Texas Department of Transportation

TESTIMONY

Transportation Finance Challenges

Testimony before the
House Committee on Transportation and the
Senate Committee on Transportation and Homeland Security

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INTRODUCTION

Texas and other states across the nation are facing serious transportation challenges, including the precarious state of the Federal Highway Trust Fund, long-term structural changes to the costs of highway construction materials, increasing fuel efficiency, and pressures to spend transportation dollars on other pressing state priorities. Meanwhile with Texas' relatively strong economy and good quality of life, more than a thousand people move here each day. As congestion worsens, the effects are felt more directly in the metro areas of the state. But rural areas are affected as well. Our financial resources are declining in proportion to our needs. As this trend worsens, it severely impacts our ability to maintain the highway system in rural areas.

Starting in 2001 the legislature provided several valuable tools that have allowed the Texas Department of Transportation (TxDOT) to accelerate projects. The Texas Mobility Fund, Proposition 14 Bonds, Comprehensive Development Agreements (CDAs), and Pass-Through Financing helped get projects to construction more quickly than what would have otherwise been possible.

But we are reaching the end of what we all knew would be a temporary spike in our contracting levels. The state's transportation program is settling back upon its reliance on fluctuating fuel tax revenues. Also, our construction program for the foreseeable future must reflect the uncertainty of federal funding, historically increasing costs, lower-than-anticipated revenues, and other competing priorities of state budget writers.

WHERE IS THE PRECIPICE?

Early last session we projected that by 2012, our ability to start new mobility projects would be severely inhibited by our cash flow. However, in November of 2009, the Texas Transportation Commission voted to establish target levels of funding for the 2010 to 2020 period that anticipates making some funding available for mobility by reducing the amount of funding for needed maintenance.

To be clear, the financial outlook from 2010 to 2020 did not improve; in fact it got worse. There is more detail about our current financial forecast later in this testimony. This decision by the commission means that there is a reduction in funds available for needed maintenance which will result in further declines in the condition of our pavements and bridges. However, the commission felt that it was worthwhile to reduce the programming levels for maintenance in order to ensure that previously approved mobility projects (from earlier Unified Transportation Programs) could move forward. This was achievable by moving those mobility projects to 2012 and beyond, rather than postponing them indefinitely.

Meanwhile, with the national economy recovering at a feeble pace, the bids that we are currently receiving from contractors are coming in under budget. So at least in the short term, this could help us knock more maintenance projects off of our “to do” list until prices return to their usual upward trend.

FITS AND STARTS

Transportation funding that is provided in “fits and starts” does not substitute for a stable, long-term financing source. Transportation projects, particularly mobility projects, can sometimes take many years to develop from the time they are conceived to when they are put up for bid to contractors.

When funding is injected into the system with strict deadlines for obligation and expenditure, we cannot ensure that the most pressing needs of the state are being met. For instance, the highest priority projects may be so expensive that it makes little sense to expend resources to advance the environmental and engineering work, knowing that there will be no funds to construct the projects. In the short term, we have had enough “shovel-ready” projects and pressing rehabilitation needs that could make use of bond funds and stimulus dollars. However a more predictable source of funding would allow us to address more of the projects on TxDOT's Top 100 Most Congested Roadways list.

NEEDS ASSESSMENT

Any discussion about new or additional sources of revenue should be conducted in the context of the projected needs. The 2030 Committee is a panel comprised of twelve Texas business and civic leaders appointed by the Texas Transportation Commission in May 2008. The 2030 Committee was charged with independently determining the fiscal requirements for the state’s future transportation needs. According to the 2030 Committee, we need to invest $315 billion in today’s dollars between now and 2030. The needs estimate focuses on the investment that will be necessary to maintain the pavements and bridges on Texas roadways, to prevent worsening traffic congestion in urban areas, and to ensure rural mobility and safety. The Committee based its estimates on several assumptions, including increased population growth and freight traffic between 2009 and 2030.

