

S. 6260--A

A. 9060--A

S E N A T E - A S S E M B L Y

January 17, 2012

IN SENATE -- A BUDGET BILL, submitted by the Governor pursuant to article seven of the Constitution -- read twice and ordered printed, and when printed to be committed to the Committee on Finance -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

IN ASSEMBLY -- A BUDGET BILL, submitted by the Governor pursuant to article seven of the Constitution -- read once and referred to the Committee on Ways and Means -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the racing, pari-mutuel wagering and breeding law, in relation to supervision and regulation of the state gaming industry; and to amend the racing, pari-mutuel wagering and breeding law, the general municipal law, the executive law and the tax law, in relation to the state gaming commission; and to repeal article 1 of the racing, pari-mutuel wagering and breeding law and sections 1602 and 1603 of the tax law relating thereto (Part A); to amend the civil service law, in relation to the formation of the department of workforce management; and transferring all powers, duties and obligations of the department of civil service and the office of employee relations to the department of workforce management; and to repeal certain provisions of the executive law relating to the office of employee relations (Part B); to amend the public authorities law, in relation to an agreement between the olympic regional development authority and the department of environmental conservation for the operation, maintenance and management of Belleayre mountain ski center (Part C); and to repeal section 285-a and subdivision 12 of section 283 of the agriculture and markets law, relating to direct marketing advisory councils for regional marketing areas; to repeal section 7 of chapter 654 of the laws of 1994, amending the transportation law and other laws relating to equipment requirements for registered farm vehicles, relating to the agricultural transportation review panel; to repeal section 285-b of the agriculture and markets law, relating to the Hudson valley agricultural advisory council; to repeal article 4 of the state technology law, relating to the statewide wireless network advisory council; to repeal section 372-a of the social services law, relating to the child welfare research advisory panel; to amend the

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

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public health law, in relation to provision of information about the abandoned infant protection act; to repeal sections 520 and 521 of the executive law, relating to the boards of visitors; to repeal article 28 of the executive law and paragraph (p) of subdivision 1 of section 17 of the public officers law, relating to the upstate and downstate New York tourism councils; to repeal section 92-y of the state finance law, relating to the upstate New York tourism council fund; to amend the highway law and the education law, in relation to removing reference to the upstate and downstate New York tourism councils; to repeal section 120 of the economic development law, relating to the advisory board within the division of minority and women's business development; to repeal section 27-0702 of the environmental conservation law, relating to the solid waste management board; to amend the environmental conservation law and the state finance law, in relation to removing reference to the solid waste management board; to amend the public authorities law, in relation to doing away with a technical advisory committee and the hazardous waste disposal advisory committee and to repeal certain provisions of law relating thereto; to repeal section 216-b of the vehicle and traffic law, relating to the tow truck advisory board; to repeal section 191 of the executive law, relating to the temporary advisory committee on restoration and display of New York state's military battle flags; to repeal subdivision 9 of section 3.23 of the parks, recreation and historic preservation law, relating to the advisory council within the New York state conservation corps; to repeal section 89-mmm of the general business law, relating to the armored car carrier advisory board; to amend the executive law and the general business law, in relation to removing reference to the armored car carrier advisory board and to repeal certain provisions of the general business law relating thereto; to repeal section 923 of the executive law, relating to the Long Island Sound coastal advisory commission; to repeal subdivision 14 of section 601 and sections 611 and 612 of the executive law, relating to the manufactured housing advisory council; to amend the executive law, in relation to removing reference to the manufactured housing advisory council; to repeal section 433-a of the general business law, relating to the barbers board; to amend the social services law, in relation to doing away with the advisory committee on legal advocacy; to repeal subdivisions 8 and 9 of section 350, subdivision 16 of section 353, and sections 365, 365-a, 365-b, 365-c, 365-d, 365-e, 365-f and 365-g of the executive law, relating to the veterans' hall of fame and the New York state veterans' hall of fame council; to repeal section 154 of the labor law, relating to the child performer advisory board to prevent eating disorders; to repeal title 11 of article 24 of the environmental conservation law, relating to appeal and review of matters affecting freshwater wetlands; to amend the environmental conservation law, in relation to appeal and reviews of matters affecting freshwater wetlands; to repeal subdivision 3 of section 1-0303, article 5, section 19-0917 and subdivision 4 of section 29-0103 of the environmental conservation law, relating to the state environmental board; to amend the environmental conservation law, in relation to removing reference to the state environmental board; to repeal sections 9-0705, 9-0707, 9-0709 and 9-0711 of the environmental conservation law, relating to the regional forest practice boards and the state forest practice board; to amend the environmental conservation law, in relation to removing reference to the regional forest practice boards; to repeal subdivision 1 of section 444-b of the real

property law, relating to the state home inspection council; to amend the real property law, in relation to removing reference to the state home inspection council; to repeal subdivision 6 of section 69-n of the general business law, in relation to the advisory committee on the business of installing security or fire alarm systems; to repeal chapter 868 of the laws of 1976 relating to the organic food advisory committee, relating thereto; to repeal subdivisions 6, 7, 8, and 9 of section 73-b of the agriculture and markets law, relating to the New York state veterinary diagnostic laboratory; to amend the agriculture and markets law, in relation to duties of the New York state veterinary diagnostic laboratory and in relation to the New York state animal health issues committee; to repeal section 13-0308 of the environmental conservation law, relating to the surf clam/ocean quahog management advisory board; to amend the environmental conservation law and the state finance law, in relation to removing reference to the surf clam/ocean quahog management advisory board; to amend the public health law, in relation to simplifying committee structure and increasing effectiveness of emergency medical services; to repeal sections 3002, 3002-a, 3003-a, 3009 and 3017 of the public health law, relating to the New York state emergency medical services council, the state emergency medical advisory committee, EMS program agencies, continuation of existing services and emergency medical services in Suffolk county; to amend the public health law, in relation to providing for the New York state emergency medical services board and regional boards; to repeal articles 30-B and 30-C of the public health law, relating to emergency medical, trauma and disaster care and emergency medical services for children; to amend the state finance law, in relation to the New York state emergency medical services training account; to amend the administrative code of the city of New York, the general municipal law, the workers' compensation law, the executive law and the education law, in relation to making conforming changes thereto; to repeal section 2407 and subdivision 5 of section 2409 of the public health law, relating to the breast and cervical cancer detection and education program advisory council and the ovarian cancer information advisory council; to amend the public health law, in relation to creating the breast, cervical and ovarian cancer detection and education program advisory council; and to repeal section 844-a of the executive law, relating to the New York statewide law enforcement telecommunications committee (Part D)

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

1 Section 1. This act enacts into law major components of legislation
2 which are necessary to implement the state fiscal plan for the 2012-2013
3 state fiscal year. Each component is wholly contained within a Part
4 identified as Parts A through D. The effective date for each particular
5 provision contained within such Part is set forth in the last section of
6 such Part. Any provision in any section contained within a Part, includ-
7 ing the effective date of the Part, which makes a reference to a section
8 "of this act", when used in connection with that particular component,
9 shall be deemed to mean and refer to the corresponding section of the
10 Part in which it is found. Section three of this act sets forth the
11 general effective date of this act.

1 PART A

2 Section 1. Article 1 of the racing, pari-mutuel wagering and breeding
3 law is REPEALED and a new article 1 is added to read as follows:

4 ARTICLE 1

5 SUPERVISION AND REGULATION

- 6 SECTION 100. LEGISLATIVE INTENT.
7 101. DEFINITIONS.
8 102. NEW YORK STATE GAMING COMMISSION.
9 103. ORGANIZATION AND DIVISIONS.
10 104. POWERS AND DUTIES OF THE COMMISSION.
11 105. QUORUM.
12 106. SALARY AND EXPENSES.
13 107. CONFLICTS PROHIBITED.
14 108. CERTAIN RESTRICTIONS ON WAGERING.
15 109. SUPPLEMENTARY REGULATORY POWERS OF THE COMMISSION.
16 110. STATEMENT OF STOCKHOLDERS TO BE FILED.
17 111. COMPULSIVE GAMBLING ASSISTANCE.
18 112. PARI-MUTUEL OPERATIONS; FILING OF TAX FORMS AND OTHER
19 STATISTICS.
20 113. FILING OF PARI-MUTUEL TAX RETURNS OR REPORTS BY ELECTRON-
21 IC MEANS.
22 114. PRACTICE AND PROCEDURE.
23 115. REGULATORY FEES.
24 115-A. FEE FOR THE START OF A HORSE IN NEW YORK STATE PARI-MUTU-
25 EL RACES.
26 116. PENALTIES.
27 117. TRANSFER OF FUNCTIONS.
28 118. TRANSFER OF EMPLOYEES.
29 119. TRANSFER OF RECORDS.
30 120. CONTINUITY OF AUTHORITY.
31 121. COMPLETION OF UNFINISHED BUSINESS.
32 122. CONTINUATION OF RULES AND REGULATIONS.
33 123. TERMS OCCURRING IN LAWS, CONTRACTS AND OTHER DOCUMENTS.
34 124. EXISTING RIGHTS AND REMEDIES PRESERVED.
35 125. PENDING ACTIONS OR PROCEEDINGS.
36 126. TRANSFER OF APPROPRIATIONS HERETOFORE MADE.
37 127. TRANSFER OF ASSETS AND LIABILITIES.
38 128. PROMULGATION OF RULES AND REGULATIONS.
39 129. CONSTRUCTION OF OTHER LAWS OF PROVISIONS.

