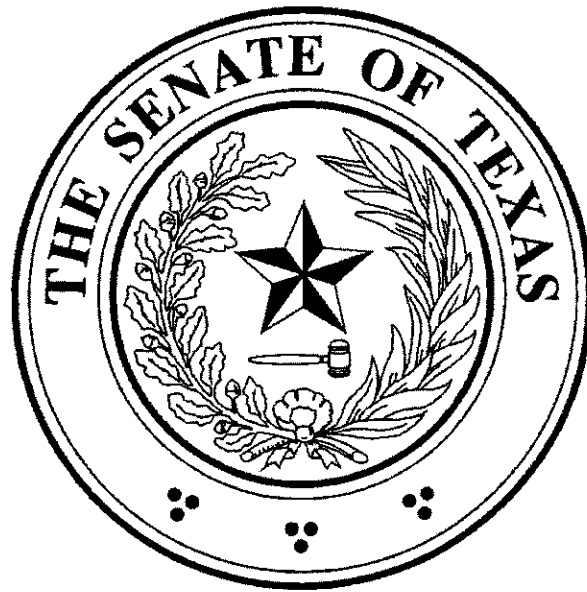


# Texas Senate Committee on International Relations and Trade

Interim Report

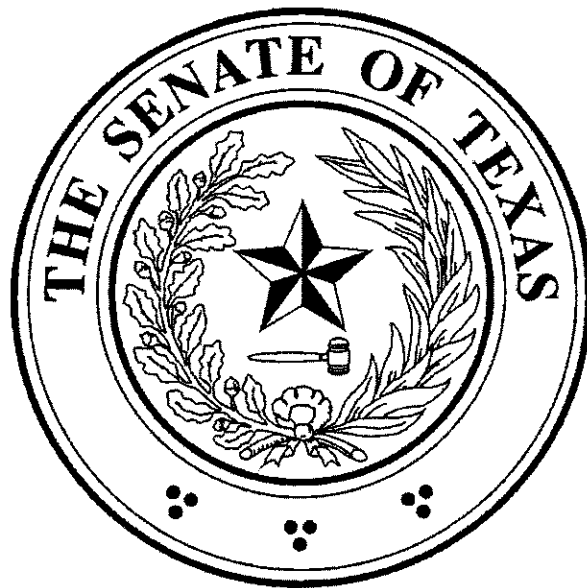


---

78<sup>th</sup> Legislative Interim

## **Senate Committee on International Relations and Trade:**

Senator Eddie Lucio, Jr., Chairman  
Senator Eliot Shapleigh, Vice-Chairman  
Senator Judith Zaffirini  
Senator John Carona  
Senator Craig Estes  
Senator Kevin Eltife  
Senator Kel Seliger



### **Committee Staff:**

Dan Esparza, J.D., Committee Director  
LeAnn Gallegos, Committee Clerk (Co-Editor)  
Doris Sanchez, Press Secretary & Assistant (Co-Editor)

# SENATE COMMITTEE ON INTERNATIONAL RELATIONS AND TRADE

78TH LEGISLATURE

SENATOR EDDIE LUCIO, JR.  
Chair



SENATOR ELIOT SHAPLEIGH  
Vice Chair  
SENATOR JOHN CARONA  
SENATOR KEVIN ELTIFE  
SENATOR CRAIG ESTES  
SENATOR KEL SELIGER  
SENATOR JUDITH ZAFFIRINI

December 2, 2004

The Honorable David Dewhurst  
Lieutenant Governor of Texas  
Capitol Building, 2E.13  
Austin, Texas 78701

Dear Governor Dewhurst:

The Texas Senate Committee on International Relations and Trade hereby submits its report for the 78<sup>th</sup> Legislative Interim. We thank you for providing us with the opportunity to address the issues outlined in the report and to present recommendations that will benefit the state as we work to improve Texas' standing in economic development, workforce training and other infrastructure initiatives.

Respectfully submitted,

Handwritten signature of Eddie Lucio, Jr. in cursive script.

Eddie Lucio, Jr., Chairman

Handwritten signatures of Eliot Shapleigh and Judith Zaffirini in cursive script.

Eliot Shapleigh, Vice-Chair

Judith Zaffirini

Handwritten signature of John Carona in cursive script.

John Carona

Handwritten signature of Craig Estes in cursive script.

Craig Estes \*

Handwritten signature of Kevin Eltife in cursive script.

Kevin Eltife

Handwritten signature of Kel Seliger in cursive script.

Kel Seliger \*

\*see attachment for reservations



# SENATE COMMITTEE ON INTERNATIONAL RELATIONS AND TRADE

78TH LEGISLATURE

SENATOR EDDIE LUCIO, JR.  
Chair



SENATOR ELIOT SHAPLEIGH  
Vice Chair  
SENATOR JOHN CARONA  
SENATOR KEVIN ELTIFE  
SENATOR CRAIG ESTES  
SENATOR KEL SELIGER  
SENATOR JUDITH ZAFFIRINI

## *A Message from the Chairman:*

For the continued support from the citizens of Texas, especially those whose cities hosted the Texas Senate Committee on International Relations and Trade (IRT), I wholeheartedly convey a message of gratitude.

I also deeply appreciate the members of this Committee for the role each one played as we moved to fulfill our charges. In all my years of public service, I have never had the privilege of working with a more dedicated group of individuals. Truly, their commitment to help our communities is something that should be recognized. For the long hours that our members and staff devoted to our hearings, I want to thank them.

I would be remiss if I did not thank our presiding officer, Lt. Governor David Dewhurst, for this Committee's creation. Through IRT, Lt. Governor Dewhurst has continued to afford the communities shouldering the greatest impact resulting from NAFTA trade a voice in the Texas Senate. I know that the members who represent the Border join me in thanking our presiding officer for this continued commitment. I especially want to express gratitude to our Lt. Governor for appointing such a diverse group of devoted Texans to this Committee. This diversity offered the Committee a broader perspective of the issues.

The Committee appreciates all the agencies who assisted us. I want to personally thank them for their hard work, especially three agencies whose assistance merits special mention. For the first time in history, IRT was fortunate that two Transportation Commissioners participated in one of its hearings; and equally fortunate that Commissioner Hope Andrade participated at every subsequent hearing. The Texas Workforce Commission was also well represented by Chair Diane Rath. Their dedication to our hearings is evidence of a deep concern for the Border. We can be



# SENATE COMMITTEE ON INTERNATIONAL RELATIONS AND TRADE

78TH LEGISLATURE

SENATOR EDDIE LUCIO, JR.  
Chair



SENATOR ELIOT SHAPLEIGH  
Vice Chair  
SENATOR JOHN CARONA  
SENATOR KEVIN ELTIFE  
SENATOR CRAIG ESTES  
SENATOR KEL SELIGER  
SENATOR JUDITH ZAFFIRINI

confident that the challenges NAFTA brings to our state will be appropriately addressed through the reforms that IRT has developed, with the help of Commissioner Andrade and Chair Rath. The same is true for the Texas Water Development Board; Executive Administrator J. Kevin Ward and his staff went beyond the call of duty to assist in developing critical reforms to improve services for colonia residents.

Lastly, I want to commend our Committee staff for accomplishing this herculean effort under limited constraints. Those who have followed the workings of IRT are aware of the unforeseen challenges we faced during this Interim. Despite unexpected staff changes during such critical times, and serious health conditions that threatened the life of our committee director and disabled him for several months, the Committee's charges were comprehensively addressed. The steadfast determination and unwavering perseverance given to the drafting of this report should be commended. As the Chair of IRT, I want to personally thank our Committee staff for meeting every challenge placed before them. Our Border communities and the State of Texas should be proud of their unrelenting work ethic and devotion.

Again, to everyone involved in the drafting of this report, thank you for helping Texas meet the challenges of the 21st Century.

Thank you!

A handwritten signature in cursive script that reads "Eddie Lucio, Jr.".

Eddie Lucio, Jr.

Chairman, Texas Senate Committee on International Relations and Trade



**Scope of Study: Interim Charges**

The infrastructure of the State of Texas is diverse, varying in different regions according to location and resources. Some areas experience strong economic activity, as illustrated by their low unemployment levels and high wages. Others are plagued with economies of high unemployment and low per capita income levels. Historically, the lack of the appropriate economic foundation in certain regions has led to severe consequences. For instance “due to the high level of poverty in the Border region, colonias. . .flourish along the. . .stretch from Cameron County to El Paso County.”<sup>1</sup>

During the 78<sup>th</sup> Legislative interim, several committees were charged with reviewing different elements of Texas’ economic infrastructure. The Texas Senate Committee on International Relations and Trade (IRT) received four broad and varied charges that address the infrastructure of the state.

**Exhibit 1: IRT Committee Interim Charges**

1. Study the activities of the U.S.-Mexico Border Environmental Program: Border 2012, particularly in reference to the grant program. The Committee shall also monitor the distribution of funds from the North American Development Bank and the Border Environment Cooperation Commission, as well as monitor the activities of the International Boundary and Water Commission. The Committee should make recommendations for efficient use, tracking, and leverage of funds and for effective coordination of state policies relating to the Border region.
2. Study the implementation of HB 109 and make recommendations for improvement of the import/export and certification system and for maximization of the tax dollars collected.
3. Study trends and issues concerning trade, immigration, and employment along the Border, including the impact of ten years of NAFTA, and make recommendations to enhance economic development and growth. Examine the impact of the US-VISIT program and the Trade Adjustment Act of 2002, and the current transition of oversight of the Border to the Department of Homeland Security and make recommendations for improvement in state law, as necessary.
4. Study and make recommendations for improving colonias infrastructure, including water services, wastewater services and transportation infrastructure. All recommendations should include an analysis of cost effective alternatives for achieving results and an assessment of current efforts to improve infrastructure.

---

<sup>1</sup> *The Dimensions of Texas’ Rapidly Growing Border Housing Problem* (TxLIHIS) 2004.

**Limitations: Lack of Federal Participation**

At least two of the charges received by the Committee included subject matter that necessitated testimony and cooperation by federal agencies pertaining to specific federal programs. One charge required the Committee to study programs and activities of four federal institutions and to provide recommendations for the “efficient use, tracking, and leverage of funds” as well as for “effective coordination of state policies relating to the Border region.” Although the Committee received much cooperation by three federal institutions (the North American Development Bank, the Border Environment Cooperation Commission, and the International Boundary Water Commission), others such as the Environmental Protection Agency (EPA) provided little participation. Notwithstanding that a local EPA representative joined the Committee during its organizational hearing in El Paso, representatives of EPA declined to participate in subsequent hearings. For the Laredo hearing, for example, the regional EPA contact in Texas indicated that no one from EPA could travel from Dallas to the City of Laredo since the agency did not have a travel budget.

The lack of agency participation was also felt from other federal entities. The Federal Motor Carrier Safety Administration (FMCSA) refused to participate in a special hearing that focused primarily on transportation and trade issues. FMCSA indicated that because the agency was in the process of formulating policy, they would not participate in state hearings. Although this explanation may seem somewhat understandable, it is difficult to accept, considering that the subject matter which was the focus of FMCSA’s policy-making (the impact of incoming Mexican trucks on U.S. Border States) was the same subject matter dealt in that particular hearing. Rather than avoid the local input and concerns by those who live along the Texas-Mexico Border region, it would have been more appropriate for FMCSA to join the members of the Committee to assist in formulating the appropriate state response to the recent Supreme Court ruling relating to NAFTA (i.e., the environment impact assessment requirement as a precondition for allowing Mexican truck traffic in the United States). FMCSA’s participation would have been critical in formulating a state response to the Supreme Court ruling.

In terms of the US-VISIT program, the Committee was treated in the same manner as many of Texas’ communities during the legislative hearing process: it was overlooked and under-informed

of the policy direction that the governing federal agency was taking. In fact, the current Texas Director of Homeland Security in June testified that it was his “understanding the federal Department of Homeland Security does not provide witnesses for these types of hearings due to the large number of requests for personnel that are received from city, county and state governing bodies across the nation.”<sup>2</sup>

---

**Exhibit 2: Federal Participation in State Committee Hearings.**

*“...It is my understanding the federal Department of Homeland Security does not provide witnesses for these types of hearings due to the large number of requests for personnel that are received from city, county and state governing bodies across the nation...”*

*— Jay Kimbrough  
Director, Texas of Homeland Security*

---

Source: Jay Kimbrough, Director, Texas Office of Homeland Security. Testimony. IRT Committee hearing. July 8, 2004.

Consequently, due to the lack of cooperation by key federal entities, several of the programs that the Committee was going to address are not fully discussed or elaborated in this study.

---

<sup>2</sup> Jay Kimbrough, Director, Texas Office of Homeland Security. Testimony. IRT Committee hearing. July 8, 2004.



**Colonia Infrastructure, Coordination, and Improvement**

The first and last charges received by the Committee require it to study and analyze water and wastewater activities, as well as the institutions that administer those programs. Charge one directs the Committee to research and evaluate the activities of the North American Development Bank (NADB) and the Border Environment Cooperation Commission (BECC).

NADB is an “international financial institution capitalized and governed equally by the United States and Mexico.”<sup>3</sup> It was “established in 1995 under the auspices of the North American Free Trade Agreement” and “provides financial assistance to public and private entities with responsibility for developing environmental infrastructure projects within the Border region.”<sup>4</sup> NADB assists communities on both sides of the international boundary in addressing their water and wastewater needs.

---

<b>Exhibit 3:</b>	
<b>NADB APPROVED FUNDING IN TEXAS 1997-2003</b>	
30 Projects at a Total Cost of \$613.8 Million	
NADB Funding Approved \$189.1 Million	
30 Grants (BEIF, SWEP, WCIF) \$174.5 Million	
3 Loans \$14.6 million	
29% of all approved funds disbursed	
Colonias Benefitted 510	
53% of US BEIF allocated to TX	64% of US WCIF Allocated to TX

---

Source: NADB. Testimony. IRT Committee hearing. Mar. 4, 2004.

In the last couple of years, a question has arisen concerning how the “Border” and eligibility for colonia-like communities are determined. NADB defines the Border in their eligibility requirements

---

<sup>3</sup> NADB, *Annual Report, April 1, 2002 - March 31, 2003*.

<sup>4</sup> *Id.*

as “the area 100 kilometers (62 miles) north and south of the international boundary between the United States and Mexico, the Border region extends more than 2,100 miles and includes territory in the four U.S. states of Texas, New Mexico, Arizona, and California and in the six Mexican states of Tamaulipas, Nuevo Leon, Coahuila, Chihuahua, Sonora and Baja California.”<sup>5</sup> Consequently, the U.S. and Mexico Border states compete for the limited funds that NADB distributes for water and wastewater projects. Exhibit 3 details the amount of funding that Texas received between the years of 1997 through 2003 from NADB. During these years, Texas received nearly \$614 million in a total of 30 projects, and NADB has helped more than 510 colonias over this time period.<sup>6</sup>

BECC was also created to improve the quality of life of those living along the Texas-Mexico international boundary by identifying and supporting environment infrastructure projects.<sup>7</sup> Specifically, BECC “promotes conservation, protection and improvement of the environment along the Border.”<sup>8</sup> The organization “develops and certifies sustainable infrastructure projects.”<sup>9</sup> Much like NADB, the BECC is “an international organization established by the U.S. and Mexico under NAFTA.”<sup>10</sup> In terms of coverage, the BECC, like NADB, covers “62 miles on either side of the Border.”<sup>11</sup> The BECC is primarily responsible for the following areas: “water pollution, wastewater treatment, solid waste management, hazardous waste, water conservation, water and wastewater hookups, waste reduction and recycling. . .”<sup>12</sup>

---

<sup>5</sup> *Id.*

<sup>6</sup> NADB. Testimony. IRT Committee hearing. Mar. 4, 2004.

<sup>7</sup> BECC, <http://www.cocef.org/ingles.php>.

<sup>8</sup> BECC. Testimony. IRT Committee hearing. Mar.4, 2004.

<sup>9</sup> *Id.*

<sup>10</sup> *Id.*

<sup>11</sup> *Id.*

<sup>12</sup> *Id.*

### **NADB and BECC Interaction**

NADB and BECC were created in an effort of bilateral cooperation between the United States and Mexico to attempt to solve the environmental infrastructure problems experienced by both nations.<sup>13</sup> BECC works in conjunction with NADB and other institutions to help protect the environment of the Texas-Mexico Border region. Specifically, BECC complements NADB's efforts to "support the development of environmental infrastructure projects, with preference given to the areas of potable water, wastewater treatment and municipal solid waste, located within 100 km (62 miles) north and south of the U.S.-Mexico Border"<sup>14</sup> through its certification process. Before any project is eligible for funding consideration by NADB, "each project must pass through a public participation and certification process performed by the Border Environment Cooperation Commission (BECC)"<sup>15</sup> In other words, BECC provides technical assistance to communities, certifies projects for funding consideration and ultimately submits certified projects to NADB for environmental infrastructure funding. Exhibit 4 explains the institutional interaction between BECC and NADB. Table 1 highlights some of BECC's efforts in Texas. BECC has provided technical assistance to 37 Texas communities amounting to \$11 million. It has also certified more than \$640 million worth of projects and as of March 2004, provided nearly \$162 million in environment infrastructure grants with over \$500 million in the pipeline.<sup>16</sup>

---

<sup>13</sup> NADB, *General Information*, 2004.

<sup>14</sup> NADB, *North American Development Bank – Summary Status Report*, Feb. 2004.

<sup>15</sup> *Id.*

<sup>16</sup> *See* BECC on Mar. 4, 2004.

**Exhibit 4: Institutional Roles – NADB and BECC<sup>17</sup>**

NADB	BECC
<p>The NADB’s primary role is to facilitate financing for the implementation of projects certified by the BECC. In its advisory role, the NADB provides financial and managerial guidance to communities that may require assistance with comprehensive, long-term infrastructure planning and development. As an investment banker, the NADB works to structure affordable and equitable financial packages by locating funding from both public and private sources. The NADB provides loans intended to fill financing gaps not covered by other sources, while its guaranties are designed to encourage financing from other lenders. To help make projects more affordable, the NADB also administers U.S. Environmental Protection Agency (EPA) grant resources as a complement to its loan guaranty program.</p>	<p>The primary roles of the BECC are to provide technical assistance to Border communities and to certify environmental infrastructure projects in the Border region for financing consideration by the NADB and other sources. Certification is based on a set of environmental, health, technical, financial, community participation and sustainable development criteria through a process that ensures extensive public and local input. The BECC’s technical assistance helps ensure technically sound and feasible projects, master plans, project design, environmental assessment and local institutional capacity-building.</p>

Classification of Project	Funding	Communities/Projects
Technical Assistance	\$11.00 million	37 communities
Certified Projects	\$640.95 million	34 projects
Projects in Pipeline	\$500.34 million	33 projects
BEIF Grants	\$161.97 million	19 projects (as of 3/2/04)

Source: BECC. Testimony. IRT Committee hearing. Mar. 4, 2004.

<sup>17</sup> BECC and NADB, *Joint Status Report*, Mar.31, 2004.

### **Border Environment Infrastructure Fund**

Both the BECC and NADB informed the Committee of their efforts to address the water and wastewater needs of Border communities. Much of the testimony taken was regarding the Border Environment Infrastructure Fund (BEIF). In a proactive manner, NADB created the BEIF in order to help communities make these projects attainable. NADB reported that “in an effort to make projects affordable, especially for the smallest and poorest communities, the NADB established the Border Environment Infrastructure Fund (BEIF). This fund is designed to receive and administer grants from other institutions that can be combined with loans and guaranties to facilitate project financing.”<sup>18</sup> BEIF “administers grant resources provided by EPA for water and wastewater infrastructure projects. BEIF grants may be applied directly to construction costs (construction assistance), including residential hookups and construction management, or to system debt, thereby allowing user fees to be increased gradually over time (transition assistance).”<sup>19</sup> As of October of this year, of the total \$516.19 million BEIF grants authorized to 51 United States-Mexico Border communities, Texas has received \$157.32 million to fund 19 projects.<sup>20</sup> Table 2 compares the amount of funding that Texas has received from the BEIF fund with those authorized grants received by other states. Of the ten U.S. and Mexican Border states, Texas received more than 30% of all BEIF funds.

---

<sup>18</sup> NADB, *Border Environment Infrastructure Fund*. June 2000.

<sup>19</sup> See BECC and NADB on Mar. 31, 2004.

<sup>20</sup> BECC. Testimony. IRT Committee hearing. Oct. 6, 2004.

<b><u>States</u></b>	<b><u>Projects</u></b>	<b><u>Grants Authorized (in millions)</u></b>	<b><u>Percent of Total %</u></b>
California	7	\$37.38	7.24
Arizona	7	\$82.39	15.96
New Mexico	3	\$17.82	3.45
<b><i>Texas</i></b>	<b><i>19</i></b>	<b><i>\$157.32</i></b>	<b><i>30.48</i></b>
Baja California	4	\$71.85	13.92
Sonora	4	\$25.13	4.87
Chihuahua	3	\$16.18	3.13
Coahuila	2	\$21.62	4.19
Nuevo Leon	0	\$0.0	0
Tamaulipas	2	\$86.50	16.76
<b>Grand Total</b>	<b>51</b>	<b>516.19</b>	<b>100 %</b>

Some of the challenges faced by institutions such as BECC and NADB in their effort to address the water and wastewater infrastructure needs of communities include the “high cost of projects and insufficient community resources” along with a shortfall of revenue to finance projects.<sup>22</sup> According to BECC and NADB, the federal government recently decreased the appropriation level of the BEIF fund from its historical figure of \$100 million to \$50 million,<sup>23</sup> and consequently made it increasingly difficult for Border communities to address their water and wastewater needs. NADB reports that “faced with the high cost of infrastructure projects, reductions in state and federal subsidy programs, and limited economic bases, many communities find it difficult to meet the basic

<sup>21</sup> See BECC on Oct.6, 2004.

<sup>22</sup> See BECC and NADB on Mar. 31, 2004.

<sup>23</sup> See NADB and BECC on Mar. 4, 2004.

environmental infrastructure needs of local residents.”<sup>24</sup> In terms of the BEIF funding shortfall, NADB and BECC report that “at current funding” levels, there is a deficit of \$183 million in which there also continues to be “\$333 million in identified BEIF needs.”<sup>25</sup> The current shortfall of federal funding and the corresponding need to increase the existing level of monies in order to address the present water and wastewater needs of Border communities were identified by BECC and NADB as the major challenge confronting the institutions. In an effort to assist BECC and NADB, several other Border states, as well as legislative institutions (including IRT) have urged EPA through correspondence to increase within their appropriations, and appropriations’ request, historic funding levels of BEIF.

The shortfall of federal funds has had a significant impact on these institutions. BECC reported in October that “lack of adequate funding for BEIF assistance has made it necessary for BECC, working with EPA, CNA, NADB and other stakeholders. . .to implement a **prioritization program** for water and wastewater projects. Water and wastewater projects will be prioritized based on **degree of human health and environmental impact, and the most need along the Border area.**”<sup>26</sup> According to BECC, updated figures indicate that Texas currently has 23 projects in the “pipeline,” totaling construction costs of more than \$398 million.<sup>27</sup> Associated with these projects, Texas has nearly \$160 million in BEIF needs and about \$34 million in technical assistance needs.<sup>28</sup>

If the federal government does not address the lack of funding for water and wastewater projects in Border communities, there will be a stronger need for Border states, such as Texas, to develop their own state initiatives to address the shortfall of funds for needed infrastructure and capacity-building projects. In some Border states, the shortfall of federal funds is not the only problem facing economically distressed communities, new regulations by certain federal agencies has made the accessibility of federal funds even harder to achieve. At the El Paso IRT Committee hearing, the

---

<sup>24</sup> NADB, *Border Environment Infrastructure Fund*, June 2000.

<sup>25</sup> See BECC on Oct. 6, 2004.

<sup>26</sup> *Id.* [emphasis in original].

<sup>27</sup> *Id.*

<sup>28</sup> *Id.*

Assistant Secretary of State testified that “new requirements from the Environment Protection Agency stipulating that communities must have 100% of project final design in order to receive Border Environment Infrastructure Funds, has made it challenging for our Border communities to access those funds for new water and wastewater projects.”<sup>29</sup>

A lesson to be learned by the decrease of federal funds and from the new restrictions that make the acquisition of these monies even more difficult for certain communities, is that states – such as Texas – may find it beneficial (if not necessary) to make up the shortfall of funds and invest in these projects. The Assistant Secretary of State continued his testimony by stating that “therefore, it is imperative that the State continue to assist the communities in financially supplementing these projects if we are to bring these services to the remaining colonia residents that lack these basic needs.”<sup>30</sup>

The Director of the Texas Border and Mexican Affairs Division in the Secretary of State’s Office echoed the sentiments of the Assistant Secretary of State at the IRT October hearing when she testified that in terms of Texas assisting communities in addressing the needs of colonias, “to ensure that the State’s capital investment in water and wastewater infrastructure in colonias achieves long-term sustainability and productivity, we recommend that Legislature continue to fund efforts in the realm of capacity-building for our smaller communities and water systems.”<sup>31</sup> States providing the needed funding for critical services for colonia residents can ensure long-term sustainability and productivity, as well as lead to cost savings through unique partnerships. The Director of the Colonia Ombudsman Program of the Secretary of State’s Office testified at the IRT Brownsville hearing that “in addressing the hard to reach colonias in need of water and wastewater services, due to remote location and exorbitant costs per connection through conventional means, we also recommend the continued funding for self-help projects. In these projects, colonia residents invest money and sweat equity to bring water and wastewater services more expediently and at a greater

---

<sup>29</sup> Luis Saenz, Assistant Secretary of State, Office of the Secretary of State. Testimony. IRT Committee hearing. Mar. 4, 2004.

<sup>30</sup> *Id.*

<sup>31</sup> Helena Colyandro, Director, Texas Border and Mexican Affairs Division, Office of Secretary of State. Testimony. IRT Committee hearing. Oct. 6, 2004.



cost savings to the State.”<sup>32</sup>

---

**Exhibit 5: Characteristics of Colonias**

*“...Colonias are Texas-Mexico Border communities, mostly unincorporated and which often lack basic water and sewer systems, electricity, paved roads and safe housing...”*

— Alison Gregor  
*San Antonio Express-News*

---

Source: Alison Gregor, “Colonia Resident Getting Long Overdue Services,” *San Antonio Express-News*, Jan. 27, 2002.

**Texas Water Development Board**

In order to address Charges one and four, the Committee worked closely with the “state’s water planning and financing agency,”<sup>33</sup> the Texas Water Development Board (TWDB). For nearly six decades the TWDB has been “charged with planning and financing projects to address the state’s water needs.”<sup>34</sup> Created in 1957, TWDB adopted the mission to “exercise leadership in conservation and responsible development of water resources for the benefit of the citizens, economy and environment of Texas.”<sup>35</sup>

---

<sup>32</sup> Yvette Sanchez, Director, Colonia Ombudsmen Program, Office of the Secretary of State. Testimony. IRT Committee hearing. Aug. 9, 2004.

<sup>33</sup> TWDB, “Administrator’s Statement,” *Legislative Appropriation Request for Fiscal Years 2006-2007*, Aug. 20, 2004.

<sup>34</sup> *Id.*

<sup>35</sup> LBB, *Fiscal Size Up: 2004-2005 Biennium*, Dec. 2004.

**Economically Distressed Areas Program: EDAP**

TWDB administers the Economically Distressed Areas Program (EDAP) which has helped colonias residents over the last 15 years. EDAP was established by the Texas Legislature in 1989 (71<sup>st</sup> Legislative Session) and provides “financial assistance in the form of a grant, a loan, or a combination grant/loan to bring water and wastewater services to

economically distressed areas where the present water and wastewater facilities are inadequate to meet the minimal needs of residents.”<sup>36</sup> The program was created to “address significant health threats found in economically distressed areas in affected counties\* by providing grants and loans for construction of water and wastewater projects.”<sup>37</sup> An “economically distressed area” is statutorily defined as an area where:

- “(A) water supply or sewer services are inadequate to meet minimal needs of residential users as defined by board rules;
- (B) financial resources are inadequate to provide water supply or sewer services that will satisfy those needs; and
- (C) an established residential subdivision was located on June 1, 1989, as determined by the board.”<sup>38</sup>

---

**Exhibit 6:  
Deplorable conditions leads to the creation of EDAP**

*“...The deplorable conditions in colonias were first addressed by the Texas Legislature in 1989, when it created the Economically Distressed Areas Program (EDAP) to financially assist “affected” counties primarily along the Texas/Mexico border...”*

---

*Source: ORCA and TWDB, Joint Report from the Office of Rural and Community Affairs and the Texas Water Development Board. Sept. 5, 2004.*

---

<sup>36</sup> TWDB, *Economically Distressed Areas Program*, [http://www.twdb.state.tx.us/assistance/financial/fin\\_infrastructure/edapfund.asp](http://www.twdb.state.tx.us/assistance/financial/fin_infrastructure/edapfund.asp), Nov. 1, 2004.

