

GENERAL ASSEMBLY OF NORTH CAROLINA
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SENATE BILL DRS45557-NBa-185

Short Title: Office of State Fire Marshal ESF Mods. (Public)

Sponsors: Senator Johnson (Primary Sponsor).

Referred to:

1 A BILL TO BE ENTITLED
2 AN ACT TO MAKE VARIOUS CHANGES TO EMERGENCY RESPONSE FUNCTIONS
3 WITHIN THE STATE AND TO MODIFY THE OPERATIONS OF THE OFFICE OF THE
4 STATE FIRE MARSHAL AND TO USE FUNDS TO EFFECTUATE THOSE PURPOSES.
5 The General Assembly of North Carolina enacts:

6
7 **PART I. OFFICE OF STATE FIRE MARSHAL EMERGENCY SUPPORT FUNCTIONS**

8 **SECTION 1.(a)** Article 1 of Chapter 166A of the General Statutes is amended by
9 adding a new part to read:

10 "Part 6A. Certain Emergency Response Planning and Operations.

11 "**§ 166A-19.45. Office of State Fire Marshal Disaster Response.**

12 (a) Purpose. – The purpose of this Part is to align operational authority between certain
13 State agencies and associated emergency response activities. The combination of firefighting,
14 search and rescue, and hazardous materials response align with the responsibilities of the Office
15 of the State Fire Marshal, and shall be managed, directed, and implemented during emergency
16 response by the State Fire Marshal or their designee. The Office shall support the costs associated
17 with implementing the provisions of this Part with the IRF, consistent with the limitation and use
18 listed under G.S. 58-6-25(12).

19 (b) Definitions. – The following definitions apply in this Part:

20 (1) Office. – The Office of the State Fire Marshal.

21 (2) EMAC. – The Emergency Management Assistance Compact under Article 4
22 of this Chapter.

23 (3) ESF. – Emergency Support Function, as defined under the Incident Command
24 System and National Incident Management System.

25 (4) Lead State Agency. – As defined in the NCEOP.

26 (5) Lead Technical Agency. – As defined in the NCEOP.

27 (6) NCEOP. – The North Carolina Emergency Operations Plan.

28 (7) National Incident Management System (NIMS). – Established under
29 Homeland Security Presidential Directive #5, issued February 28, 2003, as
30 amended.

31 (8) Presidential Policy Directive/PPD-8. – Issued by the President of the United
32 States on March 30, 2011, to develop the National Preparedness Goal to
33 identify core capabilities necessary for preparedness to guide activities that
34 will enable the nation to achieve those directives and goals.

35 (9) IRF. – The Insurance Regulatory Fund established in G.S. 58-6-25.

36 (10) USAR. – Urban Search and Rescue team.



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1 **"§ 166A-19.46. Powers and duties of the Office; emergency support functions.**

2 (a) Powers and Duties. – The Office, through the State Fire Marshal or their designee, as
3 the designated Emergency Coordinating Officer, shall have the following powers and duties as
4 the designated Lead State Agency for certain emergency support functions listed
5 G.S. 166A-19.47 under this Part:

