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Deputy Secretary of State
and
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Report of Activities to the Legislature
As per §772.010 of the Texas Government Code

With contributions and support from:

Attorney General of Texas
Texas General Land Office
Texas Department of Agriculture
Texas Education Agency
Texas Commission on Environmental Quality
Texas Health and Human Services Commission
Texas Higher Education Coordinating Board
Texas Department of Insurance
North American Development Bank
Texas Parks and Wildlife
Public Utility Commission of Texas
Railroad Commission of Texas
Office of Rural and Community Affairs
Texas Department of State Health Services
Texas Department of Transportation
Texas Water Development Board

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Introduction and Background

During the 79th Regular Texas Legislative Session, HB 925 was passed. This legislation amended Texas Government Code Section 772.010, which describes the duties and responsibilities of the Texas “Border Commerce Coordinator.” HB 925 also required that the Border Commerce Coordinator submit a report of his activities to the presiding officers of each Chamber of the Legislature. This report is intended to fulfill that mandate.

By way of background, there are currently three different versions of Section 772.010, the statute that outlines the responsibilities of the Border Commerce Coordinator. These three versions are as follows:

§ 772.010. BORDER COMMERCE COORDINATOR.

Text of section as added by Acts 1999, 76th Leg., ch. 429, § 1, effective if Acts 2005, 79th Leg., ch. 1369 does not make a specific appropriation for implementation of Acts 2005, 79th Leg., ch. 1215, § 3 which reenacted and amended this section

(a) The governor shall designate a border commerce coordinator in the governor's office. The coordinator shall:

- (1) study the flow of commerce at ports of entry between this state and Mexico, including the movement of commercial vehicles across the border; and
- (2) establish a plan to aid that commerce and improve the movement of those vehicles.

(b) The governor shall appoint the coordinator to serve at the will of the governor.

Added by Acts 1999, 76th Leg., ch. 429, § 1, eff. Sept. 1, 1999.

For text of section as reenacted and amended by Acts 2005, 79th Leg., ch. 1215, § 3(a), if a specific appropriation for implementation of Acts 2005, 79th Leg., ch. 1215, § 3 is provided in Acts 2005, 79th Leg., ch. 1369, or for text of section as added by Acts 1999, 76th Leg., ch. 1339, § 1 if no appropriation is provided, see § 772.010, post.

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(a) The governor shall designate a border commerce coordinator in the governor's office or the office of the secretary of state as determined by the governor. The coordinator shall:

- (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;

(5) work to increase funding for the North American Development Bank to assist in the financing of water and wastewater facilities; and

(6) explore the sale of excess electric power from Texas to Mexico.

(b) The governor shall appoint a border commerce coordinator to serve at the will of the governor in the governor's office or in the office of the secretary of state and may select the secretary of state as the coordinator.

Added by Acts 1999, 76th Leg., ch. 1339, § 1, eff. June 19, 1999.

For text of section as reenacted and amended by Acts 2005, 79th Leg., ch. 1215, § 3(a), if a specific appropriation for implementation of Acts 2005, 79th Leg., ch. 1215, § 3 is provided in Acts 2005, 79th Leg., ch. 1369, see § 772.010, post. For text of section as added by Acts 1999, 76th Leg., ch. 429, § 1 if no appropriation is provided, see § 772.010, ante.

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Text of section as reenacted and amended by Acts 2005, 79th Leg., ch. 1215, § 3(a), if a specific appropriation for implementation of Acts 2005, 79th Leg., ch. 1215, § 3 is provided in Acts 2005, 79th Leg., ch. 1369

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(6) work to increase funding for the North American Development Bank to assist in the financing of water and wastewater facilities; and

(7) explore the sale of excess electric power from Texas to Mexico.

(b) The governor shall appoint a border commerce coordinator to serve at the will of the governor in the governor's office or in the office of the secretary of state and may select the secretary of state as the coordinator.