<sup>37</sup> Ignacio Madera, Jr., Deputy Executive Administrator, Office of Project Finance & Construction Assistance, TWDB. Testimony. IRT Committee hearing. Mar. 4, 2004.

<sup>38</sup> WATER CODE, §16.341.

EDAP funds “colonias in ‘Affected Counties,’ which are counties along the border and those meeting specific income and unemployment levels. Because this data is calculated annually, counties fall in and out of this definition.”<sup>39</sup>

---

**Exhibit 4: “Affected” County**

\*An affected county is a county:

- with per capita income 25% below the state average; and,
- the unemployment rate is 25% above the state average; or
- is located adjacent to the Texas-Mexico border.

---

Source: Ignacio Madera, Jr., Deputy Executive Administrator, Office of Project Finance & Construction Assistance. TWDB. IRT Committee hearing. Mar. 4, 2004.

Section 16.341 of the Water Code defines “affected counties” as a county:

“(A) that has a per capita income that averaged 25 percent below the state average for the most recent three consecutive years for which statistics are available and an unemployment rate that averaged 25 percent above the state average for the most recent three consecutive years for which statistics are available; or

(B) that is adjacent to an international border.”<sup>40</sup>

With the passage of two constitutional amendments (1989 and 1991) “TWDB was authorized to issue \$250 million in general obligation EDAP bonds to provide affordable water and wastewater services in these areas.”<sup>41</sup> As of October 31, 2004, EDAP has made a total of 88 construction grant/loan commitments amounting to \$545,579,783 helping 824 colonias and 283,537 Texans.<sup>42</sup>

**Colonia Needs Persist**

Although over a 10-year period these figures may seem impressive, the Executive Administrator of the Water Development Board, Mr. J. Kevin Ward, reported to the IRT Committee that “while much

---

<sup>39</sup> J. Kevin Ward, Executive Administrator, TWDB. Testimony. IRT Committee hearing. Oct. 6, 2004.

<sup>40</sup> WATER CODE, § 16.341.

<sup>41</sup> See LBB on Dec. 2004.

<sup>42</sup> TWDB, *EDAP Status Report: As of October 31, 2004*, <http://www.twdb.state.tx.us/publications/reports/Colonias/status.pdf>.

has been accomplished, the need for adequate water and wastewater facilities along the Texas-Mexico Border still exists.”<sup>43</sup> Findings of the TWDB commissioned 2003 EDAP Study indicate that “water and wastewater needs exist in 1,409 economically distressed communities in the then eligible 42 counties.”<sup>44</sup> The total amount of water and wastewater needs is more than \$785 million (\$389 million in water and \$396 million in wastewater needs).<sup>45</sup> This amounts to 297 communities needing water systems, 352 in need of wastewater systems and 760 communities needing both.<sup>46</sup>

---

**Exhibit 8: Water/Wastewater Needs Persist**

*“...While our state and federal partners have made great strides in providing financial assistance for critically needed water/wastewater projects, the results of the latest 2003 TWDB Economically Distressed Areas Program (EDAP) Assessment demonstrates that there are still areas that need to be addressed...”*

**– Luis Saenz**  
Assistant Secretary of State

---

Source: Luis Saenz, Assistant Secretary of State, Office of the Secretary of State. Testimony. IRT Committee hearing. Mar. 4, 2004.

In order for the state to continue to try to meet the water and wastewater needs of colonias, the Legislature must continue to invest the necessary funds into the EDAP program. Two years ago, while addressing the water supplies for Texas’ future needs, Governor Rick Perry stated, “I also believe that we must continue to fund efforts to bring water and wastewater systems to residents of the colonias. So far, the Texas Water Development Board’s EDAP program has been a tremendous success, and is on track to provide water service for nearly a quarter million Texans. I will support continued funding for this important effort so our neighbors in colonias have access to pure,

---

<sup>43</sup> See Ward on Oct. 6, 2004.

<sup>44</sup> *Id.*

<sup>45</sup> *Id.*

<sup>46</sup> *Id.*

abundant water.”<sup>47</sup> In order to address the increasing water and wastewater needs of Border communities, the Committee was urged by local officials to address the shortfall of federal funds for such projects and to continue supporting the funding of the EDAP program.<sup>48</sup>

<p style="text-align: center;"><b>Exhibit 9: <u>Water and Wastewater Needs of Border Colonias</u></b> Results of the 2003 EDAP Needs Study</p> <p style="text-align: center;">42 Counties Surveyed 2,333 Communities Listed in Report <b>1,409 Communities with needs</b> 484,912 Number of Residents <b>212,701 Residents with needs</b></p> <p style="text-align: center;"><b><u>\$785 million Estimated Costs:</u></b> •\$389 million for water •\$396 million for wastewater</p>
--

Source: Ignacio Madera, Jr., Deputy Executive Administrator, Office of Project Finance & Construction Assistance, TWDB. Testimony. IRT Committee hearing. Mar. 4, 2004.

### **Curbing the Spread of Colonia Developments**

When developing EDAP, the Texas Legislature built in provisions in the program’s eligibility requirements that were aimed at helping to prevent the continued “substandard development of colonias.”<sup>49</sup> Such provisions have been recognized by federal government agencies.

---

<sup>47</sup> The Honorable Rick Perry, Governor, State of Texas. Speech, “Securing Abundant Water Supplies for Texas’ Future Needs.” Apr. 29, 2002.

<sup>48</sup> The Honorable Sylvester Reyes, Congressmen. Testimony. IRT Committee hearing. Mar. 4, 2004.

<sup>49</sup> TWDB, *Economically Distressed Areas Program*, [http://www.twdb.state.tx.us/assistance/financial/fin\\_infrastructure/edapfund.asp](http://www.twdb.state.tx.us/assistance/financial/fin_infrastructure/edapfund.asp), Nov. 1, 2004.

In the early 1990s, while reporting on the problems and progress of colonia developments along the United States and Mexico Border region, the United States General Accounting Office (GAO) reported that different states had undertaken a number of unique measures to attempt to control colonia development. In its study, the GAO reported that “in 1989, Texas passed legislation essentially requiring that economically distressed areas, including Border counties and their political subdivisions, adopt model rules in order to become eligible for state financial assistance for water and sewer projects.”<sup>50</sup>

---

**Exhibit 10:  
EDAP aids in the prevention of future colonias.**

*“..In order to be eligible to receive EDAP funds, counties are required to adopt Model Subdivision Rules, which are intended to prevent the proliferation of colonias...”*

---

*Source: ORCA and TWDB, Joint Report from the Office of Rural and Community Affairs and the Texas Water Development Board, Sept. 15, 2004.*

The GAO study went on to report that other states have taken a different approach and have provided counties with additional tools to attempt to curb the development of colonia-like subdivisions. “New Mexico has empowered counties to regulate subdivisions, including the authority to require land developers to provide adequate water supply and sewage disposal facilities.”<sup>51</sup> Specifically, the State of New Mexico “empowered counties to regulate subdivisions by adopting requirements for water, sewage and roads. Thus each county controls how much substandard development it will allow within its boundaries.”<sup>52</sup>

Although the aforementioned GAO study is more than 14-years old, and some of the problems that it originally identified with colonias, as well as some of the findings of efforts by other Border states to control colonia proliferation, may have likely changed, two observations can be made on the Texas experience. First, as the administrative heads of the TWDB and the Office of Rural and Community Affairs recently reported this last September, in Texas it continues to be the law that “in

---

<sup>50</sup> U.S. GAO, *Rural Development: Problems and Progress of Colonia Subdivisions Near Mexico Border*, (Nov. 1990).

<sup>51</sup> *Id.*

<sup>52</sup> *Id.*

order to be eligible to receive EDAP funds, counties are required to adopt Model Subdivision Rules, which are intended to prevent the proliferation of colonias.”<sup>53</sup> Consequently, any effort to expand the use of EDAP-type funds to address colonia-like developments in certain areas of the state should continue to adhere to the eligibility program participation requirement in order to “ensure the availability of adequate drinking water and sewer facilities.”<sup>54</sup> Second, although some states, such as Texas’ western neighbor New Mexico, have provided counties with the needed authority to regulate development within their counties, Texas has failed to pass a similar county limited ordinance making authority measure.

In 2001, the three Border members of the IRT Committee co-authored Senate Bill 517 to “allow counties to regulate residential land development in unincorporated areas to prevent the proliferation of colonias.”<sup>55</sup> SB 517 successfully passed the legislative process in the Senate Chamber and survived the committee process in the House Chamber, however stalled in the House Calendars Committee. In a similar experience, the Chair of IRT authored Senate Bill 535 in 2003, which again garnered the necessary support to pass the Senate Committee and Floor process, however repeated its difficulty in the House Chamber by stalling in the House Calendars Committee. Recently, during the Brownsville IRT Committee hearing, the Co-Director of the Texas Low-Income Housing Information Service (TxLIHIS), Mr. John Henneberger, testified on the legislative needs of the Texas-Mexico Border region. Mr. Henneberger indicated that Texas needs to “provide counties with full land use and development control. The process of trying to get ahead of substandard colonia development. . .we’re never going to put a stop to it, until counties get full land use and development control.”<sup>56</sup>

---

<sup>53</sup> ORCA and TWDB, *Joint Report From the Office of Rural and Community Affairs and the Texas Water Development Board*, Sept. 15, 2004.

<sup>54</sup> *See* U.S. GAO.

<sup>55</sup> Senate Bill 517, 77<sup>th</sup> Legislative Session (2001).

<sup>56</sup> John Henneberger, Co-Director. TxLIHIS. Testimony. IRT Committee hearing. Aug. 9, 2004.

---

**Exhibit 11: Need for Limited Ordinance Making Authority**

*“...Littering the Rio Grande Valley landscape are colonias, those substandard private housing developments in unincorporated areas that often lack running water and paved streets...The lack of regulations for construction in unincorporated land has allowed the explosion of colonias. Some form of government control is long overdue...The state cannot afford to have the number of substandard housing developments grow...”*

– **“Regulation of Colonias Needed Along Border”**  
*San Antonio Express-News*

---

Source: *San Antonio Express-News*, “Regulation of Colonias Needed Along Border,” Mar. 17, 2003.

**Colonia Road Access Bonds**

The Colonia Road Bond Program was established in 2001 with the passage of Senate Bill 1296 and Senate Joint Resolution 37 authored by Chairman Eddie Lucio, Jr., Senator Judith Zaffirini and Senator Eliot Shapleigh. “Under Proposition 2, Texas voters approved the issuing [of] \$175 million in general obligation bonds in a constitutional amendment”<sup>57</sup> on November 6, 2001.

In accordance with the constitutional amendment’s enabling legislation, “the proceeds of the bonds and notes are distributed to eligible counties for Border colonia access roadway projects.”<sup>58</sup> In January 2002, the Texas Transportation Commission issued the first \$50 million program out of the original aggregate \$175 million.<sup>59</sup> The second “\$50 million program call was issued seeking

---

<sup>57</sup> Steve Taylor, “TxDOT Ok’s Extra Funds for Border Colonia Roads,” *Valley Morning Star*, Apr. 25, 2002.

<sup>58</sup> Amadeo Saenz, Assistant Executive Director for Engineering Operations, TxDOT. Testimony. IRT Committee hearing. Mar. 4, 2004.

<sup>59</sup> *Id.*



nominations for road improvement projects in Border colonias on July 23, 2004.”<sup>60</sup>

“For a project to be eligible for consideration for the program, it must: (1) be located within an eligible county; (2) have one terminus at or within a Border-area colonia and one terminus at a public area; and (3) be designed and constructed by the county or its contractor to minimum colonia access road standards.”<sup>61</sup>

---

**Exhibit 12: Colonia Road Bond Program**

*“With half a million Texans living in 2,300 colonia communities, we have much more work to do...For colonia children to be able to learn in school, or adults to be able to report to work on time, the most basic infrastructure must be in place to ensure school buses and passenger vehicles can get in and out of colonias safely.”*

**– The Honorable Rick Perry**  
Governor, State of Texas

---

**Source:** The Honorable Rick Perry, Governor, State of Texas. “State Ready for Second Round of Colonia Roadway Improvements,” TxDOT Press Release. July 23, 2004

The Colonia Road Bond program had a “slow start” due to “significant ramp-up time” factors.<sup>62</sup> For instance, “overruns at bidding time have left counties scrambling to find ways to fund them...similarly, some of the original applications contained low, inaccurate cost estimates” that caused delays.<sup>63</sup> “Delays in utility projects have also contributed to delays in construction.”<sup>64</sup>

---

<sup>60</sup> Amadeo Saenz, Assistant Executive Director for Engineering Operations, TxDOT. Testimony. IRT Committee hearing. Oct. 6, 2004.

<sup>61</sup> Amadeo Saenz, Assistant Executive Director for Engineering Operations, TxDOT. Testimony. IRT Committee hearing. Aug. 9, 2004.

<sup>62</sup> *Id.*

<sup>63</sup> *See* Saenz, TxDOT on Mar. 3, 2004.

<sup>64</sup> *See* Saenz, TxDOT on Oct. 6, 2004.

---

**Exhibit 13:**

*“...The Border Colonia Access Program is an important component in the effort to improve infrastructure in the colonias...”*

— **Amadeo Saenz**  
Assistant Executive Director for Engineering Operations  
TxDOT

---

Source: Amadeo Saenz, Assistant Executive Director for Engineering Operations, TxDOT. Testimony. IRT Committee hearing. Oct. 6, 2004.

In an effort to comprehensively address the road and associated infrastructure needs of colonia residents, the Chairman of the IRT Committee requested from TxDOT officials during the Brownsville IRT hearing to develop a figure of the required amount of money that would be needed for such an effort. TxDOT officials subsequently testified in the Laredo October hearing that “the committee asked for an estimate of the amount of funds that would be required to pave all the roads within colonias. The department and the Border counties estimate the following costs, sorted by TxDOT District: Laredo: \$108.6 million, El Paso: \$42.3 million, Pharr: \$275 million.”<sup>65</sup> TxDOT qualified their testimony by indicating, “these are the estimated costs, in current dollars, beyond the \$175 million in the current program. The counties and the department do not have sufficient information to estimate how much money is required to move utilities or to estimate future installation costs.”<sup>66</sup>

---

<sup>65</sup> See Saenz, TxDOT on Oct. 6, 2004.

<sup>66</sup> *Id.*

<b>Exhibit 14: Funds Needed to Pave All Colonia Roads</b> (Estimates by Transportation Districts)	
<u>El Paso</u>	\$42.3 Million
<u>Laredo</u>	\$108.6 Million
<u>Pharr</u>	\$275.0 Million
 <i>Total funds needed <b>above</b> the current \$175 million Colonia Road Program</i>	
<b><u>\$425.90 Million</u></b>	

Data Source: Amadeo Saenz, Assistant Executive Director for Engineering Operations, TxDOT. Testimony. IRT Committee hearing. Oct. 6, 2004.

### **Need for a Comprehensive Solution**

As the discussion of the Colonia Road Bond Access Program illustrates, it is essential to address the needs of colonia residents in a comprehensive manner. Specifically, what is required is to improve and strengthen the different programs Texas is currently using to address colonia needs. As seen through the TxDOT experience, Border counties often lack the capacity development required to successfully participate in state and federal funding programs. At a time when the federal government is decreasing its commitment to essential services for distressed communities, in order to address the needs of colonias comprehensively, states such as Texas are being forced to develop their own state solutions to make up for the shortfall of funding in needed services and make corresponding state reforms.

Coming to such a realization, during the Brownsville hearing, the Chairman of IRT directed the TWDB to work directly with the IRT Committee to develop a comprehensive colonia package to address the shortfall of federal funds for water and wastewater projects in distressed communities areas and to increase the effectiveness of program delivery and services to distressed regions. Specifically, Chairman Lucio asked the Executive Administrator of the TWDB during its presentation, "Mr. Ward, as you know, this Committee has received testimony by NADBANK and others concerning a shortfall of federal funds to address the [water and] wastewater needs through the Border Environmental Infrastructure Fund. My question is, has your agency looked into

developing a new state fund to address the \$785 million need? If not, I think it would be proper for us obviously to look into doing so, if our counterparts in the federal level are going to be cutting funding along these lines, there has to be something at the state level to address this issue.”<sup>67</sup> TWDB’s Executive Administrator testified that “that would, at the state level, be the only thing that could be done because as you know the prior EDAP program that provided for grants, really cut it off at June 1, 1989. And so, a lot of these developments have occurred after that point in time...”<sup>68</sup> The Chair of IRT then directed the TWDB to work with the committee and staff on researching the needs of colonia residents and to specifically “develop an EDAP II program.”<sup>69</sup>

As part of the research to develop a comprehensive plan to address the needs of colonias and distressed regions, the Chair of IRT specifically requested the TWDB to address the following three questions during IRT’s upcoming Laredo hearing:

1. Please analyze the agencies (state/federal) encompassed in charges one and four and review their grant/loan application process. Please provide an assessment of on-going state/federal efforts to address the critical infrastructure needs of colonias, as well as recommendations to maximize/increase their effectiveness.
2. On a related matter, please share your insight on how to address two specific concerns that were voiced in our Brownsville hearing. The committee received testimony indicating that certain Border communities, although successful in acquiring federal grants for needed services, were unable to use these monies since they unfortunately failed to meet certain federal requirements of associated programs. Testimony also indicated that the bond issuance of the Colonia Road Bond Program has been “slow due to significant ‘ramp-up time’ and other factors.” Among these were “overruns at bidding time,” “low, inaccurate cost estimates” by counties, and the need for “counties to hire a consultant to manage the contract on behalf of the county.” Please provide recommendations to address these concerns which will assist the Committee in the development of appropriate measures that will effectively coordinate our state’s efforts for the efficient use, tracking and leveraging of

---

<sup>67</sup> The Honorable Eddie Lucio, Jr., Texas Chairman, IRT. IRT Committee hearing. Aug. 9, 2004.

<sup>68</sup> J. Kevin Ward, Executive Administrator, TWDB. Testimony. IRT Committee hearing. Aug. 9, 2004.

<sup>69</sup> See Lucio on Aug. 9, 2004.

colonia-related infrastructure funds.

3. Lastly, please include in your discussion how the Committee can assist the state in strengthening the effectiveness of colonia outreach and infrastructure programs (i.e., the Colonia Self-Help Centers, the Ombudsman Program, the Colonia Road Bond program, etc.).<sup>70</sup>

### **Border Colonias: Unique Socioeconomic Factors Requiring Specialized Attention**

Before discussing some of the necessary reforms to comprehensively address the needs of colonias, a brief background as to the colonia Border experience is required. Much has been reported about issues relating to the eligibility of colonia-related programs. Those not familiar with colonias along the Border at times do not understand why the federal and state governments developed strategic programs targeted at distressed Border communities. Others are not familiar as to why colonias developed. Dr. Michael Patrick, the director of the Texas Center for Border Economic and Enterprise Development submitted testimony in the Laredo hearing which provides some necessary background as to why there are targeted Border colonia programs. Dr. Patrick's testimony indicates that "although the Border region in general lags behind the State, nowhere are the problems of poverty and its challenges greater than in the thousands of *colonias* located in the area. While many colonias can be found throughout the rural areas, most have developed in the fringe areas of the Border's metropolitan urban communities. *Colonias* are characterized by their substandard housing, inadequate plumbing, poor sewage disposal and wastewater systems, lack of paved streets and drainage, and limited access to clean water. Overall living conditions in the colonias pose a serious health threat to the residents as well as the public at large."<sup>71</sup> In January 2003, the Environmental Protection Agency provided a snapshot of the living conditions in colonia communities. EPA reported that "colonias is a designation applied to low-income, unincorporated subdivisions in Texas and New Mexico along the U.S.-Mexico international boundary. The colonias began developing in the late 1950's..they are characterized by substandard housing, inadequate plumbing and sewage disposal systems and an inadequate access to clean water. There are no adequate solid waste

---

<sup>70</sup> Correspondence from Chairman Lucio to the J. Kevin Ward, Executive Administrator, TWDB on Sept. 21, 2004.

<sup>71</sup> Michael Patrick, Ph.D., Director, Texas Center for Border Economic and Enterprise Development, Texas A&M International University. Testimony. IRT Committee hearing. Oct. 6, 2004. [emphasis on original].

disposal facilities available.”<sup>72</sup> EPA went on to report that “the common thread is the potential and immediate health threat due to inadequate or lack of safe, potable water and sewage disposal. Sanitation and health conditions in these areas compare to those in Third World Countries. Hepatitis, gastrointestinal and other water borne diseases are very common...providing solutions to public health problems in the colonias is a unique situation in that they are not political subdivisions. Financial programs are normally designed to deal with an identified political entity.”<sup>73</sup>

Although “colonias can be found in Texas, New Mexico, Arizona and California...Texas has both the largest number of colonias and the largest colonia population.”<sup>74</sup> In terms of the population of colonias in EDAP counties, the 2003 EDAP “Needs Assessment” commissioned by the TWDB indicates that “2,333 economically distressed communities whose subdivisions was platted prior to June 1, 1989 are present in 42 EDAP-eligible counties with a combined population of roughly 484,900.”<sup>75</sup> The Federal Reserve Bank echoes Dr. Patrick’s testimony by explaining that “the colonias’ growth has challenged residents, as well as county, state and federal governments and others, to seek ways to provide basic water and sewer services and to improve the quality of life in the colonias. Local public funds and other resources are often limited and unable to provide service to the current and growing colonia population. Hidalgo County, which has the most colonias and largest number of colonia residents in Texas, is typical of many border counties. Hidalgo County does not have a large enough local tax base to provide water and sewer services” for its colonias residents.<sup>76</sup>

---

<sup>72</sup> EPA, <http://www.epa.gov/owm/mab/mexican/clnfcts.pdf>.

<sup>73</sup> EPA, <http://www.epa.gov/owm/mab/mexican/clnfcts.pdf>.

<sup>74</sup> Federal Reserve Bank of Dallas, Office of Community Affairs, *Texas Colonias: A Thumbnail Sketch of the Conditions, Issues and Opportunities*.

<sup>75</sup> See Ward on Aug. 9, 2004.

<sup>76</sup> See Federal Reserve Bank.

Not only does the Border's tax base differentiate it from the rest of the state, the average pay per job in the Border also shows how the area lags behind the state. Table 3 shows that although the Average Pay in Texas was \$35,658 in 2002, the wages Border counties were between half (50.51%) or three-fourths (75.19%) of the Texas average amount. In other words, in 2002, Texas Border counties were \$17,646 (Starr) and \$8,846 (El Paso) short of the state average. When seen as a function of the Texas Average Pay amount, the figures of the Border counties have remained somewhat the same over the years. In 1990, for example, Border counties were between 55.63% and 80.46% of Texas average amount and a similar experience was seen in 1994 (between 55.65% and 80.32% of the Texas average). Consequently, in terms of the percent of the Texas Average Pay, the Border's figures have remained somewhat constant as a function of Texas' figures.

<b>Table 3: Average Pay per Job in Selected Years</b>				
<b>United States, Texas and Selected Border Counties</b>				
<b>Population</b>	<b>1990</b>	<b>1994</b>	<b>2000</b>	<b>2002</b>
United States	23,322	26,507	34,652	36,167
<i>Texas</i>	<i>22,479</i>	<i>25,480</i>	<i>34,218</i>	<i>35,658</i>
Cameron County	15,530	17,659	21,203	22,565
<i>El Paso County</i>	<i>18,087</i>	<i>20,466</i>	<i>25,148</i>	<i>26,812</i>
Hidalgo County	14,981	17,820	21,536	22,911
Maverick County	14,488	16,786	20,583	22,082
<i>Starr County</i>	<i>12,505</i>	<i>14,179</i>	<i>16,825</i>	<i>18,012</i>
Webb County	15,311	18,471	23,234	24,469

Data Source: <http://www.hhsc.state.tx.us/research/dssi/Avgwage.html> updated Aug. 2004.

The Border region is also different from other areas when reviewing the annual levels of per capita personal income. Table 4 illustrates that although in 2002, the annual per capita income for Texas was \$29,039, the level among the colonia Border counties was between \$10,480 and \$20,129. In other words, Border counties were between \$18,559 (Starr) and \$8,910 (El Paso) short of the state 2002 level. This translates to Border counties having per capita personal incomes amounting to

36.08% to 69.32% of the Texas level amount. A key point to note is that such an experience in annual per capita personal income was seen prior to and during the implementation of NAFTA. In 1990, for example, the Border's per capita personal income ranged from 31.45% and 70.51% of the Texas Annual amount; and in 1994, the range was between 36.31% and 70.63%. Overall, the percent of the Annual Per Capita Personal Income of the Border counties did not significantly improve when seen as a function of the Texas Annual amount.

<b>Population</b>	<b>1990</b>	<b>1994</b>	<b>2001</b>	<b>2002</b>
United States	\$19,477	\$22,172	\$30,527	\$30,906
<i>Texas</i>	<i>\$17,421</i>	<i>\$20,189</i>	<i>\$28,943</i>	<i>\$29,039</i>
Cameron County	\$9,853	\$11,984	\$15,516	\$16,126
<i>El Paso County</i>	<i>\$12,284</i>	<i>\$14,260</i>	<i>\$19,349</i>	<i>\$20,129</i>
Hidalgo County	\$9,282	\$10,902	\$14,278	\$14,769
Maverick County	\$7,023	\$8,962	\$12,061	\$12,432
<i>Starr County</i>	<i>\$5,479</i>	<i>\$7,330</i>	<i>\$10,000</i>	<i>\$10,480</i>
Webb County	\$9,406	\$12,174	\$16,007	\$16,593

Data Source: <http://www.bea.doc.gov/bea/regional/reis/drill.cfm>, Regional Economic Information System, Bureau of Economic Analysis, May 2004. Table CA1-3.

At the national level, having such low per capita annual amounts along the Border region has translated into a number of Texas counties being ranked among the counties in the nation with the lowest per capita income levels. According to the Bureau of Economic Analysis, in 2002, Texas had several Border counties among the "250 Lowest Per Capita Incomes of the 3,111 Counties in the United States".<sup>77</sup> Table 5 shows that Texas has six counties among the 30 lowest per capita income

<sup>77</sup> U.S. Department of Commerce, Bureau of Economic Analysis, <http://www.bea.doc.gov/bea/regional/reis/pcpilow.cfm> updated May 25, 2004.



counties in the nation. Starr County's per capita income level in 2002, in particular, earned it the distinction of being the fourth county in the nation with the lowest per capita income level in 2002. Overall, one-fifth of the 30 counties with the lowest per capita income from the nation's 3,111 counties in 2002 were from Texas, and specifically from the Texas-Mexico Border region.<sup>78</sup>

<b>Counties</b>	<b>Per Capita Personal Income Rankings among the 3111 U.S. Counties</b>	
Slope, ND	3,111	Lowest
Loup, NE	3,110	2nd lowest
Ziebach, SD	2,109	3rth lowest
<b><i>Starr, TX</i></b>	<b><i>3,108</i></b>	<b><i>4th lowest</i></b>
Zavala, TX	3,104	8th lowest
Maverick, TX	3,101	11th lowest
Zapata, TX	3,094	18th lowest
Presidio, TX	3,086	26th lowest
Hidalgo, TX	3,082	30th lowest

Data Source: U.S. Department of Commerce, Bureau of Economic Analysis,  
<http://www.bea.doc.gov/bea/regional/reis/pcpilow.cfm> updated May 25, 2004.

Lacking the local economic and revenue resources to address the unique needs of their growing populations, the experience of Border counties is made worse by having communities with twice as many families living in poverty when viewed along state figures. In the Brownsville hearing, representatives of the TxLIHIS reported that "compared to 12% of families below poverty statewide, 22.4% of Border families live below poverty."<sup>79</sup> According to the 2000 census, the poverty rate of the Border region also outpaces that of the state. Whereas the poverty rate for Texas is 14.5%, as

<sup>78</sup> *Id.*

<sup>79</sup> See Henneberger on Aug. 9, 2004, (information provided to the Committee).

a whole, the rate for the 14 Texas counties immediately at the international boundary with Mexico is 29.1%.<sup>80</sup> The problem with such a degree of poverty, as explained by the U.S. Department of Housing and Urban Development is that “colonias typically have high rates of poverty, and this makes it difficult for residents to help pay for roads, sanitary water and sewer systems, decent housing, street lighting and other services.”<sup>81</sup>

With all the socioeconomic elements and the lack of local resources, as discussed above, it is not surprising that the unemployment rate among the largest Border communities is also higher than the Texas rate. Table 6 shows that from 1990 to 2003, although the state unemployment rate has remained at about 6, the rate for Border communities has been significantly higher. In 2003 alone, although the rate for Texas was 6.6, the rate varied between 7.8 to 32.6 among selected Border communities.