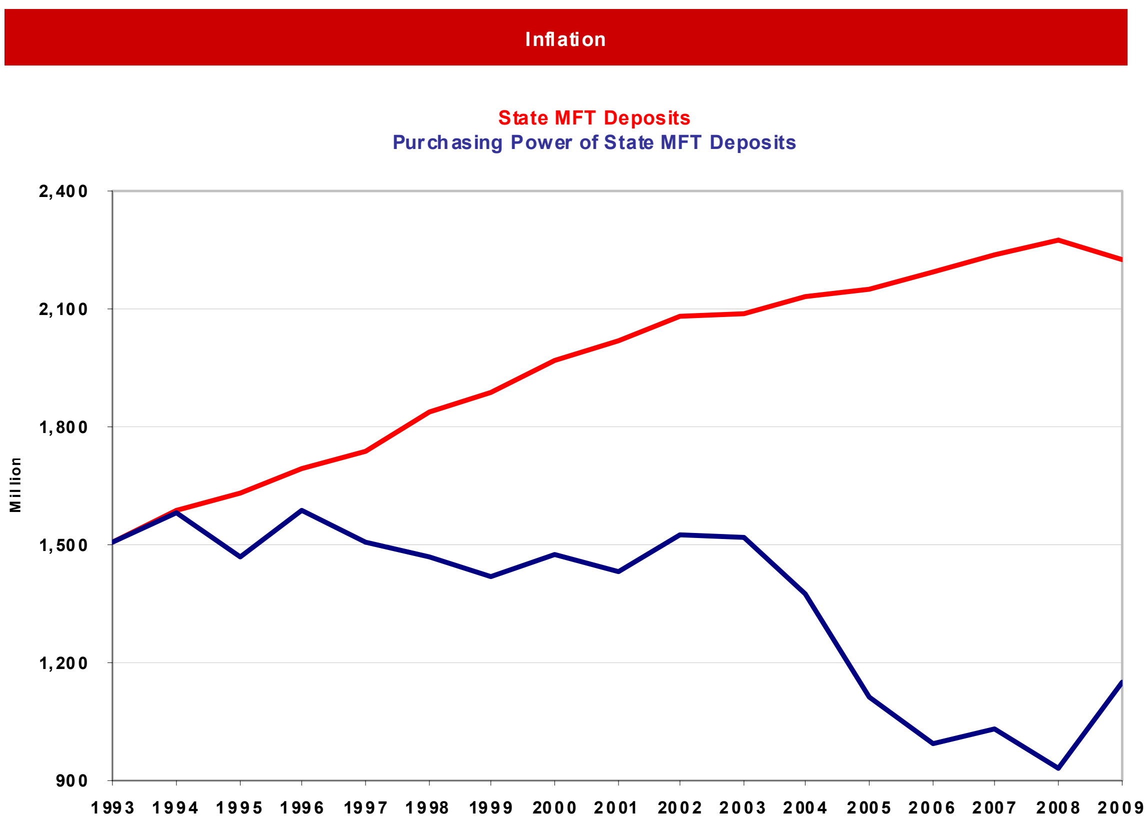
SPECIFIC FINANCE CHALLENGES

There are a number of specific circumstances that render traditional funding inadequate. During the last 25 years, Texas’ population increased 53 percent. The use of our roads grew 103 percent. The trend is continuing, with projections of an additional 27 percent in population growth and 67 percent in road usage over the next 25 years. Meanwhile, during the past quarter century, road capacity has only increased by about 10.6 percent. These developments will greatly affect the state’s ability to adequately provide for the transportation needs of the state.

Inflation

One of the most significant challenges we face is the declining purchasing power of the State Highway Fund. The state motor fuels tax has not been raised since 1991. Federal fuel taxes have not been raised since 1993.[1] According to a September 2007 report by the FHWA:

> "Highway construction and maintenance costs nationwide grew approximately three times faster from 2003 through 2006 than their fastest rate during any 3-year period between 1990 and 2003, substantially reducing the purchasing power of highway funds. These increases are largely the result of escalation in the costs of commodities used in highway projects, such as steel and asphalt, and reflect structural, not transitory, economic changes. We expect these commodity costs to remain elevated, and possibly continue expanding, in the near term."



[1] The Omnibus Budget Reconciliation Act of 1993 increased the gas tax by 4.3 cents and was used to reduce the unified federal budget deficit. The Taxpayer Relief Act of 1997 redirected the 4.3 cents gas tax increase to the Highway Trust Fund.

In Texas, construction inflation increased 65 percent between 2002 and 2008. Since the downturn in the national economy, prices have fallen almost 12%. But as the economy improves, it is likely that prices will continue their upward trend. The chart above shows that state motor fuel taxes have risen (until recently) as more people move to and drive in Texas, but adjusted for inflation, purchasing power is substantially less than in 1993.

Declining Revenues

For many years, state gas tax revenue has increased as the state population has increased and miles-driven have increased. Since the downturn in the economy in 2008, revenue has actually declined. In FY 2009, state motor fuel tax revenues declined 2.17 percent from FY 2008.

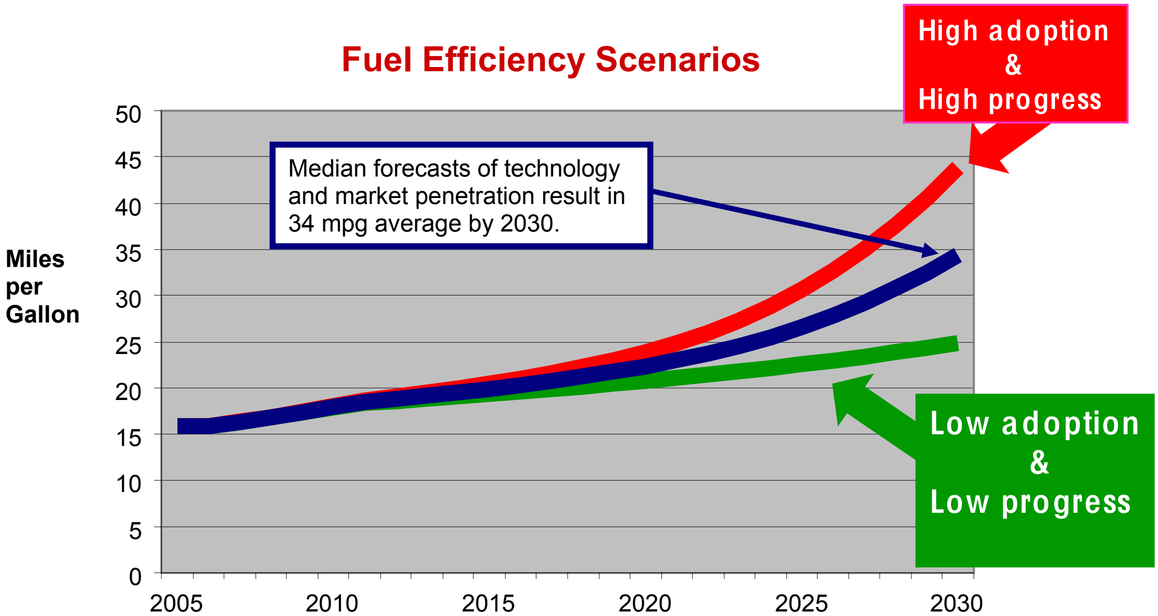
Motor Fuel Taxes

	FY 2008	FY 2009	FY 07 vs 06	FY 08 vs 07	FY 09 vs 08
September	190,343,774	190,760,322	0.55%	1.38%	0.22%
October	195,879,001	180,315,655	-1.81%	8.11%	-7.95%
November	184,443,670	177,054,232	8.54%	-1.41%	-4.01%
December	201,395,123	196,136,748	3.40%	5.70%	-2.61%
January	188,381,673	179,379,435	2.11%	3.25%	-4.78%
February	187,091,450	189,785,411	0.39%	0.69%	1.44%
March	186,799,740	187,878,775	-0.31%	4.03%	0.58%
April	187,859,117	172,414,186	6.99%	4.84%	-8.22%
May	185,894,305	190,735,911	2.51%	-5.47%	2.60%
June	189,917,904	184,194,460	-1.43%	5.01%	-3.01%
July	194,386,156	189,800,412	1.32%	-0.48%	-2.36%
August	183,589,615	188,140,249	2.65%	-4.29%	2.48%
FY Total	**2,275,981,528**	**2,226,595,797**	**2.01%**	**1.69%**	**-2.17%**

Continuing this trend, collections so far in FY 2010 through January are down 1.25 percent when compared to the same five-month period of FY 2009. Meanwhile, the amount of State Highway Funds appropriated in 2010 and 2011 correlates with a Comptroller's revenue estimate that projected state motor fuel tax revenue would be 2.65 percent higher in 2010 (over 2009) and 1.98 percent higher in 2011 (over 2010). This potential over-allocation of the State Highway Fund requires TxDOT to be especially vigilant in going to contract on new projects during the biennium to ensure that too many projects are not let to contract.