(c) The coordinator shall work with the interagency work group established under Section 772.011, and with local governments, metropolitan planning organizations, and other appropriate community organizations adjacent to the border of this state with the United Mexican States, and with comparable entities in Mexican states adjacent to that border, to address the unique planning and capacity needs of those areas. The coordinator shall assist those governments, organizations, and entities to identify and develop initiatives to address those needs. Before January 1 of each year, the coordinator

shall submit to the presiding officer of each house of the legislature a report of the coordinator's activities under this subsection during the preceding year.

(d) The coordinator shall:

(1) work with private industry and appropriate entities of Texas and the United States to require that low-sulfur fuel be sold along highways in Texas carrying increased traffic related to activities under the North American Free Trade Agreement; and

(2) work with representatives of the government of Mexico and the governments of those Mexican states bordering Texas to increase the use of low-sulfur fuel.

Added by Acts 1999, 76th Leg., ch. 429, § 1, eff. Sept. 1, 1999; Acts 1999, 76th Leg., ch. 1339, § 1, eff. June 19, 1999. Reenacted and amended by Acts 2005, 79th Leg., ch. 1215, § 3(a), eff. Sept. 1, 2005.

For text of section if no specific appropriation for implementation of Acts 2005, 79th Leg., ch. 1215, § 3, is provided in Acts 2005, 79th Leg., ch. 1369, see § 772.010, ante, for the texts as added by Acts 1999, 76th Leg., ch. 429, § 1 and as added by Acts 1999, 76th Leg., ch. 1339, § 1.

Although these three different versions of §772.010 do contain some differences, they are rather consistent in many ways and in their overall intent. Therefore, to effectuate the will of the Legislature in passing these statutes, as Border Commerce Coordinator, I have attempted to harmonize and simultaneously give effect to each of these three different versions.

As the name implies, the Border Commerce Coordinator (BCC) serves as a channel for communication and coordination on initiatives between various state agencies and representatives from the local, state and federal governments of the United States, Mexico and Canada. In order to perform better, the Office of the Secretary of State utilizes the Texas Border and Mexican Affairs Division to provide maximum support to the BCC in all of its activities and mandates. By utilizing the executive branch of government and extensive diplomatic and other outreach efforts to coordinate commerce along the border region, Texas benefits by comparison to other U.S. border states.

While it would be a monumental task to list every single meeting and phone call related to §772.010, this report gives an overview of the most relevant activities undertaken by the BCC in order to appropriately comply with its legislative directives. Below appears a highlighted summary of activities in which the BCC has been involved since the past regular legislative session.

Examine trade issues between the United States, Mexico, and Canada.

As Border Commerce Coordinator and the Deputy Secretary of State, I have met on numerous occasions with officials from Mexico, Canada, and the Texas border to discuss and examine legitimate trade issues and barriers that exist in those efforts. While international trade policy is dictated by the US federal government, there are many things that the State of Texas does to assist businesses to compete in national and international markets. The Agreement for Regional Progress that Texas signed with the four Mexican states along its southern border - Chihuahua, Coahuila, Nuevo León and Tamaulipas - has

helped facilitate progress in cross border communication. Among other things, the goal of the agreement is “to benefit, and strengthen, through cooperative programs and actions, the competitiveness and the integral development of each state and the Northeast Mexico-Texas Region as a whole.” By partnering with our neighbors to the south we can become more regionally competitive and marketable as participants in the global economy.

As Border Commerce Coordinator, in representation of Governor Rick Perry, I attended the 1st Workshop on Logistics for Regional Competitiveness, which was held in January of this year in Monterrey, Nuevo Leon, Mexico. This very successful event included the participation of entrepreneurs and federal, state and local government representatives from both sides of the US-Mexico border. By identifying, and promoting projects that integrate and stimulate competitiveness within the border region, we hope to develop human capital for the economic enhancement of Mexico and Texas. The next meeting is scheduled for January 30, 2007.

