Testimony of

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Member of Congress
New Mexico – Second Congressional District

Before the

HOUSE JUDICIARY SUBCOMMITTEE ON IMMIGRATION, BORDER SECURITY, AND CLAIMS

Oversight Hearing on

"How Illegal Immigration Impacts Constituencies: Perspectives from Members of Congress."

November 10, 2005

2:00 p.m.

Chairman Hostettler, Ranking Member Jackson-Lee and Members of the Subcommittee, thank you for the opportunity to testify before you today on behalf of the constituents of New Mexico's Second Congressional District. I commend the Subcommittee for recognizing the urgency of addressing the threats associated with our porous border.

First, I wish to clearly establish the magnitude of the problem in the border district I represent, followed by describing how illegal immigration is impacting four key areas of my constituency: residents, local law enforcement agencies, local hospitals, and the Federal court system. I will conclude by briefly offering my perspective on how Congress should address this urgent problem.

Magnitude of the illegal immigration problem in New Mexico

Mr. Chairman, the entire U.S. border with Mexico in the State of New Mexico is in my congressional district. It spans 180 miles of mostly open border. A pipe vehicular barrier, constructed by the New Mexico National Guard and illustrated in Graphic 1, extends for approximately 20 miles. Other small portions include barbed wire fences that private land owners have constructed to keep their cattle from crossing into Mexico. For the most part however, the border contains no barrier whatsoever.

Three counties—Hidalgo, Luna and Doña Ana—lie directly on the U.S.–Mexico border, providing 10,000 square miles for circumventing Border Patrol authorities. With approximately 80 agents per shift patrolling this area, there is only 1 agent per every 125 square miles.

This expansive border area has become the conduit of choice for illegal activity over the past two years, due to what I believe is a part of the Border Patrol's flawed national strategy of increasing attention on some areas of the border while failing to recognize the shifting traffic patterns to other areas. In 2004, Customs and Border Protection (CBP) launched the $10 million Arizona Border Control Initiative (ABCI) deploying 260 temporary and permanent Border Patrol agents, unmanned aerial vehicles, Immigration and Customs Enforcement Air and Marine aircraft and helicopters to Arizona without extending similar enforcement augmentation to New Mexico. Consequently, assigning additional resources along the Arizona border resulted in increasing illegal immigration into New Mexico. In 2004, the number of apprehensions in the New Mexico portion of the El Paso sector increased from 48,584 to 61,516, or 27%. Comparatively, in the year prior to implementation of ABCI, apprehensions in New Mexico had actually dropped from 55,960 to 48,584.

Notwithstanding this shift in illegal activity into New Mexico, CBP again augmented the ABCI with a Phase II, immediately providing an additional 355 permanent and temporary Border Patrol agents and 23 additional Border Patrol aircraft. As a result, illegal immigrant apprehension numbers in New Mexico continued to grow, increasing from 61, 516 to 76,847, or 25%.

More startling, however, is the number of illegal immigrants apprehended in my district who are from designated "special interest" countries. In the past two years, 2 have been from Afghanistan, 2 from Indonesia, 9 from Iran, and 1 from Syria.

These numbers are only actual Border Patrol apprehensions. My constituents report to me daily the extraordinary numbers of illegal immigrants crossing their property—some up to 500 per day just on one ranch—that the Border Patrol never intercepts.

To illustrate the massive flows of illegal immigrants crossing at just one area in my district, I would like to point out the yellow school bus in Graphic 2. This yellow school bus, with dark tinted windows, is just one of many constant busloads carrying soon-to-be illegal immigrants to staging areas along the border each the day. Throughout the day, these illegal immigrants make their way from the staging areas across the unimpeded border into New Mexico. Just to highlight the lack of deterrence, this bus drove by just after the House Homeland Security Committee had been standing at the border with a contingent of Border Patrol agents—literally, just minutes after.

Adding to the problem is the lack of necessary surveillance capabilities to detect illegal activity and maximize the limited number of Border Patrol agents through targeted intervention. Unfortunately, the $239 million Integrated Surveillance Intelligence System (ISIS) intended to blanket the border with cameras and sensors was squandered, leaving many of the areas along the border in my district undetectable with broken or uninstalled cameras and sensors.

