

PART B

20 Section 1. Section 20 of the executive law, as added by chapter 640
of
21 the laws of 1978, paragraph a of subdivision 2 as amended by chapter
781

22 of the laws of 1988, is amended to read as follows:
23 § 20. Natural and man-made disasters; policy; definitions. 1. It
shall

24 be the policy of the state that:
25 a. local government and emergency service organizations continue
their
26 essential role as the first line of defense in times of disaster,
and

27 that the state provide appropriate supportive services to the
extent
28 necessary;

29 b. local chief executives take an active and personal role in
the
30 development and implementation of disaster preparedness programs and
be

31 vested with authority and responsibility in order to insure the
success
32 of such programs;

33 c. state and local natural disaster and emergency response
functions

34 be coordinated using recognized practices in incident management
in
35 order to bring the fullest protection and benefit to the people;

36 d. state resources be organized and prepared for immediate
effective

37 response to disasters which are beyond the capability of local
govern-

38 ments and emergency service organizations; and

39 e. state and local plans, organizational arrangements, and
response

40 capability required to execute the provisions of this article shall
at

41 all times be the most effective that current circumstances and
existing

42 resources allow.

43 2. As used in this article the following terms shall have the
follow-

44 ing meanings:

45 a. "disaster" means occurrence or imminent threat of wide spread
or

46 severe damage, injury, or loss of life or property resulting from
any

47 natural or man-made causes, including, but not limited to, fire,
flood,

48 earthquake, hurricane, tornado, high water, landslide, mudslide,
wind,

49 storm, wave action, volcanic activity, epidemic, air
contamination,

50 terrorism, cyber event, blight, drought, infestation, explosion,
radio-

51 logical accident, nuclear, chemical, biological, or
bacteriological
52 release, water contamination, bridge failure or bridge collapse.
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1 b. "state disaster emergency" means a period beginning with a
declara-
2 tion by the governor that a disaster exists and ending upon the
termi-
3 nation thereof.

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

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

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

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

17 f. "chief executive" means:
18 (1) a county executive or manager of a county;
19 (2) in a county not having a county executive or manager, the
chairman
20 or other presiding officer of the county legislative body;
21 (3) a mayor of a city or village, except where a city or village
has a
22 manager, it shall mean such manager; and
23 (4) a supervisor of a town, except where a town has a manager,
it
24 shall mean such manager.

25 g. "Disaster emergency response personnel" means agencies,
public
26 officers, employees, or affiliated volunteers having duties and
respon-
27 sibilities under or pursuant to a comprehensive emergency
management

28 plan.
29 h. "Emergency management director" means the government
official
30 responsible for emergency preparedness, response and recovery for
a
31 county, city, town, or village.

32 § 2. Section 21 of the executive law, as added by chapter 640 of
the
33 laws of 1978, subdivision 1 as amended by chapter 346 of the laws
of
34 2002, subdivision 2 as amended by chapter 158 of the laws of 1994,
para-
35 graph c of subdivision 3 as amended by chapter 42 of the laws of
2004,
36 and paragraphs f, g, h, i, and j of subdivision 3 as amended and
para-
37 graph k of subdivision 3 as added by chapter 171 of the laws of 2006,
is

38 amended to read as follows:
39 § 21. Disaster preparedness commission established; meetings;
powers
40 and duties. 1. There is hereby created in the executive department
a
41 disaster preparedness commission consisting of the commissioners
of
42 transportation, health, division of criminal justice services,
educa-
43 tion, social services, economic development, agriculture and
markets,
44 housing and community renewal, general services, labor,
environmental

45 conservation, mental health, parks, recreation and historic
preserva-
46 tion, correctional services and children and family services, the
presi-
47 dent of the New York state energy research and development
authority,
48 the superintendents of state police, insurance, banking, the
secretary
49 of state, the state fire administrator, the chair of the public
service
50 commission, the adjutant general, the [~~director~~] directors of
the
51 [~~state~~] offices within the division of homeland security and
emergency

52 services, the office for technology, and the [~~chairman~~] office of
victim
53 services, the chairs of the thruway authority, the metropolitan
trans-
54 portation authority, the port authority of New York and New Jersey,
the
55 chief professional officer of the state coordinating chapter of
the
56 American Red Cross and three additional members, to be appointed by
the

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1 governor, two of whom shall be chief executives. Each member agency
may
2 designate an officer of that agency, with responsibility for
disaster

3 preparedness matters, who may represent that agency on the
4 commission.
5 The commissioner of the division of homeland security and
6 emergency
7 services shall serve as chair of the commission, and the governor
8 shall
9 designate the vice chair of the commission. The members of the
10 commis-
11 sion, except those who serve ex officio, shall be allowed their
12 actual
13 and necessary expenses incurred in the performance of their duties
14 under
15 this article but shall receive no additional compensation for
16 services
17 rendered pursuant to this article.
18 2. The commission, on call of the chairperson, shall meet at
19 least
20 twice each year and at such other times as may be necessary. The
21 agenda
22 and meeting place of all regular meetings shall be made available to
23 the
24 public in advance of such meetings and all such meetings shall be
25 open
26 to the public. The commission shall establish quorum requirements
27 and
28 other rules and procedures regarding conduct of its meetings and
29 other
30 affairs. [~~The adjutant general shall serve as secretary to the~~
31 ~~commis-~~
32 ~~sion and provide staff services as may be necessary through the~~
33 ~~state~~
34 ~~emergency management office.]~~
35 3. The commission shall have the following powers and
36 responsibil-
37 ities:
38 a. study all aspects of man-made or natural disaster
39 prevention,
40 response and recovery;
41 b. request and obtain from any state or local officer or agency
42 any
43 information necessary to the commission for the exercise of its
44 respon-
45 sibilities;
46 c. prepare [~~state disaster preparedness plans, to be approved by~~
47 ~~the~~
48 ~~governor, and review such plans and report thereon]~~ and, as
49 appropriate,
50 revise a state comprehensive emergency management plan. The
51 commission
52 shall report all revisions to such plan by March thirty-first of
53 each
54 year to the governor, the legislature and the chief judge of the
55 state,
56 unless a current version of the plan is available to the public on
57 the
58 website of the division of homeland security and emergency services.

In

34 preparing such plans, the commission shall consult with federal
and
35 local officials, emergency service organizations including both
volun-
36 teer and commercial emergency response organizations, and the public
as
37 it deems appropriate. To the extent such plans impact upon
adminis-
38 tration of the civil and criminal justice systems of the state,
includ-
39 ing their operational and fiscal needs in times of disaster
emergency,
40 the commission, its staff and any working group, task force, agency
or
41 other instrumentality to which it may delegate responsibility to
assist
42 it in its duties shall consult with the chief administrator of
the
43 courts and coordinate their preparation with him or her or with his
or
44 her representatives;
45 d. prepare, keep current and distribute to chief executives and
others
46 an inventory of programs directly relevant to prevention,
minimization
47 of damage, readiness, operations during disasters, and recovery
follow-
48 ing disasters;
49 e. direct state disaster operations and coordinate state
disaster
50 operations with local disaster operations following the declaration
of a
51 state disaster emergency;
52 f. unless it deems it unnecessary, create, following the
declaration
53 of a state disaster emergency, a temporary organization in the
disaster
54 area to provide for integration and coordination of efforts among
the
55 various federal, state, municipal and private agencies involved.
The
56 commission, upon a finding that a municipality is unable to manage
local

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1 disaster operations, may, with the approval of the governor, direct
the
2 temporary organization to assume direction of the local disaster
oper-
3 ations of such municipality, for a specified period of time, and in
such
4 cases such temporary organization shall assume direction of such
local
5 disaster operations, subject to the supervision of the commission.
In

6 such event, such temporary organization may utilize such
municipality's
7 local resources, provided, however, that the state shall not be
liable
8 for any expenses incurred in using such municipality's resources;
9 g. assist in the coordination of federal recovery efforts and
coordi-
10 nate recovery assistance by state and private agencies;
11 h. provide for periodic briefings, drills, exercises or other means
to
12 assure that all state personnel with direct responsibilities in
the
13 event of a disaster are fully familiar with response and recovery
plans
14 and the manner in which they shall carry out their responsibilities,
and
15 coordinate with federal, local or other state personnel. Such
activities
16 may take place on a regional or county basis, and local and
federal
17 participation shall be invited and encouraged;
18 i. submit to the governor, the legislature and the chief judge of
the
19 state by March thirty-first of each year an annual report which
shall
20 include but need not be limited to:
21 (1) a summary of commission and state agency activities for the
year
22 and plans for the ensuing year with respect to the duties and
responsi-
23 bilities of the commission;
24 (2) recommendations on ways to improve state and local capability
to
25 prevent, prepare for, respond to and recover from disasters;
26 (3) the status of the state and local plans for disaster
preparedness
27 and response, including the name of any locality which has failed
or
28 refused to develop and implement its own disaster preparedness plan
and
29 program; **and the extent to which all forms of local emergency
response**
30 **assets have been included, and accounted for in planning and
preparation**
31 **for disaster preparedness and response; and**
32 ~~j. [coordinate and, to the extent possible and feasible,
integrate
33 commission activities, responsibilities and duties with those of
the
34 civil defense commission; and
35 k.] develop public service announcements to be distributed to
tele-
36 vision and radio stations and other media throughout the state
informing
37 the public how to prepare and respond to disasters. Such public
service~~

38 announcements shall be distributed in English and such other
languages
39 as such commission deems appropriate.

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

42 5. The office of emergency management within the division of
homeland
43 security and emergency services shall serve as the staff arm of
the
44 commission and shall be responsible for implementing provisions of
this
45 article and the rules and policies adopted by the commission.

46 § 3. Subdivision 3 of section 22 of the executive law, as added
by
47 chapter 640 of the laws of 1978, subparagraph 8 of paragraph b
as
48 amended by chapter 42 of the laws of 2004 and subparagraphs 14 and 15
of
49 paragraph b as amended and subparagraph 16 of paragraph b as added
by
50 chapter 677 of the laws of 2006, is amended to read as follows:

51 3. Such plans shall be prepared with such assistance from other
agen-
52 cies as the commission deems necessary, and shall include, but not
be
53 limited to:

54 a. Disaster prevention and mitigation. Plans to prevent and
minimize
55 the effects of disasters shall include, but not be limited to:
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1 (1) identification of [~~potential disasters and disaster sites~~]
hazards
2 and assessment of risk;

3 (2) recommended disaster prevention and mitigation projects,
policies,
4 priorities and programs, with suggested implementation schedules,
which
5 outline federal, state and local roles;

6 (3) suggested revisions and additions to building and safety
codes,
7 and zoning and other land use programs;

8 (4) suggested ways in which state agencies can provide
technical
9 assistance to municipalities in the development of local
disaster

10 prevention and mitigation plans and programs;
11 (5) such other measures as reasonably can be taken to [~~prevent~~

~~disas-~~
12 ~~ters or mitigate their impact] protect lives, prevent disasters,
and
13 reduce the impact of disasters.~~

14 b. Disaster response. Plans to coordinate the use of resources
and

15 manpower for service during and after disaster emergencies and to
deliv-
16 er services to aid citizens and reduce human suffering resulting from
a
17 disaster emergency shall include, but not be limited to:
18 (1) [~~centralized~~] coordination of resources, manpower and
services,
19 using recognized practices in incident management and utilizing
existing
20 organizations and lines of authority and centralized direction
of
21 requests for assistance;
22 (2) the location, procurement, construction, processing,
transporta-
23 tion, storing, maintenance, renovation, disposal or use
of
24 materials, including those donated, and facilities and services;
25 (3) a system for warning populations who are or may be endangered;
26 (4) arrangements for activating state, municipal and volunteer
forces,
27 through normal chains of command so far as possible and for
continued
28 communication and reporting;
29 (5) a specific plan for rapid and efficient communication, and for
the
30 integration of state communication facilities during a state
disaster
31 emergency, including the assignment of responsibilities and the
estab-
32 lishment of communication priorities, and liaison with
municipal,
33 private and federal communication facilities;
34 (6) a plan for coordinated evacuation procedures, including the
estab-
35 lishment of temporary housing and other necessary facilities;
36 (7) criteria for establishing priorities with respect to the
restora-
37 tion of vital services and debris removal;
38 (8) plans for the continued effective operation of the civil and
crim-
39 inal justice systems;
40 (9) provisions for training state and local government personnel
and
41 volunteers in disaster response operations;
42 (10) providing information to the public;
43 (11) care for the injured and needy and identification and
disposition
44 of the dead;
45 (12) utilization and coordination of programs to assist victims
of
46 disasters, with particular attention to the needs of the poor,
the
47 elderly, [~~the handicapped~~] individuals with disabilities and
other
48 groups which may be especially affected;
49 (13) control of ingress and egress to and from a disaster area;
50 (14) arrangements to administer federal disaster assistance;

51 (15) a system for obtaining and coordinating [~~disaster~~
information]
52 situational awareness including the centralized assessment of
disaster
53 effects and resultant needs; and
54 (16) utilization and coordination of programs to assist
individuals
55 with household pets and service animals following a disaster,
with
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1 particular attention to means of evacuation, shelter and
transportation
2 options.
3 c. Recovery. Plans to provide for recovery and redevelopment
after
4 disaster emergencies shall include, but not be limited to:
5 (1) measures to coordinate state agency assistance in
recovery
6 efforts;
7 (2) arrangements to administer federal recovery assistance; and
8 (3) such other measures as reasonably can be taken to assist in
the
9 development and implementation of local disaster recovery plans.
10 § 4. Section 23 of the executive law, as added by chapter 640 of
the
11 laws of 1978, subdivision 1 as amended by chapter 603 of the laws
of
12 1993, subdivision 5 and subparagraph 8 of paragraph b of subdivision
7
13 as amended by chapter 42 of the laws of 2004, and subparagraphs 16
and
14 17 of paragraph b of subdivision 7 as amended and subparagraph 18
of
15 paragraph b of subdivision 7 as added by chapter 677 of the laws
of
16 2006, is amended to read as follows:
17 § 23. Local [~~disaster preparedness~~] comprehensive emergency
management
18 plans. 1. Each county, except those contained within the city of
New
19 York, and each city, town and village is authorized to prepare
[~~disaster~~
20 preparedness] comprehensive emergency management plans. The
disaster
21 preparedness commission shall provide assistance and advice for
the
22 development of such plans. City, town and village plans shall be
coordi-
23 nated with the county plan.
24 2. The purpose of such plans shall be to minimize the effect of
disas-
25 ters by (i) identifying appropriate local measures to prevent
disasters,
26 (ii) developing mechanisms to coordinate the use of local resources
and

27 manpower for service during and after disasters and the delivery
of
28 services to aid citizens and reduce human suffering resulting
from a
29 disaster, and (iii) providing for recovery and redevelopment
after
30 disasters.

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

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

36 5. In preparing such plans, cooperation, advice and assistance
shall

37 be sought from local government officials, regional and local
planning

38 agencies, police agencies, fire departments and fire companies,
local

39 [~~civil defense~~] emergency management agencies, commercial and
volunteer

40 ambulance services, health and social services officials,
community

41 action agencies, the chief administrator of the courts,
organizations

42 for the elderly and the handicapped, other interested groups and
the

43 general public. Such advice and assistance may be obtained
through

44 public hearings held on public notice, or through other
appropriate

45 methods.

46 6. All plans for [~~disaster preparedness~~] comprehensive
emergency

47 management developed by local governments or any revisions thereto
shall

48 be submitted to the commission by December thirty-first of each year
to

49 facilitate state coordination of disaster operations.

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

51 a. Disaster prevention and mitigation. Plans to prevent and
minimize

52 the effects of disasters shall include, but not be limited to:

53 (1) [~~identification of potential disasters and disaster sites~~]
iden-

54 tification of hazards and assessment of risk;

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65

A.

1 (2) recommended disaster prevention and mitigation projects,
policies,

2 priorities and programs, with suggested implementation schedules,
which

3 outline federal, state and local roles;

4 (3) suggested revisions and additions to building and safety codes
and
5 zoning and other land use programs;
6 (4) such other measures as reasonably can be taken to [~~prevent~~
~~disas-~~
7 ~~ters or mitigate their impact~~] protect lives, prevent disasters,
and
8 reduce their impact.
9 b. Disaster response. Plans to coordinate the use of resources
and
10 manpower for service during and after disasters and to deliver
services
11 to aid citizens and reduce human suffering resulting from a
disaster
12 shall include, but not be limited to:
13 (1) [~~centralized~~] coordination of resources, manpower and
services,
14 using recognized practices in incident management, utilizing
existing
15 organizations and lines of authority and centralized direction
of
16 requests for assistance;
17 (2) the location, procurement, construction, processing,
transporta-
18 tion, storing, maintenance, renovation, disposal or use
of
19 materials, including those donated, and facilities and services
which
20 may be required in time of disaster;
21 (3) a system for warning populations who are or may be endangered;
22 (4) arrangements for activating municipal and volunteer
forces,
23 through normal chains of command so far as possible, and for
continued
24 communication and reporting;
25 (5) a specific plan for rapid and efficient communication and for
the
26 integration of local communication facilities during a disaster
includ-
27 ing the assignment of responsibilities and the establishment of
communi-
28 cation priorities and liaison with municipal, private, state and
federal
29 communication facilities;
30 (6) a plan for coordination evacuation procedures including the
estab-
31 lishment of temporary housing and other necessary facilities;
32 (7) criteria for establishing priorities with respect to the
restora-
33 tion of vital services and debris removal;
34 (8) plans for the continued effective operation of the civil and
crim-
35 inal justice systems;
36 (9) provisions for training local government personnel and
volunteers
37 in disaster response operations;
38 (10) providing information to the public;

39 (11) care for the injured and needy and identification and
disposition
40 of the dead;
41 (12) utilization and coordination of programs to assist victims
of
42 disasters, with particular attention to the needs of the poor,
the
43 elderly, [~~the handicapped~~] individuals with disabilities and
other
44 groups which may be especially affected;
45 (13) control of ingress and egress to and from a disaster area;
46 (14) arrangements to administer state and federal disaster
assistance;
47 (15) procedures under which the county, city, town, village or
other
48 political subdivision and emergency organization personnel and
resources
49 will be used in the event of a disaster;
50 (16) a system for obtaining and coordinating disaster
information
51 including the centralized assessment of local disaster effects
and
52 resultant needs;
53 (17) continued operation of governments of political subdivisions;
and
54 (18) utilization and coordination of programs to assist
individuals
55 with household pets and service animals following a disaster,
with
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1 particular attention to means of evacuation, shelter and
transportation
2 options.
3 c. Recovery. Local plans to provide for recovery and
redevelopment
4 after disasters shall include, but not be limited to:
5 (1) recommendations for replacement, reconstruction, removal or
relo-
6 cation of damaged or destroyed public or private facilities,
proposed
7 new or amendments to zoning, subdivision, building, sanitary or
fire
8 prevention regulations and recommendations for economic development
and
9 community development in order to minimize the impact of any
potential
10 future disasters on the community.
11 (2) provision for cooperation with state and federal agencies
in
12 recovery efforts.
13 (3) provisions for training and educating local disaster officials
or
14 organizations in the preparation of applications for federal and
state
15 disaster recovery assistance.

