

3761--A

2013-2014 Regular Sessions

I N S E N A T E

February 14, 2013

Introduced by Sens. SMITH, ADDABBO, SAVINO -- read twice and ordered printed, and when printed to be committed to the Committee on Veterans, Homeland Security and Military Affairs -- recommitted to the Committee on Veterans, Homeland Security and Military Affairs in accordance with Senate Rule 6, sec. 8 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the executive law, the public service law, the public health law, the state finance law and the education law, in relation to enacting the "natural disaster preparedness and mitigation act"

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1 Section 1. Short title. This act shall be known and may be cited as
2 the "natural disaster preparedness and mitigation act".
3 S 2. Legislative intent. The legislature hereby finds that due to
4 changes in climate and weather patterns that may be due, in part, to
5 global warming that large areas of the state have been severely impacted
6 by repeated hurricanes, tropical storms and other weather related
7 natural disasters during the past few years. The conditions created by
8 these hurricanes, tropical storms and other weather related natural
9 disasters have imposed severe economic, social and infrastructure
10 damages to those areas and populaces affected.
11 Therefore, the legislature declares that the state, its political
12 subdivisions, public utilities and health care facilities must improve
13 their preparations for, responses to and recovery from future disasters.
14 This act requires enhanced planning, preparation and mitigation efforts
15 for possible future natural disasters. Natural disaster planning, on
16 both the state and local levels, by state and local governments, utilities
17 and health care facilities should be comprehensive and include
18 emergency service organizations which are involved in mitigation of
19 damage and recovery from disasters at all levels. Furthermore, the

EXPLANATION--Matter in *ITALICS* (underscored) is new; matter in brackets [] is old law to be omitted.

LBD08614-02-4

responses to disasters must be quick, well coordinated and comprehensive so as to minimize the loss of life, human suffering, property loss and reduction in business activity. Finally, both public and private infrastructures should be designed and constructed to minimize the damage thereto caused by any disaster and so as to facilitate the repair and restoration thereof after a disaster.

S 3. Section 20 of the executive law, as amended by section 1 of part B of chapter 56 of the laws of 2010, paragraphs i, j and k of subdivision 2 as added by section 1 of part G of chapter 55 of the laws of 2012, is amended to read as follows:

S 20. Natural and man-made disasters; policy; definitions. 1. It shall be the policy of the state that:

a. local government and emergency service organizations continue their essential role as the first line of defense in times of disaster, and that the state provide [appropriate] TIMELY AND COMPREHENSIVE supportive services to the extent necessary;

b. local chief executives take an active and personal role in the development and implementation of STATE AND LOCAL disaster preparedness programs and be vested with authority and responsibility, WITH ASSISTANCE FROM THE STATE, in order to [insure] ENSURE the success of such programs;

c. state and local natural disaster and emergency response functions be coordinated using recognized practices in incident management AND RISK MANAGEMENT PRACTICES in order to bring the fullest protection and benefit to the people;

d. state resources SHALL be organized and prepared for immediate effective response to disasters which [are] MAY BE beyond the capability of local governments and emergency service organizations; [and]

e. state and local plans, organizational arrangements[,] and response capability required to execute the provisions of this article shall at all times be the most effective that current AND REASONABLY ANTICIPATED circumstances and existing resources allow[.]; AND

F. STATE AND LOCAL GOVERNMENT AND EMERGENCY SERVICE ORGANIZATIONS SHALL CONSIDER AND INCORPORATE INTO EVERY STATE AND LOCAL DISASTER PREPAREDNESS PLAN, THE EMERGENCY MANAGEMENT PLANS SUBMITTED BY PRIVATE AGENCIES.

2. As used in this article the following terms shall have the following meanings:

a. "disaster" means occurrence or imminent threat of wide spread or severe damage, injury, or loss of life or property resulting from any natural or man-made causes, including, but not limited to, fire, flood, earthquake, hurricane, tornado, high water, landslide, mudslide, wind, storm, WIND STORM, wave action, volcanic activity, epidemic, air contamination, terrorism, cyber event, blight, drought, infestation, explosion, radiological accident, nuclear, chemical, biological[,] or bacteriological release, water contamination, DAM FAILURE, ICE STORM, bridge failure or bridge collapse.

b. "state disaster emergency" means a period beginning with a declaration by the governor that a disaster exists and ending upon the termination thereof.

c. "municipality" means a public corporation as defined in subdivision one of section sixty-six of the general construction law and a special district as defined in subdivision sixteen of section one hundred two of the real property tax law.

d. "commission" means the disaster preparedness commission created pursuant to section twenty-one of this article.

1 e. "emergency services organization" means a public or private agency,
2 voluntary organization or group organized and functioning for the
3 purpose of providing fire, medical, ambulance, rescue, housing, food or
4 other services directed toward relieving human suffering, injury or loss
5 of life or damage to property as a result of an emergency, including
6 non-profit and governmentally-supported organizations, but excluding
7 governmental agencies.

8 f. "chief executive" means:

9 (1) a county executive or manager of a county;

10 (2) in a county not having a county executive or manager, the chairman
11 or other presiding officer of the county legislative body;

12 (3) a mayor of a city or village, except where a city or village has a
13 manager, it shall mean such manager; and

14 (4) a supervisor of a town, except where a town has a manager, it
15 shall mean such manager.

16 g. ["Disaster"] "DISASTER emergency response personnel" means agencies,
17 public officers, employees, or affiliated volunteers having duties and
18 responsibilities under or pursuant to a comprehensive emergency manage-
19 ment plan.

20 h. ["Emergency"] "EMERGENCY management director" means the government
21 official responsible for emergency preparedness, response and recovery
22 for a county, city, town, or village.

23 i. "incident management team" means a state certified team of trained
24 personnel from different departments, organizations, agencies, and
25 jurisdictions within the state, or a region of the state, activated to
26 support and manage major and/or complex incidents requiring a signif-
27 icant number of local, regional, and state resources.

28 j. "executive level officer" means a state agency officer with the
29 authority to deploy agency assets and resources and make decisions bind-
30 ing a state agency.

31 k. "third party non-state resources" means any contracted resource
32 that is not owned or controlled by the state or a political subdivision
33 including, but not limited to, ambulances, construction crews, or
34 contractors.

35 L. "HEALTH CARE FACILITY" MEANS A HOSPITAL OR RESIDENTIAL HEALTH CARE
36 FACILITY, AS DEFINED IN SECTION TWENTY-EIGHT HUNDRED ONE OF THE PUBLIC
37 HEALTH LAW.

38 M. "PRIVATE AGENCY" MEANS A HEALTH CARE FACILITY OR A PUBLIC UTILITY.

39 N. "PUBLIC UTILITY" MEANS A UTILITY COMPANY, AS DEFINED IN SECTION TWO
40 OF THE PUBLIC SERVICE LAW, A CABLE TELEVISION COMPANY, AS DEFINED IN
41 SECTION TWO HUNDRED TWELVE OF THE PUBLIC SERVICE LAW, OR A WIRELESS
42 COMMUNICATIONS SERVICE PROVIDER, AS DEFINED IN SECTION THREE HUNDRED ONE
43 OF THE COUNTY LAW.

44 S 4. Section 21 of the executive law, as amended by section 2 of part
45 B of chapter 56 of the laws of 2010, subdivision 1 as amended by chapter
46 176 of the laws of 2013, paragraph f of subdivision 3 as amended by
47 section 3 of part G of chapter 55 of the laws of 2012, subdivision 5 as
48 amended by section 4 of part G of chapter 55 of the laws of 2012, is
49 amended to read as follows:

50 S 21. Disaster preparedness commission established; meetings; powers
51 and duties. 1. There is hereby created in the executive department a
52 disaster preparedness commission consisting of the commissioners of
53 transportation, health, division of criminal justice services, educa-
54 tion, economic development, agriculture and markets, housing and commu-
55 nity renewal, general services, labor, environmental conservation,
56 mental health, parks, recreation and historic preservation, corrections

1 and community supervision, children and family services, homeland secu-
2 rity and emergency services, and people with developmental disabilities,
3 the president of the New York state energy research and development
4 authority, the superintendents of state police and financial services,
5 the secretary of state, the state fire administrator, the chair of the
6 public service commission, the adjutant general, the office of informa-
7 tion technology services, and the office of victim services, the chairs
8 of the thruway authority, the office for the aging, the metropolitan
9 transportation authority, the port authority of New York and New Jersey,
10 the chief professional officer of the state coordinating chapter of the
11 American Red Cross and [three] SIX additional members, to be appointed
12 by the governor, two of whom shall be chief executives, ONE OF WHOM
13 SHALL BE A REPRESENTATIVE OF A PUBLIC UTILITY, ONE OF WHOM SHALL BE A
14 REPRESENTATIVE OF A HEALTH CARE FACILITY AND ONE OF WHOM SHALL BE A RISK
15 MANAGER. Each member agency may designate an executive level officer of
16 that agency, with responsibility for disaster preparedness matters, who
17 may represent that agency on the commission. The commissioner of the
18 division of homeland security and emergency services shall serve as
19 chair of the commission, and the governor shall designate the vice chair
20 of the commission. The members of the commission, except those who serve
21 ex officio, shall be allowed their actual and necessary expenses
22 incurred in the performance of their duties under this article but shall
23 receive no additional compensation for services rendered pursuant to
24 this article.

