

Bill Number: TX81RHB 1831

Date: 06-03-2009

ENROLLED

1 AN ACT
2 relating to disaster preparedness and emergency management and to
3 certain vehicles used in emergencies; providing a penalty.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

5 ARTICLE 1. GENERAL PROVISIONS

6 SECTION 1.01. Section 418.004(1), Government Code, is
7 amended to read as follows:

8 (1) "Disaster" means the occurrence or imminent threat
9 of widespread or severe damage, injury, or loss of life or property
10 resulting from any natural or man-made cause, including fire,
11 flood, earthquake, wind, storm, wave action, oil spill or other
12 water contamination, volcanic activity, epidemic, air
13 contamination, blight, drought, infestation, explosion, riot,
14 hostile military or paramilitary action, [extreme heat](#), other public
15 calamity requiring emergency action, or energy emergency.

16 SECTION 1.02. Sections 418.005(a) and (b), Government Code,
17 are amended to read as follows:

18 (a) This section applies only to an [elected law enforcement](#)
19 [officer or county judge, or an](#) appointed public officer [of the state](#)
20 [or of a political subdivision, who has management or supervisory](#)
21 [responsibilities and:](#)

22 (1) whose position description, job duties, or

23 assignment includes emergency management responsibilities; or

24 (2) who plays a role in emergency preparedness,

1

1 response, or recovery.

2 (b) Each person described by Subsection (a) shall complete a
3 course of training provided or approved by the division of not less
4 than three hours regarding the responsibilities of state and local
5 governments under this chapter not later than the 180th day after
6 the date the person:

7 (1) takes the oath of office, if the person is required
8 to take an oath of office to assume the person's duties as a [~~an~~
9 ~~appointed~~] public officer; or

10 (2) otherwise assumes responsibilities as a [~~an~~
11 ~~appointed~~] public officer, if the person is not required to take an
12 oath of office to assume the person's duties.

13 SECTION 1.03. Section 418.013, Government Code, is amended
14 by amending Subsection (b) and adding Subsection (d) to read as
15 follows:

16 (b) The emergency management council is composed of
17 representatives [~~the heads~~] of state agencies, boards, [~~and~~]
18 commissions, and [~~representatives of~~] organized volunteer groups
19 designated by the head of each entity.

20 (d) The emergency management council shall assist the
21 division in identifying, mobilizing, and deploying state resources
22 to respond to major emergencies and disasters throughout the state.

23 SECTION 1.03a. Section 418.016, Government Code, is amended
24 to read as follows:

25 Sec. 418.016. SUSPENSION OF PROCEDURAL LAWS AND RULES. [\(a\)](#)

26 The governor may suspend the provisions of any regulatory statute

27 prescribing the procedures for conduct of state business or the

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1 orders or rules of a state agency if strict compliance with the
2 provisions, orders, or rules would in any way prevent, hinder, or
3 delay necessary action in coping with a disaster.

4 (b) Upon declaration of a state of disaster, enforcement of
5 the regulation of on-premise outdoor signs under Subchapter A,
6 Chapter 216, Local Government Code, by a municipality that is
7 located in a county within, or that is located in a county adjacent
8 to a county within, the disaster area specified by the declaration
9 is suspended to allow licensed or admitted insurance carriers or
10 licensed agents acting on behalf of insurance carriers to erect
11 temporary claims service signage for not more than 30 days or until
12 the end of the declaration of disaster, whichever is earlier.

13 (c) A temporary claims service sign shall not:

14 (1) be larger than forty square feet in size; and

15 (2) be more than five feet in height; and

16 (3) be placed in the right of way.

17 (4) At the end of the 30 days or the end of the
18 declaration of disaster, whichever is earlier, the insurance
19 carrier or its licensed agents must remove the temporary claims
20 service signage that was erected.

21 SECTION 1.04. Section 418.042(a), Government Code, is
22 amended to read as follows:

23 (a) The division shall prepare and keep current a
24 comprehensive state emergency management plan. The plan may

25 include:

26 (1) provisions for prevention and minimization of

27 injury and damage caused by disaster;

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- 1 (2) provisions for prompt and effective response to
- 2 disaster;
- 3 (3) provisions for emergency relief;
- 4 (4) provisions for energy emergencies;
- 5 (5) identification of areas particularly vulnerable
- 6 to disasters;
- 7 (6) recommendations for zoning, building
- 8 restrictions, and other land–use controls, safety measures for
- 9 securing mobile homes or other nonpermanent or semipermanent
- 10 structures, and other preventive and preparedness measures
- 11 designed to eliminate or reduce disasters or their impact;
- 12 (7) provisions for assistance to local officials in
- 13 designing local emergency management plans;
- 14 (8) authorization and procedures for the erection or
- 15 other construction of temporary works designed to protect against
- 16 or mitigate danger, damage, or loss from flood, fire, or other
- 17 disaster;
- 18 (9) preparation and distribution to the appropriate
- 19 state and local officials of state catalogs of federal, state, and
- 20 private assistance programs;
- 21 (10) organization of manpower and channels of
- 22 assistance;
- 23 (11) coordination of federal, state, and local
- 24 emergency management activities;

- 25 (12) coordination of the state emergency management
- 26 plan with the emergency management plans of the federal government;
- 27 (13) coordination of federal and state energy

1 emergency plans;

2 (14) provisions for [providing information to](#)

3 ~~[education and training of]~~ local officials on activation of the

4 Emergency Alert System established under 47 C.F.R. Part 11; ~~[and]~~

5 (15) [a database of public facilities that may be used](#)

6 [under Section 418.017 to shelter individuals during a disaster,](#)

7 [including air-conditioned facilities for shelter during an extreme](#)

8 [heat disaster and fortified structures for shelter during a wind](#)

9 [disaster; and](#)

10 [\(16\)](#) other necessary matters relating to disasters.

11 SECTION 1.05. Subchapter C, Chapter 418, Government Code,

12 is amended by adding Section 418.0425 to read as follows:

13 [Sec. 418.0425. STATE EMERGENCY MANAGEMENT PLAN ANNEX. \(a\)](#)

14 [In this section, "critical water or wastewater facility" means a](#)

15 [facility with:](#)

16 [\(1\) water supply, treatment, or distribution](#)

17 [equipment that is essential to maintain the minimum water pressure](#)

18 [requirements established by the governing body of a municipality or](#)

19 [the Texas Commission on Environmental Quality; or](#)

20 [\(2\) wastewater collection or treatment equipment that](#)

21 [is essential to prevent the discharge of untreated wastewater to](#)

22 [water in the state.](#)

23 [\(b\) The division, in cooperation with the emergency](#)

24 [management council, local governments, regional entities, health](#)

- 25 and medical facilities, volunteer groups, private sector partners,
26 the Federal Emergency Management Agency, and other federal
27 agencies, shall develop an annex to the state emergency management

1 plan that addresses initial response planning for providing
2 essential population support supplies, equipment, and services
3 during the first five days immediately following a disaster. The
4 annex must include:

5 (1) plans to make fuel available to, maintain
6 continuing operations of, and assess the backup power available
7 for, all:

8 (A) hospitals;
9 (B) prisons;
10 (C) assisted living facilities licensed under
11 Chapter 247, Health and Safety Code;
12 (D) institutions licensed under Chapter 242,
13 Health and Safety Code; and
14 (E) other critical facilities determined by the
15 division;

16 (2) provisions for interagency coordination of
17 disaster response efforts;

18 (3) provisions for the rapid gross assessment of
19 population support needs;

20 (4) plans for the clearance of debris from major
21 roadways to facilitate emergency response operations and delivery
22 of essential population support supplies and equipment;

23 (5) methods to obtain food, water, and ice for
24 disaster victims through prearranged contracts or suppliers.

- 25 [stockpiled supplies, or plans to request assistance from federal](#)
- 26 [agencies, as appropriate:](#)
- 27 [\(6\) guidelines for arranging temporary points of](#)

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1 distribution for disaster relief supplies and standardized
2 procedures for operating those distribution points;
3 (7) methods for providing basic medical support for
4 disaster victims, including medical supplies and pharmaceuticals;
5 (8) provisions, developed in coordination with fuel
6 suppliers and retailers, for the continued operation of service
7 stations to provide fuel to disaster victims and emergency
8 responders; and
9 (9) provisions for the dissemination of emergency
10 information through the media to aid disaster victims.

11 (c) The division, in coordination with the Texas Commission
12 on Environmental Quality and electric, gas, water, and wastewater
13 utility providers, shall develop for inclusion in the annex to the
14 state emergency management plan provisions to provide emergency or
15 backup power to restore or continue the operation of critical water
16 or wastewater facilities following a disaster. The provisions must:

17 (1) establish an online resource database of available
18 emergency generators configured for transport that are capable of
19 providing backup power for critical water or wastewater facilities
20 following a disaster;

21 (2) include procedures for the maintenance,
22 activation, transportation, and redeployment of available
23 emergency generators;

24 (3) develop a standardized form for use by a water or

- 25 [wastewater utility provider in developing and maintaining data on](#)
- 26 [the number and type of emergency generators required for the](#)
- 27 [operation of the provider's critical water or wastewater facilities](#)

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1 following a disaster; and
2 (4) include procedures for water or wastewater utility
3 providers to maintain a current list of generators available in
4 surrounding areas through mutual aid agreements, recognized and
5 coordinated statewide mutual aid programs, and through commercial
6 firms offering generators for rent or lease.

