S T A T E O F N E W Y O R K

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:

Section 1. Short title. This act shall be known and may be cited as the "natural disaster preparedness and mitigation act".

S 2. Legislative intent. The legislature hereby finds that due to changes in climate and weather patterns that may be due, in part, to global warming that large areas of the state have been severely impacted by repeated hurricanes, tropical storms and other weather related natural disasters during the past few years. The conditions created by these hurricanes, tropical storms and other weather related natural disasters have imposed severe economic, social and infrastructure damages to those areas and populaces affected.

Therefore, the legislature declares that the state, its political subdivisions, public utilities and health care facilities must improve their preparations for, responses to and recovery from future disasters. This act requires enhanced planning, preparation and mitigation efforts for possible future natural disasters. Natural disaster planning, on both the state and local levels, by state and local governments, utilities and health care facilities should be comprehensive and include emergency service organizations which are involved in mitigation of 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.

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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.

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

f. "chief executive" means:

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

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

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

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

g. ["Disaster] "DISASTER emergency response personnel" means agencies, public officers, employees, or affiliated volunteers having duties and responsibilities under or pursuant to a comprehensive emergency management plan.

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

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

j. "executive level officer" means a state agency officer with the authority to deploy agency assets and resources and make decisions binding a state agency.

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

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

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

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

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

S 21. Disaster preparedness commission established; meetings; powers and duties. 1. There is hereby created in the executive department a disaster preparedness commission consisting of the commissioners of transportation, health, division of criminal justice services, education, economic development, agriculture and markets, housing and community renewal, general services, labor, environmental conservation, mental health, parks, recreation and historic preservation, corrections

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

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

3. The commission shall have the following powers and responsibilities:

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

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

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

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

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

f. (1) unless it deems it unnecessary, create, following the declaration of a state disaster emergency, a temporary organization in the disaster area to provide for integration and coordination of efforts among the various federal, state, municipal and private agencies involved. The commission, upon a request from a municipality and with the approval of the governor, shall direct the temporary organization to assume direction of the local disaster operations of such municipality, AND COOPERATE WITH PRIVATE AGENCY DISASTER OPERATIONS for a specified period of time not to exceed thirty days, and in such cases such temporary organization shall assume direction of such local disaster operations, AND COOPERATE WITH PRIVATE AGENCY DISASTER OPERATIONS subject to the supervision of the commission. Upon the expiration of the thirty day period the commission, at the request of the municipality, may extend the temporary organization's direction of such local disaster operations, AND COOPERATE WITH PRIVATE AGENCY DISASTER OPERATIONS for additional periods not to exceed thirty days. The commission, upon a finding that a municipality is unable to manage local disaster operations, may, with the approval of the governor, direct the temporary organization to assume direction of the local AND PRIVATE AGENCY disaster operations of such municipality, for a specified period of time not to exceed thirty days, and in such cases such temporary organization shall assume direction of such local AND PRIVATE AGENCY disaster operations, subject to the supervision of the commission. Upon expiration of the thirty day period the commission, after consultation with the municipality, and with the approval of the governor, may extend the temporary organization's direction of such local AND PRIVATE AGENCY disaster operations for additional periods not to exceed thirty days. In such event, such temporary organization may utilize such municipality's local resources, provided, however, that the state shall not be liable for any expenses incurred in using such municipality's resources. The state shall not be liable for the expenses incurred in using third party, non-state resources deployed to the affected area by the temporary organization, which are necessary to protect life and safety;

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

g. assist in the coordination of federal recovery efforts and coordinate recovery assistance by state and private agencies;

h. provide for periodic briefings, drills, exercises or other means to assure that all state, MUNICIPAL AND PRIVATE AGENCY personnel with direct, SUPERVISORY OR IMPLEMENTATION responsibilities in the event of a disaster are fully familiar with response and recovery plans and the manner in which they shall carry out their responsibilities, and coordinate 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.

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

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

5. The [state] office of emergency management within the division of homeland security and emergency services shall serve as the operational arm of the commission and shall be responsible for implementing provisions of this article and the rules and policies adopted by the commission. The director of the [state] office of emergency management within the division of homeland security and emergency services shall exercise the authority given to the disaster preparedness commission in section twenty-nine of this article, to coordinate and direct state agencies and assets in response to a state OR LOCAL disaster emergency, through their respective agency heads, on behalf of the governor and the chair of the disaster preparedness commission, when the governor, the lieutenant governor, and the chair of the disaster preparedness commission are incapacitated or without an available means of reliable communication with the [state] office of emergency management. If the director of the [state] office of emergency management is unable to exercise this authority, then the executive deputy commissioner of the division of homeland security and emergency services shall act in [this] SUCH capacity. In the event that the executive deputy commissioner is unable to exercise [this] SUCH authority, then such authority shall be exercised by the official willing and able to do so in the following order: the superintendent of [the division of] state police; the state fire administrator; or the director of the office of counterterrorism within the division of homeland security and emergency services. Nothing in this subdivision shall be construed to limit the authority of the governor, lieutenant governor, or the chair of the disaster preparedness commission to oversee the director of the [state] office of emergency management within the division of homeland security and emergency services or any official exercising authority given to the disaster preparedness commission in section twenty-nine of this article.