40 S 100. LEGISLATIVE INTENT. THE LEGISLATURE FINDS AND DETERMINES THAT
41 THE GAMING INDUSTRIES CONSTITUTE A VITAL SECTOR OF NEW YORK STATE'S
42 OVERALL ECONOMY. THE LEGISLATURE ALSO FINDS AND DETERMINES THAT RESPON-
43 SIVE, EFFECTIVE, INNOVATIVE, STATE GAMING REGULATION IS NECESSARY TO
44 OPERATE IN A GLOBAL, EVOLVING AND INCREASINGLY COMPETITIVE MARKET PLACE.
45 THE LEGISLATURE ADDITIONALLY FINDS AND DETERMINES THAT THIS LEGISLATION
46 IS NECESSARY TO MODERNIZE AND TRANSFORM THE PRESENT STATE GAMING AGEN-
47 CIES INTO A NEW INTEGRATED STATE GAMING COMMISSION.

48 THE CONTINUED GROWTH OF THE GAMING INDUSTRY WILL CONTRIBUTE TO ECONOM-
49 IC DEVELOPMENT AND JOB CREATION IN THIS STATE. THEREFORE, IT IS ESSEN-
50 TIAL TO MAINTAIN THE PUBLIC CONFIDENCE AND TRUST IN THE CREDIBILITY AND
51 INTEGRITY OF LEGALIZED GAMING ACTIVITIES. TO ENSURE SUCH PUBLIC CONFI-
52 DENCE AND TRUST, THIS ARTICLE PROVIDES THAT THE REGULATION OF SUCH
53 GAMING IS TO BE CONDUCTED IN THE MOST EFFICIENT, TRANSPARENT AND EFFEC-
54 TIVE MANNER POSSIBLE. BY CONSOLIDATING VARIOUS REGULATORY FUNCTIONS INTO
55 A SINGLE OVERSIGHT BODY WITH BROAD POWERS, THIS ARTICLE ENSURES STRICT

1 STATE REGULATION OF ALL CORPORATIONS, ASSOCIATIONS AND PERSONS ENGAGED
2 IN GAMING ACTIVITY. FURTHER, BY CONSOLIDATING REGULATORY FUNCTIONS INTO
3 A SINGLE OVERSIGHT BODY, THIS ARTICLE WILL INCREASE EFFICIENCY, REDUCE
4 COSTS AND ELIMINATE ANY UNNECESSARY REDUNDANCIES IN REGULATION. THE
5 IMPROVED REGULATORY STRUCTURE ESTABLISHED BY THIS ARTICLE WILL INSURE,
6 SO FAR AS PRACTICABLE, THE EXCLUSION OF UNSUITABLE PERSONS OR ENTITIES
7 FROM PARTICIPATING IN ANY LEGALIZED GAMING ACTIVITY WITHIN THIS STATE.
8 THE GOAL OF THIS ARTICLE IS THAT ALL GAMING ACTIVITY CONDUCTED IN THIS
9 STATE WILL BE OF THE HIGHEST INTEGRITY, CREDIBILITY AND QUALITY AND THAT
10 THE BEST INTERESTS OF THE PUBLIC, BOTH GAMING AND NON-GAMING, WILL BE
11 SERVED. FINALLY, IT IS DETERMINED BY THE LEGISLATURE THAT THE PUBLIC
12 INTEREST IS BEST SERVED BY THOSE PERSONS OR ENTITIES ENGAGED IN GAMING
13 ACTIVITY PAYING THE COST OF REGULATING SUCH ACTIVITY THROUGH REASONABLE
14 REGULATORY FEES.

15 S 101. DEFINITIONS. AS USED IN THIS ARTICLE, THE FOLLOWING TERMS SHALL
16 HAVE THE FOLLOWING MEANINGS:

17 1. "PUBLIC OFFICER" SHALL MEAN EVERY ELECTED STATE AND LOCAL OFFICER
18 AND EVERY OTHER STATE AND LOCAL OFFICER, AS DEFINED IN SECTION TWO OF
19 THE PUBLIC OFFICERS LAW, WHOSE DUTIES RELATE TO PARI-MUTUEL RACING
20 ACTIVITIES OR THE TAXATION THEREOF, WHO IS REQUIRED TO DEVOTE ALL OR
21 SUBSTANTIALLY ALL OF HIS OR HER TIME TO THE DUTIES OF HIS OR HER OFFICE
22 FOR WHICH HE OR SHE RECEIVES COMPENSATION OR IF EMPLOYED ON A PART-TIME
23 OR OTHER BASIS RECEIVES COMPENSATION IN EXCESS OF TWELVE THOUSAND
24 DOLLARS PER ANNUM, A MEMBER OR OFFICER OF THE STATE LEGISLATURE, A
25 MEMBER, DIRECTOR OR OFFICER OF THE STATE RACING COMMISSION, THE STATE
26 HARNESS RACING COMMISSION, THE QUARTER HORSE RACING COMMISSION, THE
27 STATE GAMING COMMISSION, OR ANY REGIONAL OFF-TRACK BETTING CORPORATION,
28 OR A MEMBER OF A LOCAL LEGISLATIVE BODY.

29 2. "PUBLIC EMPLOYEE" SHALL MEAN EVERY PERSON EMPLOYED BY THE STATE OR
30 ANY MUNICIPALITY OR OTHER POLITICAL SUBDIVISION THEREOF OR BY A LOCAL
31 LEGISLATIVE BODY, OTHER THAN A PUBLIC OFFICER DEFINED IN SUBDIVISION ONE
32 OF THIS SECTION, WHO IS REQUIRED TO DEVOTE ALL OR SUBSTANTIALLY ALL OF
33 HIS OR HER TIME TO THE DUTIES OF HIS OR HER EMPLOYMENT FOR WHICH HE OR
34 SHE RECEIVES COMPENSATION, OR IF EMPLOYED ON A PART-TIME BASIS RECEIVES
35 COMPENSATION IN EXCESS OF TWELVE THOUSAND DOLLARS PER ANNUM, OR AN
36 EMPLOYEE OF THE STATE LEGISLATURE OR AN EMPLOYEE OF THE STATE GAMING
37 COMMISSION.

38 3. "PARTY OFFICER" SHALL MEAN THE FOLLOWING MEMBERS OR OFFICERS OF ANY
39 POLITICAL PARTY:

40 (A) A MEMBER OF A NATIONAL COMMITTEE;

41 (B) A CHAIRMAN, VICE-CHAIRMAN, SECRETARY, TREASURER OR COUNSEL OF A
42 STATE COMMITTEE, OR MEMBER OF THE EXECUTIVE COMMITTEE OF A STATE COMMIT-
43 TEE;

44 (C) A COUNTY LEADER, CHAIRMAN, VICE-CHAIRMAN, COUNSEL, SECRETARY OR
45 TREASURER OF A COUNTY COMMITTEE.

46 4. "LOCAL LEGISLATIVE BODY" SHALL MEAN THE LEGISLATIVE BODY OF A COUN-
47 TY; THE COUNCIL, COMMON COUNCIL OR BOARD OF ALDERMEN AND THE BOARD OF
48 ESTIMATE, THE BOARD OF ESTIMATE AND APPORTIONMENT OR BOARD OF ESTIMATE
49 AND CONTRACT, IF THERE BE ONE, OF A CITY; THE TOWN BOARD OF A TOWN AND
50 THE VILLAGE BOARD OF A VILLAGE.

