

3761

2013-2014 Regular Sessions

I N S E N A T E

February 14, 2013

Introduced by Sen. SMITH -- read twice and ordered printed, and when printed to be committed to the Committee on Veterans, Homeland Security and Military Affairs

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
20 responses to disasters must be quick, well coordinated and comprehensive
21 so as to minimize the loss of life, human suffering, property loss and
22 reduction in business activity. Finally, both public and private infrastructure
23 structures should be designed and constructed to minimize the damage

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

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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.

e. "emergency services organization" means a public or private agency, voluntary organization or group organized and functioning for the purpose of providing fire, medical, ambulance, rescue, housing, food or other services directed toward relieving human suffering, injury or loss

1 of life or damage to property as a result of an emergency, including
2 non-profit and governmentally-supported organizations, but excluding
3 governmental agencies.

4 f. "chief executive" means:

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

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

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

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

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

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

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

24 j. "executive level officer" means a state agency officer with the
25 authority to deploy agency assets and resources and make decisions bind-
26 ing a state agency.

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

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

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

35 N. "PUBLIC UTILITY" MEANS A UTILITY COMPANY, AS DEFINED IN SECTION TWO
36 OF THE PUBLIC SERVICE LAW, A CABLE TELEVISION COMPANY, AS DEFINED IN
37 SECTION TWO HUNDRED TWELVE OF THE PUBLIC SERVICE LAW, OR A WIRELESS
38 COMMUNICATIONS SERVICE PROVIDER, AS DEFINED IN SECTION THREE HUNDRED ONE
39 OF THE COUNTY LAW.

40 S 4. Section 21 of the executive law, as amended by section 2 of part
41 B of chapter 56 of the laws of 2010, subdivision 1 as separately amended
42 by section 2 of part G and section 7 of part O of chapter 55 of the laws
43 of 2012, paragraph f of subdivision 3 as amended by section 3 of part G
44 of chapter 55 of the laws of 2012, subdivision 5 as amended by section 4
45 of part G of chapter 55 of the laws of 2012, is amended to read as
46 follows:

47 S 21. Disaster preparedness commission established; meetings; powers
48 and duties. 1. There is hereby created in the executive department a
49 disaster preparedness commission consisting of the commissioners of
50 transportation, health, [division of] criminal justice services, educa-
51 tion, economic development, agriculture and markets, housing and commu-
52 nity renewal, general services, labor, environmental conservation,
53 mental health, parks, recreation and historic preservation, corrections
54 and community supervision, children and family services, homeland secu-
55 rity and emergency services, and people with developmental disabilities,
56 the president of the New York state energy research and development

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

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

28 3. The commission shall have the following powers and responsibil-
29 ities:

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

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

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

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

1 e. direct state disaster operations and coordinate state disaster
2 operations with local AND PRIVATE AGENCY disaster operations following
3 the declaration of a state disaster emergency;

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

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

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

47 h. provide for periodic briefings, drills, exercises or other means to
48 assure that all state, MUNICIPAL AND PRIVATE AGENCY personnel with
49 direct, SUPERVISORY OR IMPLEMENTATION responsibilities in the event of a
50 disaster are fully familiar with response and recovery plans and the
51 manner in which they shall carry out their responsibilities, and coordi-
52 nate with federal, local, PRIVATE AGENCY or other state personnel. Such
53 activities may take place on a regional or county basis, and local,
54 PRIVATE AGENCY and federal participation shall be invited and encour-
55 aged;

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

4 (1) a summary of commission, MUNICIPAL, PRIVATE AGENCY and state agen-
5 cy activities for the year and plans for the ensuing year with respect
6 to the duties and responsibilities of the commission;

7 (2) recommendations on ways to improve state, PRIVATE AGENCY and local
8 capability to prevent, prepare for, respond to and recover from disas-
9 ters;