Secretary of State Roger Williams has also led trade missions to Mexico, including recent visits to Monterrey, Nuevo Leon and Saltillo, Coahuila, and Mexico City, all on behalf of Texas. Our office has also developed communication, transportation and business relations with representatives of the governments of Manitoba, and Quebec, Canada and hosted two different Canadian Premier visits (Manitoba and New Brunswick). Additionally, Secretary Williams and I attended the North America’s SuperCorridor Coalition (NASCO) Conference in Manitoba, Canada where transportation and trade issues affecting the U.S., Mexico and Canada were addressed.

Finally, as Border Commerce Coordinator I am not directly involved with border security, but it has a huge impact on the relationship between Texas and Mexico, particularly when it comes to trade. I have participated in meetings relating to border security between Mexican Attorney General Cabeza de Vaca and Governor Perry, as well as represented Texas in meetings with United States Attorney General Gonzales and law enforcement officials from both sides of the US/Mexico border. Communication and coordination between our two countries has increased cooperation and will improve safety for all residents on both sides of the border plagued with numerous criminal activities. Trade will immediately benefit from this increased security.

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.

As Border Commerce Coordinator, I believe that one of the best ways to coordinate with other government agencies is by keeping the channels of communication open at all times. The Interagency Work Group on Border Issues, which was created by HB 925 and was formerly known as the Secretary of State Advisory Roundtable, is a group comprised of various State agencies with activities along the Border and with Mexico. This Group meets frequently to share experiences and knowledge and to reduce regulation and duplication of efforts where possible.

HB 925 created the Texas-Mexico Strategic Investment Commission as well. Most of the specific points of action of the mandate which are similar to those of the Border Commerce Coordinator have already been incorporated in the BCC activities. The Commission has met, according to the mandate, to discuss and pursue all the issues of common interest to the six agencies included in this mandate: TxDOT, TWDB, DSHS, TCEQ, RRC and SOS. Such meeting took place on September 12, 2006, and the documentation that stemmed from the meeting is included in Appendix A.

Also from last session, SB 1202 asks the Secretary of State to consider the advice of the Colonia Resident Advisory Committee, define and develop a strategy to address the needs of colonia residents and make recommendations to the legislature based on that strategy. With the assistance of various participants, including the Texas Department of Housing and Community Affairs, we are in the process of reporting and communicating the quality of life recommendations the colonia residents shared with us over the last several months.

Study the flow of commerce at ports of entry between this state and Mexico, including the movement of commercial vehicles across the border, and establish a plan to aid that commerce and improve the movement of those vehicles.

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.

Work with federal officials to create a unified federal agency process to streamline border crossing needs.

SB 183 called for the establishment of the Border Trade Advisory Committee, with a charge to define and develop a strategy and make recommendations to the Governor for addressing the highest priority trade transportation challenges. As Border Commerce Coordinator, I served as Chairman of this 31 member committee and the Committee submitted a report of its recommendations to the Governor. The Committee considered the importance of trade with Mexico, potential sources of infrastructure funding at border ports, and the value of trade activity in the Texas-Mexico border region, and will develop short-term recommendations and long-term recommendations to address at both the state and federal levels of the US and Mexico.

Work to increase funding for the North American Development Bank to assist in the financing of water and wastewater facilities.

As Border Commerce Coordinator, my staff and I communicate with the Managing Director and staff of the North American Development Bank (NADBank). Texas should recognize the importance of the NADBank and their mission.

A summary report of activities from the NADBank is included. The NADBank has proven time and again to be a beneficial source of funds for the neediest Texas border

communities. As such, as Border Commerce Coordinator, I have written various letters addressed to federal government officials to request the full funding of BEIF funds for NADBank or at least an increase in current funding.

Explore the sale of excess electric power from Texas to Mexico.

I have met with public and private sector representatives to discuss the cross-border sale of power. Texas to Mexico electricity sharing is not readily available except in limited emergency circumstances. But the Sharyland, Texas DC tie (once completed) will be an important step in the eventual consumption of electricity in Mexico from Texas, and can eventually lead to potential manufacturing jobs for the Rio Grande Valley. Groundbreaking on this project occurred earlier in 2006.