51 5. "GAMING ACTIVITY" SHALL MEAN THE CONDUCT OF ANY FORM OF LEGALIZED
52 GAMING, INCLUDING, BUT NOT LIMITED TO, CLASS III GAMING UNDER THE INDIAN
53 GAMING REGULATORY ACT, 25 U.S.C. S 2701 ET SEQ., PARI-MUTUEL WAGERING,
54 BOTH ON-TRACK AND OFF-TRACK, BINGO AND CHARITABLE GAMES OF CHANCE AND
55 THE STATE LOTTERY FOR EDUCATION.

6. "GAMING SERVICE ENTERPRISE" SHALL MEAN A PERSON OR ENTITY THAT PROVIDES A GAMING FACILITY WITH GOODS OR SERVICES REGARDING THE REALTY, CONSTRUCTION, MAINTENANCE, OR BUSINESS OF THE GAMING FACILITY OR RELATED FACILITY INCLUDING, WITHOUT LIMITATION, JUNKET ENTERPRISES, SECURITY BUSINESSES, GAMING SCHOOLS, MANUFACTURERS, DISTRIBUTORS AND SERVICERS OF GAMING DEVICES OR EQUIPMENT, GARBAGE HAULERS, MAINTENANCE COMPANIES, FOOD PURVEYORS, AND CONSTRUCTION COMPANIES, OR ANY OTHER ENTERPRISE WHICH PURCHASES GOODS OR SERVICES FROM OR WHICH DOES ANY OTHER BUSINESS WITH A GAMING FACILITY ON A REGULAR OR CONTINUING BASIS.

7. "COMMISSION" OR "STATE GAMING COMMISSION" SHALL MEAN THE NEW YORK STATE GAMING COMMISSION CREATED PURSUANT TO SECTION ONE HUNDRED TWO OF THIS ARTICLE.

S 102. NEW YORK STATE GAMING COMMISSION. 1. THERE IS HEREBY CREATED WITHIN THE EXECUTIVE DEPARTMENT THE NEW YORK STATE GAMING COMMISSION WHICH SHALL CONSIST OF FIVE MEMBERS APPOINTED BY THE GOVERNOR UPON THE ADVICE AND CONSENT OF THE SENATE.

2. A MEMBER SHALL BE DESIGNATED AS CHAIR OF THE COMMISSION BY THE GOVERNOR TO SERVE IN SUCH CAPACITY AT THE PLEASURE OF THE GOVERNOR OR UNTIL HIS OR HER TERM AS A COMMISSION MEMBER EXPIRES, WHICHEVER FIRST OCCURS. THE MEMBERS SHALL SERVE ON A FULL-TIME BASIS AND BE APPOINTED FOR TERMS OF FIVE YEARS; PROVIDED, HOWEVER, THAT INITIAL APPOINTMENTS TO THE COMMISSION SHALL BE FOR TERMS AS FOLLOWS:

- (A) ONE MEMBER FOR TWO YEARS;
- (B) ONE MEMBER FOR THREE YEARS;
- (C) ONE MEMBER FOR FOUR YEARS;
- (D) ONE MEMBER FOR FIVE YEARS;
- (E) ONE MEMBER FOR SIX YEARS.

3. EACH MEMBER OF THE COMMISSION SHALL BE A CITIZEN OF THE UNITED STATES AND A RESIDENT OF THE STATE OF NEW YORK. NO MEMBER OF THE LEGISLATURE OR PERSON HOLDING ANY ELECTIVE OR APPOINTIVE OFFICE IN THE FEDERAL, STATE OR LOCAL GOVERNMENT SHALL BE ELIGIBLE TO SERVE AS A MEMBER OF THE COMMISSION.

4. THE GOVERNOR MAY REMOVE ANY MEMBER OF THE COMMISSION AT THE GOVERNOR'S DISCRETION.

S 103. ORGANIZATION AND DIVISIONS. 1. THE COMMISSION SHALL ESTABLISH A PLAN OF ORGANIZATION AND MAY INCUR EXPENSES WITHIN THE LIMITS OF FUNDS AVAILABLE TO IT. AN EXECUTIVE DIRECTOR SHALL BE APPOINTED BY THE GOVERNOR AND SHALL SERVE AT HIS OR HER PLEASURE. THE EXECUTIVE DIRECTOR SHALL BE RESPONSIBLE FOR THE CONDUCT OF THE ADMINISTRATIVE AFFAIRS OF THE COMMISSION.

2. THE COMMISSION SHALL ESTABLISH AND SUPERVISE FIVE DIVISIONS TO RESPECTIVELY CARRY OUT RESPONSIBILITIES RELATING TO THE REGULATION AND ENFORCEMENT OF THE FOLLOWING: LOTTERY, CHARITABLE GAMING, GAMING, HORSE RACING AND PARI-MUTUEL WAGERING, AND LAW ENFORCEMENT. EACH SUCH DIVISION SHALL BE SUPERVISED BY A DIVISION DIRECTOR, EACH TO SERVE IN SUCH CAPACITY AT THE PLEASURE OF THE GOVERNOR, PROVIDED, HOWEVER, THAT THE DIRECTOR OF THE DIVISION OF LAW ENFORCEMENT SHALL SERVE AT THE PLEASURE OF THE SUPERINTENDENT OF STATE POLICE.

(A) DIVISION OF LOTTERY. THE DIVISION OF LOTTERY SHALL BE RESPONSIBLE TO OPERATE AND ADMINISTER THE STATE LOTTERY FOR EDUCATION, AS PRESCRIBED BY ARTICLE THIRTY-FOUR OF THE TAX LAW, EXCEPTING RESPONSIBILITIES FOR VIDEO LOTTERY GAMING.

(B) CHARITABLE GAMING. THE DIVISION OF CHARITABLE GAMING SHALL BE RESPONSIBLE FOR THE SUPERVISION AND ADMINISTRATION OF THE GAMES OF CHANCE LICENSING LAW, BINGO LICENSING LAW AND BINGO CONTROL LAW AS

1 PRESCRIBED BY ARTICLES NINE-A AND FOURTEEN-H OF THE GENERAL MUNICIPAL
2 LAW AND NINETEEN-B OF THE EXECUTIVE LAW.

3 (C) GAMING. THE DIVISION OF GAMING SHALL BE RESPONSIBLE FOR THE APPRO-
4 PRIATE ADMINISTRATION, REGULATION OR OVERSIGHT OF INDIAN GAMING AS
5 DEFINED BY TRIBAL-STATE COMPACTS IN EFFECT PURSUANT TO THE INDIAN GAMING
6 REGULATORY ACT, 25 U.S.C. S 2701, ET SEQ., AND OPERATION AND ADMINIS-
7 TRATION OF VIDEO LOTTERY GAMING, AS PRESCRIBED BY ARTICLE THIRTY-FOUR OF
8 THE TAX LAW.

9 (D) HORSE RACING AND PARI-MUTUEL WAGERING. THE DIVISION OF HORSE
10 RACING AND PARI-MUTUEL WAGERING SHALL BE RESPONSIBLE FOR THE SUPER-
11 VISION, REGULATION AND ADMINISTRATION OF ALL HORSE RACING AND PARI-MUTU-
12 EL WAGERING ACTIVITIES, AS PRESCRIBED BY ARTICLES TWO THROUGH ELEVEN OF
13 THIS CHAPTER.