7 SECTION 1.06. Section 418.043, Government Code, is amended
8 to read as follows:

9 Sec. 418.043. OTHER POWERS AND DUTIES. The division shall:

- 10 (1) determine requirements of the state and its
11 political subdivisions for food, clothing, and other necessities in
12 event of a disaster;
- 13 (2) procure and position supplies, medicines,
14 materials, and equipment;
- 15 (3) adopt standards and requirements for local and
16 interjurisdictional emergency management plans;
- 17 (4) periodically review local and interjurisdictional
18 emergency management plans;
- 19 (5) coordinate deployment of mobile support units;
- 20 (6) establish and operate training programs and
21 programs of public information or assist political subdivisions and
22 emergency management agencies to establish and operate the
23 programs;
- 24 (7) make surveys of public and private industries,

25 resources, and facilities in the state that are necessary to carry
26 out the purposes of this chapter;
27 (8) plan and make arrangements for the availability

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1 and use of any private facilities, services, and property and
2 provide for payment for use under terms and conditions agreed on if
3 the facilities are used and payment is necessary;

4 (9) establish a register of persons with types of
5 training and skills important in disaster mitigation,
6 preparedness, response, and recovery;

7 (10) establish a register of mobile and construction
8 equipment and temporary housing available for use in a disaster;

9 (11) assist political subdivisions in developing
10 plans for the humane evacuation, transport, and temporary
11 sheltering of service animals and household pets in a disaster;

12 (12) prepare, for issuance by the governor, executive
13 orders and regulations necessary or appropriate in coping with
14 disasters;

15 (13) cooperate with the federal government and any
16 public or private agency or entity in achieving any purpose of this
17 chapter and in implementing programs for disaster mitigation,
18 preparation, response, and recovery; [~~and~~]

19 (14) develop a plan to raise public awareness and
20 expand the capability of the information and referral network under
21 Section 531.0312;

22 (15) improve the integration of volunteer groups,
23 including faith-based organizations, into emergency management
24 plans;

- 25 [\(16\) cooperate with the Federal Emergency Management](#)
- 26 [Agency to create uniform guidelines for acceptable home repairs](#)
- 27 [following disasters and promote public awareness of the guidelines;](#)

- 1 (17) cooperate with state agencies to:
- 2 (A) encourage the public to participate in
- 3 volunteer emergency response teams and organizations that respond
- 4 to disasters; and
- 5 (B) provide information on those programs in
- 6 state disaster preparedness and educational materials and on
- 7 Internet websites;
- 8 (18) establish a liability awareness program for
- 9 volunteers, including medical professionals; and
- 10 (19) do other things necessary, incidental, or
- 11 appropriate for the implementation of this chapter.

12 SECTION 1.07. Section 418.045, Government Code, is amended

13 to read as follows:

14 Sec. 418.045. TEMPORARY PERSONNEL. (a) The division may

15 employ or contract with temporary personnel from funds appropriated

16 to the division, from federal funds, or from the disaster

17 contingency fund. The merit system does not apply to the temporary

18 or contract positions.

19 (b) The division may enroll, organize, train, and equip a

20 cadre of disaster reservists with specialized skills in disaster

21 recovery, hazard mitigation, community outreach, and public

22 information to temporarily augment its permanent staff. The

23 division may activate enrolled disaster reservists to support

24 recovery operations in the aftermath of a disaster or major

- 25 [emergency and pay them at a daily rate commensurate with their](#)
- 26 [qualifications and experience. Chapter 654, Chapter 2254, and](#)
- 27 [Subtitle D, Title 10, do not apply in relation to a disaster](#)

1 [reservist under this subsection.](#)

2 SECTION 1.08. Section 418.048, Government Code, is amended
3 to read as follows:

4 Sec. 418.048. MONITORING WEATHER[~~;-SUSPENSION OF WEATHER~~
5 ~~MODIFICATION~~]. [(a)] The division shall keep continuously
6 apprised of weather conditions that present danger of climatic
7 activity, such as precipitation, severe enough to constitute a
8 disaster.

9 ~~[(b) If the division determines that precipitation that may~~
10 ~~result from weather modification operations, either by itself or in~~
11 ~~conjunction with other precipitation or climatic conditions or~~
12 ~~activity, would create or contribute to the severity of a disaster,~~
13 ~~it shall request in the name of the governor that the officer or~~
14 ~~agency empowered to issue permits for weather modification~~
15 ~~operations suspend the issuance of permits. On the governor's~~
16 ~~request, no permits may be issued until the division informs the~~
17 ~~officer or agency that the danger has passed.]~~

18 SECTION 1.09. Subchapter C, Chapter 418, Government Code,
19 is amended by adding Section 418.050 to read as follows:

20 [Sec. 418.050. PHASED REENTRY PLAN. \(a\) The division shall](#)
21 [develop a phased reentry plan to govern the order in which](#)
22 [particular groups of people are allowed to reenter areas previously](#)
23 [evacuated because of a disaster or threat of disaster. The plan may](#)
24 [provide different reentry procedures for different types of](#)

25 disasters.

26 (b) The phased reentry plan shall:

27 (1) recognize the role of local emergency management

1 directors in making decisions regarding the timing and
2 implementation of reentry plans for a disaster; and
3 (2) provide local emergency management directors with
4 sufficient flexibility to adjust the plan as necessary to
5 accommodate the circumstances of a particular emergency.
6 (c) The division, in consultation with representatives of
7 affected parties and local emergency management directors, shall
8 develop a reentry credentialing process. The division shall
9 include the credentialing process in the phased reentry plan. The
10 Department of Public Safety of the State of Texas shall provide
11 support for the credentialing process.

12 SECTION 1.10. Subchapter C, Chapter 418, Government Code,
13 is amended by adding Section 418.051 to read as follows:

14 Sec. 418.051. COMMUNICATIONS COORDINATION GROUP. (a) The
15 communications coordination group shall facilitate interagency
16 coordination and collaboration to provide efficient and effective
17 planning and execution of communications support to joint,
18 interagency, and intergovernmental task forces.

19 (b) At the direction of the division, the communications
20 coordination group shall assist with coordination and
21 collaboration during an emergency.

22 (c) The communications coordination group consists of
23 members selected by the division, including representatives of:

24 (1) the Texas military forces;

25 (2) the Department of Public Safety of the State of

26 Texas;

27 (3) the Federal Emergency Management Agency;

12

- 1 (4) federal agencies that comprise Emergency Support
- 2 Function No. 2:
- 3 (5) the telecommunications industry, including cable
- 4 service providers, as defined by Section 66.002, Utilities Code;
- 5 (6) electric utilities, as defined by Section 31.002,
- 6 Utilities Code;
- 7 (7) gas utilities, as defined by Sections 101.003 and
- 8 121.001, Utilities Code;
- 9 (8) the National Guard's Joint Continental United
- 10 States Communications Support Environment;
- 11 (9) the National Guard Bureau;
- 12 (10) amateur radio operator groups;
- 13 (11) the Texas Forest Service;
- 14 (12) the Texas Department of Transportation;
- 15 (13) the General Land Office;
- 16 (14) the Texas Engineering Extension Service of The
- 17 Texas A&M University System;
- 18 (15) the Public Utility Commission of Texas;
- 19 (16) the Railroad Commission of Texas;
- 20 (17) the Department of State Health Services;
- 21 (18) the judicial branch of state government;
- 22 (19) the Texas Association of Regional Councils;
- 23 (20) the United States Air Force Auxiliary Civil Air
- 24 Patrol, Texas Wing;

- 25 [\(21\) each trauma service area regional advisory](#)
- 26 [council;](#)
- 27 [\(22\) state agencies, counties, and municipalities](#)

1 affected by the emergency, including 9-1-1 agencies; and

2 (23) other agencies as determined by the division.

3 SECTION 1.11. Section 418.1015, Government Code, is amended
4 by adding Subsection (d) to read as follows:

5 (d) A person, other than an emergency management director
6 exercising under Subsection (b) a power granted to the governor,
7 may not seize state or federal resources without prior
8 authorization from the division or the state or federal agency
9 having responsibility for those resources.

10 SECTION 1.12. Section 418.107(b), Government Code, is
11 amended to read as follows:

12 (b) Political subdivisions may make agreements for the
13 purpose of organizing emergency management service divisions and
14 provide for a mutual method of financing the organization of units
15 on a basis satisfactory to the subdivisions. [~~The functioning of~~
16 ~~the units shall be coordinated by the emergency management~~
17 ~~council.~~]

18 SECTION 1.13. Section 418.108(d), Government Code, is
19 amended to read as follows:

20 (d) A declaration of local disaster activates the
21 appropriate recovery and rehabilitation aspects of all applicable
22 local or interjurisdictional emergency management plans and
23 authorizes the furnishing of aid and assistance under the
24 declaration. The appropriate preparedness and response aspects of

25 the plans are activated as provided in the plans and take effect

26 immediately after the local state of disaster is declared.

27 SECTION 1.14. Section 418.117, Government Code, is amended

1 to read as follows:

2 Sec. 418.117. LICENSE PORTABILITY. If the assistance of a
3 person who holds a license, certificate, permit, or other document
4 evidencing qualification in a professional, mechanical, or other
5 skill is requested by a state agency or local government entity
6 under the system, the person is considered licensed, certified,
7 permitted, or otherwise documented in the political subdivision in
8 which the service is provided as long as the service is required,
9 subject to any limitations imposed by the chief executive officer
10 or the governing body of the requesting state agency or local
11 government entity.

