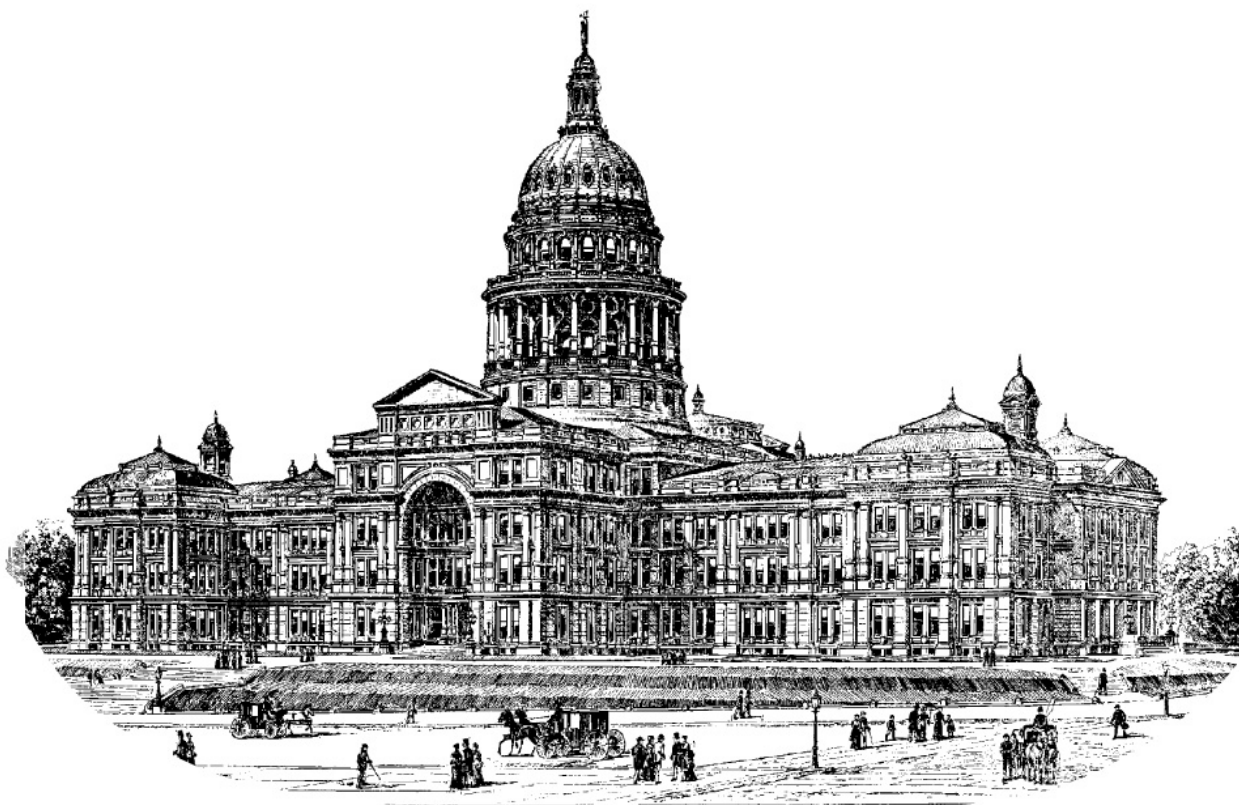




INTERIM REPORT

TO THE 83RD TEXAS LEGISLATURE



HOUSE COMMITTEE ON
HOMELAND SECURITY & PUBLIC SAFETY
JANUARY 2013

**HOUSE COMMITTEE ON HOMELAND SECURITY AND PUBLIC SAFETY
TEXAS HOUSE OF REPRESENTATIVES
INTERIM REPORT 2012**

**A REPORT TO THE
HOUSE OF REPRESENTATIVES
83RD TEXAS LEGISLATURE**

CHAIRMAN SID MILLER



Committee On Homeland Security and Public Safety

January 7, 2013

Chairman Sid Miller

P.O. Box 2910
Austin, Texas 78768-2910

The Honorable Joe Straus
Speaker, Texas House of Representatives
Members of the Texas House of Representatives
Texas State Capitol, Rm. 2W.13
Austin, Texas 78701

Dear Mr. Speaker and Fellow Members:

The Committee on Homeland Security and Public Safety of the Eighty-second Legislature hereby submits its interim report including recommendations for consideration.

Respectfully submitted,

Handwritten signature of Sid Miller in black ink.

Sid Miller

Handwritten signature of Allen Fletcher in black ink.