25 2. The commission, on call of the chairperson, shall meet at least
26 twice each year and at such other times as may be necessary. The agenda
27 and meeting place of all regular meetings shall be made available to the
28 public in advance of such meetings and all such meetings shall be open
29 to the public. The commission shall establish quorum requirements and
30 other rules and procedures regarding conduct of its meetings and other
31 affairs.

32 3. The commission shall have the following powers and responsibil-
33 ities:

34 a. study all aspects of man-made or natural disaster prevention,
35 response and recovery;

36 b. request and obtain from any state or local officer or agency,
37 PRIVATE AGENCY OR RISK MANAGER any information OR ADVICE necessary to
38 the commission for the exercise of its responsibilities;

39 c. prepare and, as appropriate, revise a state comprehensive emergency
40 management plan. The commission shall report all revisions to such plan
41 by March thirty-first of each year to the governor, the legislature and
42 the chief judge of the state, unless a current version of the plan is
43 available to the public on the website of the division of homeland secu-
44 rity and emergency services. In preparing such plans, the commission
45 shall consult with federal and local officials, emergency service organ-
46 izations including both volunteer and commercial emergency response
47 organizations, PRIVATE AGENCIES, RISK MANAGERS and the public as it
48 deems appropriate. To the extent such plans impact upon administration
49 of the civil and criminal justice systems of the state, including their
50 operational and fiscal needs in times of disaster emergency, the commis-
51 sion, its staff and any working group, task force, agency or other
52 instrumentality to which it may delegate responsibility to assist it in
53 its duties shall consult with the chief administrator of the courts and
54 coordinate their preparation with him or her or with his or her repre-
55 sentatives;

1 d. prepare, keep current and distribute to chief executives, PRIVATE
2 AGENCIES, BUSINESS ORGANIZATIONS, and others an inventory of programs
3 directly relevant to prevention, minimization of damage, readiness,
4 operations during disasters, and recovery following disasters;

5 e. direct state disaster operations and coordinate state disaster
6 operations with local AND PRIVATE AGENCY disaster operations following
7 the declaration of a state disaster emergency;

8 f. (1) unless it deems it unnecessary, create, following the declara-
9 tion of a state disaster emergency, a temporary organization in the
10 disaster area to provide for integration and coordination of efforts
11 among the various federal, state, municipal and private agencies
12 involved. The commission, upon a request from a municipality and with
13 the approval of the governor, shall direct the temporary organization to
14 assume direction of the local disaster operations of such municipality,
15 AND COOPERATE WITH PRIVATE AGENCY DISASTER OPERATIONS for a specified
16 period of time not to exceed thirty days, and in such cases such tempo-
17 rary organization shall assume direction of such local disaster oper-
18 ations, AND COOPERATE WITH PRIVATE AGENCY DISASTER OPERATIONS subject to
19 the supervision of the commission. Upon the expiration of the thirty day
20 period the commission, at the request of the municipality, may extend
21 the temporary organization's direction of such local disaster
22 operations, AND COOPERATE WITH PRIVATE AGENCY DISASTER OPERATIONS for
23 additional periods not to exceed thirty days. The commission, upon a
24 finding that a municipality is unable to manage local disaster oper-
25 ations, may, with the approval of the governor, direct the temporary
26 organization to assume direction of the local AND PRIVATE AGENCY disas-
27 ter operations of such municipality, for a specified period of time not
28 to exceed thirty days, and in such cases such temporary organization
29 shall assume direction of such local AND PRIVATE AGENCY disaster oper-
30 ations, subject to the supervision of the commission. Upon expiration of
31 the thirty day period the commission, after consultation with the muni-
32 cipality, and with the approval of the governor, may extend the tempo-
33 rary organization's direction of such local AND PRIVATE AGENCY disaster
34 operations for additional periods not to exceed thirty days. In such
35 event, such temporary organization may utilize such municipality's local
36 resources, provided, however, that the state shall not be liable for any
37 expenses incurred in using such municipality's resources. The state
38 shall not be liable for the expenses incurred in using third party,
39 non-state resources deployed to the affected area by the temporary
40 organization, which are necessary to protect life and safety;

41 (2) The state incident management team shall have the authority to act
42 as the operational arm of the temporary organization. When called to
43 duty and deployed by the state, members of any state or local incident
44 management team shall be deemed temporary employees of the state and
45 shall have the same privileges and immunities afforded to regular state
46 employees, subject to the rules and regulations promulgated by the pres-
47 ident of the state civil service commission pursuant to section one
48 hundred sixty-three of the civil service law;

49 g. assist in the coordination of federal recovery efforts and coordi-
50 nate recovery assistance by state and private agencies;

51 h. provide for periodic briefings, drills, exercises or other means to
52 assure that all state, MUNICIPAL AND PRIVATE AGENCY personnel with
53 direct, SUPERVISORY OR IMPLEMENTATION responsibilities in the event of a
54 disaster are fully familiar with response and recovery plans and the
55 manner in which they shall carry out their responsibilities, and coordi-
56 nate with federal, local, PRIVATE AGENCY or other state personnel. Such

activities may take place on a regional or county basis, and local, PRIVATE AGENCY and federal participation shall be invited and encouraged;

i. submit to the governor, the legislature and the chief judge of the state by March thirty-first of each year an annual report which shall include but need not be limited to:

(1) a summary of commission, MUNICIPAL, PRIVATE AGENCY and state agency activities for the year and plans for the ensuing year with respect to the duties and responsibilities of the commission;

(2) recommendations on ways to improve state, PRIVATE AGENCY and local capability to prevent, prepare for, respond to and recover from disasters;

(3) the status of the state, PRIVATE AGENCY and local plans for disaster preparedness and response, including the name of any locality OR PRIVATE AGENCY which has failed or refused to develop and implement its own disaster preparedness plan and program; and the extent to which all forms of local AND PRIVATE AGENCY emergency response assets have been included, and accounted for in planning and preparation for disaster preparedness and response; [and]

j. develop public service announcements to be distributed to television and radio stations and other media throughout the state informing the public how to prepare and respond to disasters. Such public service announcements shall be distributed in English and such other languages as such commission deems appropriate[.]; AND

K. THE COMMISSION SHALL WITHIN ONE HUNDRED EIGHTY DAYS AFTER THE OCCURRENCE OF A NATURAL DISASTER, EVALUATE THE EFFECTIVENESS OF THE STATE AND LOCAL EMERGENCY MANAGEMENT PLANS, AND THOSE PLANS ESTABLISHED BY ALL PRIVATE AGENCIES THAT WERE ACTIVATED IN RESPONSE TO SUCH NATURAL DISASTER. IN EVALUATING ALL OF SUCH PLANS, THE REPORT OF THE COMMISSION SHALL CONSIDER:

(1) THE OVERALL EFFECTIVENESS OF THE STATE EMERGENCY MANAGEMENT PLAN AND HOW IT INTERFACED WITH EACH LOCAL EMERGENCY MANAGEMENT PLAN AND THE PLANS ESTABLISHED BY PRIVATE AGENCIES, AS SUCH PLANS RELATED TO: MITIGATION OF THE LOSS OF HUMAN LIFE AND DAMAGE TO PROPERTY, RESCUE AND RESPONSE TIMES BY EMERGENCY RESPONDERS, ABILITY FOR EACH PLAN TO COORDINATE ITS EFFORTS WITH ALL OTHER EMERGENCY MANAGEMENT PLANS, AND CAPACITY FOR EACH ADMINISTRATOR OF THE STATE, LOCAL AND PRIVATE AGENCY PLANS TO EFFECTIVELY COMMUNICATE WITH EACH OTHER, PERSONNEL UNDER THE DIRECTION OF OTHER JURISDICTIONS, THE GENERAL PUBLIC AND THOSE LOCATED OUTSIDE OF THE DISASTER AREA;

(2) THE EFFECTIVENESS OF EACH INDIVIDUAL PLAN TO SATISFY THE ARTICULATED GOALS OF SUCH PLAN AS IT RELATES TO THE ANTICIPATED TIME IN WHICH SUCH PLAN WAS ACTIVATED, WHETHER SUCH PLAN SHOULD HAVE BEEN ACTIVATED AT AN EARLIER OR LATER TIME, OVERALL EMERGENCY RESPONSE TIMES BY COMPONENT PARTS OF SUCH PLAN, TO MITIGATE OR CURTAIL THE LOSS OF TARGETED MUNICIPAL OR PRIVATE AGENCY SERVICES, TO REINSTATE SUCH MUNICIPAL OR PRIVATE AGENCY SERVICES AFTER THE OCCURRENCE OF SUCH DISASTER, THE EFFECTIVENESS OF PERSONNEL COVERED UNDER SUCH PLAN, INCLUDING, BUT NOT LIMITED TO ADEQUATE TRAINING AND PERFORMANCE OF ASSIGNED TASKS BY SUCH PERSONNEL; AND

(3) THE OVERALL STRENGTHS AND WEAKNESSES OF EACH EMERGENCY MANAGEMENT PLAN, ITS SHORTCOMINGS AND ITEMS THAT COULD BE IMPROVED UPON TO BETTER SATISFY THE ARTICULATED GOALS OF SUCH PLAN AND IMPROVE THE EFFECTIVENESS AND COOPERATIVE EFFORTS WITH AND BY OTHER ACTIVATED EMERGENCY MANAGEMENT PLANS TO BE BETTER PREPARED FOR FUTURE DISASTERS.