12 SECTION 1.15. Section 418.172(b), Government Code, is
13 amended to read as follows:

14 (b) If sufficient funds are not available for the required
15 insurance, an agency may request funding from [~~petition~~] the
16 disaster contingency fund [~~emergency funding board~~] to purchase the
17 insurance [~~on the agency's behalf. The board may spend money from~~
18 ~~that fund for that purpose~~].

19 SECTION 1.16. Subchapter H, Chapter 418, Government Code,
20 is amended by adding Sections 418.185, 418.186, 418.188, 418.1881,
21 418.1882, 418.190, and 418.191 to read as follows:

22 Sec. 418.185. MANDATORY EVACUATION. (a) This section does
23 not apply to a person who is authorized to be in an evacuated area,
24 including a person who returns to the area under a phased reentry

- 25 [plan or credentialing process under Section 418.050.](#)
- 26 [\(b\) A county judge or mayor of a municipality who orders the](#)
- 27 [evacuation of an area stricken or threatened by a disaster by order](#)

1 may compel persons who remain in the evacuated area to leave and
2 authorize the use of reasonable force to remove persons from the
3 area.

4 (c) The governor and a county judge or mayor of a
5 municipality who orders the evacuation of an area stricken or
6 threatened by a disaster by a concurrent order may compel persons
7 who remain in the evacuated area to leave.

8 (d) A person is civilly liable to a governmental entity, or
9 a nonprofit agency cooperating with a governmental entity, that
10 conducts a rescue on the person's behalf for the cost of the rescue
11 effort if:

12 (1) the person knowingly ignored a mandatory
13 evacuation order under this section and:

14 (A) engaged in an activity or course of action
15 that a reasonable person would not have engaged in; or

16 (B) failed to take a course of action a
17 reasonable person would have taken;

18 (2) the person's actions under Subdivision (1) placed
19 the person or another person in danger; and

20 (3) a governmental rescue effort was undertaken on the
21 person's behalf.

22 (e) An officer or employee of the state or a political
23 subdivision who issues or is working to carry out a mandatory
24 evacuation order under this section is immune from civil liability

- 25 [for any act or omission within the course and scope of the person's](#)
26 [authority under the order.](#)
27 [Sec. 418.186. DISASTER AND EMERGENCY EDUCATION. \(a\) The](#)

1 Department of State Health Services shall establish a program
2 designed to educate the citizens of this state on disaster and
3 emergency preparedness, response, and recovery. Before
4 establishing the program, the department must collaborate with
5 local authorities to prevent state efforts that are duplicative of
6 local efforts. The program must address:

7 (1) types of disasters or other emergencies;

8 (2) the appropriate response to each type of disaster
9 or emergency, including options for evacuation and shelter;

10 (3) how to prepare for each type of disaster or
11 emergency;

12 (4) the impact of each type of disaster or emergency on
13 citizens requiring medical assistance or other care;

14 (5) ways to respond in a disaster or emergency or to
15 assist the victims of a disaster or emergency; and

16 (6) resources and supplies for disaster or emergency
17 recovery.

18 (b) The executive commissioner of the Health and Human
19 Services Commission, in cooperation with the governor, shall adopt
20 rules to create and administer a disaster and emergency education
21 program established under this section.

22 Sec. 418.188. POSTDISASTER EVALUATION. Not later than the
23 90th day after the date a request is received from the division, a
24 state agency, political subdivision, or interjurisdictional agency

- 25 [shall conduct an evaluation of the entity's response to a disaster,](#)
- 26 [identify areas for improvement, and issue a report of the](#)
- 27 [evaluation to the division.](#)

17

1 Sec. 418.1881. SHELTER OPERATIONS. The Department of State
2 Health Services shall develop, with the direction, oversight, and
3 approval of the division, an annex to the state emergency
4 management plan that includes provisions for:

5 (1) developing medical special needs categories;
6 (2) categorizing the requirements of individuals with
7 medical special needs; and
8 (3) establishing minimum health-related standards for
9 short-term and long-term shelter operations for shelters operated
10 with state funds or receiving state assistance.

11 Sec. 418.1882. PERSONNEL SURGE CAPACITY PLANNING.

12 (a) With the direction, oversight, and approval of the division
13 and the assistance of the Department of State Health Services,
14 health care facilities, county officials, trauma service area
15 regional advisory councils, and other appropriate entities, each
16 council of government, regional planning commission, or similar
17 regional planning agency created under Chapter 391, Local
18 Government Code, shall develop a regional plan for personnel surge
19 capacity during disasters, including plans for providing lodging
20 and meals for disaster relief workers and volunteers.

21 (b) Entities developing regional plans for personnel surge
22 capacity with regard to lodging shall consult with representatives
23 of emergency responders, infrastructure and utility repair
24 personnel, and other representatives of agencies, entities, or

- 25 [businesses determined by the division to be essential to the](#)
- 26 [planning process.](#)
- 27 [Sec. 418.190. AGRICULTURE EMERGENCY RESPONSE PLAN. \(a\) In](#)

1 coordination with the division, the Department of Agriculture and
2 the Texas Animal Health Commission shall prepare and keep current
3 an agriculture emergency response plan as an annex to the state
4 emergency management plan. The plan must include provisions for:
5 (1) identifying and assessing necessary training,
6 resource, and support requirements;
7 (2) providing information on recovery, relief, and
8 assistance requirements following all types of disasters,
9 including information on biological and radiological response; and
10 (3) all other information the Department of
11 Agriculture and the Texas Animal Health Commission determine to be
12 relevant to prepare for an all-hazards approach to agricultural
13 disaster management.
14 (b) The Department of Agriculture and the Texas Animal
15 Health Commission shall include the plan developed under Subsection
16 (a) in an annual report to the legislature and the office of the
17 governor.
18 Sec. 418.191. MEDICAL SPECIAL NEEDS VOLUNTEERS. (a) An
19 entity responsible for the care of individuals with medical special
20 needs shall develop and distribute information on volunteering in
21 connection with a disaster.
22 (b) The division shall provide information to interested
23 parties and the public regarding how volunteers can be identified
24 and trained to help all groups of people, including those with

25 [medical special needs and those who are residents of assisted](#)

26 [living facilities.](#)

27 SECTION 1.17. Subchapter B, Chapter 242, Health and Safety

1 Code, is amended by adding Section 242.0395 to read as follows:

2 Sec. 242.0395. REGISTRATION WITH TEXAS INFORMATION AND
3 REFERRAL NETWORK. (a) An institution licensed under this chapter
4 shall register with the Texas Information and Referral Network
5 under Section 531.0312, Government Code, to assist the state in
6 identifying persons needing assistance if an area is evacuated
7 because of a disaster or other emergency.

8 (b) The institution is not required to identify individual
9 residents who may require assistance in an evacuation or to
10 register individual residents with the Texas Information and
11 Referral Network for evacuation assistance.

12 (c) The institution shall notify each resident and the
13 resident's next of kin or guardian regarding how to register for
14 evacuation assistance with the Texas Information and Referral
15 Network.

16 SECTION 1.18. Subchapter B, Chapter 247, Health and Safety
17 Code, is amended by adding Section 247.0275 to read as follows:

18 Sec. 247.0275. REGISTRATION WITH TEXAS INFORMATION AND
19 REFERRAL NETWORK. (a) An assisted living facility licensed under
20 this chapter shall register with the Texas Information and Referral
21 Network under Section 531.0312, Government Code, to assist the
22 state in identifying persons needing assistance if an area is
23 evacuated because of a disaster or other emergency.

24 (b) The assisted living facility is not required to identify

- 25 [individual residents who may require assistance in an evacuation or](#)
- 26 [to register individual residents with the Texas Information and](#)
- 27 [Referral Network for evacuation assistance.](#)

20

1 (c) The assisted living facility shall notify each resident
2 and the resident's next of kin or guardian regarding how to register
3 for evacuation assistance with the Texas Information and Referral
4 Network.

5 SECTION 1.19. Subchapter B, Chapter 207, Labor Code, is
6 amended by adding Section 207.0212 to read as follows:

7 Sec. 207.0212. ELIGIBILITY OF CERTAIN PERSONS UNEMPLOYED
8 BECAUSE OF DISASTER. (a) In this section, "disaster unemployment
9 assistance benefits" means benefits authorized under Section 410,
10 Robert T. Stafford Disaster Relief and Emergency Assistance Act (42
11 U.S.C. Section 5177), and rules adopted under that section.

12 (b) Notwithstanding Section 207.021, the governor, by
13 executive order, may suspend the waiting period requirement imposed
14 under Section 207.021(a)(7) to authorize an individual to receive
15 benefits for that waiting period if the individual:

16 (1) is unemployed as a direct result of a natural
17 disaster that results in a disaster declaration by the president of
18 the United States under the Robert T. Stafford Disaster Relief and
19 Emergency Assistance Act (42 U.S.C. Section 5121 et seq.);

20 (2) is otherwise eligible for unemployment
21 compensation benefits under this subtitle; and

22 (3) is not receiving disaster unemployment assistance
23 benefits for the period included in that waiting period.