Impact of Problem on the Constituency

Impact on residents

One of my constituents living in the border area recently was quoted, "Before, you didn't call and report illegal immigrants on your property. You'd fix them some sandwiches and give them a jug of water and send them on their way...but you didn't fear for your life. Now, when they knock you don't dare answer the door."

The extent and intensity with which illegal immigration is increasing in my district is placing extraordinary costs and danger on residents in this border area.

Vandalism and burglary of residents' homes and property are increasing dramatically. Two weeks ago, a constituent informed me that illegal immigrants broke into three houses in Hidalgo County the day before. The photograph in Graphic 3 shows the busted door. One of my constituents has been burglarized by illegal immigrants three times in the past two years. The illegal immigrants take food from the refrigerators and clothes from closets. Constituents often inform me that their trucks, cars and tractors are stolen and used to escape from Border Patrol. In August, I was informed that human smugglers stole a school bus from the school bus facility in Lordsburg.

It is not only private residences that have been burglarized, but businesses in the communities close to the border. Due to the lack of detention bed space, the Border Patrol stations in my district have been forced to release apprehended illegal immigrants into our communities, such as the parking lots of the local McDonalds and Wal–Mart. Shortly after, the police departments receive calls that the Family Dollar Store and other businesses in the community have been burglarized.

Many of the residents live on ranches on the U.S.–Mexico border, where there is no fence or barrier. These ranchers have built their own barbed wire fences to keep their cattle from entering Mexico. However, the fences are routinely destroyed, often by human and drug smugglers driving directly over the fences. Earlier this year, a 1.1 mile section of a rancher's border fence was stolen, leaving the border wide open for his cattle to be lost completely.

Despite the fact that the fence is on a 60 ft. government right away that runs along the border, the Federal government will not reimburse the ranchers for the destruction of the fence. The ranchers rebuilt the 1.1 mile fence at their own cost of $5,000. Yet, the fence is continually broken, costing the ranchers $250 per day to maintain it. Other ranchers inform me that the solar windmills that power water generation for their cattle are constantly damaged costing $800 per windmill to repair.

Furthermore, residents are faced with the daily task of cleaning up the massive amounts of debris left behind by the illegal immigrants, including clothes, food, trash, syringes, human feces—enough to fill several tractor trailers full in the words of one of my constituents.

Bandit activity is the latest disturbingly growing trend threatening the lives of residents along the border. The human smugglers are partnering with Mexican bandits, who are robbing the illegal immigrants as the smugglers bring them across the border. Competing bandits are beginning to fight over the groups of smuggled immigrants even on the U.S. side. One of the ranchers and her daughter—while checking their border fence for damage on horseback—recently rode upon a bandit shoot out. Thankfully, they were not injured, this time.

The bandit activity has become so prevalent that the Border Patrol has even warned residents not to go near their own border fences. It is patently offensive when the government agency responsible for protecting the residents warns them not to go repair their own border fence— a fence the Federal government refuses to maintain—because the Border Patrol cannot effectively gain control of the border.

Impact on local law enforcement agencies

Due to the expansive nature of my district's border area, and limited border security resources, local law enforcement agencies have long supplemented the Border Patrol in responding to and apprehending unlawful entries and illegal immigrants committing criminal offenses. However, the extent and intensity with which illegal activity is increasing is extracting a costly and dangerous toll on local law enforcement agencies not only in border communities, but communities throughout the district.

Police and sheriff departments are increasingly called on a daily basis to respond to large groups of illegal immigrants hiding in fields or to intercept car and truck loads of illegal immigrants on behalf of the Border Patrol. The groups have become so large that it is taking an entire shift of officers to respond to, chase and apprehend the illegal immigrants and wait for Border Patrol officers to return from patrolling other areas of the border in order to process the illegal immigrants.

It costs the Luna County Sheriff's Department up to $800 each time they respond to such instances. Law enforcement agencies in border communities across the district tell me it requires 25% of their operating budgets to supplement the Border Patrol in this manner.