Allen Fletcher

Lon Burnam

Lon Burnam

Handwritten signature of Dan Flynn in black ink.

Dan Flynn

Handwritten signature of Aaron Peña in black ink.

Aaron Peña

Handwritten signature of Marva Beck in black ink.

Marva Beck

Handwritten signature of Joe Driver in black ink.

Joe Driver

Barbara Mallory Caraway

Barbara Mallory Caraway

Armando Walle

Armando Walle

Allen Fletcher
Vice-Chairman

Members: Marva Beck, Lon Burnam, Joe Driver, Dan Flynn, Barbara Mallory Caraway, Aaron Peña, Armando Walle

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INTRODUCTION

At the beginning of the 82nd Legislature, the Honorable Joe Straus, Speaker of the Texas House of Representatives, appointed nine members to the House Committee on Homeland Security and Public Safety: Sid Miller, Chairman, Allen Fletcher, Vice-Chairman, Marva Beck, Lon Burnam, Joe Driver, Dan Flynn, Barbara Mallory Caraway, Aaron Pena, Armando Walle.

Pursuant to Rule 3, section 18, the Committee maintains jurisdiction over all matters pertaining to:

1. law enforcement;
2. the prevention of crime and the apprehension of criminals
3. the provision of security services by private entities; and
4. Homeland Security, Including:
 - A) the defense of the state and nation including terrorism response; and
 - B) disaster mitigation, preparedness, response, and recovery; and
5. the following state agencies: the Commission on Law Enforcement Standards and Education; the Department of Public Safety, the Division of Emergency Management, the Emergency Management Council, the Texas Military Preparedness Commission the Texas Forensic Science Commission , the Texas Private Security Board, the Commission on State Emergency Communications, and the Crime Stoppers Advisory Council.

HOUSE COMMITTEE ON HOMELAND SECURITY AND PUBLIC SAFETY

INTERIM STUDY CHARGES

1. Examine the extent of interstate coordination concerning border security and intelligence sharing and determine whether any changes to state law are needed to enhance that coordination and cooperation. *(Joint with the House Committee on Border & Intergovernmental Affairs)*
2. Monitor the Texas Department of Public Safety's implementation of the driver's license improvement plan and the use of the funds appropriated to the department for such purposes by the 82nd Legislature. Evaluate the feasibility of privatization with the intent to minimize wait times for Texans. *(Joint with the House Committee on Appropriations)*
3. Determine the feasibility and need for a digital emergency public service messaging network to be developed on established evacuation routes.
4. Examine the role of law enforcement personnel assigned to school district campuses and postsecondary education campuses and determine whether any changes to laws concerning the enforcement of safety and discipline are necessary. Determine whether additional training of law enforcement personnel assigned to school district and secondary education campuses is necessary.
5. Examine state and federal law to determine whether existing provisions adequately address security and efficiency concerns for steamship agencies and land ports of entry along the Texas-Mexico border. Evaluate whether the state and the federal government have provided sufficient manpower, infrastructure, and technology to personnel in the border region. *(Joint with the House Committee on Border & Intergovernmental Affairs)*
6. Monitor the agencies and programs under the committee's jurisdiction and the implementation of relevant legislation passed by the 82nd Legislature.

Examine the extent of interstate coordination concerning border security and intelligence sharing and determine whether any changes to state law are needed to enhance that coordination and cooperation.

Committee Action:

The Committee on Homeland Security and Public Safety held a joint public hearing on March 1st in Huntsville, Texas and on Tuesday, April 24th of 2012 in Copperas Cove, Texas with the Committee on Border and Intergovernmental Affairs chaired by Veronica Gonzales. On this date the committee heard testimony in order to further examine the extent of interstate coordination concerning border security and intelligence sharing and determine whether any changes to state law are needed to enhance that coordination and cooperation.

During the hearing, members of the House Committee on Homeland Security and Public Safety read and heard invited testimony from various governmental, law enforcement, and border security authorities.

Background:

Border security is vital to the safety of all Texans and one of the state's greatest threats is a porous border. Illegal entry into Texas brings criminal activity, drugs, and terrorism into the region. Governor Perry and the Texas Legislature have taken significant action to place law enforcement resources in the border region to hinder the advancement of unsecured areas by Mexican cartels, transnational gangs, and terrorists.