<b>Population</b>	<b>1990</b>	<b>1994</b>	<b>2002</b>	<b>2003</b>
<b>Texas</b>	6.3	6.4	6.1	6.6
<b>Cameron County</b>	12.7	12.8	10.0	11.8
<b>El Paso County</b>	11.6	10.4	8.4	10.2
<b>Hidalgo County</b>	22.4	19.6	12.8	15.5
<b>Maverick County</b>	30.3	28.6	24.2	32.6
<b>Starr County</b>	40.5	27.4	19.2	22.0
<b>Webb County</b>	12.0	9.6	7.2	7.8

Data Source: <http://www.hhsc.state.tx.us/research/dssi/unempdata90-98.html> updated on July 15, 1999 and <http://www.hhsc.state.tx.us/research/dssi/UnempData02-03.html> updated Mar. 4, 2004.

<sup>80</sup> Texas Comptroller of Public Accounts, <http://window.state.tx.us/specialrpt/snapshot> on Nov. 22, 2004.

<sup>81</sup> HUD, <http://www.hud.gov/groups/fmwrkcoln/whatcol.cfm>.

The reason why the experience in such distressed regions is troubling, and requires specialized attention by state and federal governments, is because having such a high degree of unemployment levels, and poverty levels in particular, has led to the development of colonias. In the 1950s “using agriculturally worthless land, land that lay in flood plains or other rural properties, developers created unincorporated subdivisions. They divided the land into small lots, [installed] little or no infrastructure, then sold them to low-income individuals seeking affordable housing. Colonia residents generally have very low incomes. Per capita annual income for all Texas counties bordering Mexico -- where most of the colonias are located -- tends to be much lower than the state average.”<sup>82</sup> As a consequence, “people with low-incomes often buy the lots through a contract-for-deed, a property financing method whereby developers typically offer a low down payment and low monthly payments but no title to the property until the final payment is made. Houses in colonias are generally constructed in phases by their owners and may lack electricity, plumbing and other basic amenities. Colonia residents build homes as they can afford materials.”<sup>83</sup> As the Texas Low-Income Housing Information Service reported to the Committee, “due to a high level of poverty, Border region colonias, impoverished subdivisions in isolated rural areas, flourish along the. . . stretch from Cameron County to El Paso County.”<sup>84</sup> The TxHLIS further explains, “poverty is strongly related to Border housing problems -- both substandard housing and excessive housing cost burden. Families near and below the poverty level simply cannot pay the costs of decent housing in the private market.”<sup>85</sup> In sum, “a limited supply of adequate, affordable housing in cities and rural areas along the Texas-Mexico Border, coupled with the rising need for such housing, has contributed to the development of new colonias and the expansion of existing ones.”<sup>86</sup> Consequently, although great strides have been made to address the conditions of colonias, “the root cause of colonias -- poverty and lack of affordable housing -- continue to grow.”<sup>87</sup>

---

<sup>82</sup> SOS, <http://www.sos.state.tx.us/border/colonias/faqs.shtml>.

<sup>83</sup> SOS, <http://www.sos.state.tx.us/border/colonias/faqs.shtml>.

<sup>84</sup> See Henneberger on Aug. 9, 2004.

<sup>85</sup> *Id.*

<sup>86</sup> See Federal Reserve Bank.

<sup>87</sup> See Henneberger on Aug. 9, 2004.

Local economies of Border communities are further strained, and uniquely disadvantaged, due to the significant population growth in the region. According to the latest Census figures, the Border counties with the most colonias, those of Cameron, Webb, Hidalgo, Starr, Maverick and El Paso, together increased to nearly 1.9 million people in 2000.<sup>88</sup> The infrastructure of these Border counties are severely stressed by their current and future population growth. Table 6-A shows the population growth projections for selected years for the Border counties that have the highest number of colonias as compared to the growth of the entire state. Whereas from 1990 to 2040, the state is projected to grow by 106.12%, the six Border counties are projected to grow by 173.25%. A closer look at the counties reveals that several of the counties have significantly higher growth projections than the state: two of the counties are projected to grow by more than 270% (Webb by 284.05% and Hidalgo by 271.47%); and two other counties have projected growth as near as 160% (Cameron 159.11% and Starr 164.69%).

---

<sup>88</sup> *Id.*

Population	1990*	2000	2040	1990-2040 Change		2000-2040 Change	
				Increase	%	Increase	%
Texas	16,986,510	20,851,820	35,012,330	18,025,820	106.12%	14,160,510	67.91%
Cameron County	260,120	335,227	673,996	413,876	159.11%	338,769	101.06%
El Paso County	591,610	679,622	1,150,839	559,229	94.53%	471,217	69.34%
Hidalgo County	383,545	569,463	1,424,767	1,041,222	271.47%	855,304	150.19%
Maverick County	36,378	47,297	81,032	44,654	122.75%	33,735	71.33%
Starr County	40,518	53,597	107,249	66,731	164.69%	53,652	100.10%
Webb County	133,239	193,117	511,710	378,471	284.05%	318,593	164.97%
<b>Selected Border Counties</b>	<b>1,445,410</b>	<b>1,878,323</b>	<b>3,949,593</b>	<b>2,504,183</b>	<b>173.25%</b>	<b>2,071,270</b>	<b>110.27%</b>

Data Source: HHSC, [http://www.hhsc.state.tx.us/research/dssi/00-40\\_CntyProj.html](http://www.hhsc.state.tx.us/research/dssi/00-40_CntyProj.html) updated Feb. 20, 2003 and TDH

\*<http://soupfin.tdh.state.tx.us/cgi-bin/newpoptx> updated on Apr. 4, 2002 accessed on Dec. 1, 2004.

Projected growth rates for the years 2000 to 2040 also show that the Border counties are surpassing the state's projected growth. For these years, while Texas' growth drops to 67.91%, as a whole, it is projected that these Border counties are expected to grow by more than 110%. Specifically, four Border counties have population projections of more than 100%: Cameron County 101.06%, Hidalgo 150.19%, Starr County 100.10% and Webb County 164.97%. Clearly these Border counties are fast growing regions.

As a consequence of Border counties lacking the local economic infrastructure to support such growth, the problems of colonias along the Border region are more severe and dire than those of

different regions of the state. As Dr. Patrick explained the situation, “although the Border region in general lags behind the State, nowhere are the problems of poverty and its challenges greater than in the thousands of *colonias* located in the area.”<sup>89</sup> These are among the reasons why state and federal programs have been targeted, and need to continue to be focused, in distressed regions along the Texas-Mexico Border.

**COMPREHENSIVE SOLUTION:**

**Step One: General Revenue and Non-GR Funding -- The Need for Increased Funding**

As previously discussed, when originally developed, EDAP was funded by allowing TWDB issue up to \$250 million in water and wastewater bonds. Over the years, the state has supported the issuance of these bonds by appropriating the necessary General Revenue (GR) to service them. Since then, the need for GR support has continued. Currently, the TWDB has requested from the Legislature “approximately \$6.5 million in Fiscal Year 2006-2007 General Revenue funding of debt service for issuance of \$37 million in remaining authorized EDAP bond funds.”<sup>90</sup> TWDB has also identified that “in addition to the available \$37 million, approximately \$25 million is needed to ensure that the remaining projects that have been designed, are in construction, or are in the final planning stages, will have sufficient EDAP funds for completion. To address this shortfall, the TWDB requests an additional \$25 million in General Revenue for grants to help fund the remainder of the currently identified projects.”<sup>91</sup> Also, in an effort to maximize the leveraging of federal funds, for disadvantaged communities, the TWDB informed the Committee that for the upcoming biennium, if Texas invested \$1,413,662 in General Revenue, the state could leverage \$7,068,310 in federal funds under the Drinking Water State Revolving Fund (DWSRF).<sup>92</sup> Consequently, under the current funding system, water and wastewater initiatives for distressed/disadvantaged areas are heavily dependent on the availability of General Revenue for the servicing of EDAP bond issuances and for corresponding initiatives. Taking into consideration the shortfall of federal funds for BEIF-

---

<sup>89</sup> See Patrick on Oct. 6, 2004.

<sup>90</sup> See TWDB, “Administrator’s Statement” on 2004.

<sup>91</sup> *Id.*

<sup>92</sup> Follow-up research information as requested by IRT Committee.

related projects, the likelihood that there will be a \$2 billion shortfall in general revenue in Texas during the upcoming legislative session,<sup>93</sup> and the existing \$785 million in needs for EDAP communities, the State of Texas is faced with the problem of developing a new revenue source to support water and wastewater initiatives in distressed areas. The Committee was charged with developing cost-effective alternatives to achieve better results in how the state addresses the needs of colonias. An initiative developed by the Committee aggressively supplies the needed resources and revenues for distressed communities in existing EDAP and non-EDAP communities.

Further, since the EDAP needs identified in the 2003 TWDB commissioned report are current needs, the state should reinforce its commitment to the voter approved EDAP program by supporting TWDB's Legislative Appropriations Request. Further, with the knowledge that Texas might find itself in the position of having to maximize the use of General Revenue, and knowing that state agencies were directed to administer a five percent budget cut in their Legislative Appropriations Requests,<sup>94</sup> the IRT Committee developed a legislative initiative which re-finances, expands and strengthens the EDAP program through an alternative funding source.

If EDAP's bond issuance level was renewed and increased to allow the TWDB to issue \$430 million in new EDAP bonds through an alternative funding servicing source, the state would have increased EDAP's effectiveness over its historical level by \$180 million and lowered the program's future dependence on General Revenue. At the direction of the Committee, the TWDB performed an analysis on the level of bond issuance that could be accomplished if such issuance were financed through a minimal fee of a "one-cent a day" on existing water systems/utilities. The TWDB informed the Committee that under a program that would collect "a penny a day" on Texas' 7.4 billion households, approximately \$25 million in annual revenue could be generated. The TWDB concluded that this annual amount of revenue raising could "support the issuance of approximately

---

<sup>93</sup> Quorum Report, <http://www.quorumreport.com/> (reporting how state officials had commented that there is likely to be a \$2 billion shortfall of funds).

<sup>94</sup> Correspondence to State Agencies from the Legislative Budget Board and the Governor's Office of Budget, Planning and Policy. June 16, 2004 (agencies were instructed in their submission of appropriations requests for the upcoming biennium that "an agency's request for general revenue-related funds will be limited to 95 percent of the sum of amounts expended in fiscal year 2004 and budgeted in fiscal year 2005").

\$430 million in bonds.<sup>95</sup> Ultimately, under certain program guidelines and assumptions, the expansion of EDAP into an enhanced EDAP II program which addresses the needs of traditionally distressed EDAP counties and non-EDAP distressed counties could provide nearly \$70 million in annual grant and loan assistance for a six-year period.<sup>96</sup> To double the historical EDAP bond level of \$250 million into an enhanced EDAP II program in which \$250 million could go to traditional EDAP distressed counties and a corresponding \$250 million for non-EDAP distressed communities, a fee of \$0.0117 per day, per household would be required.<sup>97</sup>

---

<sup>95</sup> Figures and data provided by the TWDB as requested by the IRT Committee.

<sup>96</sup> *Id.*

<sup>97</sup> *Id.*



<b>Table 7: Financing and Expansion of EDAP through a non-GR funding Sources<sup>98</sup></b>							
<b>Funding Available (in Millions)</b>							
<b>Fiscal Year</b>	<b>2006</b>	<b>2007</b>	<b>2008</b>	<b>2009</b>	<b>2010</b>	<b>2011</b>	<b>Total</b>
<b>Facility Planning Grants</b>	\$ 2.0	\$ 2.0	\$ 2.0	\$ 2.0	\$ 2.0	\$ 2.0	\$ 12.0
<b>Grants (90%)</b>	\$59.2	\$59.2	\$59.2	\$59.2	\$59.2	\$59.2	\$355.2
<b>Loans (10%)</b>	\$ 6.8	\$ 6.8	\$ 6.8	\$ 6.8	\$ 6.8	\$ 6.8	\$ 40.8
<b>Subtotal</b>	\$68.0	\$68.0	\$68.0	\$68.0	\$68.0	\$68.0	\$408.0
<b>TWDB Administration</b>	\$ 1.9	\$ 1.9	\$ 1.9	\$ 1.9	\$ 1.9	\$ 1.9	\$ 11.4
<b>TOTALS</b>	<b>\$69.9</b>	<b>\$69.9</b>	<b>\$69.9</b>	<b>\$69.9</b>	<b>\$69.9</b>	<b>\$69.9</b>	<b>\$419.4</b>
<b>Debt Issued</b>	\$71.6	\$71.6	\$71.6	\$71.6	\$71.6	\$71.6	\$430.0
<b>Projected Fee Income through 2011 only (\$.01/day/household)<sup>99</sup></b>							
<b>Fiscal Year</b>	<b>2006</b>	<b>2007</b>	<b>2008</b>	<b>2009</b>	<b>2010</b>	<b>2011</b>	<b>Total</b>
<b>TOTALS</b>	<b>\$12.8</b>	<b>\$25.6</b>	<b>\$25.6</b>	<b>\$25.6</b>	<b>\$30.6</b>	<b>\$30.6</b>	<b>\$180.8</b>

### **Step Two: Reforms -- Capacity Development, Eligibility Requirements and Program Coordination**

In response to Chairman Lucio's request of assisting the Committee in developing recommendations to increase the delivery and effectiveness of colonia services, J. Kevin Ward, the Executive Administrator of the TWDB, testified that "coordination of, improvement to and funding for the various agencies' programs is necessary to address the existing water and wastewater needs in

<sup>98</sup> *Id.* (Certain assumptions are the basis of the figures provided, such as a 95% collection rate of revenues based on increased growth projections of households as determined by the TWDB Office of Planning.)

<sup>99</sup> TWDB analysis indicates that the *fee revenue would be necessary through the life of/maturity of the bonds issued, based on certain assumptions of the fee collection amount of \$0.01/day, the collection would be necessary through 2031.*

economically distressed areas.”<sup>100</sup> Ward went on to explain to the Committee that in an “effort to maximize state and federal assistance, the TWDB has evaluated the various funding agencies’ programs that provide financial and technical assistance for water and wastewater facilities.”<sup>101</sup> The TWDB identified issues that “impede the ability of these programs to fully assist Border communities.”<sup>102</sup> These issues of reform are classified as capacity development, eligibility requirements and increased program coordination.

### **Capacity Development**

In terms of capacity, as illustrated through the previous discussion of the Colonia Road Access Program, Border counties at times do not have the necessary resources or personnel to meet all the guidelines required by the various state and federal programs.<sup>103</sup> Specifically, the lack of appropriate staff and inaccurate cost estimates led to a significant delay in the delivery of the Colonia Road Access program funds.<sup>104</sup> What was experienced by Border counties in the Colonia Road Program is indicative of what is experienced in other state and federal colonia programs. While addressing their review of colonia related initiatives by various agencies, the TWDB reported that “applicants often lack the capacity to meet all requirements under the agencies’ programs. Difficulties also exist where the utility providers lack the technical and managerial ability to perform the utility work associated with the provision of service.”<sup>105</sup> Consequently, the needs of distressed areas necessitates a comprehensive solution that includes funding and associated service delivery improvements. Servicing resources must be strengthened, and included in the equation to solve the infrastructure needs of distressed areas since “financial assistance alone does not address the managerial and

---

<sup>100</sup> See Ward on Oct. 6, 2004.

<sup>101</sup> *Id.*

<sup>102</sup> *Id.*

<sup>103</sup> See Saenz, TxDOT on Mar. 4, 2004.

<sup>104</sup> See Saenz, TxDOT on Aug. 9, 2004.

<sup>105</sup> See Ward on Oct. 6, 2004.

technical challenges these areas face.”<sup>106</sup>

### **Colonia Program Eligibility**

Having considered the historical, socioeconomic background of communities closest to the international border with Mexico, a number of state and federal programs have specific requirements tied to programs regarding the geographic location of eligible entities, and some regarding income/unemployment eligibility. As the discussion above indicates, some federal programs, such as those related to the BECC and NADB, have requirements pertaining to the location of the projects to be served. BECC and NADB require projects to be within the “Border region” which is defined as 100 kilometers (62 miles) from the international boundary.<sup>107</sup> The TWDB administers a federal grant program which was created by the federal government to complement the efforts of Texas’ EDAP Program,<sup>108</sup> which also uses the same eligibility requirement as that of BECC and NADB. The TWDB reports that “in 1992 the Environmental Protection Agency provided federal funding of wastewater treatment works for economically distressed areas located within 100 kilometers of the Border with Mexico. This program, called the Colonias Wastewater Treatment Assistance Program (CWTAP), provides funding to certain eligible communities for wastewater (i.e., sewer systems).”<sup>109</sup> TWDB explained to the Committee that the 100 kilometers of the international border “designation is based on the bilateral agreement between the United States and Mexico, known as the La Paz Agreement, in which the counties designated are Border based on the 100 kilometer designation. This area encompasses 32 counties.”

---

<sup>106</sup> *Id.*

<sup>107</sup> *See* BECC on July 7, 2004 and NADB on Oct. 6, 2004.

<sup>108</sup> Legislative Budget Board. Fiscal Size-Up: 2004-2005.

<sup>109</sup> TWDB,  
[http://www.twdb.state.tx.us/assistance/financial/fin\\_infrastructure/edapfund.asp](http://www.twdb.state.tx.us/assistance/financial/fin_infrastructure/edapfund.asp).

---

**Exhibit 15: Why should Texas continue addressing the problems of Border Colonias?**

“Although the border region in general lags behind the State, nowhere are the problems of poverty and its challenges greater than in the thousands of *colonias* located in the area. While many colonias can be found throughout the rural areas, most have developed in the fringe areas of the border’s metropolitan urban communities. *Colonias* are characterized by their substandard housing, inadequate plumbing, poor sewage disposal and wastewater systems, lack of paved streets and drainage, and limited access to clean water. Overall living conditions in the colonias pose a serious health threat to the residents as well as the public at large.”

— **Michael Patrick, Ph.D.**

Director, Texas Center for Border Economic and Enterprise Development

---

Source: Michael Patrick, Ph.D., Director, Texas Center for Border Economic and Enterprise Development. Testimony. IRT Committee hearing. Oct. 6, 2004. [emphasis in original]

Although several entities use the 100 kilometer requirement to define which projects will be eligible for program participation, other programs have different eligibility requirements. As indicated in the above discussion, 1989 was the first time that the deplorable conditions in Border colonias were addressed by the Legislature through the creation of EDAP<sup>110</sup> which was specifically created to “address significant health threats found in economically distressed areas in affected counties.”<sup>111</sup> Under the category of “affected counties” specific income and unemployment levels must be met for program participation. Consequently, the number of counties which are eligible under this program may vary by year. The TWDB testified in Laredo that “TWDB EDAP funds colonias in ‘affected counties,’ which are counties along the Border and those meeting specific income and unemployment levels. Because this data is calculated annually, counties fall in and out of this definition.”<sup>112</sup> The TWDB reported to the Committee that at times the number of counties eligible has been as high as 37 counties and as low as 17 depending on the years.<sup>113</sup> This yearly variance of county eligibility has had “some negative impact on the ability of the TWDB to identify potential

---

<sup>110</sup> See ORCA and TWDB on Sept. 15, 2004.

<sup>111</sup> See Madera on Mar. 4, 2004.

<sup>112</sup> See Ward on Oct. 6, 2004.

<sup>113</sup> Follow-up research information requested by IRT pursuant to previous hearings.

applicants and provide the necessary support to begin and complete projects.”<sup>114</sup> Regardless of the income and unemployment requirements, 14 counties are located adjacent to the Texas-Mexico international border and consequently remain eligible for EDAP participation as provided by Section 16.341 of the Texas Water Code.<sup>115</sup> The Texas Office of Rural and Community Affairs (ORCA) also has similar yet differing eligibility requirements. For projects to be eligible under ORCA, colonias must be in existence on or prior to November 28, 1990 and the colonia community must be within 150 miles of the Texas-Mexico Border region.<sup>116</sup> As part of their requirements, ORCA defines their eligible income levels as those which are “80% or more of the statewide non-metropolitan median family income. Projects must benefit at least 51% low-to moderate-income persons.”<sup>117</sup>

As illustrated, to maximize state and federal assistance to distressed communities for their water and wastewater needs, not only must the state develop a manner by which to create additional revenues for distressed communities, it must also take positive steps to standardize eligibility requirements.

### **Colonia Coordination**

In 1999, the Border members of the IRT Committee authored Senate Bill 1421 and established the “Interagency Coordination of Colonia Initiatives” in the State of Texas under Chapter 775 of the Government Code. The legislation provided the Governor flexibility of designating “an agency to act as the state’s colonia initiatives coordinator.”<sup>118</sup> Subsequently to the passage of SB 1421, the Governor appointed the Office of the Secretary of State to be the Colonia Initiatives Coordinator.

Section 775.002 of the Government Code requires the Colonia Coordinator to “coordinate colonia initiatives within the agency and with the other agencies and local officials involved in colonia

---

<sup>114</sup> *Id.*

<sup>115</sup> TEXAS WATER CODE, § 16.341 (counties “adjacent to an international border” include: Brewster, Cameron, El Paso, Hidalgo, Hudspeth, Jeff Davis, Kinney, Maverick, Presidio, Starr, Terrell, Val Verde, Webb, and Zapata).

<sup>116</sup> ORCA, <http://www.orca.state.tx.us/ORCAFundsService/CDBG/index.htm#CAPF>.

<sup>117</sup> *See Ward* on Oct. 6, 2004.

<sup>118</sup> GOV’T CODE, CHAPTER 775.

projects in the state.”<sup>119</sup> A number of state agencies in Texas are involved in colonia projects. Some of the Texas agencies involved in colonia-related projects include, but are not limited to the following:

- Texas Water Development Board
- Texas Department of Housing and Community Affairs
- Texas Office of Rural and Community Affairs
- Texas A&M University and component institutions
- Texas Department of Health
- Texas Commission on Environmental Quality
- Office of the Attorney General of Texas
- Texas Transportation Commission (and TxDOT)

Although Texas Law requires the Colonia Coordinator to coordinate colonia initiatives with “other agencies...involved in colonia projects in the state,” the Coordinator’s office has primarily focused on initiatives involving water and wastewater programs. During the March El Paso IRT hearing, the Assistant Secretary of State testified that the State’s Ombudsman Program is “tasked with the responsibility of coordinating meetings among local colonia residents, state and federal agencies, elected officials, local governments, project engineers and consultants, utility companies and nonprofit organizations, in order to ensure residents are connected to water and wastewater services in the most efficient and expeditious manner.”<sup>120</sup> The Director of Colonia Ombudsman Program echoed the sentiments of the Assistant Secretary during the Brownsville August hearing, when she testified that the office’s primary focus was on water and wastewater services. The Director specifically indicated that “as Governor Perry’s Chief Liaison for Texas Border and Mexico Affairs, the Office of the Secretary of State and its Colonia Ombudsman Program is charged with addressing the physical infrastructure of colonias, primarily water and wastewater infrastructure, for an improved quality of life for Border colonia residents.”<sup>121</sup>

As some agencies report, “coordination among the state and federal agencies has improved with the

---

<sup>119</sup> See GOV’T CODE, § 775.002 (b).

<sup>120</sup> See Saenz, SOS on Mar. 4, 2004.

<sup>121</sup> See Sanchez on Aug. 9, 2004.

passage of SB 1421 and the addition of the Colonia Ombudsman Program. However, greater efforts are still needed in this area.”<sup>122</sup> During subsequent review of the Secretary of State’s efforts, the IRT Committee was informed that the reason why the SOS did not present any substantive recommendations to address the housing needs of colonia residents was because their mandate was on water and wastewater issues, and not on housing. Such a viewpoint may not be the most appropriate when attempting to address the needs of colonia residents in a comprehensive manner. This lack of focus on housing issues may help explain why the Director of Colonia Initiatives in the SOS office was not informed of the situation that a colonia in the Lower Rio Grande Valley, Green Valley Farms, recently faced in July.

The *Valley Morning Star* reported in July that residents of Green Valley Farms “near San Benito may not be connected to clean drinking water because of [U.S.] Department of Agriculture restrictions that accompanied a \$10 million grant and loan package to aid East Rio Hondo Water Supply Corporation.”<sup>123</sup> According to the General Manager of the district, federal “requirements of an \$8 million loan and \$2 million grant system improvements that the water district got from the Department of Agriculture prohibits any new service connection in flood-prone areas such as Green Valley Acres.”<sup>124</sup> Although this issue may be resolved as local city and county representatives indicated, having Green Valley residents bypassing “the flood zone restriction by raising their houses and water meter sites about two feet with fill dirt,”<sup>125</sup> the Director of Colonia Initiatives should have been informed of the situation. After the Brownsville hearing and in preparation for the Laredo hearing, the Director of Colonia Initiatives indicated that no recommendations were presented from the SOS regarding Green Valley Farms’ problem since it dealt with a housing issue, and housing was not part of the SOS’s water and wastewater mandate. Fortunately for the residents of Green Valley Farms, Governor Perry was informed of their problem with the federal government during his July tour of colonias and seemed to have a different approach. In a subsequent story, the *Valley Morning Star* reported that Governor Perry “promised to discuss with U.S. Department of Agriculture

---

<sup>122</sup> See Ward on Oct. 6, 2004.

<sup>123</sup> Allen Essex, “County OKs Sewer Project for Colonias.” *The Valley Morning Star*, July 20, 2004.

<sup>124</sup> *Id.*

<sup>125</sup> *Id.*

restrictions tied to loans and grants that prevent East Rio Hondo Water Supply Corporation from connecting water service to more colonia homes. He believes it will be possible to use some of the road funding for dams and retention ponds to alleviate flooding in colonias....”<sup>126</sup> Although state directors cannot be expected to know every problem that happens along the Border region, residents of colonias need those who are coordinating colonia activities to address their infrastructure needs to be better informed about their problems, especially when one threatens the use of \$10 million in the form of federal loans and grants. As such, this issue illustrates the need for greater coordination between state, federal and local units of government to better address the needs of colonia residents.

Green Valley Farms’ unfortunate experience is indicative of the testimony provided by agency leaders to the IRT Committee in that it shows that in order to fully address the needs of colonia residents, a comprehensive solution that goes beyond water and wastewater needs is required. During the March IRT hearing, the Executive Director of the Texas Department of Housing and Community Affairs testified that “the state’s efforts to raise the quality of life in the colonias requires additional types of infrastructure beyond the traditional ones of water, wastewater, and roads. As these needs are identified, our Department for nearly a decade has looked for ways in which we could come alongside others in adding quality affordable housing for these neighborhoods.”<sup>127</sup>

The Colonia Coordinator Initiative is a worthy program which has done much in assisting colonias; however, the program needs to be strengthened and reformed in order to improve its effectiveness. One of the reforms that can strengthen the program is requiring colonia coordination among the various agencies that have colonia programs. To address the needs of colonia residents, the Coordinator needs to work with the enumerated agencies in Section 775.002 of the Government Code. Currently, the law permissively allows, and does not mandate, the Coordinator to work with the specific agencies found in Chapter 775. Further, coordination could be improved by requiring the Coordinator to have a stronger working relationship with the Office of State-Federal Relations (OSFR) and with county officials. As new Border county officials come into office, for example, the Colonia Coordinator could brief them (as part of the newly elected county official training) on the significance of the Model Subdivision Rules. When problems with federal entities are

---

<sup>126</sup> Allen Essex, “Help’s on the Way,” *Valley Morning Star*, July 23, 2004.

<sup>127</sup> Edwina P. Carrington, Executive Director, TDHCA. Testimony. IRT Committee hearing. Mar. 4, 2004.



---

confronted by colonias and county officials, the coordinator should be the first entity contacting OSFR and the corresponding federal agencies in order to provide counties needed assistance.