14 (E) LAW ENFORCEMENT. THE DIVISION OF LAW ENFORCEMENT SHALL CONSIST OF
15 STATE POLICE INVESTIGATORS AND PERSONNEL SPECIALIZING IN GAMING INVESTI-
16 GATION AND LAW ENFORCEMENT. THE DIVISION SHALL BE PERMANENTLY ASSIGNED
17 TO THE COMMISSION AND MAINTAIN ITS PRINCIPAL OFFICE WITHIN THE PRINCIPAL
18 OFFICE OF THE COMMISSION AND MAY ESTABLISH AND MAINTAIN BRANCH OFFICES
19 AT ANY BRANCH OFFICE ESTABLISHED AND MAINTAINED BY THE COMMISSION.
20 ADDITIONALLY, THE DIVISION MAY ESTABLISH AND MAINTAIN OFFICES AT ANY
21 LICENSED GAMING FACILITY OR INDIAN GAMING FACILITY CONSISTENT WITH THE
22 TERMS OF ANY TRIBAL-STATE GAMING COMPACT IN EFFECT PURSUANT TO THE INDI-
23 AN GAMING REGULATORY ACT, 25 U.S.C. S 2701, ET SEQ. AS AGREED WITH AND
24 ON BEHALF OF THE COMMISSION, THE DIVISION SHALL CONDUCT FINGERPRINTING
25 AND BACKGROUND INVESTIGATIONS ON PERSONS AND ENTITIES ENGAGED IN GAMING
26 ACTIVITY OR GAMING SERVICES ENTERPRISES WITHIN THE STATE. THE DIVISION
27 SHALL, UPON REQUEST, ASSIST CIVIL INVESTIGATORS OF THE COMMISSION AND
28 EVALUATE ALL REFERRALS MADE BY SAME.

29 S 104. POWERS AND DUTIES OF THE COMMISSION. THE COMMISSION SHALL HAVE
30 THE AUTHORITY AND RESPONSIBILITY:

31 1. TO HAVE GENERAL JURISDICTION OVER ALL GAMING ACTIVITIES WITHIN THE
32 STATE AND OVER THE CORPORATIONS, ASSOCIATIONS AND PERSONS ENGAGED THERE-
33 IN.

34 2. TO HEAR AND DECIDE PROMPTLY AND IN REASONABLE ORDER ALL LICENSE,
35 REGISTRATION, CERTIFICATE AND PERMIT APPLICATIONS, AND CAUSES AFFECTING
36 THE GRANTING, SUSPENSION, REVOCATION OR RENEWAL THEREOF, OF CORPO-
37 RATIONS, ASSOCIATIONS OR PERSONS ENGAGED OR SEEKING TO ENGAGE IN GAMING
38 ACTIVITY OR GAMING SERVICES ENTERPRISES.

39 3. TO TEST OR CAUSE TO HAVE TESTED AND APPROVE SURVEILLANCE SYSTEMS,
40 GAMES OF CHANCE, GAMING DEVICES AND LOTTERY GAMES.

41 4. TO MONITOR ANY CORPORATION, ASSOCIATION OR PERSON ENGAGED IN GAMING
42 ACTIVITY OR A GAMING SERVICE ENTERPRISE FOR COMPLIANCE WITH THIS CHAP-
43 TER.

44 5. TO, AT ANY TIME, EXAMINE THE BOOKS, PAPERS, RECORDS AND ACCOUNTS OF
45 ANY CORPORATION, ASSOCIATION OR PERSON ENGAGED IN GAMING ACTIVITY OR A
46 GAMING SERVICE ENTERPRISE PURSUANT TO A LICENSE, REGISTRATION, FRAN-
47 CHISE, CERTIFICATE OR PERMIT ISSUED BY THE COMMISSION.

48 6. TO CONDUCT INVESTIGATIONS AND HEARINGS PERTAINING TO VIOLATIONS OF
49 THIS CHAPTER. EACH MEMBER OF THE COMMISSION AND SUCH OFFICERS, EMPLOYEES
50 OR AGENTS OF THE COMMISSION AS MAY BE DESIGNATED BY THE COMMISSION FOR
51 SUCH PURPOSE SHALL HAVE THE POWER TO ADMINISTER OATHS AND EXAMINE
52 WITNESSES.

53 7. EACH MEMBER OF THE COMMISSION, AND SUCH OFFICERS, EMPLOYEES OR
54 AGENTS OF THE COMMISSION AS MAY BE DESIGNATED BY THE COMMISSION FOR SUCH
55 PURPOSES, MAY ISSUE SUBPOENAS TO COMPEL ATTENDANCE OF WITNESSES, AND THE
56 PRODUCTION OF REPORTS, BOOKS, PAPERS, DOCUMENTS, CORRESPONDENCE AND

1 OTHER POTENTIAL EVIDENCE. IN THE EVENT THAT A HOLDER OF LICENSE, REGIS-
2 TRATION, CERTIFICATE OR PERMIT ISSUED BY THE COMMISSION FAILS TO COMPLY
3 WITH SUCH A SUBPOENA, THE COMMISSION MAY SUMMARILY REVOKE SUCH LICENSE,
4 REGISTRATION, CERTIFICATE OR PERMIT.

5 8. TO ARBITRATE DISPUTES RELATING TO ANY STATE LICENSE, REGISTRATION,
6 CERTIFICATE OR PERMIT. ADDITIONALLY, THE COMMISSION SHALL BE AUTHORIZED
7 TO REQUIRE ARBITRATION OF AND TO ARBITRATE DISPUTES BY OR BETWEEN ANY
8 HOLDER OF LICENSE, REGISTRATION, CERTIFICATE OR PERMIT ISSUED BY THE
9 COMMISSION.

10 9. TO COLLECT ALL LICENSE AND REGISTRATION FEES IMPOSED BY STATE LAW,
11 OR RULES OR REGULATIONS PROMULGATED THEREUNDER, AND ANY PAYMENTS FROM AN
12 INDIAN NATION OR TRIBE UNDER THE TERMS OF A TRIBAL-STATE COMPACT THAT IS
13 IN EFFECT PURSUANT TO THE FEDERAL INDIAN GAMING REGULATORY ACT, 25
14 U.S.C. S 2701, ET SEQ.

15 10. TO LEVY AND COLLECT CIVIL PENALTIES AND FINES FOR ANY VIOLATION OF
16 THIS CHAPTER.

17 11. TO BE PRESENT THROUGH ITS EMPLOYEES AND AGENTS DURING THE OPERA-
18 TION OF ANY RACE TRACK, CASINO, GAMING FACILITY, CHARITABLE GAMING
19 ORGANIZATION, SIMULCASTING FACILITY OR VIDEO LOTTERY GAMING FACILITY FOR
20 THE PURPOSE OF CERTIFYING THE REVENUE THEREOF, RECEIVING COMPLAINTS FROM
21 THE PUBLIC RELATING TO THE CONDUCT OF GAMING AND SIMULCAST WAGERING
22 ACTIVITIES, EXAMINING RECORDS OF REVENUES AND PROCEDURES, AND CONDUCTING
23 PERIODIC REVIEWS OF OPERATIONS AND FACILITIES FOR PURPOSES OF EVALUATING
24 ANY CURRENT OR SUGGESTED PROVISION OF LAW, RULE OR REGULATION.

25 12. TO ENSURE COMPLIANCE WITH TRIBAL-STATE GAMING COMPACTS THAT ARE IN
26 EFFECT PURSUANT TO THE FEDERAL INDIAN GAMING REGULATORY ACT, 25 U.S.C. S
27 2701, ET SEQ.

28 13. TO REFER TO THE DIVISION OF LAW ENFORCEMENT OR OTHER LAW ENFORCE-
29 MENT AGENCY OF COMPETENT JURISDICTION ANY EVIDENCE OF A VIOLATION OF
30 LAW.