- 6 (1) Coordination of the activities of all State agencies for certain emergency
7 support functions listed under this Part within the State, including planning,
8 organizing, staffing, equipping, training, testing, and activating and managing
9 the State Emergency Response Team and emergency management programs
10 associated with those emergency support functions.
- 11 (2) Preparation and maintenance of State plans for emergencies for certain
12 emergency support functions listed under this Part. The State plans or any
13 parts of those plans may be incorporated into Office rules and into executive
14 orders of the Governor.
- 15 (3) Promulgation of standards and requirements for local plans and programs
16 consistent with federal and State laws and regulations, determination of
17 eligibility for State financial assistance provided for in G.S. 166A-19.15, and
18 provision of technical assistance to local governments. Standards and
19 requirements for local plans and programs promulgated under this subdivision
20 shall be reviewed by the Office at least biennially and updated as necessary.
- 21 (4) Development and presentation of training programs for personnel for certain
22 emergency support functions listed under this Part, including the Emergency
23 Management Certification Program established under Article 5 of this
24 Chapter, and public information programs to insure the furnishing of
25 adequately trained personnel and an informed public in time of need
26 associated with those emergency support functions.
- 27 (5) Making of studies and surveys of the resources in this State as may be
28 necessary to ascertain the capabilities of the State for certain emergency
29 support functions listed under this Part, maintaining data on these resources,
30 and planning for the most efficient use of those resources.
- 31 (6) Coordination of the use of any private facilities, services, and property for
32 certain emergency support functions listed under this Part.
- 33 (7) Preparation for issuance by the Governor of executive orders, declarations,
34 and regulations as necessary or appropriate for certain emergency support
35 functions listed under this Part.
- 36 (8) Cooperation and maintenance of liaison with the other states, the federal
37 government, and any public or private agency or entity in implementing
38 programs for certain emergency support functions listed under this Part.
- 39 (9) Coordination of the use of existing means of communications and
40 supplementing communications resources for certain emergency support
41 functions listed under this Part and integrating them into a comprehensive
42 State or State federal telecommunications or other communications system or
43 network.
- 44 (10) Administration of federal and State grant funds provided for emergency
45 management purposes, including those funds provided for planning and
46 preparedness activities by emergency management agencies, for certain
47 emergency support functions listed under this Part.
- 48 (11) Utilizing and maintaining technology that enables efficient and effective
49 communication and management of resources between political subdivisions,
50 State agencies, and other governmental entities involved in emergency

1 management activities, for certain emergency support functions listed under
2 this Part.

3 (12) Maintenance of an effective statewide urban search and rescue program.

4 (b) NCEOP Integration. – The State Fire Marshal, or their designee, shall be integrated
5 into the NCEOP as an Emergency Coordinating Officer for ESFs pertaining to firefighting,
6 search and rescue, and hazardous materials response. The Emergency Coordinating Officer shall
7 coordinate emergency response for those ESFs and collaborate with the State Emergency
8 Response Team at the State Emergency Operations Center upon activation.

9 (c) Emergency Coordination Officer (ECO). – The State Fire Marshal is designated as
10 the Emergency Coordination Officer for the ESFs pertaining to firefighting, search and rescue,
11 and hazardous materials response. The Emergency Coordination Officer shall coordinate
12 requests for mutual aid from local emergency management agencies or other units of local
13 government if requested pursuant to G.S. 166A-19.48 or other contract or agreement entered
14 into.

15 (d) EMAC Limitation. – Nothing in this Part shall be construed to limit the Emergency
16 Management Assistance Compact entered into under Article 4 of this Chapter or the established
17 EMAC Assistance Team under the command and control of the Division. If the Emergency
18 Coordinator Officer requests EMAC resources, the request shall be directed to the EMAC
19 Assistance Team and Division EMAC Coordinator following a verification of a state of
20 emergency declaration by the Governor under this Chapter.

21 (e) Mutual Aid Between Fire Departments. – Nothing in this Part shall be construed to
22 limit the authorities of local fire departments to send firemen and apparatus beyond territorial
23 limits as provided in Article 83 of Chapter 58 of the General Statutes.

24 (f) Incident Command System and National Incident Management System Application.
25 – All ESF responsibilities, organizational structure, response, and other associated functions
26 executed by the Office and Emergency Coordinator Officer under this Part shall be consistent
27 with Incident Command System- and National Incident Management System-compliant
28 functions and best practices, consistent with federal law and policies, including Presidential
29 Policy Directive/PPD-8.

30 **"§ 166A-19.47. Emergency Support Function responsibilities of the Office.**

31 (a) Emergency Support Function #4 (Firefighting). – Under ESF#4, the Office has the
32 following responsibilities as the Lead State Agency and the Lead Technical Agency:

33 (1) Provide guidelines for those agencies directly or indirectly involved in
34 providing firefighting support or fire resources in response to emergencies
35 requiring State assistance.