A change of institutional culture needs to be implemented within the Coordinator's program. Colonia residents cannot afford an institutional mindset of doing only the minimum which is required by state law. A change of focus that moves away from a limited "water and wastewater mandate" to one that comprehensively works to better serve the needs of colonia residents through an "all-encompassing coordination" of services is needed. The Coordinator's Office should strive to duplicate the success of TDHCA's Colonia Self-Help Centers. During the 74th Legislative Session, Senator Zaffirini and Senator Lucio co-authored, along with other members, Senate Bill 1509, which assisted TDHCA to work with "counties, non-profits and colonia residents to deliver much needed services" through the creation of the Colonia Self-Help Centers.<sup>128</sup> TDHCA officials testified in the Laredo hearing that weeks before the hearing "our Colonia Self-Help Centers received a HUD Community Development Excellence Award and were recognized for going 'well beyond what Congress or HUD requires' in servicing the needs of residents in the colonias."<sup>129</sup> The Centers have been effective because they go beyond what state and federal mandates require of them, and because TDHCA works closely with Border officials and colonia residents. TDHCA works "closely with county officials and non-profits in these areas to conduct assessments in prioritizing needs as well as identifying and delivering solutions."<sup>130</sup> TDHCA has an advisory committee that assist the agency in being better informed of the needs of colonias residents. The agency reports that the Advisory Committee "has been instrumental in voicing the concerns of the targeted populations and has helped both the Department and the colonia SHC's [Self-Help Centers] develop useful tools and programs to address colonia resident needs."<sup>131</sup> This local and state partnership was institutionalized in SB 1509 which mandated the creation of the Colonia Self-Help Center "Advisory Committee." SB 1509 required the creation of the Advisory Committee to advise TDHCA of the needs of colonia residents, as well as to the appropriate programs and activities needed to better serve colonia

---

<sup>128</sup> Edwina P. Carrington, Executive Director, TDHCA. Testimony. IRT Committee hearing. Oct. 6, 2004.

<sup>129</sup> *Id.*

<sup>130</sup> *Id.*

<sup>131</sup> TDHCA, <http://www.tdhca.state.tx.us/oci/centers/index.jsp>.

residents.<sup>132</sup> Texas should be proud of the successful activities that SB 1509 has created and should strive to duplicate the effectiveness of the Centers by implementing a similar, improved structure in the Colonia Coordinator's Office. A similar advisory/oversight entity of county officials and colonia residents could help change the existing culture and improve the effectiveness of the Colonia Coordinator's Office.

---

**Exhibit 16: Continuing Effort to Assist Colonias**

*"...Living in the colonias can be very difficult at times... We know lifting some of our poorest Texas out of poverty is not an easy task, but it's a task that we must continue to work for..."*

— **The Honorable Rick Perry**  
Governor, State of Texas

---

Source: J. Noel Espinoza, "Perry Seeks \$50 M for Colonia Aid," *The McAllen Monitor*, July 23, 2004.

Correspondingly, increasing the sharing of information among agencies which have a colonia presence is needed. IRT was informed by the TWDB that currently the Borderland Information Center over at the Texas Natural Resources Information System maintains the Border Activity Tracker (BAT) which "exists to track Border area infrastructure projects in order to encourage inter-agency cooperation and to minimize duplication efforts."<sup>133</sup> TWDB informed the committee that "sharing information and coordinating efforts to track projects, along with developing an initiative to provide one point of contact for water and wastewater projects will help ensure the efficient use of colonia-related infrastructure funds."<sup>134</sup> Consequently, the state should consider positive steps to improve the use and maintenance of the BAT.

---

<sup>132</sup> Senate Bill 1509 by Senator Zaffirini, Lucio and others, 74th Legislative Session (1995).

<sup>133</sup> See Ward on Oct. 6, 2004.

<sup>134</sup> *Id.*

### **NAFTA's Trade, Population and Transportation Growth**

During the El Paso hearing, a representative of the Foreign Trade Association provided a quick summary of the basic objectives of the North American Free Trade Agreement (NAFTA). The representative explained that "NAFTA is simply a preferential trade agreement intended to enhance the industrial competitiveness of North American industry to the exclusion of foreign competitors and imports. The agreement established a preferential tariff schedule for North American production, that is, production that complied with NAFTA's rules of origin. The objectives of the Agreement were to attract investment in manufacturing to North America and to reduce the total cost of business for North American producers. On both counts the Agreement, as evidenced by the tremendous increase in NAFTA trade, was successful."<sup>135</sup> Due to the increased trade, NAFTA has meant that Texas has seen stronger ties with Mexico. The Comptroller reported in 2001, that the "economic integration due to the North American Free Trade Agreement (NAFTA) -- and the attendant lowering of tariffs and other barriers to trade -- has resulted in increased trade with Mexico and increased truck traffic at the U.S. and Texas land ports of entry."<sup>136</sup> How much has trade increased with Mexico? The Economic Development and Tourism division in the Governor's Office reported to the Committee in October that "NAFTA has delivered on its principal promise of increasing trade. Since 1993, the year before the pact took effect, two-way commerce between Texas and Mexico has more than doubled from \$100 billion to \$235 billion in bilateral trade (U.S. Census Bureau figures)...In the last seven years, Texas has exported more than \$272 billion to Mexico."<sup>137</sup> According to the testimony provided by the Chair of the Texas Workforce Commission in August, data indicates that "Mexico is our state's Number 1 trading partner, with more than \$41.5 billion in exports in 2003, double the pre-NAFTA figure. And our state's exports to Mexico were up 22 percent in the first quarter of this year."<sup>138</sup>

---

<sup>135</sup> Donald A. Michie, Ph.D., Board Member, The Foreign Trade Association. Testimony. IRT Committee hearing. Mar. 4, 2004.

<sup>136</sup> The Honorable Carole Keeton Strayhorn, Comptroller, State of Texas. *Special Report: State Functions at the Texas-Mexico Border and Cross Border Transportation*, Jan. 2001.

<sup>137</sup> Aaron Demerson, Director, Business Development, Economic Development and Tourism Division (Office of the Governor). Testimony. IRT Committee hearing. Oct. 6, 2004.

<sup>138</sup> Diane Rath, Chair, TWC. Testimony. IRT Committee hearing. Aug. 9, 2004.

The growing interaction caused by NAFTA has also led to an increase in population. Research indicates that in the 1990s the population of Border regions in Texas grew at a faster rate than the state average. “According to State Demographer Steven Murdock, from 1990 to 2000 the percent change in population for the Border area was 40%, while the state average was 23%.”<sup>139</sup> In regards to the population of Texas and the Mexican adjoining states at the international boundary, by some estimates “the population of the Border area is currently 10 million, and it is expected to increase by nearly 60 percent by the year 2020.”<sup>140</sup> This is not surprising since “approximately 79% of all Mexico/U.S. truck traffic enters through a Texas Border point of entry.”<sup>141</sup> While discussing the “economic factors affecting cross-border transportation” the Comptroller reported in 2001 that “by the end of the 1990s, the population in the largest Texas counties and Mexican states along the Texas-Mexico Border had topped a combined 13.6 million.”<sup>142</sup> Focusing specifically on the growth of the Texas Border counties, “on the U.S. side, the population of El Paso, Webb, Hidalgo and Cameron counties increased by about 391,000 inhabitants, from 1.4 million in 1990 to 1.8 million in 1999 -- a 29% increase. This population increase was due in large part to NAFTA, which helped catalyze Border industrialization and the development of the maquiladora industry.”<sup>143</sup> Just two years ago, as of 2002, the population of the actual 14 Texas counties at the international boundary was 2.1 million.<sup>144</sup> Due to their locality and international element, cities in Border counties, unlike non-Border cities, have a daily “growth” rate which significantly adds to their unique circumstance. For instance, the Committee was informed during the October hearing that “everyone forgets that Laredo like other Border communities is a binational community that grows two-fold by day and needs to be viewed for its reality of growth and international significance especially as it relates to

---

<sup>139</sup> James G. Springfield, CHE, President and CEO, Valley Baptist health System. Testimony. IRT Committee hearing. Aug. 9, 2004.

<sup>140</sup> See Saenz, TxDOT on Aug. 9, 2004.

<sup>141</sup> See Saenz, TxDOT on Mar. 4, 2004.

<sup>142</sup> See Strayhorn on Jan. 2001.

<sup>143</sup> *Id.*

<sup>144</sup> Texas Comptroller of Public Accounts, <http://www.window.state.tx.us/specialrpot/snapshot/> on Nov. 22, 2004.

safety, public health protection and the environment.”<sup>145</sup> Due to the “continued growth and especially after the North America Free Trade Agreement (NAFTA), commerce and Border crossings have increased and Laredo especially has had to bear the responsibility and challenge of meeting increased and new social, economic and health care needs of an ever-growing binational community that is already burdened with an inadequate social and public health infrastructure.”<sup>146</sup>

### **Infrastructure Factors to Consider**

Not only has the Border region grown at faster rates than the other regions of the state, “as a group, Texas Border residents are younger, less educated, and poorer than other Texas residents.”<sup>147</sup> The Comptroller reports that whereas the “percent of the population 25 years and over without a high school diploma” for Texas was 24.3%, the percent for the 14 counties that see the most trade at the international boundary was 43.2% in 2000.<sup>148</sup> In terms of those uninsured, “in all but one Border county, between 31% and 40% of residents under 65 are uninsured.”<sup>149</sup> While discussing the 10-year impact of NAFTA on the Border region, a representative of the Border Trade Alliance testified in the El Paso IRT hearing that “distressed counties have a poverty rate above 15.4%, an uneducated adult population of 25.4% or more and a five-year chronic unemployment rate above 4.9%.”<sup>150</sup> Specifically in 2000, whereas Texas had a poverty rate of 14.5%, the percent for the immediate Border counties was 29.1%.<sup>151</sup>

---

<sup>145</sup> Hector F. Gonzalez, M.D., M.P.H., Director, City of Laredo Health Department. Testimony. IRT Committee hearing. Oct. 6, 2004.

<sup>146</sup> *Id.*

<sup>147</sup> Martin Aguirre, Chief Executive Officer, Upper Rio Grande Workforce Development Board. Testimony. IRT Committee hearing. Mar. 4, 2004.

<sup>148</sup> See Texas Comptroller of Public Accounts on Nov. 22, 2004.

<sup>149</sup> See Garcia, TBIC on Mar. 4, 2004.

<sup>150</sup> See Michie.

<sup>151</sup> See Texas Comptroller of Public Accounts on Nov. 22, 2004.

### **Health Infrastructure Needs and the Impact on Workforce**

Since the Border population is “disproportionately young, poor, uneducated, unemployed and uninsured”<sup>152</sup> unique health conditions and levels of health indicators are found along the Border at different rates than in other parts of the state. The health conditions of Border communities are “characterized by significantly higher rates of chronic and infectious diseases, including tuberculosis, hepatitis, dengue fever and diabetes.”<sup>153</sup> The international characteristic of Border communities, along with the increased trade between Texas and Mexico, makes addressing the health conditions of the Border region increasingly important, especially in the prevention of the spread of ailments that may originate on the Mexican side of the international boundary. “The binational threat of vector borne, infectious disease and exposure to environmental contaminants are an imminent and serious concern that warrants cooperation for disease control because as all of you know, disease does not respect Borders.”<sup>154</sup> The Director for the City of Laredo testified in the IRT Laredo hearing that “from a public health perspective Border communities continue to face public health, infrastructure and environmental challenges such as being medically underserved, lack of adequate health care access, lack of potable water in some areas and a fragmented environmental enforcement network.”<sup>155</sup>

Unfortunately, the State of Texas also has specific communities that have among the lowest physician-per-population ratio in the United States. The President and CEO of the Valley Baptist Health System testified in the Brownsville hearing that “according to the 1999 Dartmouth Atlas on Health Care, the Harlingen and McAllen hospital referral regions have **the lowest and second lowest number of physicians per 100,000 population in the entire nation** and is federally designated as a ‘medically underserved area.’”<sup>156</sup> Other regions in South Texas, such as Hidalgo and

---

<sup>152</sup> See Springfield.

<sup>153</sup> *Id.*

<sup>154</sup> See Gonzalez, M.D. on Oct. 6, 2004.

<sup>155</sup> *Id.*

<sup>156</sup> See Springfield [emphasis on original].

Cameron Counties, are also classified as “health professional shortage areas.”<sup>157</sup> Among the reasons that have led to these classifications, and which have prevented Border counties from having the necessary level of health professionals, include “low per capita income, a high proportion of uninsured, indigent and Medicaid residents, low population density, and a geographically remote Border region.”<sup>158</sup> According to one health administrator, “the single most important reason behind the Valley’s inability to recruit and retain physicians lies in the fact that until very recently, the Valley lacked an academic medical infrastructure. This left us [the Valley region] without the ability to cultivate ‘home-grown, home-town’ physicians.”<sup>159</sup>

Physicians are not the only health professionals that are needed in the region of the state which experiences the most trade activity in Texas. The lack of nurses also threatens the health infrastructure of the area. Unlike other health indicators, the nursing shortage that Border communities are experiencing is also being felt by the state. In terms of active nurses, although in 2003 the ratio of active nurses per citizens was 1:124 for the nation, for Texas the ratio was 1:165 and along the Border it was 1:177. Health experts estimate that in Texas there is a current need of 28,000 nurses.<sup>160</sup> When compared to the average in the nation, Texas is 36,000 nurses short of the national average.<sup>161</sup> The State of Texas should take positive steps to address this shortage since “without enough nurses in the future, access to care will be compromised, quality of care will be jeopardized, and safety of patients will be threatened.”<sup>162</sup> In some communities, local health systems have taken innovative measures to try to meet the local nursing needs, such as developing nursing scholarships and turning to Texas’ southern neighbor by investing more than \$200,000 to fund

---

<sup>157</sup> *Id.*

<sup>158</sup> *Id.*

<sup>159</sup> *Id.*

<sup>160</sup> Robin D. Froman, R.N., Ph.D., F.A.A.N. Dean and Professor. University of Texas Health Science Center-San Antonio-SON. Testimony. IRT Committee hearing. Aug. 9, 2004.

<sup>161</sup> *See* Springfield.

<sup>162</sup> *Id.*

students under a Mexican Nurse Program.<sup>163</sup>

Even with such innovative steps, the state currently does not have the appropriate infrastructure to support an increase of those interested in joining the nursing profession. In the years 1997 through 2003, Texas experienced an increase of 61% in nursing applications and had an average 87% increase in those entering class; however, the state only saw a corresponding 13% increase in faculty size.<sup>164</sup> In the same period, there was not an increase in budgeted faculty positions, competitive salaries or potential hires in Texas.<sup>165</sup> This lack of the appropriate faculty infrastructure to support the increased need of nursing professionals has meant that thousands of potential nursing students have been denied admission to nursing schools. For example, “in the Gulf Coast Region of Texas in 2003, over 3,000 qualified applicants were turned away at a time when estimates are that Texas is approximately 36,000 nurses short of the national average.”<sup>166</sup>

---

---

**Exhibit: Importance of the Nursing Shortage Problem:**

*“U.S. Department of Labor state nursing is ‘the top occupation in the country in terms of growth through 2012. This means more new jobs are expected to be created for nurses than any other occupation.’ Texas needs to be competitive in this projected job market.”*

— **Robin D. Froman, R.N. Ph.D. F.A.A.N.**  
Dean and Professor, UTHSC-SA-SON

---

---

**Source:** Robin D. Froman, R.N. Ph.D. F.A.A.N., Dean and Professor, UTHSC-SA-SON.  
Testimony. IRT Committee hearing. Aug. 9, 2004.

---

<sup>163</sup> *Id.*

<sup>164</sup> *See* Froman.

<sup>165</sup> *Id.*

<sup>166</sup> *See* Springfield.



**NAFTA's Workforce: The Need to Support a Young and Growing Population**

The lack of health infrastructure not only threatens the physical well-being of the communities along the Border region, but it also poses serious challenges to the areas' economic well-being. As the Chair of the Texas Border Infrastructure Coalition (TBIC) testified at the El Paso IRT hearing, "having a healthy workforce is an essential element to a thriving community."<sup>167</sup> This is among some of the reasons why it is imperative that the infrastructure of the Border receive targeted attention by the state in order to support the creation of new business ventures. As any economist will agree, among the critical factors which can foster economic development and growth is having a young, healthy and growing population. While discussing the economic resources that can assist the State of Texas in attracting new business ventures, the Chair of the Texas Workforce Commission, Diane Rath, testified at the Brownsville IRT hearing that, "our state's low taxes already draw the attention of many firms. But our state's young and growing population is another advantage when we're trying to attract new business to our state or help our current employer base expand. We have a good supply of workers. And while many other states have an aging workforce, Texas leads the nation in child population growth. That means a good supply of workers for our future as well."<sup>168</sup> Consequently, the "State of Texas must recognize and address the severe shortage of healthcare professionals and the lack of medical infrastructure in Border counties and adopt public policy that promotes access to care and supports programs that increase capacity at Border health educational facilities, like the [University of Texas Health Science Center-San Antonio] UTHSC-SA Regional Academic Health Center and the nursing programs at UT-Brownsville and UT-Edinburg and other community colleges along the Border."<sup>169</sup>

In order to increase trade and engender economic activity to address the NAFTA-related needs of the state, a healthy workforce along with specialized programs which invest capital in their training is needed in Texas. "The development of a skilled workforce is critical to the continued progress of our communities along the Texas-Mexico Border. We have a large, primarily young workforce

---

<sup>167</sup> The Honorable Richard Garcia, Mayor, City of Edinburg, Chair, TBIC. Testimony. IRT Committee hearing. Mar. 4, 2004.

<sup>168</sup> See Rath on Aug. 9, 2004.

<sup>169</sup> See Springfield.

that must be developed and trained; however, the resources to accomplish those task are extremely limited.”<sup>170</sup> The President and CEO of the Lower Rio Grande Valley Workforce Development Board, Ms. Yvonne Gonzalez, testified at the Brownsville hearing that a current trend among workforce boards has increased the importance of workforce training programs. Ms. Gonzalez went on to testify that “workforce boards are changing their way of thinking and have come to the realization that *economic development is workforce development*...The quality of a local workforce is often the **single** most important determinant of whether a company will locate in an area or whether growing businesses have a labor pool with needed skill sets.”<sup>171</sup>

### **Texas’ Workforce Training Funds**

Texas has two job funds that primarily focus on developing job training skills in the state. “The Skills Development Fund and the Self-Sufficiency Fund programs respond to the workforce needs of Texas employers and industry. Both programs provide grants to community colleges and technical schools to fund training programs tailored to jobs with local employers.”<sup>172</sup> Specifically “the Skills Development Fund assists businesses and labor unions by designing, financing and implementing customized job training programs...for new or existing jobs in local businesses. This fund successfully merges business needs and local job training opportunities into a winning formula for people to work.”<sup>173</sup> While discussing the Skills Development Fund, the TWC representatives recently reported that “the employers benefit because they get custom training paid out of taxpayers’ money. The employees benefit because they receive the skills needed to stay competitive in a rapidly challenging market.”<sup>174</sup> The hosting community college also “benefits because they get to build the

---

<sup>170</sup> See Garcia, TBIC on Mar. 4, 2004.

<sup>171</sup> Yvonne “Bonnie” Gonzalez, President and CEO, Lower Rio Grande Valley Workforce Development Board. Testimony. IRT Committee hearing. Aug. 9, 2004. [emphasis in original].

<sup>172</sup> See LBB Fiscal Size-up.

<sup>173</sup> TWC, *Skills Development Fund* <http://www.twc.state.tx.us/svcs/funds/sdfintro.html>.

<sup>174</sup> Rebecca Boller, “Job Training Getting Boost,” *Wichita Falls Times Record News*, July 20, 2001 (quoting Larry Jones, Texas Workforce Commission media-relations representative).

capacity and infrastructure to continue the training” and communities where the grant monies are given benefit because they get an influx of dollars “into their community so that there is a more highly trained workforce.”<sup>175</sup> The Self-Sufficiency Fund is basically designed in the same manner. However, the “programs differ primarily in the source of funding: the Skills Development Fund receives \$24.7 million in appropriations from the General Revenue Fund; the Self-Sufficiency Fund has \$6 million in TANF Appropriations, and requires that all clients participating in Self-Sufficiency Fund grant programs be TANF recipients.”<sup>176</sup>

What has been the impact of the Skills Development Fund? Chair Rath explained at the Laredo hearing that “Over the last 8 years, TWC has awarded \$95.7 million in 350 skills grants to over 2,000 employers and provided training to 117,000 workers. Those grants generated 48,000 new jobs and 69,000 incumbent workers were able to receive training that retained their jobs. About \$30 million of those funds went to Border Communities.” Although everyone seems to agree that the Skills Fund is greatly needed and has greatly helped the state, “funding for Skills, administered by the state Workforce Commission, hasn’t increased beyond \$25 million biennially since its inception in 1996.”<sup>177</sup> Although Texas invests \$25 million in the Skills Fund,<sup>178</sup> testimony received by the Committee indicates that this amount of funding falls short of allowing Texas to be competitive with others in the nation. Representatives of TBIC informed the members of IRT that “we have testified that the \$25 million (\$12.5 million annually) Skills Development Fund is inadequate to meet the job training incentives needed to be competitive with other states.”<sup>179</sup> Information received by the Committee tends to affirm the conclusions of TBIC. Earlier this year, the *Wichita Falls Times Record News* reported that “state legislators were urged to increase the funding available to help colleges and other schools provide skills training to fill jobs for business and industry in Texas. Legislators allocated a paltry \$25 million for skills-training programs last, but business asked for \$50

---

<sup>175</sup> See Boller.

<sup>176</sup> See LBB, Fiscal Size-up.

<sup>177</sup> Naomi Snyder, “Job training funds go dry,” *Corpus Christi Caller-Times*, Sept. 01, 2002.

<sup>178</sup> See Rath on Mar. 4, 2004.

<sup>179</sup> See Garcia, TBIC on Mar. 4, 2004.

million. The programs for training are in place; the funds to operate them are not.”<sup>180</sup> This sentiment seems to be shared by those in community colleges. One director of continuing education and workforce development explained, while discussing Skills funding in Texas to the *Corpus Christi Caller Times* in August, that “the funds are not adequate to fund all the training needed...if you look at the industries that have come into Texas, there is a greater need to train workers.”<sup>181</sup> The *Caller-Times* reported, “in 2003, lawmakers provided \$25 million for the Skills Development Fund’s two-year budget. But businesses requested \$50 million in grants from the Texas Workforce Commission, which administers the job-training program, in just one year.”<sup>182</sup> Ron Lehman, Texas Workforce Commission, reported to the *Caller-Times* that “employers are still saying they are having difficulty finding qualified workers...the challenge is in training, retraining, and retention of those workers.” The *Caller-Times* further reported that “Lehman pointed out that Texas workforce training has not kept pace with technological changes in the workplace.”<sup>183</sup> Chair Rath of the Texas Workforce Commission testified in Laredo that the Commission currently “receives \$4 in requests for every \$1 of available” skills funding.<sup>184</sup>

### **Texas and Other States: A Matter of Competition**

It is important for Texas to access skills dollars since “more than ever employers are seeking job training as an incentive to make sure that their workers have the skills that they need when they are considering a site to expand or relocate.”<sup>185</sup> Understanding that Texas must remain competitive with other states in terms of industry/business recruitment, Chairman Lucio requested for the TWC to report to the IRT Committee how Texas compares with other states in terms of funding initiatives

---

<sup>180</sup> *Wichita Falls Times Record New*, “Sad State of Education: Legislators better start finding something to pull Texas out of quagmire,” Aug. 29, 2004.

<sup>181</sup> Monica Wolfson, “Training Needs Grow: More Funds are Needed to Help Workers Get Skills, Economic Officials Say,” *Corpus Christi Caller-Times*, Aug. 27, 2004.

<sup>182</sup> *Id.*

<sup>183</sup> *Id.*

<sup>184</sup> Diane Rath, Chair, TWC. Testimony. IRT Committee hearing. Oct. 6, 2004.

<sup>185</sup> *Id.*

that invest on the training needs of its workforce. Chair Rath testified in Laredo that “Texas is being outpaced in our efforts to train workers in the 21st Century because many of our competitors are spending far greater sums on training than Texas.”<sup>186</sup> According to TWC’s preliminary figures, “in 2002, Texas spent \$0.56 per person on job training skills development funds.”<sup>187</sup> In contrast, according to a study by the United States General Accounting Office of employer tax funded state skills programs, “New York spent \$2.06, California \$2.37 and...Louisiana \$4.17 on training.”<sup>188</sup>

When seen in light of the information that the Committee received in the El Paso hearing, it is quite evident that Texas is being outspent by other states in terms of skills funding. During the El Paso hearing, the Committee was informed that the State of Ohio had invested \$1 billion in their workforce.<sup>189</sup> Information submitted to the Committee in El Paso included an article which highlighted an explanation by the Governor of the State of Ohio of his state’s workforce efforts. The Ohio Governor said that “when I took office, we significantly expanded our investment in workforce development and training, because to compete in the U.S., companies have to become more productive, meaning they have to upgrade the skills of their workers . . . So we increased the amount of money we sent to our community and two-year colleges to do customized, job-specific training. Overall, we invest about \$1 billion a year to educate, train and certify Ohio’s workforce.”<sup>190</sup> Further, according to a recent survey of the different state-supported job training programs in the nation, in the years 2002 and 2003, “six states appropriated \$50 million or more” to their state job training programs.<sup>191</sup>

---

<sup>186</sup> *Id.*

<sup>187</sup> *Id.*

<sup>188</sup> *Id.*

<sup>189</sup> *See* Rath on Mar. 4, 2004.

<sup>190</sup> *Id.* (submitted written attachments).

<sup>191</sup> Texas Legislative Council, Research Division. *Facts at a Glance: Survey of State Funded Job Training for Employers*. Mar. 2003.

---

**Exhibit 18: How Much Does Ohio Invest in its Workforce Training?**

*“When I took office, we significantly expanded our investment in workforce development and training, because to compete in the U.S., companies have to become more productive, meaning they have to upgrade the skills of their workers...So we increased the amount of money we sent to our community and two-year colleges to do customized, job-specific training. Overall, we invest about \$1 billion a year to educate, train and certify Ohio’s workforce.”*

**-- The Honorable Bob Taft**  
Governor, State of Ohio

---

Source: See written testimony attachments of Chair Rath on Mar. 4, 2004.

To put all of this information in perspective with the amount of funding that Texas invests on its workforce training needs, TBIC explained in the El Paso hearing that the \$12.5 million annual amount of the Skills Development Fund is inadequate and hinders a community’s efforts when trying to attract new businesses to their region. TBIC testified that the “TWC received \$43 million in requests last year. Because of limited funds, the state accepts applications on a quarterly basis to fund skills development projects. This hampers local entities’ ability to include state job training incentives in their packet when recruiting new companies to their areas.”<sup>192</sup> The Executive Director of the Greenville Board of Development earlier this year urged state lawmakers to increase the fund. The official stated that “Texas is woefully behind other states in the technical vocational arena . . . the [Skills] fund has meant the ability to compete.”<sup>193</sup>

Considering that Ohio has a population which is 10 million fewer than that of Texas, and Ohio had a population growth rate of less than 4% -- whereas Texas had a growth rate of more than 23%<sup>194</sup> --

---

<sup>192</sup> See Garcia, TBIC on Mar. 4, 2004.

<sup>193</sup> See Wolfson.

<sup>194</sup> LBB, Texas Fact Book 2004.

the State of Texas would be wise to invest additional dollars on the workforce training of its increasing population in order to allow Texas communities to become more competitive in attracting new businesses and jobs to local communities. Although it is understandable that states such as California and New York, having comparable raw population figures, would outspend Texas, it is beyond understanding that a state not ranked among the 10 Most Populous (Louisiana) to outspend Texas by such a high degree.

State	Population		10 year Change	
	July 1, 1992	July 1, 2002	Population	%
California	30,875,920	35,116,033	4,240,113	13.7
<b>Texas</b>	<b>17,650,479</b>	<b>21,779,893</b>	<b>4,129,414</b>	<b>23.4</b>
New York	18,082,032	19,157,532	1,075,500	5.9
Florida	13,504,775	16,713,149	3,208,374	23.8
Illinois	11,635,197	12,600,620	965,423	8.3
Pennsylvania	11,980,819	12,335,091	354,272	3.0
<b>Ohio</b>	<b>11,007,609</b>	<b>11,421,267</b>	<b>413,658</b>	<b>3.8</b>
Michigan	9,470,323	10,050,446	580,123	6.1
New Jersey	7,827,770	8,590,300	762,530	9.7
Georgia	6,759,474	8,560,310	1,800,836	26.6

Table Source: Legislative Budget Board. Texas Fact Book 2004.