Another component straining local law enforcement agencies is responding to criminal activity by illegal immigrants. The Luna County Sheriff's Department indicates that criminal offenses by illegal immigrants—including hit and runs, stolen vehicles and domestic violence and drug seizures—have grown to 150 since the beginning of the year alone. The Chief of Police Clare May in Columbus, New Mexico, a village that sits directly on the border, stated that stolen cars have increased from 5 cars a year in 2003 to almost 20 cars just in one month last year.

Routinely, the local law enforcement agencies must intercept the stolen vehicles while full of illegal immigrants, which often result in high speed chases through our small border communities. Several of the high speed pursuits have resulted in rollovers

and deaths of the smuggler and the illegal immigrants inside. However, most result in arrests, with discovery of large amounts of marijuana or cocaine.

These criminal cases place a massive burden on the local departments particularly because the officers must process the criminals and detain them until they can appear before a judge. Most offensive is the mandate that local law enforcement departments must contact the Mexican consulate and wait for the Mexican government's action to ensure proper representation for the criminals, prolonging the time in which the local departments have had to detain the criminal aliens.

Jails in the border area will typically detain the criminal aliens for up to 6 months at a cost of approximately $50 per day per inmate. Much of this in not reimbursed. Last year, one county applied for $60,000 in State Criminal Alien Assistance Program (SCAAP) funding and received $4,800.

While such responses are indeed imposing a burdensome financial cost on the departments, it is severely compromising the safety of residents when officers are pulled away from their normal duties in communities and counties.

Local law enforcement agencies are not only impacted by the extent to which illegal activity has increased, but also the growing intensity of the dangerous activity. The drug and human smugglers' counter intelligence is so sophisticated, and the stakes have become so high for the smugglers, that they are threatening the lives of local law enforcement officers. In early August 2005, the Columbus Police Chief barely escaped a sniper's two gunfire shots while investigating two abandoned cars. Also, Sheriff Deputies have been approached by human and drug smugglers and told the smugglers know who their families are and where they live and they will be killed if the officers get in their way.

Unfortunately, contributing to this burden on local law enforcement agencies is the flawed checkpoint system used by Border Patrol. There are five permanent checkpoints with two on major US Interstates 10 & 25 and others on major NM State Highways, as illustrated in Graphic 4. The problem is that illegal activity is increasing most on the west side of the state where only one permanent checkpoint exists on Interstate 10.

The Border Patrol Headquarters will proudly tell you that the purpose of the permanent checkpoints is to redirect the illegal activity onto rural roads where illegal activity is more visible. I do not know if you have ever been to southern New Mexico, but you can drive for hours on these rural roads and never see a single car. Moreover, the law enforcement agencies that are patrolling the rural roads only have about 3-4 officers on duty per shift who are responsible for counties the size of most states. Without augmenting the number of Border Patrol permanent checkpoints on these rural roads throughout the border areas, the already–stretched local law enforcement agencies are forced to apprehend and detain an increasingly larger amount of illegal immigrant and dangerous drug smuggler traffic.

Mr. Chairman, the police departments along the border in my district are small, they have small budgets, and their officers work with neither healthcare nor retirement. With it taking 25% of their operating budget, these departments cannot withstand the pressures illegal immigration is putting on their forces. Moreover, supplementing the work of the Border Patrol is compromising local law enforcement departments' primary duty of protecting the citizens of their communities.

Impact on local hospitals

The extraordinary costs of the Federal mandate to provide emergency care to illegal immigrants is pushing my district's local hospitals' resources beyond their capacity to cope.

Each year, thousands of illegal immigrants require emergency care for heat exhaustion or other severe injuries as they enter New Mexico. Human smugglers leave many of these individuals behind, while others have simply come to the port of entry either sick or in labor.

Mimbres Memorial Hospital in Deming, New Mexico reports that a one quarter of all patients treated last year were illegal immigrants. Providing emergency care to illegal immigrants costs the hospital at least $400,000 per month. This does not include the cost to transport the illegal immigrants via helicopter to larger city hospitals, such as El Paso.

