

By: Swinford, Escobar, Christian, Woolley,  
Guillen, et al.

H.B. No. 13

Substitute the following for H.B. No. 13:

By: Cook of Navarro

C.S.H.B. No. 13

A BILL TO BE ENTITLED

AN ACT

relating to homeland security issues, including border security  
issues.

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

SECTION 1. Section 418.042(a), Government Code, is amended  
to read as follows:

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

(1) provisions for prevention and minimization of  
injury and damage caused by disaster;

(2) provisions for prompt and effective response to  
disaster;

(3) provisions for emergency relief;

(4) provisions for energy emergencies;

(5) identification of areas particularly vulnerable  
to disasters;

(6) recommendations for zoning, building  
restrictions, and other land-use controls, safety measures for  
securing mobile homes or other nonpermanent or semipermanent  
structures, and other preventive and preparedness measures  
designed to eliminate or reduce disasters or their impact;

(7) provisions for assistance to local officials in  
designing local emergency management plans;

1           (8) authorization and procedures for the erection or  
2 other construction of temporary works designed to protect against  
3 or mitigate danger, damage, or loss from flood, fire, or other  
4 disaster;

5           (9) preparation and distribution to the appropriate  
6 state and local officials of state catalogs of federal, state, and  
7 private assistance programs;

8           (10) organization of manpower and channels of  
9 assistance;

10          (11) coordination of federal, state, and local  
11 emergency management activities;

12          (12) coordination of the state emergency management  
13 plan with the emergency management plans of the federal government;

14          (13) coordination of federal and state energy  
15 emergency plans; ~~and~~

16          (14) the provision of necessary project management  
17 resources to support the Texas Data Exchange; and

18          (15) other necessary matters relating to disasters.

19          SECTION 2. Section 418.043, Government Code, is amended to  
20 read as follows:

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

22               (1) determine requirements of the state and its  
23 political subdivisions for food, clothing, and other necessities in  
24 event of a disaster;

25               (2) procure and position supplies, medicines,  
26 materials, and equipment;

27               (3) adopt standards and requirements for local and

1 interjurisdictional emergency management plans;

2 (4) periodically review local and interjurisdictional  
3 emergency management plans;

4 (5) coordinate deployment of mobile support units;

5 (6) establish and operate training programs and  
6 programs of public information or assist political subdivisions and  
7 emergency management agencies to establish and operate the  
8 programs;

9 (7) make surveys of public and private industries,  
10 resources, and facilities in the state that are necessary to carry  
11 out the purposes of this chapter;

12 (8) plan and make arrangements for the availability  
13 and use of any private facilities, services, and property and  
14 provide for payment for use under terms and conditions agreed on if  
15 the facilities are used and payment is necessary;

16 (9) establish a register of persons with types of  
17 training and skills important in disaster mitigation,  
18 preparedness, response, and recovery;

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

21 (11) prepare, for issuance by the governor, executive  
22 orders and regulations necessary or appropriate in coping with  
23 disasters;

24 (12) cooperate with the federal government and any  
25 public or private agency or entity in achieving any purpose of this  
26 chapter and in implementing programs for disaster mitigation,  
27 preparation, response, and recovery; ~~and~~

1           (13) provide to the Department of Public Safety the  
2 necessary project management resources, including operational  
3 support and personnel, to support the Texas Data Exchange; and

4           (14) do other things necessary, incidental, or  
5 appropriate for the implementation of this chapter.

6           SECTION 3. Section 421.002, Government Code, is amended to  
7 read as follows:

8           Sec. 421.002. STATE OFFICE OF HOMELAND SECURITY; HOMELAND  
9 SECURITY STRATEGY. (a) The State Office of Homeland Security is in  
10 the office of the governor. The governor shall direct homeland  
11 security in this state through the State Office of Homeland  
12 Security and shall develop a statewide homeland security strategy  
13 that improves the state's ability to:

14           (1) detect and deter threats to homeland security;

15           (2) respond to homeland security emergencies; and

16           (3) recover from homeland security emergencies.

17           (b) The State Office of Homeland Security [~~governor's~~  
18 ~~homeland security strategy~~] shall coordinate homeland security  
19 activities among and between local, state, and federal agencies and  
20 the private sector.