Increasing Fuel Efficiency

Rising fuel efficiency in vehicles has an impact on motor fuels tax revenue. A flat $.20 state fuel tax is levied on each gallon sold. It does not rise or fall with the price of fuel. As fuel efficiency rises, less fuel is purchased and therefore less revenue is collected. The following chart shows projected fuel efficiency through 2030.



Fuel efficiency will increase as new technology becomes available to the consumer increasing from 17 mpg in 2008, to 34 mpg in 2030.

Source: Cambridge Systematics/TTI

Rising fuel efficiency is the key component to the argument that motor fuel taxes are rapidly losing their efficacy. Discussions about toll roads and a potential vehicle-miles traveled tax have focused on the idea that they are a more direct measure of road usage.

Diversions

"Diversions" is the term given to the practice of appropriating State Highway Funds to agencies and certain functions unrelated to the development and administration of transportation facilities.

As shown in the table below, in the 2008-2009 biennium, diversions totaled $1.57 billion and equaled 28.2 percent of TxDOT's State Highway Fund Appropriation. This calculation excludes bond proceeds and federal funding.

For the 2010-2011 biennium, some diversions were eliminated such as those for the Health and Human Services Commission, Texas Education Agency, and the Texas Workforce Commission. State Highway Fund Appropriations to the Texas Department of Public Safety were reduced by $138 million. The total amount of diversions in the biennium is $1.15 billion, or 20.15 percent of TxDOT's State Highway Fund appropriation.

Purpose	AY 2006-2007	% of TxDOT Appn	AY 2008-2009	% of TxDOT Appn	AY 2010-2011	% of TxDOT Appn
AG - Mineral Rights Litigation	$ 1,700,000	0.01%	$ 1,700,000	0.01%	$ 1,700,000	0.01%
HHS Commission	$ 20,000,000	0.13%	$ 20,000,000	0.12%		
TEA - Buses	$ 100,000,000	0.66%	$ 100,000,000	0.60%		
Texas Transportation Institute	$ 13,045,764	0.09%	$ 14,317,605	0.09%	$ 14,937,767	0.08%
Department of Public Safety	$ 985,104,602	6.50%	$ 1,263,024,785	7.47%	$ 1,125,019,694	6.01%
Texas Workforce Commission	$ 13,658,704	0.09%	$ 13,658,704	0.08%		
Gross Weight Axle Fees	$ 9,400,000	0.06%	$ 10,800,000	0.06%		
Commission on the Arts	$ 1,340,000	0.01%	$ 1,340,000	0.01%	$ 1,340,000	0.01%
Historical Commission	$ 1,000,000	0.01%	$ 1,000,000	0.01%	$ 1,000,000	0.01%
Office of Administrative Hearings	$ 6,549,314	0.04%	$ 6,736,395	0.04%	$ 6,885,647	0.04%
Lufkin Tourist Information Center			$ 150,000	0.00%	$ 150,000	0.00%
Salary Increase for Schedule C	$ 69,335,198	0.45%	$ 22,291,710	0.13%		
Regulation of Controlled Substances			$ 804,972	0.00%		
Silver Alert			$ 224,990	0.00%		
Client Transportation Services	$ 26,033,955	0.17%	$ 22,363,606	0.13%		
Medical Trans - Medicaid Match	$ 58,244,717	0.38%	$ 85,381,725	0.51%		
Auto Theft Prevention	$ 25,465,255	0.17%	$ 27,558,755	0.17%		
Total	$ 1,330,877,509		$ 1,591,353,247		$ 1,151,033,108	
TxDOT SHF Appropriation [1]	$ 6,096,419,466	21.83%	$ 5,643,425,735	28.20%	$ 5,711,558,500	20.15%
Total TxDOT Appropriation[1, 2]	$ 15,162,095,408	8.78%	$ 16,678,016,740	9.54%	$ 18,720,448,879	6.15%

[1] DMV appropriations are included in AY 2010-2011
[2] AY 2010 - 2011 includes ARRA appropriations totaling $1,637,800,000

However, TxDOT's general revenue appropriation was reduced from $307 million in 2008-2009 to $165 million in 2010-2011.

We must also keep in mind the real possibility that motor fuel tax revenues may come in under the projections contained in the Comptroller's revenue estimate. If less money comes in, it will be TxDOT's budget that is reduced, not other agencies'.

Pressing Maintenance Needs

Increased system use also leads to increased maintenance. At least since 2002, the amount of state motor fuel tax revenue deposited to the State Highway Fund was less than what was spent to maintain the more than 191,000 lane-miles on the State Highway System. In 2002 the Texas Transportation Commission established the statewide pavement condition goal of 90 percent in "Good" or better condition.

Pavement condition in Texas is slowly getting worse. Although the percentage of lane miles in "Very Good" condition increased to 71.81 percent in FY 2009, the percentage of lane miles in only a "Fair" condition also increased. This increase in "Fair" lane mileage caused the statewide percentage of lane miles in "Good" or better condition to go down.

Overall, 85.94 percent of Texas pavements are in "Good" or better condition, down from 86.27 percent in FY 2008 and down from the highest value of 87.34 percent in FY 2005. This is the third drop in pavement condition percentage in the last four years.

Texas is making progress in improving its more than 49,500 public bridges, but more work is still needed.

- 79.7 percent of all Texas bridges have a good condition rating, up more than 1 percent from the previous year.
- 14.7 percent of the bridges do not meet current design standards and cannot efficiently handle today's traffic volumes and types. These bridges are designated as functionally obsolete.
- Another 3.2 percent of the state's bridges are structurally deficient, meaning they cannot continue to handle the weight of today's heaviest vehicles or are frequently flooded or closed indefinitely.
- 2.4 percent are classified as sub-standard for load-only bridges, meaning they are not structurally deficient or functionally obsolete but have a capacity less than the maximum load permitted by state law.

It should be noted that these statistics do not indicate that Texas bridges are unsafe. Any bridge considered unsafe is immediately closed to traffic.