These rising costs are making it extremely difficult for hospitals to continue operating in my district. When it already takes residents up to an hour to get to the nearest hospital, we cannot afford another hospital leaving our area.

Impact on the Federal Court

Rising levels of illegal immigration continues to break the back of the Federal judiciary in my district as well. Even as we become more successful at securing the border through additional Border Patrol staff and technology, the caseload will continue to burden the United States District Court of New Mexico, specifically the Las Cruces federal courthouse.

Crushing caseloads, unique geographical factors and the exhaustion of judicial resources manifest a desperate judicial situation. The 2005 Judicial Conference Biennial Judgeship Survey presented its recommendations for additional judgeships to Congress. Data from the Conference indicates the District has one of the highest total criminal caseload per judgeship in the nation. Criminal filings per judgeship in the District are the highest in the nation at 366 per judgeship. The national average is 89.

The exceptional caseload is primarily attributed to the geographical factors unique to the District and other border Districts. Immigration and narcotics cases are almost exclusively driving the increase—placing an extraordinary burden on the Las Cruces federal courthouse, which is just 50 miles away from the U.S.–Mexico border. In fact,

two–thirds of all criminal cases in the District are now processed in Las Cruces. Immigration prosecutions currently account for 85 percent of all criminal cases in the District. Additionally, the amount of time in which these cases are adjudicated is increasing simultaneously with the caseload as the immigration cases predominantly require interpretation.

Due to the already high strain on judges in the Albuquerque and Santa Fe courts, the District has been unable to assign a permanent District Judge in Las Cruces. However, the court's need for additional judgeships in Las Cruces is not indicative of a lack of willingness on behalf the District Judges to actively address the increased caseload. While the District has made valiant efforts, it has begun to exhaust all judicial resources. One option employed to handle the enormous caseload in Las Cruces is assigning rotating duties to District Judges from Albuquerque and Santa Fe. This means judges and their staffs must travel more than 450 miles round trip during the week, face extraordinary caseloads and return to their Chambers on the weekends to compensate for the time lost to duty in Las Cruces. Constant long travel and unusually long hours on cases are obviously wearing on the judges who must perform this duty.

The District also utilizes Magistrate Judges in Las Cruces to manage the crushing caseload. While Magistrate Judges cannot hear felony trials or sentence defendants convicted of felony-level crimes, just handling pre–indictment pleas for the District requires them to be on the bench everyday and every weekend of the year.

Many of the judges relied upon to handle the Las Cruces caseload are 10th Circuit Court of Appeals Judges or District Judges from other jurisdictions in the United States. U.S. District Judge William Sessions, assisting from Burlington, VT, spent two weeks in Las Cruces during February 2003 and concluded that Las Cruces is in desperate need of more than one full-time Article III judgeship. Within only two days, Judge Sessions sentenced more than 50 people. Judge Sessions has never seen a caseload as high as Las Cruces' in the eight years he has been on the bench. In fact, he handled more cases in one month in Las Cruces than he handled in one year in Vermont.

U.S. District Judge Monti Belot, who has assisted in Las Cruces from Wichita, Kansas on three different occasions as late as April 2003, states there is no question there is a need for additional Article III judgeships in Las Cruces. Judge Belot contends there is no way to appreciate the volume of work and how well the Clerk's Office, U.S. Marshals, Public Defenders and U.S. Attorneys work together to handle the crushing caseload unless one actually sees it for themselves.

The Conference has recommended one permanent judgeships and one temporary judgeship for the District, despite the fact that caseload level supports two permanent judgeships. The Conference contends the temporary judgeship will bring the District to parity with other Districts. However, the temporary judgeship previously created in the 21st Century Department of Justice Appropriations Authorization Act failed to reduce the District's caseload to the level the Judicial Conference anticipated.

I believe the current situation in the District illustrates the desperate need to include the 2 permanent judgeships for the District in legislation the Judiciary Committee approves.