1 AFTER THE COMPLETION OF SUCH EVALUATION, THE COMMISSION SHALL REPORT
2 ITS FINDINGS AND RECOMMENDATIONS DERIVED FROM THE EVALUATION TO THE
3 GOVERNOR, THE LEGISLATURE, THE CHIEF JUDGE OF THE COURT OF APPEALS,
4 APPROPRIATE EMERGENCY MANAGEMENT AGENCY AND THE STATES WHICH COOPERATE
5 WITH THE STATE OF NEW YORK FOR THE PURPOSES OF THIS ARTICLE.

6 4. All powers of the state civil defense commission are assigned to
7 the commission.

8 5. The [state] office of emergency management within the division of
9 homeland security and emergency services shall serve as the operational
10 arm of the commission and shall be responsible for implementing
11 provisions of this article and the rules and policies adopted by the
12 commission. The director of the [state] office of emergency management
13 within the division of homeland security and emergency services shall
14 exercise the authority given to the disaster preparedness commission in
15 section twenty-nine of this article, to coordinate and direct state
16 agencies and assets in response to a state OR LOCAL disaster emergency,
17 through their respective agency heads, on behalf of the governor and the
18 chair of the disaster preparedness commission, when the governor, the
19 lieutenant governor, and the chair of the disaster preparedness commis-
20 sion are incapacitated or without an available means of reliable commu-
21 nication with the [state] office of emergency management. If the direc-
22 tor of the [state] office of emergency management is unable to exercise
23 this authority, then the executive deputy commissioner of the division
24 of homeland security and emergency services shall act in [this] SUCH
25 capacity. In the event that the executive deputy commissioner is unable
26 to exercise [this] SUCH authority, then such authority shall be exer-
27 cised by the official willing and able to do so in the following order:
28 the superintendent of [the division of] state police; the state fire
29 administrator; or the director of the office of counterterrorism within
30 the division of homeland security and emergency services. Nothing in
31 this subdivision shall be construed to limit the authority of the gover-
32 nor, lieutenant governor, or the chair of the disaster preparedness
33 commission to oversee the director of the [state] office of emergency
34 management within the division of homeland security and emergency
35 services or any official exercising authority given to the disaster
36 preparedness commission in section twenty-nine of this article.

37 S 5. Section 22 of the executive law, as added by chapter 640 of the
38 laws of 1978, subdivision 3 as amended by section 3 of part B of chapter
39 56 of the laws of 2010, is amended to read as follows:

40 S 22. State disaster preparedness plans. 1. The commission shall
41 prepare a state disaster preparedness plan and submit such plan to the
42 governor for approval no later than one year following the effective
43 date of this [act] ARTICLE. The governor shall act upon such plan by
44 July first of that year. The commission shall review such plans annual-
45 ly.

46 2. The purpose of such plans shall be to minimize the effects of
47 disasters by: (i) identifying appropriate measures to prevent disasters,
48 (ii) developing mechanisms to coordinate the use of resources and
49 manpower for service during and after disaster emergencies and the
50 delivery of services to aid citizens and reduce human suffering result-
51 ing from a disaster, and (iii) provide for recovery and redevelopment
52 after disaster emergencies.

53 3. Such plans shall be prepared with such assistance from [other] SUCH
54 MUNICIPAL AND PRIVATE agencies AND RISK MANAGERS as the commission deems
55 necessary, and shall include, but not be limited to:

1 a. Disaster prevention and mitigation. Plans to prevent and minimize
2 the effects of disasters shall include, but not be limited to:

3 (1) COMPREHENSIVE identification of hazards [and], assessment of
4 [risk] RISKS AND PREVENTION OR MITIGATION OF SUCH RISKS;

5 (2) recommended disaster prevention and mitigation projects, policies,
6 priorities, PERSONNEL TRAINING and programs, with suggested implementa-
7 tion schedules, which outline federal, state, PRIVATE AGENCY and local
8 roles;

9 (3) suggested revisions and additions to building and safety codes,
10 and zoning, COASTAL AREA, INLAND WATERWAY AREA and other land use
11 programs TO PROTECT AND MITIGATE FUTURE RISKS POSED TO THE STATE'S
12 TRANSPORTATION, UTILITY AND TELECOMMUNICATIONS INFRASTRUCTURE;

13 (4) suggested ways in which state agencies can provide technical
14 assistance to municipalities AND PRIVATE AGENCIES in the development of
15 local disaster prevention and mitigation plans and programs;

16 (5) such other measures as reasonably can be taken to protect lives,
17 prevent disasters, and reduce the impact of disasters.

18 b. Disaster response. Plans to coordinate the use of resources and
19 manpower for service during and after disaster emergencies, ENHANCE OR
20 PRESERVE COMMUNICATIONS CAPABILITIES BETWEEN AFFECTED ORGANIZATIONS AND
21 THE GENERAL PUBLIC, and to deliver services to aid citizens and reduce
22 human suffering resulting from a disaster emergency shall include, but
23 not be limited to:

24 (1) coordination of resources, manpower and services, using recognized
25 practices in incident management and utilizing existing organizations
26 and lines of authority and centralized direction of requests for assist-
27 ance;

28 (2) the location, procurement, construction, processing, transporta-
29 tion, storing, maintenance, renovation, distribution, disposal or use of
30 materials, including those donated, and facilities and services;

31 (3) a system for warning AND COMMUNICATING WITH populations who are or
32 may be endangered;

33 (4) arrangements for activating state, municipal, PRIVATE AGENCY and
34 volunteer forces, through normal chains of command so far as possible
35 and for continued communication and reporting;

36 (5) a specific plan for rapid and efficient communication, and for the
37 integration of state communication facilities during a state disaster
38 emergency, including the assignment of responsibilities and the estab-
39 lishment of communication priorities, and liaison with municipal,
40 private and federal communication facilities;

41 (6) a plan for coordinated evacuation procedures, including the estab-
42 lishment of temporary housing OR EMERGENCY SHELTERS, and other necessary
43 facilities FOR DISPLACED INDIVIDUALS AND FAMILIES. SUCH TEMPORARY HOUS-
44 ING AND EMERGENCY SHELTERS SHALL PROVIDE ADEQUATE PROTECTION FROM THE
45 ELEMENTS, FOOD, HEATING, COOLING AND VENTILATION, CLOTHING, NECESSARY
46 MEDICAL CARE, AND PROVISIONS FOR DISPLACED INDIVIDUALS TO PROVIDE FOR
47 THEIR OWN BASIC PERSONAL HYGIENE NEEDS. IN ADDITION, SUCH HOUSING AND
48 SHELTERS SHALL HAVE ADEQUATE STAFFING LEVELS TO CARE FOR THE BASIC NEEDS
49 OF ALL SUCH DISPLACED INDIVIDUALS AND FAMILIES, INCLUDING SPECIAL NEEDS
50 POPULATIONS SUCH AS FAMILY UNITS WITH YOUNG CHILDREN, PREGNANT WOMEN,
51 THE ELDERLY, PERSONS WITH DISABILITIES, PERSONS WITH MENTAL DISABILITIES
52 AS DEFINED IN THE MENTAL HYGIENE LAW, THE HOMELESS AND OTHER VULNERABLE
53 POPULATIONS;

54 (7) criteria for establishing priorities with respect to the restora-
55 tion of vital services and debris removal;

(8) plans for the continued effective operation of the civil and criminal justice systems;

(9) provisions for training state, PRIVATE AGENCY and local government personnel and volunteers in disaster response operations;

(10) providing information to the public;

(11) care for the injured and needy and identification and disposition of the dead;

(12) utilization and coordination of programs to assist victims of disasters, with particular attention to the needs of the poor, THE DISPLACED, FAMILIES WITH CHILDREN, the elderly, individuals with disabilities and other groups which may be especially affected;

(13) control of ingress and egress to and from a disaster area;

(14) arrangements to administer federal disaster assistance;

(15) a system for obtaining and coordinating situational awareness including the centralized assessment of disaster effects and resultant needs; and

(16) utilization and coordination of programs to assist individuals with household pets and service animals following a disaster, with particular attention to means of evacuation, shelter, FEEDING and transportation options.

c. Recovery. Plans to provide for recovery and redevelopment after disaster emergencies shall include, but not be limited to:

(1) measures to coordinate state AND PRIVATE agency assistance in recovery efforts;

(2) arrangements to administer federal recovery assistance; and

(3) such other measures as reasonably can be taken to assist in the development and implementation of local AND PRIVATE AGENCY disaster recovery plans.