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

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

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

28 (1) THE OVERALL EFFECTIVENESS OF THE STATE EMERGENCY MANAGEMENT PLAN
29 AND HOW IT INTERFACED WITH EACH LOCAL EMERGENCY MANAGEMENT PLAN AND THE
30 PLANS ESTABLISHED BY PRIVATE AGENCIES, AS SUCH PLANS RELATED TO: MITI-
31 GATION OF THE LOSS OF HUMAN LIFE AND DAMAGE TO PROPERTY, RESCUE AND
32 RESPONSE TIMES BY EMERGENCY RESPONDERS, ABILITY FOR EACH PLAN TO COORDI-
33 NATE ITS EFFORTS WITH ALL OTHER EMERGENCY MANAGEMENT PLANS, AND CAPACITY
34 FOR EACH ADMINISTRATOR OF THE STATE, LOCAL AND PRIVATE AGENCY PLANS TO
35 EFFECTIVELY COMMUNICATE WITH EACH OTHER, PERSONNEL UNDER THE DIRECTION
36 OF OTHER JURISDICTIONS, THE GENERAL PUBLIC AND THOSE LOCATED OUTSIDE OF
37 THE DISASTER AREA;

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

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

53 AFTER THE COMPLETION OF SUCH EVALUATION, THE COMMISSION SHALL REPORT
54 ITS FINDINGS AND RECOMMENDATIONS DERIVED FROM THE EVALUATION TO THE
55 GOVERNOR, THE LEGISLATURE, THE CHIEF JUDGE OF THE COURT OF APPEALS,

1 APPROPRIATE EMERGENCY MANAGEMENT AGENCY AND THE STATES WHICH COOPERATE
2 WITH THE STATE OF NEW YORK FOR THE PURPOSES OF THIS ARTICLE.

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

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

34 S 5. Section 22 of the executive law, as added by chapter 640 of the
35 laws of 1978, subdivision 3 as amended by section 3 of part B of chapter
36 56 of the laws of 2010, is amended to read as follows:

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

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

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

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

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

(2) recommended disaster prevention and mitigation projects, policies, priorities, PERSONNEL TRAINING and programs, with suggested implementation schedules, which outline federal, state, PRIVATE AGENCY and local roles;

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

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

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

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

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

(2) the location, procurement, construction, processing, transportation, storing, maintenance, renovation, distribution, disposal or use of materials, including those donated, and facilities and services;

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

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

(5) a specific plan for rapid and efficient communication, and for the integration of state communication facilities during a state disaster emergency, including the assignment of responsibilities and the establishment of communication priorities, and liaison with municipal, private and federal communication facilities;

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

(7) criteria for establishing priorities with respect to the restoration 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 assistance may be obtained through public hearings held on public notice, or through other appropriate methods.

6. All plans for comprehensive emergency management developed by local governments or any revisions thereto shall be submitted to the commis-

sion by December thirty-first of each year to facilitate state coordination of disaster operations.

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

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

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

(2) recommended disaster prevention and mitigation projects, policies, PERSONNEL TRAINING, priorities and programs, with suggested implementation schedules, which outline federal, state, PRIVATE AGENCY and local roles;

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

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

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

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

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

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

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

(5) a specific plan for rapid and efficient communication and for the integration of local communication facilities during a disaster including the assignment of responsibilities and the establishment of communication priorities and liaison with municipal, private, state and federal communication facilities;

(6) a plan for coordination evacuation procedures including the establishment of temporary housing OR EMERGENCY SHELTERS, and other necessary facilities FOR DISPLACED INDIVIDUALS AND FAMILIES. SUCH TEMPORARY HOUSING AND EMERGENCY SHELTERS SHALL PROVIDE ADEQUATE PROTECTION FROM THE ELEMENTS, FOOD, HEATING, COOLING AND VENTILATION, CLOTHING, NECESSARY MEDICAL CARE, AND PROVISIONS FOR DISPLACED INDIVIDUALS TO PROVIDE FOR THEIR OWN BASIC PERSONAL HYGIENE NEEDS. IN ADDITION, SUCH HOUSING AND SHELTERS SHALL HAVE ADEQUATE STAFFING LEVELS TO CARE FOR THE BASIC NEEDS OF ALL SUCH DISPLACED INDIVIDUALS AND FAMILIES, INCLUDING SPECIAL NEEDS POPULATIONS SUCH AS FAMILY UNITS WITH YOUNG CHILDREN, PREGNANT WOMEN, THE ELDERLY, PERSONS WITH DISABILITIES, PERSONS WITH MENTAL DISABILITIES AS DEFINED IN THE MENTAL HYGIENE LAW, THE HOMELESS AND OTHER VULNERABLE POPULATIONS;