16 § 5. Paragraph f of subdivision 1 of section 24 of the executive
law,
17 as added by chapter 158 of the laws of 1994, is amended to read
as

18 follows:

19 f. the establishment or designation of emergency shelters
[and/or],
20 emergency medical shelters, and in consultation with the state
commis-
21 sioner of health, alternate medical care sites;

22 § 6. Subdivisions 2 and 3 of section 26 of the executive law,
subdivi-
23 sion 2 as added by chapter 640 of the laws of 1978 and subdivision 3
as
24 amended by chapter 158 of the laws of 1994, are amended to read
as
25 follows:

26 2. Coordination of assistance shall utilize existing organizations
and
27 lines of authority and shall utilize any [~~disaster preparedness or~~
civil
28 defense plans] comprehensive emergency management plans prepared by
the
29 affected municipality.

30 3. A chief executive or any elected or appointed county, city, town
or
31 village official shall not be held responsible for acts or omissions
of
32 municipal employees, disaster preparedness forces or civil defense
forc-
33 es when performing disaster assistance pursuant to a declared
disaster
34 emergency or when exercising [~~disaster preparedness~~] comprehensive
emer-
35 gency management plans.

36 § 7. Section 29-b of the executive law, as added by chapter 640 of
the
37 laws of 1978, is amended to read as follows:

38 § 29-b. Use of [~~civil defense forces~~] disaster emergency
response

39 personnel in disasters. 1. The governor may, in his or her
discretion,

40 direct the state [~~civil defense commission~~] disaster
preparedness

41 commission to conduct [~~a civil defense drill~~] an emergency exercise
or

42 drill, under its direction, in which all or any of the [~~civil~~
defense

43 ~~forces~~] personnel and resources of the agencies of the commission of
the

44 state may be utilized to perform the duties assigned to them in a
[~~civil~~

45 ~~defense emergency~~] disaster, for the purpose of protecting and
preserv-

46 ing human life or property in a disaster. [~~In such event, civil~~
defense

47 ~~forces]~~ During a disaster or such drill or exercise, disaster
emergency
48 response personnel in the state shall operate under the direction
and
49 command of the [~~state director of civil defense]~~ chair of such
commis-
50 sion, and shall possess the same powers, duties, rights, privileges
and
51 immunities as are applicable in a civil defense drill held at the
direc-
52 tion of the state civil defense commission under the provisions of
the
53 New York state defense emergency act.

54 2. Local use of [~~civil defense forces]~~ disaster emergency
response
55 personnel. a. Upon the threat or occurrence of a disaster, and
during
56 and immediately following the same, and except as otherwise provided
in

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1 paragraph d of this subdivision, the county chief executive may
direct
2 the [~~civil defense director]~~ emergency management director of a
county
3 to assist in the protection and preservation of human life or
property
4 by [~~holding a civil defense drill and training exercise at the scene~~
~~of~~
5 ~~the disaster and at any other appropriate places within the county,~~
~~in~~
6 ~~which all or any civil defense forces may be called upon]~~ calling
upon
7 disaster emergency response personnel employed by or supporting
that
8 county, as specified in the county comprehensive emergency
management
9 plan, to perform the [~~civil defense]~~ emergency response duties
assigned
10 to them.

11 b. The [~~civil defense forces]~~ disaster emergency response personnel
of
12 the county shall be regarded as a reserve disaster force to be
acti-
13 vated, in whole [~~in~~ or in part, by the county [~~civil defense~~
~~director]~~
14 emergency management director upon the direction of the county
chief
15 executive when the county chief executive, in his or her discretion,
is
16 convinced that the personnel and resources of local municipal
and
17 private agencies normally available for disaster assistance are
insuffi-
18 cient adequately to cope with the disaster.

19 c. Except as provided in paragraph d of this subdivision, the
county
20 chief executive may exercise the power conferred upon him in
paragraph a
21 of this subdivision, or may deactivate the [~~civil defense forces~~
disas-
22 ter emergency response personnel of the county in whole or in part,
on
23 his own motion or upon the request of the chief executive officer of
a
24 village, town or city located within the county of which he is an
offi-
25 cer.
26 d. Where the local office of [~~civil defense~~] public safety or
emergen-
27 cy management in a city is independent of the county office of
[~~civil~~
28 ~~defense~~] public safety or emergency management and is not
consolidated
29 therewith, the county chief executive may direct the [~~civil~~
~~defense~~
30 ~~director~~] emergency management director of the county to render
assist-
31 ance within such city only when the chief executive officer of such
city
32 has certified to him that the [~~civil defense forces~~] disaster
emergency
33 response personnel of the city have been activated pursuant to
the
34 provisions of subdivision three of this section and that all
resources
35 available locally are insufficient adequately to cope with the
disaster.
36 e. When performing disaster assistance pursuant to this section,
coun-
37 ty [~~civil defense forces~~] disaster emergency response personnel
shall
38 operate under the direction and command of the county [~~civil~~
~~defense~~]
39 emergency management director and his or her duly authorized
deputies,
40 and shall possess the same powers, duties, rights, privileges and
immu-
41 nities they would possess when performing their duties in a
locally
42 sponsored civil defense drill or training exercise in the civil or
poli-
43 tical subdivision in which they are enrolled, employed or
assigned
44 [~~civil defense~~] emergency response responsibilities.
45 f. The chief executive officer of a city shall be responsible for
the
46 conduct of disaster operations within the city, including the
operations
47 directed by the county [~~civil defense~~] emergency management
director

48 when rendering disaster assistance within a city pursuant to
this
49 section.
50 g. Outside of a city, the sheriff of the county, and in Nassau
county
51 the commissioner of police of the county of Nassau, shall supervise
the
52 operations of the [~~civil defense director~~] emergency management
director
53 when rendering peace officer duties incident to disaster assistance.
The
54 sheriff and such commissioner may delegate such supervisory power to
an
55 elected or appointed town or village official in the area affected.
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1 h. Neither the chief executive officer of a city, nor the county
chief
2 executive, nor any elected or appointed town or village official to
whom
3 the county chief executive has delegated supervisory power as
aforesaid
4 shall be held responsible for acts or omissions of [~~civil defense~~
~~fore-~~
5 ~~es~~] disaster emergency response personnel when performing
disaster
6 assistance.
7 3. City use of [~~civil defense forces~~] disaster emergency
response
8 personnel. a. Upon the threat or occurrence of a disaster, and
during
9 and immediately following the same, and except as otherwise provided
in
10 paragraph d of this subdivision, the chief executive of a city
may
11 direct the [~~civil defense~~] emergency management director of the city
to
12 assist in the protection and preservation of human life or property
by
13 [~~holding a civil defense drill and training exercise at the scene of~~
~~the~~
14 ~~disaster and at any other appropriate places within the city, in~~
~~which~~
15 ~~all or any civil defense forces may be called upon~~] calling upon
city
16 disaster emergency response personnel to perform the [~~civil~~
~~defense~~]
17 emergency response duties assigned to them.
18 b. The [~~civil defense forces~~] disaster emergency response personnel
of
19 the city shall be regarded as a reserve disaster force to be
activated,
20 in whole or in part, by the city [~~civil defense~~] emergency
management
21 director upon the direction of the chief executive officer of the
city

22 when the latter, in his or her discretion, is convinced that the
person-
23 nel and resources of local municipal and private agencies
normally
24 available for disaster assistance are insufficient adequately to
cope
25 with the disaster.
26 c. Except as provided in paragraph d of this subdivision, the
chief
27 executive officer of a city may exercise the power conferred upon him
in
28 paragraph a of this subdivision, or may deactivate the [~~civil~~
defense
29 ~~forces~~] disaster emergency response personnel of the city in whole or
in
30 part, on his own motion or upon the request of the head of the
city
31 police force.
32 d. Where the local office of [~~civil defense~~] emergency management
in a
33 city is under the jurisdiction of a consolidated county office of
civil
34 defense as provided in the New York state defense emergency act,
the
35 chief executive officer of such city seeking the assistance of
[~~civil~~
36 ~~defense forces~~] disaster emergency response personnel in the
protection
37 and preservation of human life or property within such city because
of
38 such disaster, must request the same from the county chief executive
in
39 which such city is located, in the same manner as provided for
assist-
40 ance to towns and villages in subdivision two of this section.
41 e. When performing disaster assistance pursuant to this
subdivision,
42 [~~city civil defense forces~~] disaster emergency response personnel
shall
43 operate under the direction and command of the city [~~civil~~
defense
44 ~~director~~] emergency management director and his or her duly
authorized
45 deputies, and shall possess the same powers, duties, rights,
privileges,
46 and immunities they would possess when performing their duties in
a
47 locally sponsored civil defense drill or training exercise in the
city
48 in which they are enrolled, employed or assigned [~~civil defense~~]
emer-
49 gency response responsibilities.
50 f. Where the city [~~civil defense forces~~] disaster emergency
response
51 personnel have been directed to assist in local disaster
operations

52 pursuant to paragraph a of this subdivision, and the chief
executive
53 officer of the city is convinced that the personnel and resources
of
54 local municipal and private agencies normally available for
disaster
55 assistance, including local [~~civil defense forces~~] disaster
emergency
56 response personnel, are insufficient adequately to cope with the
disas-
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1 ter, he or she may certify the fact to the county chief executive
and
2 request the county chief executive to direct the county [~~civil~~
~~defense~~]
3 emergency management director to render assistance in the city,
as
4 provided in subdivision two of this section.

5 g. The chief executive officer of a city shall be responsible for
the
6 conduct of disaster operations within the city, including the
operations
7 directed by the county [~~civil defense~~] emergency management
director,
8 when rendering disaster assistance within a city pursuant to this
subdi-
9 vision.

10 h. Neither the chief executive officer of a city, nor the county
chief
11 executive, shall be held responsible for acts or omissions of
[~~civil~~
12 ~~defense forces~~] disaster emergency response personnel when
performing
13 disaster assistance.

14 § 8. Paragraph (e) of subdivision 1 of section 29-e of the
executive
15 law, as added by chapter 603 of the laws of 1993, is amended to read
as

16 follows:
17 (e) "The [~~state~~] office of emergency management [~~office~~]" shall
mean
18 the office within the [~~office of military and naval affairs that~~
~~assists~~
19 ~~the disaster preparedness commission in implementing the powers~~
~~and~~
20 ~~duties of the disaster preparedness commission~~] division of
homeland
21 security and emergency services.

22 § 9. Paragraphs (a), (f) and (g) of subdivision 3 of section 29-e
of
23 the executive law, as added by chapter 603 of the laws of 1993,
are
24 amended to read as follows:
25 (a) Upon the issuance of a declaration of significant
economic

26 distress due to unanticipated natural disaster by the governor, a
muni-
27 cipality recognized by the governor as being affected by such
disaster
28 which occurred on or after December first, nineteen hundred ninety-
two,
29 may apply to the [~~state emergency management office~~] division of
home-
30 land security and emergency services on a form prescribed by
such
31 office, for reimbursement from the state's contingency reserve fund
for
32 reimbursement of extraordinary and unanticipated costs associated
with
33 the reconstruction or repair of public buildings, facilities or
infras-
34 tructure.

35 (f) In providing assistance pursuant to this section, the [~~state~~
~~emer-~~
36 ~~gency management office~~] division of homeland security and
emergency
37 services may give preference to applicants which demonstrate the
great-
38 est need or which document that such assistance will be utilized
to
39 bring the applicant into compliance with federal or state law.
40 (g) In the event that amounts appropriated are insufficient to
provide
41 for full reimbursement of all extraordinary and unanticipated
costs
42 incurred by such municipality approved for reimbursement pursuant
to
43 this section, the [~~state emergency management office~~] division of
home-
44 land security and emergency services is authorized to provide a pro
rata
45 share of the appropriations, appropriated herein, to such
municipality.

46 § 10. Paragraphs (a) and (b) of subdivision 4 of section 29-e of
the
47 executive law, as added by chapter 603 of the laws of 1993, are
amended

48 to read as follows:
49 (a) The [~~adjutant general~~] commissioner of the division of
homeland
50 security and emergency services as defined in article [~~nine~~] twenty-
six
51 of this chapter with the [~~advise~~] advice and consent of the
disaster
52 preparedness commission created pursuant to this article, shall have
the
53 power to make such rules and regulations as may be necessary and
proper
54 to effectuate the purposes of this section.

55 (b) The [~~adjutant general~~] commissioner of the division of
homeland

56 security and emergency services shall by March fifteenth of each
year
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1 report to the governor and the legislature describing the activities
and
2 operation of the program authorized by this section. Such report
shall
3 set forth the number of reimbursement applications received
and
4 approved; the identities of the counties, cities, towns and
villages
5 receiving reimbursement together with the amount and purpose of
the
6 reimbursement.

7 § 10-a. The executive law is amended by adding a new section 29-h
to
8 read as follows:

9 § 29-h. Intrastate mutual aid program. 1. Creation. There is
hereby
10 created the intrastate mutual aid program to complement existing
mutual
11 aid agreements in the event of a disaster that results in a
formal
12 declaration of an emergency by a participating local government.

All
13 local governments within the state, excepting those which
affirmatively
14 choose not to participate in accordance with subdivision four of
this
15 section, are deemed to be participants in the program.

16 2. Definitions. As used in this section, the following terms
shall
17 have the following meanings:

18 a. "Employee" means any person holding a position by
election,
19 appointment, or employment by a local government;
20 b. "Local government" means any county, city, town or village of
the
21 state;

22 c. "Local emergency management officer" means the local
government
23 official responsible for emergency preparedness, response and
recovery;

24 d. "Requesting local government" means the local government that
asks
25 another local government for assistance during a declared emergency,
or
26 for the purposes of conducting training, or undertaking a drill or
exer-
27 cise;

28 e. "Assisting local government" means one or more local
governments
29 that provide assistance pursuant to a request for assistance
from a

30 requesting local government during a declared emergency, or for
the
31 purposes of conducting training, or undertaking a drill or exercise;
and
32 f. "Disaster" shall have the same meaning as in section twenty of
this
33 article.

34 3. Intrastate mutual aid program committee established;
meetings;
35 powers and duties. a. There is hereby created within the
disaster
36 preparedness commission an intrastate mutual aid program committee,
for
37 purposes of this section to be referred to as the committee, which
shall
38 be chaired by the commissioner of the division of homeland security
and
39 emergency services, and shall include the state fire administrator,
the
40 commissioner of health, and the commissioner of agriculture and
markets,
41 provided that each such official may appoint a designee to serve in
his
42 or her place on the committee. The committee shall also include
five
43 representatives from local public safety or emergency response
agencies,
44 who shall serve a maximum two-year term, to be appointed by the
commis-
45 sioner of the division of homeland security and emergency services,
with
46 regard to a balance of geographic representation and discipline
exper-
47 tise.
48 b. The committee, on the call of the chairperson, shall meet at
least
49 twice each year and at such other times as may be necessary. The
agenda
50 and meeting place of all regular meetings shall be made available to
the
51 public in advance of such meetings and all such meetings shall be
open
52 to the public.

53 c. The committee shall have the following powers and
responsibilities:
54 (1) to promulgate rules and regulations, acting through the
division
55 of homeland security and emergency services, to implement the
intrastate
56 mutual aid program as described in this section;

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1 (2) to develop policies, procedures and guidelines associated with
the
2 program, including a process for the reimbursement of assisting
local

3 governments by requesting local governments;
4 (3) to evaluate the use of the intrastate mutual aid program;
5 (4) to examine issues facing participating local governments
regarding
6 the implementation of the intrastate mutual aid program; and
7 (5) to prepare reports to the disaster preparedness
commission
8 discussing the effectiveness of mutual aid in the state and
making
9 recommendations for improving the efficacy of the system, if
appropri-
10 ate.
11 4. Local government participation in the intrastate mutual
aid
12 program. a. A local government may elect not to participate in
the
13 intrastate mutual aid program, or to withdraw from the program, by
its
14 governing body enacting a resolution declaring that it elects not
to
15 participate in the program and providing such resolution to the
division
16 of homeland security and emergency services. Participation in
the
17 program will continue until a copy of such resolution is received
and
18 confirmed by the division of homeland security and emergency
services.
19 b. A local government that has declined to participate in the
program
20 may, acting by resolution through its governing body and
providing a
21 copy of the resolution to the division of homeland security and
emergen-
22 cy services, elect to participate in the program.
23 c. Nothing in this section shall preclude a local government
from
24 entering into mutual aid agreements with other local governments
or
25 other entities with terms that supplement or differ from the
provisions
26 of this section.
27 d. Nothing in this section shall affect any other agreement to
which a
28 local government may currently be a party, or later enter into,
includ-
29 ing, but not limited to, the state fire mobilization and mutual
aid
30 plan.
31 5. Fire related resources. Notwithstanding the authority
vested
32 pursuant to this section, all fire related resources shall be
adminis-
33 tered pursuant to section two hundred nine-e of the general
municipal
34 law.

35 6. Requesting assistance under the intrastate mutual aid program.
a. A
36 participating local government may request assistance of other
partic-
37 ipating local governments in preventing, mitigating, responding to
and
38 recovering from disasters that result in locally-declared
emergencies,
39 or for the purpose of conducting multi-jurisdictional or regional
train-
40 ing, drills or exercises. Requests for assistance may be made
verbally
41 or in writing; verbal requests shall be memorialized in writing as
soon
42 thereafter as is practicable.
43 b. Once an emergency is declared at the county level, all requests
and
44 offers for assistance, to the extent practical, shall be made
through
45 the county emergency management office, or in the case of the city
of
46 New York, through the city emergency management office. All
requests
47 for assistance should include:
48 (1) a description of the disaster;
49 (2) a description of the assistance needed;
50 (3) a description of the mission for which assistance is requested;
51 (4) an estimate of the length of time the assistance will be
needed;
52 (5) the specific place and time for staging of the assistance and
a
53 point of contact at that location; and
54 (6) any other information that will enable an assisting local
govern-
55 ment to respond appropriately to the request.