S 6. Section 23 of the executive law, as amended by section 4 of part B of chapter 56 of the laws of 2010, is amended to read as follows:

S 23. Local comprehensive emergency management plans. 1. Each county, except those contained within the city of New York, and each city, town and village is authorized to prepare comprehensive emergency management plans. The disaster preparedness commission AND PRIVATE AGENCIES shall provide assistance and advice for the development of such plans. City, town and village plans shall be coordinated with the county plan.

2. The purpose of such plans shall be to minimize the effect of disasters by (i) identifying appropriate local AND PRIVATE AGENCY measures to prevent disasters, (ii) developing mechanisms to coordinate the use of local AND PRIVATE AGENCY resources and manpower for service during and after disasters and the delivery of services to aid citizens and reduce human suffering resulting from a disaster, and (iii) providing for recovery and redevelopment after disasters.

3. Plans for coordination of resources, manpower and services shall provide for a centralized coordination and direction of requests for assistance.

4. Plans for coordination of assistance shall provide for utilization of existing organizations and lines of authority.

5. In preparing such plans, cooperation, advice and assistance shall be sought from local government officials, regional and local planning agencies, police agencies, fire departments and fire companies, local emergency management agencies, commercial and volunteer ambulance services, health and social services officials, PRIVATE AGENCIES, community action agencies, the chief administrator of the courts, organizations for the elderly and the handicapped, RISK AND INCIDENT MANAGERS, other interested groups and the general public. Such advice and assist-

1 ance may be obtained through public hearings held on public notice, or
2 through other appropriate methods.

3 6. All plans for comprehensive emergency management developed by local
4 governments or any revisions thereto shall be submitted to the commis-
5 sion by December thirty-first of each year to facilitate state coordi-
6 nation of disaster operations.

7 7. Such plans shall include, but not be limited to:

8 a. Disaster prevention and mitigation. Plans to prevent and minimize
9 the effects of disasters shall include, but not be limited to:

10 (1) COMPREHENSIVE identification of hazards [and], assessment of
11 [risk] RISKS AND PREVENTION OR MITIGATION OF SUCH RISKS;

12 (2) recommended disaster prevention and mitigation projects, policies,
13 PERSONNEL TRAINING, priorities and programs, with suggested implementa-
14 tion schedules, which outline federal, state, PRIVATE AGENCY and local
15 roles;

16 (3) suggested revisions and additions to building and safety codes and
17 zoning, COASTAL AREA, INLAND WATERWAY AREA and other land use programs,
18 TO PROTECT AND MITIGATE FUTURE RISKS POSED TO LOCAL TRANSPORTATION,
19 UTILITY AND TELECOMMUNICATIONS INFRASTRUCTURE, AND THE NECESSARY TRAIN-
20 ING OF PERSONNEL TO ENFORCE SUCH PROVISIONS;

21 (4) such other measures as reasonably can be taken to protect lives,
22 prevent disasters, and reduce their impact.

23 b. Disaster response. Plans to coordinate the use of resources and
24 manpower for service during and after disasters, ENHANCE OR PRESERVE
25 COMMUNICATIONS CAPABILITIES BETWEEN AFFECTED ORGANIZATIONS AND THE
26 GENERAL PUBLIC, and to deliver services to aid citizens and reduce human
27 suffering resulting from a disaster shall include, but not be limited
28 to:

29 (1) coordination of resources, manpower and services, using recognized
30 practices in incident management, utilizing existing organizations and
31 lines of authority and centralized direction of requests for assistance;

32 (2) the location, procurement, construction, processing, transporta-
33 tion, storing, maintenance, renovation, distribution, disposal or use of
34 materials, including those donated, and facilities and services which
35 may be required in time of disaster;

36 (3) a system for warning AND COMMUNICATING WITH populations who are or
37 may be endangered;

38 (4) arrangements for activating municipal, PRIVATE AGENCY and volun-
39 teer forces, through normal chains of command so far as possible, and
40 for continued communication and reporting;

41 (5) a specific plan for rapid and efficient communication and for the
42 integration of local communication facilities during a disaster includ-
43 ing the assignment of responsibilities and the establishment of communi-
44 cation priorities and liaison with municipal, private, state and federal
45 communication facilities;

46 (6) a plan for coordination evacuation procedures including the estab-
47 lishment of temporary housing OR EMERGENCY SHELTERS, and other necessary
48 facilities FOR DISPLACED INDIVIDUALS AND FAMILIES. SUCH TEMPORARY HOUS-
49 ING AND EMERGENCY SHELTERS SHALL PROVIDE ADEQUATE PROTECTION FROM THE
50 ELEMENTS, FOOD, HEATING, COOLING AND VENTILATION, CLOTHING, NECESSARY
51 MEDICAL CARE, AND PROVISIONS FOR DISPLACED INDIVIDUALS TO PROVIDE FOR
52 THEIR OWN BASIC PERSONAL HYGIENE NEEDS. IN ADDITION, SUCH HOUSING AND
53 SHELTERS SHALL HAVE ADEQUATE STAFFING LEVELS TO CARE FOR THE BASIC NEEDS
54 OF ALL SUCH DISPLACED INDIVIDUALS AND FAMILIES, INCLUDING SPECIAL NEEDS
55 POPULATIONS SUCH AS FAMILY UNITS WITH YOUNG CHILDREN, PREGNANT WOMEN,
56 THE ELDERLY, PERSONS WITH DISABILITIES, PERSONS WITH MENTAL DISABILITIES

1 AS DEFINED IN THE MENTAL HYGIENE LAW, THE HOMELESS AND OTHER VULNERABLE
2 POPULATIONS;
3 (7) criteria for establishing priorities with respect to the restora-
4 tion of vital services and debris removal;
5 (8) plans for the continued effective operation of the civil and crim-
6 inal justice systems;
7 (9) provisions for training local government AND PRIVATE AGENCY
8 personnel and volunteers in disaster response operations;
9 (10) providing information to the public;
10 (11) care for the injured and needy and identification and disposition
11 of the dead;
12 (12) utilization and coordination of programs to assist victims of
13 disasters, with particular attention to the needs of the poor, THE
14 DISPLACED, FAMILIES WITH CHILDREN, the elderly, individuals with disa-
15 bilities and other groups which may be especially affected;
16 (13) control of ingress and egress to and from a disaster area;
17 (14) arrangements to administer state and federal disaster assistance;
18 (15) procedures under which the county, city, town, village or other
19 political subdivision, PRIVATE AGENCY and emergency organization person-
20 nel and resources will be used in the event of a disaster;
21 (16) a system for obtaining and coordinating disaster information
22 including the centralized assessment of local disaster effects and
23 resultant needs;
24 (17) continued operation of governments of political subdivisions; and
25 (18) utilization and coordination of programs to assist individuals
26 with household pets and service animals following a disaster, with
27 particular attention to means of evacuation, shelter and transportation
28 options.
29 c. Recovery. Local plans to provide for recovery and redevelopment
30 after disasters shall include, but not be limited to:
31 (1) recommendations for replacement, reconstruction, removal or relo-
32 cation of damaged or destroyed public or private facilities INCLUDING,
33 BUT NOT LIMITED TO, ROADS, RAILWAYS, AIRPORTS, TELECOMMUNICATIONS,
34 PUBLIC UTILITIES AND HEALTH CARE FACILITIES, proposed new or amendments
35 to zoning, subdivision, building, COASTAL AREA, INLAND WATERWAY AREA,
36 sanitary or fire prevention regulations and recommendations for economic
37 development and community development in order to minimize the impact of
38 any potential future disasters on the community.
39 (2) provision for cooperation with state and federal agencies in
40 recovery efforts.
41 (3) provisions for training and educating local disaster officials or
42 organizations AND PRIVATE AGENCIES in the preparation of applications
43 for federal and state disaster recovery assistance.
44 S 7. Subdivisions 2 and 5 of section 23-a of the executive law, as
45 added by chapter 658 of the laws of 1996, are amended to read as
46 follows:
47 2. Upon the establishment of a voluntary registry of disabled persons
48 as provided in subdivision one of this section, the chief executive
49 shall make such registry available to the appropriate county, PRIVATE,
50 state and federal agencies for their use in delivering services in the
51 event of a local or state disaster. The chief executive shall, upon the
52 request of the [state] OFFICE OF emergency management [office], provide
53 such registry information to such office. The chief executive may, at
54 his OR HER discretion, use the registry information for local disaster
55 preparedness only in coordination with other political subdivisions of
56 the state.