(7) criteria for establishing priorities with respect to the restoration of vital services and debris removal;

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

(9) provisions for training local government AND PRIVATE AGENCY 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 state and federal disaster assistance;

(15) procedures under which the county, city, town, village or other political subdivision, PRIVATE AGENCY and emergency organization personnel and resources will be used in the event of a disaster;

(16) a system for obtaining and coordinating disaster information including the centralized assessment of local disaster effects and resultant needs;

(17) continued operation of governments of political subdivisions; and

(18) 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 and transportation options.

c. Recovery. Local plans to provide for recovery and redevelopment after disasters shall include, but not be limited to:

(1) recommendations for replacement, reconstruction, removal or relocation of damaged or destroyed public or private facilities INCLUDING, BUT NOT LIMITED TO, ROADS, RAILWAYS, AIRPORTS, TELECOMMUNICATIONS, PUBLIC UTILITIES AND HEALTH CARE FACILITIES, proposed new or amendments to zoning, subdivision, building, COASTAL AREA, INLAND WATERWAY AREA, sanitary or fire prevention regulations and recommendations for economic development and community development in order to minimize the impact of any potential future disasters on the community.

(2) provision for cooperation with state and federal agencies in recovery efforts.

(3) provisions for training and educating local disaster officials or organizations AND PRIVATE AGENCIES in the preparation of applications for federal and state disaster recovery assistance.

S 7. Subdivisions 2 and 5 of section 23-a of the executive law, as added by chapter 658 of the laws of 1996, are amended to read as follows:

2. Upon the establishment of a voluntary registry of disabled persons as provided in subdivision one of this section, the chief executive shall make such registry available to the appropriate county, PRIVATE, state and federal agencies for their use in delivering services in the event of a local or state disaster. The chief executive shall, upon the request of the [state] OFFICE OF emergency management [office], provide such registry information to such office. The chief executive may, at his OR HER discretion, use the registry information for local disaster preparedness only in coordination with other political subdivisions of the state.

5. All community-based services providers, including home health care providers AND PRIVATE AGENCIES, shall assist the chief executive by collecting registration information for people with special needs as part of program intake processes, establishing programs to increase the

1 awareness of the registration process, and educating clients about the
2 procedures that may be necessary for their safety during disasters.

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

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

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

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

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

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

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

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

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

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

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

49 2. In the event that any part of the local disaster preparedness plan
50 of any county or any city, town, [or] village OR PRIVATE AGENCY within
51 such county conflicts with any part of the local disaster preparedness
52 plan of any other county or any city, town, [or] village OR PRIVATE
53 AGENCY within any such other county, such conflict shall be resolved by
54 the [state] OFFICE OF emergency management [office], as defined in para-
55 graph (e) of subdivision one of section twenty-nine-e of this article.
56 The provisions of this subdivision shall not apply to any county wholly

1 contained within a city wholly containing more than one county. Any city
2 wholly containing more than one county shall be subject to the
3 provisions of this subdivision as if it were a county.

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

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

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

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

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

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

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

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

47 S 29. Direction of state agency assistance in a disaster emergency.
48 Upon the declaration of a state disaster emergency the governor may
49 direct any and all agencies of the state government AND REQUEST COOPER-
50 ATION FROM PRIVATE AGENCIES to provide assistance under the coordination
51 of the disaster preparedness commission. Such state assistance may
52 include: (1) utilizing, lending, or giving to political subdivisions,
53 with or without compensation therefor, equipment, supplies, facilities,
54 services of state OR PRIVATE AGENCY personnel, and other resources,
55 other than the extension of credit; (2) distributing medicine, medical
56 supplies, food and other consumable supplies through any public or

1 private agency authorized to distribute the same; (3) performing on
2 public or private lands temporary emergency work essential for the
3 protection of public health and safety, clearing debris and wreckage,
4 making emergency repairs to and temporary replacements of public facili-
5 ties of political subdivisions OR PUBLIC UTILITIES damaged or destroyed
6 as a result of such disaster; and (4) making such other use of their
7 facilities, equipment, supplies and personnel as may be necessary to
8 assist in coping with the disaster or any emergency resulting therefrom.

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

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

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

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

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

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

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

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

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

42 3. Such suspensions shall be effective from the time and in the manner
43 prescribed in such orders and shall be published as soon as practicable
44 in the state bulletin.