Suggestions for addressing the urgent problem

Mr. Chairman, we do not have much more time to secure our border. Frankly, it is not a matter of if, but when, one of my constituents is severely injured or killed due to the unimpeded illegal activity led by dangerous human and drug smugglers. If that happens, it will bring any opportunity for a rational discussion on border security and immigration reform to a grinding halt. Unlike Hurricane Katrina, there will be no blame game among the Federal, State or Local level—the responsibility lies solely on the Federal government and this Congress.

Congress must demonstrate a relentless commitment to securing our borders. We must commit the Federal resources needed to effectively detect, apprehend and return illegal immigrants—including boots on the ground, technology and the judicial resources. We must commit to the detention bed space needed to end the offensive policy of "catch and release" that only incentivizes illegal immigration. We must also begin to hold the nations from which these illegal immigrants arrive accountable for failure to cooperate with the United States.

Mr. Chairman, in all reality, any border security efforts will be in vain if we fail to simultaneously address the *reasons* contributing to the flow of illegal immigration into this country. The majority of the illegal immigrants coming here simply want to work. Businesses along the border and elsewhere rely on this labor. Yet there is no effective legal channel for these immigrants to come here to work. Our policies have become even hypocritical—indicating that "we need you to come over and work, but we are going to make it difficult and even deadly for you to do so."

As long as our immigration policies make it difficult to come here to work temporarily on a legal basis, those on both sides—workers and employers—will fill the need illegally. The consequence is a huge flow of illegal immigration to which we must respond, often subtracting from the capability to focus on drug smuggling and terrorists.

Congress must come to an agreement on a comprehensive immigration law reform that provides for the legal opportunities for these individuals to come to the United States, sign our guest book, work and return to their families and homeland.