1 5. All community-based services providers, including home health care
2 providers AND PRIVATE AGENCIES, shall assist the chief executive by
3 collecting registration information for people with special needs as
4 part of program intake processes, establishing programs to increase the
5 awareness of the registration process, and educating clients about the
6 procedures that may be necessary for their safety during disasters.

7 S 8. Section 23-b of the executive law, as added by chapter 589 of the
8 laws of 2008, subdivision 4 as added by chapter 115 of the laws of 2010,
9 is amended to read as follows:

10 S 23-b. [Nursing home and assisted living] HEALTH CARE facility plans.
11 1. After consultation with the commissioner of health, the director of
12 the office for the aging, and the [director] COMMISSIONER of the [state
13 office] DIVISION of homeland security AND EMERGENCY SERVICES, AND
14 CONSISTENT WITH THE DISASTER PREPAREDNESS PLAN ESTABLISHED PURSUANT TO
15 SECTION TWENTY-EIGHT HUNDRED SIX-C OF THE PUBLIC HEALTH LAW, the commis-
16 sion shall establish standards for [nursing homes, adult homes, enriched
17 housing programs and assisted living residences] HEALTH CARE FACILITIES
18 regarding disaster preparedness.

19 2. Each such facility shall be assisted in the establishment of a
20 disaster preparedness plan. The plan shall include, but not be limited
21 to, the following:

22 (a) Maintaining a supply of food, water and to the extent deemed
23 necessary and feasible in the reasonable judgment of the operator of the
24 facility, THE PROVISION OF MEDICAL CARE AND medication in reserve in the
25 event that obtaining such items should become difficult or impossible.

26 (b) [In the reasonable judgment of the facility, having] HAVING access
27 to a generator or generators OR ALTERNATIVE SOURCES sufficient to supply
28 electrical power AND TELECOMMUNICATIONS CAPABILITIES to the facility.

29 (c) Establishing an evacuation plan for residents AND/OR PATIENTS
30 including an alternative site suitable for temporary use.

31 (d) Establishing [staffing] plans WHICH PROVIDE FOR NECESSARY STAFFING
32 during a disaster.

33 3. Such plans shall be [made available to] FILED WITH the county emer-
34 gency management office AND THE COMMISSION.

35 4. Nothing in this section shall be deemed to modify or override any
36 requirements in regulations duly promulgated by a state agency, or to
37 limit any lawful authority of a state agency to promulgate regulations,
38 with respect to disaster preparedness of such facilities, the contents
39 of their disaster preparedness plans or the process for approval of
40 those plans.

41 S 9. Section 23-c of the executive law, as added by chapter 415 of the
42 laws of 2009, is amended to read as follows:

43 S 23-c. Consistency among local disaster preparedness plans. 1. The
44 local disaster preparedness plans for each county, city, town, [or]
45 village OR PRIVATE AGENCY shall be so developed that no part of the
46 local disaster preparedness plan of any county or any city, town, [or]
47 village OR PRIVATE AGENCY within such county conflicts with any part of
48 the local disaster preparedness plan of any of the other said entities
49 within such county or such county itself. In the event of any such
50 conflict, such conflict shall be resolved by such county. The provisions
51 of this subdivision shall not apply to a city wholly containing more
52 than one county or to any county wholly contained within any such city.

53 2. In the event that any part of the local disaster preparedness plan
54 of any county or any city, town, [or] village OR PRIVATE AGENCY within
55 such county conflicts with any part of the local disaster preparedness
56 plan of any other county or any city, town, [or] village OR PRIVATE

1 AGENCY within any such other county, such conflict shall be resolved by
2 the [state] OFFICE OF emergency management [office], as defined in para-
3 graph (e) of subdivision one of section twenty-nine-e of this article.
4 The provisions of this subdivision shall not apply to any county wholly
5 contained within a city wholly containing more than one county. Any city
6 wholly containing more than one county shall be subject to the
7 provisions of this subdivision as if it were a county.

8 3. [Said state] THE OFFICE OF emergency management [office] is hereby
9 authorized and directed to promulgate any rules or regulations or take
10 any other measures necessary to effectuate the provisions of this
11 section.

12 S 10. Subdivisions 3 and 4 of section 25 of the executive law, as
13 added by chapter 640 of the laws of 1978, are amended to read as
14 follows:

15 3. A chief executive may also request and accept assistance from any
16 other political subdivision OR PRIVATE AGENCY and may receive therefrom
17 and utilize any real or personal property or the service of any person-
18 nel thereof on such terms and conditions as may be mutually agreed to by
19 the chief executives of the requesting and assisting political subdivi-
20 sions AND THE HEAD OF THE PRIVATE AGENCY.

21 4. Upon the receipt of a request for assistance made pursuant to
22 subdivision two or three of this section, the chief executive of any
23 political subdivision OR PRIVATE AGENCY may give, lend or lease, on such
24 terms and conditions as he OR SHE may deem necessary to promote the
25 public welfare and protect the interests of such political subdivision
26 OR PRIVATE AGENCY, any services, equipment, facilities, supplies or
27 other resources of his OR HER political subdivision OR PRIVATE AGENCY.
28 Any lease or loan of real or personal property pursuant to this subdivi-
29 sion, or any transfer of personnel pursuant hereto, shall be only for
30 the purpose of assisting a political subdivision in emergency relief,
31 reconstruction, or rehabilitation made necessary by the disaster.

32 S 11. Subdivisions 2 and 3 of section 28-a of the executive law, as
33 amended by chapter 641 of the laws of 1978, are amended to read as
34 follows:

35 2. The commission AND PRIVATE AGENCIES shall provide technical assist-
36 ance in the development of such plans upon the request of such county,
37 city, town or village.

38 3. A local recovery and redevelopment plan shall include, but need not
39 be limited to: plans for replacement, reconstruction, removal or relo-
40 cation of damaged or destroyed facilities AND PUBLIC UTILITIES; proposed
41 new or amended regulations such as zoning, subdivision, building, COAS-
42 TAL AREA, INLAND WATERWAY AREA or sanitary ordinances and codes; THE
43 PLANS OF PRIVATE AGENCIES RELATED TO DISASTER RECOVERY AND REDEVELOP-
44 MENT; and plans for economic recovery and community development. Such
45 plans shall take into account and to the extent practicable incorporate
46 relevant existing plans and policies and such plans shall take into
47 account the need to minimize the potential impact of any future disas-
48 ters on the community.

49 S 12. Section 29 of the executive law, as added by chapter 640 of the
50 laws of 1978, is amended to read as follows:

51 S 29. Direction of state agency assistance in a disaster emergency.
52 Upon the declaration of a state disaster emergency the governor may
53 direct any and all agencies of the state government AND REQUEST COOPER-
54 ATION FROM PRIVATE AGENCIES to provide assistance under the coordination
55 of the disaster preparedness commission. Such state assistance may
56 include: (1) utilizing, lending, or giving to political subdivisions,

1 with or without compensation therefor, equipment, supplies, facilities,
2 services of state OR PRIVATE AGENCY personnel, and other resources,
3 other than the extension of credit; (2) distributing medicine, medical
4 supplies, food and other consumable supplies through any public or
5 private agency authorized to distribute the same; (3) performing on
6 public or private lands temporary emergency work essential for the
7 protection of public health and safety, clearing debris and wreckage,
8 making emergency repairs to and temporary replacements of public facili-
9 ties of political subdivisions OR PUBLIC UTILITIES damaged or destroyed
10 as a result of such disaster; and (4) making such other use of their
11 facilities, equipment, supplies and personnel as may be necessary to
12 assist in coping with the disaster or any emergency resulting therefrom.

13 S 13. Section 29-a of the executive law, as added by chapter 640 of
14 the laws of 1978, subdivision 1 as amended by section 7 of part G of
15 chapter 55 of the laws of 2012, is amended to read as follows:

16 S 29-a. Suspension of other laws. 1. Subject to the state constitu-
17 tion, the federal constitution and federal statutes and regulations, the
18 governor may by executive order temporarily suspend specific provisions
19 of any statute, local law, ordinance, [or] orders, rules or regulations,
20 or parts thereof, of any agency during a state disaster emergency, if
21 compliance with such provisions would prevent, hinder, or delay action
22 necessary to cope with OR RECOVER FROM the disaster.

23 2. Suspensions pursuant to subdivision one of this section shall be
24 subject to the following standards and limits:

25 a. no suspension shall be made for a period in excess of [thirty days]
26 ONE YEAR, provided, however, that upon reconsideration of all of the
27 relevant facts and circumstances, the governor may extend the suspension
28 for additional periods not to exceed thirty days each;

29 b. no suspension shall be made which does not safeguard the health and
30 welfare of the public [and which is not reasonably necessary to the
31 disaster effort];

32 c. any such suspension order shall specify the statute, local law,
33 ordinance, order, rule or regulation or part thereof to be suspended and
34 the terms and conditions of the suspension;

35 d. the order may provide for such suspension only under particular
36 circumstances, and may provide for the alteration or modification of the
37 requirements of such statute, local law, ordinance, order, rule or regu-
38 lation suspended, and may include other terms and conditions; AND

39 e. [any such suspension order shall provide for the minimum deviation
40 from the requirements of the statute, local law, ordinance, order, rule
41 or regulation suspended consistent with the disaster action deemed
42 necessary; and

43 f.] when practicable, specialists shall be assigned to assist with the
44 related emergency AND RECOVERY actions to avoid needless adverse effects
45 resulting from such suspension.