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

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

50 1. The governor may, in his or her discretion, direct the state
51 disaster preparedness commission to conduct an emergency exercise or
52 drill, under its direction, in which all or any of the personnel and
53 resources of the agencies of [the commission of] the state AND IN COOP-
54 ERATION WITH PRIVATE AGENCIES may be utilized to perform the duties
55 assigned to them in a disaster, for the purpose of protecting and
56 preserving human life or property in a disaster. During a disaster or

1 such drill or exercise, disaster emergency response personnel in the
2 state shall operate under the direction and command of the chair of such
3 commission, and shall possess the same powers, duties, rights, privi-
4 leges and immunities as are applicable in a civil defense drill held at
5 the direction of the state civil defense commission under the provisions
6 of the New York state defense emergency act.

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

11 1. For purposes of this section the following terms shall have the
12 following meanings:

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

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

18 (c) "Public facilities" shall mean and include publicly owned build-
19 ings, including traditional government buildings, such as courthouses,
20 firehouses, police stations, parks, recreational facilities, and correc-
21 tional facilities.

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

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

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

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

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

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

1 with any changes incorporated by the council as a result of such hear-
2 ings, to insure that it effectuates the purposes of this article. Upon
3 being so satisfied, the secretary shall approve said code or amendment
4 prior to its becoming effective.

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

8 1. Notwithstanding any other provision of law, the commissioner of the
9 division of homeland security and emergency services shall conduct a
10 review and analysis of measures being taken by the public service
11 commission and any other agency or authority of the state or any poli-
12 tical subdivision thereof and, to the extent practicable, of any federal
13 entity, to protect the security of critical infrastructure related to
14 energy generation and transmission located within the state BOTH DURING
15 TIMES OF NORMAL OPERATIONS, AND BEFORE, DURING AND AFTER THE OCCURRENCE
16 OF VARIOUS TYPES OF NATURAL DISASTERS. The commissioner of the division
17 of homeland security and emergency services shall have the authority to
18 review any audits or reports related to the security of such critical
19 infrastructure, including audits or reports conducted at the request of
20 the public service commission or any other agency or authority of the
21 state or any political subdivision thereof or, to the extent practica-
22 ble, of any federal entity. The owners and operators of such energy
23 generating or transmission facilities shall, in compliance with any
24 federal and state requirements regarding the dissemination of such
25 information, provide access to the commissioner of the division of home-
26 land security and emergency services to such audits or reports regarding
27 such critical infrastructure provided, however, that exclusive custody
28 and control of such audits and reports shall remain solely with the
29 owners and operators of such energy generating or transmission facili-
30 ties. For the purposes of this article, the term "critical infrastruc-
31 ture" has the meaning ascribed to that term in subdivision five of
32 section eighty-six of the public officers law.

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

35 S 5-A. NATURAL DISASTER PREPAREDNESS. 1. EVERY UTILITY COMPANY, WIRE-
36 LESS COMMUNICATIONS SERVICE PROVIDER AND CABLE TELEVISION COMPANY SHALL
37 FILE A NATURAL DISASTER PREPAREDNESS PLAN WITH THE COMMISSION FOR ITS
38 APPROVAL, AND UPDATE SUCH PLAN ON AN ANNUAL BASIS. EACH SUCH PLAN AND
39 ANNUAL UPDATE THEREOF SHALL SPECIFY THE PERSONNEL AND RESOURCES THAT
40 WILL BE UTILIZED IN THE EVENT OF A DISASTER, AND VARIOUS ACTION PLANS TO
41 BE UNDERTAKEN IN THE EVENT OF VARIOUS TYPES OF NATURAL DISASTERS. EVERY
42 NATURAL DISASTER PREPAREDNESS PLAN AND ANNUAL UPDATE THEREOF SHALL
43 SPECIFICALLY PROVIDE FOR THE CONDUCTING OF A REGULARLY SCHEDULED TREE
44 AND VEGETATION TRIMMING AND CLEARANCE PROGRAM FOR THE PURPOSE OF MINI-
45 MIZING DAMAGE TO UTILITY LINES, TRANSFORMERS AND OTHER UTILITY INFRAS-
46 TRUCTURE IN THE EVENT OF A DISASTER AND FACILITATING THE RESTORATION OF
47 UTILITY SERVICES AFTER A NATURAL DISASTER AND TO FACILITATE RECOVERY
48 EFFORTS AFTER THE NATURAL DISASTER. UPON THE APPROVAL OF SUCH PLAN, THE
49 COMMISSION SHALL FORWARD A COPY OF EACH SUCH PLAN TO THE DISASTER
50 PREPAREDNESS COMMISSION AND EACH OF THE APPROPRIATE LOCALITIES WHICH
51 HAVE ADOPTED A LOCAL COMPREHENSIVE EMERGENCY MANAGEMENT PLAN. FURTHER-
52 MORE, UPON THE APPROVAL OF SUCH DISASTER PREPAREDNESS PLAN BY THE
53 COMMISSION AND UPON EACH ANNUAL UPDATE THEREOF, THE PROVISIONS OF SUCH
54 PLAN RELATING TO TREE AND VEGETATION TRIMMING AND CLEARANCE PROGRAM
55 SHALL SUPERSEDE ANY LOCAL LAW, CODE OR ORDINANCE RELATING THERETO, AND