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1 c. Assisting local governments shall submit to the requesting
local
2 government an inventory of the resources being deployed.
3 d. The written request for assistance and all inventories of
resources
4 being deployed shall be submitted to the division of homeland
security
5 and emergency services within three calendar days of the request for
or
6 deployment of such resources.
7 7. Division of homeland security and emergency services
responsibil-
8 ities under the intrastate mutual aid program. The division of
homeland
9 security and emergency services shall provide notification by mail
to
10 each local government with a comprehensive description of the
intrastate

11 mutual aid program, including a statement that all local governments
are
12 participants of the program unless they expressly opt out pursuant
to
13 subdivision four of this section; maintain a current list of
participat-
14 ing local governments with their authorized representatives and
contact
15 information, and provide a copy of the list to each of the
participating
16 local governments on an annual basis during the second quarter of
each
17 calendar year; monitor and report to the intrastate mutual aid
program
18 committee on the use of the intrastate mutual aid program;
coordinate
19 the provision of mutual aid resources in accordance with the
comprehen-
20 sive emergency management plan and supporting protocols; identify
mutual
21 aid best practices; when practical, provide the committee with
statis-
22 tical information related to the use of mutual aid during
recent
23 regional disaster responses; and assist with the development,
implemen-
24 tation and management of a state-wide resource typing system.
25 8. Reimbursement of assisting jurisdiction by requesting
jurisdiction;
26 resolving disputes regarding reimbursement. a. Any assisting
local
27 government requesting aid under this program for loss, damage
or
28 expenses incurred in connection with the provision of aid that
seeks
29 reimbursement by the requesting local government shall make such
request
30 in accordance with procedures developed by the intrastate mutual
aid
31 committee.
32 b. Where a dispute arises between an assisting local government and
a
33 requesting local government regarding reimbursement for loss, damages
or
34 expenses incurred in connection with the provision of aid, the
parties
35 will make every effort to resolve the dispute within thirty
business
36 days of written notice of the dispute by the party asserting
noncompli-
37 ance.
38 9. Liability. a. Each local government is responsible for
procuring
39 and maintaining insurance or other coverage as it deems appropriate.
40 b. Nothing in this section shall be construed to provide
any

41 protection against liability, or to create any liability, for an
indi-
42 vidual who responds to a state of emergency where aid has not
been
43 requested, or where aid has not been authorized by the
individual's
44 local government.
45 10. Obligation of insurers. Nothing in this section shall
impair,
46 alter, limit or modify the rights or obligations of any insurer
under
47 any policy of insurance.

48 § 11. Section 31 of the executive law, as amended by chapter 37
of
49 the laws of 1962, subdivision 11 as amended by chapter 827 of the
laws
50 of 1972 and subdivision 13 as added by chapter 430 of the laws of
1997,

51 is amended to read as follows:

52 § 31. Divisions. There shall be in the executive department
the

53 following divisions:

- 54 1. The division of the budget.
- 55 2. The division of military and naval affairs.
- 56 3. The office of general services.

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- 1 4. The division of state police.
 - 2 5. The division of parole.
 - 3 6. The division of housing.
 - 4 7. The division of alcoholic beverage control.
 - 5 8. [~~Commission against discrimination~~] The division of human
- rights.
- 6 9. [~~The division of safety.~~
 - 7 ~~10.~~] The division of veterans' affairs.
 - 8 [~~11. The office of planning services.~~
 - 9 ~~12. State civil defense commission~~] 10. The division of homeland

secu-

10 rity and emergency services.

11 [~~13.~~] 11. Office for technology.

12 The governor may establish, consolidate, or abolish additional
divi-
13 sions and bureaus.

14 § 12. (a) Findings. The functions of the office for fire
prevention
15 and control and the state office of emergency management are critical
to
16 public health and safety, as is the function of the office of
homeland
17 security. The purpose of this section is to preserve and enhance
these
18 functions by consolidating these agencies. The goal of consolidation
is
19 not to reduce the performance of either function, but rather to
inte-
20 grate them so as to perform them in the most effective possible way.

21 (b) Consolidation. The powers, duties and unfinished business of
the
22 state emergency management office in the executive department and
the
23 office for fire prevention and control in the department of state
are
24 transferred to the division of homeland security and emergency
services,
25 created in article 26 of the executive law and formerly known as
the
26 office of homeland security. All assets, liabilities and records of
the
27 state emergency management office and the office for fire prevention
and
28 control are transferred to the division of homeland security and
emer-
29 gency services. For the purpose of succession to functions,
powers,
30 duties and obligations transferred and assigned to, devolved upon
and
31 assumed by it pursuant to this act, the division of homeland
security
32 and emergency services shall be deemed and held to constitute
the
33 continuation of the state emergency management office, and the
office
34 for fire prevention and control.

35 (c) Transfer of employees. (i) All employees of the state
emergency
36 management office shall be transferred to the division of homeland
secu-
37 rity and emergency services. This transfer of employees shall be
deemed
38 to be a transfer of function pursuant to subdivision 2 of section 70
of
39 the civil service law. Officers and employees of the state
emergency
40 management office who are in the classified service shall be
transferred
41 without further examination or qualification, and shall retain
their
42 respective civil service classification, status and bargaining
unit
43 representation. Officers and employees of the state emergency
manage-
44 ment office in the unclassified service of the state shall be
trans-
45 ferred to the division of homeland security and emergency services
in
46 accordance with the provisions of section 45 of the civil service law
as
47 if the state had taken over a private entity.

48 (ii) Those employees in the department of state substantially
engaged
49 in the performance of fire prevention and control shall be
transferred

50 to the division of homeland security and emergency services. This
trans-
51 fer of employees shall be deemed to be a transfer of function
pursuant
52 to subdivision 2 of section 70 of the civil service law. The heads
of
53 the department of state and the division of homeland security and
emer-
54 gency services shall confer to determine the officers and employees
who
55 are substantially engaged in the performance of such function.
Officers
56 and employees identified as substantially engaged in such function
shall

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1 be transferred without further examination or qualification, and
shall
2 retain their respective civil service classification, status
and
3 bargaining unit representation.

4 (iii) Those employees of the office for technology
substantially
5 engaged in interoperable and emergency communications shall be
trans-
6 ferred to the division of homeland security and emergency services.

This
7 transfer of employees shall be deemed to be a transfer of
function
8 pursuant to subdivision 2 of section 70 of the civil service law.
The

9 heads of the office for technology and the division of homeland
security
10 and emergency services shall confer to determine the officers
and

11 employees who are substantially engaged in the performance of such
func-
12 tion. Officers and employees identified as substantially engaged
in

13 such function shall be transferred without further examination or
quali-
14 fication, and shall retain their respective civil service
classifica-

15 tion, status and bargaining unit representation.
16 (d) Pending actions and proceedings. No action pending as of
the
17 effective date of this act brought by or against the state office
of
18 emergency management or the office for fire prevention and control
or
19 their directors shall be affected by any provision of this act, but
the
20 same may be prosecuted or defended in the name of the commissioner
of
21 the division of homeland security and emergency services who shall,
upon

22 application to the court, be substituted as a party.
23 (e) Continuation of rules and regulations. All rules,
regulations,
24 acts, determinations and decisions of the state office of
emergency
25 management or office for fire prevention and control in force at
the
26 time of the effective date of this act shall continue in force
and
27 effect as rules, regulations, acts, determinations and decisions of
the
28 commissioner of the division of homeland security and emergency
services
29 until duly modified or abrogated by the commissioner of the division
of
30 homeland security and emergency services.
31 (f) Transfer of appropriations. All appropriations and
reappropri-
32 ations heretofore made to the state office of emergency management,
to
33 the extent of remaining unexpended or unencumbered balances
thereof,
34 whether allocated or unallocated and whether obligated or
unobligated,
35 shall be transferred to and made available for use and expenditure
by
36 the division of homeland security and emergency services.
37 § 13. The article heading of article 26 of the executive law, as
added
38 by section 1 of part B of chapter 1 of the laws of 2004, is amended
to
39 read as follows:
40 ~~[STATE OFFICE OF HOMELAND SECURITY]~~
41 DIVISION OF HOMELAND SECURITY AND EMERGENCY SERVICES
42 § 14. Section 709 of the executive law, as added by section 2 of
part
43 B of chapter 1 of the laws of 2004, paragraphs (p) and (q) of
subdivi-
44 sion 2 as amended and paragraph (r) of subdivision 2 as added by
chapter
45 620 of the laws of 2005, paragraph (q) of subdivision 2 as
separately
46 amended and paragraph (r) of subdivision 2 as added by chapter 537
of
47 the laws of 2005, is amended to read as follows:
48 § 709. ~~[State office of homeland security]~~ Division of homeland
secu-
49 urity and emergency services; creation; powers and duties. 1. There
is
50 hereby created within the executive department the [~~office of~~
~~homeland~~
51 ~~security]~~ division of homeland security and emergency services,
which
52 shall have and exercise the powers and duties set forth in this
article.
53 Any reference to the 'office of public security', the 'office of
home-

54 land security', the 'state emergency management office', the 'office
of
55 cyber security' or the 'office of fire prevention and control' in
the
56 laws of New York state, executive orders, or contracts entered into
on
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1 behalf of the state shall be deemed to refer to the [~~state office~~
of
2 ~~homeland security~~] division of homeland security and emergency
services.

3 2. The [~~office~~] division shall have the power and duty to:
4 (a) oversee and coordinate the state's homeland security and
compre-
5 hensive emergency management resources, subject to any laws, rules
or
6 regulations governing the budgeting and appropriation of funds;
7 (b) review homeland security and comprehensive emergency
management

8 policies, protocols and strategies of state agencies. The agencies
shall

9 include, but not be limited to, [~~the division of state police,~~
~~division~~
10 ~~of military and naval affairs, state emergency management~~
~~office,~~
11 ~~department of health, department of environmental conservation,~~
~~division~~

12 ~~of criminal justice services, department of state, office for~~
~~technolo-~~
13 ~~gy, and the department of transportation] the state agencies included
on
14 the disaster preparedness commission as identified in section twenty-
one~~

15 of this chapter;
16 (c) develop policies, protocols and strategies, which may be used
to
17 prevent, detect, respond to and recover from terrorist acts or
threats
18 and other natural and man-made disasters, which for purposes of
this

19 section shall have the same meaning as defined in article two-B of
this
20 chapter;

21 (d) identify potential inadequacies in the state's policies,
protocols
22 and strategies to detect, respond to and recover from terrorist acts
or
23 threats and other natural and man-made disasters;

24 (e) undertake periodic drills and simulations designed to assess
and
25 prepare responses to terrorist acts or threats and other natural
and
26 man-made disasters;

27 (f) coordinate state resources for the collection and analysis
of

28 information relating to terrorist threats and terrorist activities
and
29 other natural and man-made disasters throughout the state subject to
any
30 applicable laws, rules, or regulations;
31 (g) coordinate and facilitate information sharing among local,
state,
32 and federal law enforcement agencies to ensure appropriate
intelligence
33 to assist in the early identification of and response to
potential
34 terrorist activities and other natural and man-made disasters,
subject
35 to any applicable laws, rules, or regulations governing the
release,
36 disclosure or sharing of any such information;
37 (h) assess the preparedness of state and local public health
systems
38 to respond to terrorist acts and other natural and man-made
disasters,
39 including ensuring the availability of early warning systems designed
to
40 detect potential threats and determining adequacy and availability
of
41 necessary vaccines and pharmaceuticals and hospital capacity;
42 (i) coordinate strategies, protocols and first-responder
equipment
43 needs that may be used to monitor, detect, respond to and mitigate
the
44 consequences of a potential biological, chemical or radiological
terror-
45 ist act or threat;
46 (j) work with local, state and federal agencies and private
entities
47 to conduct assessments of the vulnerability of critical
infrastructure
48 to terrorist attack and other natural and man-made disasters,
including,
49 but not limited to, nuclear facilities, power plants,
telecommunications
50 systems, mass transportation systems, public roadways, railways,
bridges
51 and tunnels, and develop strategies that may be used to protect
such
52 infrastructure from terrorist attack and other natural and man-
made
53 disasters;
54 (k) develop plans that may be used to promote rapid recovery
from
55 terrorist attacks and other natural and man-made disasters, to
ensure
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1 prompt restoration of transportation, utilities, critical
communications
2 and information systems and to protect such infrastructure;

3 (l) develop plans that may be used to contain and remove
hazardous
4 materials used in a terrorist attack or released as a result of
natural
5 or man-made disaster;
6 (m) act as primary contact with the federal department of
homeland
7 security;
8 (n) adopt, promulgate, amend and rescind rules and regulations
to
9 effectuate the provisions and purposes of this article and the
powers
10 and duties of the [~~office~~] division in connection therewith;
11 (o) consult with appropriate state and local governments,
institutions
12 of higher learning, first responders, health care providers and
private
13 entities as necessary to effectuate the provisions of this article,
and
14 work with those entities to establish, facilitate and foster
cooperation
15 to better prepare the state to prevent and respond to threats and
acts
16 of terrorism and other natural and man-made disasters;
17 (p) to serve as a clearinghouse for the benefit of
municipalities
18 regarding information relating to available federal, state and
regional
19 grant programs in connection with homeland security, disaster
prepared-
20 ness, communication infrastructure and emergency first
responder
21 services, and to promulgate rules and regulations necessary to
ensure
22 that grant information is timely posted on the [~~office's~~]
division's
23 website;
24 (q) request from any department, division, office, commission or
other
25 agency of the state or any political subdivision thereof, and the
same
26 are authorized to provide, such assistance, services and data as may
be
27 required by the [~~office of homeland security~~] division of homeland
secu-
28 riety and emergency services in carrying out the purposes of this
arti-
29 cle, subject to applicable laws, rules, and regulations; [~~and~~]
30 (r) develop standards and a certification process for
training
31 programs for training of private security officers in commercial
build-
32 ings which shall:
33 (i) improve observation, detection and reporting skills;
34 (ii) improve coordination with local police, fire and
emergency
35 services;

36 (iii) provide and improve skills in working with advanced
security
37 technology including surveillance and access control procedures;
38 (iv) require at least forty hours of training including three hours
of
39 training devoted to terrorism awareness; and
40 (v) have been certified as a qualified program by the [~~state office~~
~~of~~
41 ~~homeland security.~~] division of homeland security and
emergency
42 services;
43 [~~(r)~~] (s) work in consultation with or make recommendations to
the
44 commissioner of agriculture and markets in developing rules and
regu-
45 lations relating to ammonium nitrate security[-]; and
46 (t) develop, maintain, and deploy state, regional and local all-
hazard
47 incident management teams.
48 3. The division of homeland security and emergency services
shall
49 consist of several offices including, but not limited to, the office
of
50 counterterrorism, which shall have the powers, and be responsible
for
51 carrying out the duties, including but not limited to those set forth
in
52 section seven hundred nine-a of this article; the office of
emergency
53 management, which shall have the powers, and be responsible for
carrying
54 out the duties, including but not limited to those set forth in
article
55 two-B of this chapter; the office of fire prevention and control,
which
56 shall have the powers, and be responsible for carrying out the
duties,

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A.

1 including but not limited to those set forth in article six-C of
this
2 chapter; the office of cyber security, which shall have the powers,
and
3 be responsible for carrying out the duties, including but not limited
to
4 those set forth in section seven hundred fifteen of this article;
and
5 the office of interoperable and emergency communications, which
shall
6 have the powers, and be responsible for carrying out the duties,
includ-
7 ing but not limited to those set forth in section seven hundred
seven-
8 teen of this article.
9 4. As set forth in section seven hundred ten of this article,
the

10 commissioner of the division of homeland security and emergency
services
11 shall be appointed by the governor, with the advice and consent of
the
12 senate, and hold office at the pleasure of the governor. The
directors
13 of the offices of counterterrorism, emergency management,
fire
14 prevention and control, cyber security, and interoperable and
emergency
15 communications, and such other offices as may be established, shall
be
16 appointed by, and hold office at the pleasure of, the governor and
they
17 shall report to the commissioner of the division of homeland
security
18 and emergency services.
19 5. The directors of the offices of counterterrorism, emergency
manage-
20 ment, fire prevention and control, cyber security, interoperable
and
21 emergency communications, and of such other offices as may be
estab-
22 lished, shall, in consultation with the commissioner, have the
authority
23 to promulgate rules and regulations to carry out the duties of
their
24 office, including the establishment of fees necessary to compensate
for
25 costs associated with the delivery of training and services.
26 6. The directors of the offices of counterterrorism, emergency
manage-
27 ment, fire prevention and control, cyber security, interoperable
and
28 emergency communications, and such other offices as may be
established,
29 shall have the authority to enter into contracts with any person,
firm,
30 corporation, municipality, or government entity.
31 7. Annual report of the division. The commissioner of the division
of
32 homeland security and emergency services shall, on or before
January
33 first in each year, submit to the governor, the temporary president
of
34 the senate, and the speaker of the assembly, a report concerning
the
35 performance of the division with respect to outreach to
businesses,
36 not-for-profit organizations, and the general public, which
shall
37 include information regarding the content and scope of seminars,
confer-
38 ences, surveys, programs, and other programmatic means of engaging
such
39 parties to identify and meet the needs of such parties with respect
to

40 emergency mitigation, preparedness, response, and recovery, and
the
41 participation of such parties therein.

42 § 15. Section 710 of the executive law, as added by section 2 of
part

43 B of chapter 1 of the laws of 2004, is amended to read as follows:

44 § 710. [~~Director of the office of homeland security~~] Commissioner
of

45 the division of homeland security and emergency services; appointment
of

46 the [~~director~~] commissioner; powers and duties. 1. The [~~director of~~
the

47 ~~office of homeland security (director)~~] commissioner of the division
of

48 homeland security and emergency services (commissioner) shall
be

49 appointed by the governor, by and with the advice and consent of
the

50 senate, and hold office at the pleasure of the governor. [~~The salary~~
of

51 ~~the director shall be fixed at a level commensurate with that of~~
the

52 ~~state officers identified in paragraph (a) of subdivision one of~~
section

53 ~~one hundred sixty-nine of this chapter.]~~

54 2. The [~~director~~] commissioner, acting by and through the
[office]

55 division, shall have the power and duty to:

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1 (a) administer the duties of the [office] division pursuant to
this

2 section;

3 (b) administer such other duties as may be devolved upon the
[office]

4 division from time to time pursuant to law;

5 (c) cooperate with and assist other state and federal
departments,

6 boards, commissions, agencies and public authorities in the
development

7 and administration of policies and protocols which will enhance
the

8 safety and security of the citizens of the state;

9 (d) enter into contracts with any person, firm, corporation or
govern-

10 mental agency, and do all things necessary to carry out the
functions,

11 powers and duties expressly set forth in this article, subject to
any

12 applicable laws, rules or regulations;

13 (e) establish offices, departments and bureaus and make changes
there-

14 in as he or she may deem necessary to carry out the functions of
the

15 [office] division[. ~~One of the divisions within the office shall be~~
the

16 ~~office of cyber security and critical infrastructure coordination~~
which
17 ~~shall be dedicated to the identification and mitigation of the~~
state's
18 ~~cyber security infrastructure vulnerabilities~~]; [and]
19 (f) subject to the provisions of this article and the civil
service
20 law, and the rules and regulations adopted pursuant thereto, the
[direc-
21 ~~tor~~] commissioner may appoint other officers, employees, agents
and
22 consultants as may be necessary, prescribe their duties, fix
their
23 compensation, and provide for payment of their reasonable expenses,
all
24 within amounts available therefor by appropriation. The
[director]
25 commissioner may transfer officers or employees from their positions
to
26 other positions in the [~~office~~] division, or abolish or consolidate
such
27 positions[-]; and
28 (g) accept and contract as agent of the state for any gift to
support
29 the development and training missions of the division of homeland
secu-
30 riety and emergency services.