31 14. TO CAUSE BACKGROUND INVESTIGATIONS TO BE CONDUCTED BY THE DIVISION
32 OF LAW ENFORCEMENT ON ANY APPLICANT FOR A LICENSE, REGISTRATION, CERTIF-
33 ICATE, PERMIT OR APPROVAL. NOTWITHSTANDING ANY OTHER PROVISION OF LAW,
34 THE COMMISSION SHALL BE GRANTED ACCESS TO THE CRIMINAL HISTORY RECORDS
35 OF THE DIVISION OF CRIMINAL JUSTICE SERVICES, PURSUANT TO SUBDIVISION
36 EIGHT-A OF SECTION EIGHT HUNDRED THIRTY-SEVEN OF THE EXECUTIVE LAW, IN
37 CONNECTION WITH EXECUTING THE RESPONSIBILITIES OF THE COMMISSION RELAT-
38 ING TO THE REGULATION, OVERSIGHT, LICENSING, PERMITTING OR CERTIF-
39 ICATION, INCLUDING FINGERPRINTING, CRIMINAL HISTORY RECORD CHECKS AND
40 BACKGROUND INVESTIGATIONS, OF PERSONS APPLYING TO ENGAGE IN GAMING
41 ACTIVITIES AND GAMING SERVICE ENTERPRISES. AT THE REQUEST OF THE COMMIS-
42 SION, THE DIVISION OF CRIMINAL JUSTICE SERVICES SHALL SUBMIT A FINGER-
43 PRINT CARD, ALONG WITH THE SUBJECT'S PROCESSING FEE, TO THE FEDERAL
44 BUREAU OF INVESTIGATION FOR THE PURPOSE OF CONDUCTING A CRIMINAL HISTORY
45 SEARCH AND RETURNING A REPORT THEREON. THE COMMISSION SHALL ALSO BE
46 ENTITLED TO REQUEST AND RECEIVE ANY INFORMATION IN THE POSSESSION OF THE
47 STATE ATTORNEY GENERAL OR DEPARTMENT OF TAXATION AND FINANCE RELATING TO
48 THE INVESTIGATION OF ORGANIZED CRIME, GAMING OFFENSES, OTHER REVENUE
49 CRIMES OR TAX EVASION. PROVIDED HOWEVER, THE ATTORNEY GENERAL OR THE
50 COMMISSIONER OF TAXATION AND FINANCE MAY WITHHOLD ANY INFORMATION THAT
51 (A) WOULD IDENTIFY A CONFIDENTIAL SOURCE OR DISCLOSE CONFIDENTIAL INFOR-
52 MATION RELATING TO A CRIMINAL INVESTIGATION, (B) WOULD INTERFERE WITH
53 LAW ENFORCEMENT INVESTIGATIONS OR JUDICIAL PROCEEDINGS, (C) REVEAL CRIM-
54 INAL INVESTIGATIVE TECHNIQUES OR PROCEDURES, THAT, IF DISCLOSED, COULD
55 ENDANGER THE LIFE OR SAFETY OF ANY PERSON, OR (D) CONSTITUTES RECORDS
56 RECEIVED FROM OTHER STATE, LOCAL OR FEDERAL AGENCIES THAT THE ATTORNEY

1 GENERAL OR THE COMMISSIONER IS PROHIBITED BY LAW, REGULATION OR AGREE-
2 MENT FROM DISCLOSING.

3 15. THE CHAIR SHALL APPOINT SUCH DEPUTIES, SECRETARY, OFFICERS, REPRE-
4 SENTATIVES AND COUNSEL AS THE COMMISSION MAY DEEM NECESSARY, TO SERVE AT
5 THE CHAIR'S PLEASURE, AND SHALL ALSO APPOINT SUCH EMPLOYEES AS THE
6 COMMISSION MAY DEEM NECESSARY, AND WHOSE DUTIES SHALL BE PRESCRIBED BY
7 THE COMMISSION. IT SHALL BE THE DUTY OF THE SECRETARY TO KEEP A FULL AND
8 FAITHFUL RECORD OF THE PROCEEDINGS OF THE COMMISSION, PRESERVE AT THE
9 GENERAL OFFICE OF THE COMMISSION ALL BOOKS, MAPS, DOCUMENTS AND PAPERS
10 ENTRUSTED TO HIS OR HER CARE, PREPARE FOR SERVICE SUCH PAPERS AND
11 NOTICES AS MAY BE REQUIRED BY THE COMMISSION, AND PERFORM SUCH OTHER
12 DUTIES AS THE COMMISSION MAY PRESCRIBE.

13 16. TO OPERATE, OR IMMEDIATELY APPOINT OR CONTRACT WITH AN INDEPENDENT
14 THIRD PARTY TO OPERATE, ANY FACILITY SUBJECT TO LICENSURE BY THE COMMIS-
15 SION ON AN INTERIM BASIS IN THE EVENT THAT THE LICENSED OPERATOR OR
16 OPERATORS OF SUCH FACILITY DISCONTINUES OPERATIONS DUE TO FINANCIAL,
17 REGULATORY OR ANY OTHER CIRCUMSTANCES, INCLUDING, BUT NOT LIMITED TO,
18 LICENSE REVOCATION, RELINQUISHMENT OR EXPIRATION, AND THE COMMISSION
19 DETERMINES THAT IT WOULD FURTHER THE PUBLIC INTEREST TO CONTINUE SUCH
20 OPERATIONS. SUCH OPERATION SHALL BE ON A TEMPORARY BASIS, NOT TO EXCEED
21 ONE HUNDRED EIGHTY DAYS, UNTIL SUCH TIME AS A PERMANENT OPERATOR IS
22 LICENSED AND AUTHORIZED TO OPERATE SUCH FACILITY; PROVIDED, HOWEVER, THE
23 COMMISSION MAY OPERATE A FACILITY FOR ADDITIONAL ONE HUNDRED EIGHTY DAY
24 PERIODS WHERE NECESSARY.

25 17. TO ENTER INTO CONTRACTS WITH ANY PERSON TO CARRY OUT ITS FUNC-
26 TIONS, POWERS AND DUTIES WHENEVER IT DEEMS NECESSARY OR CONVENIENT.

27 18. TO ANNUALLY REPORT TO THE GOVERNOR ITS PROCEEDINGS FOR THE PRECED-
28 ING CALENDAR YEAR AND ANY SUGGESTIONS AND RECOMMENDATIONS AS IT SHALL
29 DEEM DESIRABLE.

30 19. TO PROMULGATE ANY RULES AND REGULATIONS THAT IT DEEMS NECESSARY TO
31 CARRY OUT ITS RESPONSIBILITIES.

32 S 105. QUORUM. A MAJORITY OF THE DULY APPOINTED MEMBERS OF THE COMMIS-
33 SION SHALL CONSTITUTE A QUORUM AND NOT LESS THAN A MAJORITY OF SUCH
34 QUORUM MAY TRANSACT ANY BUSINESS, PERFORM ANY DUTY OR EXERCISE ANY POWER
35 OF THE COMMISSION.

36 S 106. SALARY AND EXPENSES. 1. THE CHAIR AND MEMBERS OF THE COMMISSION
37 SHALL RECEIVE SALARIES IN AMOUNTS EQUAL TO THOSE ESTABLISHED BY PARA-
38 GRAPHS (B) AND (D) OF SUBDIVISION ONE OF SECTION ONE HUNDRED SIXTY-NINE
39 OF THE EXECUTIVE LAW, RESPECTIVELY.

40 2. THE COMMISSION SHALL FIX THE COMPENSATION FOR ITS OFFICERS AND
41 EMPLOYEES WITHIN THE AMOUNTS APPROPRIATED THEREFOR.

42 3. THE MEMBERS, OFFICERS AND EMPLOYEES OF THE COMMISSION SHALL BE
43 REIMBURSED FOR ALL ACTUAL AND NECESSARY TRAVELING AND OTHER EXPENSES AND
44 DISBURSEMENTS INCURRED OR MADE BY THEM IN THE DISCHARGE OF THEIR OFFI-
45 CIAL DUTIES.

46 S 107. CONFLICTS PROHIBITED. 1. NO PERSON SHALL BE APPOINTED TO OR
47 EMPLOYED BY THE COMMISSION IF, DURING THE PERIOD COMMENCING THREE YEARS
48 PRIOR TO APPOINTMENT OR EMPLOYMENT, SAID PERSON HELD ANY DIRECT OR INDI-
49 RECT INTEREST IN, OR EMPLOYMENT BY, ANY CORPORATION, ASSOCIATION OR
50 PERSON ENGAGED IN GAMING ACTIVITY OR A GAMING SERVICE ENTERPRISE WITHIN
51 THE STATE. PRIOR TO APPOINTMENT OR EMPLOYMENT, EACH MEMBER, OFFICER OR
52 EMPLOYEE OF THE COMMISSION SHALL SWEAR OR AFFIRM THAT HE OR SHE
53 POSSESSES NO INTEREST IN ANY CORPORATION OR ASSOCIATION HOLDING A FRAN-
54 CHISE, LICENSE, REGISTRATION, CERTIFICATE OR PERMIT ISSUED BY THE
55 COMMISSION. DURING THE TERM OF APPOINTMENT OR EMPLOYMENT, EVERY MEMBER,
56 OFFICER AND EMPLOYEE OF THE COMMISSION SHALL BE HELD TO THE HIGHEST

1 ETHICAL STANDARDS AND AVOID ANY CONFLICT OF INTEREST OR APPEARANCE THERE-
2 EOF. THEREAFTER, NO MEMBER OR OFFICER OF THE COMMISSION SHALL HOLD ANY
3 DIRECT INTEREST IN OR BE EMPLOYED BY ANY APPLICANT FOR OR BY ANY CORPO-
4 RATION, ASSOCIATION OR PERSON HOLDING A LICENSE, REGISTRATION, FRAN-
5 CHISE, CERTIFICATE OR PERMIT ISSUED BY THE COMMISSION FOR A PERIOD OF
6 FOUR YEARS COMMENCING ON THE DATE HIS OR HER MEMBERSHIP WITH THE COMMISS-
7 SION TERMINATES. FURTHER, NO EMPLOYEE OF THE COMMISSION MAY ACQUIRE ANY
8 DIRECT OR INDIRECT INTEREST IN, OR ACCEPT EMPLOYMENT WITH, ANY APPLICANT
9 FOR OR ANY PERSON HOLDING A LICENSE, REGISTRATION, FRANCHISE, CERTIF-
10 ICATE OR PERMIT ISSUED BY THE COMMISSION FOR A PERIOD OF TWO YEARS
11 COMMENCING AT THE TERMINATION OF EMPLOYMENT WITH THE COMMISSION.