24 SECTION 1.20. Sections 541.201(1) and (13-a),

25 Transportation Code, are amended to read as follows:

26 (1) "Authorized emergency vehicle" means:

27 (A) a fire department or police vehicle;

21

1 (B) a public or private ambulance operated by a
2 person who has been issued a license by the Texas Department of
3 Health;

4 (C) a municipal department or public service
5 corporation emergency vehicle that has been designated or
6 authorized by the governing body of a municipality;

7 (D) a private vehicle of a volunteer firefighter
8 or a certified emergency medical services employee or volunteer
9 when responding to a fire alarm or medical emergency;

10 (E) an industrial emergency response vehicle,
11 including an industrial ambulance, when responding to an emergency,
12 but only if the vehicle is operated in compliance with criteria in
13 effect September 1, 1989, and established by the predecessor of the
14 Texas Industrial Emergency Services Board of the State Firemen's
15 and Fire Marshals' Association of Texas; ~~or~~

16 (F) a vehicle of a blood bank or tissue bank,
17 accredited or approved under the laws of this state or the United
18 States, when making emergency deliveries of blood, drugs,
19 medicines, or organs; or

20 (G) a vehicle used for law enforcement purposes
21 that is owned or leased by a federal governmental entity.

22 (13-a) "Police vehicle" means a vehicle ~~of a~~
23 ~~governmental entity primarily~~ used by a peace officer, as defined
24 by Article 2.12, Code of Criminal Procedure, for law enforcement

25 purposes that:

26 (A) is owned or leased by a governmental entity;

27 (B) is owned or leased by the police department

22

1 of a private institution of higher education that commissions peace
2 officers under Section 51.212, Education Code; or
3 (C) is:
4 (i) a private vehicle owned or leased by the
5 peace officer; and
6 (ii) approved for use for law enforcement
7 purposes by the head of the law enforcement agency that employs the
8 peace officer, or by that person's designee, provided that use of
9 the private vehicle must, if applicable, comply with any rule
10 adopted by the commissioners court of a county under Section
11 170.001, Local Government Code, and that the private vehicle may
12 not be considered an authorized emergency vehicle for exemption
13 purposes under Section 228.054, 284.070, 366.178, or 370.177,
14 Transportation Code, unless the vehicle is marked.

15 SECTION 1.21. Section 545.421(b), Transportation Code, is
16 amended to read as follows:

17 (b) A signal under this section that is given by a police
18 officer pursuing a vehicle may be by hand, voice, emergency light,
19 or siren. The officer giving the signal must be in uniform and
20 prominently display the officer's badge of office. The officer's
21 vehicle must bear the insignia of a law enforcement agency,
22 regardless of whether the vehicle displays an emergency light [~~be~~
23 ~~appropriately marked as an official police vehicle~~].

24 SECTION 1.22. Section 418.072, Government Code, is

25 **repealed.**

26 SECTION 1.23. On the effective date of this Act, the

27 disaster emergency funding board is abolished.

23

1 SECTION 1.24. The changes in law made by this Act by the
2 amendment of Section 418.005, Government Code, apply only to a law
3 enforcement officer or county judge elected or public officer
4 appointed on or after the effective date of this Act. A law
5 enforcement officer or county judge elected or public officer
6 appointed before the effective date of this Act is governed by the
7 law in effect immediately before that date, and the former law is
8 continued in effect for that purpose.

9 SECTION 1.25. The change in law made by Section 207.0212,
10 Labor Code, as added by this Act, applies only to a claim for
11 unemployment compensation benefits that is filed with the Texas
12 Workforce Commission on or after the effective date of this Act. A
13 claim filed before that date is governed by the law in effect on the
14 date the claim was filed, and the former law is continued in effect
15 for that purpose.

16 SECTION 1.26. (a) Not later than the 30th day after the
17 effective date of this section, the division of emergency
18 management shall issue a report to the legislature regarding the
19 implementation of medical special needs plans in connection with
20 Hurricane Ike, including identification, evacuation,
21 transportation, shelter, care, and reentry during the period ending
22 on the 30th day after the conclusion of the disaster. The
23 Department of State Health Services shall cooperate in the
24 preparation of the report.

25 (b) Subsection (a) of this section takes effect immediately
26 if this Act receives a vote of two-thirds of all the members elected
27 to each house, as provided by Section 39, Article III, Texas

24

1 Constitution. If this Act does not receive the vote necessary for
2 immediate effect, Subsection (a) of this section takes effect
3 September 1, 2009.

4 ARTICLE 2. EMERGENCY ELECTRICAL POWER

5 SECTION 2.01. Subtitle G, Title 10, Government Code, is
6 amended by adding Chapter 2311 to read as follows:

7 CHAPTER 2311. ENERGY SECURITY TECHNOLOGIES FOR CRITICAL 8 GOVERNMENTAL FACILITIES

9 Sec. 2311.001. DEFINITIONS. In this chapter:

10 (1) "Combined heating and power system" means a system
11 that:

12 (A) is located on the site of a facility;

13 (B) is the primary source of both electricity and
14 thermal energy for the facility;

15 (C) can provide all of the electricity needed to
16 power the facility's critical emergency operations for at least 14
17 days; and

18 (D) has an overall efficiency of energy use that
19 exceeds 60 percent.

20 (2) "Critical governmental facility" means a building
21 owned by the state or a political subdivision of the state that is
22 expected to:

23 (A) be continuously occupied;

24 (B) maintain operations for at least 6,000 hours

25 each year;

26 (C) have a peak electricity demand exceeding 500

27 kilowatts; and

25

- 1 (D) serve a critical public health or public
2 safety function during a natural disaster or other emergency
3 situation that may result in a widespread power outage, including
4 a:
- 5 (i) command and control center;
 - 6 (ii) shelter;
 - 7 (iii) prison or jail;
 - 8 (iv) police or fire station;
 - 9 (v) communications or data center;
 - 10 (vi) water or wastewater facility;
 - 11 (vii) hazardous waste storage facility;
 - 12 (viii) biological research facility;
 - 13 (ix) hospital; or
 - 14 (x) food preparation or food storage
15 facility.

16 Sec. 2311.002. COMBINED HEATING AND POWER SYSTEMS. When
17 constructing or extensively renovating a critical governmental
18 facility or replacing major heating, ventilation, and
19 air-conditioning equipment for a critical governmental facility,
20 the entity with charge and control of the facility shall evaluate
21 whether equipping the facility with a combined heating and power
22 system would result in expected energy savings that would exceed
23 the expected costs of purchasing, operating, and maintaining the
24 system over a 20-year period. Notwithstanding Chapter 2302, the

- 25 entity may equip the facility with a combined heating and power
26 system if the expected energy savings exceed the expected costs.
27 SECTION 2.02. Subchapter D, Chapter 38, Utilities Code, is

26

1 amended by adding Section 38.073 to read as follows:

2 Sec. 38.073. AUTHORITY OF COMMISSION DURING AN EMERGENCY.

3 (a) On a declaration of a natural disaster or other emergency by
4 the governor, the commission may require an electric utility,
5 municipally owned utility, electric cooperative, qualifying
6 facility, power generation company, exempt wholesale generator, or
7 power marketer to sell electricity to an electric utility,
8 municipally owned utility, or electric cooperative that is unable
9 to supply power to meet customer demand due to the natural disaster
10 or other emergency. Any plant, property, equipment, or other items
11 used to receive or deliver electricity under this subsection are
12 used and useful in delivering service to the public, and the
13 commission shall allow timely recovery for the costs of those
14 items. The commission may order an electric utility, municipally
15 owned utility, or electric cooperative to provide interconnection
16 service to another electric utility, municipally owned utility, or
17 electric cooperative to facilitate a sale of electricity under this
18 section. If the commission does not order the sale of electricity
19 during a declared emergency as described by this subsection, the
20 commission shall promptly submit to the legislature a report
21 describing the reasons why the commission did not make that order.

22 (b) If an entity receives electricity under Subsection (a),
23 the receiving entity shall reimburse the supplying entity for the
24 actual cost of providing the electricity. The entity receiving the

- 25 [electricity is responsible for any transmission and distribution](#)
- 26 [service charges specifically incurred in relation to providing the](#)
- 27 [electricity.](#)

27

1 (c) An entity that pays for electricity received under
2 Subsection (b) and that is regulated by the commission may fully
3 recover the cost of the electricity in a timely manner by:

4 (1) including the cost in the entity's fuel cost under
5 Section 36.203; or

6 (2) notwithstanding Section 36.201, imposing a
7 different surcharge.

8 SECTION 2.03. Chapter 38, Utilities Code, is amended by
9 adding Subchapter E to read as follows:

10 SUBCHAPTER E. INFRASTRUCTURE IMPROVEMENT AND MAINTENANCE REPORT

11 Sec. 38.101. REPORT ON INFRASTRUCTURE IMPROVEMENT AND

12 MAINTENANCE. (a) Not later than May 1 of each year, each electric
13 utility shall submit to the commission a report describing the
14 utility's activities related to:

15 (1) identifying areas that are susceptible to damage
16 during severe weather and hardening transmission and distribution
17 facilities in those areas;

18 (2) vegetation management; and

19 (3) inspecting distribution poles.

20 (b) Each electric utility shall include in a report required
21 under Subsection (a) a summary of the utility's activities related
22 to preparing for emergency operations.