31 § 15-a. The executive law is amended by adding a new section 709-a
to
32 read as follows:
33 § 709-a. Office of counterterrorism. The office of
counterterrorism
34 shall develop and analyze the state's policies, protocols and
strategies
35 relating to the prevention and detection of terrorist acts and
terrorist
36 threats. The office shall also be responsible for the collection,
analy-
37 sis and sharing of information relating to terrorist threats and
terror-
38 ist activities throughout the state; coordinating strategies,
protocols
39 and first responder equipment needs to detect a biological, chemical
or
40 radiological terrorist act or threat; working with private entities
and
41 local, state and federal agencies to conduct assessments of the
vulner-
42 ability of critical infrastructure to terrorist attack; and
consulting
43 with appropriate state and local governments and private entities
to
44 facilitate and foster cooperation to better prepare the state to
prevent
45 and detect threats and acts of terrorism.

46 § 16. Section 713 of the executive law, as added by chapter 403 of
the

47 laws of 2003, paragraphs (a) and (b) of subdivision 2 as amended
by
48 chapter 426 of the laws of 2004, and such section as renumbered
by
49 section 2 of part B of chapter 1 of the laws of 2004, is amended to
read

50 as follows:

51 § 713. Protection of critical infrastructure including energy
generat-
52 ing and transmission facilities. 1. Notwithstanding any other
provision

53 of law, the [~~director of public security~~] commissioner of the
division

54 of homeland security and emergency services shall conduct a review
and

55 analysis of measures being taken by the public service commission
and

56 any other agency or authority of the state or any political
subdivision

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1 thereof and, to the extent practicable, of any federal entity,
to

2 protect the security of critical infrastructure related to energy
gener-

3 ation and transmission located within the state. The [~~director of
public~~

4 ~~security~~] commissioner of the division of homeland security and
emergen-

5 cy services shall have the authority to review any audits or
reports

6 related to the security of such critical infrastructure,
including

7 audits or reports conducted at the request of the public service
commis-

8 sion or any other agency or authority of the state or any
political

9 subdivision thereof or, to the extent practicable, of any federal
enti-

10 ty. The owners and operators of such energy generating or
transmission

11 facilities shall, in compliance with any federal and state
requirements

12 regarding the dissemination of such information, provide access to
the

13 [~~director of public security~~] commissioner of the division of
homeland

14 security and emergency services to such audits or reports regarding
such

15 critical infrastructure provided, however, that exclusive custody
and

16 control of such audits and reports shall remain solely with the
owners

17 and operators of such energy generating or transmission facilities.
For

18 the purposes of this article, the term "critical infrastructure" has
the
19 meaning ascribed to that term in subdivision five of section eighty-
six
20 of the public officers law.

21 2. (a) On or before December thirty-first, two thousand four, and
not
22 later than three years after such date, and every five years
thereafter,

23 the ~~[director of public security]~~ commissioner of the division of
home-
24 land security and emergency services shall report to the governor,
the
25 temporary president of the senate, the speaker of the assembly,
the
26 chairperson of the public service commission and the chief executive
of
27 any such affected generating or transmission company or his or
her
28 designee. Such report shall review the security measures being
taken
29 regarding critical infrastructure related to energy generating and
tran-
30 smission facilities, assess the effectiveness thereof, and
include
31 recommendations to the legislature or the public service commission
if

32 the ~~[director of public security]~~ commissioner of the division of
home-
33 land security and emergency services determines that additional
measures
34 are required to be implemented, considering, among other factors,
the
35 unique characteristics of each energy generating or transmission
facili-
36 ty. ~~[On or before April thirtieth, two thousand four, the director~~
~~of~~
37 ~~public security shall make a preliminary report to the governor,~~
~~the~~
38 ~~temporary president of the senate, the speaker of the assembly,~~
~~the~~
39 ~~chairman of the public service commission, and the chief executive~~
~~of~~
40 ~~any such affected generating or transmission company or his or~~
~~her~~
41 ~~designee.]~~

42 (b) Before the receipt of such report identified in paragraph (a)
of
43 this subdivision, each recipient of such report shall develop
confiden-
44 tiality protocols, which shall be binding upon the recipient who
issues
45 the protocols and anyone to whom the recipient shows a copy of
the
46 report, in consultation with the ~~[director of public security]~~

commis-

47 sioner of the division of homeland security and emergency services
for
48 the maintenance and use of such report so as to ensure the
confidential-
49 ity of the report and all information contained therein,
provided,
50 however, that such protocols shall not be binding upon a person who
is
51 provided access to such report or any information contained
therein
52 pursuant to section eighty-nine of the public officers law after a
final
53 determination that access to such report or any information
contained
54 therein could not be denied pursuant to subdivision two of
section
55 eighty-seven of the public officers law. The [~~director of public
secu-~~
56 ity] commissioner of the division of homeland security and
emergency

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1 services shall also develop protocols for his or her office related
to
2 the maintenance and use of such report so as to ensure the
confidential-
3 ity of the report and all information contained therein. On each
report,
4 the [~~director of public security~~] commissioner of the division of
home-
5 land security and emergency services shall prominently display
the
6 following statement: "this report may contain information that
if
7 disclosed could endanger the life or safety of the public, and
there-
8 fore, pursuant to section seven hundred [~~ten~~] eleven of the
executive
9 law, this report is to be maintained and used in a manner
consistent
10 with protocols established to preserve the confidentiality of the
infor-
11 mation contained herein in a manner consistent with law".
12 (c) Except in the case of federally licensed electric
generating
13 facilities, the public service commission shall have the discretion
to
14 require that the recommendations of the [~~director of public
security~~]
15 commissioner of the division of homeland security and emergency
services
16 be implemented by any owner or operator of an energy generating or
tran-
17 smission facility. Recommendations regarding federally licensed
electric

18 generating facilities shall instead only be made available by
the
19 ~~[director of public security]~~ commissioner of the division of
homeland
20 security and emergency services to the appropriate federal agency
in
21 compliance with any federal and state requirements regarding the
dissem-
22 ination of such information.
23 3. Any reports prepared pursuant to this article shall not be
subject
24 to disclosure pursuant to section eighty-eight of the public
officers
25 law.
26 § 17. Section 714 of the executive law, as added by section 1 of
part
27 C of chapter 1 of the laws of 2004, is amended to read as follows:
28 § 714. Protection of critical infrastructure; storage facilities
for
29 hazardous substances. 1. Notwithstanding any other provision of law
and
30 subject to the availability of an appropriation, the ~~[director of~~
~~the~~
31 ~~office of homeland security]~~ commissioner of the division of
homeland
32 security and emergency services shall conduct a review and analysis
of
33 measures being taken by the owners and operators of facilities
identi-
34 fied pursuant to paragraph (b) of subdivision two of this section
to
35 protect the security of critical infrastructure related to such
facili-
36 ties. The ~~[director of the office of homeland security]~~ commissioner
of
37 the division of homeland security and emergency services shall have
the
38 authority to review all audits or reports related to the security
of
39 such critical infrastructure, including all such audits or
reports
40 mandated by state and federal law or regulation, including
spill
41 prevention reports and risk management plans, audits and
reports
42 conducted at the request of the department of environmental
conservation
43 or at the request of any federal entity, or any other agency or
authori-
44 ty of the state or any political subdivision thereof, and
reports
45 prepared by owners and operators of such facilities as required in
this
46 subdivision. The owners and operators of such facilities shall,
in
47 compliance with any federal and state requirements regarding the
dissem-

48 ination of such information, provide access to the [~~director of~~
the
49 ~~office of homeland security]~~ commissioner of the division of
homeland
50 security and emergency services to such audits and reports
regarding
51 such critical infrastructure provided, however, exclusive custody
and
52 control of such audits and reports shall remain solely with the
owners
53 and operators of such facilities to the extent not inconsistent with
any
54 other law. For the purposes of this section, the term "critical
infras-
55 tructure" has the meaning ascribed to that term in subdivision five
of
56 section eighty-six of the public officers law.
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1 2. To effectuate his or her duties pursuant to this section and
iden-
2 tify risks to the public, the [~~director of the office of homeland~~
~~secu-~~
3 ~~rity]~~ commissioner of the division of homeland security and
emergency
4 services shall:
5 (a) within six months of the effective date of this section,
in
6 consultation with the commissioner of environmental conservation,
the
7 commissioner of health, and such representatives of the chemical
indus-
8 try and higher education as may be appropriate, prepare a list
that
9 identifies toxic or hazardous substances, including but not limited
to
10 those substances listed as hazardous to public health, safety or
the
11 environment in regulations promulgated pursuant to article thirty-
seven
12 of the environmental conservation law, as well as those substances
for
13 which the state possesses insufficient or limited toxicological
informa-
14 tion but for which there exists preliminary evidence that the
substance
15 or the class of chemicals with similar physical and chemical
properties
16 to which it belongs has the potential to cause death, injury, or
serious
17 adverse effects to human health or the environment, based on the
severi-
18 ty of the threat posed to the public by the unauthorized release of
such
19 substances. Such list will be promulgated in accord with the
provisions

20 of the state administrative procedure act;
21 (b) upon completion of the list required pursuant to paragraph (a)
of
22 this subdivision, but no later than one hundred twenty days after
such
23 date, in consultation with the commissioner of environmental
conserva-
24 tion, the commissioner of health and such representatives of the
chemi-
25 cal industry and any state, local and municipal officials as may
be
26 appropriate, identify facilities, including facilities regulated
pursu-
27 ant to title nine and title eleven of article twenty-seven and
article
28 forty of the environmental conservation law, but excluding
facilities
29 that hold liquified petroleum gas for fuel at retail sale as
described
30 in section 112(1)(4)(B) of the Clean Air Act (42 U.S.C.
section
31 7412(r)(4)(b)) and those facilities that are defined as "water
suppli-
32 ers" in subdivision one of section eleven hundred twenty-five of
the
33 public health law, which because of their storage of or relationship
to
34 such substances identified pursuant to paragraph (a) of this
subdivision
35 pose risks to the public should an unauthorized release of such
hazard-
36 ous substances occur; and
37 (c) require such facilities identified pursuant to paragraph (b)
of
38 this subdivision, as the [~~director~~] commissioner so determines,
to
39 prepare a vulnerability assessment of the security measures taken
by
40 such facilities to prevent and respond to the unauthorized release
of
41 hazardous substances as may be stored therein, which assessments
the
42 [~~director of the office of homeland security~~] commissioner of the
divi-
43 sion of homeland security and emergency services shall review
and
44 consider in light of the seriousness of the risk posed and
vulnerability
45 of such facility and, where appropriate, make recommendations
with
46 respect thereto.
47 3. (a) On or before June first, two thousand five, the [~~director~~
of
48 ~~homeland security~~] commissioner of the division of homeland security
and
49 emergency services shall make a preliminary report to the governor,
the

50 temporary president of the senate, the speaker of the assembly,
the
51 commissioner of environmental conservation, the commissioner of
health
52 and the chief executive officer of any such affected facility or his
or
53 her designee, and on or before December thirty-first, two thousand
five,
54 and not later than three years after such date, and every five
years
55 thereafter, the [~~director of the office of homeland security~~]

commis-
56 **sioner of the division of homeland security and emergency services**
shall

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1 report to the governor, the temporary president of the senate,
the
2 speaker of the assembly, the commissioner of environmental
conservation,
3 the commissioner of health and the chief executive officer of any
such

4 affected facility or his or her designee. Such report shall review
the
5 security measures being taken regarding critical infrastructure
related
6 to such facilities, assess the effectiveness thereof, and include
recom-
7 mendations to the legislature, the department of environmental
conserva-

8 tion or the department of health if the [~~director of the office of
home-~~
9 ~~land security~~] **commissioner of the division of homeland security**
and
10 **emergency services** determines that additional measures are required
to
11 be implemented.

12 (b) Before the receipt of such report identified in paragraph (a)
of

13 this subdivision, each recipient of such report shall develop
confiden-
14 tiality protocols which shall be binding upon the recipient who
issues
15 the protocols and anyone to whom the recipient shows a copy of
the

16 report in consultation with the [~~director of the office of
homeland~~
17 ~~security~~] **commissioner of the division of homeland security and**
emergen-

18 **cy services**, for the maintenance and use of such report so as to
ensure
19 the confidentiality of the report and all information contained
therein,
20 provided, however, that such protocols shall not be binding
upon a

21 person who is provided access to such report or any
information
22 contained therein pursuant to section eighty-nine of the public
officers
23 law after a final determination that access to such report or any
infor-
24 mation contained therein could not be denied pursuant to subdivision
two
25 of section eighty-seven of the public officers law. The [~~director of
the~~
26 ~~office of homeland security~~] commissioner of the division of
homeland
27 security and emergency services shall also develop protocols for
such
28 [~~office~~] division related to the maintenance and use of such report
so
29 as to ensure the confidentiality of all sensitive information
contained
30 in such report. On each report, the [~~director of the office of
homeland~~
31 ~~security~~] commissioner of the division of homeland security and
emergen-
32 cy services shall prominently display the following statement:
"This
33 report may contain information that if disclosed could endanger the
life
34 or safety of the public, and therefore, pursuant to section
seven
35 hundred eleven of the executive law[~~, as added by a chapter of the
laws~~
36 ~~of two thousand four~~], this report is to be maintained and used
in a
37 manner consistent with protocols established to preserve the
confiden-
38 tiality of the information contained herein in a manner consistent
with
39 law."
40 (c) The department of environmental conservation shall have
the
41 discretion to require that recommendations of the [~~director of
the~~
42 ~~office of homeland security~~] commissioner of the division of
homeland
43 security and emergency services be implemented by any owner or
operator
44 of a hazardous substances storage facility as defined in this
section.
45 § 18. Section 715 of the executive law, as added by chapter 604 of
the
46 laws of 2007, is amended to read as follows:
47 § 715. [~~Records and data~~] Office of cyber security. 1. The office
of
48 cyber security shall be dedicated to the protection of the state's
cyber
49 security infrastructure, including, but not limited to, the
identifica-

50 tion and mitigation of vulnerabilities, deterring and responding
to
51 cyber events, and promoting cyber security awareness within the
state.
52 The office shall also be responsible for statewide policies,
standards,
53 programs, and services relating to cyber security and geographic
infor-
54 mation systems, including the statewide coordination of
geographically
55 referenced critical infrastructure information. The director of
the
56 office shall be the chief cyber security officer of New York state.
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1 2. The director may request and receive from any department,
division,
2 board, bureau, commission or other agency of the state or any
political
3 subdivision thereof or any public authority such assistance,
information
4 and data as will enable the office properly to carry out its
functions,
5 powers and duties.

6 3. The director of the office [~~of cyber security and critical~~
infras-
7 tructure coordination] is authorized to maintain, in electronic or
paper
8 formats, maps, geographic images, geographic data and metadata.

9 [~~2.~~] 4. The director of the office [~~of cyber security and~~
critical
10 infrastructure coordination] is authorized to promulgate any rules
and
11 regulations necessary to implement the provisions of this section.

12 5. Notwithstanding the provisions of subparagraphs (i) and (ii)
of
13 paragraph (a) of subdivision eight of section seventy-three of
the
14 public officers law, former officers or employees of the office of
cyber
15 security employed by the not-for-profit corporation that operates
the
16 multi-state information sharing and analysis center may appear
before
17 and render services to any federal, state, local, territorial or
tribal
18 government relating to cyber security.

19 6. Notwithstanding the provisions of section one hundred sixty-
three
20 of the state finance law, section one hundred three of the
general
21 municipal law, article four-C of the economic development law, or
any
22 other provision of law relating to the award of public contracts,
any

23 officer, body, or agency of New York state, public corporation, or
other
24 public entity subject to such provisions of law shall be authorized
to
25 enter individually or collectively into contracts with the not-for-
pro-
26 fit corporation that operates the multi-state information sharing
and
27 analysis center for the provision of services through September
thirti-
28 eth, two thousand thirteen related to cyber security including, but
not
29 limited to, monitoring, detecting, and responding to cyber
incidents,
30 and such contracts may be awarded without compliance with the
procedures
31 relating to the procurement of services set forth in such provisions
of
32 law. Such contracts shall, however, be subject to the
comptroller's
33 existing authority to approve contracts where such approval is
required
34 by section one hundred twelve of the state finance law or
otherwise.
35 Such officers, bodies, or agencies may pay the fees or other
amounts
36 specified in such contracts in consideration of the cyber
security
37 services to be rendered pursuant to such contracts.

38 § 19. Section 715 of the executive law, as added by chapter 630 of
the

39 laws of 2007, is amended to read as follows:

40 § ~~[715.]~~ 716. Protection of critical infrastructure;
commercial

41 aviation, petroleum and natural gas fuel transmission facilities
and

42 pipelines. 1. Notwithstanding any other provision of law, the
[~~director~~

43 ~~of the office of homeland security]~~ commissioner of the division
of

44 homeland security and emergency services shall conduct a review
and

45 analysis of measures being taken by any other agency or authority of
the

46 state or any political subdivision thereof and, to the extent
practica-

47 ble, of any federal entity, to protect the security of critical
infras-

48 tructure related to commercial aviation fuel, petroleum and natural
gas

49 transmission facilities and pipelines in this state which are
not

50 located upon the premises of a commercial airport. As deemed
appropriate

51 by such [~~director~~] commissioner, the [~~office of homeland security~~]
divi-

52 sion of homeland security and emergency services shall have the
authori-
53 ty to physically inspect the premises and review any audits or
reports
54 related to the security of such critical infrastructure,
including
55 audits or reports conducted at the request of any other agency
or
56 authority of the state or any political subdivision thereof or, to
the
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1 extent practicable, of any federal entity. The operators of such
commer-
2 cial aviation fuel, petroleum or natural gas transmission facilities
and
3 pipelines shall, in compliance with any federal and state
requirements
4 regarding the dissemination of such information, provide access to
the
5 ~~[director of the office of homeland security]~~ commissioner of the
divi-
6 sion of homeland security and emergency services to such audits
or
7 reports regarding such critical infrastructure provided, however,
that
8 exclusive custody and control of such audits and reports shall
remain
9 solely with the operators of such commercial aviation fuel, petroleum
or
10 natural gas transmission facilities and pipelines. For the purposes
of
11 this article, the term "critical infrastructure" has the
meaning
12 ascribed to that term in subdivision five of section eighty-six of
the
13 public officers law.