12 2. NO MEMBER, OFFICER, OFFICIAL OR EMPLOYEE OF THE COMMISSION SHALL
13 PARTICIPATE AS AN OWNER OF A HORSE OR OTHERWISE AS A CONTESTANT IN ANY
14 HORSE RACE AT A RACE MEETING WHICH IS UNDER THE JURISDICTION OR SUPER-
15 VISION OF THE COMMISSION, OR HAVE ANY PECUNIARY INTEREST, DIRECT OR
16 INDIRECT, IN THE PURSE, PRIZE, PREMIUM OR STAKE CONTESTED FOR AT ANY
17 SUCH HORSE RACE OR IN THE OPERATIONS OF ANY LICENSEE OF THE COMMISSION
18 OR STATE RACING FRANCHISEE. PARTICIPATION AS AN OWNER OF A HORSE OR
19 OTHERWISE AS A CONTESTANT IN ANY SUCH HORSE RACE BY A MEMBER, OFFICER,
20 OTHER OFFICIAL OR EMPLOYEE OF THE COMMISSION IN VIOLATION OF THIS PROHI-
21 BITION SHALL TERMINATE THE TERM OF HIS OR HER OFFICE AS A MEMBER, OR HIS
22 OR HER SERVICES AS AN OFFICER OR OFFICIAL OR EMPLOYEE OF THE COMMISSION.

23 3. ALL MEMBERS, OFFICERS AND EMPLOYEES OF THE COMMISSION SHALL BE
24 SUBJECT TO THE PROVISIONS OF THE PUBLIC OFFICERS LAW AND BE REQUIRED TO
25 ANNUALLY FILE A FINANCIAL DISCLOSURE STATEMENT WITH THE JOINT COMMISSION
26 ON PUBLIC ETHICS.

27 4. NO MEMBER, OFFICER OR EMPLOYEE OF THE COMMISSION SHALL WAGER UPON
28 GAMING OR HORSE RACING ACTIVITY CONDUCTED WITHIN THE STATE.

29 5. NO INDIVIDUAL EMPLOYED BY AN OFF-TRACK BETTING CORPORATION OR RACE
30 TRACK LICENSED PURSUANT TO THIS CHAPTER AS A PARI-MUTUEL CLERK, CASHIER
31 OR SELLER SHALL BE PERMITTED TO WAGER UPON GAMING ACTIVITY DURING ANY
32 PERIOD OF A DAY ON WHICH SUCH PERSON IS EMPLOYED IN SUCH CAPACITY.

33 6. NO PUBLIC OFFICER OR PARTY OFFICER SHALL HOLD ANY LICENSE FROM THE
34 COMMISSION.

35 7. THE FOLLOWING PUBLIC EMPLOYEES ARE PROHIBITED FROM HOLDING ANY
36 LICENSE FROM THE COMMISSION:

37 (A) AN EMPLOYEE OF THE COMMISSION; ANY DIRECTOR OR EMPLOYEE OF A
38 REGIONAL OFF-TRACK BETTING CORPORATION EMPLOYED IN A MANAGEMENT, CONFID-
39 ENTIAL OR SUPERVISORY CAPACITY, PROVIDED, HOWEVER, THAT SUCH DIRECTOR
40 OR EMPLOYEE SHALL BE REQUIRED TO APPLY FOR AND OBTAIN A LICENSE FROM THE
41 COMMISSION FOR PURPOSES OF THEIR POSITION WITH OFF-TRACK BETTING; OR

42 (B) AN EMPLOYEE OF THE STATE LEGISLATURE; PROVIDED, HOWEVER, THAT AN
43 EMPLOYEE OF THE STATE LEGISLATURE WHOSE DUTIES IN SUCH POSITION DO NOT
44 RELATE TO GAMING ACTIVITIES SHALL NOT BE SUBJECT TO THE PROHIBITIONS OF
45 THIS SECTION IF HE OR SHE HELD A LICENSE FROM THE FORMER STATE RACING
46 AND WAGERING BOARD WHILE EMPLOYED BY THE STATE LEGISLATURE PRIOR TO JULY
47 FIRST, NINETEEN HUNDRED EIGHTY; OR

48 (C) AN EMPLOYEE OF ANY LOCAL LEGISLATIVE BODY WHOSE DUTIES RELATE TO
49 GAMING ACTIVITIES; OR

50 (D) AN EMPLOYEE OF ANY STATE OR LOCAL BOARD, AGENCY, AUTHORITY OR
51 OTHER STATE OR LOCAL GOVERNMENTAL BODY, THE DUTIES OF WHICH RELATE TO
52 GAMING ACTIVITIES OR THE TAXATION THEREOF.

53 8. NO PUBLIC OFFICER, PUBLIC EMPLOYEE OR PARTY OFFICER SHALL:

54 (A) OWN OR HOLD, DIRECTLY OR INDIRECTLY, ANY PROPRIETARY INTEREST,
55 STOCK OR OBLIGATION OF ANY FIRM, ASSOCIATION OR CORPORATION (I) WHICH IS
56 LICENSED BY THE COMMISSION TO CONDUCT GAMING OR HORSE RACING ACTIVITIES

OR GAMING SERVICE ENTERPRISE, OR (II) WHICH CONDUCTS ITS OCCUPATION, TRADE, OR BUSINESS AT A RACETRACK AT WHICH PARI-MUTUEL RACE MEETS ARE CONDUCTED OR FACILITY WHERE GAMING ACTIVITY IS CONDUCTED WHETHER OR NOT A LICENSE IS REQUIRED, OR (III) WHICH OWNS OR LEASES TO ANY ENFRANCHISED OR LICENSED ASSOCIATION OR CORPORATION A RACETRACK AT WHICH PARI-MUTUEL RACING IS CONDUCTED OR FACILITY WHERE GAMING ACTIVITY IS CONDUCTED, OR (IV) WHICH PARTICIPATES IN THE MANAGEMENT OF ANY FRANCHISE HOLDER OR LICENSEE CONDUCTING GAMING OR HORSE RACING ACTIVITIES OR GAMING SERVICE ENTERPRISE; OR

(B) HOLD ANY OFFICE OR EMPLOYMENT WITH ANY FIRM, ASSOCIATION OR CORPORATION SPECIFIED IN PARAGRAPH (A) OF THIS SUBDIVISION, EXCEPT AS PROVIDED IN SUBDIVISION NINE OF THIS SECTION; OR

(C) SELL, OR BE A MEMBER OF A FIRM, OR OWN TEN PER CENTUM OR MORE OF THE STOCK OF ANY CORPORATION, WHICH SELLS ANY GOODS OR SERVICES TO ANY FIRM, ASSOCIATION OR CORPORATION SPECIFIED IN PARAGRAPH (A) OF THIS SUBDIVISION.