46 3. Such suspensions shall be effective from the time and in the manner
47 prescribed in such orders and shall be published as soon as practicable
48 in the state bulletin.

49 4. The legislature may terminate OR EXPAND by concurrent resolution
50 executive orders issued under this section at any time.

51 S 14. Subdivision 1 of section 29-b of the executive law, as amended
52 by section 7 of part B of chapter 56 of the laws of 2010, is amended to
53 read as follows:

54 1. The governor may, in his or her discretion, direct the state
55 disaster preparedness commission to conduct an emergency exercise or
56 drill, under its direction, in which all or any of the personnel and

1 resources of the agencies of [the commission of] the state AND IN COOP-
2 ERATION WITH PRIVATE AGENCIES may be utilized to perform the duties
3 assigned to them in a disaster, for the purpose of protecting and
4 preserving human life or property in a disaster. During a disaster or
5 such drill or exercise, disaster emergency response personnel in the
6 state shall operate under the direction and command of the chair of such
7 commission, and shall possess the same powers, duties, rights, privi-
8 leges and immunities as are applicable in a civil defense drill held at
9 the direction of the state civil defense commission under the provisions
10 of the New York state defense emergency act.

11 S 15. Subdivision 1 of section 29-e of the executive law, as added by
12 chapter 603 of the laws of 1993, paragraph (e) as amended by section 8
13 of part B of chapter 56 of the laws of 2010, is amended to read as
14 follows:

15 1. For purposes of this section the following terms shall have the
16 following meanings:

17 (a) "Infrastructure" shall mean and include publicly owned storm and
18 sanitary sewers, water supply systems, drainage systems, PUBLIC UTILI-
19 TIES, transportation systems, roads and bridges.

20 (b) "Municipality" shall mean any county, city, village, or town of
21 the state.

22 (c) "Public facilities" shall mean and include publicly owned build-
23 ings, including traditional government buildings, such as courthouses,
24 firehouses, police stations, parks, recreational facilities, and correc-
25 tional facilities.

26 (d) "Fund" shall mean the state's contingency reserve fund established
27 by law.

28 (e) ["The office] "OFFICE of emergency management" shall mean the
29 office OF EMERGENCY MANAGEMENT within the division of homeland security
30 and emergency services.

31 S 16. Subparagraph 1 of paragraph (b) of subdivision 3 of section 29-g
32 of the executive law, as added by chapter 299 of the laws of 2001, is
33 amended to read as follows:

34 (1) A description of the emergency service function for which assist-
35 ance is needed, such as, but not limited to, fire services, law enforce-
36 ment, emergency medical, transportation, communications, public works
37 and engineering, building inspection, planning and information assist-
38 ance, mass care, PROVISION OF SHELTER TO DISPLACED INDIVIDUALS AND FAMI-
39 LIES, resource support, health and medical services, and search and
40 rescue.

41 S 17. Subdivision 1 of section 377 of the executive law, as amended by
42 chapter 309 of the laws of 1996, is amended to read as follows:

43 1. The council shall formulate a uniform fire prevention and building
44 code which shall take effect on the first day of January, nineteen
45 hundred eighty-four. The council may from time to time amend particular
46 provisions of the uniform code and shall periodically review the entire
47 code to assure that it effectuates the purposes of this article and the
48 specific objectives and standards hereinafter set forth. IN THE FORMU-
49 LATION OF SUCH CODE, BOTH THE COUNCIL AND SECRETARY, IN CONSULTATION
50 WITH THE DISASTER PREPAREDNESS COMMISSION, MAY ESTABLISH STANDARDS WHICH
51 PROVIDE FOR THE OPTIMAL SURVIVABILITY OF ALL BUILDINGS, INCLUDING COMMU-
52 NITY BUILDINGS AND FACILITIES, IN THE CASE OF A DISASTER, PARTICULARLY
53 THOSE COMMUNITY BUILDINGS AND FACILITIES LOCATED IN COASTAL AREAS AND
54 INLAND WATERWAY AREAS THAT MAY BE USED AS EMERGENCY SHELTERS, COMMAND
55 CENTERS OR TO RESPOND TO A NATURAL DISASTER. FURTHERMORE, THE UNIFORM
56 CODE SHALL ESTABLISH STANDARDS FOR THE SURVIVABILITY AND OPERATION OF

BACK-UP GENERATORS AND ALTERNATIVE ELECTRICITY SOURCES FOR HOSPITALS AND RESIDENTIAL HEALTH CARE FACILITIES DURING A DISASTER. The secretary shall conduct public hearings on said uniform code and any amendment thereto. The secretary shall review such code or amendment, together with any changes incorporated by the council as a result of such hearings, to insure that it effectuates the purposes of this article. Upon being so satisfied, the secretary shall approve said code or amendment prior to its becoming effective.

S 18. Subdivision 1 of section 713 of the executive law, as amended by section 16 of part B of chapter 56 of the laws of 2010, is amended to read as follows:

1. Notwithstanding any other provision of law, the commissioner of the division of homeland security and emergency services shall conduct a review and analysis of measures being taken by the public service commission and any other agency or authority of the state or any political subdivision thereof and, to the extent practicable, of any federal entity, to protect the security of critical infrastructure related to energy generation and transmission located within the state BOTH DURING TIMES OF NORMAL OPERATIONS, AND BEFORE, DURING AND AFTER THE OCCURRENCE OF VARIOUS TYPES OF NATURAL DISASTERS. The commissioner of the division of homeland security and emergency services shall have the authority to review any audits or reports related to the security of such critical infrastructure, including audits or reports conducted at the request of the public service commission or any other agency or authority of the state or any political subdivision thereof or, to the extent practicable, of any federal entity. The owners and operators of such energy generating or transmission facilities shall, in compliance with any federal and state requirements regarding the dissemination of such information, provide access to the commissioner of the division of homeland security and emergency services to such audits or reports regarding such critical infrastructure provided, however, that exclusive custody and control of such audits and reports shall remain solely with the owners and operators of such energy generating or transmission facilities. For the purposes of this article, the term "critical infrastructure" has the meaning ascribed to that term in subdivision five of section eighty-six of the public officers law.

S 19. The public service law is amended by adding two new sections 5-a and 5-c to read as follows:

S 5-A. NATURAL DISASTER PREPAREDNESS. 1. EVERY UTILITY COMPANY, WIRELESS COMMUNICATIONS SERVICE PROVIDER AND CABLE TELEVISION COMPANY SHALL FILE A NATURAL DISASTER PREPAREDNESS PLAN WITH THE COMMISSION FOR ITS APPROVAL, AND UPDATE SUCH PLAN ON AN ANNUAL BASIS. EACH SUCH PLAN AND ANNUAL UPDATE THEREOF SHALL SPECIFY THE PERSONNEL AND RESOURCES THAT WILL BE UTILIZED IN THE EVENT OF A DISASTER, AND VARIOUS ACTION PLANS TO BE UNDERTAKEN IN THE EVENT OF VARIOUS TYPES OF NATURAL DISASTERS. EVERY NATURAL DISASTER PREPAREDNESS PLAN AND ANNUAL UPDATE THEREOF SHALL SPECIFICALLY PROVIDE FOR THE CONDUCTING OF A REGULARLY SCHEDULED TREE AND VEGETATION TRIMMING AND CLEARANCE PROGRAM FOR THE PURPOSE OF MINIMIZING DAMAGE TO UTILITY LINES, TRANSFORMERS AND OTHER UTILITY INFRASTRUCTURE IN THE EVENT OF A DISASTER AND FACILITATING THE RESTORATION OF UTILITY SERVICES AFTER A NATURAL DISASTER AND TO FACILITATE RECOVERY EFFORTS AFTER THE NATURAL DISASTER. UPON THE APPROVAL OF SUCH PLAN, THE COMMISSION SHALL FORWARD A COPY OF EACH SUCH PLAN TO THE DISASTER PREPAREDNESS COMMISSION AND EACH OF THE APPROPRIATE LOCALITIES WHICH HAVE ADOPTED A LOCAL COMPREHENSIVE EMERGENCY MANAGEMENT PLAN. FURTHERMORE, UPON THE APPROVAL OF SUCH DISASTER PREPAREDNESS PLAN BY THE

1 COMMISSION AND UPON EACH ANNUAL UPDATE THEREOF, THE PROVISIONS OF SUCH
2 PLAN RELATING TO TREE AND VEGETATION TRIMMING AND CLEARANCE PROGRAM
3 SHALL SUPERSEDE ANY LOCAL LAW, CODE OR ORDINANCE RELATING THERETO, AND
4 ANY SUCH LAW, CODE OR ORDINANCE WHICH LIMITS TREE TRIMMING AS SPECIFIED
5 AS A PLAN SHALL BE VOID AS AGAINST PUBLIC POLICY.