23 SECTION 2.04. (a) Not later than June 1, 2010, the Public
24 Utility Commission of Texas shall conduct and complete a study to

25 evaluate:

26 (1) the locations in this state that are most likely to

27 experience a natural disaster or other emergency;

28

1 (2) the ability of each entity described by Subsection
2 (a), Section 38.073, Utilities Code, as added by this Act, to comply
3 with that section in the event of a natural disaster or other
4 emergency;

5 (3) any steps an entity described by Subsection (a),
6 Section 38.073, Utilities Code, as added by this Act, should take to
7 prepare to comply with that section; and

8 (4) the potential for distributed generation,
9 including renewable power with battery backup and combined heat and
10 power systems, to strengthen reliability of electric service during
11 a natural disaster or other emergency.

12 (b) An entity described by Subsection (a), Section 38.073,
13 Utilities Code, as added by this Act, shall comply with any order
14 issued by the Public Utility Commission of Texas under that
15 subsection while the study required by Subsection (a) of this
16 section is conducted.

17 (c) The Public Utility Commission of Texas shall prepare a
18 report based on the study conducted under Subsection (a) of this
19 section. The report must include any recommendations the
20 commission considers advisable in relation to the implementation of
21 and compliance with Section 38.073, Utilities Code, as added by
22 this Act. The commission may include the report in the report
23 required by Section 31.003, Utilities Code.

24 SECTION 2.05. The Public Utility Commission of Texas shall

25 adopt rules consistent with Subchapter E, Chapter 38, Utilities

26 Code, as added by this Act, not later than January 1, 2010.

1 ARTICLE 3. HEALTH AND SAFETY PROVISIONS

2 SECTION 3.01. Subtitle F, Title 2, Health and Safety Code,
3 is amended by adding Chapter 123 to read as follows:

4 CHAPTER 123. PUBLIC HEALTH EXTENSION SERVICE PILOT PROGRAM

5 Sec. 123.001. DEFINITIONS. In this chapter:

6 (1) "Department" means the Department of State Health
7 Services; and

8 (2) "Program" means the public health extension
9 service pilot program established under this chapter.

10 Sec. 123.002. PROGRAM ESTABLISHED; PURPOSES. (a) The
11 department shall establish a public health extension service pilot
12 program in Health Service Region 11, a region of the state that may
13 be particularly vulnerable to biosecurity threats, disaster, and
14 other emergencies.

15 (b) The purpose of the program is to support local public
16 health and medical infrastructure, promote disease control and
17 medical preparedness, and enhance biosecurity, including detection
18 of dangerous biologic agents, availability of pathology services,
19 and management of hazardous materials.

20 Sec. 123.003. RULES. The executive commissioner of the
21 Health and Human Services Commission may adopt rules for the
22 implementation and administration of the program.

23 Sec. 123.004. PROGRAM ADMINISTRATION. The department may
24 contract with The Texas A&M University System or The University of

- 25 [Texas System or both to implement or administer the program.](#)
- 26 [Sec. 123.005. PROGRAM OBJECTIVES. Through the program, the](#)
- 27 [department may implement projects and systems to accomplish the](#)

30

1 purposes of the program described by Section 123.002, and may:

2 (1) provide support for regional disaster medical

3 assistance teams and tactical medical operations incident

4 management teams;

5 (2) establish a disaster training and exercise

6 program;

7 (3) establish and equip caches of necessary medical

8 supplies and equipment for use in disasters and other emergencies;

9 (4) establish a regionally based system of emergency

10 medical logistics management to support state and federal emergency

11 management authorities, including local patient triage sites and

12 local emergency medical operations; and

13 (5) establish a regionally based system to provide

14 technical assistance for disaster mitigation and recovery.

15 Sec. 123.006. REPORT. Not later than December 1, 2010, the

16 department shall report to the governor, lieutenant governor, and

17 speaker of the house of representatives on the program, including

18 recommendations for continuing and expanding the program to other

19 regions of the state.

20 Sec. 123.007. EXPIRATION. This chapter expires and the

21 program is abolished September 2, 2011.

22 SECTION 3.02. Section 251.012, Health and Safety Code, is

23 amended to read as follows:

24 Sec. 251.012. EXEMPTIONS FROM LICENSING REQUIREMENT. The

- 25 following facilities are not required to be licensed under this
26 chapter:
27 (1) a home and community support services agency

1 licensed under Chapter 142 with a home dialysis designation;

2 (2) a hospital licensed under Chapter 241 that

3 provides dialysis only to:

4 (A) individuals receiving inpatient services

5 from the hospital; or

6 (B) individuals receiving outpatient services

7 due to a disaster declared by the governor or a federal disaster

8 declared by the president of the United States occurring in this

9 state or another state during the term of the disaster declaration;

10 or

11 (3) the office of a physician unless the office is used

12 primarily as an end stage renal disease facility.

13 SECTION 3.03. Subtitle B, Title 8, Health and Safety Code,

14 is amended by adding Chapter 695 to read as follows:

15 CHAPTER 695. IN-CASKET IDENTIFICATION

16 Sec. 695.001. DEFINITIONS. In this chapter:

17 (1) "Casket" means a container used to hold the

18 remains of a deceased person.

19 (2) "Commission" means the Texas Funeral Service

20 Commission.

21 Sec. 695.002. IDENTIFICATION OF DECEASED PERSON. The

22 commission shall ensure a casket contains identification of the

23 deceased person, including the person's name, date of birth, and

24 date of death.

25 [Sec. 695.003. RULES. The commission may adopt rules to](#)

26 [enforce this chapter.](#)

27 SECTION 3.03a. Subchapter D, Chapter 771, Health and Safety

1 Code, is amended by adding Section 771.0712 to read as follows:

2 Sec. 771.0712. PREPAID 9-1-1 EMERGENCY SERVICE FEE. (a) To
3 ensure that all 9-1-1 agencies under Section 418.051, Government
4 Code, are adequately funded, beginning on June 1, 2010, a prepaid
5 wireless 9-1-1 emergency services fee of two percent of the
6 purchase price of each prepaid wireless telecommunications service
7 purchased by any method, shall be collected by the seller from the
8 consumer at the time of each retail transaction of prepaid wireless
9 telecommunications service occurring in this state and remitted to
10 the comptroller consistent with Chapter 151, Tax Code, and
11 distributed consistent with the procedures in place for the
12 emergency services fee in Section 771.0711, Health and Safety Code.
13 A seller may deduct and retain two percent of prepaid wireless 9-1-1
14 emergency services fees that it collects under this section to
15 offset its costs in administering this fee.

16 (b) The comptroller shall adopt rules to implement this
17 section by June 1, 2010.

18 SECTION 3.04. The change in law made by this Act by the
19 amendment of Section 251.012, Health and Safety Code, applies only
20 to dialysis services provided on or after the effective date of this
21 Act. Dialysis services provided before the effective date of this
22 Act are covered by the law in effect immediately before that date,
23 and the former law is continued in effect for that purpose.

24 ARTICLE 4. PROVISIONS RELATED TO CERTAIN PUBLIC EMPLOYEES

25 SECTION 4.01. Subchapter B, Chapter 659, Government Code,

26 is amended by adding Section 659.025 to read as follows:

27 [Sec. 659.025. USE OF COMPENSATORY TIME BY CERTAIN EMERGENCY](#)

1 SERVICES PERSONNEL; OPTIONAL OVERTIME PAYMENT. (a) In this
2 section, "emergency services personnel" includes firefighters,
3 police officers and other peace officers, emergency medical
4 technicians, emergency management personnel, and other individuals
5 who are required, in the course and scope of their employment, to
6 provide services for the benefit of the general public during
7 emergency situations.

8 (b) This section applies only to a state employee who is
9 emergency services personnel, who is not subject to the overtime
10 provisions of the federal Fair Labor Standards Act of 1938 (29
11 U.S.C. Section 201 et seq.), and who is not an employee of the
12 legislature, including an employee of the lieutenant governor or of
13 a legislative agency.

14 (c) Notwithstanding Section 659.016 or any other law, an
15 employee to whom this section applies may be allowed to take
16 compensatory time off during the 18-month period following the end
17 of the workweek in which the compensatory time was accrued.

18 (d) Notwithstanding Section 659.016 or any other law, the
19 administrative head of a state agency that employs an employee to
20 whom this section applies may pay the employee overtime at the
21 employee's regular hourly salary rate for all or part of the hours
22 of compensatory time off accrued by the employee during a declared
23 disaster in the preceding 18-month period. The administrative head
24 shall reduce the employee's compensatory time balance by one hour

25 [for each hour the employee is paid overtime under this section.](#)

26 SECTION 4.02. Subchapter H, Chapter 660, Government Code,

27 is amended by adding Section 660.209 to read as follows:

34

1 Sec. 660.209. STATE EMERGENCY SERVICES PERSONNEL. (a) In
2 this section, "emergency services personnel" includes
3 firefighters, police officers and other peace officers, emergency
4 medical technicians, emergency management personnel, and other
5 individuals who are required, in the course and scope of their
6 employment, to provide services for the benefit of the general
7 public during emergency situations.

8 (b) Notwithstanding any other provision of this chapter or
9 the General Appropriations Act, a state employee who is emergency
10 services personnel and who is deployed to a temporary duty station
11 to conduct emergency or disaster response activities is entitled to
12 reimbursement for the actual expense of lodging when there is no
13 room available at the state rate within reasonable proximity to the
14 employee's temporary duty station.