21           (c) The governor's homeland security strategy [~~and~~] must  
22 include specific plans for:

23           (1) intelligence gathering and analysis;

24           (2) information sharing;

25           (3) reducing the state's vulnerability to homeland  
26 security emergencies;

27           (4) protecting critical infrastructure;

1 (5) protecting the state's international border,  
2 ports, and airports;

3 (6) detecting, deterring, and defending against  
4 terrorism, including cyber-terrorism and biological, chemical, and  
5 nuclear terrorism;

6 (7) positioning equipment, technology, and personnel  
7 to improve the state's ability to respond to a homeland security  
8 emergency;

9 (8) establishing and directing the Texas Fusion  
10 [~~Infrastructure Protection Communications~~] Center and giving the  
11 center certain forms of authority to implement the governor's  
12 homeland security strategy; [~~and~~]

13 (9) using technological resources to:

14 (A) facilitate the interoperability of  
15 government technological resources, including data, networks, and  
16 applications;

17 (B) coordinate the warning and alert systems of  
18 state and local agencies;

19 (C) incorporate multidisciplinary approaches to  
20 homeland security; and

21 (D) improve the security of governmental and  
22 private sector information technology and information resources;  
23 and

24 (10) creating and operating a multi-agency  
25 coordination system as outlined in the federal Department of  
26 Homeland Security publication "National Incident Management  
27 System," published March 1, 2004.

1        (d) [~~(e)~~] The governor's homeland security strategy must  
2 complement and operate in coordination with the federal homeland  
3 security strategy.

4        SECTION 4. Subchapter A, Chapter 421, Government Code, is  
5 amended by adding Section 421.0025 to read as follows:

6        Sec. 421.0025. BORDER SECURITY COUNCIL. (a) The Border  
7 Security Council consists of members appointed by the governor.

8        (b) The Border Security Council shall develop and recommend  
9 to the State Office of Homeland Security performance standards,  
10 reporting requirements, audit methods, and other procedures to  
11 ensure that funds allocated by the State Office of Homeland  
12 Security for purposes related to security at or near this state's  
13 international border are used properly and that the recipients of  
14 the funds are accountable for the proper use of the funds.

15        (c) The Border Security Council shall advise the State  
16 Office of Homeland Security regarding the allocation of funds by  
17 the office for purposes related to security at or near this state's  
18 international border. Recommendations relating to the allocation  
19 of those funds must be made by a majority of the members of the  
20 council.

21        (d) The governor shall designate one member of the Border  
22 Security Council as the chair. The chair shall arrange meetings of  
23 the Border Security Council at times determined by the members of  
24 the council.

25        (e) The meetings of the Border Security Council are subject  
26 to the requirements of Chapter 551 to the same extent as similar  
27 meetings of the Public Safety Commission. The plans and

1 recommendations of the Border Security Council are subject to the  
2 requirements of Chapter 552 to the same extent as similar plans and  
3 recommendations of the Department of Public Safety of the State of  
4 Texas.

5 (f) Service on the Border Security Council by a state  
6 officer or employee or by an officer or employee of a local  
7 government is an additional duty of the member's office or  
8 employment.

9 (g) Chapter 2110 does not apply to the Border Security  
10 Council.

11 SECTION 5. Section 421.003, Government Code, is amended to  
12 read as follows:

13 Sec. 421.003. CRIMINAL INTELLIGENCE INFORMATION; TEXAS  
14 DATA EXCHANGE. (a) The Department of Public Safety of the State of  
15 Texas is:

16 (1) the repository in this state for the collection of  
17 multijurisdictional criminal intelligence information that is  
18 about terrorist activities or otherwise related to homeland  
19 security activities; and

20 (2) the state agency that has primary responsibility  
21 to analyze and disseminate that information.

22 (b) The Department of Public Safety of the State of Texas  
23 shall oversee the Texas Data Exchange and all related information.

24 SECTION 6. Subchapter A, Chapter 421, Government Code, is  
25 amended by adding Section 421.005 to read as follows:

26 Sec. 421.005. LEGISLATIVE OVERSIGHT COMMITTEE. (a) The  
27 legislative oversight committee on homeland security and border

1 security consists of:

2 (1) the chair of the House Committee on Border and  
3 International Affairs;

4 (2) the chair of the House Committee on Defense  
5 Affairs and State-Federal Relations;

6 (3) the chair of the House Committee on State Affairs;

7 (4) the chair of the Senate Committee on International  
8 Relations and Trade;

9 (5) the chair of the Senate Committee on State  
10 Affairs;

11 (6) the chair of the Senate Committee on  
12 Transportation and Homeland Security;

13 (7) two additional members of the house of  
14 representatives appointed by the speaker of the house of  
15 representatives; and

16 (8) two additional members of the senate appointed by  
17 the lieutenant governor.

