



OFFICE OF THE GOVERNOR

RICK PERRY
GOVERNOR

July 2, 2007

The Honorable James L. Oberstar
Committee Chairman

The Honorable Peter A. DeFazio
Subcommittee Chairman
Committee on Transportation and Infrastructure
U.S. House of Representatives
2165 Rayburn House Office Building
Washington, D.C. 20515

Dear Chairmen Oberstar and DeFazio:

Thank you for your letter regarding the impact of public-private partnerships on the nation's transportation system. I appreciate your interest in our state's growing transportation demands and efforts to meet them.

However, as your committee studies the role of public-private partnerships (PPPs) in supporting our national transportation system, I encourage you to examine the fundamental question of why the states are looking to engage the private sector in the first place. I will tell you that the answer in Texas is that we could no longer wait for anyone else to solve our problems.

The states have looked to Presidents and Congressional leaders from both parties for years to help us improve transportation, but the assistance we need has not arrived – at least not in the amount needed for a fast-growing state that bears a huge percentage of the traffic increase caused by free trade agreements. As we move forward with our own solutions, I would hope that the federal government would encourage innovation and not stifle it.

Like you, I believe that the state and federal governments have an essential role to play in strengthening our country's transportation network. In my years of public service I have seen the profound impact of maintaining and improving our nation's infrastructure as critical to spark economic opportunity, reduce air pollution and improve the quality of life of our constituents.

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Meeting my state's transportation needs is a challenge that grows by a thousand people every day. In the next 25 years, road usage in Texas is expected to increase by more than 200 percent, but road capacity would grow by only 6 percent if we simply rely on state and federal gas taxes.

If we do not find new ways to pay for our highways, by 2014, Texas will have no money to increase road capacity, and the remaining funds used to maintain our infrastructure will quickly disappear thanks to increased wear-and-tear and growing materials costs. The result would be crumbling, congested roads.

Some have suggested the state should raise our state gas tax to pay for new road construction, but the tax would have to be raised to \$1.40 to pay for all the transportation improvements our highway system needs over the next 25 years. Although I do not speak for my former colleagues in the Texas House of Representatives, I will tell you that earlier this month, they voted 122-19 to defeat an attempt to simply index our gas tax to inflation.

As a long-time donor state, Texans are willing to do their part to sustain and grow the national highway system. Texan Frank Turner is considered the "Father of the Interstate," and our state fully acknowledges that we have a role to play in building and maintaining a road network that extends across our country. We will continue to play that role, but not at the expense of our safety, our prosperity or the quality of our air.

Our state's portion of the national highway system plays a role that extends far beyond Texas. The endless flow of trade to and from our ports and our border with Mexico affects our state's drivers on a daily basis as they share their communities' roads with trucks bound for destinations elsewhere in our country. We have embraced that challenge, but we must have the financial tools to meet it in the coming decades.

As governor, I will not sit by and allow gridlock to consume our state's roads. With the support of local and state leaders, we have created a new approach to transportation funding. We are empowering regional leaders to solve their own problems, and we are engaging the private sector to help us meet these transportation challenges.

Using innovative financing methods created by state and federal laws, including the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU), we are already seeing the impact of market forces that are driving down the cost of transportation projects and expediting their completion for the driving public. We cannot turn back now; congestion doesn't wait for Congress to make up its mind.

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Texas is a donor state to the federal Highway Trust Fund (HTF). Texas gets back only 8 cents in federal transit program funds and only 70 cents in federal highway program funds for every dollar we contribute to the fund. At this stage, even if Congress could guarantee Texas a 100 percent return on its transportation dollar, it wouldn't address our needs.

Neither will an increase in the federal gas tax. Forcing it through a system that has no meaningful congestion relief goal, pigeonholes money into inflexible categories, and then dilutes what is left through earmarks, simply does not make sense when I see Texas roads choked with congestion, economic opportunity at risk, and maintenance deteriorating.

Add to that the now chronic challenge of repeated rescissions by Congress of appropriated transportation contract authority. The rescissions have largely erased the improved rate of return that Texas has fought so hard to achieve under SAFETEA-LU. In less than two years, Texas has been ordered to return more than \$600 million in rescissions to the Federal Highway Administration. In 2009, SAFETEA-LU calls for another \$600 million to be rescinded from Texas alone. And although those funds have disappeared, the needs have not.

It should be clear to you that I am not in favor of sending more of Texas' gas tax dollars to an unfocused federal program. While we are vigorously debating tolling and private sector financial participation here in Texas, I can tell each one of my fellow citizens that I am not sending their hard-earned money to Washington, D.C., to have it redistributed, earmarked, and locked into programs that do little to relieve congestion. If Texans pay a user fee, it now stays in that region of the state to relieve congestion, increase safety, clean the air, promote economic opportunity, and maintains their system. The federal government cannot promise the same results.

In the absence of radical changes to the size, scope and dependability of the federal government's support for the national transportation system, Texas and other states will have no choice but to seek new solutions to their transportation problems, including working with the private sector.

I should note that the State of Texas has no interest in rushing into any transportation agreements with the private sector. Our state's contracting procedures are thorough and transparent. Our goal with every PPP is to create as much sustained benefit as possible for our driving public by meeting transportation needs that would otherwise go ignored.

As governor, I will not haphazardly mortgage the future of my state, and I certainly will not turn my back on one of the most serious challenges to our safety, our health and our prosperity. It is my firm belief that all of us, as elected officials, will be remembered for how, and whether, we

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chose to face the growing crisis of traffic congestion. My observation of my fellow governors is that they are not making these decisions lightly or haphazardly either. Congress should look to help their efforts, not hinder them.