15 SECTION 4.03. Section 161.0001(1-a), Health and Safety
16 Code, is amended to read as follows:

17 (1-a) "First responder" means:

18 (A) any federal, state, local, or private
19 personnel who may respond to a disaster, including:

20 (i) public health and public safety
21 personnel;

22 (ii) commissioned law enforcement
23 personnel;

24 (iii) fire protection personnel, including

- 25 volunteer firefighters;
- 26 (iv) emergency medical services personnel,
- 27 including hospital emergency facility staff;

35

1 (v) a member of the National Guard;
2 (vi) a member of the Texas State Guard; or
3 (vii) any other worker who responds to a
4 disaster in the worker's scope of employment; or
5 (B) any related personnel that provide support
6 services during the prevention, response, and recovery phases of a
7 disaster [~~has the meaning assigned by Section 421.095, Government~~
8 ~~Code~~].

9 ARTICLE 5. JUDICIAL PREPAREDNESS

10 SECTION 5.01. Subchapter A, Chapter 22, Government Code, is
11 amended by adding Section 22.0035 to read as follows:

12 Sec. 22.0035. MODIFICATION OR SUSPENSION OF CERTAIN
13 PROVISIONS RELATING TO COURT PROCEEDINGS AFFECTED BY DISASTER. (a)
14 In this section, "disaster" has the meaning assigned by Section
15 418.004.

16 (b) Notwithstanding any other statute, the supreme court
17 may modify or suspend procedures for the conduct of any court
18 proceeding affected by a disaster during the pendency of a disaster
19 declared by the governor. An order under this section may not
20 extend for more than 30 days from the date the order was signed
21 unless renewed by the supreme court.

22 (c) If a disaster prevents the supreme court from acting
23 under Subsection (b), the chief justice of the supreme court may act
24 on behalf of the supreme court under that subsection.

25 (d) If a disaster prevents the chief justice from acting
26 under Subsection (c), the court of criminal appeals may act on
27 behalf of the supreme court under Subsection (b).

1 (e) If a disaster prevents the court of criminal appeals
2 from acting under Subsection (d), the presiding judge of the court
3 of criminal appeals may act on behalf of the supreme court under
4 Subsection (b).

5 SECTION 5.02. Section 74.093(c), Government Code, is
6 amended to read as follows:

7 (c) The rules may provide for:

8 (1) the selection and authority of a presiding judge
9 of the courts giving preference to a specified class of cases, such
10 as civil, criminal, juvenile, or family law cases; [~~and~~]

11 (2) a coordinated response for the transaction of
12 essential judicial functions in the event of a disaster; and

13 (3) any other matter necessary to carry out this
14 chapter or to improve the administration and management of the
15 court system and its auxiliary services.

16 SECTION 5.03. Section 418.002, Government Code, is amended
17 to read as follows:

18 Sec. 418.002. PURPOSES. The purposes of this chapter are
19 to:

20 (1) reduce vulnerability of people and communities of
21 this state to damage, injury, and loss of life and property
22 resulting from natural or man-made catastrophes, riots, or hostile
23 military or paramilitary action;

24 (2) prepare for prompt and efficient rescue, care, and

- 25 treatment of persons victimized or threatened by disaster;
- 26 (3) provide a setting conducive to the rapid and
- 27 orderly restoration and rehabilitation of persons and property

37

1 affected by disasters;

2 (4) clarify and strengthen the roles of the governor,
3 state agencies, [the judicial branch of state government](#), and local
4 governments in prevention of, preparation for, response to, and
5 recovery from disasters;

6 (5) authorize and provide for cooperation in disaster
7 mitigation, preparedness, response, and recovery;

8 (6) authorize and provide for coordination of
9 activities relating to disaster mitigation, preparedness,
10 response, and recovery by agencies and officers of this state, and
11 similar state–local, interstate, federal–state, and foreign
12 activities in which the state and its political subdivisions may
13 participate;

14 (7) provide an emergency management system embodying
15 all aspects of predisaster preparedness and postdisaster response;

16 (8) assist in mitigation of disasters caused or
17 aggravated by inadequate planning for and regulation of public and
18 private facilities and land use; and

19 (9) provide the authority and mechanism to respond to
20 an energy emergency.

21 SECTION 5.04. This article takes effect immediately if this
22 Act receives a vote of two–thirds of all the members elected to each
23 house, as provided by Section 39, Article III, Texas Constitution.
24 If this Act does not receive the vote necessary for immediate

25 effect, this article takes effect September 1, 2009.

26 ARTICLE 6. EDUCATION PROVISIONS

27 SECTION 6.01. The heading to Section 37.108, Education

1 Code, is amended to read as follows:

2 Sec. 37.108. MULTHAZARD EMERGENCY OPERATIONS PLAN; [SAFETY](#)
3 [AND SECURITY AUDIT](#).

4 SECTION 6.02. Section 37.108, Education Code, is amended by
5 amending Subsections (a), (b), and (c) and adding Subsections (c-1)
6 and (c-2) to read as follows:

7 (a) Each school district [or public junior college district](#)
8 shall adopt and implement a multihazard emergency operations plan
9 for use in [the district's facilities](#) [~~district schools~~]. The plan
10 must address mitigation, preparedness, response, and recovery as
11 defined by the commissioner [of education or commissioner of higher](#)
12 [education](#) in conjunction with the governor's office of homeland
13 security. The plan must provide for:

14 (1) district employee training in responding to an
15 emergency;

16 (2) [if the plan applies to a school district,](#)
17 mandatory school drills [and exercises](#) to prepare district students
18 and employees for responding to an emergency;

19 (3) measures to ensure coordination with [the](#)
20 [Department of State Health Services and](#) local emergency management
21 agencies, law enforcement, [health departments,](#) and fire
22 departments in the event of an emergency; and

23 (4) the implementation of a [safety and](#) security audit
24 as required by Subsection (b).

25 (b) At least once every three years, each [a] school
26 district or public junior college district shall conduct a safety
27 and security audit of the district's facilities. To the extent

1 possible, a district shall follow [safety and](#) security audit
2 procedures developed by the Texas School Safety Center or a
3 comparable public or private entity.

4 (c) A school district [or public junior college district](#)
5 shall report the results of the [safety and](#) security audit conducted
6 under Subsection (b) to the district's board of trustees and, in the
7 manner required by the Texas School Safety Center, to the Texas
8 School Safety Center.

9 [\(c-1\) Except as provided by Subsection \(c-2\), any document](#)
10 [or information collected, developed, or produced during a safety](#)
11 [and security audit conducted under Subsection \(b\) is not subject to](#)
12 [disclosure under Chapter 552, Government Code.](#)

13 [\(c-2\) A document relating to a school district's or public](#)
14 [junior college district's multihazard emergency operations plan is](#)
15 [subject to disclosure if the document enables a person to:](#)

16 [\(1\) verify that the district has established a plan](#)
17 [and determine the agencies involved in the development of the plan](#)
18 [and the agencies coordinating with the district to respond to an](#)
19 [emergency, including the Department of State Health Services, local](#)
20 [emergency services agencies, law enforcement agencies, health](#)
21 [departments, and fire departments;](#)

22 [\(2\) verify that the district's plan was reviewed](#)
23 [within the last 12 months and determine the specific review dates;](#)

24 [\(3\) verify that the plan addresses the four phases of](#)

- 25 emergency management under Subsection (a):
26 (4) verify that district employees have been trained
27 to respond to an emergency and determine the types of training, the

40

1 number of employees trained, and the person conducting the
2 training;

3 (5) verify that each campus in the district has
4 conducted mandatory emergency drills and exercises in accordance
5 with the plan and determine the frequency of the drills;

6 (6) if the district is a school district, verify that
7 the district has established a plan for responding to a train
8 derailment if required under Subsection (d);

9 (7) verify that the district has completed a safety
10 and security audit under Subsection (b) and determine the date the
11 audit was conducted, the person conducting the audit, and the date
12 the district presented the results of the audit to the district's
13 board of trustees;

14 (8) verify that the district has addressed any
15 recommendations by the district's board of trustees for improvement
16 of the plan and determine the district's progress within the last 12
17 months; and

18 (9) if the district is a school district, verify that
19 the district has established a visitor policy and identify the
20 provisions governing access to a district building or other
21 district property.

22 SECTION 6.03. Subchapter D, Chapter 37, Education Code, is
23 amended by adding Section 37.109 to read as follows:

24 Sec. 37.109. SCHOOL SAFETY AND SECURITY COMMITTEE. (a) In

- 25 [accordance with guidelines established by the Texas School Safety](#)
26 [Center, each school district shall establish a school safety and](#)
27 [security committee.](#)

41

1 (b) The committee shall:

2 (1) participate on behalf of the district in
3 developing and implementing emergency plans consistent with the
4 district multihazard emergency operations plan required by Section
5 37.108(a) to ensure that the plans reflect specific campus,
6 facility, or support services needs;

7 (2) provide the district with any campus, facility, or
8 support services information required in connection with a safety
9 and security audit required by Section 37.108(b), a safety and
10 security audit report required by Section 37.108(c), or another
11 report required to be submitted by the district to the Texas School
12 Safety Center; and

13 (3) review each report required to be submitted by the
14 district to the Texas School Safety Center to ensure that the report
15 contains accurate and complete information regarding each campus,
16 facility, or support service in accordance with criteria
17 established by the center.

18 SECTION 6.04. Section 37.202, Education Code, is amended to
19 read as follows:

20 Sec. 37.202. PURPOSE. The purpose of the center is to serve
21 as:

22 (1) a central location for school safety and security
23 information, including research, training, and technical
24 assistance related to successful school safety and security

25 programs; [~~and~~]

26 (2) a central registry of persons providing school

27 safety and security consulting services in the state; and

42

1 (3) a resource for the prevention of youth violence
2 and the promotion of safety in the state.