9. THE PROVISIONS OF PARAGRAPH (B) OF SUBDIVISION EIGHT OF THIS SECTION SHALL NOT APPLY TO A PUBLIC EMPLOYEE OTHER THAN AN EMPLOYEE OF THE COMMISSION, A POLICE OFFICER OR A PEACE OFFICER EMPLOYED BY A SHERIFF'S OFFICE, DISTRICT ATTORNEY'S OFFICE OR OTHER STATE OR LOCAL LAW ENFORCEMENT AGENCY, OR THOSE EMPLOYEES CLASSIFIED AS MANAGEMENT CONFIDENTIAL EMPLOYEES PURSUANT TO SECTION TWO HUNDRED FOURTEEN OF THE CIVIL SERVICE LAW WHO ARE EMPLOYED BY A STATE OR LOCAL LAW ENFORCEMENT AGENCY OR REGIONAL OFF-TRACK BETTING CORPORATION; PROVIDED, HOWEVER, THAT EMPLOYMENT OF EMPLOYEES OF A POLITICAL SUBDIVISION MAY BE PROHIBITED BY ORDINANCE, RESOLUTION OR LOCAL LAW ADOPTED BY THE LOCAL LEGISLATIVE BODY OR OTHER GOVERNING BOARD OF SUCH POLITICAL SUBDIVISION.

10. THE COMMISSION SHALL HAVE THE POWER TO REFUSE TO GRANT OR TO REVOKE OR SUSPEND A LICENSE OF ANY PERSON, ASSOCIATION OR CORPORATION THAT AIDS OR KNOWINGLY PERMITS OR CONSPIRES TO PERMIT ANY PUBLIC OFFICER, PUBLIC EMPLOYEE OR PARTY OFFICER TO ACQUIRE OR RETAIN ANY INTEREST PROHIBITED BY THIS SECTION AND SHALL HAVE THE POWER TO EXCLUDE FROM THE GROUNDS OF ANY RACING ASSOCIATION ANY SUCH PERSON, ASSOCIATION OR CORPORATION.

11. NOTWITHSTANDING ANY OTHER PROVISION OF LAW, AND IN ADDITION TO ANY OTHER CAUSE OF REMOVAL PROVIDED BY LAW, AN INTENTIONAL VIOLATION OF THIS SECTION SHALL BE CAUSE FOR REMOVAL FROM PUBLIC OFFICE, PUBLIC EMPLOYMENT OR PARTY OFFICE. IN ANY SUCH CASE, SUCH PUBLIC OFFICER, PUBLIC EMPLOYEE OR PARTY OFFICER VIOLATING THIS SECTION SHALL BE REMOVED FROM OFFICE BY THE APPROPRIATE AUTHORITY HAVING THE POWER OF REMOVAL OR AT THE SUIT OF THE ATTORNEY GENERAL. FURTHER, SUCH PUBLIC OFFICER, PUBLIC EMPLOYEE OR PARTY OFFICER SHALL BE LIABLE FOR A CIVIL PENALTY OF NOT MORE THAN TEN THOUSAND DOLLARS.

S 108. CERTAIN RESTRICTIONS ON WAGERING. 1. NO CORPORATION, ASSOCIATION OR PERSON WHICH HOLDS A LICENSE, REGISTRATION, FRANCHISE, CERTIFICATE OR PERMIT ISSUED BY THE COMMISSION SHALL DIRECTLY EXTEND CREDIT FOR ANY WAGER UNDER THIS CHAPTER.

2. NO CORPORATION, ASSOCIATION OR PERSON THAT HOLDS A LICENSE, REGISTRATION, FRANCHISE, CERTIFICATE OR PERMIT ISSUED BY THE COMMISSION SHALL PERMIT ANY PERSON WHO IS ACTUALLY OR APPARENTLY UNDER EIGHTEEN YEARS OF AGE TO BET ON GAMING ACTIVITY, AS DEFINED IN SUBDIVISION FIVE OF SECTION ONE HUNDRED ONE OF THIS ARTICLE.

S 109. SUPPLEMENTARY REGULATORY POWERS OF THE COMMISSION. NOTWITHSTANDING ANY INCONSISTENT PROVISION OF LAW, THE COMMISSION THROUGH ITS RULES AND REGULATIONS OR IN ALLOTING DATES FOR RACING, SIMULCASTING OR

1 IN LICENSING RACE MEETINGS AT WHICH PARI-MUTUEL BETTING IS PERMITTED
2 SHALL BE AUTHORIZED TO:

3 (A) PERMIT RACING AT WHICH PARI-MUTUEL BETTING IS CONDUCTED ON ANY OR
4 ALL DATES FROM THE FIRST DAY OF JANUARY THROUGH THE THIRTY-FIRST DAY OF
5 DECEMBER, INCLUSIVE OF SUNDAYS; AND

6 (B) FIX MINIMUM AND MAXIMUM CHARGES FOR ADMISSION AT ANY RACE MEETING.

7 S 110. STATEMENT OF STOCKHOLDERS TO BE FILED. EVERY CORPORATION OR
8 ASSOCIATION AUTHORIZED UNDER THIS CHAPTER TO CONDUCT PARI-MUTUEL BETTING
9 AT A RACE MEETING OR RACES RUN THEREAT SHALL FILE WITH THE COMMISSION A
10 STATEMENT GIVING THE NAMES AND ADDRESSES OF ALL ITS STOCKHOLDERS AND
11 SHALL LIKEWISE FILE REVISED STATEMENTS GIVING SUCH NAMES AND ADDRESSES
12 FROM TIME TO TIME AS CHANGES OCCUR.

13 S 111. COMPULSIVE GAMBLING ASSISTANCE. 1. THE COMMISSION SHALL COOPER-
14 ATE WITH THE COMMISSIONER OF ALCOHOLISM AND SUBSTANCE ABUSE SERVICES TO
15 ENSURE THE POSTING OF SIGNS AND LISTING OF INFORMATION ON THE INTERNET
16 DESIGNED TO ASSIST COMPULSIVE GAMBLERS PURSUANT TO THE PROVISIONS OF
17 SUBDIVISION (H) OF SECTION 19.09 OF THE MENTAL HYGIENE LAW.

18 2. (A) THE COMMISSION SHALL PROMULGATE RULES AND REGULATIONS PURSUANT
19 TO WHICH PEOPLE MAY VOLUNTARILY EXCLUDE THEMSELVES FROM ENTERING THE
20 PREMISES OF AN ASSOCIATION OR CORPORATION LICENSED OR ENFRANCHISED BY
21 THE COMMISSION PURSUANT TO THIS CHAPTER.

22 (B) AN ASSOCIATION OR CORPORATION LICENSED OR ENFRANCHISED PURSUANT TO
23 THIS CHAPTER SHALL NOT BE LIABLE TO ANY SELF-EXCLUDED PERSON OR TO ANY
24 OTHER PARTY IN ANY JUDICIAL PROCEEDING FOR ANY HARM, MONETARY OR OTHER-
25 WISE, WHICH MAY ARISE AS A RESULT OF A SELF-EXCLUDED PERSON'S ENGAGING
26 IN GAMING ACTIVITY WHILE ON THE LIST OF SELF-EXCLUDED PERSONS; PROVIDED
27 THAT NOTHING CONTAINED IN THIS PARAGRAPH SHALL LIMIT THE LIABILITY OF
28 ANY SUCH ASSOCIATION, CORPORATION, OR FACILITY FOR ANY OTHER ACTS OR
29 OMISSIONS UNDER ANY OTHER STATUTORY LAW OR UNDER THE COMMON LAW.

30 (C) NO VOLUNTARY ORDER OR REQUEST TO EXCLUDE PERSONS FROM ENTERING THE
31 PREMISES OF ANY SUCH ASSOCIATION, CORPORATION, OR FACILITY MAY BE
32 RESCINDED, CANCELED, OR DECLARED NULL AND VOID UNTIL SEVEN DAYS AFTER A
33 REQUEST HAS BEEN RECEIVED BY SUCH ASSOCIATION, CORPORATION, OR FACILITY
34 TO CANCEL SUCH ORDER OR REQUEST.

35 3. THE COMMISSION SHALL PROMULGATE RULES AND REGULATIONS UNDER WHICH A
36 PERSON WITH AN ACCOUNT AUTHORIZED PURSUANT TO SECTION ONE THOUSAND
37 TWELVE OF THIS CHAPTER MAY VOLUNTARILY PLACE LIMITS ON THE AMOUNTS OF
38 HIS OR HER WAGERS OR POTENTIAL WAGERS ON A DAILY OR WEEKLY BASIS. NO
39 ORDER FROM A PERSON TO REMOVE ANY LIMIT PLACED ON ACCOUNT WAGERS SHALL
40 BE EFFECTIVE UNTIL SEVEN DAYS AFTER IT HAS BEEN RECEIVED BY THE ENTITY
41 CONDUCTING ACCOUNT WAGERING.