18 (b) The members of the oversight committee appointed under  
19 Subsections (a)(7) and (8) serve at the will of the appointing  
20 officer.

21 (c) The speaker of the house of representatives and the  
22 lieutenant governor shall each designate a cochair from among the  
23 committee members.

24 (d) The committee shall meet initially at the joint call of  
25 the cochairs and the committee shall subsequently hold meetings and  
26 public hearings at the call of the cochairs.

27 (e) The committee shall monitor homeland security and



1 border security issues in this state, including the implementation  
2 of laws relating to homeland security and border security. The  
3 committee shall issue a report to the legislature not later than  
4 December 1 of each even-numbered year.

5 SECTION 7. Section 421.071, Government Code, is amended to  
6 read as follows:

7 Sec. 421.071. COOPERATION AND ASSISTANCE; COMPLIANCE WITH  
8 APPLICABLE LAW. (a) A state or local agency that performs a  
9 homeland security activity or a nongovernmental entity that  
10 contracts with a state or local agency to perform a homeland  
11 security activity shall cooperate with and assist the office of the  
12 governor, the Homeland Security Council, the Texas Fusion  
13 [Infrastructure Protection Communications] Center, and the  
14 National Infrastructure Protection Center in the performance of  
15 their duties under this chapter and other state or federal law.

16 (b) A state governmental entity or political subdivision  
17 may not adopt a rule, policy, or ordinance under which the state  
18 governmental entity or political subdivision will:

19 (1) not fully enforce state or federal criminal law  
20 relating to drugs, including Chapters 481 and 483, Health and  
21 Safety Code;

22 (2) refuse to take an action that is authorized under 8  
23 U.S.C. Section 1252c and permitted under state law; or

24 (3) violate 8 U.S.C. Section 1324.

25 (c) If the staff of the office of the attorney general  
26 determines that a state governmental entity or political  
27 subdivision has violated Subsection (b), the state governmental

1 entity or political subdivision shall promptly forfeit and repay to  
2 the appropriate entity all funds granted to the state governmental  
3 entity or political subdivision for purposes related to homeland  
4 security, including border security. The attorney general may stay  
5 the duty to repay pending the outcome of an appeal under Subsection  
6 (d).

7 (d) Not later than the 21st day after the date of receiving  
8 notice of the determination, a state governmental entity or  
9 political subdivision may appeal a determination under Subsection  
10 (c) to the attorney general. An appeal under this subsection is a  
11 contested case under Chapter 2001. An administrative law judge  
12 employed by the State Office of Administrative Hearings shall  
13 conduct the contested case hearing.

14 SECTION 8. Section 421.072, Government Code, is amended by  
15 amending Subsection (a) and adding Subsections (d), (e), and (f) to  
16 read as follows:

17 (a) The State Office of Homeland Security, with the advice  
18 of the Border Security Council, [~~office of the governor~~] shall:

19 (1) allocate available federal and state grants and  
20 other funding related to homeland security to state and local  
21 agencies and defense base development authorities created under  
22 Chapter 379B, Local Government Code, that perform homeland security  
23 activities;

24 (2) periodically review the grants and other funding  
25 for appropriateness and compliance, including compliance with this  
26 section, Section 421.071, and Articles 2.13(d) and (e), Code of  
27 Criminal Procedure;

1           (3) designate state administering agencies to  
2 administer all grants and other funding to the state related to  
3 homeland security; and

4           (4) measure the effectiveness of the homeland security  
5 grants and other funding.

6           (d) The governor may allocate funds as necessary to assist  
7 state and local law enforcement agencies to acquire additional  
8 personnel, equipment, and other operational support that will  
9 enable state and local law enforcement agencies to better perform  
10 homeland security activities, including activities related to  
11 border security or law enforcement emergencies.

12           (e) If the staff of the office of the attorney general  
13 determines that a state or local agency receiving a grant or  
14 allocation under this section has violated this section, Section  
15 421.071, or Article 2.13(d) or (e), Code of Criminal Procedure, the  
16 state or local agency shall promptly forfeit and repay to the  
17 appropriate entity the grant or allocated funds. The attorney  
18 general may stay the duty to repay pending the outcome of an appeal  
19 under Subsection (f).