14 2. (a) On or before December thirty-first, two thousand [~~eight,~~
~~and~~
15 ~~not later than three years after such date]~~ eleven, and every five
years
16 thereafter, the [~~director of the office of homeland security]~~
commis-
17 sioner of the division of homeland security and emergency services
shall
18 report to the governor, the temporary president of the senate,
the
19 speaker of the assembly, the public service commission, and the
operator
20 of any such affected commercial aviation fuel, petroleum or natural
gas
21 transmission facility or pipeline. Such report shall review the
security
22 measures being taken regarding critical infrastructure related
to

23 commercial aviation fuel, petroleum or natural gas transmission
facili-
24 ties and pipelines, assess the effectiveness thereof, and include
recom-
25 mendations to the legislature, the public service commission, or
the
26 operator of a commercial aviation fuel, petroleum or natural gas
trans-
27 mission facility or pipeline, or any appropriate state or federal
regu-
28 lating entity or agency if the [~~director of the office of homeland
secu-
29 rity~~] commissioner of the division of homeland security and
emergency
30 services determines that additional measures are required to be
imple-
31 mented, considering among other factors, the unique characteristics
of
32 each commercial aviation fuel, petroleum or natural gas
transmission
33 facility or pipeline. [~~On or before April thirtieth, two thousand
eight,
34 the director of the office of homeland security shall make a
preliminary
35 report to the governor, the temporary president of the senate,
the
36 speaker of the assembly, the public service commission, and the
operator
37 of any such affected commercial aviation fuel, petroleum or natural
gas
38 transmission facility or pipeline.~~]
39 (b) Before the receipt of such report identified in paragraph (a)
of
40 this subdivision, each recipient of such report shall develop
confiden-
41 tiality protocols, which shall be binding upon the recipient who
issues
42 the protocols and anyone to whom the recipient shows a copy of
the
43 report, in consultation with the [~~director of the office of
homeland
44 security~~] commissioner of the division of homeland security and
emergen-
45 cy services for the maintenance and use of such report so as to
ensure
46 the confidentiality of the report and all information contained
therein,
47 provided, however, that such report and any information contained
or
48 used in its preparation shall be exempt and not made available
pursuant
49 to article six of the public officers law. The [~~director of the
office
50 of homeland security~~] commissioner of the division of homeland
security
51 and emergency services shall also develop protocols for his or
her

52 office related to the maintenance and use of such report so as to
ensure
53 the confidentiality of the report and all information contained
therein.

54 On each report, the [~~director of the office of homeland
security~~]

55 commissioner of the division of homeland security and emergency
services

56 shall prominently display the following statement: "this report
may

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1 contain information that if disclosed could endanger the life or
safety

2 of the public, and therefore, pursuant to section seven hundred
[~~ten~~]

3 eleven of the executive law, this report is to be maintained and used
in

4 a manner consistent with protocols established to preserve the
confiden-

5 tiality of the information contained herein in a manner consistent
with

6 law".

7 (c) The public service commission shall have the discretion
to

8 require, through regulation or otherwise, that the recommendations
of

9 the [~~director of the office of homeland security~~] commissioner of
the

10 division of homeland security and emergency services be implemented
at

11 an affected commercial aviation fuel, petroleum or natural gas
trans-

12 mission facility or pipeline.

13 (d) The [~~office of homeland security~~] division of homeland
security

14 and emergency services shall receive necessary appropriations for
the

15 performance of its duties pursuant to this section.

16 § 20. Paragraph (a) of subdivision 1 of section 169 of the
executive

17 law, as amended by section 1 of part F of chapter 56 of the laws
of

18 2005, is amended to read as follows:

19 (a) commissioner of correctional services, commissioner of
education,

20 commissioner of health, commissioner of mental health, commissioner
of

21 mental retardation and developmental disabilities, commissioner of
chil-

22 dren and family services, commissioner of temporary and
disability

23 assistance, chancellor of the state university of New York,
commissioner

24 of transportation, commissioner of environmental conservation,
super-

25 intendent of state police, [~~and~~] commissioner of general services
and
26 commissioner of the division of homeland security and
emergency
27 services;
28 § 21. The executive law is amended by adding a new section 717 to
read
29 as follows:
30 § 717. Office of interoperable and emergency communications. 1.
The
31 office of interoperable and emergency communications shall be the
prin-
32 cipal state agency for all interoperable and emergency
communications
33 issues and oversee and direct the development, coordination and
imple-
34 mentation of policies, plans, standards, programs and services
related
35 to interoperable and emergency communications, including those
related
36 to public safety land mobile radio communications. The office
shall
37 coordinate with federal, state, local, tribal, non-governmental
and
38 other appropriate entities.
39 2. The office shall be responsible for coordinating relevant
grant
40 programs and other funding sources to enhance interoperable and
emergen-
41 cy communications, as consistent with the mission of the division.
The
42 director shall make final determinations regarding the distribution
of
43 grants, in consultation with the board.
44 3. The director of this office shall serve as the statewide
interoper-
45 able and emergency communications coordinator.
46 4. To ensure appropriate coordination and consultation with
relevant
47 entities, the director shall be the chairperson of the statewide
inter-
48 operable and emergency communication board as defined in section
three
49 hundred twenty-seven of the county law, and whose duties shall
include,
50 but not be limited to all the duties regularly assigned to the board
as
51 defined by section three hundred twenty-eight of the county law.
52 5. The commissioner, in consultation with the director of the
office,
53 shall promulgate rules and regulations which require municipalities
to
54 report, no less than annually, on prior and planned expenditures
to
55 develop and operate interoperable and emergency communications.
The

56 regulations shall permit municipalities which participate in county
or
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1 multi-county regional coordinated interoperability efforts to submit
a
2 single report to the division for all participating municipalities,
so
3 long as all expenses which would have been reported if the
participating
4 municipalities had submitted individual reports are contained in
the
5 combined report. The regulations shall not require a municipality
that
6 incurred no relevant expenses and anticipates no relevant expenses
to
7 submit such a report. The division shall include a summary of
such
8 information in its annual report to the governor, temporary president
of
9 the senate, and speaker of the assembly provided for in
subdivision
10 seven of section seven hundred nine of this article, as well as
submit-
11 ting such information at the same time to the state comptroller.

12 § 22. Subdivision 2 of section 709 of the executive law is amended
by
13 adding a new paragraph (u) to read as follows:
14 (u) Notwithstanding article six-C of this chapter, or any
other
15 provision of law to the contrary, the division of homeland security
and
16 emergency services shall establish best practices regarding training
and
17 education for firefighters and first responders which shall include
but
18 not be limited to: minimum basic training for firefighters and
first
19 responders; in-service training and continuing education; and
special-
20 ized training as it may apply to the specific duties of a category
of
21 emergency personnel.

22 § 23. Section 155 of the executive law, as added by chapter 225 of
the
23 laws of 1979, is amended to read as follows:
24 § 155. Office of fire prevention and control; creation; state
fire
25 administrator; employees. There is hereby created in the [~~department~~
~~of~~
26 ~~state~~] division of homeland security and emergency services an office
of
27 fire prevention and control. The head of such office shall be the
state
28 fire administrator, who shall be appointed by the [~~secretary of~~
~~state~~]

29 governor and shall hold office during the pleasure of the [~~secretary~~
of
30 ~~state~~] governor. He shall receive an annual salary to be fixed by
the

31 [~~secretary of state~~] commissioner of the division of homeland
security
32 and emergency services within the amount available by appropriation.
He

33 shall also be entitled to receive reimbursement for expenses
actually
34 and necessarily incurred by him in the performance of his duties
within

35 the amount available by appropriation. [~~The state fire~~
~~administrator~~

36 ~~may, from time to time, with the approval of the secretary of~~
~~state,~~

37 ~~create, abolish, transfer and consolidate divisions, bureaus, and~~
~~other~~

38 ~~units within the office of fire prevention and control as he may~~
~~deter-~~

39 ~~mine necessary for the efficient operation of such office. The~~
~~state~~

40 ~~fire administrator may, with the approval of the secretary of~~
~~state,~~

41 ~~appoint such deputies, directors and others within the office as he~~
~~may~~

42 ~~deem necessary to the proper implementation of this article,~~
~~prescribe~~

43 ~~their duties, fix their compensation and provide for reimbursement~~
~~of~~

44 ~~their actual and necessary expenses within the amounts available~~
~~by~~

45 ~~appropriation.]~~

46 § 24. Intentionally omitted.

47 § 25. Intentionally omitted.

48 § 26. Section 156-g of the executive law, as added by chapter 303
of

49 the laws of 2007, is amended to read as follows:

50 § 156-g. Establishment of teams for urban search and rescue,
specialty

51 rescue and incident support. 1. Authorization to establish urban
search

52 and rescue task force teams, specialty rescue teams, and
incident

53 support teams. The [~~state fire administrator~~] commissioner of the
divi-

54 sion of homeland security and emergency services after consultation
with

55 the state fire administrator shall have the authority to
establish,

56 organize, administer, support, train, and fund urban search and
rescue

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1 task force teams, specialty rescue teams, and incident support
teams

2 created pursuant to this section.

3 2. Definitions. For the purposes of this section, the following
terms
4 shall have the following meanings:

5 (a) "urban search and rescue task force team" shall mean a
specialized
6 team or group of teams, formed pursuant to this section, organized
with
7 capabilities equivalent to urban search and rescue task force
teams
8 established under the federal emergency management agency in order
to
9 assist in the removal of trapped victims in emergency situations
includ-
10 ing, but not limited to, collapsed structures, trench
excavations,
11 elevated locations, and other technical rescue situations.

12 (b) "specialty rescue team" shall mean a specialized team,
formed
13 pursuant to this section, organized to provide technical rescue
assist-
14 ance to first responders including, but not limited to, canine
search
15 and rescue/disaster response, cave search and rescue, collapse
search
16 and rescue, mine and tunnel search and rescue, and swift
water/flood
17 search and rescue teams. Such teams shall be aligned with one or more
of
18 the search and rescue categories within the federal emergency
management
19 agency's national resource typing system.

20 (c) "incident support team" shall mean a team of trained
response
21 personnel, formed pursuant to this section, organized to provide
coordi-
22 nation with governmental agencies and non-governmental organizations
as
23 well as technical, and logistical support to urban search and
rescue
24 task force teams and specialty rescue teams.

25 3. Appointment and training of team members; equipment. (a) The
[state
26 ~~fire administrator~~ commissioner of the division of homeland
security
27 and emergency services is hereby authorized to appoint members to
any
28 team created pursuant to this section. Team membership shall consist
of
29 local emergency response personnel, state agency personnel and
specialty
30 personnel as required.

31 (b) The [~~state fire administrator~~ commissioner of the division
of
32 homeland security and emergency services shall be responsible for
train-

33 ing and equipping the teams established pursuant to this section and
for
34 training such other teams located within the state for response to
man-
35 made or natural disasters to the extent appropriations are
provided.

36 The [~~state fire administrator~~] commissioner of the division of
homeland
37 security and emergency services shall support the capabilities of
each
38 team established pursuant to this section with the necessary
training
39 and equipment to ensure mobilization and deployment for rapid
response
40 to emergencies and disasters to the extent appropriations are
provided.

41 4. Accreditation of teams. The [~~state fire administrator~~]
commissioner
42 of the division of homeland security and emergency services shall
have
43 the authority to establish an accreditation program to review and
evalu-
44 ate new and existing local and regional technical rescue
capabilities,
45 and provide recommendations for capability enhancement in
accordance
46 with the national incident management system, the national
response
47 plan, and nationally recognized standards.

48 5. Defense, indemnification and insurance coverage of team
members.
49 Members of the teams formed pursuant to this section who are
volunteer
50 firefighters, volunteer ambulance workers, municipal or state
employees,
51 or employees of a non-governmental entity shall be provided coverage
by
52 their respective municipalities, organizations, and entities
for
53 purposes of sections seventeen and eighteen of the public officers
law
54 and/or other defense and indemnification coverage and workers'
compen-
55 sation coverage pursuant to applicable provisions of the
workers'
56 compensation law or benefits pursuant to applicable provisions of
the

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1 volunteer firefighters' [~~benefits~~] benefit law or the volunteer
ambu-
2 lance workers' benefit law. Individuals appointed to an urban search
and
3 rescue task force team, a specialty rescue team or an incident
support

4 team, for which such coverage is not available, shall be deemed
volun-
5 teer state employees for purposes of section seventeen of the
public
6 officers law and section three of the workers' compensation law.

7 6. Rules and regulations. The [~~state fire administrator~~]
commissioner
8 of the division of homeland security and emergency services

after
9 consultation with the state fire administrator shall have the
authority
10 to promulgate rules and regulations as deemed necessary relating to
the
11 accreditation of urban search and rescue task force teams,
specialty
12 rescue teams, and incident support teams and to the formation and
opera-
13 tion of all teams established pursuant to this section.

14 7. Funding. The [~~secretary of state and the state fire~~
administrator]
15 division of homeland security and emergency services shall expend
the

16 necessary monies for training, equipment, and other items necessary
to
17 support the operations of urban search and rescue task force
teams,
18 specialty rescue teams and incident support teams within
appropriations

19 provided. The [~~secretary of state and the state fire~~
administrator]
20 division of homeland security and emergency services also may,
pursuant
21 to applicable rules and regulations approved by the director of
the
22 division of the budget, approve grants of funds from monies
allocated
23 and appropriated for any or all such teams.

24 § 27. Section 157 of the executive law, as added by chapter 225 of
the
25 laws of 1979, is amended to read as follows:

26 § 157. Granting authority. The [~~office of fire prevention and~~
control,
27 ~~by and through the state fire administrator~~ division of homeland

secu-
28 rity and emergency services by and through the commissioner of the
divi-

29 sion of homeland security and emergency services or his duly
authorized
30 officers and employees, shall administer, carry out and approve
grants
31 of funds from moneys allocated and appropriated therefor, for
authorized
32 arson, fire prevention and control expenditures as defined herein,
that
33 are conducted by municipal corporations. "Authorized arson,
fire

34 prevention and control expenditures" shall mean those
expenditures
35 utilized by a municipal corporation for fire or arson prevention,
fire
36 or arson investigation and arson prosecution. No expenditure which
has
37 not been specifically designated by the local legislative body
for
38 arson, fire prevention and control and approved by the office of
fire
39 prevention and control pursuant to rules and regulations
promulgated
40 thereby shall be considered an "authorized arson, fire prevention
and
41 control expenditure." The [~~office of fire prevention and control~~]
divi-
42 sion of homeland security and emergency services shall adopt, amend
and
43 rescind such rules, regulations and guidelines as may be necessary
for
44 the performance of its functions, powers and duties under this
section.

45 The [~~office of fire prevention and control~~] division of homeland
securi-
46 ty and emergency services shall allocate grants under this article
among
47 the municipalities whose applications have been approved in
such a
48 manner as will most nearly provide an equitable distribution of
the
49 grants among municipalities, taking into consideration such factors
as
50 the level of suspected arson activity, population and population
densi-
51 ty, the need for state funding to carry out local programs, and
the
52 potential of the municipalities to effectively employ such grants.

53 § 28. Section 158 of the executive law is REPEALED and a new
section
54 158 is added to read as follows:

55 § 158. Firefighting training. 1. For the purpose of this section,
the
56 term fire fighter shall mean a member of a fire department whose
duties

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1 include fire service as defined in paragraph d of subdivision eleven
of
2 section three hundred two of the retirement and social security law.
3 2. In addition to the functions, powers and duties otherwise
provided
4 by this article, the state fire administrator may promulgate rules
and
5 regulations with respect to:
6 (a) The approval, or revocation thereof, of fire training programs
for

7 fire fighters;
8 (b) Minimum courses of study, attendance requirements, and
equipment
9 and facilities to be required for approved fire training programs
for
10 fire fighters;
11 (c) Minimum qualifications for instructors for approved fire
training
12 programs for fire fighters;
13 (d) The requirements of minimum basic training which fire
fighters
14 appointed to probationary terms shall complete before being eligible
for
15 permanent appointment, and the time within which such basic
training
16 must be completed following such appointment to a probationary term;
17 (e) The requirements of minimum basic training which fire fighters
not
18 appointed for probationary terms but appointed on other than a
permanent
19 basis shall complete in order to be eligible for continued employment
or
20 permanent appointment, and the time within which such basic
training
21 must be completed following such appointment on a non-permanent
basis;
22 (f) The requirements for in-service training programs designed
to
23 assist fire fighters in maintaining skills and being informed of
techno-
24 logical advances;
25 (g) Categories or classifications of advanced in-service
training
26 programs and minimum courses of study and attendance requirements
with
27 respect to such categories or classifications;
28 (h) Exemptions from particular provisions of this article in the
case
29 of any county, city, town, village or fire district, if in the
opinion
30 of the state fire administrator the standards of fire training
estab-
31 lished and maintained by such county, city, town, village or
fire
32 district are equal to or higher than those established pursuant to
this
33 article; or revocation in whole or in part of such exemption, if in
his
34 or her opinion the standards of fire training established and
maintained
35 by such county, city, town, village or fire district are lower
than
36 those established pursuant to this article; and
37 (i) Education, health and physical fitness requirements for
eligibil-
38 ity of persons for provisional or permanent appointment in the
compet-

39 itive class of the civil service as fire fighters as it deems
necessary
40 and proper for the efficient performance of such duties;
41 3. In furtherance of his or her functions, powers and duties as
set
42 forth in this section, the state fire administrator may:
43 (a) Recommend studies, surveys and reports to be made by the
state
44 fire administrator regarding the carrying out of the objectives
and
45 purposes of this section;
46 (b) Visit and inspect any fire training programs approved by the
state
47 fire administrator or for which application for such approval has
been
48 made; and
49 (c) Recommend standards for promotion to supervisory positions.
50 4. In addition to the functions, powers and duties otherwise
provided

51 by this section, the state fire administrator shall:
52 (a) Approve fire training programs for fire fighters and issue
certif-
53 icates of approval to such programs, and revoke such approval or
certif-
54 icate;

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1 (b) Certify, as qualified, instructors for approved fire
training
2 programs for fire fighters and issue appropriate certificates to
such
3 instructors;
4 (c) Certify fire fighters who have satisfactorily completed
basic
5 training programs and in-service training programs, and issue
appropri-
6 ate certificates to such fire fighters and revoke such certificates;
7 (d) Cause studies and surveys to be made relating to the
establish-
8 ment, operation, effectiveness and approval of fire training
programs;
9 (e) Cause studies and surveys to be made relating to the completion
or
10 partial completion of training programs by video or computer to
the
11 maximum extent practicable; and
12 (f) Consult with and cooperate with the state university of New
York
13 and private universities, colleges and institutes in the state for
the
14 development of specialized courses of study for fire fighters in
fire
15 science and fire administration.