36 (2) Manage and coordinate State firefighting activities, including all of the
37 following:

38 a. The detection and suppression of fires.

39 b. Providing personnel, equipment, and supplies.

40 c. Support local agencies involved in rural and urban firefighting
41 operations.

42 d. Mobilizing resources in support of local wildland, rural, and urban
43 firefighting activities.

44 e. Using established firefighting organizations, processes, and
45 procedures.

46 (3) Manage mutual aid among the various federal, State, and local fire agencies,
47 using the Incident Command System, while combining the compatible
48 firefighting equipment and communications.

49 (4) Assist the Division and the North Carolina Forest Service with fire
50 suppression through resource allocation and coordination.

- 1 (5) Ensure coordination among all the resource providers and the supporting
2 agencies.
- 3 (6) Provide search and rescue resources as may be required by the particular fire
4 suppression scenario.
- 5 (7) Provide all essential coordination for the dispatch, arrival, entry, and reporting
6 of necessary personnel into the fire suppression area.
- 7 (8) Upon recommendation of the North Carolina Forest Service, prepare the Fire
8 Management Assistance Grant request for the Governor's signature,
9 specifying the facts supporting the request.
- 10 (9) The authority derived under Article 78A of Chapter 58 of the General Statutes
11 to use any available resources to fulfill its mission in support of fire
12 suppression, including the assignment of volunteer fire resources to locations
13 throughout the State.
- 14 (10) Exercise the primary support function for forest fire suppression in support of
15 the North Carolina Forest Service.
- 16 (11) Oversee statewide fire training, providing standards and qualification levels
17 for individuals functioning in the rescue specialty.
- 18 (12) Exercise control during major fire suppression over the coordination required
19 through the local fire marshal and emergency manager to temporarily
20 reallocate resources, personnel, and equipment to other areas where those are
21 needed, including staging, security, and refueling.
- 22 (13) Assume responsibility for loaned equipment and personnel, including
23 accountability, maintenance and repair, and a provision for the return of the
24 equipment to the original jurisdiction when it is no longer needed.
- 25 (14) Provide engineers to assist with damage assessment.
- 26 (15) Implement the North Carolina Association of Fire Chief's Emergency
27 Response Plan, as necessary, through a predetermined process for resource
28 rostering and deployment that coordinates efforts through the Office,
29 Division, Association, local fire chief, local fire marshal, and local emergency
30 manager.
- 31 (b) Emergency Support Function #9 (Search and Rescue). – Under ESF#9, the Office has
32 the following responsibilities as the Lead State Agency:
 - 33 (1) Provide State support to local governments by using State resources in search
34 and rescue activities during daily events as well as actual or potential disasters.
 - 35 (2) Manage and coordinate search and rescue activities, including all of the
36 following:
 - 37 a. USAR.
 - 38 b. Swift water rescue.
 - 39 c. Helicopter-aquatic search and rescue.
 - 40 d. Wilderness search and rescue.
 - 41 e. Mountain search and rescue.
 - 42 f. Provide daily situation reports to all specialized State teams listed in
43 this subdivision.
 - 44 (3) Coordination and direction of local search and rescue efforts, including
45 volunteers.
 - 46 (4) Coordinate with local emergency managers and governments for search
47 operations.
 - 48 (5) Coordinate the deployment of necessary USAR teams within the State in the
49 event of a catastrophic disaster with widespread building collapse or other
50 qualifying incident with the Emergency Services Branch under the control of
51 the Division.