The Uncertainty of Federal Funding

Texas relies heavily on federal funds to help address the state's transportation needs, even though we only receive 70 percent back for highways from all the federal fuel tax dollars we send to Washington. However, federal funding is increasingly unreliable, due to the expiration of the federal-aid program, the insolvency of the Federal Highway Trust Fund, and the lack of clear goals and strategies for transportation at the federal level. This lack of reliability has been highlighted by another recent rescission.

A rescission is simply the acknowledgement that projected funding won't be available for future projects. Legislation is then enacted by Congress that cancels the availability of budget authority it had previously enacted. While the concept of rescissions is not new, the frequency of rescissions since 2006 and the willingness of Congress to remove the flexibility with which states may handle rescissions have increased.

Rescissions typically target the *apportionment* for which no *obligation authority* has been provided in appropriations acts. A multi-year surface transportation authorization act (discussed in more detail below) establishes apportionment while the annual appropriations bill establishes obligation authority. A state's yearly apportionment is usually greater than obligation authority but both are needed to use federal funds on a project. The following rescissions follow the pattern of reducing apportionment, the effect of which is that TxDOT and MPOs could not *plan* to use those rescinded funds:

FY 2006	TxDOT	Nationwide	TxDOTs %	Signed into law
TTHUD	$158,707,654	$1,999,999,000	7.94%	11/30/2005
Defense	$90,670,526	$1,143,000,000	7.93%	12/30/2005
Supplemental	$55,716,165	$702,362,500	7.93%	6/15/2006

FY 2007	TxDOT	Nationwide	TxDOTs %	Signed into law
Omnibus	$288,459,698	$3,471,582,000	8.31%	2/15/2007
Supplemental	$72,374,710	$871,022,000	8.31%	5/25/2007

FY 2009	TxDOT	Nationwide	TxDOTs %	Signed into law
Omnibus	$272,403,085	$3,150,000,000	8.65%	3/11/2009

The FY 2008 and the 2009 SAFETEA-LU rescissions, however, were different. These rescissions provided TxDOT, and all other state departments of transportation, specific dollar amounts to rescind in each eligible transportation category, with the limited flexibility of shifting 10 percent among categories. This means that funds being rescinded had to be equitably divided between different transportation categories, regardless of individual state needs, priorities or obligations. By reducing the apportionment for the equity bonus category (a category that carries *both* apportionment and obligation authority), the obligation authority also had to be reduced, causing TxDOT to be able to award fewer contracts. The FY 2008 rescission resulted in a $13.5 million reduction in obligation authority. The SAFETEA-LU rescission resulted in a $103 million reduction in obligation authority. These rescissions reduced the state's ability to award contracts by those amounts whereas previous rescissions reduced our ability to plan projects.

FY 2008	TxDOT	Nationwide	TxDOTs %	Signed into law
Omnibus	$257,989,173	$3,150,000,000	8.19%	12/26/2007
September 30, 2009	TxDOT	Nationwide	TxDOTs %	Signed into law
SAFETEA-LU	$742,240,415	$8,708,000,000	8.52%	8/10/2005

SAFETEA-LU is the name given to the federal surface transportation authorization act covering certain transportation programs from 2005 to 2009. As noted above, the act establishes each state's apportionment which functions similar to a ceiling on the amount of obligation authority that may be allocated in annual appropriation bills.

SAFETEA-LU expired on September 30, 2009. There has been little movement in Congress to reauthorize these programs. Instead, states are operating under a series of continuing resolutions (CRs) that parcel out obligation authority in increments measured in days, weeks, or months. The first CR lasted 30 days. The CR which we are currently operating under is scheduled to expire February 28, 2010. We do not know how long the next CR will last and therefore we do not know how much obligation authority will be provided. This uncertainty makes it difficult for states to adhere to a letting schedule.

Given these circumstances, the federal-aid highway program is becoming more and more unreliable as a means of funding our growing transportation and mobility needs. As Congress considers legislation to reauthorize federal transportation programs, Texas must be clear about its goals. We need clear definitions on the roles of the Federal, State and local governments. We need flexibility in transportation finance, procurement and operation of facilities. And we need to be able to develop and implement seamless multimodal solutions that can best achieve our transportation goals.

DEBT FINANCING

TxDOT has a variety of borrowing programs available to advance construction of transportation projects. Some programs are payable from future deposits to the State Highway Fund. Others are payable from general revenue and other dedicated revenues.

Short-Term Borrowing

The department is authorized to issue short-term debt to carry out the functions of the department. The purpose of this program is to ensure that TxDOT can have as many projects underway as possible without carrying a "cushion" in the State Highway Fund should payments come in more quickly or revenues come in more slowly than anticipated. This provides a valuable safety net. At the end of December TxDOT had $285 million in outstanding short-term debt.

TxDOT's short term borrowing should be viewed in the context of its operating account out of the State Highway Fund. As of December 31, TxDOT's operating balance, once certain encumbrances such as concession payments, bond funds, and State Infrastructure Bank funds are deducted, was about $68 million. In summary, while the operating balance of the State Highway Fund was $68 million, we had $285 million in outstanding short-term debt that, under current law, must be paid off by the end of the biennium.

Toll Revenue Bonds

The Commission is authorized to issue Project Revenue Bonds (or Toll Revenue Bonds) where the bonds are secured by the toll revenue collected. To date, the Commission has only issued such bonds for the Central Texas Turnpike System (CTTS) in Austin. The bonds do not constitute an obligation of the state, the commission, the department nor any other agency or political subdivision of the state. In other words, the only source of revenue that can be used to pay the CTTS bonds is toll revenue.