16 § 29. The executive law is amended by adding a new section 376-a
to
17 read as follows:

18 § 376-a. Code enforcement training. 1. For the purpose of
this
19 section, the term code enforcement personnel shall mean a code
enforce-
20 ment official charged with enforcement of the uniform fire
prevention
21 and building code or the state energy conservation construction code.
22 2. In addition to the functions, powers and duties otherwise
provided
23 by this article, the secretary of state may promulgate rules and
regu-
24 lations with respect to:
25 (a) The approval, or revocation thereof, of code enforcement
training
26 programs for code enforcement personnel;
27 (b) Minimum courses of study, attendance requirements, and
equipment
28 and facilities to be required for approved code enforcement
training
29 programs for code enforcement personnel;
30 (c) Minimum qualifications for instructors for approved code
enforce-
31 ment training programs for code enforcement personnel;
32 (d) The requirements of minimum basic training which code
enforcement
33 personnel shall complete in order to be eligible for continued
employ-
34 ment or permanent appointment, and the time within which such
basic
35 training must be completed following such appointment;
36 (e) The requirements for in-service training programs designed
to
37 assist code enforcement personnel in maintaining skills and
being
38 informed of technological advances;
39 (f) Categories or classifications of advanced in-service
training
40 programs and minimum courses of study and attendance requirements
with
41 respect to such categories or classifications;
42 (g) Exemptions from particular provisions of this article in the
case
43 of any county, city, town, or village if in the opinion of the
secretary
44 of state the standards of code enforcement training established
and
45 maintained by such county, city, town, or village are equal to or
higher
46 than those established pursuant to this article; or revocation in
whole
47 or in part of such exemption, if in his or her opinion the standards
of
48 code enforcement training established and maintained by such
county,
49 city, town, or village are lower than those established pursuant to
this
50 article;

51 3. In furtherance of his or her functions, powers and duties as
set
52 forth in this section, the secretary of state may:
53 (a) Recommend studies, surveys and reports to be made by the
depart-
54 ment of state regarding the carrying out of the objectives and
purposes
55 of this section;
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1 (b) Visit and inspect any code enforcement training programs
approved
2 by the secretary of state or for which application for such approval
has
3 been made; and
4 (c) Recommend standards for promotion to supervisory positions.
5 4. In addition to the functions, powers and duties otherwise
provided

6 by this section, the secretary of state shall:
7 (a) Approve code enforcement training programs for code
enforcement
8 personnel and issue certificates of approval to such programs,
and

9 revoke such approval or certificate;
10 (b) Certify, as qualified, instructors for approved code
enforcement
11 training programs for code enforcement personnel and issue
appropriate

12 certificates to such instructors;
13 (c) Certify code enforcement personnel who have
satisfactorily
14 completed basic training programs and in-service training programs,
and
15 issue appropriate certificates to such code enforcement personnel,
and
16 revoke such certificate;

17 (d) Cause studies and surveys to be made relating to the
establish-
18 ment, operation, effectiveness and approval of code enforcement
training
19 programs;
20 (e) Cause studies and surveys to be made relating to the completion

or
21 partial completion of training programs by video or computer to
the
22 maximum extent practicable;

23 (f) Consult with and cooperate with the state university of New
York
24 and private universities, colleges and institutes in the state for
the
25 development of specialized courses of study for code enforcement
person-

26 nel.
27 § 29-a. Sections 159, 159-a, 159-b, 159-c, and 159-d of the
executive
28 law are REPEALED.

29 § 29-b. The executive law is amended by adding a new section 159
to
30 read as follows:
31 § 159. Advisory council for fire prevention and control. 1. There
is
32 hereby created within the division of homeland security and
emergency
33 services an advisory council for fire prevention and control for
the
34 purpose of advising the commissioner and the state fire
administrator
35 with regard to: (a) execution of the functions, powers and duties of
the
36 office with respect to fire and arson prevention and control
services,
37 policies and programs; (b) recommendations on courses of instruction
and
38 standards for training of firefighters of fire departments, fire
compa-
39 nies, municipal corporations, districts, and private industry of
the
40 state; (c) recommendations on federal and state legislation and
programs
41 relating to fire and arson prevention services, policies and
programs;
42 and (d) recommendations upon such other matters as the commissioner
and
43 the state fire administrator may request.
44 2. The council shall be composed of the state fire administrator,
as
45 chair, or his or her designee, and twelve other members appointed
as
46 follows: six members appointed by the governor; two members appointed
by
47 the temporary president of the senate; one member appointed by
the
48 minority leader of the senate; two members appointed by the speaker
of
49 the assembly; one member appointed by the minority leader of the
assem-
50 bly. Members of the fire safety advisory board, the arson board and
the
51 firefighting and code enforcement personnel standard and
education
52 commission may be appointed to this advisory council.
53 3. Membership of such council shall consist of representatives
from
54 the volunteer and career fire service, at least half of which
shall
55 serve at the municipal level.

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A.

1 4. Members of the council, other than the state fire
administrator,
2 shall serve for terms of three years, with such terms to commence
on

3 April first and expire on March thirty-first.
4 5. No member of the council shall be disqualified from holding
any
5 other public office or employment, nor shall he or she forfeit any
such
6 office or employment by reason of the appointment hereunder,
notwith-
7 standing the provisions of any general, special or local law,
ordinance
8 or city charter.
9 6. The council shall meet at least twice a year. Special meetings
may
10 be called by the chairperson. The agenda and meeting place of all
regu-
11 lar or special meetings shall be made available to the public in
advance
12 of such meeting.
13 7. Members of the council shall serve without salary or per
diem
14 allowance, but shall be entitled to reimbursement for actual and
neces-
15 sary expenses incurred in the performance of official duties under
this
16 section, provided, however, that such members are not, at the time
such
17 expenses are incurred, public employees otherwise entitled to
such
18 reimbursement.
19 8. The chairperson may create subcommittees as he or she may from
time
20 to time deem appropriate to provide the council with advice and
recom-
21 mendations. Members of such subcommittees shall be entitled
to
22 reimbursement for actual and necessary expenses incurred in the
perform-
23 ance of official duties under this section, provided, however, that
such
24 members are not, at the time such expenses are incurred, public
employ-
25 ees otherwise entitled to such reimbursement.
26 § 30. Section 97-pp of the state finance law, as amended by
chapter
27 631 of the laws of 1994, subdivisions 4, 5 and 6 as amended by
chapter
28 72 of the laws of 2006, is amended to read as follows:
29 § 97-pp. New York state emergency services revolving loan account.
1.
30 There is hereby established within the combined expendable
trust
31 fund-020 in the custody of the state comptroller a new account to
be
32 known as the "New York state emergency services revolving loan
account".
33 2. The account shall consist of all moneys appropriated for
its

34 purpose, all moneys transferred to such account pursuant to law, and
all
35 moneys required by this section or any other law to be paid into
or
36 credited to this account, including all moneys received by the
account
37 or donated to it, payments of principal and interest on loans made
from
38 the account, and any interest earnings which may accrue from the
invest-

39 ment or reinvestment of moneys from the account.
40 3. Moneys of the account, when allocated, shall be available to
the

41 ~~[secretary of state]~~ commissioner of the division of homeland
security

42 and emergency services to make loans as provided in this section. Up
to

43 five percent of the moneys of the account or two hundred fifty
thousand

44 dollars, whichever is less, may be used to pay the expenses,
including

45 personal service and maintenance and operation, in connection with
the

46 administration of such loans.

47 4. (a) The ~~[secretary of state]~~ commissioner of the division of
home-

48 land security and emergency services, on recommendation of the
~~[emergen-~~

49 ~~cy services loan board]~~ state fire administrator, may make, upon
appli-

50 cation duly made, up to the amounts available by appropriation,
loans

51 for:

52 (i) Purchasing fire fighting apparatus. A loan for purchasing
fire

53 fighting apparatus shall not exceed the lesser of two hundred
twenty-

54 five thousand dollars or seventy-five percent of the cost of the
fire

55 fighting apparatus; provided, however, that loans issued in response
to

56 a joint application shall not exceed the lesser of four hundred
thousand

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A.

1 dollars or seventy-five percent of the cost of the fire fighting
appara-

2 tus.

3 (ii) Purchasing ambulances or rescue vehicles. A loan for
purchasing

4 an ambulance or a rescue vehicle shall not exceed the lesser of
one

5 hundred fifty thousand dollars or seventy-five percent of the cost
of

6 the ambulance or rescue vehicle; provided, however, that loans issued
in

7 response to a joint application shall not exceed the lesser of
two
8 hundred sixty-five thousand dollars or seventy-five percent of the
cost
9 of the ambulance or rescue vehicle.
10 (iii) Purchasing protective equipment or communication equipment.
A
11 loan for purchasing protective equipment or communication equipment
or
12 both shall not exceed one hundred thousand dollars. Communication
equip-
13 ment purchased with such loan shall, to the maximum extent
practicable,
14 be compatible with the communication equipment of adjacent services
and
15 jurisdictions; provided, however, that loans issued in response to
a
16 joint application shall not exceed one hundred sixty-five
thousand
17 dollars.
18 (iv) Repairing or rehabilitating fire fighting apparatus,
ambulances,
19 or rescue vehicles. A loan for repairing or rehabilitating fire
fighting
20 apparatus, ambulances, or rescue vehicles shall not exceed the lesser
of
21 seventy-five thousand dollars or one hundred percent of the cost of
the
22 repair or rehabilitation; provided, however, that loans issued
in
23 response to a joint application shall not exceed the lesser of
one
24 hundred thirty-five thousand dollars or one hundred percent of the
cost
25 of the repair or rehabilitation.
26 (v) Purchasing accessory equipment. A loan for purchasing
accessory
27 equipment shall not exceed seventy-five thousand dollars;
provided,
28 however, that loans issued in response to a joint application shall
not
29 exceed one hundred thirty-five thousand dollars.
30 (vi) Renovating, rehabilitating or repairing facilities that
house
31 firefighting equipment, ambulances, rescue vehicles and related
equip-
32 ment. A loan for this purpose shall not exceed the lesser of one
hundred
33 fifty thousand dollars or seventy-five percent of the cost of
the
34 project; provided, however, that loans issued in response to a
joint
35 application shall not exceed the lesser of two hundred sixty-five
thou-
36 sand dollars or seventy-five percent of the cost of the project.
37 (vii) Construction costs associated with the establishment of
facili-

38 ties that house firefighting equipment, ambulances, rescue vehicles
and
39 related equipment. A loan for this purpose shall not exceed the
lesser
40 of three hundred thousand dollars or seventy-five percent of the cost
of
41 the construction, or be used for the payment of fees for design,
plan-
42 ning, preparation of applications or other costs not directly
attribut-
43 able to land acquisitions or construction; provided, however, that
loans
44 issued in response to a joint application shall not exceed the lesser
of
45 five hundred twenty-five thousand dollars or seventy-five percent of
the
46 cost of the construction, or be used for the payment of fees for
design,
47 planning, preparation of applications or other costs not
directly
48 attributable to land acquisitions or construction.
49 (viii) Construction costs associated with the establishment of
facili-
50 ties for the purpose of live fire training. A loan for this
purpose
51 shall not be granted if another live fire training facility is
located
52 within the boundaries of the county or within twenty-five miles. A
loan
53 for this purpose shall not exceed the lesser of one hundred fifty
thou-
54 sand dollars or seventy-five percent of the cost of
construction,
55 provided, however, joint applications shall not exceed the lesser of
two
56 hundred sixty-five thousand dollars or seventy-five percent of the
cost

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1 of construction or be used for the payment of fees for design,
planning,
2 preparation of applications or other costs not directly attributable
to
3 land acquisitions or construction.
4 (b) No loan authorized by this section shall have an interest
rate
5 exceeding two and one-half percent. No applicant shall receive a
loan
6 for any purpose under paragraph (a) of this subdivision more than
once
7 in any five-year period; provided, however, that joint applicants
may
8 receive up to two loans in any five year period. The minimum amount
of
9 any loan shall be five thousand dollars. The period of any loan
shall

10 not exceed the period of probable usefulness, prescribed by
section
11 11.00 of the local finance law, for the emergency equipment to
be
12 purchased with the proceeds of the loan or, if no period be
there
13 prescribed, five years. The total amount of any interest earned by
the
14 investment or reinvestment of all or part of the principal of any
loan
15 made under this section shall be returned to the [~~secretary of~~
~~state~~]
16 commissioner of the division of homeland security and emergency
services
17 for deposit in the account and shall not be credited as payment of
prin-
18 cipal or interest on the loan. The [~~secretary of state~~] commissioner
of
19 the division of homeland security and emergency services may
require
20 security for any loan and may specify the priority of liens against
any
21 emergency equipment wholly or partially purchased with moneys
loaned
22 under this section. The [~~secretary of state~~] commissioner of the
divi-
23 sion of homeland security and emergency services may make loans
under
24 this section subject to such other terms and conditions the
[~~secretary~~]
25 commissioner of the division of homeland security and emergency
services
26 deems proper.
27 (c) The [~~secretary of state~~] commissioner of the division of
homeland
28 security and emergency services shall have the power to make such
rules
29 and regulations as may be necessary and proper to effectuate
the
30 purposes of this section.
31 (d) The [~~secretary of state~~] commissioner of the division of
homeland
32 security and emergency services shall annually report by March
fifteenth
33 to the governor and the legislature describing the activities and
opera-
34 tion of the loan program authorized by this section. Such report
shall
35 set forth the number of loan applications received and approved;
the
36 number of joint applications received and approved; the names of
coun-
37 ties, cities, towns, villages and fire districts receiving loans
togeth-
38 er with the amount and purpose of the loan, the interest rate
charged,

39 and the outstanding balance; and the balance remaining in the New
York
40 state emergency services revolving loan account, along with fund
reven-
41 ues and expenditures for the previous fiscal year, and projected
reven-
42 ues and expenditures for the current and following fiscal years.
43 5. (a) Application for loans may be made by a town, village,
city,
44 fire district, fire protection district, independent, not-for-
profit
45 fire and ambulance corporation or county, other than a county
wholly
46 contained within a city, provided that the application is
otherwise
47 consistent with its respective powers. Applications may also be
submit-
48 ted jointly by multiple applicants provided that the application
is
49 otherwise consistent with each applicant's respective powers.

50 (b) Every application shall be in a form acceptable to the
[**secretary**
51 ~~of state~~] **commissioner of the division of homeland security and**
emergen-
52 **cy services**. Every application shall accurately reflect the
conditions
53 which give rise to the proposed expenditure and accurately reflect
the
54 ability of the applicant to make such an expenditure without
the
55 proceeds of a loan under this section.
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1 (c) (i) The [~~emergency services loan board~~] **commissioner of the**
divi-
2 **sion of homeland security and emergency services** shall give
preference
3 to those applications which demonstrate the greatest need, joint
appli-
4 cations, and to those applications the proceeds of which will be
applied
5 toward attaining compliance with federal and state laws and may
disap-
6 prove any application which contains no adequate demonstration of
need
7 or which would result in inequitable or inefficient use of the moneys
in
8 the account.
9 (ii) In making determinations on loan applications, the
[**emergency**
10 ~~services loan board~~] **commissioner of the division of homeland**
security
11 **and emergency services** shall assure that loan fund moneys are
equitably
12 distributed among all sectors of the emergency services community
and

13 all geographical areas of the state. Loans for the purpose of
personal
14 protective firefighting equipment shall be given preference for a
period
15 of two years from the date the first loan is made. Not less than
fifty
16 percent of the loans annually made shall be made to applicants
whose
17 fire protection or ambulance service is provided by a fire department
or
18 ambulance service whose membership is comprised exclusively of
volun-
19 teers and whose budget for the fiscal year immediately preceding did
not
20 exceed one hundred thousand dollars.

21 (d) ~~[An application or joint application shall be referred by~~
~~the~~
22 ~~secretary of state to the emergency services loan board. The board~~
~~shall~~
23 ~~consist of the following thirteen members: the secretary of state~~
~~as~~
24 ~~chair, or the secretary's designee, the state fire administrator,~~
~~five~~
25 ~~members appointed by the governor, two members appointed by the~~
~~tempo-~~
26 ~~rary president of the senate, two members appointed by the speaker~~
~~of~~
27 ~~the assembly, one member appointed by the minority leader of the~~
~~senate,~~
28 ~~and one member appointed by the minority leader of the assembly.~~
Each
29 member of the board shall serve at the pleasure of the appointing
offi-
30 cial. Members of the board shall serve without salary or per diem
allow-
31 ance, but shall be entitled to reimbursement for actual and
necessary
32 expenses incurred in the performance of official duties under
this
33 section, provided, however, that such members are not, at the time
such
34 expenses are incurred, public employees otherwise entitled to
such
35 reimbursement. Notwithstanding any inconsistent provisions of
law,
36 general, special or local, no officer or employee of the state, or
poli-
37 tical subdivision of the state, any governmental entity operating
any
38 public school or college or other public agency or instrumentality
or
39 unit of government which exercises governmental powers under the laws
of
40 the state, shall forfeit office or employment by reason of acceptance
or
41 appointment as a member, representative, officer, employee or agent
of

42 ~~the board nor shall service as such member, representative,~~
officer,
43 ~~employee or agent of the board be deemed incompatible or in~~
conflict
44 ~~with such office or employment.~~
45 (e) An application or joint application shall not be approved:
46 (i) if the applicant or applicants are in arrears on any prior
loan
47 under this section,
48 (ii) if it shall be shown that at any time in the prior ten years
the
49 applicant or applicants used state funds to repay all or part of
any
50 loan made under this section.
51 ~~[-(f)]~~ (e) The ~~[emergency services loan board]~~ commissioner of
the
52 division of homeland security and emergency services shall, to the
maxi-
53 mum extent feasible, and consistent with the other provisions of
this
54 section, seek to provide that loans authorized by this section
reflect
55 an appropriate geographic distribution, are distributed equitably
and
56 encourage regional cooperation.
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1 6. For purposes of this section, the following terms shall have
the
2 accompanying meanings:
3 (a) "Fire companies" means (i) a fire company, the members of
which
4 are firefighters, volunteer, paid or both, of a county, city,
town,
5 village, fire district or fire department, or (ii) a fire
corporation,
6 the members of which are firefighters, volunteer, paid or both,
provid-
7 ing fire protection pursuant to a fire protection contract within a
fire
8 protection district of a town.
9 (b) "Volunteer ambulance service" means an individual,
partnership,
10 association, corporation, municipality or any legal or public entity
or
11 subdivision thereof engaged in providing emergency medical services
and
12 the transportation of sick, disabled or injured persons by motor
vehi-
13 cle, aircraft or other form of transportation to or from
facilities
14 providing hospital services which is (i) operating not for
pecuniary
15 profit or financial gain, and (ii) no part of the assets or income
of

16 which is distributable to, or inures to the benefit of, its
members,
17 directors or officers.