Chair Rath testified at the Laredo hearing that “there’s many factors in Texas. . .that weigh in a company’s decision regarding where to locate, but the availability of a skilled workforce has moved to the top of the employer’s list. By helping workers upgrade their skills we make them more productive and competitive in the labor market and in return that makes the employers more competitive in the global market place. If Texas is to have a competitive edge over Louisiana, or Arkansas, or Mexico, or Indonesia, our workers must have the skills that Texas employers need. . . Additional funding is critical to increase our ability to enhance the productivity of employers and

make sure that Texas is prepared to continue leading the nation in job creation and expansion.”<sup>195</sup>

The Perryman Group, while conducting an assessment of Texas’ economic development programs, arrived at a similar conclusion concerning the importance of job training and the available resources in Texas. Specifically, the Perryman Group reported in 2002 that “job training is of vital importance in vying for expanded business activity. It is also of particular significance to Texas because of (1) a rapidly growing and young population and (2) graduation and dropout pattern that is disturbing. Texas has the raw material to be a global leader in skilled workforce availability, but currently lacks the program capabilities to make it happen.”<sup>196</sup> The Perryman Group went on to report that “workforce training is consistently viewed as one of the most important aspects of site selection. Evolving demographic patterns suggest that this factor will remain critical over an extended horizon. Texas must complement its current Self-Sufficiency Fund and Skills Development Fund with a comprehensive, employer-driven program.”<sup>197</sup> (An employer driven program as suggested that would complement TWC’s efforts through local job training initiatives is later discussed in the report in the section that covers the Texas Enterprise Program.)

To gain a better understanding of how competitive Texas is among the “ten most populous states” in regards to state initiatives aimed at fostering economic development, the Committee requested the Economic Development Division in the Governor’s to office report how Texas compares among the different states. The division’s representative, Mr. Aaron Demerson, testified that “Texas ranks sixth behind Illinois, Pennsylvania, Ohio, Michigan, and California with more than \$200 million in total expenditures for economic development.”<sup>198</sup> Consequently, Texas needs to become more competitive in terms of its level of funding for job training and economic development programs.

Recently, to become competitive, the State of Texas created the Texas Enterprise Fund (TEF) as a closing-fund to attract new business ventures to Texas that would create new jobs in the state. “The

---

<sup>195</sup> Diane Rath, Chair, TWC. Testimony. IRT Committee hearing. Oct. 6, 2004.

<sup>196</sup> M. Ray Perryman, Ph.D, The Perryman Group, *Texas, Our Texas: An Assessment of Economic Development Programs and Prospects in the Lone Star State. Volume I.* Nov. 2002.

<sup>197</sup> *Id.*

<sup>198</sup> *See* Demerson.



78th Texas Legislature established the \$295 million Texas Enterprise Fund to allow the state to respond quickly and aggressively to opportunities that bring new jobs and employers to Texas.<sup>199</sup> Those in regions of the state that have not been significant recipients of the TEF testified that there was a need to reform the program to take into account the specialized needs of distressed communities.<sup>200</sup> In order to have a better analysis of the success of the TEF, the Committee invited the Executive Director of the Economic Development Division, Mr. Jeff Mosely, who oversees the administration of the TEF, to its Committee hearings. However, due to conflicts in scheduling, Mr. Moseley was unable to attend any of the IRT's hearings. Fortunately for the Border communities, a representative of his office was able to participate during the last IRT hearing.

Mr. Demerson explained that the TEF is a "significant economic development program that has assisted with job creation announcements of close to 15,000 jobs and \$5.7 billion in investments. If we include indirect jobs, the total is over 40,000." These "announcements" of job creations has recently come into question by a review conducted by the *Dallas Morning News*. The *Morning News* reported on November 23, 2004, that "those figures may yet come to pass. But a review of the program by *The Dallas Morning News* has found that the state paid millions of dollars without securing promises that any new jobs would be created."<sup>201</sup> The *Morning News* went on to report that "to date, 275 jobs have actually surfaced, although [Governor] Perry has announced 15 grants to companies that promised to bring economic activity to the state." In terms of indirect jobs, as those reported by Mr. Demerson, "some grant recipients are allowed to credit themselves for so-called indirect jobs -- positions that appear in the economy as a result of innovations made by a company."<sup>202</sup> Although questions have arisen concerning the TEF's job creation,<sup>203</sup> the quantifying

---

<sup>199</sup> *Id.*

<sup>200</sup> *See* Garcia, TBIC on Mar. 4, 2004.

<sup>201</sup> Dave Michaels, "Enterprise Fund Short on Returns," *Dallas Morning News*, Nov. 23, 2004.

<sup>202</sup> *Id.*

<sup>203</sup> *Id.* (An award of nearly \$10 million was made to a university-driven project in which no direct new jobs were promised, rather the research conducted "could spin off jobs in the future.")

of jobs, and whether recipients actually moved to Texas<sup>204</sup> because of the TEF, require a complete assessment and greater study.

However, at “\$295 million, the Texas Enterprise Fund is the largest deal-closing fund in the nation,”<sup>205</sup> and thus requires special attention, and support by the State of Texas. The TEF could be strengthened and improved not only by increasing the amount of funding, but by instituting some innovative reforms. To do so, the staff administrators of the fund need to be required to participate with the state lawmakers and attend state Committee hearings. Further, a more strategic regional use of the fund could benefit the different regions of the state which are among the fastest growing areas but have significant degrees of unemployment levels. Currently, as Mr. Demerson testified at the Laredo hearing, Texas’ “enterprise fund is not set up for disbursement to specific areas or regions of the state. The enterprise fund is utilized as a ‘deal-closer.’” It is not driven by geography.” Although this may be the status quo in Texas, a survey of the different “deal-closing” funds in the nation reveals that “most states also factor in the location of the jobs in deciding the grant amount. Utah, for example, awards more grant funds to companies locating in rural counties than in urban ones.”<sup>206</sup> A similar reform that has been advocated during the IRT hearings has been to “ earmark \$65 million of the Texas Enterprise Fund to establish a Skills Development Local Job Training Incentive Program.”<sup>207</sup> During the El Paso hearing, the TBIC chair testified that “the state must recognize that we need to develop both a state and local economic stimulus strategy to help strengthen the state’s economy. We have advocated for increased dollars in the Skills Development Fund and believe that we should allocate a \$60 million dollar set-aside from the Enterprise funds for

---

<sup>204</sup> *Id.* (One company provided conflicting statements indicating that at one time its consolidation of operations in Houston may have been due a “strategic” business decision rather than being driven by incentives. Another recipient was reported to have been expecting funding from a defunct technology fund and was unaware how they ended up in the TEF.)

<sup>205</sup> Texas Legislative Council, Research Division. *Facts at a Glance: Survey of State “Deal-Closing” Funds and Other Incentive Grant Programs for Job Creation.* Mar. 2004.

<sup>206</sup> *Id.*

<sup>207</sup> Wanda F. Garza, Executive Director for Workforce and Resource Development, South Texas College. TBIC. Testimony. IRT Committee hearing. Aug. 6, 2004.

high impact job training incentives to attract or retain businesses in our communities.”<sup>208</sup> Another possible manner to address the use and determine the success of the fund is to focus more on the “guidelines that emphasize a company’s investment in a project rather than jobs.”<sup>209</sup> In Maryland, for example, along with the requirement of having to create 100 jobs a “company’s investment must be at least 5 times the grant amount.”<sup>210</sup> States like Arkansas and Oklahoma also have specific payroll requirements as some of the special terms that must be met for program eligibility.<sup>211</sup>

### **Ten Year Impact: A Mixed Bag of Trade-Related Outcomes**

There is much debate in terms of what has been the 10-year impact of NAFTA to the State of Texas. On one scorecard, NAFTA has meant increased trade with Mexico. The Mayor of the City of Laredo testified at the October IRT hearing that “trade between the United States and Mexico has grown from \$81.5 billion in 1993 to \$232 billion in 2002.”<sup>212</sup> Due to the increase of nearly tripling in trade with Mexico, representatives of the Governor’s office testified that “our state is often noted as the state that has benefitted the most from the advent of the North American Free Trade Agreement. . . Texas is now the number one exporting state in the country.”<sup>213</sup> Consequently, as a whole, Texas has greatly benefitted from NAFTA.

---

<sup>208</sup> See Garcia, TBIC on Mar. 4, 2004; See Garza on Aug. 6, 2004 (updated \$65 million figure).

<sup>209</sup> See Michaels on Nov. 23, 2004.

<sup>210</sup> See Texas Legislative Council, *Deal Closing*.

<sup>211</sup> *Id.* (Arkansas – “minimum \$2 million new employee payroll required; incentives available 12 months after payroll requirement is met;” and Oklahoma – “minimum new employee payroll of \$2.5 million required.”)

<sup>212</sup> The Honorable Elizabeth G. Flores, Mayor, City of Laredo. Testimony. IRT Committee hearing. Oct. 6, 2004.

<sup>213</sup> See Demerson.

**NAFTA's Economic Integration: Truck, Vehicle and Pedestrian Border Crossings**

As part of this interaction with Mexico, while discussing the effect of NAFTA on Texas, the Comptroller recently reported that "economic integration due to the North American Free Trade Agreement (NAFTA) -- and the attendant lowering of tariffs and other barriers to trade -- has resulted in increased trade with Mexico and increased truck traffic at the U.S. and Texas land ports of entry."<sup>214</sup> For instance, in 1999, the "value of U.S. trade to and from Mexico by truck through Texas ports exceeded \$106 billion -- \$53.6 billion in imports and \$52.6 billion in exports -- an 85% increase from the 1995 total of \$57.3 billion."<sup>215</sup> In the same year, "about 4.4 million (2.3 million into Texas and 2.1 million into Mexico) truck crossings were made through nine Texas ports. The international bridges at Laredo alone, the busiest port on the Border, had 2.8 million commercial vehicle crossings. The commercial truck crossing from Mexico over the nine Texas ports, for which truck crossing data are available, have increased 216% since 1990, from 726,000 in 1990 to 2.3 million in 1999."<sup>216</sup> Transportation officials provided the committee an updated "snapshot" of the level of traffic experienced along the Border. They testified that "there were 2,871,624 northbound truck crossings in 2003 in Texas."<sup>217</sup> Updated figures indicate that there were 2,451,079 southbound crossings in the same year.<sup>218</sup> Table 9 illustrates the latest figures for crossings along the Texas Border. According to the information, since the implementation of NAFTA, between 1994 and 2003, northbound crossings increased by 335.13% and southbound crossings increased by 122.33%.

---

<sup>214</sup> See Strayhorn on Jan. 2001.

<sup>215</sup> *Id.*

<sup>216</sup> *Id.*

<sup>217</sup> See Saenz, TxDOT on Mar. 4, 2004.

<sup>218</sup> Texas Center for Border Economic and Enterprise Development, Texas A&M International University, [http://texascenter.tamtu.edu/texcen\\_services/datavehicle.asp](http://texascenter.tamtu.edu/texcen_services/datavehicle.asp) last updated on Nov. 26, 2004.

<b>Destination</b>	<b>1990</b>	<b>1994</b>	<b>2003*</b>	<b>% Change 1990-2003</b>	<b>% Change 1994-2003</b>
<b>Northbound</b>	725,784	659,949	2,871,624	<b>295.66%</b>	<b>335.13%</b>
<b>Southbound</b>	553,682	1,102,446	2,451,079	<b>342.69%</b>	<b>122.33%</b>

Data Source: Texas Center for Border Economic and Enterprise Development, Texas A&M International University 5/10/2000 as reported by the Texas Senate Committee on Border Affairs, Transportation Interim Report 2000, \*[http://texascenter.tamui.edu/texcen\\_services/dataruck.asp](http://texascenter.tamui.edu/texcen_services/dataruck.asp) last updated on 11/26/2004. "Truck Crossings comprise all commercial vehicles crossing through international bridges (2,3,4,5,6+ axle)."

Vehicle crossings of non-commercial vehicles also increased since the implementation of NAFTA. Table 10 illustrates that in 2003, Texas had an increase of nearly 21% in northbound crossings over 1994's figure of 32,222,118 and approximately an 11% increase in southbound crossings above the 1994 crossings of 31,000,798.

<b>Destination</b>	<b>1990</b>	<b>1994</b>	<b>2003*</b>	<b>% Change 1990-2003</b>	<b>% Change 1994-2003</b>
<b>Northbound</b>	23,371,955	32,222,118	38,856,337	<b>66.25%</b>	<b>20.59%</b>
<b>Southbound</b>	24,595,166	31,000,798	34,362,794	<b>39.71%</b>	<b>10.84%</b>

Data Source: Texas Center for Border Economic and Enterprise Development, Texas A&M International University 5/10/2000 as reported by the Texas Senate Committee on Border Affairs, Transportation Interim Report 2000, \*[http://texascenter.tamui.edu/texcen\\_services/datavehicle.asp](http://texascenter.tamui.edu/texcen_services/datavehicle.asp) last updated on 11/26/2004. "Vehicle crossing information comprises all non-commercial transit through international bridges (auto, pick-up, bicycles, motorcycles, RV's, "U-Haul's," etc.)."

Pedestrian crossings also experienced an increase. While in 1994, northbound crossings were 14,863,995 and southbound crossings were 14,476,724, in 2003 the crossings increased by 4,103,523 and 799,969 respectively. This amounted to an increase of 27.61% in northbound crossings (18,967,518) and 5.53% in southbound crossings (15,276,693).

<b>Destination</b>	<b>1990</b>	<b>1994</b>	<b>2003*</b>	<b>% Change 1990-2003</b>	<b>% Change 1994-2003</b>
<b>Northbound</b>	13,662,215	14,863,995	18,967,518	<b>38.83%</b>	<b>27.61%</b>
<b>Southbound</b>	14,107,504	14,476,724	15,276,693	<b>8.29%</b>	<b>5.53%</b>

Data Source: Texas Center for Border Economic and Enterprise Development, Texas A&M International University 5/10/2000 as reported by Texas Senate Committee on Border Affairs, Transportation Interim Report 2000, \*[http://texascenter.tamui.edu/texcen\\_services/datapedstrain.asp](http://texascenter.tamui.edu/texcen_services/datapedstrain.asp) last updated on 11/26/2004. "Pedestrian Crossings indicate actual number of people crossing international bridges by foot; people crossing inside a vehicle are not counted."

### **NAFTA and the Border's Experience**

In Texas and along the Border, what is the significance of all these NAFTA-related figures? As a consequence of the economic integration with Mexico, and the corresponding increased crossings at our international ports, "Mexico is the second largest trading partner of the United States. Approximately 80% of this trade, or \$230 billion of goods, travels over Texas highways."<sup>219</sup> Although Texas has been seeing the benefits of NAFTA, "with this expansion of economic prosperity as a result of NAFTA, the infrastructure of the ports-of-entry along the Texas-Mexico Border has been under pressure due to the ever increasing traffic of traded goods, commercial trucks, rail cars and daily vehicular and pedestrian traffic between the United States and Mexico."<sup>220</sup>

Consequently, on the other side of the scorecard, although NAFTA has increased trade, it has also meant an increased burden to the communities that have to shoulder the state's and nation's increased commerce. A Board member of the Foreign Trade Association reported to the Committee at the El Paso hearing that "Texas has reported a tremendous increase in trade with Mexico. However, the increase in trade has caused a tremendous strain on the Border's physical and

<sup>219</sup> See Saenz, TxDOT on July 7, 2004.

<sup>220</sup> The Honorable Richard Garcia, Chairman, TBIC. IRT Committee hearing. July 7, 2004.

environmental infrastructure, an infrastructure that was already stressed (pre-NAFTA) to the limit. While NAFTA brought us the NADBANK and BECC, the infrastructure deficit for the Border vastly outstrips NADBANK resources. The bottom line is: the Texas Border with Mexico has gained little because the state and its Border communities had no development plan to benefit from NAFTA.”<sup>221</sup>

Why has the Border not benefitted from NAFTA? The Committee received somewhat conflicting information which needs to be reconciled. While discussing the issues and trends of trade and NAFTA, the Chair of the Workforce Commission informed the Committee that “Texas employers have added jobs for nine consecutive months -- 112,000 jobs have been created across the state since last September.” Regarding the Border, the Committee was informed that the region has seen the creation of thousands of jobs. Specifically, “between September 2003 and June 2004, the Border Metropolitan Statistical Areas (MSAs) added 15,000 net non-farm jobs.”<sup>222</sup>

Even though the Border has seen such an increase in jobs, when seen alongside the Average Pay Per Job in Border counties as a function of the Texas Average Pay, a more comprehensive view of the Border is provided. In pre-NAFTA years, and years after NAFTA’s implementation, the Border’s Average Pay Per Job is a fraction of the Texas amount. As previously discussed, Table 3 shows that in 1990 Border counties were between 55.63% and 80.46% of the Texas Average Pay, and in 2002 they were 50.51% and 75.19% of the Texas Average Pay.<sup>223</sup> Table 12 illustrates that such a general trend can also be seen in regards to the personal per capita income levels of Border MSAs.

---

<sup>221</sup> See Michie.

<sup>222</sup> See Rath on Aug. 9, 2004.

<sup>223</sup> See Table 3.

<b>Table 12: Annual Per Capita Personal Income for Available Years Texas and Border MSAs Pre and Post NAFTA</b>				
<b>Population</b>	<b>1990</b>		<b>2002</b>	
<i>Texas</i>	<i>\$17,421</i>	<i>% of TX Level</i>	<i>\$29,039</i>	<i>% of TX Level</i>
<b>Brownsville-Harlingen-San Benito MSA</b>	\$9,853	56.56%	\$16,126	55.53%
<b>El Paso MSA</b>	\$12,284	70.51%	\$20,129	69.32%
<b>Laredo MSA</b>	\$9,406	53.99%	\$16,593	57.14%
<b>McAllen-Edinburg-Mission MSA</b>	\$9,282	53.28%	\$14,769	50.86%

**Data Source:** <http://www.bea.doc.gov/bea/regional/reis/drill.cfm>, Regional Economic Information System, Bureau of Economic Analysis, May 2004. Table CA1-3.

Across the board, in relation the Annual Per Capita Personal Income level of Texas, the Border counties have not seen much gains. Dr. Donald Michie, Board Member of the Foreign Trade Association provides a possible explanation why the Border communities have not seen an increase in high pay jobs by using Laredo, the busiest port in Texas, as an example. Dr. Michie's testimony indicates that "the economic base of Texas Border communities is dominated by international trade services. Laredo processes more than \$90 billion in export/import trade with Mexico annually. Despite the huge volume, Laredo, like most U.S. Border communities, does not add significant value to the trade that it services. Direct materials used in the maquiladora production constitute more than 50% of the total value of goods produced. However, direct material content value added by Laredo businesses is less than 3% of total value. Laredo benefits from logistics services including warehousing, customshouse brokerage and transportation. These services, however, are not labor intensive and do not pay high wages and benefits. As a consequence, despite the maquiladoras and U.S.-Mexico trade, Laredo continues to rank among the five poorest communities in the United States."<sup>224</sup> Dr. Michie concluded that "the bottom line is that the Texas Border with Mexico has gained little from NAFTA or production sharing with Mexico (except international trade services)

<sup>224</sup> See Michie.



because the state and its Border communities did not have a development plan to secure “value-added” benefits.”<sup>225</sup>

What type of jobs does the region expect to gain? Dr. Michie’s conclusions seemed to have been forecasted by the Comptroller’s Office in 1998 when it projected that the job growth through the year 2020 for the region is expected to be in the fields of transportation, construction, business and health related services. Of this projected growth, “almost two-thirds of new jobs created in the region from 1995 through 2020 are expected to be in the relatively low-wage sectors of wholesale and retail trade and services.”<sup>226</sup> Testimony received by the Committee indicates that employment growth for Border communities, since the implementation of NAFTA between the years of 1994 and 2002, has been the service-related industry. “The industry with the highest increase was Service-Related Jobs. . . . McAllen saw the biggest increase in this sector with an 117% increase.”<sup>227</sup>

#### **Specialized Needs: The Border Trade-Affected Workers**

In terms of the impact of NAFTA, the Border area has also seen more of its fair share of “Trade-Affected” workers. Since the implementation of NAFTA, more than 115,000 workers in Texas have been certified as trade-affected workers, having been displaced due to trade pacts. During the same period, the Texas Workforce Commission reports that more than one-third of trade-affected workers were found in the Border area. This amount of displaced workers is significant to Border communities. “As a city, El Paso took a net job loss of 19,400 NAFTA-displaced workers. These job losses occurred in manufacturing, particularly the apparel industry, which plummeted to a low of 7,000 jobs in December 2002 from a high of 30,800 in December 1992. With this in mind, more than 90% of the laid-off workers had to be retrained to enter the workforce.”<sup>228</sup>

---

<sup>225</sup> *Id.*

<sup>226</sup> The Honorable John Sharp, Comptroller, State of Texas. *Bordering the Future*, 1998 <http://www.window.state.tx.us/border/ch02/ch02.html>.

<sup>227</sup> Community Scholars. Testimony. IRT Committee hearing. Mar. 4, 2004.

<sup>228</sup> Martin Aguirre, CEO, Upper Rio Grande Workforce Development Board. Testimony. IRT Committee hearing. Mar. 4, 2004.

<b>Table 13: Trade-Affected Workers – Jan. 1994 to Nov. 2003 Local Workforce Development Boards &amp; Statewide Totals</b>		
<b>Local Workforce Development Board</b>	<b>U.S. Dept. of Labor Certified Trade-Affected Workers</b>	<b>Percentage of certified workers statewide</b>
Cameron	5,883	5.0%
Lower Rio	6,871	6.0%
South Texas	253	0.2%
Permian Basin	2,600	2.2%
Middle Rio	1,246	1.0%
Upper Rio	25,339	22.0%
<b>Border Area Total</b>	<b>42,192</b>	<b>36.4%</b>
<b>Statewide Total</b>	<b>115,081</b>	<b>100.0%</b>

Table Source: Diane Rath, Chair, TWC. Testimony. IRT Committee hearing. Mar. 4, 2004.

During the Brownsville hearing, the Chair of the TWC informed the Committee that overall “data over the years consistently demonstrates that trade-affected workers are usually able to transition into new employment using their existing skills.”<sup>229</sup> Notwithstanding, such a statement is qualified since “it often takes time, however, for dislocated workers to regain the income levels they previously earned.”<sup>230</sup> The Border area’s dislocated workers face increased challenges in re-entering the workforce. “It is a challenge faced by TWC for many years, as workers in the Border region often need increased education skills before they can benefit from occupational training.”<sup>231</sup> Although “El Paso is experiencing a net increase of jobs; . . . these new jobs have required skill levels and language abilities beyond the capacity of most dislocated workers: who are Hispanic, female, single heads of households, over the age of 40, with less than a high-school education and limited English

<sup>229</sup> See Rath on Aug. 9, 2004.

<sup>230</sup> *Id.*

<sup>231</sup> *Id.*

proficiency.”<sup>232</sup> The President and CEO of the Lower Rio Grande Valley Workforce Board informed the Committee that “it was unfortunate that so many individuals that were affected by trade lay-offs (specifically the Garment Industry) were Limited English Proficient as defined by the Department of Labor. It was more unfortunate that we did not have the training provider capacity (classroom space and contextual learning curricula) nor the jobs to adequately transition these workers to jobs that meet their replacement wages of their former jobs. The local economy or labor market could not support these numbers.”<sup>233</sup> As a consequence of this lack of infrastructure to address the needs of displaced workers, many are not receiving the assistance required to gain meaningful jobs. According to trade representatives, as reported by the *Valley Morning Star* in September 2004, “workers along the Texas-Mexico Border, most of them women, who lost their jobs to free trade agreements in recent years aren’t getting the help they need from training programs.”<sup>234</sup>

Why are displaced workers not receiving the help that they need? IRT’s Vice-Chairman, Senator Eliot Shapleigh, explained during the Laredo hearing that this is an issue that the Border members of the IRT Committee have attempted to resolve for the last six years. The Vice-Chairman explained “the issue is when you have Spanish dominant adult workers in the system, which there are more and more every day, we do not have a curriculum that can teach effective workplace skills in Texas.”<sup>235</sup> Due to the existing non-employer driven curriculum that is currently being used, “adult students have often spent two or three years in ESL classes, or generic adult education classes, and they emerge with few occupationally relevant skills.”<sup>236</sup> When this issue was first addressed by the Committee in the Brownsville hearing, Chair Rath explained that the “TWC receives federal funds to purchase adult education services. But we are at the mercy of adult education providers as to the content of the services.”<sup>237</sup> Chair Rath informed the Committee that “our workforce system is employer driven.

---

<sup>232</sup> See Aguirre.

<sup>233</sup> See Gonzalez on Aug. 9, 2004.

<sup>234</sup> Elizabeth Pierson, “Advocates Support Job Training Institute Along the Border,” *Valley Morning Star*, Sept. 15, 2004.

<sup>235</sup> Senator Eliot Shapleigh, Vice-Chairman, IRT Committee hearing. Oct. 6, 2004.

<sup>236</sup> See Rath on Oct. 6, 2004.

<sup>237</sup> See Rath on Aug. 9, 2004. [emphasis on original].

We don't provide training unless we know there's a job waiting for the participant at the end. But as trade-affected workers will tell you...the current literacy and adult ed classes do **not** prepare them for employment. Of course, literacy instruction and adult education is one of the missions of the Texas Education Agency."<sup>238</sup>

In 2003, in an effort to address this matter, the Legislature directed TWC to work with TEA to improve the implementation and coordination of Adult Education and Literacy services in Texas. Specifically TWC was required to develop, "under contract with the Texas Education Agency...a demand-driven workplace literacy and basic skills curriculum aimed at assisting local workforce development boards to equip workers and job seekers with the skills necessary to compete for current and emerging jobs in this state."<sup>239</sup> Although the directive was clear, since TWC did not receive the necessary funding from TEA to implement this mandate from the State, TWC was not able to develop the curriculum.<sup>240</sup> While addressing TEA's actions, Senator Shapleigh asked Chair Rath, during the Laredo hearing, "we passed the bill, we had the rider, we had the money and now TEA is sending the money back to Washington. We did not use the money that was in the state for this purpose. . .How do we get this done?" Chair Rath replied that one possible way to address this issue may be to revisit the Sunset Commission's recommendations concerning Adult Education and Literacy services.

While reviewing the Adult Education and Literacy Programs in Texas, in 2002, the *Staff Report* of the Sunset Commission concluded that "adult education and literacy programs are not well positioned to help Texans get the skills necessary to succeed in the workforce."<sup>241</sup> Although there are nearly 3.5 million Texans who lack adequate literacy skills, the "current program serves less than 4%."<sup>242</sup> Currently in Texas "workforce training programs are sectionalized requiring workers to

---

<sup>238</sup> *Id.*

<sup>239</sup> Senate Bill 280, 78th Legislative Session (2003).

<sup>240</sup> See Rath on Oct. 6, 2004.

<sup>241</sup> Sunset Advisory Commission, *Staff Report: Texas Workforce Commission - Texas Council on Workforce and Economic Competitiveness*. May 2002.

<sup>242</sup> *Id.*

learn English, earn a GED and receive job training all in separate programs. Many can't afford the time away from work to be retrained and must take jobs that pay minimum wage."<sup>243</sup> In the Brownsville hearing Chair Rath informed the Committee that "literacy instruction and adult education is one of the missions of the Texas Education Agency. But TWC is fully aware of the problem our clients face -- no means to support their families. And when income assistance is time-limited, as is trade, then displaced workers face a real hardship."<sup>244</sup> To address the hardship faced by displaced workers, Chair Rath explained to the Committee in Laredo that "what is needed to address these workers...is an adult education system that delivers employer-driven training curriculum that integrates English Literacy and GED coursework with vocational training. We believe that language and occupation skills must be delivered simultaneously for limited English speakers. A bilingual approach for instruction must be used. . .and because they begin training in their native language, [trade-affected workers] can more readily complete their occupational training within the time constraints found in many of our training programs."<sup>245</sup>

The *Staff Report* provided a solution to this sectionalization of programs when it concluded that the "State would be better positioned to target and track the impact of these critical services by merging adult education and literacy programs into a single agency whose primary mission is workforce development." The *Staff Report* explained that "TWC is in a better position to implement programs that meet both employer and worker needs. Adult education providers could use TWC and local boards' employer partnerships to help design programs and curricula that would ensure that student skills gained in class are directly transferable into the workplace. Students' ability to gain literacy skills, and use those skills to get a job and earn more money, would be improved by this type of program and curriculum design."<sup>246</sup> Chair Rath explained the effectiveness of such an employer-driven curriculum when she testified in Laredo that "an employer driven workforce adult literacy curriculum is built around the language and skill requirements that the employers need. Rather than generic vocational and basic academic skills that exist today in adult education and ESL classes, students in a workforce curriculum learn the language and the tasks that make them employable and

---

<sup>243</sup> See Pierson.