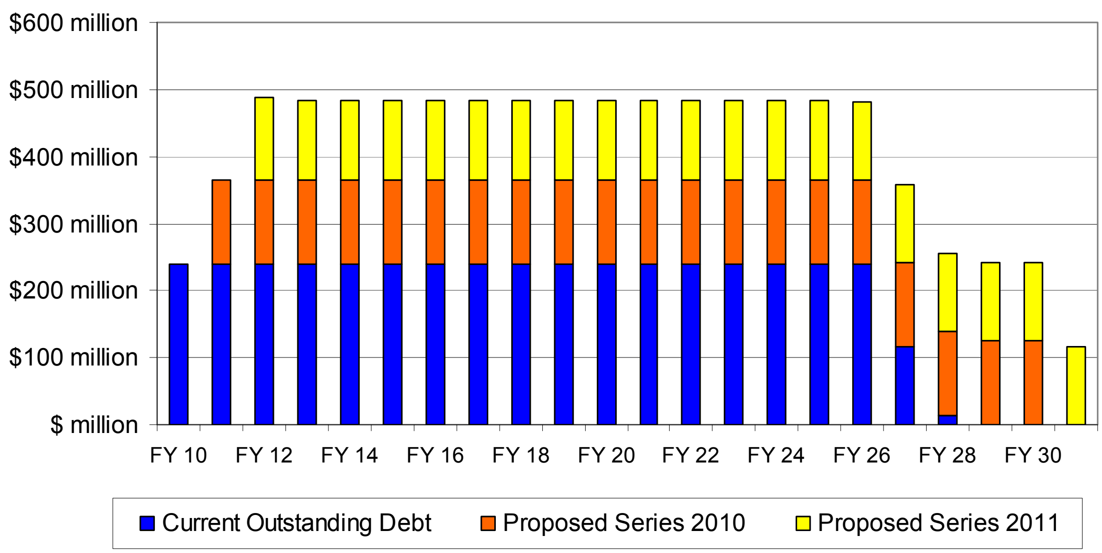
State Highway Fund Revenue Bonds (Proposition 14)

The Texas Transportation Commission is authorized by law to issue an aggregate total of $6 billion in bonds, with no more than $1.5 billion issued in any one year and with a maximum maturity of 20 years.

Debt service payments are secured by all revenues of the State Highway Fund. Projected debt service may not exceed 10% of prior year's deposits to the fund. Current credit ratings are Aa1 by Moody's and AAA by S&P.

To date, the commission has issued $3.1 billion, but has committed $5.66 billion to projects. The department will likely recommend that the commission issue $1.5 billion more in July 2010 and the remaining $1.4 billion in late 2011 to fund progress payments on these selected projects.

Debt Service on Prop 14 Bonds



The recent projects selected by the commission include the following:

- Projects previously delayed due to cash flow/funding limitations
- Priority projects such as those that complete the last phase of multiple-phased projects or of statewide significance, such as hurricane evacuation routes
- Projects to address congestion problems in regions of the state that have lagged behind other regions in previous funding cycles
- Projects that provide safety improvements in areas with high accident rates
- Projects selected based on the safety benefits they provide

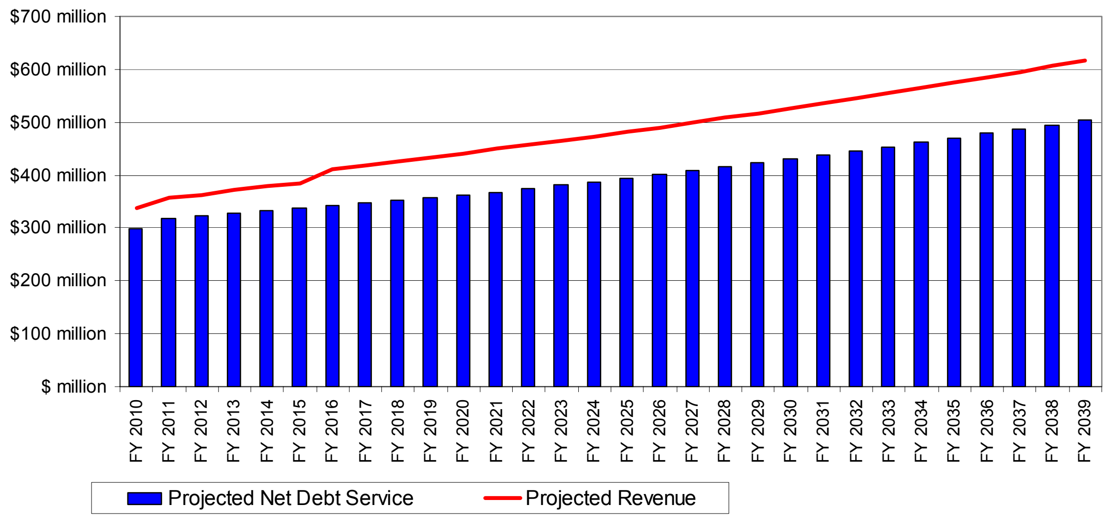
Texas Mobility Fund

The Texas Mobility Fund was authorized by voters in 2001 and the legislature identified revenues to be dedicated to the fund in 2003 to advance transportation projects. The maximum maturity is 30 years.

The program issuance limitation is based on a certified revenue estimate from the Comptroller, estimated at $6.4 billion as of July 2009. Debt service payments are secured by revenues of the fund and are backed by the full faith and credit of the state.

Ninety nine percent of the revenue deposited to the fund comes from motor vehicle inspection fees, driver's license fees, driver's license information fees, and certificate of title fees. The bond proceeds can be used for state highways, publicly owned toll roads, and other public transportation projects. Current credit ratings are AA+ by Fitch, Aa1 by Moody's, and AA+ by S&P.

Projected Revenue and Debt Service on TMF Bonds



To date, the commission has issued over $6.3 billion, the proceeds of which are used to pay the expenses for ongoing projects. The chart above shows the projected revenue to the fund and the projected net debt service payable from the fund. You will note that the projected revenue exceeds the debt service each year. This is because of the requirement that the projected revenues in any year must be at least 110% of the debt service.

Rail Relocation and Improvement Fund

The Rail Relocation and Improvement Fund is designed similarly to the Texas Mobility Fund. The legislature has yet to dedicate a revenue source to the fund and therefore no debt has been issued. Once a revenue source is identified, the program issuance limitation will be based on a certified revenue estimate from the Comptroller.

General Obligation Bonds (Proposition 12)

In 2007 Texas voters approved a constitutional amendment to allow the legislature to authorize the Texas Transportation Commission to issue up to $5 billion in general obligation debt.

HB 1 (81st Texas Legislature, First Called Session) authorizes the issuance of general obligation bonds to pay all or part of the costs of highway improvement projects. The bonds are payable from revenue not already dedicated by the constitution, i.e. general revenue. The amount that can be issued, up to an aggregate amount of $5 billion, is subject to appropriation. $100 million of GR is appropriated to TxDOT in 2011 for debt service and $2 billion in bonds is appropriated in the biennium. Of that, $1 billion is deposited to the State Infrastructure Bank (SIB) in 2011 to make loans to public entities. The remaining $1 billion is distributed as follows:

2010
Contracted Planning/Design: $60 million
ROW: $90 million
New Construction: $250 million

2011
New Construction: $600 million
(Construction Grants and Services: $1 billion for the SIB)

From these appropriations, TxDOT can go to contract on $1.85 billion of projects in the biennium, as long as the payouts on those contracts don't exceed what is appropriated. The timing of the debt issuance will ensure that debt service is not due until 2011.