Work with the interagency work group (established under Section 772.011), and with local governments, metropolitan planning organizations, and other appropriate community organizations adjacent to the border of this state with the United Mexican States, and with comparable entities in Mexican states adjacent to that border, to address the unique planning and capacity needs of those areas. The coordinator shall assist those governments, organizations, and entities to identify and develop initiatives to address those needs.

The Interagency Work Group is comprised of representatives from the following State agencies:

- (1) Office of Rural Community Affairs;
- (2) Texas Department of Housing and Community Affairs;
- (3) Texas Water Development Board;
- (4) Texas Department of Transportation;
- (5) Texas Commission on Environmental Quality;
- (6) Texas Workforce Commission;
- (7) Department of State Health Services;
- (8) Health and Human Services Commission;
- (9) General Land Office;
- (10) Texas Education Agency;
- (11) Texas Economic Development and Tourism Office;
- (12) Texas Office of State-Federal Relations;
- (13) Texas Higher Education Coordinating Board;
- (14) Office of the Attorney General;
- (15) Office of the Secretary of State;
- (16) Texas Department of Public Safety; and
- (17) Railroad Commission.

The Group met to discuss numerous issues. The documentation that stemmed out of these meetings (agendas, minutes and transcript) is enclosed as Appendix B at the end of this report.

Also, as Border Commerce Coordinator, I submitted a survey through the work group members to update/coordinate the various agency activities. The findings are enclosed as Appendix C at the end of this report.

Work with private industry and appropriate entities of Texas and the United States to require that low-sulfur fuel be sold along highways in Texas carrying increased traffic related to activities under the North American Free Trade Agreement. Work with representatives of the government of Mexico and the governments of those Mexican states bordering Texas to increase the use of low-sulfur fuel.

As per working with private industry and appropriate entities of Texas and the United States to require that low-sulfur fuel be sold along highways in Texas carrying increased traffic related to activities under the North American Free Trade Agreement; to meet EPA regulations, as of October 15, 2006, Ultra Low Sulfur Diesel (ULSD) fuel of 15 parts per million (ppm) or less is available for retail sale in Texas and the entire U.S.

In 2004, the Border Governors Conference Environmental Work Table had a line in the Joint Declaration related to ULSD fuel to “promote the availability and use of ultra-low sulfur diesel fuel in border communities aimed at reducing air pollutants and, thus, improving air quality in the border region. “

The TCEQ has also made efforts to get Petróleos Mexicanos (PEMEX) and SEMARNAT (Mexico’s Ministry of Environment and Natural Resources) to introduce low sulphur fuels in Mexico, and as of October 20, 2006 Mexico modified the law (NOM-086) that regulates sulfur content in fuels. On that same date, Pemex introduced premium (high octane) ultra-low sulfur gasoline and in January of 2007 Mexico will introduce ULSD in its northern border. Although Mexico has committed to make the necessary modifications to its refining plants to produce ULSD, the production of this fuel will not be available until 2009, and right now it is being imported.

The remainder of the BCC activities, highlight the close relationship with the Border and Mexico. With any specific project, the BCC and the staff of the Texas Border and Mexican Affairs division is in constant communication with the Governor’s Office, as well as with the different State agencies involved, to track and coordinate developments and share timely information. Efforts are coordinated with the purpose of having a strong government position, which enables Texas to have a uniform and harmonized State response whenever it is needed.

In addition, communication with representatives from various entities that have some or full participation in Texas-Mexico affairs is of utmost importance. As Border Commerce Coordinator, I maintain close ties with officials from local to federal representatives of the U.S. Department of State, the North American Development Bank (NADBank), the Border Environmental Cooperation Commission (BECC), the International Boundary and Water Commission (IBWC), the Mexican Ministry of Foreign Affairs, the Consulates of Mexico in Texas, and the governors and State officials of each of the Mexican and U.S. Border States. Additionally, federal, state and local authorities on both sides of the

border have created joint commissions, committees, and task forces to study the impact of social, environmental, and industry-specific issues. The fact is that issues involving the border are, without question, long-term issues.

