better economic benefit to Texas and other donor states. Your state and mine (and many others across the nation) continue to pay more of our federal gas tax into the Highway Trust Fund than we receive in federal highway program funds. Even with improvements made in TEA-21, Texas only realizes about 88 cents on each dollar contributed. The next federal act should guarantee all states at least a 95 percent rate of return on all funds distributed to the states through federal highway programs. If a 95 percent Minimum Guarantee had been in place in TEA 21, Texas would have received nearly \$1.2 billion more to invest in transportation since fiscal year 1998. The TEA 21 reauthorization legislation should alleviate this inequity by including the highway funding equity proposal embodied in S. 1090, introduced by Senators George Voinovich and Carl Levin and strongly supported by Texas Senators John Cornyn and Kay Bailey Hutchison and 19 other senators.

Improve Project Delivery Mechanisms. Changes to current federal policies and financing mechanisms could significantly improve our ability to quickly and efficiently address our growing Texas mobility needs.

The recently adopted Federal Highway Administration regulations on Design-Build Contracting are hampering our progress and limiting the level of investment from our private partners. The Federal Highway Administration, through these regulations, has restricted states in ways we believe are directly contrary to provisions in TEA-21 allowing flexibility to agencies wishing to engage in innovative contracting. Our primary concerns relate to the detailed regulations requiring state and local agencies to adjust their existing procurement processes to conform to federal practices, as well as a requirement that compliance with the National Environmental Policy Act process be completed before proceeding with an innovative contract.

The procurement requirements may be inconsistent with an agency's existing authority under state or local law. These requirements would preclude a department of transportation from gaining the benefit of private sector innovation in planning its infrastructure projects and developing innovative procurement processes. I urge your support for a modification to this rule that would permit agencies to use procurement processes allowed under state law.

The Reforming, Accelerating & Protecting Interstate Design (RAPID) Act (HR 2864) by Congressman Michael Burgess proposes the most important of these modifications. The RAPID Act also allows a donor state to use a thorough and efficient environmental process for a multi-modal transportation project like the Trans Texas Corridor.

An important amendment to federal environmental laws and regulations is also needed to expedite approval of high priority and emergency projects, including projects to improve the safety of roadways having higher than average traffic accident rates.

Expand Options for Tolling the Existing Federal Aid Highway System. Because tax-funded roads have not kept pace with need, Governor Rick Perry has led Texas in efforts to expand our state's ability to use tolling to supplement existing funding. This tool was extended under HB 3588, and a federal proposal supporting the use of tolls to address issues of congestion, pollution, and safety has been introduced. I understand pending proposals (S 1384 and HR 1767) would grant states tolling authority for the expansion of Interstate highway routes, with the limitation that the tolls be eliminated after capital costs are recouped. Texas needs such authority; however, I would like to reinforce that discretion over its use should reside with the state, including the amount of time the tolls are in effect. Once again, the Burgess RAPID Act improves on this by providing states with this additional discretion.

In the Bush Administration's "Safe, Accountable, Flexible and Efficient Transportation Equity Act of 2003" (SAFETEA) proposal, we are encouraged by the proposal to allow Interstates to be tolled to reduce congestion or emissions in non-attainment areas if they use variable pricing based on congestion or time of day. This goes beyond just high-occupancy toll (HOT) lanes to tolling the entire roadway and is not limited to SAFETEA's proposed three "Interstate Tolling" pilots.

Continue the Availability and Expand the Reach of Transportation Project Financing Tools.

Another vital tool is the ability to use tax-exempt bonds or private activity bonds to finance highway and surface freight intermodal projects developed through public/private partnerships. I urge your support for private activity bond (PAB) provisions similar to those contained in the Bush Administration's SAFETEA reauthorization proposal. The proposal allows up to \$15 billion in bonds to be exempt from statewide caps on the issuance of certain other types of PABs. SAFETEA would include highway facilities and surface freight transfer facilities among those projects for which PABs may be issued.

Your support for continuing financing tools under TEA-21 - such as the Transportation Infrastructure Finance and Innovation Act (TIFIA), ensuring that Texas retains full use of its State Infrastructure Banks (SIBs), Grant Application Revenue Vehicle (GARVEE) bonding authority, and advanced construction and flexible match provisions - is critical. Congress should continue the availability of these tools and consider the creation of additional financial tools.

In addition, existing tools like TIFIA, SIBs, and toll credits must be refined for Texas to make full use of them. For instance, restrictive financial covenants in the TIFIA loan agreements should be lifted, repayments to SIBs should be free of federal requirements to ensure that future borrowers (mainly cities and counties) are able to access the funds, and states should receive toll credits based on the proportion of a project's toll financing, even if federal funds are used for part of the project's costs.

Target Border and Corridors Programs to Meet NAFTA Needs. With ever-increasing demands on Texas' transportation system for both local mobility and international trade transportation improvements, I believe that existing TEA-21 programs directing funds to border states for trade corridor and border transportation infrastructure development are falling short of accomplishing this goal. The National Corridor Planning and Development program and the Coordinated Border Infrastructure program must be reformed so that priority is granted to corridors with increased traffic since the enactment of the North American Free Trade Agreement. Also, specified funds should be spent exclusively on international border and corridor projects. I believe this reform would return the programs to their original intent — promotion of national economic growth in relation to international/interregional trade and facilitation of the safe movement of people and goods across U.S. borders. Legislation introduced by Senator Kay Bailey Hutchison (S 1099) and Congressman Michael Burgess (HR 2220) is designed to properly clarify these programs. Texas will continue to push for greater federal investment in the international trade corridors that traverse our state and border improvements serving the nation.

Strengthen Environmental Stewardship and Program Flexibility. State DOTs like TxDOT are the federal government's agents in the federally-funded, state-administered federal-aid highway program. We believe that Congress should shift more decision making authority to Texas state and local transportation officials. I encourage Congress to allow states to exercise their environmental and project stewardship responsibilities by granting more categorical approval authority and delegate FHWA overview to the states. A key provision in the Bush Administration's SAFETEA proposal would allow states to assume some of USDOT's responsibilities for transportation enhancements, recreational trails, and transportation and community and system preservation program projects. This delegation would streamline the review and approval process, thereby expediting project delivery.

Texas will add at least four new non-attainment areas under the new ozone standard. The Congestion Mitigation and Air Quality Improvement Program (CMAQ) must be amended to adjust for the larger demand on these funds. In addition, we believe that CMAQ eligibility should extend to near-nonattainment areas that have entered into a legal voluntary emission reduction agreement (e.g., the O3 Flex Agreement, the Early Action Compact). Even more importantly, we ask that Congress restructure the CMAQ program to allow it to support the significant air quality benefits available from congestion mitigation, rather than continuing the current restriction of these funds to air quality improvement projects only.

Conclusion

Thank you for the opportunity to bring part of the Texas transportation message to you today. As stated earlier, Texas has a lot at stake in the work now on the congressional agenda. Your work to improve the federal government's commitment to enhanced transportation funding is very important to Texas and to the border region. We look forward to working closely with the Texas delegation and the authorizing committees to ensure that the reauthorization of surface transportation programs and funding results in a positive environment for the future of Texas transportation. By providing the enhanced funding equity, more flexible program provisions, and expanded transportation project financing tools we have outlined here, Congress will help Texas be better positioned to build on our success and plan for the 21st century, providing greater prosperity for our citizens now and into the future.