In summary, HB 1 appropriates $2 billion in 2010-2011. $1 billion goes to the SIB. The other billion is available to make payments on $1.85 billion in lettings plus $150 million for engineering and ROW. Instructing the department to enter into contracts valued at a greater amount than what is appropriated, signals the legislature's intent to authorize more Proposition 12 debt in the 2012-2013 biennium to complete payment of those projects.

TxDOT districts and the Metropolitan Planning Organizations identified more than $8.9 billion in possible projects. In October 2009, the Texas Transportation Commission was presented with a narrowed list of projects recommended by staff. The Commission approved a final project list at their regular November 19, 2009 meeting in Austin. Projects selected were:

- Corridor projects, which are of statewide significance
- Rehabilitation and safety projects, which focus on improving declining pavement scores and driver safety
- Mobility projects, which focus on relieving congestion on specific roadway segments

Now that we have a list of approved projects to develop, we have a better understanding of our right of way and engineering needs. We have asked the Legislative Budget Board for permission to shift some of the Prop 12 bond proceeds among these categories.

INNOVATIVE FINANCING TOOLS

None of the financial challenges described above are new circumstances. Many observers have seen this coming for years. These circumstances were the impetus for creation of several of the new financing tools authorized by the Texas Legislature since

2001. New borrowing programs were described in more detail above. Other programs include.

Public Private Partnerships

A Comprehensive Development Agreement (CDA) is an agreement with a private entity that, at a minimum, provides for the design and construction of certain transportation projects and may also provide for the financing, acquisition, maintenance, or operation of certain projects. Concession CDAs allow the public to tap into private capital to supplement state funds in building publicly-owned infrastructure.

In exchange for financing the construction of the facility and taking the revenue risk, the developer has the right to collect some or all of the toll revenue. Developers are not guaranteed to recoup their investment or to make a profit. In more traditional toll road financing, investors loan money to a public agency which in turn pledges toll and other revenues to the repayment of the loans. In such models, the financial risk is borne by the public. The following is an example that demonstrates the public benefits of CDAs.

TxDOT sought to build a portion of SH 130 from Seguin to South Austin, estimated to cost $1.3 billion. Because TxDOT could only borrow about half the necessary funds, the department concluded that the segments could not be built. There simply was no way to draw $685 million in state funds from other parts of the state to combine with borrowed funds to make the project feasible.

In June 2006, TxDOT agreed to terms with a private developer to build these segments of SH 130 in central Texas. As a result of this CDA, central Texas is receiving a transportation asset valued at approximately $1.3 billion without the need for any state or local funding. In addition, the state received a payment of about $26 million up front, and will share a portion of the toll revenue that is collected. This revenue will be spent on other transportation projects in the Austin-San Antonio region.

By injecting market forces into the process of planning infrastructure, we ensure that demand will be met when it is needed, private financing is made available, traditional highway funding remains intact, and drivers have more choices that ensure safer, more reliable travel.

This mechanism of accessing private capital has caused some consternation among legislators and the public because it can appear to transfer too much value to private developers (notwithstanding the substantial level of risk that is transferred from the public to the developer under a CDA). However, in the example above, the road could not have been built in the foreseeable future.

TxDOT no longer has the general authority to enter into CDAs as of September 1, 2009. However, the department is able to enter into a CDA through August 31, 2011 for several previously exempted projects around the state. These projects include:

- A CDA project that does not include private financing.
- A CDA in connection with the following North Texas managed lane facilities: North Tarrant Express, IH 635/LBJ, and DFW Connector projects.
- The Trinity Parkway (North Texas)
- Any portion of Loop 9 (North Texas) located in a nonattainment area
- The Grand Parkway (Houston area)
- I-69 located south of Refugio County and along nationally designated routes.
- SH 161 project (North Texas)
- A Grayson County Regional Mobility Authority Project
- SH 121 (North Texas in Denton and Collin Counties)
- Any project located in El Paso, Cameron, and Hidalgo counties, provided that in El Paso County the project was adopted by the Metropolitan Planning Organization transportation plan before May 1, 2007.

Regional Mobility Authorities (RMAs) have the similar CDA authority as TxDOT, while other local tolling entities maintain CDA authority without an expiration date. In particular, RMAs have the authority to enter into design-build and non-tolled CDAs through August 31, 2011. The following are the CDAs entered into to date, along with the project value and the public funds committed (or augmented with concession fees).

Design / Build PPPs	**Project Value**	**Public Funds Committed (row/design/const)**
1. SH 130 Seg 1-4	$1.5 billion - row/design/const	$1.5 billion
2. DFW Connector (SH 114/SH121/etc)	$1.0 billion - row/design/const	$1.0 billion
TOTAL:	**$ 2.5 billion**	**$2.5 billion**

Concession PPPs	**Project Value**	**Public Funds Committed**
1. SH 130 Segments 5&6	$1.37 billion - row/design/const $385 million - O&M* (50 years)	$0.0 (received $25 m concession fee)
Proj Total:	$1.75 billion	$0.0
2. North Tarrant Express (I820/SH183)	$2.2 billion row/design/const $450 million O&M* (50 years)	$ 570 million
Proj Total:	$2.65 billion	$ 570 million
3. LBJ Freeway (I635)	$2.7 billion row/design/const $1.5 billion O&M* (50 years)	$ 445 million
Proj Total:	$4.2 billion	$ 445 million
TOTAL:	**$8.6 billion**	**$ 990 million**

*O&M = Operation and Maintenance by the concessionaire

Pass-Through financing

Pass-through financing is a tool created by the legislature in 2003 and enhanced in subsequent legislative sessions that stretches already limited tax dollars. The program allows local communities and private entities to fund the upfront costs for constructing a state highway project. The state then reimburses a portion of the project cost over time by paying a fee for each vehicle that drives on the new highway. Projects must be on the state highway system to be eligible to be developed under this program.