18 (c) "Ambulance" means a motor vehicle designed,
appropriately

19 equipped, and used for carrying sick or injured persons.

20 (d) "Accessory equipment" means equipment necessary to support
the
21 ordinary functions of fire fighting, emergency medical services,
or

22 rescue activities other than communication equipment, protective
equip-
23 ment, and motor vehicles together with their fixtures and
appointments.

24 (e) "Account" means the New York state emergency services
revolving

25 loan account established by this section within the combined
expendable

26 trust fund-020.

27 (f) "Communication equipment" means any voice or original
transmission

28 system or telemetry system used to enhance fire fighter safety on
the

29 grounds of a fire or other emergency.

30 (g) "Emergency equipment" means any or all of the following:

ambu-
31 lances, accessory equipment, communication equipment, fire
fighting

32 apparatus, protective equipment, and rescue vehicles.

33 (h) "Fire fighting apparatus" means elevated equipment, pumpers,
tank-

34 ers, ladder trucks, hazardous materials emergency response vehicles,
or

35 other such specially equipped motor vehicles used for fire
protection,

36 together with the fixtures and appointments necessary to support
their

37 functions.

38 (i) "Joint application" means an application submitted by two or
more

39 towns, villages, cities, fire districts, fire protection
districts,

40 not-for-profit fire and ambulance corporations or counties, other
than a

41 county wholly contained within a city, for any purposes provided
in

42 subdivision four of this section.

43 (j) "Protective equipment" means any clothing and devices that
comply

44 with occupational safety and health administration standards
(federal

45 occupational safety and health act regulations) used to protect
person-

46 nel who provide emergency services from injury while performing
their

47 functions, including, but not limited to, helmets, coats, boots,
eyesh-

48 fields, gloves and self contained respiratory protection devices.
49 (k) "Rescue vehicle" means a motor vehicle, other than an ambulance
or
50 fire fighting apparatus, appropriately equipped and used to support
fire
51 department operations and includes a vehicle specifically for
carrying
52 accessory equipment.
53 § 31. Section 326 of the county law, as added by section 1 of part
G
54 of chapter 81 of the laws of 2002, is amended to read as follows:
55 § 326. New York state [911] interoperable and emergency

communication

56 board. The "New York state [911] interoperable and emergency
communi-
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1 cation board" is hereby established within the [~~department of~~
~~state]~~
2 division of homeland security and emergency services. The board
shall
3 assist local governments, service suppliers, wireless telephone
service
4 suppliers and appropriate state agencies by facilitating the most
effi-
5 cient and effective routing of 911 emergency calls; developing
minimum
6 standards for public safety answering points; promoting the exchange
of
7 information, including emerging technologies; and encouraging the use
of
8 best practice standards among the public safety answering point
communi-
9 ty.

10 § 32. Section 328 of the county law is amended by adding a new
subdi-
11 vision 10 to read as follows:

12 10. a. The New York state interoperable and emergency

communication

13 board shall make recommendations to the commissioner of the division
of
14 homeland security and emergency services on the expenditure of
grants
15 and other funding programs related to interoperable and emergency
commu-
16 nications. In carrying out this responsibility, and consistent with
the
17 mission of the division of homeland security and emergency services,
the
18 board will make recommendations related to the development,
coordination
19 and implementation of policies, plans, standards, programs and
services
20 related to interoperable and emergency communications, including but
not

21 limited to ensuring compliance with federal mandates for
interoperable
22 communications and compatibility with the National Incident
Management
23 System.
24 b. The board, in fulfilling its role to provide ongoing
guidance
25 regarding policies, plans, standards, programs and services related
to
26 interoperable and emergency communications, shall:
27 (1) establish structures and guidelines to maintain
interoperable
28 communications planning and coordination at the statewide level;
29 (2) establish, promulgate and revise standards for the operation
of
30 public safety answering points; and
31 (3) establish guidelines regarding the creation of regionally
based
32 radio communications systems compatible with the structures and
guide-
33 lines created under subparagraph one of this paragraph and with
federal
34 mandates and best practices.
35 § 33. Section 327 of the county law, as added by section 1 of part
G
36 of chapter 81 of the laws of 2002, subdivision 5 as amended by
section 2
37 of part Y of chapter 62 of the laws of 2003, is amended to read
as
38 follows:
39 § 327. New York state [911] interoperable and emergency
communication
40 board membership. 1. The board shall consist of [~~thirteen~~] twenty-
five
41 members who shall be selected as follows:
42 (a) one shall be the [~~secretary of state~~] statewide interoperable
and
43 emergency communication coordinator, or his or her designee, who
shall
44 be the chairperson of the board;
45 (b) one shall be the commissioner of criminal justice services, or
his
46 or her designee;
47 (c) [~~five~~] one shall be the superintendent of the state police, or
his
48 or her designee;
49 (d) one shall be the adjutant general of the division of military
and
50 naval affairs, or his or her designee;
51 (e) one shall be the commissioner of the division of homeland
security
52 and emergency services, or his or her designee;
53 (f) one shall be the commissioner of the department of
transportation,
54 or his or her designee;
55 (g) one shall be the commissioner of the department of health, or
his

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1 (h) one shall be the director of the office for technology, or his
or

2 her designee;

3 (i) seven shall be appointed by the governor; provided, however,

that

4 no more than two such appointments made pursuant to this paragraph

shall

5 be from the same category of members as provided for in subdivision

two

6 of this section;

7 [~~(d) three~~] (j) five shall be appointed by the governor upon

the

8 recommendation of the temporary president of the senate;

provided,

9 however, that no more than one such appointment made pursuant to

this

10 paragraph shall be from the same category of members as provided for

in

11 subdivision two of this section; and

12 [~~(e) three~~] (k) five shall be appointed by the governor upon

the

13 recommendation of the speaker of the assembly; provided, however,

that

14 no more than one such appointment made pursuant to this paragraph

shall

15 be from the same category of members as provided for in subdivision

two

16 of this section.

17 2. The members appointed upon the recommendation of the

temporary

18 president of the senate and the speaker of the assembly, and the

members

19 appointed by the governor pursuant to paragraph (c) of subdivision

one

20 of this section, shall have experience with interoperable and

emergency

21 communication issues, and shall be representative of chiefs of

police,

22 sheriffs, fire chiefs and departments, ambulance service

providers,

23 including proprietary or volunteer ambulance services, county 911

coor-

24 dinators, emergency managers, local elected officials, [~~wireless~~

~~tele-~~

25 ~~phone service suppliers, service suppliers]~~ non-governmental

organiza-

26 tions specializing in disaster relief, tribal nation representation,

and

27 statewide first responder associations, or representatives of

consumer

28 interests.

29 3. Each board member shall be appointed for a term of four

years.

30 Vacancies in the board occurring otherwise than by expiration of a
term
31 shall be filled for the unexpired term in the same manner as
the
32 original appointment. The board shall meet as frequently as it may
deem
33 necessary and at least four times each year on such dates as agreed
upon
34 by the board. The board may approve and from time to time amend
bylaws
35 in relation to its meetings and the transaction of its
business. A

36 majority of the members of the board then in office shall constitute
a
37 quorum for the transaction of any business or the exercise of any
power
38 by the board.

39 4. Members of the board shall receive no compensation for
their
40 services, but shall be reimbursed for actual and necessary
expenses
41 incurred by them in the performance of their duties. Notwithstanding
any
42 inconsistent provisions of law, no officer or employee of the state
or
43 any political subdivision of the state shall forfeit such office
or
44 employment by reason of acceptance or appointment as a member of
the
45 board. For purposes of section thirteen of article thirteen of the
state
46 constitution, membership on the board by a sheriff shall not
constitute
47 public office.

48 5. Article two of the state administrative procedure act shall
not
49 apply, provided, however, that the board shall publicly post the
stand-
50 ards proposed pursuant to section three hundred twenty-eight of
this
51 article no later than forty-five days prior to their adoption.
Such
52 standards shall be posted in appropriate publications, the state
regis-
53 ter and on the [~~department of state's~~] division of homeland security
and
54 emergency services' website. During such forty-five day period,
the
55 board shall receive and consider public comment on the proposed
stand-
56 ards before adopting final standards. Upon final adoption, those
stand-

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1 ards adopted pursuant to section three hundred twenty-eight of
this

2 article shall be posted in appropriate publications, the state
register
3 and on the [~~department of state's~~] division of homeland security
and
4 emergency services' website.
5 6. The board shall be subject to articles six and seven of the
public
6 officers law.
7 § 34. Section 328-a of the county law is REPEALED.
8 § 35. Section 328-b of the county law, as added by section 1 of
part G
9 of chapter 81 of the laws of 2002, is amended to read as follows:
10 § 328-b. Powers and duties of the chairperson. 1. The chairperson
of
11 the board shall coordinate efforts among other executive agencies
having
12 an interest in the duties of the board, and shall consult with
such
13 agencies in carrying out the duties of the board.
14 2. The chairperson shall receive such assistance as required to
carry
15 out its duties from staff of the [~~department of state~~] division of
home-
16 land security and emergency services designated for such purposes,
as
17 well as staff members recommended by other state agencies to the
chair-
18 person.
19 3. The board may request and receive from any department,
division,
20 board, bureau, commission, or other agency of the state or any
political
21 subdivision thereof such assistance, information, and data as
will
22 enable the board to properly carry out its functions, powers, and
duties
23 under this article.
24 § 36. Section 331 of the county law is REPEALED.
25 § 37. Section 332 of the county law is REPEALED.
26 § 38. Paragraph (c) of subdivision 6 of section 186-f of the tax
law,
27 as added by section 3 of part B of chapter 56 of the laws of 2009,
is
28 amended to read as follows:
29 (c) [~~To fund costs associated with the design, construction, and
oper-
30 ation of the statewide wireless network annually pursuant to
appropri-
31 ation by the legislature~~] Up to the sum of seventy-five million
dollars
32 annually may be used for the provision of grants or reimbursements
to
33 counties for the development, consolidation, or operation of
public
34 safety communications systems or networks designed to support
statewide

35 interoperable communications for first responders, to be
distributed
36 pursuant to standards and guidelines issued by the state. Annual
grants
37 may consider costs borne by a municipality related to the issuance
of
38 local public safety communications bonds pursuant to section twenty-
four
39 hundred thirty-two of the public authorities law, when the
municipality
40 has qualified as an approved participant in a statewide
interoperable
41 communications system under the standards and guidelines issued by
the
42 state, and maintains compliance with such standards and guidelines.
The
43 grant amount will be prescribed pursuant to an agreement with the
muni-
44 cipality, and may not exceed thirty percent of the annual cost borne
by
45 the municipality in relation to such bonds;

46 § 39. Paragraphs (d) and (e) of subdivision 6 of section 186-f of
the
47 tax law, as added by section 3 of part B of chapter 56 of the laws
of
48 2009, are amended and a new paragraph (e) is added to read as
follows:

49 (d) [~~Not less than the sum of ten million dollars annually must~~
~~be~~
50 ~~disbursed pursuant to article six-A of the county law and~~
~~appropriated~~

51 ~~by the legislature; and~~
52 (e)] To provide the costs of debt service for bonds and notes
issued
53 to finance expedited deployment funding pursuant to the provisions
of
54 section three hundred thirty-three of the county law and section
sixteen
55 hundred eighty-nine-h of the public authorities law[~~-~~]; and

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1 (e) services and expenses that support the operations and mission
of
2 the division of homeland security and emergency services as
appropriated
3 by the legislature.

4 § 40. Section 156-e of the executive law, as added by section 2
of
5 part A of chapter 81 of the laws of 2002, is amended to read as
follows:

6 § 156-e. College fire safety. 1. Notwithstanding the provisions of
any
7 law to the contrary, the office of fire prevention and control of
the
8 division of homeland security and emergency services, by and through
the

9 state fire administrator or their duly authorized officers and
employ-
10 ees, shall have the responsibility to annually inspect buildings
under
11 the jurisdiction of public colleges and independent colleges, as
these
12 terms are defined in section eight hundred seven-b of the education
law,
13 for compliance with and violations of the uniform fire prevention
and
14 building code; or any other applicable code, rule or regulation
pertain-
15 ing to fire safety. Buildings subject to inspection are all
buildings
16 under the jurisdiction of such colleges used for classroom,
dormitory,
17 fraternity, sorority, laboratory, physical education, dining,
recre-
18 ational or other purposes.

19 2. a. The office of fire prevention and control shall have the
power
20 to issue a notice of violation and orders requiring the remedying of
any
21 condition found to exist in, on or about any such building
which
22 violates the uniform fire prevention and building code, or any
other
23 code, rule or regulation pertaining to fire safety, fire safety
equip-
24 ment and fire safety devices. Such office is further authorized
to
25 promulgate regulations regarding the issuance of violations,
compliance
26 with orders, and providing for time for compliance, reinspection
proce-
27 dures, and issuance of certificates of conformance.

28 b. Where any college authority in general charge of the operation
of
29 any public or independent college buildings is served personally or
by
30 registered or certified mail with an order of the office of
fire
31 prevention and control to remedy any violation and fails to comply
with
32 such order immediately or within such other time as specified in
the
33 order, the office of fire prevention and control may avail itself of
any
34 or all of the following remedies: (1) assess a civil penalty of up
to
35 five hundred dollars per day until the violation is corrected; (2)
order
36 immediate closure of the building, buildings or parts thereof
where a
37 violation exists that poses an imminent threat to public health
and

38 safety; (3) [~~exercise all of the authority conferred upon the~~
39 ~~secretary~~
40 ~~of state pursuant to article eighteen of this chapter to obtain~~
41 ~~compliance with its orders; or (4)] refer violations to the appropriate
42 local government authorities for enforcement pursuant to article eighteen
43 of this chapter.
44 c. The office of fire prevention and control [~~by and through~~
45 ~~the~~
46 ~~secretary of state~~] is authorized to commence necessary proceedings
47 in a court of competent jurisdiction seeking enforcement of any of its
48 orders and payment of assessed penalties.
49 3. a. Except as provided herein, any county, city, town or
50 village,
51 pursuant to resolution of their respective legislative bodies, may
52 apply
53 to the office of fire prevention and control for delegation of all
54 or
55 part of the duties, rights and powers conferred upon the office of
56 fire
57 prevention and control by this section and section eight hundred
58 seven-b
59 of the education law. Upon acceptable demonstration of adequate
60 capabil-
61 ity, resources and commitment on the part of the applicant local
62 govern-
63 ment, the office of fire prevention and control may make such
64 deleg-
65 ation, in which case the local government shall also have all of
66 the
67 rights, duties and powers provided to local governments in article
68 eigh-
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71 teen of this chapter and in any city charter or code. The
72 authority
73 granted in this section to assess civil penalties[7] and order
74 closure
75 of buildings [~~and take action possessed by the secretary of state~~
76 ~~under~~
77 ~~article eighteen of this chapter,~~] shall not be delegated to the
78 local
79 government. Such powers shall continue in the office of fire
80 prevention
81 and control which may exercise them in the case of violations, on
82 its
83 own volition or at the request of the delegee local government.
84 The
85 delegation shall expire after three years, and may be renewed at
86 the
87 discretion of the office of fire prevention and control. All
88 inspection

10 reports conducted pursuant to a delegation of authority shall be
prompt-
11 ly filed with the office of fire prevention and control. In the
event
12 any such report is not filed or reasonable grounds exist to believe
that
13 inspections or enforcement are inadequate or ineffective, the office
of
14 fire prevention and control may revoke the delegation or continue
it
15 subject to terms and conditions specified by the office of
fire
16 prevention and control.

17 b. The authorities in a city having a population of one million
or
18 more shall exercise all of the rights, powers and duties pertaining
to
19 inspection of independent and public college buildings and
enforcement
20 provided in this section and section eight hundred seven-b of the
educa-
21 tion law, without impairing any existing authority of such city. A
copy
22 of all inspection reports shall be filed with the office of
fire
23 prevention and control by the authorities conducting inspections.