<sup>244</sup> See Rath on Aug. 9, 2004.

<sup>245</sup> See Rath on Oct. 6, 2004.

<sup>246</sup> See Sunset Commission.

allow them to thrive in the workplace.”<sup>247</sup>

With the right resources, TWC could address the needs of displaced workers in a comprehensive manner. Chair Rath explained to the Committee in August that although the Commission currently does not receive any funds to address the curriculum problem, the agency has “taken the initiative of establishing some small pilot projects that integrate employer’s English language requirements with occupational skills training. Sometimes this training even occurs on the worksite.” In Laredo, the Committee was informed that although these pilot programs are limited in scope, they have been extremely successful.<sup>248</sup> Rath went on to say that “we are developing Spanish-language technology curriculum and plan to share it with our workforce partners and interested adult education providers.” As evidenced, the TWC is taking positive strides to address the needs of a workforce population that requires literacy skills. By transferring adult literacy and education to TWC, “students and instructors could benefit from stronger partnerships between TWC, local boards, and adult education providers. Adult education registration, assessment and even classes, could be accessed through the one-stop workforce centers. This would make participation more convenient for students, and allow for more communication between instructors and [workforce] center staff on student progress.”<sup>249</sup> Consequently, “having TWC responsible for adult education and literacy services would better position the state to effectively ensure that adult Texans have the basic skills necessary to succeed in the workplace.”<sup>250</sup> As the Chief Executive Officer of the Upper Rio Grande Workforce Development Board recommended to the Committee in El Paso, “to attract quality jobs, we need to cultivate a workforce with quality skills to include the older population. The skill levels of the workforce require upgrading from basic literacy skills, English/Spanish language proficiency, to technical aptitude...there is a need for workplace preparation for GED, expanded on-the-job training (OJT), customized training and certification opportunities at all skill levels of workers.”<sup>251</sup>

---

<sup>247</sup> See Rath on Oct. 6, 2004.

<sup>248</sup> *Id.*

<sup>249</sup> See Sunset Commission.

<sup>250</sup> *Id.*

<sup>251</sup> See Aguirre on Mar. 4, 2004.

### **The Need for Greater NAFTA-Related Infrastructure**

Since the Border has not gained high paying jobs, and is not expected to gain them from NAFTA, what has the increased NAFTA trade given the Border communities? Although “no state has been a bigger beneficiary of NAFTA than Texas,” the Executive Director of the Free Trade Alliance San Antonio reported to the members of the Committee in July that “no other state has had to bear more of the burden associated with NAFTA-related trade than Texas. . . Texas’ infrastructure, particularly along the Border with Mexico has been pushed to the limits.”<sup>252</sup> The Rio Grande Valley region, for example, “with a population roughly equivalent to the Austin region, has historically received 80-90% less transportation funding than Austin. This is despite the fact they handle a far greater amount of through-traffic, resulting from NAFTA, and thus have greater need. Similar deficiencies are prevalent in Laredo, El Paso and other Border communities.”<sup>253</sup>

The stress that is felt by the Border communities, due to their lack of infrastructure, is significant because of the role that transportation infrastructure plays on Texas’ economy. As transportation officials explained in the El Paso hearing, “the Governor and the Texas Transportation Commission (Commission) recognize that transportation is the backbone of a healthy economy and are committed to ensuring that this critical infrastructure meets the needs of a growing Texas economy.”<sup>254</sup> Among the challenges that Border communities face is that they were they ill-equipped to support the past trade growth rate caused by NAFTA; they are even less equipped to support the increased trade that NAFTA will continue to produce. Trade with Mexico is expected to grow at the same rate as it did in the last decade.<sup>255</sup> Transportation officials continued to inform the Committee in El Paso that “Texas faces many challenges in relation to NAFTA, and the Border areas have major concerns about the effects of increased traffic on mobility. United States trade with Mexico has increased

---

<sup>252</sup> Blake Hastings, Executive Director, Free Trade Alliance San Antonio. Testimony. IRT Committee hearing. July 7, 2004.

<sup>253</sup> *Id.*

<sup>254</sup> *See* Saenz, TxDOT on Mar. 4, 2004.

<sup>255</sup> *See* Flores on Oct. 6, 2004.

400% over the last 15 years.”<sup>256</sup> Recognizing this fact, TxDOT officials testified in the San Antonio trade and transportation hearing that “because the Texas economy benefits from NAFTA, policies must be continued that strengthen the state’s role in accommodating NAFTA traffic.”<sup>257</sup>

At times, those not familiar with the amount of trade activity and related traffic experienced along the Texas-Mexico Border, question the need for increased appropriations for Border communities. What should be kept in mind while addressing this question is the 2.8 million trucks, 38.8 million vehicles and 18.9 million pedestrians crossing into Texas from Mexico in 2003. Such crossings occurred through the “twenty-three vehicular bridges” serving the 1,254 mile Border region which is currently served by only two interstates.<sup>258</sup> The Chair of TBIC explained to the Committee in San Antonio the relation between the Border and the economic vitality of the state. The Chair testified that “because efficient transportation on the Border is important to the entire state’s economy, federal and state funding needs to be directed to Border communities to help ensure that an adequate infrastructure is maintained. Local governments cannot be expected to carry the financial burden of an entire state or nation. Clearly, the State of Texas needs to increase spending to respond to the growth of international traffic. The Border region needs Texas, and Texas needs the Border.”<sup>259</sup>

Other Border officials have echoed such a position. During the October hearing, the Mayor of Laredo testified that “even with this enormous amount of traffic, TxDOT has only invested 2.35% of Texas construction and maintenance expenditures between 1999 and 2003 in our district and plan to invest about the same percentage between 2004 and 2007. With this small investment you can understand why infrastructure challenges exist in our District.”<sup>260</sup> The Mayor of the City of El Paso also arrived at a similar conclusion when he testified that “Texas has more Border crossings into Mexico than any other state, yet much of the infrastructure is inadequate to handle the increasing volume of trade with Mexico. Texas bridges and border crossings, some of the busiest in the U.S.,

---

<sup>256</sup> See Saenz, TxDOT on Mar. 4, 2004.

<sup>257</sup> See Saenz, TxDOT on July 7, 2004.

<sup>258</sup> *Id.*

<sup>259</sup> See Garcia, TBIC on July 7, 2004.

<sup>260</sup> See Flores on Oct. 6, 2004.



are already operating at capacity. Simply put, many communities were not and are still not able to handle the large increase in traffic created by NAFTA and continue to be ill-prepared.”<sup>261</sup>

Although officials of the Texas Border region have historically requested increased state and federal appropriations to address the increased trade traffic for the region, the amount of funding that the Border has received has not kept pace with the amount of trade experienced.<sup>262</sup> According to the El Paso Mayor, “further aggravating the situation is the well-documented fact that Texas receives a disproportionately small amount of federal funding for Border infrastructure needs while NAFTA-fueled traffic congestion and air pollution has skyrocketed along the Texas Border cities.”<sup>263</sup> The Laredo Mayor seemed to agree to such a statement at the Laredo hearing when she testified that “our Border is burdened with too many projects and not enough resources. This has created missed opportunities, higher costs and delays in construction, repair and maintenance of existing roadways. Projects that were scheduled in our communities for 2002 are being delayed [until] 2008 and sometimes later due to lack of resources. These delays place a tremendous burden on our efforts to expand and provide a safe and efficient flow of trade.”<sup>264</sup> Knowing the importance that transportation funds play on the regions of the state that carry the most NAFTA-related traffic, Free Trade Alliance San Antonio recommended that it was time the state “recognize that the Border region is our front door to the world, not the back door.”<sup>265</sup> One Border official testified in the March hearing that “according to a Dallas Federal Reserve Report, ‘...because of the rapid growth in truck traffic and its concentration on major arteries, the Border may need even greater spending to reduce congestion and the associated social costs.’ According to these findings, the current rate of Border transportation infrastructure development will not meet the needs of future trade expansion and population growth.”<sup>266</sup>

---

<sup>261</sup> The Honorable Joe Wardy, Mayor, City of El Paso. Testimony. IRT Committee hearing. Mar. 4, 2004.

<sup>262</sup> Texas Senate Committee on Border Affairs. *Transportation Interim Report*. 2000.

<sup>263</sup> See Wardy.

<sup>264</sup> See Flores on Oct. 6, 2004.

<sup>265</sup> See Hastings.

<sup>266</sup> See Wardy.

The Laredo Mayor informed the Committee that the Border is “working on yesterday’s infrastructure challenges. . .while our citizens are living today’s traffic frustrations. Trade traffic is expected to grow at the same rate [over]the next ten years as [it] did the last ten years. There are TxDOT districts throughout the state with much less traffic, and much less of an impact to the Texas economy that have continued to receive much more infrastructure investment from the state. Efficient transportation on the Border is important to the state’s economy; we cannot be expected to carry the financial burden of an entire state or nation.”<sup>267</sup>

### **Mexican-Domiciled Trucks**

In July, the Committee had a special hearing that primarily focused on the trade and transportation effects of a recent United States Supreme Court decision that pertained to NAFTA and the requirement to have an environmental impact assessment as a precursor to allowing Mexican-originating trucks moving into the interior of the United States. Like general trade issues, this specific decision had two distinctive opposing sides. “The news that the trucking provisions passed over ten years ago in the NAFTA agreement will soon be implemented inspires equal amounts of excitement and concern within our community.”<sup>268</sup> Some individuals have indicated that “serious safety and environmental concerns must be addressed before the Border is open to long-haul Mexico-domiciled trucks.”<sup>269</sup> Specifically, the Director of Public Citizens-Texas testified the “Supreme Court decision leaves Texas high and dry. The practical result of the Supreme Court’s decision is that states and Border communities will need to study the likely pollution impact of the trucks and come up with the off-sets to enable them to maintain their air quality, as required by the Clean Air Act and NEPA.”<sup>270</sup> Others have held opposing views. While discussing the impact that “Mexican trucks will have once the Border opens for them to deliver products long-haul into the

---

<sup>267</sup> See Flores on Oct. 6, 2004.

<sup>268</sup> The Honorable Enrique M. Barrera, Councilman District 6, City of San Antonio. Testimony. IRT Committee hearing. July 7, 2004.

<sup>269</sup> Public Citizen-Texas, Press Release, “Serious Safety Concerns must be Resolved Before Border is Open to Long-Haul Mexico-Domiciled Trucks,” July 7, 2004.

<sup>270</sup> Tom “Smitty” Smith, Director, Public Citizen-Texas. Testimony. IRT Committee hearing. July 7, 2004.

interior of the U.S.,” the director of the Free Trade Alliance-San Antonio testified that “the bottom line is that Mexican trucks will not have any worse impact on our region than the U.S. carriers who are already here.”<sup>271</sup>

### **Background to the Mexican Trucks**

In 1982, Congress “imposed a moratorium on the granting of authority to Mexican and Canadian motor carriers seeking to operate in the United States beyond a limited zone along the U.S.-Mexico Border.”<sup>272</sup> During the same year on the basis of an agreement that provided American carriers access to Canadian markets, the moratorium was immediately lifted in 1982 in respect to the United State’s northern neighbor.<sup>273</sup> When NAFTA was signed, the United States agreed to loosen up some of the restrictions and subsequently modified the moratorium to “allow Mexican trucking firms to receive authority to operate first through the Border states (Dec. 18, 1995) and then throughout the entire United States (Jan. 1, 2000).”<sup>274</sup> However, “concerns by labor unions and environmental groups resulted in the Clinton Administration not allowing cross-Border services in trucking under NAFTA.”<sup>275</sup> Consequently, the “Clinton Administration, citing serious safety concerns, continued to permit operations only in a 25-mile ‘Border zone.’”<sup>276</sup> Mexico, under the claim that the U.S. action violated NAFTA, contested the action by the existing Administration under the International Arbitration Panel that NAFTA provides to settle such disputes.<sup>277</sup> In February 2001, the NAFTA panel ruled that the United States violated the terms of NAFTA “because it had categorically

---

<sup>271</sup> See Hastings.

<sup>272</sup> U.S. DOT, *The Motor Carrier Moratorium, Mexico and NAFTA* (Document #303-366-5580), Nov. 27, 2002.

<sup>273</sup> *Id.*

<sup>274</sup> *Id.*

<sup>275</sup> TCEQ, *Chronology: North American Free Trade Agreement (NAFTA) -- Trucking Provision*. Testimony. IRT Committee hearing. July 7, 2004.

<sup>276</sup> See Smith on July 7, 2004.

<sup>277</sup> See U.S. DOT.

excluded the trucks. The tribunal also held that the United States could institute special and specific safety measures for Mexico-based carriers.”<sup>278</sup> Consequently, although the U.S. might have had legitimate safety concerns, “it could not under NAFTA impose a blanket ban on the operation of trucks beyond the commercial zones.”<sup>279</sup> Subsequently, “on November 27, 2002, President Bush issued approval for Mexican trucks to enter the United States past the [25] mile Border commercial zones.”<sup>280</sup> Environmental, consumer groups, and a number of states (including every state bordering Mexico except for Texas) challenged the efforts of the Federal Motor Carrier Safety Administration (FMCSA) to admit Mexico-domiciled trucks.<sup>281</sup>

Public Citizen reported to the Committee that because Congress was concerned that the original rules FMCSA had developed to admit Mexico trucks, Congress required FMCSA to develop stronger rules for truck safety and operation, including environmental impact studies. “Studies required to accompany FMCSA’s new rules did not consider the environmental impact of long-haul operations. Instead, the agency’s environmental review focused only on the environmental effects of Border inspections (i.e., exhaust emitted during an inspection). The agency also neglected to analyze the regional effects of the increased truck emissions on Border Trade Corridors.”<sup>282</sup> As a consequence, “environmental and consumer groups challenged the scope of the FMCSA study, arguing that the Clean Air Act and the National Environmental Policy Act required a better analysis of the consequences.”<sup>283</sup> At the beginning of 2003, the U.S. 9th Circuit Court of Appeals “ruled that an Environmental Impact Study (EIS) was required before Mexican trucks could enter the United States past the Border Commercial Zone.”<sup>284</sup> As a consequence, FMCSA was “charged with performing the EIS on NAFTA trucking. In October 2003, FMCSA staff, as well as FMCSA contractors, met

---

<sup>278</sup> See Smith on July 7, 2004.

<sup>279</sup> See U.S. DOT.

<sup>280</sup> See TCEQ.

<sup>281</sup> See Smith on July 7, 2004.

<sup>282</sup> *Id.*

<sup>283</sup> *Id.*

<sup>284</sup> See TCEQ.

---

with TCEQ staff to explain the development of the EIS.”<sup>285</sup> Notwithstanding, the “Bush administration appealed the 9th Circuit Court decision and the case was argued before the U.S. Supreme Court on April 21, 2004.”<sup>286</sup> FMCSA had been working for months on the study, and by the time the Supreme Court ruled on this issue, some reports indicate that the study was “nearly 80 percent complete.”<sup>287</sup> “On June 7, 2004, the U.S. Supreme Court ruled that the EIS was not required and that Mexican trucks could enter the country as soon as U.S. DOT adopts rules.”<sup>288</sup> According to the *San Antonio Express-News*, “the nine Supreme Court justices unanimously disagreed [with the lower’s court’s position which agreed with environmental and consumer groups], saying that opening the Border was part of an international trade pact, the North American Free Trade Agreement, which is the province of the president. And executive decisions are not subject to environmental impact statements.”<sup>289</sup>

### **Supreme Court Ruling and Texas**

As discussed earlier, the impact of the Supreme Court ruling varies according to who answers the question. For instance, it was opined in the *Fort Worth Star-Telegram* on June 24, 2004, that “the Supreme Court recently ruled that Mexican trucks can travel U.S. highways without facing environmental regulations from the U.S. Department of Transportation, which issues permits for commercial trucks...Tarrant, Dallas, Denton and Collin counties already are in violation of federal air quality standards. Environmental groups, public officials and others fear that pollution from Mexican trucks could make it even more difficult to comply with Clean Air Act requirements and avoid penalties such as the loss of federal highway funding.”<sup>290</sup> Other areas of the state have voiced

---

<sup>285</sup> *Id.*

<sup>286</sup> *Id.*

<sup>287</sup> Bonnie Pfister, “Fearing the Effect of an Open Border; Pollution from Mexican Truck Worries U.S. Groups,” *San Antonio Express-News*, June 9, 2004.

<sup>288</sup> *See* TCEQ.

<sup>289</sup> *See* Pfister.

<sup>290</sup> *Fort-Worth Star Telegram*, “Truckloads of pollution?”  
<http://www.dfw.com/mld/dfw/news/opinion/9000559.htm> posted on June 24, 2004.

similar concerns. The *Express-News* reported on June 9, 2004, that “San Antonio has exceeded federal limits for ozone for each of the past three summers, said Peter Bella, director of natural resources at the Alamo Area Council of Governments. Other pollutants, such as nitrous oxide and particulates are also in evidence. Although the Alamo City is on target to comply with federal standards through 2007, a change in the status could jeopardize federal highway dollars.”<sup>291</sup> TxDOT officials question whether there will be an increase of Mexican trucks. They testified in San Antonio that “opening the Border to Mexican long-haul trucks will not, in itself, create more truck traffic. Since NAFTA took effect in 1994, freight coming from Mexico has been off-loaded onto U.S. trucks for transport throughout the country. The department does not anticipate that traffic will increase specifically as a result of opening the Border to long-haul trucks because the level of freight is not directly impacted.”<sup>292</sup> During the Laredo hearing, the Mayor of Laredo also had a differing opinion. While discussing the comparison of international commercial trucks which are inspected daily and the long-haul trucks, the Mayor indicated that “this comparison is apples to oranges.” Among the reasons given for this conclusion included the cause of air pollution. She indicated that “the tales of Mexican trucks ruining our air quality is not caused by diesel purchased in Mexico since most of these trucks purchase U.S. diesel, it is caused by trucks having to idle as they wait in line to be inspected by state and federal agencies.”<sup>293</sup>

Some state officials echoed the concerns expressed in Texas’ newspapers. A commissioner of the Texas Commission on Environmental Quality (TCEQ), Ralph Marquez, has indicated that “there most likely be an increase in emissions by more Mexican trucks traveling into Texas.”<sup>294</sup> Commissioner Marquez informed the Committee that it would be useful for the state to receive copies of the study that FMCSA had begun to develop since it would help the State of Texas prepare

---

<sup>291</sup> See Pfister.

<sup>292</sup> See Saenz, TxDOT on July 7, 2004.

<sup>293</sup> See Flores on Oct. 6, 2004.

<sup>294</sup> Meena Thiruvengadam, “Panel hears gripes on Border Issues,” *San Antonio Express-News*. June 8, 2004. <http://www.mysanantonio.com/global-includes/printstory.jsp?path-business/stories> posted on July 8, 2004.

for the Mexican truck impact.<sup>295</sup> The Texas Secretary of State submitted testimony in the San Antonio hearing that echoed TCEQ's position, "in agreement with TCEQ, the Office of the Secretary of State reiterates the importance of obtaining copies of the information that the U.S. DOT had collected regarding the environmental assessment prior to the Supreme Court ruling. This information is of utmost importance to Texas, as it will enable us to continue with our assessment throughout the review process."<sup>296</sup>

The *Star-Telegram* summarized this concern in June when it indicated that, "the environmental impact of Mexican trucks needs to be analyzed to determine whether they will raise concentrations of ground-level ozone and particulates that contribute to health problems ranging from asthma to lung cancer. Prior to the June 7 ruling by the Supreme Court, the [U.S.] Transportation Department [FMCSA] already had launched a study to determine the potential environmental impact of Mexican trucks. It is now considering whether to discontinue the study as a result of the ruling. . . . If the department decides not to complete its study, someone needs to pick up the ball to ensure that the environmental effect is fully assessed. A thorough analysis of the environmental impact of Mexican trucks also could help state agencies such as the Texas Commission on Environmental Quality, which is charged with developing strategies to meet federal air standards."<sup>297</sup>

Whether the level of Mexican trucks will increase or not, and whether Mexican trucks will cause an increase in pollution are matters to be determined. The question for Border states is what should they do in order to better address this situation. The Committee was given ten issues that the Legislature needs to keep in mind concerning this issue.

1. Hazardous Material Shockingly, almost one-third of Mexican Motor Carriers failed HazMat inspections when inspected by Texas state authorities in 2002-03.
2. Inadequate Border Inspection Staffing and Facilities FMCSA's May 2002 Border staffing standards

---

<sup>295</sup> Ralph Marquez, Commissioner, TCEQ. Testimony. IRT Committee hearing. July 7, 2004.

<sup>296</sup> The Honorable Geoffrey S. Connor, Texas Secretary of State. Testimony. IRT Committee hearing. July 7, 2004.

<sup>297</sup> See *Star-Telegram* on June 24, 2004.

report indicated that the agency was just starting implementation of its staffing plan, and stressed the need for more funding. . . . Texas plans to establish 8 temporary Border inspection facilities. Both Border inspection staffing and federal-state inspection coordination must be adequate to ensure safety at the Border.

3. Serious Differences in Driver Licensing Rules Sec. 350 prohibits long-haul operations by Mexican hazmat carriers until the United States comes to an agreement with Mexico ensuring that Mexican and U.S. drivers meet the same requirements. In the 1990s, the United States and Mexico signed a Memorandum of Understanding declaring the equivalence of those two country's commercial drivers licenses (CDLs). Recent changes which increase U.S. CDL requirements (such as penalties for passenger vehicle convictions involving speeding or drunk driving) make differences between the two CDLs even greater than before.
4. Inadequate Drug and Alcohol Testing Labs Mexico-domiciled drivers must comply with U.S. requirements for driver alcohol and drug testing. Yet no facility for doing the drug testing in Mexico has been certified, according to previous public reports.
5. No Real Hours of Service or Logbook Rules Many drivers will enter the United States without any indication of the amount of time spent driving prior to crossing the Border on-duty, driving, and off-duty. Mexico has no hours of service (HOS) requirements for commercial truck drivers. Instead, a "catchall" law limiting all labor within Mexico to eight maximum hours is claimed to apply. Enforcement of this limit for commercial drivers, or any workers, is unknown. Some drivers may have transported freight for days from the interior of Mexico, and enter the United States already fatigued. Moreover, drivers and carriers both will need extensive training on the rules for U.S. Hours of Service compliance, which are complicated and require well-maintained records.
6. Mexico-Based Vehicles May Not Comply with Basic U.S. Safety Standards In 1992, Mexico established commercial vehicle standards. However, the average age of a federally registered truck is 16 years. Many vehicles may currently be operating in the U.S. Border zone that violate one or more of the safety standards, which in the United States apply to each vehicle based on the date of manufacture. Newer standards such as those requiring anti-lock brakes and automatic slack adjusters are not common on Mexican trucks, and Mexico-based carriers are not being asked to show safety certification paperwork at the border.
7. Inaccurate and Incomplete Mexican Driver and Carrier Safety Databases Sec. 350 requires information infrastructure to be accurate, accessible, and integrated with data systems used by the U.S. databases for Mexican carrier and driver violations, including checks on commercial driver licenses and insurance,



motor carrier operating authority, and inspection or enforcement data on commercial vehicles do not contain enough meaningful or accurate information on driver and carrier performance history and status. The U.S. data is kept by states and no centralized database exists.

8. **Insurance** The most common violation found in inspections of Border zone-only carriers from 1998 to 2000 was insurance violations— 7.5% of all carriers inspected lacked insurance. No verification of “Proof of Insurance.” U.S. officials are required to verify operators’ proof of insurance. But there is no way for Border inspectors to verify whether a driver’s paperwork matches the DOT file, if the coverage is adequate or has lapsed. Individuals and states or localities harmed by a crash or hazmat incident could pursue legal action directly against a U.S. carrier. But for crashes with Mexico-domiciled carriers, injured parties could only seek compensation in Mexican courts, where U.S. litigants have little success. Compensation from an uninsured Mexico-domiciled driver or company would be difficult to pursue successfully.
9. **Out-of-Service Authority** Section 350(6) requires that state inspectors be empowered to enforce all applicable federal safety laws. Texas should clarify its laws to assure that state officials can place Mexican commercial motor vehicles out-of-service for various safety and environmental offenses, including unauthorized carriers which travel illegally beyond the Border zone.
10. **Emissions** Environmental hazards related to opening the Border for long-haul trucking remain un-addressed. Emissions could affect our ability to meet clean air guidelines.<sup>298</sup>

### **Border Truck Inspections, Staffing and Stations**

In March 2004, prior to the Supreme Court ruling, the Texas Department of Public Safety reported that “currently, Mexican trucks are restricted to special commercial zones along the Border. In Texas, these zones are centered in Laredo, El Paso, Eagle Pass, Del Rio and the Rio Grande Valley (Cameron, Hidalgo, Willacy and Starr counties). . . .DPS Border safety inspections are primarily performed at nine different sites, including two in Laredo, two in Brownsville, two in El Paso and one each in Del Rio, Eagle Pass and Pharr-Hidalgo”<sup>299</sup>

DPS reported last March that “Border inspections now include at least a visual inspection of all truck

---

<sup>298</sup> See Smith on July 7, 2004.

<sup>299</sup> DPS, *Fast Facts from the DPS: North American Draft Trade Agreement*. Mar. 2004.

traffic by either DPS or federal inspectors.”<sup>300</sup> During the July hearing, IRT was informed by DPS officials that although DPS visually inspects “all” trucks crossing into Texas, they “actually” physically inspect less than 10% of these trucks.<sup>301</sup> “Of those more closely scrutinized, 29% violate U.S. regulations.”<sup>302</sup>

As of July 1, 2004, DPS reported to U.S. DOT officials in their quarterly update of the agency’s implementation of the Texas Border Staffing Distribution Plan that “DPS is currently staffing eight temporary Border safety inspection facilities with both troopers and noncommissioned commercial motor vehicle (CMV) inspectors.”<sup>303</sup> The report indicated that there was a total of 307 personnel in place for Border staffing enforcement and support facilities.<sup>304</sup> These employees work “along the Border to ensure Mexican trucks and drivers are up to U.S. standards.”<sup>305</sup>

In September of this year, it was reported that the federal government will provide Texas nearly \$30 million to support its inspection stations. “Texas will receive \$28.8 million for stations in Laredo, El Paso, Los Indios, Eagle Pass, Pharr and Brownsville, said Martin Whitmer, U.S. Department of Transportation deputy chief of staff...‘Our truck inspection stations here at the Border are so important to our future growth,’ said Whitmer.”<sup>306</sup> The stations, according to the same federal official, are “designed to deal with an expected 50% increase in freight volumes created by growing

---

<sup>300</sup> *Id.*

<sup>301</sup> Major Mark Rogers, Texas Department of Transportation. Testimony. IRT Committee hearing. July 7, 2004.

<sup>302</sup> *See* Thiruvengadam.

<sup>303</sup> Correspondence from Mark Rogers, Major, Texas Highway Patrol Division, Texas Department of Public Safety to Rodney Baumgartner, State Program Specialist, U.S. Department of Transportation on July 1, 2004.

<sup>304</sup> *Id.*

<sup>305</sup> *See* Thiruvengadam.

<sup>306</sup> Chris Roberts, “Feds Give \$31.2 million for Border Truck Safety,” *Associated Press*, <http://www.mysantonio.com> posted on Sept. 22, 2004.

trade with Mexico over the next 20 years.”<sup>307</sup>

Concerning the announcement, TxDOT officials reported to the Committee that “the total estimated cost of the inspection stations including right of way, design, construction, and equipment is \$160 million. Transportation officials informed the Committee that although they have received about \$129 million from state and federal sources for the facilities, with each of the eight costing about \$20 million, TxDOT will need an additional \$30 million.”<sup>308</sup> Since federal officials have indicated that these facilities are being supported by the federal government to address the expected 50% increase in cross-border crossings, Texas needs to reinforce its commitment to these inspection stations with increased funding.