On October 29, 2009, the Texas Transportation Commission approved 7 projects, estimated at $193 million, to be funded by pass-through financing. And on December 17, 2009, the commission gave final approval for 4 projects estimated at $56 million to be funded through pass-through financing.

There is further detail on the pass-through program in TxDOT's accompanying testimony entitled "Quarterly Update."

LETTINGS

Letting is the process of providing notice, issuing proposals, receiving proposals, and awarding contracts for highway improvement contracts. At this stage of project development, department staff must have a realistic view of how much cash will be available over the following few years to make progress payments on contracts awarded.

We must look at more than what is appropriated for that biennium or what had been programmed in the past. We need to ensure that there is sufficient revenue to support the appropriation. And we need to ensure that the revenue will be there beyond the biennium as each project continues to pay out over several years.

2010-2011 Appropriations

The General Appropriations Act (SB 1) restructures TxDOT's bill pattern to provide greater clarity and transparency in budgeting for transportation projects. SB 1 distinguishes what is appropriated to pay for projects already underway, and what is left over to support new contracts in the biennium.

In addition to State Highway Fund and federal dollars, we are also appropriated the proceeds of Prop 12 bonds, SH 121 funds which can only be used in the Dallas District, and federal stimulus dollars, much of which has already been obligated. The commission has also decided to move forward with projects that will make use of the remaining $2.9 billion in Prop 14 Bonds, as noted above. It should also be noted that these particular methods of finance are not sustainable, ongoing sources of revenue.

Appropriations 2008-2009 vs 2010-2011

The Legislative Budget Estimate for the 2008-2009 biennium indicates TxDOT's overall budget was just under $17.5 billion. SB 1 appropriated just under $15 billion for 2010-2011, a $2.5 billion reduction. HB 1 (81st Legislature First Called Session) added another $2 billion in Prop 12 bond proceeds.

SB 1 also anticipates that the department will spend $1 billion more in federal stimulus dollars in the current biennium than in the last biennium. When these funding measures are added, TxDOT's appropriation for this biennium appears to be $0.5 billion higher than the last biennium.

However, included in the method of finance for TxDOT's appropriation are an increase of nearly $600 million in Prop 14 debt service. It includes an increase of $180 million in Texas Mobility Fund debt service. And it also includes $1 billion from the NTTA payment for SH 121 that can only be spent in the Dallas area. Meanwhile, General Revenue support for Prop 14 debt service fell from $300 million in the last biennium to about $15 million.

Cashflow

As noted earlier, TxDOT planners must be able to predict with some measure of reliability how much cash will be available to make payments on projects over the next several years. Because projects can take several years to pay out, we must look beyond appropriations made in a biennium to ensure that projects that begin today can be paid for in the future.

On the next two pages is a portion of a table that projects how much TxDOT may be able to award in highway improvement contracts along with the method of finance. This information is updated monthly and sent to the Governor and Legislative Budget Board.

Total Letting Amounts

November 2009 Forecast

Letting Program

Funding	**FY 2009** Actual	**FY 2010** Forecast	**FY 2011** Forecast	**FY 2012** Forecast	**FY 2013** Forecast
Fund 6	1,525,402,068	1,600,000,000	1,540,117,574	2,009,768,115	2,100,218,114
Mobility Fund	-	-	-	-	-
Prop 14	300,936,080	850,000,000	550,000,000	-	-
Prop 12[1]	-	925,000,000	925,000,000	-	-
SH 121	272,801,957	260,583,572	1,067,639,823	235,737,280	-
SH 130	-	8,000,000	2,000,000	2,000,000	4,300,000
ARRA	721,553,183	1,278,461,963	-	-	-
Total Letting	2,820,693,288	4,922,045,535	4,084,757,397	2,247,505,395	2,104,518,114
Prop 12 Scenario	-	-	-	800,000,000	800,000,000
Potential Letting	2,820,693,288	4,922,045,535	4,084,757,397	3,047,505,395	2,904,518,114

Comprehensive Development Agreements (CDAs)

Funding Source	FY 2009 Actual	FY 2010 Forecast	FY 2011 Forecast	FY 2012 Forecast	FY 2013 Forecast
State Highway Fund[2]	1,533,088,768	-	-	-	-
Local Funds	73,000,000	-	-	-	-
ARRA	250,000,000	-	-	-	-
SH 121	100,000,000	-	-	-	-
Private[3]	3,827,807,407	-	-	-	-
Total CDA Letting	5,783,896,175	-	-	-	-
Grand Total	8,604,589,463	4,922,045,535	4,084,757,397	3,047,505,395	2,904,518,114
CDA O&M[4]	4,000,000,000	-	-	-	-
Total CDA Value	9,783,896,175	-	-	-	-

Letting is a contract award amount. The letting figures above will have cash expenditures during the year of letting and during future years until the projects are completed.

[1]$1B of Proposition 12 proceeds will also be used to capitalize the State Infrastructure Bank (SIB) in FY2011.

[2]FY2009-FY2011 SHF letting does not include funds committed over time for the CDAs in the Dallas area. See footnote #3 below for more information on the CDAs.

[3]Comprehensive Development Agreements do not go through the traditional statewide letting process and are therefore listed separately. TxDOT's total participation for Comprehensive Development Agreements awarded by the Commission to the Dallas-Fort Worth region is $1.533 billion, which will be charged to the letting program over a three year period beginning in FY 2009. Payments will occur over an approximately five year period in accordance with the agreements. The figures include right-of-way and engineering costs in addition to the construction costs. The figures do not include ongoing Operations and Maintenance expenditures nor financing costs, and for the NTE and LBJ projects this will be the responsibility of the private developer.

[4]Ongoing operations and maintenance costs are the responsibility of the private developer. These costs are a significant part of the total value of the CDA projects, and that additional value is represented in the grey box below the letting totals.

2010 UNIFIED TRANSPORTATION PROGRAM

In November 2009, the Texas Transportation Commission adopted target funding levels for the 2010 to 2020 Unified Transportation Program (UTP). The UTP is an eleven year plan that guides transportation project development and construction. The plan is updated annually and is based on a financial forecast conducted before the funding levels are adopted. (The cash forecast noted earlier is updated monthly.) The categories of funding and the dollar amounts placed in each are depicted in the table below.