Texas remains a national leader in homeland security along the 1,254 mile border it shares with Mexico because of the efforts of our Governor and Legislature. Current operations and tactics serve the people of Texas well and are being successfully escalated through projects such as the Texas Ranger Reconnaissance Team, fusion centers and the Border Security Operations Center, and BlueServo (public assisted virtual fence program). New technologies are also being utilized and include license plate readers, portable electronic fingerprint readers, radio interoperability in the border and key corridors, and TxMAP to enable border wire crime mapping and operational support.

As previously stated: Texas remains a national leader in homeland security along our Southern border. The area that is affected by illegal entry and transnational crime is, however, no longer restricted to the immediate border region and extends to nearly every one of the United States. For this reason it is increasingly critical for security programs to be interoperable from state to state and for intelligence and information to be shared effectively and efficiently.

Committee Recommendation/Ruling:

Whenever possible the 83rd Texas Legislature and the Committee on Homeland Security and Public safety must actively work towards the improvement and expansion of existing interstate databases that compile data, statistics, records, and other data relating to border and homeland security. Our state must ensure our systems are compatible with programs such as the FBI's national DNA index, which is called CODIS. All branches of Texas law enforcement must be diligent in accurately reporting information to the record management system (RMS), jail management system (JMS), and computer aided dispatch (CAD). Legislation and Resolutions should also be considered. Call for widespread use of the federal N-DEX data exchange system, after which the T-DEX data exchange system is modeled. These programs facilitate effective interstate record and data sharing protocol and have a significant impact on the tracking and apprehension of illegal activity and entrants on U.S. soil.

Monitor the Texas Department of Public Safety's implementation of the driver's license improvement plan and the use of the funds appropriated to the department for such purposes by the 82nd Legislature. Evaluate the feasibility of privatization with the intent to minimize wait times for Texans. *(Joint with the House Committee on Appropriations)*

Committee Action

The Committee on Homeland Security and Public Safety held a joint public hearing on April 16th, 2012 in Austin, with the House Appropriation Subcommittee on Articles I, IV, and V chaired by John Otto. On this date the committee heard testimony on the Texas Department of Public Safety's implementation of the driver's license improvement plan and the use of the funds appropriated to the department for such purposes by the 82nd Legislature. Testimony was given by the Texas Department of Public Safety and the Legislative Budget Board.

Background

The main functions of the Texas Driver License Division (DLD) at the Department of Public Safety (DPS) are to license drivers, distribute state identification cards, remove privileges from unsafe drivers, and regulate the eligibility of individuals attempting to maintain a driver license. DLD also manages the Administrative License Revocation program, is responsible for maintaining state driver records, and administers state and federal laws against negligent motor vehicle operators and drivers on Texas highways.

Between fiscal years 2000 and 2012 Texas' population increased by four million people (a 21 percent increase) and is projected to grow by seven million additional citizens over the next twenty years (a 28 percent increase). Customer service levels of the DLD have failed to meet expected standards in the past, partly because of the increase in the number of transactions required by population growth while the number of dedicated employees has remained constant. DPS executives have publicly stated that "the single most visible sign of dysfunction in state government is the long lines wrapped around the offices for driver licenses."¹

DPS has installed a system to help track the wait time that a customer has while in the driver license office, but the system only begins tracking an individual when the customer checks in at the door, failing to account for time spent waiting to enter agency facilities. There are numerous instances where Texans have experienced multiple hour wait times outside of DPS buildings before checking into the tracking system. While the DPS offices come relatively close to the optimal thirty minute mark for completion of a driver license renewal, and the forty-five minute self-imposed agency performance measure for all other customer transactions, tracking times are inaccurate because they do not account for the amount of time spent waiting outside the facilities. Despite the growth that the state has seen over the last ten years, the agency has closed numerous rural Driver License offices, compounding the problem in certain areas of the state. Recent appropriation levels have allowed DPS to reopen some of those rural offices, but many remain shuttered.

DPS has been able to achieve some progress in addressing the operational issues in the DLD and improving the driver license process through a combination of increased attention by the legislature and increases in direct program appropriations during the 82nd Legislature. In a 2009 report, the state's Sunset Advisory Commission (Sunset) recommended that DPS contract with an outside entity to conduct a management and organizational study. Sunset also recommended the Driver License program use a civilian business management model rather than the current law

enforcement model. Two years later DPS, with assistance from Texas State University, published a report that has served as the framework for the current Driver License Improvement Plan currently being implemented by the agency. The report's recommendations included: combining licensing and regulatory functions into one division; establishing a non-commissioned management and staffing structure for the Driver License program; reassigning law enforcement officers from the Driver License program to other divisions; creating six mega-center offices, in Austin, San Antonio, Dallas/Fort Worth, and Houston; and closing offices in less populated regions to allow staff to be reassigned to areas with a greater need.