### **Mitigating Congestion at Border Ports of Entry**

The issue of Border crossings was also covered in the San Antonio hearing. The senior member of the Border delegation, Senator Judith Zaffirini, reminded the Committee that in 1999 the Mayor of the City of Laredo had developed a proposal of attempting to mitigate the congestion at Texas’ ports-of-entry by having the necessary inspections conducted on the Mexican side of the international boundary. Chairman Lucio informed the Office of the Secretary of State during the San Antonio hearing that the Committee would be requesting the Border Commerce Coordinator to work with the necessary parties to address this pressing issue. Correspondingly, on July 9, 2004, Chairman Lucio conveyed the views of the Committee to the Coordinator and requested for the Coordinator to develop “a Border Inspection, Trade and Transportation Working Group” similar to the Working Group that former Secretary Elton Bomer developed in 1999 to implement Senate Bill 913, One Stop Border Inspection Facilities Stations. The Chair requested that the new Working Group “address the persisting issues involved with Border truck inspections, as well as the related trade and transportation infrastructure issues.”<sup>309</sup> Chairman Lucio explained to the Coordinator that “one of the co-authors of SB 913 Senator Zaffirini...has already asked that the Committee revisit the issue

---

<sup>307</sup> *Id.*

<sup>308</sup> *Id.*

<sup>309</sup> Correspondence from Chairman Eddie Lucio, Jr., Texas Senate Committee on International Relations and Trade to Mr. Luis Saenz, Texas Border Commerce Coordinator on July 9, 2004.

of possibly having some of the needed truck inspections conducted on the Mexican side of the Border. With your help and that of our Working Group, I know that we can develop new and creative measures to overcome any of the past challenges that such an innovative idea entails and make it a reality.”<sup>310</sup> Historically, TxDOT and DPS were two of the key members of the multi-agency (state and federal) Working Group.

In the October hearing in Laredo, TxDOT and DPS officials informed the Committee that not much progress had been accomplished on the Mexico inspection initiative, and that to their knowledge, nothing had been developed concerning the Committee’s request to the Border Commerce Coordinator. (The Coordinator did not attend the Laredo hearing.) Pursuant to the San Antonio hearing, TxDOT reported to the Committee in Laredo that their research indicated that “neither state nor federal authorities can legally operate in Mexican territory.” However, TxDOT explained that “Mexico is a member of the Commercial Vehicle Safety Alliance (CVSA). If they are willing, Mexican authorities can inspect and issue the CVSA decal to northbound trucks. Decals are valid for a period not to exceed three consecutive months. Vehicles displaying a valid decal generally will not be subject to re-inspection by DPS.” TxDOT officials also explained that they had been in touch with FMCSA on this issue. “FMCSA, as well as DPS, have trained Mexican authorities to inspect trucks according to CVSA guidelines. However, FMCSA has not indicated that they will attempt to persuade their Mexican counterparts to amend their laws to authorize state troopers to conduct inspections in their territory.”<sup>311</sup>

Due to the lack of action by the Coordinator, pursuant to the San Antonio hearing and subsequent Committee correspondence, Senator Zaffirini made the motion that the Texas Border Commerce Coordinator address the issue of One-Stop Border truck inspections facilities and restart the 1999 Border Inspection and Trade Working Group. The motion passed without objection. An additional motion was made by Senator Zaffirini to include the issue of undertaking truck inspections on the Mexican side of the Border to the restarted Working Group. The follow-up motion also passed without objection.<sup>312</sup>

---

<sup>310</sup> *Id.*

<sup>311</sup> *See* Saenz, TxDOT on Oct. 6, 2004.

<sup>312</sup> Committee Minutes of IRT Committee hearing on October 6, 2004.

The motions of the Senior Member of the Border delegation, as well as correspondence by the Committee, are within the duties of the Border Commerce Coordinator as outlined by Section 772.010 of the Government Code. The Code requires the Coordinator, among other matters, to “(1) examine trade issues between the United States, Mexico and Canada; (2) act as an ombudsman for government agencies within the Texas and Mexico Border region to help reduce regulations by improving communication and cooperation between federal, state, and local governments; (3) work with federal officials to resolve transportation issues involving infrastructure, including roads and bridges, to allow for the efficient movement of goods and people across the Border between Texas and Mexico; (4) work with federal officials to create a unified federal agency process to streamline Border crossing needs.”<sup>313</sup> Consequently, the requests made by the Committee complemented the duties of the Commerce Coordinator as mandated by the Government Code.

TxDOT and DPS were also directed by the Committee to continue working with the appropriate state, federal and Mexican officials on developing an initiative that will expedite the truck inspection process by having northbound trucks from Mexico inspected on the Mexican side of the Border. DPS reported to the Committee on November 1, 2002, that in an effort to respond to the Committee’s directive, DPS had made official contact with the “U.S. Department of Transportation; Federal Motor Carrier Safety Administration, Office of the Texas Secretary of State; Border Commerce Coordinator; [and, the ] State Office of Risk Management.” DPS reported to the Committee that upon receipt of the multi-agency responses, DPS “will again update the Senate Committee on International Relations and Trade by providing analysis and recommendation based on the responses received.”<sup>314</sup>

### **Border Transportation Initiatives**

Recently, a new Border Commerce Coordinator was appointed by the Governor. The Committee looks forward to working with the new Coordinator on the motions adopted by the Committee. The issues discussed above illustrate the need to improve the effectiveness of the Border Commerce

---

<sup>313</sup> GOV’T CODE, § 772.010, Border Commerce Coordinator.

<sup>314</sup> Correspondence to Chairman Eddie Lucio, Jr., Texas Senate Committee on International Relations and Trade, from R.K. Elliston, Chief, Texas Highway Patrol Division, Texas Department of Public Safety on Nov. 1, 2004.

Coordinator. This is especially true since there has been a lack of continuity in the office (from the beginning this year, Texas has had three Commerce Coordinators). Consequently, in order to fully address the Border Commerce needs of Texas, the Committee will be proposing some reforms to strengthen and improve the position of the Commerce Coordinator.

### **Texas Initiatives to Address Trade-Related Needs**

Just like the Commerce Coordinator, other initiatives exist with the goal of increasing trade which could be improved. For instance, in 2001, the Border members of the Committee were successful in passing Senate Bill 195 which established a Border Trade Advisory Committee. As per SB 195, Section 201.114 of the Transportation Code requires the Transportation Commission to “establish the Border Trade Advisory Committee to define and develop a strategy and make recommendations to the Commission for addressing the highest priority Border trade transportation challenges. In determining action to be taken on the recommendations, the Commission shall consider the importance of trade with the United Mexican States, potential sources of infrastructure funding at Border ports, and the value of trade activity in the department’s districts adjacent to the Border with the United Mexican States.”<sup>315</sup> Although such an entity has the ability to assist the State of Texas in furthering its trade needs, and be a great benefit to Texas, transportation officials reported to the Committee during the Brownsville hearing that “the committee has met on several occasions. But to address the steep learning curve associated with understanding TxDOT operations and resources, those meetings have primarily been conducted by the department for the benefit of the members.”<sup>316</sup> (The committee is made up of seven community leaders and elected officials.) TxDOT officials reported that “to date, the committee has not approved any strategies or recommendations that address transportation challenges for the Border.”<sup>317</sup> After three years in existence, missed opportunities in terms of the development of recommendations have prevented the committee from playing an integral role in the development of the International Trade Corridor Plan.

In 2003, the Legislature directed TxDOT to “coordinate with appropriate entities to develop an

---

<sup>315</sup> TRANS. CODE, § 201.114.

<sup>316</sup> See Saenz, TxDOT on Aug. 9, 2004.

<sup>317</sup> *Id.*

integrated international trade corridor plan.”<sup>318</sup> Clearly, the Border Trade Advisory Committee could have been one of those entities that provided input to the development of the plan. This is especially true since the plan was required to “assign priorities based on the amount of international trade, measured by weight and value, using the transportation systems of this state, including: (a) Border ports-of-entry; (b) commercial ports; (c) inland ports; (d) highways; (e) pipelines; (f) railroads; and (g) deep water gulf ports.”<sup>319</sup> TxDOT was required to “report on the implementation of this section to the presiding officer of each house of the Legislature no later than December 1, 2004.”<sup>320</sup> TxDOT officials informed the Committee during the Brownsville hearing that “TxDOT is developing an integrated international trade corridor plan as a component of the 2030 Texas Transportation Plan. This plan will include strategies and projects to aid the exchange of international trade using the system of multiple transportation modes in the State of Texas.”<sup>321</sup>

This missed opportunity of providing critical input in the form of recommendations for the Transportation Commission to consider while the agency developed the International Trade Corridor Plan can be rectified by improving the structure of the Border Trade Advisory Committee. The problems of the “steep learning curve” can be addressed by directing the transportation agency to increase the resources available to the Advisory Committee by strengthening its membership with the inclusion of key transportation and trade leaders of the region. Among the new entities that could assist Texas in achieving better results with the Advisory Committee include: the chairs of the local Metropolitan Planning Organizations; the directors of the Texas’ ports-of-entry (including those of marine/water ports); trade and transportation researchers (those from educational institutions such as Texas A&M International’s Texas Center for Border and Economic Development, the Texas Transportation Institute, and others alike); and Texas’ Border Commerce Coordinator. Once the expanded Border Trade Advisory Committee develops subsequent trade and transportation recommendations to increase Texas’ trade, TxDOT could be directed to consider those recommendations in the revision of the International Trade Corridor Plan.

---

<sup>318</sup> TRANS. CODE, § 201.6011.

<sup>319</sup> *Id.*

<sup>320</sup> *Id.*

<sup>321</sup> *See* Saenz, TxDOT on Aug. 9, 2004.

The above illustrates one of the reforms that could increase the effectiveness of increasing trade opportunities in Texas. Other reforms that could also increase commerce is to consider having the Commerce Coordinator work with the metropolitan planning organizations in the Transportation Districts bordering Mexico to help address their unique research and planning needs. In 2000, the Texas Senate Border Affairs Committee reported that “unlike MPOs located in areas bordering the country of Mexico, non-Border MPOs have the ability to plan for a 360-degree radius for their respective MPO regions. Border MPOs can only plan to a degree of certainty for a 180-degree radius for an MPO region, since such MPO areas border the country of Mexico.”<sup>322</sup> During the Laredo hearing, the Laredo Mayor testified that the problem with the planning and capacity that was reported in 2000 exists today along the Border. Using the local Metropolitan Statistical Area as her example, the Mayor stated that “our Border communities are unique in that we share metropolitan areas with another country. This formula does not take into account the hundreds of thousands of citizens that live right across our Border cities. My MSA is not totally in the USA. My city is 750,000 by day and 200,000 by night. As you know, this is characteristic of most ‘twin’ cities on the Texas-Mexico Border.”<sup>323</sup> The Border Commerce Coordinator could work with the Border MPOs and MSAs, along with their counterparts in the Mexican states, to identify and develop initiatives that would help address their planning and capacity needs.

Correspondingly, in order to increase Texas’ competitive edge with other states, the Border Commerce Coordinator could be required to have binational meetings with Mexican states bordering Texas. In such meetings, the leaders of each state’s transportation, economic development, workforce training, and public safety agencies would meet to develop and design state/binational initiatives that would increase trade and commerce and flow between the adjoining states. As part of these meetings, the Coordinator can work with the appropriate entities to address Texas’ response to the opening of the Border to Mexico-domiciled trucks. Such a reform would capitalize on the single most important natural resource Texas has -- the closeness with Texas’ number one, and the nation’s number two, trading partner. Along the same lines, the Border Commerce Coordinator could be directed to work with the Border Chambers of Commerce and local area councils of government, as well as private industry leaders, to develop a 5-, 10- and 15-year comprehensive Trade and Commerce Plan for Texas. The plan would be aimed at increasing Texas’ commerce and

---

<sup>322</sup> Texas Senate Committee on Border Affairs. *Transportation Interim Report*. 2000.

<sup>323</sup> See Flores on Oct. 6, 2004.



trade through the attraction of new business ventures, supporting the expansion of existing industries, as well as through the development of key partnerships which address the specific workforce training needs of Border corridor regions. The Coordinator can also be directed to work with communities on both sides of the border, and private industry, to develop an international cluster initiative to capitalize on the resources available between Border “sister” cities. The Coordinator could be required to unveil the plan in a Border Commerce Summit.

### **US-VISIT Program**

The US-VISIT program is a” continuum of security measures that begins before an individual enters the United States and continues through arrival and departure from the United States. It incorporates eligibility determinations made by both the Department of Homeland Security and the Department of State.”<sup>324</sup>

Although a Committee charge included to study the impact of the US-VISIT program, the Committee did not receive any participation by the U.S. Department of Homeland (DHS) on this matter, as the above discussion illustrates.

Notwithstanding, the general consensus of the testimony and information received by the Committee was that the program would probably have a negative impact on Texas’ economy. The Association of Texas Communities recently reported that US-VISIT’s “implementation at land border ports will significantly slow commercial and tourist traffic from Mexico, into the United States.”<sup>325</sup>

As the previous trade and NAFTA research illustrates, the economy of Texas is dependent on its interaction with Mexico, just as much as Mexico’s economy is dependent on Texas’ trade. The Director of the Port of Brownsville reported to the Committee, that “people from different states in Mexico depend on our current real trade to make a living. The Port of Brownsville houses approximately 275 companies, which provide employment to almost 6,000 people.”<sup>326</sup> Several community leaders voiced similar concerns during the hearing process. The Mayor of Laredo, for example, testified that “Border communities are dependent on the rapid movement of travelers and commerce to sustain our economies. The Department of Homeland Security has stated that the goal of US-VISIT is to enhance the security of the United States without creating an adverse environment for legitimate visitors. Without the federal government investing billions of dollars in this new

---

<sup>324</sup> U.S. DHS, *Fact Sheet: U.S. Land Borders*. <http://www.dhs.gov/us-visit>.

<sup>325</sup> Association of South Texas Communities, *Executive Summary of US-VISIT: Threat to U.S. Jobs & Economy*. 2004.

<sup>326</sup> Raul A. Besteiro, Jr., Port Director, Brownsville. Testimony. IRT Committee hearing. Aug. 9, 2004.

directive for the proper infrastructure an adverse environment will be created.”<sup>327</sup>

Adding to the frustration of Border officials is the neglect and oversight that the program’s administrative entities have shown to Border communities. As indicated by Texas’ Homeland Security director in July, US-VISIT has a policy of not participating at state legislative hearings.<sup>328</sup> The Chairman of the Alliance for Security and Trade echoed these sentiments when he testified in Laredo that, “rather than accepting [the Committee’s] offer to appear before all stakeholders at once, DHS prefers stealthy, surgical public relations strikes – only disseminating what they want, when they want, without public involvement or input.”<sup>329</sup>

Those with US-VISIT have recently begun to provide “briefing” meetings to select communities. However, as the representative of the Alliance explained to the Committee, Border community leaders have voiced concerns about the manner by which such meetings are being organized. The Alliance representative went on to report that “after months of promising stakeholder meetings on the implementation of the most comprehensive Border security system this country has ever seen, it appears the Department of Homeland Security has finally agreed to visit the Border to explain what they are doing.”<sup>330</sup> The Mayor of the City of Brownsville also indicated that “Homeland Security has failed to share information with the very people that will be affected by their plan – Border retail merchants, the City of Brownsville, and the business community that depends upon cross-Border trade and commerce. What we have here is a failure to communicate.”<sup>331</sup>

Aside from the impact on trade, and lack of communication, another of the major concerns dealt with the programs’ lack of parity. Those visitors from the U.S. northern Border are treated differently than those from the southern Border because of the manner in which US-VISIT is being implemented.

---

<sup>327</sup> See Mayor on Oct. 6, 2004.

<sup>328</sup> See Kimbrough.

<sup>329</sup> Dennis E. Nixon, Chairman, Alliance for Security and Trade. Testimony. IRT Committee hearing. Oct. 6, 2004.

<sup>330</sup> *Id.*

<sup>331</sup> The Honorable Eddie Trevino, Jr., Mayor of the City of Brownsville. Testimony. IRT Committee hearing. Aug. 9, 2004.

The Alliance representative informed the Committee that “from a security standpoint, it made no sense to treat the Canadian Border different than the Mexican Border.”<sup>332</sup> Although there have been some improvements in the program, such as allowing Mexican laser visa holders who enter into the United States by land port to stay up to 30 days, they “are limited to staying within 25 miles of the Border. While we’re glad to have the extension,” the Alliance representative indicated, “the fact is 30-days is an arbitrary number, and we will continue to push for a 6-month stay so that Mexicans enjoy the same privileges as Canadians.”<sup>333</sup>

What is the economic impact of Mexican visitors? According to the May 2004 study by the Center for Border Economic Studies, *The Economic Impact of Mexican Visitors to the Lower Rio Grande Valley 2003*, “the expenditures of Mexican visitors varied considerably by mode of travel. A typical car traveler averaged almost \$5,000 a year (\$182 per visit), a lane traveler spent about \$8,000 annually (around \$2,000 per visit), while bus travelers and pedestrians spent approximately \$1,100 a year (\$80 and \$20 per visit, respectively). Given a total number of 22.7 million Mexican crossers, total estimated expenditures by Mexican visitors amounted to \$1.4 billion in 2003. Using an input-output model, these expenditures generated a total of approximately \$1.7 billion in output (sales); 41,000 jobs; \$560 million in wages; and \$203 million in business taxes. Relative to the economy of the Lower Rio Grande Valley, this implies that Mexican visitors’ expenditures support 12% of total output and 10-15% of employment.”<sup>334</sup>

---

<sup>332</sup> See Nixon.

<sup>333</sup> *Id.*

<sup>334</sup> Suad Ghaddar, Ph.D., Center of Border Economic Studies. *The Economic Impact of Mexican Visitors to the Lower Rio Grande Valley 2003*. May 2004.

**Exhibit 19: The Threat on NAFTA as an Engine of Trade and Jobs**

- Despite the worldwide economic slowdown, NAFTA continues to benefit consumers, farmers, workers and businesses in the United States, Canada and Mexico.
- North America has become a magnet for Foreign Direct Investment (FDI) from around the world, which has stimulated capital flow, promoted the spread of technology and expanded productivity and higher wages.
- The dynamic performance of exports and investment in North America has boosted economic activity and production, thus stimulating the creation of more and better-paying jobs.
- Southern border cities have benefitted significantly from NAFTA, but their economies are at risk based on crossing delays caused by continued security measures as a result of 9/11. The U.S.-Canada border faces similar delays and consequences.

---

Source: Association of South Texas Communities. *Executive Summary of US-VISIT: Threat to U.S. Jobs & Economy*. 2004.

Other assessments have been developed by private and public entities concerning the overall impact of the program. In July of 2004, the Perryman Group reported that “the land port segment of the US-VISIT program involves tremendous harm to the national, state and regional economies. Even under conservative assumptions regarding the increase in time required for crossing the U.S.-Mexico Border, hundreds of thousands of jobs will be lost. If delays prove to be more disruptive (up 75%), the job losses could top 1,400,000 in the U.S. and 800,000 in Texas. These effects are concentrated in the manufacturing sector and other key drivers of the domestic economy.”<sup>335</sup>

---

<sup>335</sup> The Perryman Group, *Stalling the Engine of Growth in a Global Economy: the Impact of Implementation of the US-VISIT Program at US-Mexico Border Crossings on Business Activity in the US, Texas and the Border Region*. July 2004.

Also in September of this year, the ranking member of the Select Committee on Homeland Security, the Honorable Jim Turner, reported in the *Transforming the Southern Border: Providing Security & Prosperity in the Post 9/11 World* (September 2004) that “there is a critical need for additional staffing and infrastructure investments before the US-VISIT program is implemented on the Southern Borders. Border communities, along with many DHS officials at the ports-of-entry, expressed grave concerns over the implementation of this initiative. These concerns are focused on insufficient infrastructure and staffing requirements needed to support this new security initiative. The Department of Homeland Security also needs to better coordinate the implementation of US-VISIT with Border communities. For it to succeed, Border communities’ concerns must be addressed.”<sup>336</sup> Congressman Turner went on to report that “unfortunately, the Administration has done an inadequate job reaching out to the [Border] communities to learn their concerns about the possible impact of US-VISIT implementation and engaging them in the planning.”<sup>337</sup>

---

<sup>336</sup> The Honorable Jim Turner, Congressman. *Transforming the Southern Border: Providing Security & Prosperity in the Post 9/11 World*. Sept. 2004.

<sup>337</sup> *Id.*

---

**Exhibit 20: Impact on the U.S. Economy**

- The fingerprinting and photographing of every foreign visitor entering the U.S., a requirement of US-VISIT, affects everyone doing business at land ports, including the thousands of truck drivers hauling merchandise.
- Implementation of the US-VISIT program as currently contemplated at heavily congested international bridges will cause greater delays, which conflict with the NAFTA goal to create an economically prosperous region largely free of Border slowdowns.
- US-VISIT will hamper the market power of economic regionalism that has existed for more than a century along the U.S.-Mexico border, which was improved by NAFTA.
- Proposed exit controls will extend the time it takes to depart the U.S.; this inconvenience will stifle future visits to the U.S. and further discourage economic stimulation from business people and diminish spending by tourists.

---

Source: Association of South Texas Communities. *Executive Summary of US-VISIT: Threat to U.S. Jobs & Economy*. 2004.

As previously indicated, although several individual organizations (private groups, educational entities and local entities) have cited what they perceive to be the negative impact of US-VISIT, the Committee was not made aware of any official “state” figures concerning the program’s implementation. Knowing how difficult it has been for this Committee to receive information from the U.S. Department of Homeland Security concerning the fiscal consequences of this program, it would be to the benefit of the state to have the Secretary of State’s Office, in a multi-agency initiative, assess the Texas impact of the US-VISIT program. Although the Committee appreciates DHS’ current efforts of having informational meetings with stakeholders on US-VISIT’s implementation, Texas could have been better served by having US-VISIT officials participate in state hearings to develop an appropriate state response plan.

**The International Boundary Water Commission**

The Committee was also charged with reviewing the activities of the International Boundary Water Commission (IBWC). IBWC is “responsible for applying the boundary and water treaties between [the United States and Mexico] for more than a century. The commission is also charged with settling differences that arise in the application of the [international water] treaties.”<sup>338</sup> IBWC is composed of a U.S. Section and a Mexican Section. The U.S. section “receives foreign policy guidance from the U.S. Department of State while the Mexican Section receives guidance from its foreign affairs ministry, SRE.”<sup>339</sup> One of the major treaties affecting the workings of IBWC is the 1944 Water Treaty.

Under the 1944 Treaty, Mexico is required to deliver “water to the United States from six of its tributaries to the Rio Grande. . . .The treaty provides that the waters from these six tributaries are allotted two-thirds to Mexico and one-third to the United States.”<sup>340</sup> Recent problems with Mexico’s adherence to the treaty have caused much distressed in Texas communities that depend on the water delivery. “Mexico ended the 1992-1997 five-year cycle with a deficit of just over 1 million acre-feet.”<sup>341</sup> In July 2004 IBWC reported that “by the end of the next five-year cycle, despite concerted effort by the USIBWC and the United States Department of State, the [debt] grew to 1.33 million acre-feet.”<sup>342</sup> Significant increases in deliveries were reported to the Committee in October. IBWC officials stated that “during the current cycle’s first year, which concluded in September 2003, Mexico delivered a volume of just under 400,000 acre-feet....deliveries so far this cycle year are

---

<sup>338</sup> U.S. Commissioner Arturo Q. Duran, IBWC. Testimony. IRT Committee hearing. Mar. 4, 2004.

<sup>339</sup> *Id.*

<sup>340</sup> *Id.*

<sup>341</sup> Deputy Commissioner Carlos Marin. IBWC. Testimony. IRT Committee hearing. July 7, 2004.

<sup>342</sup> *Id.*



more than 850,000 acre-feet.”<sup>343</sup> Various factors that are attributed to increased deliveries include greater rainfall that Mexico has experienced, negotiations that amounted to “large water transfers in January from Mexican ownership to U.S. ownership at Amistad Dam,”<sup>344</sup> and water accounting procedures.

Recently, in May, the IBWC “concluded an agreement that should facilitate future transfers for water from Mexican ownership to U.S. ownership at Amistad and Falcon International Reservoirs.”<sup>345</sup> Historically, the “lack of established criteria for determining these conveyance losses has delayed transfer since varying climatic conditions and other factors can greatly affect conveyance losses; for example, losses are much greater during hot dry periods.”<sup>346</sup> The new agreement specifically outlines “how water conveyance losses will be handled when such reservoir transfers occur. . . .the IBWC will determine conveyance losses by taking into consideration the Mexican tributaries that are the source of the water.”<sup>347</sup>

What is the significance of Mexico’s lack of adherence to the 1944 Water Treaty? Since Mexico has developed a decade-old water debt, those who depend on the water conveyance, such as Texas’ farmers, have been negatively impacted. The *Associated Press* recently reported that “by the summer of 2002, Rio Grande farmers were going out of business and municipal water stores were running low.” Consequently, “Rio Grande Valley irrigators who say diplomatic efforts have failed to get them promised water from Mexico are seeking up to \$500 million in damages from the Mexican government.”<sup>348</sup> Some irrigation managers, such as Jo Jo White of Mercedes, have gone

---

<sup>343</sup> Deputy Commissioner Carlos Marin. IBWC. Testimony. IRT Committee hearing. Oct. 6, 2004.

<sup>344</sup> *Id.*

<sup>345</sup> *See* Marin on July 7, 2004.

<sup>346</sup> *Id.*

<sup>347</sup> *Id.*

<sup>348</sup> Lynn Brezosky, “Texans to Seek Damages from Mexico,” *Associated Press*. <http://www.mysanantonio.com/news/apwire/texas/storyindex.html> posted on Aug. 27, 2004.

on record and indicated that “increases in the reservoir system just camouflaged what the real problem is...it’s a complete history of failed compliance that has created a situation that makes us hopeless of finding any security in the future.”<sup>349</sup>

This being a federal issue, and one that is currently going through the legal process, the scope of the Committee’s input on this matter is somewhat limited. In order to address future water debts, and the lack of adherence by any party of the 1944 Treaty, the Committee will be developing a number of recommendations for appropriate parties to address.

---

<sup>349</sup> *Id.*

### **Implementation of HB 109**

The Committee was also charged with studying the implementation of House Bill 109 and making recommendations for improvement of the import/export and certification system and for maximization of the tax dollars collected. The bill, among other matters, directs the Comptroller to maintain a password-protected website for customs brokers to document and show the exemption of export tangible personal property from state taxation. To date, the Comptroller's office has set up the website and has published rules concerning the program. The website is: <http://www.window.state.tx.us/taxinfo/etf/lcbeccs>.

During the El Paso hearing, David Macias, a U.S. Customs Broker, testified that HB 109 "has been an effective tool in the elimination of false claims of export." This is because "brokers must see the merchandise, bond requirements make brokers more diligent, and exporters must sign penalty of perjury oath for false claims of export." Macias also testified that there are some drawbacks with the legislation, such as including the enforcement of visual requirements, the stamp fee of \$1.60 being too high, thus eliminating the small consumer, and Section 151.157(h) of the bill providing the Comptroller an "all encompassing power with no benefit of trial." The customs broker believed that this section violated due process.<sup>350</sup>

One manner by which the program can be improved is by creating a Citizens Advisory Board for those impacted parties to assist the Comptroller in the development and implementation of international trade legislation.<sup>351</sup> Another recommendation received by the Committee was to allow Border cities to "assist in closing the gap of lost revenues from the sale of valid export certifications. The Comptroller. . .does not have the necessary personnel to continually audit Texas Customs Brokers [who are] licensed to prepare, issue and/or sign validated export certification forms...[cities]

---

<sup>350</sup> David Macias, U.S. Customs Broker. Testimony. IRT Committee hearing. Mar. 4, 2004.

<sup>351</sup> David Macias, U.S. Customs Broker. Testimony. IRT Committee hearing. Mar. 4, 2004.

could assist this program and be allowed to provide personnel that could audit those involved in the export certification process. This is already being done with the Hotel/Motel tax programs.<sup>352</sup>

---

<sup>352</sup> See Flores on Oct. 6, 2004.

The following are suggested recommendations and reforms developed by the Texas Senate Committee on International Relations and Trade in conjunction with state and federal agencies and mirroring, as well as addressing, the testimony provided to the Committee during its interim hearings.