The 2009 UTP which was developed in April 2008 projected that the department would have $28 billion available between 2009 and 2019 for distribution into the 12 categories of funding that are distributed by formula. The 2010-2020 UTP does not include revenue allocated for the three CDAs in the Dallas-Fort Worth region as those were committed during 2009. Neither of the UTPs includes stimulus dollars, the SH 121 payment, revenue set aside for pass-through agreements, Prop 12 funding, or Prop 14 funding. These sources of revenue are not allocated by formula.

UTP Category	2010-2020 UTP	2009-2019 UTP
1. Maintenance	$10.61	$12.43
2. Metro Mobility	2.02	$3.27
3. Urban Mobility	.40	$0.43
4. Statewide Mobility	.05	$0.80
5. CMAQ	$1.24	$1.63
6. Bridge	$2.81	$2.75
7. STP Metro Mob/Rehab	$2.10	$2.35
8. STP Safety (HES)	$1.44	$1.43
9. STP Enhancement	$0.67	$0.66
10. Miscellaneous	$0.76	$0.64
11. District Discretionary	$0.72	$0.69
12. Strategic Priority	$0.18	$1.10
Total	$23.04	$28.18

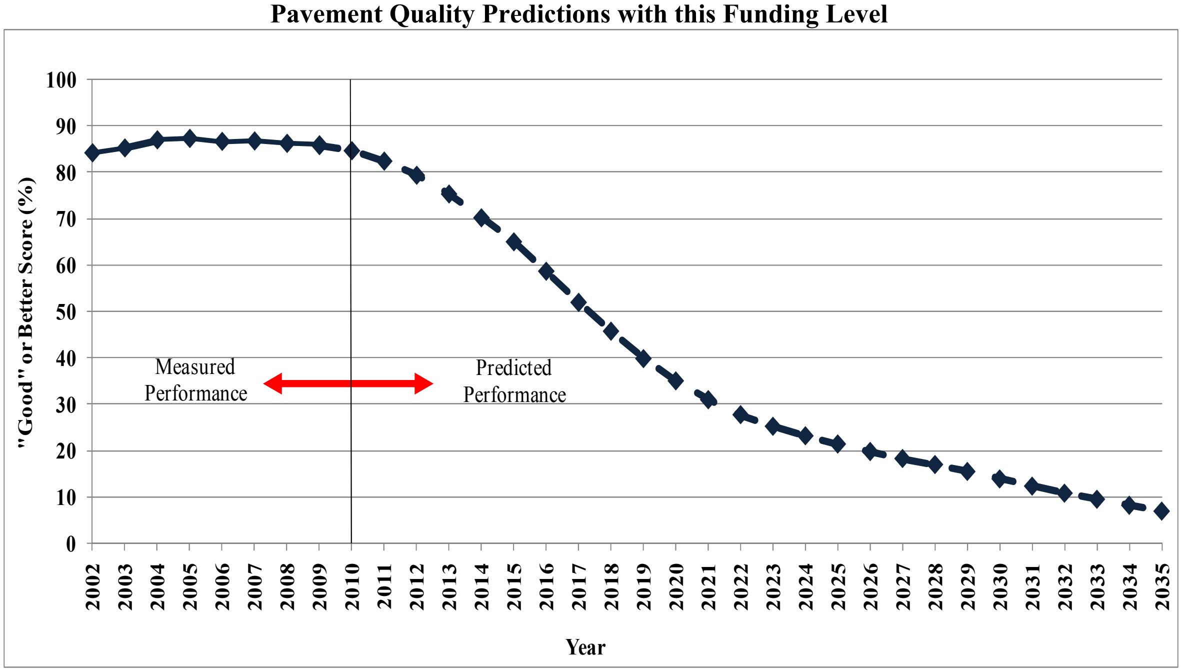
As noted earlier, motor fuel tax revenue collected in 2009 was 2.17 percent less than 2008. Meanwhile, the department had forecasted that motor fuel tax revenue would increase by 1.5 percent per year. In other words, the department projected 1.5 percent growth in fuel tax revenue in 2009 but instead there was a 2 percent drop.

Consequently, for the 2010 UTP funding levels, the department had to reset it's baseline for 2010 based on actual collections in 2009, and lower the expected growth in fuel tax collections moving forward.

For the 2010 UTP, the department projects that motor fuel tax revenue will grow by .5 percent in 2010 and 1 percent from 2011 through 2020. These projections affect both state and motor fuel tax collections. The result is that the 2010 UTP forecasts that only $23 billion will be available through 2020—a $5 billion reduction from the previous UTP.

The figure below shows existing and predicted pavement quality ratings with the funding levels described above. The predictions are based on a model devised by the Center for Transportation Research.

Pavement Quality Predictions with this Funding Level



CONCLUSION

The Reason Foundation recently issued its 18th Annual Highway Report which offers some interesting statistics about Texas highways relative to other states. The study ranks states on highway performance and overall cost-effectiveness using data compiled up to 2007.

According to the report, about 53 percent of the poor-condition urban interstate mileage is in just four states—California, New York, New Jersey and Texas. Texas ranks 1st in the number of state-controlled miles but slid to 17th in overall performance. In 1998 Texas ranked 7th and in 2006 it ranked 12th.

On the bright side Texas ranks 11th in administrative costs per mile, well ahead of Pennsylvania at 27, Florida at 39, and California at 49.

As the committees well know, the commission has anticipated the funding challenges cited above for some time. As a consequence, the department has made every effort to reduce operating costs before reducing transportation programs.

For field operations, in 2009 the staffing approved by the department was 11,773. Our current head count is approximately 10,000. We have also developed and executed a plan to reduce field staff to 9575 by 2012. Meanwhile we have reduced our fleet by over 900 pieces of equipment and reduced purchases in 2009 and 2010 by more than $50 million. We anticipate that the Grant Thornton management review will offer additional cost-cutting measures for headquarters staff.

These efforts should improve our ranking for administrative costs in future Reason analyses. But Texas' overall slide is alarming. The trends noted above—increasing fuel efficiency and population, combined with lower-than-anticipated revenues will only exacerbate the problem and will severely threaten the economic competitiveness of the state and the quality of life of its citizens.

We know that the next legislative session will be difficult for budget writers. But there is a general consensus that we need to examine new ways to add capacity to our transportation network and maintain the very valuable assets we currently have. The members of the Texas Transportation Commission look forward to working with state policy-makers on identifying the solutions that will best protect our quality of life and enhance our economic competitiveness.