- 1 (6) Request federal USAR assistance if the incident exceed State capabilities
2 through the SERT and Emergency Services Branch.
- 3 (7) Coordinate with the Emergency Services Branch for typed resource database
4 of specialized resources maintained outside of ESF#9 scope.
- 5 (8) Maintain a typed resources database for search and rescue operations.
- 6 (9) Provide a liaison to units of local government and coordinate assistance or
7 response from State and federal governments and private search and rescue
8 organizations.
- 9 (10) Organize and appropriately train emergency management personnel for
10 participation in all aspects of search and rescue operations.
- 11 (11) Coordinate additional training for State and units of local government
12 agencies and volunteer organizations to ensure an acceptable level of search
13 and rescue preparedness.
- 14 (12) Ensure specialized resources are capable by maintaining training records,
15 applications, and typing criteria.
- 16 (13) Maintain a current directory of qualified resources for search and rescue,
17 through fire and rescue services statewide through the North Carolina
18 Association of Rescue and Emergency Medical Services, the North Carolina
19 Firefighters' Association, and the North Carolina Association of Fire Chiefs.
- 20 (14) Coordinate air assets to transport specialized resources in a timely fashion.
- 21 (c) Emergency Support Function #10 (Hazardous Materials). – Under ESF#9, the Office
22 has the following responsibilities as the Lead State Agency:
- 23 (1) Manage the procedures for the mobilization and coordination of a
24 multi-organizational response that will contain, control, and manage a
25 discharge or release of a hazardous material that threatens coastal
26 communities, offshore waters, and inland communities of the State.
- 27 (2) Respond to oil discharges and hazardous substance releases in accordance
28 with the North Carolina Area Contingency Plan, as required under the federal
29 Comprehensive Environmental Response, Compensation, and Liability Act
30 (P. L. 96-510, as amended), section 311 of the federal Clean Water Act (33
31 U.S.C. § 1321, as amended), and the federal Oil Pollution Act (P. L. 101-380)
- 32 (3) If a large scale ESF#10 response, submit a federal resource request or
33 appropriate request for assistance to the State Emergency Response Team for
34 any of the following federal resources or assistance:
- 35 a. National Response Team.
- 36 b. Regional Response Team.
- 37 c. United States Environmental Protection Agency Region IV, including
38 the assistance of a federal on-scene coordinator.
- 39 d. United States Coast Guard.
- 40 e. Any other federal agency necessary.
- 41 (4) Coordinate efforts to identify responsible party, and once identified,
42 collaborate with the State Emergency Response Team to communicate with
43 the responsible party for consultation, advice, and decisions regarding the
44 State's position on actions necessary to response to the discharge or release.
- 45 (5) Coordinate the deployment of State resources within the designated
46 boundaries between coastal and inland zones for the purpose of providing
47 federal on-scene coordinators response operations in accordance with 14
48 U.S.C. § 501 (Coast Guard Areas, Districts, Sectors, Marine Inspection Zones,
49 and Captain of the Port Zones), as amended.
- 50 (6) Coordinate the unified command for an ESF#10 activation and response in
51 conjunction with the Department of Environmental Quality, State Emergency

Response Team, Division, and other State agencies, United States Coast Guard, and United States Environmental Protection Agency, subject to federal command and control as required by federal law.

- (7) Coordinate with the federal on-scene coordinator for the location of a command post.
- (8) Ensure the State Emergency Response Team notifies the National Response Center.
- (9) Activation of the Environmental Technical Advisory Group, as necessary.
- (10) Obtain and provide data and information regarding the population, industry, commercial, and natural resources within the State which may be endangered by the discharge or release.
- (11) Coordinate with other State agencies with responsibility and authority of coastal waterways.

(d) Limitation on Remediation of Underwater Legacy Environmental Threat. – In the event of a release or discharge from an underwater legacy environmental threat, including vessels casualties from World War II in the Western Atlantic Ocean, the United States Coast Guard shall assume command and control of the disaster or incident response efforts if within the coastal waters of this State or could impact the State in any way.

(e) Limitation on Regional Response Team. – The Division shall maintain a representative to the Regional Response Team and a representative to another state's emergency operations center if the incident involves at least two states.