20           (f) Not later than the 21st day after the date of receiving  
21 notice of the determination, a state or local agency may appeal a  
22 determination under Subsection (e) to the attorney general. An  
23 appeal under this subsection is a contested case under Chapter  
24 2001. An administrative law judge employed by the State Office of  
25 Administrative Hearings shall conduct the contested case hearing.

26           SECTION 9. The heading to Subchapter E, Chapter 421,  
27 Government Code, is amended to read as follows:

1 SUBCHAPTER E. TEXAS FUSION [~~INFRASTRUCTURE PROTECTION~~  
2 ~~COMMUNICATIONS~~] CENTER

3 SECTION 10. Section 421.081, Government Code, is amended to  
4 read as follows:

5 Sec. 421.081. FACILITIES AND ADMINISTRATIVE SUPPORT. The  
6 Department of Public Safety of the State of Texas at the request of  
7 the governor shall provide facilities and administrative support  
8 for the Texas Fusion [~~Infrastructure Protection Communications~~]  
9 Center.

10 SECTION 11. Section 370.003, Local Government Code, is  
11 amended to read as follows:

12 Sec. 370.003. MUNICIPAL OR COUNTY POLICY REGARDING  
13 [~~ENFORCEMENT OF~~] DRUG LAWS OR CERTAIN LAWS RELATING TO IMMIGRATION.  
14 The governing body of a municipality, the commissioners court of a  
15 county, or a sheriff, municipal police department, municipal  
16 attorney, county attorney, district attorney, or criminal district  
17 attorney may not adopt a policy under which the entity will:

18 (1) not fully enforce criminal laws relating to drugs,  
19 including Chapters 481 and 483, Health and Safety Code, and federal  
20 law;

21 (2) refuse to take an action that is authorized under 8  
22 U.S.C. Section 1252c and permitted under state law; or

23 (3) violate 8 U.S.C. Section 1324.

24 SECTION 12. Chapter 370, Local Government Code, is amended  
25 by adding Section 370.004 to read as follows:

26 Sec. 370.004. PERFORMANCE OF IMMIGRATION OFFICER  
27 FUNCTIONS. Notwithstanding any other law, a political subdivision

1 of this state may enter into an agreement under Section 287(g),  
2 Immigration and Nationality Act (8 U.S.C. Section 1357(g)), to  
3 perform a function of an immigration officer.

4 SECTION 13. The heading to Chapter 370, Local Government  
5 Code, is amended to read as follows:

6 CHAPTER 370. MISCELLANEOUS PROVISIONS RELATING TO [~~MUNICIPAL AND~~  
7 ~~COUNTY~~] HEALTH AND PUBLIC SAFETY AFFECTING MORE THAN ONE TYPE OF  
8 LOCAL GOVERNMENT

9 SECTION 14. Article 2.13, Code of Criminal Procedure, is  
10 amended by adding Subsections (d) and (e) to read as follows:

11 (d) Neither a state governmental entity nor a municipality  
12 may adopt a rule, policy, or ordinance, or follow or establish a  
13 commonly accepted practice, that requires a peace officer to  
14 violate a state or federal criminal law. A peace officer shall  
15 disregard a rule, policy, ordinance, or commonly accepted practice  
16 that, if followed, would require the officer to violate a state or  
17 federal criminal law.

18 (e) It is the duty of each peace officer to report to the law  
19 enforcement agency that appoints or employs the peace officer the  
20 commission of a federal crime or a conspiracy to commit a federal  
21 crime if the officer has knowledge of the crime or conspiracy. If a  
22 peace officer reports the commission of a crime under this  
23 subsection, it is the duty of the law enforcement agency to report  
24 that information to the State Office of Homeland Security.

25 SECTION 15. The House Committee on Corrections may conduct  
26 a study to determine whether it would add efficiency to the state's  
27 criminal justice system, in terms of time and money, for this state

1 or for certain political subdivisions of this state, to seek one or  
2 more agreements under Section 287(g), Immigration and Nationality  
3 Act (8 U.S.C. Section 1357(g)).

4 SECTION 16. This Act takes effect immediately if it  
5 receives a vote of two-thirds of all the members elected to each  
6 house, as provided by Section 39, Article III, Texas Constitution.  
7 If this Act does not receive the vote necessary for immediate  
8 effect, this Act takes effect September 1, 2007.