DPS began implementing these activities, with the assistance of dedicated appropriations approved by the 82nd Legislature, during the 2012-13 biennium. The agency was appropriated \$64.1 million and 112 staff positions in fiscal year 2012 and 361 positions in fiscal year 2013 to implement the Driver License Improvement Plan. In addition to the report's recommendations, DPS has also attempted to improve customer service levels by accepting credit cards at all locations, allowing customers to pay compliance fees online, increasing the number of customer calls answered, and shortening the average number of days for a license or identification card to be delivered from forty-five days to less than ten days. The last of the mega-center offices is scheduled to open in January 2013.

To help alleviate wait times, DPS has executed a contract with a private vendor to install a queuing system at the six mega-center locations that allows customers to remotely "check-in" through a smart phone application or computer connection prior to arriving at the center site. Another feature of the queuing system is the ability to pause and hold your spot in line through text message or email services in the event that you encounter traffic or another unforeseen event on your way to the center. For those individuals who do not have access to the technology to use this queuing system or just do not want to use the system, the vendor will install kiosks at the mega centers that will also allow customers to sign in and manage their place in line, in the same manner as those who have remotely checked in. This will allow both those waiting at home and those physically waiting in the office to be in the same queue and streamline the waiting process. The agency's ultimate goal is for customers to be able to call and schedule an appointment days or weeks in advance for any type of transaction.

During fiscal year 2013, DPS has begun reopening some previously closed rural offices. The agency plans on maximizing the staff activities in these offices, where the number of customers can vary greatly on any given day, by routing in calls from some of the busier urban offices. Not only will such an operation maximize staff productivity throughout the system, but should reduce customer call wait times experienced throughout the state.

Committee Recommendation/Ruling

The Texas Department of Public Safety should continue efforts to improve upon the current driver's license improvement plan. In their 2012 Legislative Appropriation Request for the 2014-15 biennium, DPS requested an additional \$140.5 million and 963 employees to continue implementation of the Driver's License Improvement Plan. In the agencies opinion, the requested resources are necessary to have enough employees to staff Driver License centers and offices, extend operating hours, provide staff support in response to a decade of growth, implement new technology, and increase operational efficiencies to improve customer service. To address the perceived technology gap and improve self-service capabilities, the Driver License Division would use a portion of the requested funds to acquire 325 self-service assisted kiosks to be installed at the busiest offices around the state and provide electronic tablets for examiners to increase efficiency and reduce fraud.

Determine the feasibility and need for a digital emergency public service messaging network to be developed on established evacuation routes.

Committee Action:

The Committee on Homeland Security and Public Safety held a public hearing on Friday, August 24th of 2012. On this date the committee heard testimony regarding the feasibility and need for a digital emergency public service messaging network to be developed on established evacuation routes.

During the hearing, members of the House Committee on Homeland Security and Public Safety heard and read invited testimony from Drew Cartwright, Chief Operation Officer of the Texas Emergency Network, Shanna Igo, Deputy Executive Director of the Texas Municipal League, Clear Channel Outdoor, and Roderick Sanchez, Director of Development Services and Code Enforcement for the City of San Antonio.

Background:

In the 82nd Texas Legislature, Senate Bill 971 and House Bill 1765 were filed proposing an amendment to Section 1, Chapter 418 of the Government Code providing for the creation of Subchapter I relating to an Emergency Public Service Messaging Network. This would establish a network of digital display sign located on certain highways in Texas to more efficiently notify the public in emergency situations.

A digital emergency public service billboard network is a feasible and effective solution to the problem of communicating with Texans during times of crisis and even further bolstering public safety through usefulness not restricted to times of natural disaster, but extending to cooperation with the FBI and other law enforcement and public service and health organizations to better serve the safety of Texans through Amber Alert, missing person, and national security crisis messaging. Examples of such digital billboards already exist along many gulf coast emergency evacuation routes.

However, permission regarding the construction and placement of digital billboards for purpose of emergency messaging and for commercial advertisement cannot be allowed to preempt local and municipal safety and aesthetic considerations nor city and state signage regulation. Placement of digital billboards must be subject to approval by localities to protect home-rule authority on land use matters. This proved to be the primary concern voiced regarding the aforementioned legislation.