(d) Local Incident Commander Responsibilities. – Under this section and as applied to the specific responsibilities, powers, and duties of the Office and other State agencies enumerated in this Part, the responsibility for situation assessment and determination of resource needs is under the local Incident Commander for the emergency, supporting the Incident Command System and National Incident Management System structure.

"§ 166A-19.48. Requests from units of local government for assistance.

Incident Commander Responsibilities. – Consistent with Incident Command System and National Incident Management System structures, the local Incident Commander is responsible for situation assessment and determination of resource needs for an incident in their jurisdiction. Requests for firefighting assistance and resources will be handled in accordance with mutual aid agreements or from the local emergency management agency to the Emergency Coordinator Officer, if those requests are under the emergency support functions enumerated in G.S. 166A-19.47.

"§ 166A-19.49. Reporting requirements.

The Office shall report to the Joint Legislative Commission on Governmental Operations and the Governor on a monthly basis during the pendency of the state of emergency declared by the Governor or General Assembly under this Chapter. The report shall include all pertinent operations information, resources used in the response, and any other data requested by the Governor or Commission."

SECTION 1.(b) G.S. 166A-19.3 reads as rewritten:

"§ 166A-19.3. Definitions.

The following definitions apply in this Article:

...

- (18) State Emergency Response Team. – The representative group of State agency personnel designated to carry out the emergency management support functions identified in the North Carolina Emergency Operations Plan. The State Emergency Response Team leader shall be the Director of the Division, who shall have authority to manage the Team pursuant to G.S. 166A-19.12(1), as delegated by the Governor. The Team shall consist of the following State agencies:

- a. Department of Public Safety.
- b. Department of Transportation.
- c. Department of Health and Human Services.
- d. Department of Environmental Quality.
- e. Department of Agriculture and Consumer Services.
- e1. Office of State Fire Marshal.
- f. Any other agency identified in the North Carolina Emergency Operations Plan.

...."

SECTION 1.(c) G.S. 166A-19.12 reads as rewritten:

§ 166A-19.12. Powers of the Division of Emergency Management.

~~The~~With the exception of and subject to the provisions of G.S. 166A-19.46, the Division of Emergency Management shall have the following powers and duties as delegated by the Governor and Secretary of Public Safety:

..."

SECTION 1.(d) G.S. 58-6-25 reads as rewritten:

"§ 58-6-25. Insurance regulatory charge.

...

(d) Use of Proceeds. – The Insurance Regulatory Fund is created as an interest-bearing special fund to which the proceeds of the charge levied in this section and all fees collected under Articles 69 through 71 of this Chapter and under Articles 9 and 9C of Chapter 143 of the General Statutes shall be credited. Moneys in the Fund may be spent only pursuant to appropriation by the General Assembly, and the Fund is subject to the provisions of the State Budget Act. All money credited to the Fund shall be used to reimburse the General Fund for the following:

...

(12) Money appropriated to the Department of Insurance to pay its expenses incurred in connection with emergency services and emergency support functions pursuant to Part 6A of Article 1A of Chapter 166A of the General Statutes during any state of emergency declared under Chapter 166A of the General Statutes or major disaster declaration under the Robert T. Stafford Act."

SECTION 1.(e) G.S. 58-78A-1 reads as rewritten:

"§ 58-78A-1. Office of the State Fire Marshal.

...

(b) The Office of the State Fire Marshal shall be responsible for all of the following:

...

(22) The exercise, command, and control of the emergency support functions and associated provisions of Part 6A of Article 1A of Chapter 166A of the General Statutes.

(23) Associated duties of membership on the State Emergency Response Team in accordance with G.S. 166A-19.3.

(24) Associated duties of assisting the Division of Emergency Management of the Department of Public Safety in updating and maintaining pertinent emergency support functions within the North Carolina Emergency Operations Plan."