6 2. THE COMMISSION SHALL ESTABLISH INDUSTRY SPECIFIC STANDARDS FOR
7 ACCEPTABLE PERFORMANCE OF EACH UTILITY, REQUIRED TO ESTABLISH AND FILE A
8 NATURAL DISASTER PREPAREDNESS PLAN PURSUANT TO SUBDIVISION ONE OF THIS
9 SECTION, IN THE EVENT OF A NATURAL DISASTER TO PROTECT PUBLIC HEALTH AND
10 SAFETY OF ITS RATEPAYERS AND THE GENERAL PUBLIC, TO ENSURE THE RELIABIL-
11 ITY OF SUCH UTILITY'S SERVICES TO PREVENT AND MINIMIZE THE NUMBER OF
12 SERVICE OUTAGES OR DISRUPTIONS, AND TO REDUCE THE DURATION OF SUCH
13 OUTAGES AND DISRUPTIONS, TO FACILITATE RESTORATION OF SUCH SERVICES
14 AFTER SUCH OUTAGES OR DISRUPTIONS, AND TO IDENTIFY THE MOST COST-EFFEC-
15 TIVE LEVEL OF TREE AND VEGETATION TRIMMING AND SYSTEM HARDENING, INCLUD-
16 ING UNDERGROUNDING NECESSARY TO ACHIEVE THE MAXIMUM RELIABILITY OF THE
17 SYSTEM AND TO MINIMIZE SERVICE OUTAGES. THE COMMISSION SHALL UTILIZE, IN
18 RATE SETTING PROCEEDINGS, TO RECOVER THE REASONABLE COSTS INCURRED TO
19 MAINTAIN OR IMPROVE THE RESILIENCY OF THE UTILITY'S INFRASTRUCTURE
20 NECESSARY TO COMPLY WITH THE STANDARDS ESTABLISHED PURSUANT TO THIS
21 SUBDIVISION.

22 3. THE STANDARDS ESTABLISHED BY THE COMMISSION SHALL INCLUDE:

23 (A) TARGETS FOR RECOVERY AND RESTORATION OF SERVICE IN DISASTERS FOR
24 SERVICE OUTAGES AFFECTING MORE THAN TEN PERCENT, THIRTY PERCENT, FIFTY
25 PERCENT AND SEVENTY PERCENT OF THE UTILITY'S CUSTOMERS;

26 (B) THE ESTABLISHMENT OF A COMMUNICATIONS PLAN BETWEEN EACH UTILITY
27 AND ITS CUSTOMERS, INCLUDING DURING OTHER THAN NORMAL BUSINESS HOURS;

28 (C) THE ESTABLISHMENT OF COMMUNICATION AND COORDINATION PROTOCOLS
29 DEFINING INTERACTIONS BETWEEN EACH UTILITY AND STATE, LOCAL AND PRIVATE
30 EMERGENCY MANAGEMENT ORGANIZATIONS, RELATING TO EMERGENCY PREPARATION,
31 ROADWAY CLEARING AND THE ESTABLISHMENT OF RESTORATION PRIORITIES; AND

32 (D) ANY OTHER STANDARDS FOR ACCEPTABLE PERFORMANCE BY A UTILITY TO
33 ENSURE THE RELIABILITY OF SERVICES BEFORE, DURING AND AFTER A NATURAL
34 DISASTER, TO PREVENT AND MINIMIZE ANY SERVICE OUTAGES OR DISRUPTIONS
35 LASTING MORE THAN FORTY-EIGHT CONSECUTIVE HOURS AND AFFECTING MORE THAN
36 TEN PERCENT OF ANY UTILITY'S CUSTOMERS, AND TO FACILITATE RESTORATION OF
37 SERVICES AFTER SUCH OUTAGES OR DISRUPTIONS.

38 S 5-C. NATURAL DISASTER PREPAREDNESS PLAN EVALUATION. THE COMMISSION
39 SHALL WITHIN ONE HUNDRED EIGHTY DAYS AFTER THE OCCURRENCE OF A STATE
40 DISASTER EMERGENCY OR A LOCAL STATE OF EMERGENCY CAUSED BY A NATURAL
41 DISASTER, AND SUBJECT TO SUCH PUBLIC HEARINGS AS IT SHALL DETERMINE TO
42 BE NECESSARY, EVALUATE THE EFFECTIVENESS OF NATURAL DISASTER PREPARED-
43 NESS PLANS, ADOPTED PURSUANT TO SECTION FIVE-A OF THIS ARTICLE, WHICH
44 WERE IMPLEMENTED DURING SUCH DISASTER. IN EVALUATING ALL SUCH PLANS, THE
45 REPORT OF THE COMMISSION SHALL CONSIDER:

46 1. THE OVERALL EFFECTIVENESS OF EACH NATURAL DISASTER PREPAREDNESS
47 PLAN AND HOW IT INTERFACED WITH THE STATE EMERGENCY MANAGEMENT PLAN AND
48 WITH EACH LOCAL EMERGENCY MANAGEMENT PLAN, AS SUCH PLANS RELATED TO:
49 MITIGATION OF THE LOSS OF HUMAN LIFE AND DAMAGE TO PROPERTY, RESCUE AND
50 RESPONSE TIMES BY EMERGENCY RESPONDERS, ABILITY FOR EACH PLAN TO COORDI-
51 NATE ITS EFFORTS WITH ALL OTHER EMERGENCY MANAGEMENT PLANS, THE CAPACITY
52 OF THE PUBLIC UTILITY TO EFFECTIVELY COMMUNICATE WITH STATE AND LOCAL
53 AGENCIES AND THE GENERAL PUBLIC, AND THE TIMELINESS OF THE RESTORATION
54 OF PUBLIC UTILITY SERVICES;

55 2. THE EFFECTIVENESS OF EACH PLAN TO SATISFY THE ARTICULATED GOALS OF
56 SUCH PLAN AS IT RELATES TO THE ANTICIPATED TIME IN WHICH PLAN WAS ACTI-

VATED, WHETHER SUCH PLAN SHOULD HAVE BEEN ACTIVATED AT AN EARLIER TIME, OVERALL EMERGENCY RESPONSE AND UTILITY RESTORATION TIMES OF THE PUBLIC UTILITY, THE EFFECTIVENESS OF THE PERSONNEL COVERED UNDER SUCH PLAN INCLUDING, BUT NOT LIMITED TO, ADEQUATE TRAINING AND PERFORMANCE OF ASSIGNED TASKS BY SUCH PERSONNEL, AND THE PROVISION OF NEEDED SUPPLIES TO SUCH PERSONNEL;

3. THE OVERALL STRENGTHS AND WEAKNESSES OF EACH NATURAL DISASTER PREPAREDNESS PLAN, ITS SHORTCOMINGS AND ITEMS THAT COULD BE IMPROVED UPON TO BETTER SATISFY THE ARTICULATED GOALS AND THE REQUIREMENTS ESTABLISHED BY THE COMMISSION, AND MEANS TO IMPROVE THE EFFECTIVENESS AND COOPERATIVE EFFORTS WITH OTHER EMERGENCY MANAGEMENT PLANS;

4. THE UTILITY'S ESTIMATES CONCERNING POTENTIAL DAMAGE AND SERVICE OUTAGES PRIOR TO THE NATURAL DISASTER AS THEY RELATE TO THE ACTUAL DAMAGE AND SERVICE OUTAGE ASSESSMENTS AFTER SUCH DISASTER, THE RESTORATION MANAGEMENT AFTER THE DISASTER, INCLUDING ACCESS TO ALTERNATE RESTORATION RESOURCES PURSUANT TO REGIONAL AND RECIPROCAL AID CONTRACTS, AND ITS PLANNING FOR AT-RISK AND VULNERABLE CUSTOMERS;