Cultivating relationships such as these helps Texas become aware of legal and regulatory issues that require monitoring, provides Texas with points of contact throughout the legal, governmental and regulatory framework that affects border issues, and enhances Texas' credibility when working on issues that could be polarizing, divisive or difficult.

Border Security, Immigration, and Legitimate Free-Trade.

Despite the enormous attention that has been given to the issue of illegal immigration lately, few people truly appreciate the complexity of the issue. Although they are related, the issue of border security is one that is separate from the issue of what to do with illegal immigrants who are already here, or how to address legitimate cross-border trade in a more secure, efficient manner.

The issue of border security must be a top priority for the State, particularly for local and state law enforcement agents along the Texas/Mexico border. Security promotes stability, and in the absence of stability, few things are possible. Indeed, increased stability is absolutely essential if Texas wants to continue to attract people from other states and countries, to live, work, raise a family and retire.

The second issue of what to do with illegal immigrants who are already here is no less important, although it is much more complex. While the issue of how much illegal immigrants cost Texas taxpayers may be debatable, it is beyond dispute that there is an impact on the state budget and that local governments bore the burden in uncompensated health care costs and local law enforcement costs not paid for by the state. Illegal immigrants attend our public schools, they visit our emergency rooms and they drive on our streets. It is certainly understandable that a law-abiding citizen may come to resent (or at the very least disapprove of) spending tax dollars on benefits that are enjoyed by people who must break the law in order to do so.

At the same time, there is the reality that there are economic benefits associated with illegal immigrants. The fact that someone is here illegally means that he or she can not expect (and will not demand) the wages, benefits or legal protections that a legitimate worker would. Lower wages mean lower costs; and lower costs mean lower prices, which is obviously why illegal labor is so attractive both to American employers and consumers alike.

Therefore, it seems that what makes the issue of illegal immigration so complex is that illegal immigrants are, by definition, illegal. We have become increasingly intolerant of those who break the law and are usually very quick to demand justice for those who do, as well we should. And yet, the issue of illegal immigration may be the only context in

which so many are so hesitant to do exactly that. Indeed, the illegality of these people's presence here is something that is often trivialized, and even ignored by so many voices in the illegal immigration debate.

But this kind of attitude, in a society such as ours where everyone is expected to follow the law and no one is considered to be above it, is both dishonest and destructive. Laws that are not enforced quickly lose their deterrent effect and are not respected. Any subsequent enforcement of these laws then leads some to criticize the enforcers as being selective, even racist, in whom they enforce the law against. These charges, regardless of their truth, further erode the public's confidence in both the law and in those who enforce it.

Which brings us to the issue of legitimate free-trade. Mexico is our largest trading partner, and preserving and increasing legitimate business with Mexico and Canada should be a priority in any border discussion. Logistics and technology improvements can make the Texas/Mexico border safer, more globally competitive and marketable.

The solution to the illegal immigration issue and to a certain extent border security is ultimately (and unfortunately) a federal responsibility. Governor Perry, in his remarks to the Texas Border Coalition in December of 2006, called on Congress to enact some kind of guest worker program that would legitimize immigrants' "economic contributions without doing the same for their citizenship." A proposal such as this recognizes that the current system is not working and that a change in the status quo is long overdue.

We can have both secure borders and access to a workforce that is safe, legal and legitimate. But doing so will require us first to have a serious discussion about what kinds of rules we are willing to live by, and the will to enforce those rules once they have been agreed upon. The fact that we have yet to develop such a system when it comes to illegal immigration could mean that we have yet to have that discussion. As the 80th Legislative Session begins, lawmakers should respond with proposals that are both decent and workable; not with accusations that impugn the motives of those who are offering them.