3 SECTION 6.05. Section 37.203(a), Education Code, as amended
4 by Chapters 258 (S.B. 11) and 263 (S.B. 103), Acts of the 80th
5 Legislature, Regular Session, 2007, is reenacted to read as
6 follows:

7 (a) The center is advised by a board of directors composed
8 of:

9 (1) the attorney general, or the attorney general's
10 designee;

11 (2) the commissioner, or the commissioner's designee;

12 (3) the executive director of the Texas Juvenile
13 Probation Commission, or the executive director's designee;

14 (4) the executive commissioner of the Texas Youth
15 Commission, or the executive commissioner's designee;

16 (5) the commissioner of the Department of State Health
17 Services, or the commissioner's designee;

18 (6) the commissioner of higher education, or the
19 commissioner's designee; and

20 (7) the following members appointed by the governor
21 with the advice and consent of the senate:

22 (A) a juvenile court judge;

23 (B) a member of a school district's board of
24 trustees;

25 (C) an administrator of a public primary school;

26 (D) an administrator of a public secondary

27 school;

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- 1 (E) a member of the state parent–teacher
2 association;
- 3 (F) a teacher from a public primary or secondary
4 school;
- 5 (G) a public school superintendent who is a
6 member of the Texas Association of School Administrators;
- 7 (H) a school district police officer or a peace
8 officer whose primary duty consists of working in a public school;
9 and
- 10 (I) two members of the public.

11 SECTION 6.06. Section 37.203(b), Education Code, is amended
12 to read as follows:

13 (b) Members of the board appointed under Subsection [\(a\)\(7\)](#)
14 ~~[(a)(6)]~~ serve staggered two–year terms, with the terms of the
15 members described by Subsections [\(a\)\(7\)\(A\)–\(E\)](#) ~~[(a)(6)(A)–(E)]~~
16 expiring on February 1 of each odd–numbered year and the terms of
17 the members described by Subsections [\(a\)\(7\)\(F\)–\(I\)](#) ~~[(a)(6)(F)–(I)]~~
18 expiring on February 1 of each even–numbered year. A member may
19 serve more than one term.

20 SECTION 6.07. Section 37.207(a), Education Code, is amended
21 to read as follows:

22 (a) The center shall develop a model safety and security
23 audit procedure for use by school districts [and public junior](#)
24 [college districts](#) that includes:

- 25 (1) providing each district with guidelines [~~and a~~
26 ~~training video~~] showing proper audit procedures;
27 (2) reviewing elements of each district audit[;

1 ~~providing the results of the review to the district,]~~ and making
2 recommendations for improvements in the state based on that review
3 ~~[the audit]~~; and

4 (3) incorporating the findings of district audits in a
5 statewide report on school safety and security made available by
6 the center to the public.

7 SECTION 6.08. Section 37.209, Education Code, is amended to
8 read as follows:

9 Sec. 37.209. CENTER WEBSITE. The center shall develop and
10 maintain an interactive Internet website that includes:

11 (1) quarterly news updates related to school safety
12 and security and violence prevention;

13 (2) school crime data;

14 (3) a schedule of training and special events; and

15 (4) a list of persons who ~~[approved by the board to]~~

16 provide school safety or security consulting services in this state
17 and are registered in accordance with Section 37.2091
18 ~~[presentations]~~.

19 SECTION 6.09. Subchapter G, Chapter 37, Education Code, is
20 amended by adding Sections 37.2091 and 37.2121 to read as follows:

21 Sec. 37.2091. REGISTRY OF PERSONS PROVIDING SCHOOL SAFETY

22 OR SECURITY CONSULTING SERVICES. (a) In this section, "school

23 safety or security consulting services" includes any service

24 provided to a school district, institution of higher education.

- 25 district facility, or campus by a person consisting of advice,
- 26 information, recommendations, data collection, or safety and
- 27 security audit services relevant to school safety and security.

1 regardless of whether the person is paid for those services.

2 (b) The center shall establish a registry of persons
3 providing school safety or security consulting services in this
4 state.

5 (c) Each person providing school safety or security
6 consulting services in this state shall register with the center in
7 accordance with requirements established by the center. The
8 requirements must include provisions requiring a person
9 registering with the center to provide information regarding:

10 (1) the person's background, education, and experience
11 that are relevant to the person's ability to provide knowledgeable
12 and effective school safety or security consulting services; and

13 (2) any complaints or pending litigation relating to
14 the person's provision of school safety or security consulting
15 services.

16 (d) The registry is intended to serve only as an
17 informational resource for school districts and institutions of
18 higher education. The inclusion of a person in the registry is not
19 an indication of the person's qualifications or ability to provide
20 school safety or security consulting services or that the center
21 endorses the person's school safety or security consulting
22 services.

23 (e) The center shall include information regarding the
24 registry, including the number of persons registered and the

- 25 [general degree of school safety or security experience possessed by](#)
26 [those persons, in the biennial report required by Section 37.216.](#)
27 [Sec. 37.2121. MEMORANDA OF UNDERSTANDING AND MUTUAL AID](#)

1 AGREEMENTS. (a) The center shall identify and inform school
2 districts of the types of entities, including local and regional
3 authorities, other school districts, and emergency first
4 responders, with whom school districts should customarily make
5 efforts to enter into memoranda of understanding or mutual aid
6 agreements addressing issues that affect school safety and
7 security.

8 (b) The center shall develop guidelines regarding memoranda
9 of understanding and mutual aid agreements between school districts
10 and the entities identified in accordance with Subsection (a). The
11 guidelines:

12 (1) must include descriptions of the provisions that
13 should customarily be included in each memorandum or agreement with
14 a particular type of entity;

15 (2) may include sample language for those provisions;
16 and

17 (3) must be consistent with the Texas Statewide Mutual
18 Aid System established under Subchapter E-1, Chapter 418,
19 Government Code.

20 (c) The center shall encourage school districts to enter
21 into memoranda of understanding and mutual aid agreements with
22 entities identified in accordance with Subsection (a) that comply
23 with the guidelines developed under Subsection (b).

24 (d) Each school district that enters into a memorandum of

- 25 [understanding or mutual aid agreement addressing issues that affect](#)
- 26 [school safety and security shall, at the center's request, provide](#)
- 27 [the following information to the center:](#)

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1 (1) the name of each entity with which the school
2 district has entered into a memorandum of understanding or mutual
3 aid agreement;

4 (2) the effective date of each memorandum or
5 agreement; and

6 (3) a summary of each memorandum or agreement.

7 (e) The center shall include information regarding the
8 center's efforts under this section in the report required by
9 Section 37.216.

10 SECTION 6.10. Section 37.213, Education Code, is amended to
11 read as follows:

12 Sec. 37.213. PUBLIC JUNIOR COLLEGES [~~INSTITUTIONS OF HIGHER~~
13 ~~EDUCATION~~]. (a) In this section, "public junior college"
14 [~~"institution of higher education"~~] has the meaning assigned by
15 Section 61.003.

16 (b) The center shall research best practices regarding
17 emergency preparedness of public junior colleges and serve as a
18 clearinghouse for that information.

19 (c) The center shall provide public junior colleges with
20 training, technical assistance, and published guidelines or
21 templates, as appropriate, in the following areas:

22 (1) multihazard emergency operations plan
23 development;

24 (2) drill and exercise development and

25 implementation:

26 (3) mutual aid agreements:

27 (4) identification of equipment and funds that may be

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1 used by public junior colleges in an emergency; and
 2 (5) reporting in accordance with 20 U.S.C. Section
 3 1092(f) [~~An institution of higher education may use any appropriate~~
 4 ~~model plan developed by the center under Section 37.205(4).]~~
 5 [(c) The center may provide an institution of higher
 6 education with on-site technical assistance and safety training.]
 7 [(d) The center may charge a fee to an institution of higher
 8 education for assistance and training provided under Subsection
 9 (e)].

10 SECTION 6.11. Section 37.216, Education Code, is amended to
 11 read as follows:

12 Sec. 37.216. BIENNIAL [~~ANNUAL~~] REPORT. (a) Not later than
 13 January [~~September~~] 1 of each odd-numbered year, the board shall
 14 provide a report to the governor, the legislature, the State Board
 15 of Education, and the agency.

16 (b) The biennial [~~annual~~] report must include any findings
 17 made by the center regarding school safety and security and the
 18 center's functions, budget information, and strategic planning
 19 initiatives of the center.