24 § 41. Subdivision 2 and paragraph (b) of subdivision 3 of
section
25 837-o of the executive law, as amended by chapter 689 of the laws
of
26 2002, are amended to read as follows:

27 2. Within ten business days of receipt from the applicant, the
chief
28 of the fire company shall send the completed search request form
to
29 either (i) the sheriff's department of the county in which the
fire
30 company is located, or (ii) the [~~department of state,~~] office of
fire
31 prevention and control, as follows:

32 (a) the sheriff's department of the county in which the fire
company
33 is located shall be responsible for receiving the search requests
and
34 processing the search requests with the division within ten
business
35 days of receipt from the chief of the fire company, unless the
county
36 legislative body adopts and files with the [~~secretary of state~~
office

37 of fire prevention and control pursuant to the municipal home rule
law a
38 local law providing that the sheriff's department shall not have
such
39 responsibility;

40 (b) in all other instances where a county legislative body has
adopted

41 a local law pursuant to paragraph (a) of this subdivision, the
[depart-
42 ment of state,] office of fire prevention and control shall be
responsi-
43 ble for receiving search requests and forwarding the search requests
to
44 the division.
45 The [department of state,] office of fire prevention and control
is
46 hereby authorized to establish a communication network with the
division
47 for the purpose of forwarding search requests and receiving
search
48 results pursuant to paragraph (b) of this subdivision.
49 (b) The results of the search shall be communicated in writing,
within
50 ten business days of receipt from the division, to the chief of the
fire
51 company from which the search request originated by either the
sheriff's
52 department or the [department of state,] office of fire prevention
and
53 control, and shall be kept confidential by the chief, except as
provided
54 in paragraph (c) of this subdivision. The results of the search
shall
55 only state either that: (i) the applicant stands convicted of arson,
or
56 (ii) the applicant has no record of conviction for arson. The results
of
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1 the search shall not divulge any other information relating to the
crim-
2 inal history of the applicant.
3 § 42. Subdivisions 1 and 2 of section 225-a of the county law,
as
4 amended by chapter 225 of the laws of 1979, are amended to read
as
5 follows:
6 1. In order to develop and maintain programs for fire training,
fire
7 service-related activities and mutual aid in cases of fire and
other
8 emergencies in which the services of firemen would be used and to
coop-
9 erate with the office of fire prevention and control [~~in the~~
~~department~~
10 ~~of state~~] in furthering such programs, the board of supervisors of
any
11 county may create a county fire advisory board and may establish
the
12 office of county fire coordinator.
13 2. A county fire advisory board shall consist of not less than
five

14 nor more than twenty-one members, each of whom shall be appointed by
the
15 board of supervisors for a term of not to exceed one year, two years
or
16 three years. Such terms of office need not be the same for all
members.
17 It shall be the duty of such board to cooperate with the office of
fire
18 prevention and control [~~in the department of state~~] in relation to
such
19 programs for fire training, fire service-related activities and
mutual
20 aid; to act as an advisory body to the board of supervisors and to
the
21 county fire coordinator, if any, in connection with the county
partic-
22 ipation in such programs for fire training, fire service-related
activ-
23 ities and mutual aid and in connection with the county establishment
and
24 maintenance of a county fire training school and mutual aid programs
in
25 cases of fire and other emergencies in which the services of
firemen
26 would be used; to perform such other duties as the board of
supervisors
27 may prescribe in relation to fire training, fire service-related
activ-
28 ities and mutual aid in cases of fire and other emergencies in which
the
29 services of firemen would be used. The members of such board shall
be
30 county officers, and shall serve without compensation.
31 § 43. Section 399-n of the general business law, as added by
chapter
32 576 of the laws of 1985, is amended to read as follows:
33 § 399-n. Approval of electrical devices. Whenever electrical
devices
34 or electrical wiring or electrical apparatus are required to be
approved
35 by underwriters laboratories for fire safety by any statute, law,
rule
36 or regulation, of the state or any municipality thereof, approval by
any
37 qualified laboratory or testing organization that tests for fire
safety
38 in the state of New York will be deemed to be satisfaction of
such
39 requirement. For the purposes of this section, a qualified laboratory
or
40 testing organization is one which meets the criteria of (1) the
American
41 Society for Testing Materials test E548-76, or (2) any rules or
regu-
42 lations relating thereto that may be promulgated by [~~the office of~~
fire
43 ~~prevention and control of~~] the department of state.

44 § 44. Section 204-d of the general municipal law, as amended by
chap-
45 ter 583 of the laws of 2006, is amended to read as follows:
46 § 204-d. Duties of the fire chief. The fire chief of any fire
depart-
47 ment or company shall, in addition to any other duties assigned to
him
48 by law or contract, to the extent reasonably possible determine or
cause
49 to be determined the cause of each fire or explosion which the
fire
50 department or company has been called to suppress. He shall file
with
51 the office of fire prevention and control [~~of the department of
state~~] a
52 report containing such determination and any additional
information
53 required by such office regarding the fire or explosion. The
report
54 shall be in the form designated by such office. He shall contact
or
55 cause to be contacted the appropriate investigatory authority if he
has
56 reason to believe the fire or explosion is of incendiary or
suspicious
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1 origin. For all fires that are suspected to have been ignited by a
ciga-
2 rette, within fourteen days after completing the investigation into
such
3 fire, the fire chief shall forward to the office of fire prevention
and
4 control information detailing, to the extent possible: (a) the
specific
5 brand and style of the cigarette suspected of having ignited such
fire;
6 (b) whether the cigarette package was marked as required by
subdivision
7 six of section one hundred fifty-six-c of the executive law; and (c)
the
8 location and manner in which such cigarette was purchased.

9 § 45. Subdivisions 1 and 2 of section 209-e of the general
municipal
10 law, as amended by chapter 225 of the laws of 1979, are amended to
read
11 as follows:
12 1. Plan. The state fire administrator shall prepare a state fire
mobi-
13 lization and mutual aid plan which may provide for the establishment
of
14 fire mobilization and mutual aid zones of the state. Upon filing of
the
15 plan in the office [~~of the department of state~~] of fire prevention
and

16 control such plan shall become the state fire mobilization and
mutual
17 aid plan. Such plan may be amended from time to time in the same
manner
18 as originally adopted.

19 2. Regional fire administrators. The state fire administrator
may
20 appoint and remove a regional fire administrator for each fire
mobiliza-
21 tion and mutual aid zone established pursuant to the state fire
mobili-
22 zation and mutual aid plan. Before he enters on the duties of
the
23 office, each regional fire administrator shall take and subscribe
before
24 an officer authorized by law to administer oaths the constitutional
oath
25 of office, which shall be administered and certified by the
officer
26 taking the same without compensation and shall be filed in the office
of
27 ~~[the department of state]~~ fire prevention and control.

28 § 46. Subsection (b) of section 318 of the insurance law is amended
to

29 read as follows:

30 (b) The information contained in such reports shall, in
accordance
31 with such regulations, be available to law enforcement agencies, to
tax
32 districts which have, pursuant to the provisions of section twenty-
two
33 of the general municipal law, filed with the superintendent a notice
of
34 intention to claim against the proceeds of a policy of fire
insurance,
35 to the office of fire prevention and control ~~[of the department~~
~~of~~
36 ~~state,~~] and to appropriate governmental agencies charged with
the
37 responsibility for demolition of structures.

38 § 47. Section 54-e of the state finance law, as added by chapter
741
39 of the laws of 1978, paragraph g of subdivision 1 as amended by
chapter
40 225 of the laws of 1979, is amended to read as follows:

41 § 54-e. State assistance to reimburse municipalities for
firefighting
42 costs. 1. As used in this section, unless otherwise expressly stated:
43 a. "Normal operating expenses" shall mean those costs, losses
and
44 expenses which are ordinarily associated with the maintenance,
adminis-
45 tration and day-to-day operations of the fire department of a
munici-
46 pality. Such expenses shall include, but not be limited to, the
ordinary

47 wages of firefighters, administrative and other overhead costs,
depreci-
48 ation, the costs of litigation and the costs of employee's
benefits,
49 including insurance, disability, death, or health care whether or
not
50 such costs are incurred as the result of firefighting services
rendered
51 to property under the jurisdiction of the state of New York.
52 b. "Firefighting costs" shall mean those expenses and losses
which
53 would not have been incurred had not the fire in question taken
place.
54 Such costs shall include, but not be limited to, salaries for
specially
55 employed personnel, costs of supplies expended, and the lesser of
(1)
56 the cost of repairing any destroyed or damaged equipment or (2)
the
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1 value of such equipment immediately preceding the fire.
Firefighting
2 costs shall not include: normal operating expenses as defined
herein,
3 any firefighting cost for which the municipality is reimbursed
under a
4 policy of insurance or any costs associated with false alarms,
regard-
5 less of cause.
6 c. "Claim" shall mean that amount which is equal to those
firefighting
7 costs incurred by a municipality to the extent that such costs
exceed
8 the sum of two hundred fifty dollars.
9 d. "Fire" shall mean any instance of destructive and
uncontrolled
10 burning on property under the jurisdiction of the state of New
York
11 including scorch burns and explosions of combustible dust or
solids,
12 flammable liquids and gases.
13 e. "Municipality" shall mean any county, city, village, town or
fire
14 district, having a fire department consisting of personnel,
apparatus
15 and equipment which has as its purpose protecting property and
maintain-
16 ing the safety and welfare of the public from the dangers of fire,
or,
17 in the case of a fire protection district or that portion of a
town
18 outside a village or fire district, a fire company as defined in
section
19 three of the volunteer ~~firemen's~~ firefighters' benefit law.
The

20 personnel of any such fire department may be paid employees or
unpaid
21 volunteers or any combination thereof.
22 f. "Property under the jurisdiction of the state of New York"
shall
23 mean real property and improvements thereon and appurtenances thereto
in
24 which the state of New York holds legal fee simple title and
further,
25 any real property conveyed or made available to the New York state
hous-
26 ing finance agency or the dormitory authority of the state of New
York
27 under agreements for the financing and construction of facilities
for
28 the state university of New York; provided however, with the
exception
29 of property occupied by the state university of New York, such
property
30 shall not include leasehold interest; provided further, such
property
31 shall not include any property for which a municipality receives
any
32 payments-in-lieu of taxes or any other payments, including real
property
33 taxes, that are or may be used for providing fire protection to
such
34 property.
35 [~~g. "Secretary" shall mean the secretary of state or the state
fire
36 administrator as his designee.~~]
37 2. Any municipality whose fire department has responded to a fire
on
38 property under the jurisdiction of the state of New York:
39 a. shall, within thirty days after such fire, submit a report,
on a
40 form prescribed by the [~~secretary of state~~] office of fire
prevention
41 and control, to the [~~secretary~~] office of fire prevention and
control
42 stating the location of such a fire and the firefighting costs
incurred
43 while fighting such a fire; and
44 b. may, within thirty days after such a fire, submit a claim,
on a
45 form prescribed by the [~~secretary of state,~~] office of fire
prevention
46 and control to the [~~secretary~~] office of fire prevention and
control
47 pursuant to the provisions of this section.
48 3. The [~~secretary~~] office of fire prevention and control shall
review
49 each claim to determine if such claim shall be approved,
reduced,
50 amended or rejected and shall notify the municipality, within sixty
days

51 of receipt of such claim, as to his determination. The
municipality
52 shall notify the [~~secretary,~~] office of fire prevention and
control
53 within thirty days after receipt of the [~~secretary's~~] office of
fire
54 prevention and control's notification, as to its acceptance or
rejection
55 of such determination. Failure to so notify the [~~secretary~~] office
of
56 fire prevention and control shall constitute an acceptance of the
deter-
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1 mination. If accepted by the municipality, such acceptance shall
consti-
2 tute the final and conclusive determination for such claim. If
rejected
3 by the municipality, such municipality shall resubmit its claim,
within
4 thirty days after receipt of the [~~secretary's~~] office of fire
prevention
5 and control's notification, together with its reasons for objection
and
6 any additional documentation which may justify its claim. Upon
receipt
7 of a resubmitted claim, the [~~secretary~~] office of fire prevention
and
8 control shall review such claim and within sixty days of receipt of
such
9 resubmitted claim, make a final determination as to the amount to
be
10 approved for such claim. If the municipality shall dispute such
final
11 determination it may commence an action, within sixty days of such
final
12 determination, in the court of claims which shall have jurisdiction
to
13 adjudicate the claim and enter judgment, which judgment shall be a
final
14 determination for purposes of this section and shall be payable
in
15 accordance with the provisions of subdivisions four and five of
this
16 section.
17 4. The [~~secretary~~] office of fire prevention and control shall
certify
18 all claims for which a final determination has been made. The
[~~secre-~~
19 ~~tary~~] office of fire prevention and control shall submit all
claims
20 certified during the preceding year to the comptroller of the
department
21 of audit and control on or before April first of each year. Any
claim

22 that has been received prior to April first of such year, but for
which
23 no certification has been made, shall, for purposes of payment,
be
24 considered as a claim for the year in which such certification is
made.

25 5. All claims certified by the [~~secretary~~] office of fire
prevention
26 and control shall be paid annually and shall be paid upon a warrant
from
27 the comptroller from funds appropriated in the local assistance fund.
In
28 the event such appropriation is insufficient to permit the
aggregate
29 annual payments authorized under this section, each
municipality's
30 payment for any claim or claims certified during the preceding
year
31 shall be decreased proportionally until the total payments are equal
to
32 the amount appropriated.

33 6. The chief fiscal officer of the municipality shall pay the
amounts
34 received under this section into the fund or funds from which
moneys
35 were expended to provide the firefighting services for which
a
36 reimbursement was made under this section.

37 7. This section shall not in any way impair, limit or modify
the
38 rights and obligations of any insurer under any policy of insurance.

39 8. The [~~secretary of state~~] office of fire prevention and
control
40 shall annually prepare a report on the effectiveness of this section
and
41 shall submit such report to the legislature. Such report shall
include
42 the number and location of any fire on property under the
jurisdiction
43 of the state of New York, the number of claims and the amount of
each
44 such claim filed pursuant to this section and further, the total
amount
45 of all claims filed and the total amount of payments made under
the
46 provisions of this section. The first such report shall be submitted
to
47 the legislature on or before June first, nineteen hundred seventy-
nine.

48 § 48. Subdivisions 4 and 5 of section 99-q of the state finance
law,
49 as added by chapter 490 of the laws of 2009, are amended to read
as

50 follows:

51 4. Monies shall be payable from the fund on the audit and warrant
of

52 the comptroller on vouchers approved and certified by the [~~secretary~~
of
53 ~~state upon the recommendation of the office of fire prevention~~
and
54 ~~control~~] state fire administrator.

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1 5. To the extent practicable, the [~~secretary of state~~] state
fire
2 administrator shall ensure that all monies received during a fiscal
year
3 are expended prior to the end of that fiscal year.

4 § 49. Subdivision 1 of section 115-a of the vehicle and traffic
law,
5 as amended by chapter 225 of the laws of 1979, is amended to read
as
6 follows:

7 1. a vehicle operated by officials of the office of fire
prevention

8 and control [~~in the department of state~~],

9 § 50. Subdivision 79 of section 2.10 of the criminal procedure law,
as
10 added by chapter 241 of the laws of 2004, is amended to read as
follows:

11 79. Supervisors and members of the arson investigation bureau and
fire
12 inspection bureau of the [~~department of state's~~] office of
fire
13 prevention and control when acting pursuant to their special duties
in
14 matters arising under the laws relating to fires, their
prevention,

15 extinguishment, investigation thereof, and fire perils; provided,
howev-
16 er, that nothing in this subdivision shall be deemed to authorize
such
17 employees to carry, possess, repair, or dispose of a firearm unless
the
18 appropriate license therefor has been issued pursuant to section
400.00
19 of the penal law.

20 § 51. Section 380 of the executive law, as added by section 707 of
the
21 laws of 1981, is amended to read as follows:

22 § 380. Granting authority. The secretary[~~, by and through the~~
~~office~~

23 ~~of fire prevention and control~~,] shall administer a program of
local
24 assistance to aid local governments in the administration and
enforce-
25 ment of locally adopted or state promulgated building and fire
codes.

26 Said program of local assistance shall conform to the requirements
of
27 section fifty-four-g of the state finance law. The secretary
shall

28 adopt, amend and rescind such rules, regulations and guidelines as
may
29 be necessary for the performance of his or her functions, powers
and
30 duties under this section.
31 § 52. Notwithstanding any law to the contrary, appropriations
and
32 reappropriations made in chapter 50 of the laws of 2010 to the
Division
33 of Homeland Security and Emergency Services for the
Administration
34 Program, Cyber Security Program, Homeland Security Program, and
Design
35 and Construction Supervision Capital Construction Program shall
be
36 available to the current Office of Homeland Security for expenditure
by
37 these same programs during the period of April 1, 2010 through
December
38 31, 2010; appropriations and reappropriations made in chapter 50 of
the
39 laws of 2010 to the Division of Homeland Security and Emergency
Services
40 for the Disaster Assistance Program and the Emergency Management
Program
41 shall be available to the Division of Military and Naval Affairs
for
42 expenditure by these same programs during the period of April 1,
2010
43 through December 31, 2010; appropriations and reappropriations made
in
44 chapter 50 of the laws of 2010 to the Division of Homeland Security
and
45 Emergency Services for the Fire Prevention and Control Program shall
be
46 available to the Department of State for expenditure by the Office
of
47 Fire Prevention and Control during the period of April 1, 2010
through
48 December 31, 2010; and appropriations made in chapter 50 of the laws
of
49 2010 to the Division of Homeland Security and Emergency Services for
the
50 Interoperable Communications Program shall be available to the
Office
51 for Technology for expenditure by State Interoperability Program
Office
52 during the period of April 1, 2010 through December 31, 2010.
53 § 53. Annual report on merger. The commissioner of the division
of
54 homeland security and emergency services shall, on or before
January
55 first, two thousand eleven and two thousand twelve, submit to the
gover-
56 nor, the temporary president of the senate, and the speaker of
the

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1 assembly, a report concerning the progress of the merger of the
former
2 office of homeland security, state emergency management office,
state
3 911 board, office of cyber security and critical infrastructure
coordi-
4 nation, and office of fire prevention and control. Such report
shall
5 include a current and projected organizational chart, identify
and
6 account for cost savings achieved or costs incurred as a result of
such
7 merger, evaluate progress made toward (a) improved cooperation
with
8 local and federal partners, (b) improved flow of information among
the
9 merged entities, (c) development of regional interoperable
communication
10 networks, (d) restructuring of the 911 board, (e) creation of a
state-
11 of-the-art training facility for first responders, (f) greater
efficien-
12 cy of public safety functions at the local level, (g)
standardization
13 and streamlining of grant operations, (h) efficiencies and savings
due
14 to combined administrative functions and shared service centers,
and
15 provide other information which, in the opinion of the commissioner,
is
16 pertinent to an assessment of the performance and cost-effectiveness
of
17 the merger in the previous year.

18 § 54. This act shall take effect July 1, 2010; provided however
that
19 sections thirty-six and thirty-seven of this act shall take effect
on
20 July 1, 2010 so long as nothing in this act may adversely affect
any
21 state agency from distributing funds to political subdivisions of
the
22 state in a like manner as the year prior; provided, however, that
if
23 anything in this act adversely affects any state agency from
distribut-
24 ing funds to political subdivisions of this state in a like manner
as
25 the year prior then sections thirty-six and thirty-seven of this
act
26 shall take effect upon the cessation of such adverse effects,
provided
27 that the director of the division of the budget shall notify the
legis-

28 lative bill drafting commission upon the cessation of such
adverse
29 effects provided for in this section in order that the commission
may
30 maintain an accurate and timely effective data base of the official
text
31 of the laws of the state of New York in furtherance of effectuating
the
32 provisions of section 44 of the legislative law and section 70-b of
the
33 public officers law; and provided further that agencies are
hereby
34 authorized to promulgate and establish any rules and regulations
that
35 are necessary for the implementation of this act on its effective
date.