SECTION 1.(f) Transfer of Certain Authority. – Pursuant to Part 6A of Article 1A of Chapter 166A of the General Statutes, as enacted by this act, the Governor, Department of Public Safety, Division of Emergency Management (NCEM), and Office of State Fire Marshal shall revise the North Carolina Emergency Operations Plan to reflect the provisions of this Part. This update shall occur by October 1, 2026. All lead technical agencies and support agencies under emergency support functions #4, 9, and 10, shall remain in their current role. NCEM shall

1 become a support agency under emergency support function #4 in which is was previously the
2 lead state agency.

3 **SECTION 1.(g)** Transfer of Personnel and Resources. – Pursuant to Part 6A of
4 Article 1A of Chapter 166A of the General Statutes, as enacted by this act, NCEM and any other
5 State agency which transfers lead state agency powers under that Part, shall transfer all
6 employees, associated functions, powers, duties, records, equipment, offices, and unexpended,
7 unencumbered, and otherwise available State or federal funds to the Office of State Fire Marshal,
8 necessary for the Office of the State Fire Marshal to execute the emergency support functions of
9 firefighting, search and rescue, and hazardous materials response in accordance with that Part.
10 All memoranda of understanding, contracts, and agreement in which the lead state agency in an
11 emergency support function affected by this Part shall be transferred to the Office of State Fire
12 Marshal as soon as practicable.

13 14 **PART II. REPURPOSING OF UNEXPENDED FUNDS FROM HURRICANE HELENE** 15 **FIRE DEPARTMENT AND RESCUE SQUAD GRANTS**

16 **SECTION 2.(a)** Any funds remaining unspent or unencumbered under Section
17 2A.3(a)(10) of S.L. 2025-26, consisting of approximately four million nine hundred thousand
18 dollars (\$4,900,000) shall be reallocated the Office of State Fire Marshal Disaster Response
19 Fund, as enacted by this Part.

20 **SECTION 2.(b)** Part 6A of Article 1A of Chapter 166A of the General Statutes, as
21 enacted by Part I of this act, is amended by adding a new section to read:

22 **"§ 166A-19.50. Office of State Fire Marshal Disaster Response Fund.**

23 **(a) Establishment.** – There is established the Office of State Fire Marshal Disaster
24 Response Fund within the Office a nonreverting special fund within the Office of State Fire
25 Marshall of the Department of Insurance. The Office shall administer the Fund consistent with
26 this section.

27 **(b) Purpose; Uses.** – The funds shall be used by the Office for all of the following:

28 **(1)** Provide immediate emergency grants to fire departments and rescue squads to
29 restore or maintain operational needs and capabilities following a disaster.

30 **(2)** For disaster readiness, preparedness, and response activities, including the
31 purchase of equipment, supplies, and contracted services necessary to support
32 emergency operations.

33 **(c) Administration.** – The Office may use up to five percent (5%) of the Fund to
34 administer the Fund each fiscal year.

35 **(d) Procurement Exception.** – Notwithstanding Articles 3, 3C, or 8 of Chapter 143 of the
36 General Statutes Article 15 of Chapter 143B of the General Statutes, or any other provision of
37 law to the contrary, the Office may use the funds in the Fund if, in the determination of the State
38 Fire Marshal, a large scale emergency or disaster warrants the use or procurement of resources
39 or services listed in subsection (b) of this section. To the extent practicable, the Office shall seek
40 competitive pricing and shall maintain documentation of the actions taken under this subsection.

41 **(e) Reporting Requirement.** – On October 1 of each year, the Office shall submit a report
42 on the uses, balance, and other significant information of the Fund to the Joint Legislative
43 Emergency Management Oversight Committee, the Joint Legislative Oversight Committee on
44 General Government, and the Fiscal Research Division."

45 46 **PART III. RULEMAKING AND EFFECTIVE DATE**

47 **SECTION 3.(a)** The Office of State Fire Marshal may adopt rules to implement the
48 provisions of this act.

49 **SECTION 3.(b)** Section 1(f) and (g) of this act is effective when it becomes law.
50 Section 2 of this act becomes effective July 1, 2026. The remainder of this act becomes effective
51 October 1, 2026.