20 SECTION 6.12. Subchapter G, Chapter 37, Education Code, is
 21 amended by adding Section 37.2161 to read as follows:

22 Sec. 37.2161. SCHOOL SAFETY AND SECURITY PROGRESS REPORT.

23 (a) The center shall periodically provide a school safety and
 24 security progress report to the governor, the legislature, the

- 25 [State Board of Education, and the agency that contains current](#)
26 [information regarding school safety and security in the school](#)
27 [districts and public junior college districts of this state based](#)

1 [on:](#)

2 [\(1\) elements of each district's multihazard emergency](#)
3 [operations plan required by Section 37.108\(a\);](#)

4 [\(2\) elements of each district's safety and security](#)
5 [audit required by Section 37.108\(b\); and](#)

6 [\(3\) any other report required to be submitted to the](#)
7 [center.](#)

8 [\(b\) The center shall establish guidelines regarding the](#)
9 [specific information to be included in the report required by this](#)
10 [section.](#)

11 [\(c\) The center may provide the report required by this](#)
12 [section in conjunction with the report required by Section 37.216.](#)

13 SECTION 6.13. Subchapter E, Chapter 51, Education Code, is
14 amended by adding Section 51.217 to read as follows:

15 [Sec. 51.217. MULTHAZARD EMERGENCY OPERATIONS PLAN; SAFETY](#)
16 [AND SECURITY AUDIT. \(a\) In this section, "institution" means a](#)
17 [general academic teaching institution, a medical and dental unit,](#)
18 [or other agency of higher education, as those terms are defined by](#)
19 [Section 61.003.](#)

20 [\(b\) An institution shall adopt and implement a multihazard](#)
21 [emergency operations plan for use at the institution. The plan must](#)
22 [address mitigation, preparedness, response, and recovery. The plan](#)
23 [must provide for:](#)

24 [\(1\) employee training in responding to an emergency;](#)

- 25 (2) mandatory drills to prepare students, faculty, and
- 26 employees for responding to an emergency;
- 27 (3) measures to ensure coordination with the

1 Department of State Health Services, local emergency management
2 agencies, law enforcement, health departments, and fire
3 departments in the event of an emergency; and

4 (4) the implementation of a safety and security audit
5 as required by Subsection (c).

6 (c) At least once every three years, an institution shall
7 conduct a safety and security audit of the institution's
8 facilities. To the extent possible, an institution shall follow
9 safety and security audit procedures developed in consultation with
10 the division of emergency management of the office of the governor.

11 (d) An institution shall report the results of the safety
12 and security audit conducted under Subsection (c) to the
13 institution's board of regents and the division of emergency
14 management of the office of the governor.

15 (e) Except as provided by Subsection (f), any document or
16 information collected, developed, or produced during a safety and
17 security audit conducted under Subsection (c) is not subject to
18 disclosure under Chapter 552, Government Code.

19 (f) A document relating to an institution's multihazard
20 emergency operations plan is subject to disclosure if the document
21 enables a person to:

22 (1) verify that the institution has established a plan
23 and determine the agencies involved in the development of the plan
24 and the agencies coordinating with the institution to respond to an

- 25 [emergency, including the Department of State Health Services, local](#)
- 26 [emergency services agencies, law enforcement agencies, health](#)
- 27 [departments, and fire departments;](#)

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- 1 (2) verify that the institution's plan was reviewed
2 within the last 12 months and determine the specific review dates;
- 3 (3) verify that the plan addresses the four phases of
4 emergency management under Subsection (b);
- 5 (4) verify that institution employees have been
6 trained to respond to an emergency and determine the types of
7 training, the number of employees trained, and the person
8 conducting the training;
- 9 (5) verify that each campus has conducted mandatory
10 emergency drills and exercises in accordance with the plan and
11 determine the frequency of the drills;
- 12 (6) verify that the institution has completed a safety
13 and security audit under Subsection (c) and determine the date the
14 audit was conducted, the person conducting the audit, and the date
15 the institution presented the results of the audit to the board of
16 regents; and
- 17 (7) verify that the institution has addressed any
18 recommendations by the board of regents for improvement of the plan
19 and determine the institution's progress within the last 12 months.
- 20 SECTION 6.13a. Chapter 111, Education Code, is amended by
21 adding Subchapter I to read as follows:
22 SUBCHAPTER I. UNIVERSITY OF HOUSTON HURRICANE CENTER FOR
23 INNOVATIVE TECHNOLOGY
- 24 Sec. 111.121. DEFINITIONS. In this subchapter:

25 (1) "Board" means the board of regents of the

26 University of Houston System.

27 (2) "Center" means the University of Houston Hurricane

1 Center for Innovative Technology (UHC-IT) established under this
2 subchapter.

3 Sec. 111.122. ESTABLISHMENT. (a) The University of
4 Houston Hurricane Center for Innovative Technology is established
5 at the University of Houston.

6 (b) The organization, control, and management of the center
7 are vested in the board.

8 (c) The center shall be hosted by the university's College
9 of Engineering. Participation in the center's activities shall be
10 open to any faculty member of the university who is an active
11 researcher in the field of materials, nanotechnology, structural
12 engineering, designing of structures, or sensor technology, or in
13 another relevant field as determined by the university.

14 Sec. 111.123. PURPOSE. The center is created to:

15 (1) promote interdisciplinary research, education,
16 and training for the development of state-of-the-art products,
17 materials, systems, and technologies designed to mitigate the wind,
18 and asserted structural damages in the built environment and
19 offshore structures caused by hurricanes in the Gulf Coast region;
20 and

21 (2) develop protocols for the fast and efficient
22 recovery of the public and private sectors, including utilities,
23 hospitals, petrochemical industries, offshore platforms, and
24 municipalities and other local communities following a hurricane.

25 Sec. 111.124. POWERS AND DUTIES. The center shall:
26 (1) collaborate with appropriate federal, state, and
27 local agencies and private business or nonprofit entities as

1 necessary to coordinate efforts after a hurricane in the Gulf Coast
2 region;

3 (2) develop smart materials and devices for use in
4 hurricane protection and mitigation systems for structural
5 monitoring;

6 (3) develop anchor systems for window and door
7 screens, dwellings and other buildings, pipelines, and other
8 onshore and offshore structures to withstand hurricane wind damage;

9 (4) develop test facilities for evaluating the
10 performance of new products, materials, or techniques designed to
11 protect against hurricane wind damage;

12 (5) develop specifications and standards for products
13 used for protecting against hurricane wind damage;

14 (6) design buildings, houses, and other structures to
15 withstand hurricane wind damage; and

16 (9) provide hurricane-related educational programs,
17 seminars, conferences, and workshops to the community designed to
18 ensure safety, minimize loss of life, and mitigate the destruction
19 of property associated with hurricane wind damage.

20 Sec. 111.125. COLLABORATION WITH OTHER ENTITIES. The
21 University of Houston shall encourage public and private entities
22 to participate in or support the operation of the center and may
23 enter into an agreement with any public or private entity for that
24 purpose. An agreement may allow the center to provide information.

- 25 [services, or other assistance to an entity in exchange for the](#)
- 26 [entity's participation or support.](#)
- 27 [Sec. 111.126. GIFTS AND GRANTS. The board may solicit,](#)

1 accept, and administer gifts and grants from any public or private
2 source and use existing resources for the purposes of the center.
3 State funding is not available unless the legislature makes
4 specific appropriation for this purpose.

5 Sec. 111.127. PERSONNEL. The board may employ personnel
6 for the center as necessary.

7 SECTION 6.14. Section 418.004(10), Government Code, is
8 amended to read as follows:

9 (10) "Local government entity" means a county,
10 incorporated city, independent school district, public junior
11 college district, emergency services district, other special
12 district, joint board, or other entity defined as a political
13 subdivision under the laws of this state that maintains the
14 capability to provide mutual aid.

15 SECTION 6.15. Section 37.210, Education Code, is **repealed**.

16 SECTION 6.16. Sections 37.108(c-1) and (c-2), and Sections
17 51.217(d) and (e), Education Code, as added by this article, apply
18 only to a request for documents or information that is received on
19 or after the effective date of this article. A request for
20 documents or information that was received before the effective
21 date of this article is governed by the law in effect on the date the
22 request was received, and the former law is continued in effect for
23 that purpose.

24 SECTION 6.17. A person providing school safety or security

25 consulting services in this state shall comply with Section
26 37.2091, Education Code, as added by this article, not later than
27 January 1, 2010.

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1 SECTION 6.18. This article does not make an appropriation.
2 A provision in this article that creates a new governmental
3 program, creates a new entitlement, or imposes a new duty on a
4 governmental entity is not mandatory during a fiscal period for
5 which the legislature has not made a specific appropriation to
6 implement the provision.

7 SECTION 6.19. This article takes effect September 1, 2009.

8 ARTICLE 7. EFFECTIVE DATE

9 SECTION 7.01. Except as otherwise provided by this Act,
10 this Act takes effect September 1, 2009.

President of the Senate

Speaker of the House

I certify that H.B. No. 1831 was passed by the House on April 24, 2009, by the following vote: Yeas 140, Nays 0, 1 present, not voting; that the House refused to concur in Senate amendments to H.B. No. 1831 on May 29, 2009, and requested the appointment of a conference committee to consider the differences between the two houses; that the House adopted the conference committee report on H.B. No. 1831 on May 31, 2009, by the following vote: Yeas 141, Nays 0, 1 present, not voting; and that the House adopted H.C.R. No. 286 authorizing certain corrections in H.B. No. 1831 on June 1, 2009, by the following vote: Yeas 135, Nays 0, 2 present, not voting.

Chief Clerk of the House

I certify that H.B. No. 1831 was passed by the Senate, with amendments, on May 23, 2009, by the following vote: Yeas 30, Nays 1; at the request of the House, the Senate appointed a conference committee to consider the differences between the two houses; that the Senate adopted the conference committee report on H.B. No. 1831 on June 1, 2009, by the following vote: Yeas 30, Nays 1; and that the Senate adopted H.C.R. No. 286 authorizing certain corrections in H.B. No. 1831 on June 1, 2009, by the following vote: Yeas 31, Nays 0.

Secretary of the Senate

APPROVED: _____

Date

Governor