I am encouraged that your committee will continue the important national dialogue on public-private partnerships. They deserve careful examination from everyone interested in improving transportation in our country. The State of Texas looks forward to sharing our experiences as pioneers in working with the private sector.

Sincerely,

A handwritten signature in black ink that reads "Rick Perry". The signature is written in a cursive, slightly slanted style with a large, sweeping "R" and "P".

Rick Perry
Governor

RP:khp

cc: The Honorable George W. Bush, President of the United States.
The Honorable Mary Peters, Secretary, U.S. Department of Transportation
The Honorable John L. Mica, Ranking Member, Committee on Transportation and Infrastructure
The Honorable Richard F. "Ric" Williamson, Chairman, Texas Transportation Commission
The Texas Congressional Delegation
United States Governors
National Governors Association

U.S. House of Representatives
Committee on Transportation and Infrastructure
Washington, DC 20515

May 10, 2007

Dear:

We write to strongly discourage you from entering into public-private partnership ("PPP") agreements that are not in the long-term public interest in a safe, integrated national transportation system that can meet the needs of the 21st Century. Although Bush administration officials have lauded PPPs at every turn, the Committee on Transportation and Infrastructure of the U.S. House of Representatives believes that many of the arrangements that have been proposed do not adequately protect the public interest. The Committee will work to undo any state PPP agreements that do not fully protect the public interest and the integrity of the national system.

The Committee on Transportation and Infrastructure has begun work on reauthorizing the Federal highway, transit, and highway safety programs of Safe, Accountable, Flexible, Efficient Transportation Equity Act: a Legacy for Users ("SAFETEA-LU"), which expires on October 1, 2009. We believe that we must significantly increase investments in our highway, bridge, and public transit infrastructure. However, we have serious concerns about states entering into PPP agreements that improve selected segments of our surface transportation network but undermine the integrity of a national system and do not protect the public interest. Although we invite all financing options be on the table as we evaluate opportunities to increase investment in our nation's infrastructure, we strongly caution you against rushing into PPPs that do not fully protect the public interest, the integrity of the national system, and which do not constitute a sustainable national system of transportation financing.

The Subcommittee on Highways and Transit of the Committee has held three hearings since May of 2006 on PPPs to examine the policy questions surrounding increased private involvement in infrastructure project development, delivery, and financing. It will

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hold another hearing on the issue at the end of the month. Our interest in PPPs is directly related to the increased involvement of private companies, both foreign and domestic, in managing and financing our nation's transportation infrastructure, and efforts by the U.S. Department of Transportation ("U.S. DOT") to strongly encourage states to utilize PPPs.

Our concern initially stemmed from non-compete clauses that are frequently included in concession agreements that make it extremely difficult – if not impossible – for public transportation agencies to address safety and congestion problems on highways and streets adjacent to private toll roads. More recently, we have become increasingly concerned with a new type of PPP agreement that was approved for projects in Chicago and Indiana. These agreements raise revenues for public entities by engaging in long-term leases of existing toll facilities with private companies. These deals make good business sense to the companies that are investing in the projects, but we have serious concerns about whether these transactions offer a net balance of benefits for the American public.

We are also very concerned about the impact that PPPs will have on our national transportation network, which is the mobility backbone that supports our economy. Our Federal-aid highway system was developed on the basis of a federal-state partnership. The need for an efficient, integrated national transportation network is even more compelling in today's global economy than when we began the work in the 1956. Shortsighted and unbalanced PPPs that mortgage our nation's surface transportation infrastructure for generations to come may favor parochial and private interests to the detriment of an improved 21st Century national transportation system.

The rush of the Administration and some states to embrace PPPs, particularly for long-term leases of existing assets, is already turning public opinion against this form of innovative financing and may hurt future efforts to positively harness private investment for the public good. PPPs that expand capacity and provide a service that otherwise cannot be provided by public resources may be a good idea. However, we need to fully examine both the claimed benefits and the potential public policy concerns engendered by this relatively new way of financing transportation projects in the United States before it is significantly expanded across the country.

The U.S. DOT is strongly encouraging states to adopt legislation allowing for PPPs. To support this endeavor, they have created "model legislation" for the states as an example of what the Administration believes should be included in any legislation proposal to authorize PPPs. To provide a more balanced discussion about the benefits and costs of PPPs, the Committee on Transportation and Infrastructure is preparing a discussion paper that outlines what we think states should consider before enacting PPP legislation or entering into PPP agreements. That document will be sent to you in the coming days.

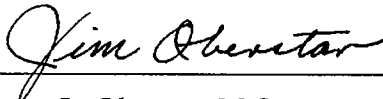
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As we move to reauthorize the Federal highway, transit, and highway safety programs, we look forward to working with you and other state and local officials to ensure that we significantly increase infrastructure investment while protecting the public interest in a safe, integrated national transportation system that can meet the needs of the 21st Century.

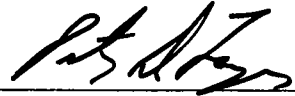
If you have any questions, please contact the majority staff of the Subcommittee on Highways and Transit at (202) 225-9989 or us.

With all best wishes.

Sincerely,



James L. Oberstar, M.C.
Chairman



Peter A. DeFazio, M.C.
Chairman
Subcommittee on
Highways and Transit