1 ANY SUCH LAW, CODE OR ORDINANCE WHICH LIMITS TREE TRIMMING AS SPECIFIED
2 AS A PLAN SHALL BE VOID AS AGAINST PUBLIC POLICY.

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

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

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

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

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

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

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

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

52 2. THE EFFECTIVENESS OF EACH PLAN TO SATISFY THE ARTICULATED GOALS OF
53 SUCH PLAN AS IT RELATES TO THE ANTICIPATED TIME IN WHICH PLAN WAS ACTI-
54 VATED, WHETHER SUCH PLAN SHOULD HAVE BEEN ACTIVATED AT AN EARLIER TIME,
55 OVERALL EMERGENCY RESPONSE AND UTILITY RESTORATION TIMES OF THE PUBLIC
56 UTILITY, THE EFFECTIVENESS OF THE PERSONNEL COVERED UNDER SUCH PLAN

1 INCLUDING, BUT NOT LIMITED TO, ADEQUATE TRAINING AND PERFORMANCE OF
2 ASSIGNED TASKS BY SUCH PERSONNEL, AND THE PROVISION OF NEEDED SUPPLIES
3 TO SUCH PERSONNEL;

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

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

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

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

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

40 S 2806-A. NATURAL DISASTER PREPAREDNESS. IN CONJUNCTION WITH THEIR
41 DUTIES PURSUANT TO SECTION TWENTY-THREE-B OF THE EXECUTIVE LAW, EVERY
42 HOSPITAL AND RESIDENTIAL HEALTH CARE FACILITY SHALL FILE A NATURAL
43 DISASTER PREPAREDNESS PLAN WITH THE COUNCIL FOR ITS APPROVAL, AND UPDATE
44 SUCH PLAN ON AN ANNUAL BASIS. EACH SUCH PLAN AND ANNUAL UPDATE THEREOF
45 SHALL SPECIFY THE PERSONNEL AND RESOURCES THAT WILL BE UTILIZED IN THE
46 EVENT OF A NATURAL DISASTER, AND VARIOUS ACTION PLANS TO BE UNDERTAKEN
47 IN THE EVENT OF VARIOUS TYPES OF NATURAL DISASTERS. EVERY DISASTER
48 PREPAREDNESS PLAN AND ANNUAL UPDATE THEREOF SHALL PROVIDE FOR THE ACQUI-
49 SITION AND OPERATION OF SURVIVABLE BACK-UP GENERATORS OR ALTERNATIVE
50 ENERGY SOURCES IN THE EVENT OF A DISASTER. UPON THE APPROVAL OF A
51 NATURAL DISASTER PREPAREDNESS PLAN AND UPON EACH ANNUAL UPDATE THEREOF,
52 THE COUNCIL SHALL FORWARD A COPY OF EACH SUCH PLAN TO THE DISASTER
53 PREPAREDNESS COMMISSION AND EACH OF THE APPROPRIATE LOCALITIES WHICH
54 HAVE ADOPTED A LOCAL COMPREHENSIVE EMERGENCY MANAGEMENT PLAN.

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

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

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

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

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

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

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

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

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