5. THE EFFECTIVENESS OF THE UTILITY'S TREE AND VEGETATION TRIMMING PRACTICES; AND

6. THE UTILITY'S COMPLIANCE WITH THE STANDARDS ESTABLISHED PURSUANT TO SUBDIVISIONS TWO AND THREE OF SECTION FIVE-A OF THIS ARTICLE. IN THE EVENT THAT A UTILITY FAILS TO MEET THE STANDARDS OF ACCEPTABLE PERFORMANCE FOR RECOVERY AND RESTORATION OF SERVICES WHEN AN OUTAGE OR SERVICE DISRUPTION AFFECTS MORE THAN TEN PERCENT, THIRTY PERCENT, FIFTY PERCENT OR SEVENTY PERCENT OF THE UTILITY'S CUSTOMERS, THE COMMISSION, AFTER A HEARING THEREON, MAY IMPOSE A FINE UPON THE UTILITY OF NOT MORE THAN TWO AND ONE-HALF PERCENT OF THE UTILITY'S ANNUAL DISTRIBUTION REVENUE. IN DETERMINING WHETHER TO IMPOSE SUCH A FINE AND THE AMOUNT OF ANY SUCH FINE, THE COMMISSION SHALL CONSIDER (A) WHETHER THE UTILITY REQUESTED APPROVAL FOR A MITIGATION ACTIVITY OR TECHNIQUE, AND SUCH REQUEST WAS DENIED, (B) THE NATURE, SEVERITY, EXTENT AND DURATION OF THE DISASTER, (C) THE UTILITY'S EFFORT AND ABILITY TO SECURE ADEQUATELY TRAINED PERSONNEL, EQUIPMENT AND SUPPLIES TO RESPOND TO THE DISASTER, AND (D) THE UTILITY'S ESTIMATED TIME FRAME FOR THE RESTORATION OF SERVICES IN RELATION TO THE ACTUAL TIME IT TOOK TO RESTORE SERVICES AFTER THE DISASTER. ANY SUCH FINE SHALL NOT BE DEEMED TO BE A PORTION OF THE UTILITY'S BASE EXPENSES NOR SHALL ANY SUCH FINE BE AN EXPENSE IMPOSED UPON ITS RATEPAYERS. EVERY SUCH FINE SHALL BE ASSESSED IN THE FORM OF A CREDIT TO THOSE RATEPAYERS MOST ACUTELY AFFECTED BY THE SERVICE OUTAGE AND DISRUPTION CAUSED BY THE DISASTER.

S 20. The public health law is amended by adding a new section 2806-c to read as follows:

S 2806-C. NATURAL DISASTER PREPAREDNESS. IN CONJUNCTION WITH THEIR DUTIES PURSUANT TO SECTION TWENTY-THREE-B OF THE EXECUTIVE LAW, EVERY HOSPITAL AND RESIDENTIAL HEALTH CARE FACILITY SHALL FILE A NATURAL DISASTER PREPAREDNESS PLAN WITH THE COUNCIL FOR ITS APPROVAL, AND UPDATE SUCH PLAN ON AN ANNUAL BASIS. EACH SUCH PLAN AND ANNUAL UPDATE THEREOF SHALL SPECIFY THE PERSONNEL AND RESOURCES THAT WILL BE UTILIZED IN THE EVENT OF A NATURAL DISASTER, AND VARIOUS ACTION PLANS TO BE UNDERTAKEN IN THE EVENT OF VARIOUS TYPES OF NATURAL DISASTERS. EVERY DISASTER PREPAREDNESS PLAN AND ANNUAL UPDATE THEREOF SHALL PROVIDE FOR THE ACQUISITION AND OPERATION OF SURVIVABLE BACK-UP GENERATORS OR ALTERNATIVE ENERGY SOURCES IN THE EVENT OF A DISASTER. UPON THE APPROVAL OF A NATURAL DISASTER PREPAREDNESS PLAN AND UPON EACH ANNUAL UPDATE THEREOF, THE COUNCIL SHALL FORWARD A COPY OF EACH SUCH PLAN TO THE DISASTER

1 PREPAREDNESS COMMISSION AND EACH OF THE APPROPRIATE LOCALITIES WHICH
2 HAVE ADOPTED A LOCAL COMPREHENSIVE EMERGENCY MANAGEMENT PLAN.

3 S 21. The state finance law is amended by adding a new section 95-h to
4 read as follows:

5 S 95-H. NATURAL DISASTER PREPAREDNESS REVOLVING LOAN ACCOUNT. 1.
6 THERE IS HEREBY ESTABLISHED WITHIN THE COMBINED EXPENDABLE TRUST
7 FUND-020 IN THE CUSTODY OF THE STATE COMPTROLLER A NEW ACCOUNT TO BE
8 KNOWN AS THE "NATURAL DISASTER PREPAREDNESS REVOLVING LOAN ACCOUNT".

9 2. SUCH ACCOUNT SHALL CONSIST OF ALL MONEYS APPROPRIATED FOR ITS
10 PURPOSE, ALL MONEYS TRANSFERRED TO SUCH ACCOUNT PURSUANT TO LAW, AND ALL
11 MONEYS REQUIRED BY THIS SECTION OR ANY OTHER LAW TO BE PAID INTO OR
12 CREDITED INTO THIS ACCOUNT, INCLUDING ALL MONEYS RECEIVED BY THE ACCOUNT
13 OR DONATED TO IT, PAYMENTS OF PRINCIPAL AND INTEREST ON LOANS MADE FROM
14 THE ACCOUNT, AND ANY INTEREST EARNINGS WHICH MAY ACCRUE FROM THE INVEST-
15 MENT OR REINVESTMENT OF MONEYS FROM THE ACCOUNT.

16 3. MONEYS OF THE ACCOUNT, WHEN ALLOCATED, SHALL BE AVAILABLE TO THE
17 COMMISSIONER OF THE DIVISION OF HOMELAND SECURITY AND EMERGENCY SERVICES
18 TO MAKE LOANS AS PROVIDED IN THIS SECTION. SUCH COMMISSIONER, UPON
19 APPLICATION DULY MADE, UP TO THE AMOUNTS AVAILABLE BY APPROPRIATION,
20 LOANS FOR DISASTER PREPAREDNESS EXPENDITURES BY MUNICIPALITIES, HEALTH
21 CARE FACILITIES AND TELECOMMUNICATIONS PROVIDERS PURSUANT TO OR IN
22 RESPONSE TO ARTICLE TWO-B OF THE EXECUTIVE LAW. SUCH LOANS SHALL BE
23 UTILIZED FOR CAPITAL IMPROVEMENTS AND PURCHASES AND INSTALLATION FOR
24 FIXTURES WHEN TO ENSURE THE PROVISION OF SERVICE BEFORE, DURING AND
25 AFTER NATURAL DISASTERS.

26 4. NO LOAN AUTHORIZED BY THIS SECTION SHALL HAVE AN INTEREST RATE
27 EXCEEDING TWO AND ONE-HALF PERCENT. THE PERIOD OF ANY LOAN SHALL NOT
28 EXCEED THE PERIOD OF PROBABLE USEFULNESS, PRESCRIBED BY SECTION 11.00 OF
29 THE LOCAL FINANCE LAW, FOR THE GOODS OR IMPROVEMENT PURCHASED WITH THE
30 LOAN. THE TOTAL AMOUNT OF ANY INTEREST EARNED BY THE INVESTMENT OR REIN-
31 VESTMENT OF ALL OR PART OF THE PRINCIPAL OF ANY LOAN MADE UNDER THIS
32 SECTION SHALL BE RETURNED TO THE COMMISSIONER OF THE DIVISION OF HOME-
33 LAND SECURITY AND EMERGENCY SERVICES FOR DEPOSIT IN THE ACCOUNT AND
34 SHALL NOT BE CREDITED AS PAYMENT OF PRINCIPAL OR INTEREST ON THE LOAN.
35 SUCH COMMISSIONER MAY REQUIRE SECURITY FOR ANY LOAN AND MAY SPECIFY THE
36 PRIORITY OF LIENS AGAINST THE IMPROVEMENTS AND EQUIPMENT WHOLLY OR
37 PARTIALLY PURCHASED WITH MONEYS LOANED UNDER THIS SECTION. THE COMMIS-
38 SIONER OF THE DIVISION OF HOMELAND SECURITY AND EMERGENCY SERVICES MAY
39 MAKE LOANS UNDER THIS SECTION SUBJECT TO SUCH OTHER TERMS AND CONDITIONS
40 AS HE OR SHE DEEMS PROPER.

41 S 22. Section 3641 of the education law is amended by adding a new
42 subdivision 16 to read as follows:

43 16. DISASTER PREPAREDNESS GRANTS. WITHIN THE AMOUNT APPROPRIATED FOR
44 SUCH PURPOSE, THE COMMISSIONER IS HEREBY AUTHORIZED TO AWARD GRANTS TO
45 SCHOOL DISTRICTS FOR EXPENSES INCURRED FOR DISASTER PREPAREDNESS PURSU-
46 ANT TO ARTICLE TWO-B OF THE EXECUTIVE LAW, AND THE RECOVERY FROM ANY
47 NATURAL DISASTER.

48 S 23. The disaster preparedness commissioner, the commissioner of
49 transportation, the commissioner of agriculture and markets, the chair-
50 man of the public service commission, the state fire administrator and
51 the chair of the New York state energy research and development authori-
52 ty shall jointly examine, evaluate and make recommendations concerning
53 the costs and means of hardening buildings, infrastructure, public util-
54 ity facilities, energy sources and health care facilities to ensure
55 their continued operation before, during and after a natural disaster.
56 The findings and recommendations of such group shall be reported to the

1 governor and the legislature within one year of the effective date of
2 this act.
3 S 24. This act shall take effect immediately; except that sections
4 nineteen and twenty of this act shall take effect on the one hundred
5 eightieth day after it shall have become a law.