**Colonia-Related Recommendations** Recognizing the serious critical needs of distressed communities, with the understanding that the federal government has reduced the level of Border Environment Infrastructure Funds, in an effort to improve the infrastructure of economically distressed regions in a comprehensive, cost-effective manner, the members of the IRT Committee recommend that the State increase the quality of life of the most needy Texans by:

*(Multi-Agency-Related)*

- Addressing the shortfall of federal water and wastewater funds by more aggressively supplying the needed resources for distressed communities by enhancing, strengthening and refinancing Texas' Economically Distressed Areas Program (EDAP).
  - Provide Texans the opportunity to approve the issuance of \$430 million to \$500 million in enhanced EDAP II Bonds.
  - Provide that half of the funds of the enhanced EDAP II program be used for traditional EDAP communities and the other half be used for non-EDAP distressed communities in Texas.
  - Provide a mechanism by which to support the issuance of bonds by the Texas Water Development Board (TWDB). Accordingly, provide TWDB the necessary additional bonding authority and rule-making authority to make the most of the enhanced EDAP II Bonds through grants and low-interest loans.
- Simplifying and standardizing the enhanced EDAP II program's statutory county eligibility determination by ensuring certainty in program eligibility requirements, using the guidelines of

the Colonia Wastewater Treatment Assistance Program (which was set up by the federal government to complement Texas' EDAP program). In doing so, the state would eliminate the negative impact of changing county guidelines, which have varied year-by-year and have hampered TWDB's ability of identifying potential applicants. Such a reform would also mirror the program eligibility criteria of the federal Border Environment Infrastructure Fund, as determined by the Border Environment Cooperation Commission (BECC) and the North American Development Bank (NADB) (based on the "La Paz" International Agreement, a bilateral agreement between the United States and Mexico, 32 Texas Border Counties) thus arriving at greater consistency between state and federal water/wastewater programs.

- Simplifying the income eligibility criteria and streamlining application requirements of the enhanced EDAP II program by changing the current EDAP per capita income requirements for a project area to reflect median household income, which is the standard used by three TWDB disadvantaged community programs (Drinking Water State Revolving Fund-Disadvantaged Communities program, Clean Water State Revolving Fund-Disadvantaged Communities program, and the Small Community Hardship program). This reform would provide greater access to the program for all communities and would be more readily verifiable since U.S. Census data is provided in median household income.
  
- Increasing the effectiveness of the enhanced EDAP II program by assisting Texas communities curtail the proliferation of future colonias, by continuing to require the adoption of the Model Subdivision Rules for communities/counties participating in the expanded EDAP program. This program eligibility requirement has been noted in a federal study as a means to ensure that colonias development does not spread.
  - Correspondingly, assist new counties/participants of the expanded EDAP II program to understand the Model Subdivision Rules, by requiring the Colonia Coordinator to provide briefing meetings concerning the importance of the rules.
  
  - Provide needed corresponding resources for the enforcement of rules.

- Addressing the current lack of capacity in distressed communities to meet all program requirements by supplying the necessary managerial and technical resources needed to build capacity. Strengthen available resources to communities through TWDB in the form of additional field personnel and associated expenses to assist in the building of capacity by providing financial, managerial and technical assessments, training and follow-up assistance.
  
- Supporting TWDB's request of \$6.5 million in General Revenue to cover the servicing of a \$37 million EDAP bond issuance for the biennium. To further assist TWDB to finish current EDAP projects which have been designed, are being constructed or are in final planning stages, support appropriating an additional use of \$25 million in General Revenue for this effort.
  
- Maximizing federal matching funds for water needs of disadvantaged communities to strengthen the enhanced EDAP II program by providing \$1,413,662 in General Revenue to match \$7,068,310 in federal funds for disadvantaged communities under the Drinking Water State Revolving Fund Program.
  
- Improving the coordination among agencies in their efforts to address the needs of colonia residents by amending Government Code Section 775.002, and requiring mandatory coordination of colonia initiatives.
  - Strengthen the use of colonia-related infrastructure funds through the sharing of data and information among agencies to improve the Border Activity Tracker (BAT) database.
  - Provide that appropriate procedures be developed for the inputting of project information and require that agencies collaborate to develop a single point of contact for water and wastewater related projects.
  - Require joint interagency funding of resources to maintain the BAT, which can be managed by the Borderlands Information Center.

- Increasing the State's efforts to eliminate the expansion of colonia developments by providing Border counties with limited land use and development control (limited ordinance-making authority). Such a measure would provide local communities the necessary tools to combat and prevent the proliferation of colonias.
  
- Strengthening the efforts of the Colonia Coordinator by assisting in the modification of the program's existing culture by amending Government Code Section 775.002 and creating a Colonia Advisory Oversight Committee.
  - Direct this Advisory Committee to provide guidance and input to the Coordinator regarding initiatives and endeavors that can increase the effectiveness of the office.
  - Provide that this committee develop strategies and make recommendations to address the needs of colonia residents.
  - Increase the local participation of Border county officials and colonia residents by providing that the committee be composed of Border county judges, or their representative, and colonia residents.
  - Provide that this committee be appointed by the Governor.
  
- Increasing the effectiveness of the Colonia Coordinator by requiring the Coordinator to develop a quarterly report for the Legislature documenting the Coordinator's efforts to address the needs of Colonia residents. Provide that the Coordinator include the recommendations and comments provided by the Oversight Advisory Committee.
  
- Improving the efforts of the Colonia Coordinator program by requiring, rather than permissively allowing, the coordination of programs with state agencies outlined in Government Code Section 775.002.



- Correspondingly, amend Section 775.002 to include the Texas Commission on Environmental Quality, Office of Rural Community Affairs, the Texas Department of Transportation, and the Office of State and Federal Relations, to the agencies that are involved in the coordination of colonia initiatives (and make appropriate confirming changes).
- Provide that Section 775.002 agencies work together with the Texas Department of Transportation (TxDOT) to offer the necessary resources to comprehensively address the infrastructure needs of colonia residents.
- Increasing the available resources for newly elected Border county elected officials, and new participants of the enhanced EDAP II program by strengthening the relationship between the Colonia Coordinator and the aforementioned officials, by requiring the Coordinator to hold public briefings on the significance of the Model Subdivision Rules.
- Strengthening TxDOT's efforts in addressing the needs of colonia residents by increasing the bonding authority amount for the Colonia Road Bond Access program from \$175 million to \$425.90 million. Such an increase would more readily reflect the transportation infrastructure needs of colonias and would greatly improve their quality of life.
- Improving the effectiveness of the Colonia Access program by addressing the delay-associated factors during the program's implementation. Provide TxDOT the necessary authority and resources to manage the colonia road projects (consultant work – plan, design and construct) in-house or through interagency contracting with A&M's components (School of Architecture, Extension Service, etc.).
- Improving the targeting of the Colonia-Road Bonds Access funds and increase the effectiveness of the funds by directing TxDOT to revisit the program's set-aside to ensure that the funds are used in communities with the greatest need.

- Increasing the capacity development resources in colonias by funding university programs that promote enterprise development.

**Corresponding Housing-Related Recommendations** To complement the initiatives for economically distressed communities, and to comprehensively address Texans in need of affordable housing resources, the members of the IRT Committee recommend that the State of Texas create a series of home ownership initiatives that will help remove some of the barriers that prevent low-income families from owning their own homes. Specifically, the Committee recommends:

*(Texas Department of Housing and Community Affairs-Related)*

- Directing the Texas Department of Housing and Community Affairs (TDHCA) to use 10% of their mortgage revenue bonds, or at least \$10 million, to increase affordable housing opportunities for low-income individuals and families by creating three new alternative financing programs.
  1. Requiring TDHCA to create a “secondary housing finance market” program to enable non-profits, or interested private sector parties, to originate loans for low-income families.
    - Provide that TDHCA service these loans and season the loans for 24 to 36 months in order to sell them to Fannie Mae, or other interested parties, to recycle the funds.
  2. Requiring TDHCA to create another alternative lending product that would amount to a mortgage product with a “3-year balloon.”
    - Require that under such a lending alternative, after the initial 3-year period, TDHCA provide the necessary assistance for borrowers to graduate/move to more conventional/traditional financing.

- Provide that TDHCA “recycle” the funds of this program to assist additional low-income families.
  - Provide that TDHCA use relaxed underwriting guidelines under this program and require TDHCA to accept alternative credit information such as rent, and utility payments for program eligibility. Also, as part of the participation in the alternative credit information, direct TDHCA to require that the borrower be required to have a depository relationship with a financial institution and complete a home-buyer education program.
3. Directing TDHCA to assist low-income families by creating a loan loss reserve, or guaranty housing pool, to entice the private sector or non-profit organizations to originate loans to help more low-income families realize home ownership along the Texas-Mexico Border region.
- Requiring TDHCA to develop credit enhancements and guarantees to keep the same bond ratings.
  - Directing TDHCA to develop a “rent-to-own” single family option using federal housing tax credits and featuring a sale between the lien holder and occupant at the 15-year period.
  - Requiring TDHCA to fund and broaden financial literacy and educational outreach along the Texas-Mexico Border.
  - Requiring TDHCA to work with non-profits and other public institutions, such as community colleges and school districts, to help educate low-income families about the importance of establishing good credit, as well as starting a savings account by creating a banking relationship.

- Requiring TDHCA to develop a pilot project to help fight predatory lending along the Texas-Mexico Border region by funding non-profit organizations to address discriminatory practices that exist in the colonias and the Border region to ensure greater compliance with federal, state and local laws through a multifaceted fair housing program.
- Ensuring continuity of TDHCA's efforts in addressing the housing needs of low-income individuals by codifying and updating existing budget rider #3 in THDCA's budget (Fiscal Years 2005) which was originally authored in 1999 by the Border members of the IRT Committee to reflect legislative intent. The codification of the rider would provide statutory direction, rather than rider direction, that TDHCA expend \$30,000,000 of its housing programs (HOME funds, Housing Trust Fund, Housing Tax Credits, Section 8, Single/Multi-Family Bond, etc.) to ensure meaningful home ownership opportunities.
- Supporting TDHCA's rider revision request for contract-for-deed conversions (current rider 10). This revision would expand TDHCA's efforts in the conversion of contract-for-deeds to conventional mortgages with transfer of title. Currently, colonia developers are converting these deeds into warranty notes with vendor's liens bearing higher interest rates which burden residents, as well as increase their risk of losing their homes.
- Considering providing more flexibility under the necessary statutes so that TDHCA is allowed to use its Community Housing Development Organization (CHDO) set-aside dollars in the HOME program to fund non-profits in urban areas to help develop quality affordable housing for colonia residents. Provide necessary technical assistance and capacity building funds.

**Health Care Infrastructure Recommendations** Recognizing the unique needs of medically underserved regions of the state and the need for medical practitioners, the members of the IRT Committee recommend:

*(Multi-Agency-Related)*

- Directing the appropriate overseeing agencies to lift the residency caps in areas of the state that are designated as physician-shortage areas.
- Increasing the available resources to those communities who are medically underserved by developing an initiative that assist hospitals and communities in underserved regions to address the lack of resources to set up and maintain medical training programs and related cost-recovery issues.
- Providing incentives and financial support to educational institutions in their efforts to recruit, retain and grow the nursing faculty pool in nurse training programs. Consideration should be given to increasing the formula funding to all nursing schools and creating an incentive formula initiative for graduate nursing study.
- Developing initiatives to assist in paying nurse faculty more appropriately according to their contributions and making faculty salaries more competitive in the marketplace.
- Directing the Board of Nursing Examiners to re-focus state regulation to address the current nursing shortages in Texas with the goal of creating the potential for additional applicants to be accepted into nursing programs. Particular attention should be given to the current stringent ratio of clinical faculty-to-students that impedes growth of existing programs, including the admission capacity standards of nursing programs.

- Developing a series of initiatives and pilot programs that have the goal of increasing the number of faculty and students recruited and retained in the nursing profession in regions of the state that are in need of health care infrastructure. Among these initiatives, the state should:
  - Create a pilot program that targets critical health shortage areas.
  - Create a loan repayment program for nurses in critical nurse shortage areas.
  - Create a pilot project that specifically supports and encompasses accelerated and alternate entry programs for regions with a high degree of nurse shortages.
  - Create a project that focuses on regions of the state that have a high number of displaced workers and with goals to retrain trade-affected workers.
  - Direct the nursing schools in the state to develop key initiatives that will comprehensively address the nursing shortage in Texas.
  
- Addressing the lack of equitable distribution of resources across nursing programs with the greatest need -- Dramatic Growth Funds.
  
- Addressing the lack of health infrastructure along the Border region by continuing to support expanding the efforts and effectiveness of the El Paso Medical School, the Regional Academic Health Center in the Lower Rio Grande Valley and similar initiatives in the Laredo region.
  
- Addressing the physician and medical service shortages in certain needy regions of the state by providing for the expansion of residency program in medically underserved regions.

**Workforce Training and Economic Development** While Texas has a number of its counties among the 250 lowest per capita income counties in the nation, and certain regions of the state have significant amounts of negatively trade-impacted residents, other states in the nation provide a greater degree of resources for the training of their workers. In order to assist communities to strengthen their local economies by addressing the needs of trade-affected workers, and attracting new business ventures, as well as retaining existing industries, the members of the IRT Committee recommend:

*(Texas Workforce Commission-Related)*

- Addressing the curriculum needs of trade-affected workers and increasing the effectiveness of Texas' training program by transferring the responsibility for adult education and literacy programs from the Texas Education Agency (TEA) to the Texas Workforce Commission (TWC) as outlined in the Sunset Staff Report.
  - Provide for the creation of an adult education and literacy advisory committee at TWC.
  - Provide that the committee be appointed by the Workforce Commission.
  - Provide that the committee advise the TWC on the development of policies and program priorities that support adult education and literacy programs' in order to create an educated and skilled workforce.
- Requiring TWC and TEA to develop a transition plan for the transfer of adult education and literacy programs. Provide that transition planning include a timetable with specific steps and deadlines needed to carry out the transfer in compliance with the effective date of the transfer provision. Steps should include a method to transfer all program and personnel records to TWC; ensure against any unnecessary disruption to services at the local level; and specify other measures necessary to complete the transition of programs.

- Requiring TWC to report on adult education and literacy program outcomes related to employment and educational achievement. To ensure accountability for educational achievement for students, require TWC to continue TEA's practice of reporting on demonstrated student improvement in education and literacy levels.
  
- Requiring TWC to develop a statewide curriculum for those with limited English skills, by creating guidelines and standards for adult education and literacy services to ensure a balance of education and workforce skill development. Provide that the expense for the development of the curriculum come from the budget of TEA as provided by existing state legislative and budget mandates.
  
- Requiring TWC to work with the community colleges in the five regions of the state that have the highest disproportionate amount of trade-affected workers and implement their existing Limited English pilot program.
  
- Strengthening the competitiveness of the state in the recruitment and retainment of jobs by investing in training of Texans by increasing the amount of funding available to TWC by nearly \$100 million for the biennium and train an additional estimated 95,000 Texans. Specifically:
  - Develop additional skills training resources in TWC by earmarking \$65 million of the new Texas Enterprise Fund appropriations to establish a Skills Development Local Job Training Incentive Program and train an additional 62,000 Texans.
  - Support TWC's effort to train an additional 24,000 Texans by supporting TWC's exceptional item of \$12.5 million per year in Skills Development funding.
  - Support TWC's effort to train an additional 8,600 Texans through the exceptional item of a one-time funding of \$4.5 million per year from the Smarts Jobs' Holding Fund (\$10 million are currently available under the fund).



*(Texas Economic Development-Related)*

- Strengthening the effectiveness and use of the Texas Enterprise Fund (TEF) by supporting an additional appropriation of \$365 million.
  - Transfer \$65 million of the new TEF funds to TWC for the purpose of increasing Texas' workforce training programs.
  - Increase the focus of 'capital company investment' in the TEF's eligibility participation requirement. Greater amount of funds could be used to reward companies that move into specific locations (such as rural and distressed regions), as well as those who meet and surpass specific payroll requirements.
  
- Developing appropriate reforms that will allow the program administrator's in the Texas Economic Development Division in the Governor's office to have a greater interaction with legislative committees. In doing so, the accountability of the fund will be increased due to greater participation in state public hearings.
  - Provide that the use of the TEF better support initiatives that will make it easier for companies to grow and develop in regions where the workforce is located.
  - Provide that use of the TEF better assist in the development of industry clusters that capitalize on the regional resources found within Texas' Border communities and bordering northern Mexican states.

**NAFTA Trade-Related Infrastructure Recommendations** Recognizing the importance of trade to Texas' and the United State's economies, to ensure that the current increase of NAFTA-trade related traffic is supported and to establish the capacity needed for the foreseen increase in NAFTA-traffic growth, the members of the IRT Committee recommend:

*(Texas Department of Transportation-Related)*

- Developing a statewide response to the opening of the Border by directing TxDOT to work with the United States Department of Transportation (U.S. DOT), the Federal Motor Carrier Safety Administration (FMCSA), and the Border Commerce Coordinator to work to receive a copy of the Environmental Impact Study that was begun by FMCSA.
- Provide that TxDOT forward copies of this information to the Office of the Governor and the Texas Commission on Environmental Quality.
- Provide that the State of Texas memorialize Congress in directing FMCSA to address the likely additional pollution and safety risks associated with the opening the Border to Mexico-domiciled trucks.
- Directing TxDOT to continue to work with the appropriate local, state and federal authorities (United States and Mexican) to research and develop an initiative that would mitigate the traffic congestion at Texas' ports-of-entry through an initiative that would begin northbound truck inspections on the Mexican side of the international boundary.
- Improving and strengthening Texas' ports-of-entry by appropriating TxDOT the required \$30 million to complement federal funds for the eight inspection stations along the Texas Border region.

- Providing the communities that bear the brunt of NAFTA-related trade and TxDOT have some flexibility in planning and capacity development by directing TxDOT to develop a trade-capacity fund that will assist communities in the three Border Transportation districts in addressing the cost of environmental studies and engineering work for off-system projects. Provide that TxDOT use its district discretionary funding to complete right-of-way acquisition, engineering, and environmental assessments for off-system projects.
  
- Increasing the effectiveness of the Border Trade Advisory Committee by strengthening its membership.
  - Provide that membership expansion include key transportation and trade leaders of the region, including, but not limited to: the chairs of the local Metropolitan Planning Organizations; the directors of the Texas' ports-of-entry (including those of marine/water ports); trade and transportation researchers (those from educational institutions like Texas A&M International's Texas Center for Border and Economic Development, the Texas Transportation Institute, and others alike); and Texas' Border Commerce Coordinator.
  
  - Provide that once the expanded Border Trade Advisory Committee develops subsequent trade and transportation recommendations that are aimed at increasing Texas' trade, that TxDOT consider implementing those recommendations in a subsequent update of the International Trade Corridor Plan.
  
- Increasing the use of intelligent information systems to expedite truck inspections at the Border's ports-of-entry by directing TxDOT to continue to work with the Texas Department of Public Safety and private industry to develop the appropriate initiatives.
  
- Supporting Texas' communities that have been negatively impacted by existing transit funding formulas by providing "toll credits" for transit systems who have seen reduced allocations.

- Increasing Texas' ability to expand trade, in the spirit of NAFTA, by directing TxDOT to create a dramatic growth fund to strengthen the infrastructure of the transportation districts bordering Mexico.

*(Texas Department of Public Safety-Related)*

- Requiring the Texas Department of Public Safety (DPS) to continue working with the appropriate state and federal entities to ensure that Texas is prepared for the opening of the Border to Mexico-domiciled trucks.
- Increasing bilateral relations with Mexico and providing additional resources to help expedite the flow of NAFTA-truck related traffic, by directing DPS to develop an incentive that provides a stipend for Spanish-speaking DPS staff stationed in the Border Transportation Districts and who are involved in the inspection of Mexico-domiciled trucks.
- Increasing bilateral relations with Mexico, in the spirit of NAFTA, by enhancing the effectiveness of the Mexico-domiciled truck inspections near Texas' ports-of-entry, through expanding opportunities of local Border communities and those involved in truck inspections to provide their input and concerns to an Oversight Community Outreach Committee.
  - Provide that the Committee act like an ombudsman between Border communities/residents and DPS administration.
  - Provide that the Committee document and report to the DPS administration trade-related incidents and occurrences involving DPS personnel, including appropriate recommendations to improve the truck inspection process.
  - Provide that the Committee be appointed by the Governor and be composed of: bridge owners, port directors, community leaders, and planning developers.

- Increasing the effectiveness of DPS, in the spirit of NAFTA, to require DPS to develop a report for the Legislature documenting the recommendation and comments provided by the Oversight Committee.
- Directing DPS to develop increased safety measures to more appropriately inspect Hazardous Waste Material cargo/trucks crossing into Texas from Mexico.
- Mitigating the foreseen increase of truck-related emissions in Texas by directing DPS to more extensively use evolving technologies and develop a program by which emission testing can occur at Texas' ports-of-entry. Provide that DPS develop a corresponding program with the goal of reducing idling at Border ports and freight yards.

*(Texas Border Commerce Coordinator-Related)*

- Increasing the effectiveness of the Border Commerce Coordinator by creating a Border Inspection, Trade and Transportation Advisory Group.
  - Provide that the Advisory Group be composed of the major state and federal agencies involved in Border crossings, along with key members of the Legislature that represent Border-crossing communities.
  - Provide that this group identify and develop recommendations to address the persisting issues involved with Border truck inspections, as well as the related trade and transportation infrastructure issues.
  - Provide that this group specifically undertake truck inspections on the Mexican side of the Border.

- Increasing the accessibility of the Border Commerce Coordinator by directing the Coordinator to work with the Metropolitan Planning Organizations and the Metropolitan Statistical Areas of the Border Transportation Districts to address their unique planning and capacity needs.
  - Provide that the Coordinator assist Border communities, along with the help of their counterparts in the Mexican states, in identifying and developing initiatives that would address their planning and capacity needs.
  
- Increasing Texas' competitive edge with other states by directing the Border Commerce Coordinator to hold binational meetings with Mexican states bordering Texas.
  - Provide that in such meetings, the Coordinator direct a discussion with the leaders of each state's transportation, economic development, workforce training, and public safety agencies to develop and design state/binational initiatives that would increase trade and commerce flow between the adjoining states.
  - Provide that as part of these meetings, the Coordinator work with the appropriate entities to address Texas' response to the opening of the Border to Mexico-domiciled trucks.
  
- Strengthening Texas' competitive edge by directing the Border Commerce Coordinator to work with the Border Chambers of Commerce and local area councils of government, as well as private industry leaders, to develop a 5-, 10- and 15-year comprehensive Trade and Commerce Plan for Texas.
  - Provide that the plan be aimed at increasing commerce and trade through the attraction of new business ventures, supporting the expansion of existing industries, as well as through the development of key partnerships which address the specific workforce training needs of Border corridor regions.

- Direct the Coordinator to work with communities on both sides of the Border, and private industry, to develop an international cluster initiative to capitalize on the resources available between Border “sister” cities.
- Provide that the Coordinator unveil the plan in a Border Commerce Summit. Provide that the Coordinator should continue having yearly Commerce Summits.
- Mitigating the foreseen increase in pollution by working with industry, and the necessary state and federal entities, to require low sulfur fuel be sold along the NAFTA highway and work with Mexico to increase the use of low sulfur fuel.
- Increasing the effectiveness of the Border Coordinator by setting some minimum performance outcome measures.

**Addressing the implementation of HB 109** In order to increase the effectiveness of this program, the members of the IRT Committee recommend:

- Improving the program by creating a Citizens Advisory Board for those impacted parties to assist the Texas Comptroller of Public Accounts in the development and implementation of international trade legislation.
- Strengthening the program by allowing Texas Border cities assist the Comptroller with the necessary personnel to audit Texas Customs Brokers involved in the export certification process. (This is already being done with the hotel/motel tax programs.)

**International Boundary Water Commission-Related Issues** In order to address the issues associated with Mexico's non-compliance with the 1944 Water Treaty, the members of the IRT Committee recommend:

- Directing the Secretary of State, in conjunction with the appropriate state and federal agencies, to develop an initiative that assesses the impact of Mexico's non-compliance.
  - Provide that the Secretary of State commission a study concerning the impact to the agricultural community.
  - Provide that the findings of the study be used by the State of Texas to memorialize Congress to create an account to fund communities who are negatively impacted by Mexico's non-compliance.
  - Provide that the findings of the study be sent as official correspondence from the State of Texas to the United States Ambassador to Mexico, the Country of Mexico, the International Boundary Water Commission, and other appropriate state and federal entities.
  - Provide that the Secretary of State work with the appropriate state agencies to develop an intermediate state fund to temporarily assist Texas' farmers negatively impacted by Mexico's non-compliance.

**US-VISIT Program-Related Recommendations** To address the concerns with the US-VISIT program, the members of the Committee recommend:

- Requesting from the federal government that it set up a tax relief fund for local businesses that are adversely affected by the US-VISIT program.
- Directing the Secretary of State to conduct a Texas Economic Assessment in conjunction with the Office of the Comptroller and the Office of the Governor, of the US-VISIT's impact on Texas' economy.



- **Creating an US-VISIT Texas Ombudsman Office, in the spirit of NAFTA, to address concerns voiced by local officials and community leaders.**
  - **Provide that the Ombudsman be housed in the Office of the State Director of Homeland Security.**
  - **Provide that the Ombudsman Office address concerns relating the treatment of travelers in Texas' airports and provide appropriate recommendations to the Texas Homeland Security Director and the Legislature to remedy any problems that are identified.**
  
- **Developing a more user-friendly, information-based website for the State of Texas' Homeland Security Office. Information should include status updates on US-VISIT, contact information for Homeland Security personnel and office numbers, links to the U.S. Department of State, U.S. Department of Homeland Security, the F.B.I., the C.I.A., and other law enforcement agencies. Provide that the web site contain a "Frequently Asked Questions" page and an email address where questions and concerns can be directed. Provide that among the links, to include the offices of the Ombudsman in the State Homeland Security and the Office of State-Federal Relations.**
  
- **Directing the State Office of Homeland Security to develop Public Service Announcements in English and Spanish regarding the implementation of US-VISIT and its directives to visitors to the United States and Texas.**
  
- **Providing for greater coordination communication between the Texas Department of Public Safety and Texas Homeland Security.**

- Requesting from Congress:
  - Parity among Mexican visitors with Canadian visitors, extend the 30-day limitation to six months with no limitation on travel distance.
  - Delay implementation of the full US-VISIT program until 2006 or 2007, or a moratorium in the program's implementation. This will allow ample opportunity for hearings on the issue and testing of equipment and procedures at airports and seaports, to make the transition to land ports seamless and efficient.
  - Dedication of a percentage of net revenues for the purpose of improving facilities, maximizing infrastructure and additional personnel.
  - Modification of Intra-Company Transfer (LI) visas and the Professional Worker (HIB) visa, in terms of admission, to allow third country nationals employed in the U.S./Mexico maquiladora industry to reside in the U. S. and work in Mexico.
  - A new "retired worker visa" to allow a resident of Canada or Mexico to own a vacation or second home in the United States. Requirements would include demonstration of financial stability/support, without employment in the United States and maintenance of a primary home outside of this country. Renewal of this visa would be on a three-year period, contingent on meeting requirements.
  - A plan to be in place to address issues of treatment of Mexican nationals when they apply for their laser visas at the U.S. Consular/Embassy offices and at ports-of-entry. This should include a formal complaint process to officials not in place at ports-of-entry.



# The Senate of The State of Texas

Senator Craig Estes

District 30

December 13, 2004

The Honorable Eddie Lucio, Jr.  
Chairman  
Senate Committee on International Relations and Trade  
P.O. Box 12068  
Austin, TX 78711

Dear Chairman Lucio:

Thank you for the hard work that you and your staff have invested in drafting the Senate Committee on International Relations and Trade interim report to the 79th Legislature. The concerted effort made by the committee to address the assigned charges with new and creative recommendations is truly impressive. We commend your diligence and vision for the State of Texas.

However, we find it necessary to express several concerns regarding some of the proposed recommendations including a proposed stipend to Spanish-speaking Department of Public Safety staff in the Border Transportation Districts and the reallocation of a portion of the Texas Enterprise Fund for Texas Workforce Commission training programs. We also have general questions as to how to fund proposals within many of the committee's other recommendations.

We cannot shy from tough decisions. We can, however, gain as much knowledge as possible before making a decision. In fact, it is our duty to be as fully informed as possible before acting. We believe many of the recommendations contained in the report should be thoroughly studied before implementation.

Again, thank you for your dedication and diligence in producing such an involved report, and we look forward to working with you on these and other issues during the coming Session. Please feel free to contact us with any questions or concerns.

Sincerely,

Craig Estes

Kel Seliger

CE/tb

CAPITOL OFFICE:  
P.O. Box 12068  
Austin, Texas 78711  
512-463-0130  
FAX: 512-463-8874  
Dial 711 for Relay Calls

DENTON DISTRICT OFFICE:  
2220 San Jacinto Blvd., Ste. 318  
Denton, Texas 76205  
940-898-0331  
Fax: 940-898-0926



SHERMAN DISTRICT OFFICE:  
1117 Gallagher, Ste 340  
Sherman, Texas 75090  
903-868-2347  
Fax: 903-868-9666

WICHITA FALLS DISTRICT OFFICE:  
4245 Kemp Blvd., Ste. 306  
Wichita Falls, Texas 76308  
940-689-0191  
Fax: 940-689-0194