Committee Recommendation/Ruling:

The Digital Emergency Billboard Network is successfully growing on key emergency and evacuation routes without legislation or government input. Billboard suppliers and advertisers alike are working with localities to see the network expanded and billboards erected where they are needed and deemed to be mutually beneficial for Texas municipalities and individual citizens. The legislation considered in the 82nd Texas Legislative Session served to bring up poignant questions on the issue of establishing such a network of billboards. Through the cooperation of all parties involved and due exploration by the House Committee on Homeland Security and Public Safety, the contention regarding this issue has largely been solved and no action is recommended at this time.

Examine the role of law enforcement personnel assigned to school district campuses and postsecondary education campuses and determine whether any changes to laws concerning the enforcement of safety and discipline are necessary. Determine whether additional training of law enforcement personnel assigned to school district and secondary education campuses is necessary.

Committee Action:

The Committee on Homeland Security and Public Safety held a public hearing on Friday, August 24th of 2012. On this date the committee heard testimony in order to further examine the role of law enforcement personnel assigned to school district campuses and postsecondary education campuses and determine whether any changes to laws concerning the enforcement of safety and discipline are necessary and determine whether additional training of law enforcement personnel assigned to school district and secondary education campuses is necessary.

During the hearing, members of the House Committee on Homeland Security and Public Safety read and heard invited testimony from Chief Jeff Ward of the San Antonio Police Department, Chief Charles “Chuck” Brawner of the Spring Branch Independent School District Police Department, Jeanette Moll, juvenile justice policy analyst for Texas Public Policy Foundation, Lauren Rose, Mental Health Juvenile Justice Policy Fellow for Texans Care for Children, Jeffrey Miller, Education Policy Specialist for Disability Rights Texas, Kathryn Freeman, Staff Attorney for Texas Appleseed, and Kevin Lawrence, Executive Director of the Texas Municipal Police Association.

Background:

During the 82nd session of the Texas Legislature several bills were proposed that dealt with various discipline and enforcement issues on public school campuses. Though stories of 10-year-old children getting ticketed by officers for sleeping in class or chewing gum, while completely possible, seem anecdotal and rare, the presence and actions of peace officers on public school campuses has nevertheless come into question and presented the need for statutory answers.

Discipline and law enforcement are an integral part of the learning environment. If a student or faculty member does not feel safe and relaxed while on campus the education endeavor can be severely compromised. Because of the complexity of the school environment and disciplinary processes, a comprehensive approach to school safety is necessary.

To this point, the proposed statutory solutions have been directed at the actions of peace officers, their specific training, and state laws as they relate to enforcement on campuses. As mentioned, the school campus environment is very dynamic and can be exclusive from one campus to the next. Many authority figures, disciplinarians, rule-makers and law enforcement are present and responsible everyday for the security and well being of students and faculty alike. These stakeholders all play a role and need to be part of the solution.

This interim charge carries the intent of bringing all the stakeholders together to address real issues with comprehensive solutions. If state law is to be changed for a specific class of person, in a specific environment, then the residual effects should be thoroughly considered. If specific training is to be required, then all that have a role in discipline will need to know and understand the implementation of the training. When protocol is defined it should be clear and consistent. Finally, accountability for the entire process must be built in to the solution.

There is a line between discipline and law enforcement. It is not the desire of peace officers to create a new class of young criminals, nor is it their purpose to be involved in minor discipline issues. It is important that the aforementioned line between discipline and law enforcement be clear to all and thus far, the proposed resolutions only serve to blur that line. It is in the best interest of all stakeholders to be responsible for bringing clarity, uniformity, and safety to all the public school campuses in Texas.

Committee Ruling/Recommendations:

Many of the existing problems have caused “gray areas” in the role of law enforcement on public school campuses. This is due, in part, to discrepancies and inconsistencies in code and in practice from district to district. Each independent school district should develop a policy that clearly outlines discipline thresholds and procedures and establishes a primary designee acting as chief administrator for the district. The discipline policy should define the district peace officer’s role as “law enforcement.” The disciplinary policy should include guidelines for the education of all peace officers, administrators, educators and other campus staff with a particular attention to defining their roles in campus disciplinary action. Chapter 37 of the education code should be reviewed and amended in such a way as to remove implications and references to peace officers engaging in administrative and disciplinary action.

The Committee on Homeland Security and Public Safety also strongly recommends a re-evaluation of current law (enacted as a result of the 82nd legislative session) in order to seek a more unified definition of certain violations including “disorderly conduct” in schools. For example, fighting at school is now punishable under the penal code unless the violator is in the 6th grade or below. This creates a difficult disparity as most of the penal code judges by age not grade in school. It is the recommendation of the committee that current and future amendments to the law regarding penal code violations at school use age as a marker and not grade.