Graphic 1

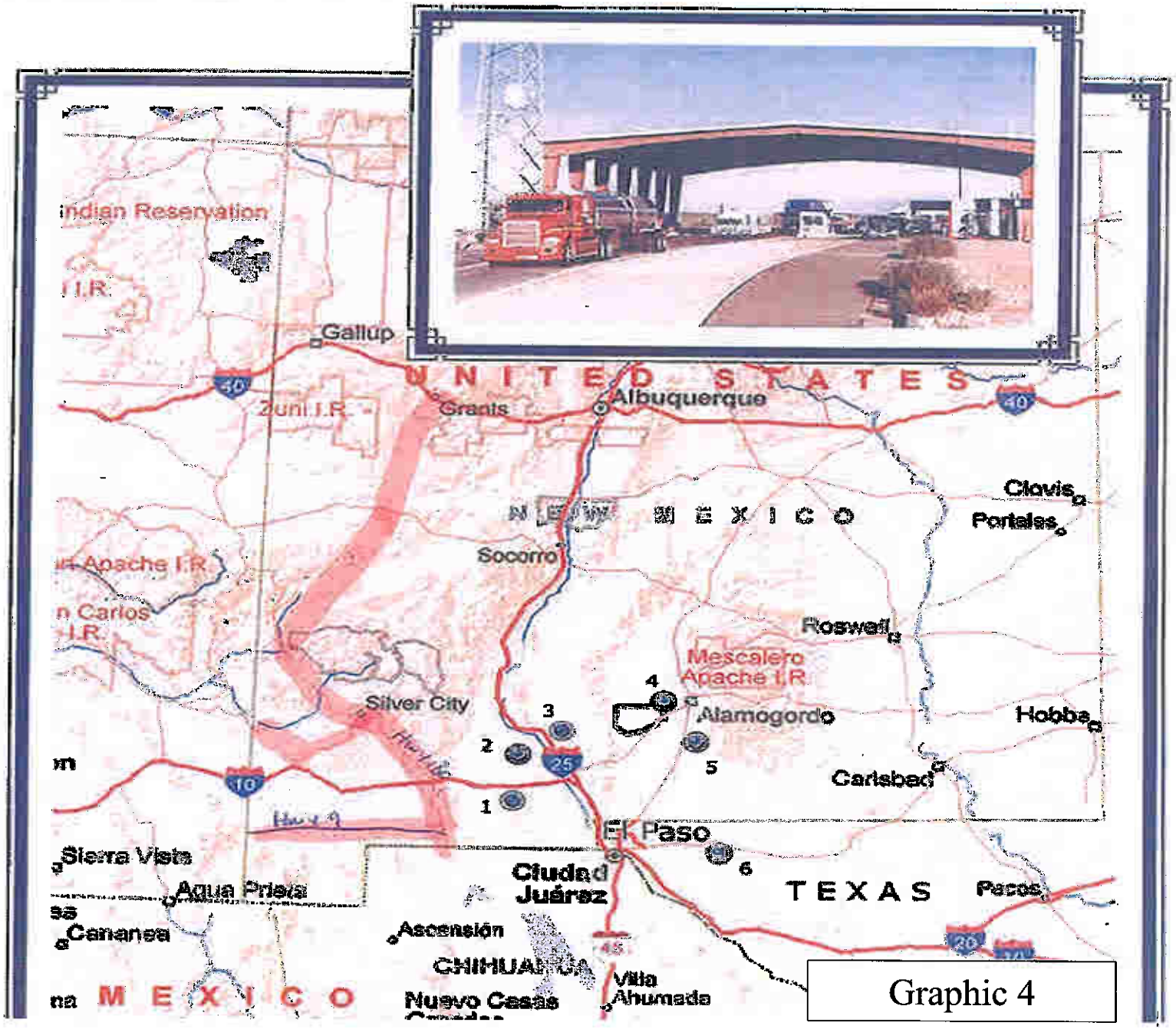
Graphic 2

Graphic 3

CHECKPOINTS

Checkpoints

1 = I–10
2 = HWY 185
3 = I–25
4 = 70/82
5 = HWY 54
6 = 62/180



Graphic 4

BIOGRAPHY OF UNITED STATES CONGRESSMAN STEVAN PEARCE

Congressman Steve Pearce (R-NM) is now serving his second term in Congress. Steve was elected to the U.S. House of Representatives in 2002, after having won a five-way primary election, and he came out on top in one of the nation's toughest congressional battles-and one of the most contested races in Southern New Mexico's history.

Upon the commencement of the 108th Congress, Pearce joined a short list of other freshman members to be tapped as an Assistant Majority Whip. He also serves on the House Homeland Security Committee and the House Financial Services Committee and the House Resources Committee. In June 2005, Pearce was appointed Chairman of the Subcommittee on National Parks, Recreation and Public Lands. Speaker of the House Dennis Hastert asked Pearce to tackle senior issues when he assigned Pearce to the newly formed Prescription Drug Task Force. Hastert also tapped him to be a leader on the Task Force for Affordable Natural Gas. Majority Leader Tom Delay asked Pearce to serve on the House Energy Action Team (HEAT), and to help find solutions to the nation's looming energy crisis.

Steve Pearce was elected to the New Mexico House of Representatives in 1996 and re-elected in 1998. Steve served as Republican Caucus Chairman and was selected as "Outstanding Legislator" by the New Mexico Technology Showcase for his work in economic development using technology.

Steve and his wife Cynthia raised their family in Hobbs, New Mexico. Together they owned and operated Lea Fishing Tools, an oilfield services firm. They grew that firm 10-fold in 10-years, increasing employment from four to over 40. Steve and Cynthia were honored by the Association of Commerce and Industry with the VIVA Award for outstanding business in New Mexico. The Pearce's sold their business in order to focus primarily on family and the business of Congress.

Steve was a pilot in the Air Force, serving in the Philippines, flying missions into Vietnam. He received the Distinguished Flying Cross and Air Medal. Returning to the US, he was assigned to the Strategic Air Command at Blytheville Air Force Base, Arkansas. He separated honorably with the rank of Captain.

Born in 1947, Steve was raised in Hobbs, New Mexico. He attended New Mexico public schools, and graduated from New Mexico State University with a BBA degree in economics and from Eastern New Mexico University with an MBA. Steve was elected Student Body President at NMSU.

Steve is very involved with his community and his church and is a life-long participant and supporter of 4-H. He has been inducted into the National 4-H Hall of Fame.