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

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

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

3. Such plans shall be prepared with such assistance from [other] SUCH MUNICIPAL AND PRIVATE agencies AND RISK MANAGERS as the commission deems necessary, and 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, 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 assist-

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

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

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

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

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

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

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

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

3. Such plans shall be [made available to] FILED WITH the county emergency management office AND THE COMMISSION.

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

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

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

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

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

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

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

3. A chief executive may also request and accept assistance from any other political subdivision OR PRIVATE AGENCY and may receive therefrom and utilize any real or personal property or the service of any personnel thereof on such terms and conditions as may be mutually agreed to by the chief executives of the requesting and assisting political subdivisions AND THE HEAD OF THE PRIVATE AGENCY.

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

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

2. The commission AND PRIVATE AGENCIES shall provide technical assistance in the development of such plans upon the request of such county, city, town or village.

3. A local recovery and redevelopment plan shall include, but need not be limited to: plans for replacement, reconstruction, removal or relocation of damaged or destroyed facilities AND PUBLIC UTILITIES; proposed new or amended regulations such as zoning, subdivision, building, COASTAL AREA, INLAND WATERWAY AREA or sanitary ordinances and codes; THE PLANS OF PRIVATE AGENCIES RELATED TO DISASTER RECOVERY AND REDEVELOPMENT; and plans for economic recovery and community development. Such plans shall take into account and to the extent practicable incorporate relevant existing plans and policies and such plans shall take into account the need to minimize the potential impact of any future disasters on the community.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

resources of the agencies of [the commission of] the state AND IN COOPERATION WITH PRIVATE AGENCIES may be utilized to perform the duties assigned to them in a disaster, for the purpose of protecting and preserving human life or property in a disaster. During a disaster or such drill or exercise, disaster emergency response personnel in the state shall operate under the direction and command of the chair of such commission, and shall possess the same powers, duties, rights, privileges and immunities as are applicable in a civil defense drill held at the direction of the state civil defense commission under the provisions of the New York state defense emergency act.

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

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

(a) "Infrastructure" shall mean and include publicly owned storm and sanitary sewers, water supply systems, drainage systems, PUBLIC UTILITIES, transportation systems, roads and bridges.

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

(c) "Public facilities" shall mean and include publicly owned buildings, including traditional government buildings, such as courthouses, firehouses, police stations, parks, recreational facilities, and correctional facilities.

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

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

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

(1) A description of the emergency service function for which assistance is needed, such as, but not limited to, fire services, law enforcement, emergency medical, transportation, communications, public works and engineering, building inspection, planning and information assistance, mass care, PROVISION OF SHELTER TO DISPLACED INDIVIDUALS AND FAMILIES, resource support, health and medical services, and search and rescue.

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

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

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

2. THE COMMISSION SHALL ESTABLISH INDUSTRY SPECIFIC STANDARDS FOR ACCEPTABLE PERFORMANCE OF EACH UTILITY, REQUIRED TO ESTABLISH AND FILE A NATURAL DISASTER PREPAREDNESS PLAN PURSUANT TO SUBDIVISION ONE OF THIS SECTION, IN THE EVENT OF A NATURAL DISASTER TO PROTECT PUBLIC HEALTH AND SAFETY OF ITS RATEPAYERS AND THE GENERAL PUBLIC, TO ENSURE THE RELIABILITY OF SUCH UTILITY'S SERVICES TO PREVENT AND MINIMIZE THE NUMBER OF SERVICE OUTAGES OR DISRUPTIONS, AND TO REDUCE THE DURATION OF SUCH OUTAGES AND DISRUPTIONS, TO FACILITATE RESTORATION OF SUCH SERVICES AFTER SUCH OUTAGES OR DISRUPTIONS, AND TO IDENTIFY THE MOST COST-EFFECTIVE LEVEL OF TREE AND VEGETATION TRIMMING AND SYSTEM HARDENING, INCLUDING UNDERGROUNDING NECESSARY TO ACHIEVE THE MAXIMUM RELIABILITY OF THE SYSTEM AND TO MINIMIZE SERVICE OUTAGES. THE COMMISSION SHALL UTILIZE, IN RATE SETTING PROCEEDINGS, TO RECOVER THE REASONABLE COSTS INCURRED TO MAINTAIN OR IMPROVE THE RESILIENCY OF THE UTILITY'S INFRASTRUCTURE NECESSARY TO COMPLY WITH THE STANDARDS ESTABLISHED PURSUANT TO THIS SUBDIVISION.

3. THE STANDARDS ESTABLISHED BY THE COMMISSION SHALL INCLUDE:

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

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

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

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

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

1. THE OVERALL EFFECTIVENESS OF EACH NATURAL DISASTER PREPAREDNESS PLAN AND HOW IT INTERFACED WITH THE STATE EMERGENCY MANAGEMENT PLAN AND WITH EACH LOCAL EMERGENCY MANAGEMENT PLAN, 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, THE CAPACITY OF THE PUBLIC UTILITY TO EFFECTIVELY COMMUNICATE WITH STATE AND LOCAL AGENCIES AND THE GENERAL PUBLIC, AND THE TIMELINESS OF THE RESTORATION OF PUBLIC UTILITY SERVICES;

2. THE EFFECTIVENESS OF EACH PLAN TO SATISFY THE ARTICULATED GOALS OF 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

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

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

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

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

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

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

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

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

S 23. The disaster preparedness commissioner, the commissioner of transportation, the commissioner of agriculture and markets, the chairman of the public service commission, the state fire administrator and the chair of the New York state energy research and development authority shall jointly examine, evaluate and make recommendations concerning the costs and means of hardening buildings, infrastructure, public utility facilities, energy sources and health care facilities to ensure their continued operation before, during and after a natural disaster. The findings and recommendations of such group shall be reported to the

governor and the legislature within one year of the effective date of this act.

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