Finally, the committee recommends that the 83rd legislature designate the grounds where a public school is located and the entirety of the campus as a “public place.” Currently some areas of public school campuses are not considered “public” and therefore subject to inconsistent law enforcement and able to, in certain circumstances, serve as a sanctuary for illicit activity.

Examine state and federal law to determine whether existing provisions adequately address security and efficiency concerns for steamship agencies and land ports of entry along the Texas-Mexico border. Evaluate whether the state and the federal government have provided sufficient manpower, infrastructure, and technology to personnel in the border region. (*Joint with the House Committee on Border & Intergovernmental Affairs*)

Committee Action:

The Committee on Homeland Security and Public Safety held a joint public hearing on March 1st in Huntsville, Texas and on Tuesday, April 24th of 2012 in Copperas Cove, Texas with the Committee on Border and Intergovernmental Affairs chaired by Veronica Gonzales. On this date the committee heard testimony in order to further examine state and federal law to determine whether existing provisions adequately address security and efficiency concerns for steamship agencies and land ports of entry along the Texas-Mexico border. Evaluate whether the state and the federal government have provided sufficient manpower, infrastructure, and technology to personnel in the border region.

During the hearing, members of the House Committee on Homeland Security and Public Safety and the House Committee on Border and Intergovernmental Affairs read and heard invited testimony from Commissioner Todd Staples of the Texas Department of Agriculture, Major General John Nichols, Texas Adjutant General, Colonel Steve McCraw, Director of the Texas Department of Public Safety, Thomas Brown, Aide to Congressman Michael McCaul, Nelson Balido, President of the Border Trade Alliance, Howard Ray of Fort Hood, Robin Riley, Chair of the Houston Ship Channel Security District, Tom Schroeter, Director and Secretary of the Houston Ship Channel Security District Authority and Associate General Counsel of the Port of Houston Authority, Nathan Wesley, President of the West Gulf Maritime Association, and Dr. Robert Black, President of Moran Shipping.

Background:

The shipping channels that utilize Texas ports of entry through Texas-Mexico border regions are vast and the agencies responsible for their management are equally spread out. With the increasing amount of threats to homeland security from highly advanced narco-trafficking, Mexican Cartels, and terrorist organizations, the importance of security for and among steamship agencies at our ports has never been more crucial. It also bears noting that involvement in violent criminal activity by the Mexican Cartels does not restrict itself to Mexico and the Texas border nor to the Cartels perpetrating the crimes. Powerful cartels such as Los Zetas have known ties to Iranian terrorist organizations such as Hezbollah and have carried out operations far North of our Southern borders (as evidenced in the plot to assassinate the Saudi Ambassador to the United States in Washington, D.C. and New York). Also, an increasing number of steamship agencies originate in foreign countries that operate as known enemies of the United States.

Having been given these facts, it is absolutely crucial that the security of our Southern Border and our gulf ports be carefully examined to ensure that the legislature is doing everything in its power to facilitate proper security among steamship agencies and cooperation among state and federal law enforcement and homeland security groups.

Committee Recommendation/Ruling:

Texas law enforcement and border security agencies are continuously working together to improve the safety of our borders, ports and cities and the interagency support and cooperation of forces such as the Texas Department of Public Safety, Division of Emergency Management, Task Force One, Forest Service, Texas Department of State Health Services, County Sheriffs Department, Police Departments, Fire Departments, and Emergency Management Coordinators serves to further bolster our Security. The Houston Ship Channel Security District has also pledged to endeavor to provide an integrated strategy to increase the level of security for both waterside and landside facilities within the district. These measures serve to prepare to treat the symptoms, but more can be done at the source of potential security breaches.

Even with these security measures, the House Committee on Homeland Security and Public Safety recommends the 83rd Texas Legislature encourage further federal study of the steamship agencies given access to our ports and that the legislature work to enact stricter registration and compliance requirements for steamship agencies using Texas ports. Furthermore, the committee strongly recommends the 83rd Texas Legislature consider legislation to create an “American-first” policy when it comes to doling out contracts for steamship agents, transportation of petroleum, goods, and services at our state’s points of entry thus decreasing the number of foreign agents given free access to our ports. This kind of policy will not only serve our state economically, but also help prevent exposure of Texas Citizens to further danger.

ENDNOTES

¹ Steve McGraw, Executive Director of DPS, 8/24/2012 House Committee on Appropriations Hearing