42 S 112. PARI-MUTUEL OPERATIONS; FILING OF TAX FORMS AND OTHER STATIS-
43 TICS. THE COMMISSION AND THE COMMISSIONER OF TAXATION AND FINANCE SHALL
44 APPROVE ALL SYSTEMS USED FOR DATA PROCESSING AND COMMUNICATIONS IN THE
45 OPERATION OF PARI-MUTUEL BETTING AND, IN ITS DISCRETION, THE COMMISSION
46 MAY ESTABLISH, BY REGULATION, UNIFORM PROTOCOLS TO BE EMPLOYED FOR THE
47 MERGING OF WAGERS DEPOSITED WITH ONE PARI-MUTUEL OPERATOR WITH THE
48 WAGERS DEPOSITED WITH ANOTHER PARI-MUTUEL OPERATOR.

49 S 113. FILING OF PARI-MUTUEL TAX RETURNS OR REPORTS BY ELECTRONIC
50 MEANS. EVERY CORPORATION OR ASSOCIATION AUTHORIZED BY THIS CHAPTER TO
51 CONDUCT PARI-MUTUEL BETTING ON HORSE RACES SHALL FILE IN A TIMELY MANNER
52 PARI-MUTUEL TAX RETURNS OR OTHER REPORTS RELATING TO SUCH ACTIVITY IN
53 SUCH FORM AND BY SUCH MEANS, INCLUDING ELECTRONIC MEANS, AS MAY BE
54 PRESCRIBED BY THE COMMISSION OR THE COMMISSIONER OF TAXATION AND
55 FINANCE, AS THE CASE MAY BE IN ACCORDANCE WITH THE PROVISIONS OF THIS
56 CHAPTER.

1 S 114. PRACTICE AND PROCEDURE. THE PROVISIONS OF ARTICLE TWENTY-SEVEN
2 OF THE TAX LAW, EXCEPT SECTIONS ONE THOUSAND EIGHTY-FIVE AND ONE THOU-
3 SAND NINETY-SEVEN, SHALL APPLY TO THE PROVISIONS OF THIS CHAPTER IN THE
4 SAME MANNER AND WITH THE SAME FORCE AND EFFECT AS IF THE LANGUAGE OF
5 SUCH ARTICLE HAD BEEN INCORPORATED IN FULL INTO THIS CHAPTER AND HAD
6 EXPRESSLY REFERRED TO THE ADMISSION TAXES, PARI-MUTUEL REVENUE TAXES,
7 THE FRANCHISE FEE ON A FRANCHISED CORPORATION AND UNPAID MONEY DUE ON
8 ACCOUNT OF PARI-MUTUEL TICKETS NOT PRESENTED, ADMINISTERED BY THE
9 COMMISSIONER OF TAXATION AND FINANCE, UNDER THIS CHAPTER, WITH SUCH
10 MODIFICATIONS AS MAY BE NECESSARY IN ORDER TO ADAPT THE LANGUAGE OF SUCH
11 PROVISIONS TO SUCH TAXES, FEE AND UNPAID MONEY DUE, EXCEPT TO THE EXTENT
12 THAT ANY PROVISION OF SUCH ARTICLE IS EITHER INCONSISTENT WITH A
13 PROVISION OF THIS CHAPTER OR IS NOT RELEVANT TO THIS CHAPTER.

14 S 115. REGULATORY FEES. 1. PAYMENT OF THE REGULATORY FEES IMPOSED BY
15 THIS CHAPTER SHALL BE MADE TO THE COMMISSION BY EACH ENTITY REQUIRED TO
16 MAKE SUCH PAYMENTS ON THE LAST BUSINESS DAY OF EACH MONTH AND SHALL
17 COVER THE FEES DUE FOR THE PERIOD FROM THE SIXTEENTH DAY OF THE PRECED-
18 ING MONTH THROUGH THE FIFTEENTH DAY OF THE CURRENT MONTH, PROVIDED
19 HOWEVER THAT ALL SUCH PAYMENTS REQUIRED TO BE MADE ON MARCH THIRTY-FIRST
20 SHALL INCLUDE ALL FEES DUE AND ACCRUING THROUGH THE LAST FULL WEEK OF
21 RACING OF THE CURRENT YEAR OR AS OTHERWISE DETERMINED BY THE COMMISSION
22 AND SHALL BE ACCOMPANIED BY A REPORT UNDER OATH, SHOWING SUCH INFORMA-
23 TION AS THE COMMISSION MAY REQUIRE. A PENALTY OF FIVE PERCENT, AND
24 INTEREST AT THE RATE OF ONE PERCENT PER MONTH FROM THE DATE THE REPORT
25 IS REQUIRED TO BE FILED TO THE DATE OF THE PAYMENT OF THE FEE SHALL BE
26 PAYABLE IN CASE ANY FEE IMPOSED BY THIS CHAPTER IS NOT PAID WHEN DUE. IF
27 THE COMMISSION DETERMINES THAT ANY REGULATORY FEES RECEIVED BY IT UNDER
28 THIS CHAPTER WERE PAID IN ERROR, THE COMMISSION MAY CAUSE THE SAME TO BE
29 REFUNDED WITHOUT INTEREST OUT OF ANY MONIES COLLECTED THEREUNDER,
30 PROVIDED AN APPLICATION THEREFOR IS FILED WITH THE COMMISSION WITHIN ONE
31 YEAR FROM THE TIME THE ERRONEOUS PAYMENT IS MADE.

32 2. THE COMMISSION OR ITS DULY AUTHORIZED REPRESENTATIVES SHALL HAVE
33 THE POWER TO EXAMINE OR CAUSE TO BE EXAMINED THE BOOKS AND RECORDS OF
34 EACH ENTITY REQUIRED TO PAY THE REGULATORY FEE IMPOSED BY THIS CHAPTER
35 FOR THE PURPOSE OF EXAMINING AND CHECKING THE SAME AND ASCERTAINING
36 WHETHER OR NOT THE PROPER AMOUNT OR AMOUNTS DUE ARE BEING PAID. IF IN
37 THE OPINION OF THE COMMISSION, AFTER SUCH EXAMINATION, ANY SUCH REPORT
38 IS INCORRECT, THE COMMISSION IS AUTHORIZED TO ISSUE AN ASSESSMENT FIXING
39 THE CORRECT AMOUNT OF SUCH FEE. SUCH ASSESSMENTS MAY BE ISSUED WITHIN
40 THREE YEARS FROM THE FILING OF ANY REPORT. ANY SUCH ASSESSMENT SHALL BE
41 FINAL AND CONCLUSIVE UNLESS AN APPLICATION FOR A HEARING IS FILED BY THE
42 REPORTING ENTITY WITHIN THIRTY DAYS OF THE ASSESSMENT. THE ACTION OF THE
43 COMMISSION IN MAKING SUCH FINAL ASSESSMENT SHALL BE REVIEWABLE IN THE
44 SUPREME COURT IN THE MANNER PROVIDED BY AND SUBJECT TO THE PROVISIONS OF
45 ARTICLE SEVENTY-EIGHT OF THE CIVIL PRACTICE LAW AND RULES.

46 3. THE COMMISSION SHALL SUBMIT TO THE DIRECTOR OF THE BUDGET AN ANNUAL
47 PLAN THAT DETAILS THE AMOUNT OF MONEY THE COMMISSION DEEMS NECESSARY TO
48 MAINTAIN THE OPERATIONS, COMPLIANCE AND ENFORCEMENT OF THE PROVISIONS OF
49 THIS CHAPTER. CONTINGENT UPON APPROVAL OF THE DIRECTOR OF THE BUDGET,
50 THE COMMISSION SHALL PAY INTO AN ACCOUNT, TO BE KNOWN AS THE RACING
51 REGULATION ACCOUNT, UNDER THE JOINT CUSTODY OF THE COMPTROLLER AND THE
52 COMMISSION, THE TOTAL AMOUNT OF THE REGULATORY FEES COLLECTED PURSUANT
53 TO THIS CHAPTER. WITH THE APPROVAL OF THE DIRECTOR OF THE BUDGET, MONIES
54 TO BE UTILIZED TO MAINTAIN THE OPERATIONS NECESSARY TO IMPLEMENT THE
55 PROVISIONS OF THIS CHAPTER SHALL BE PAID OUT OF SUCH ACCOUNT ON THE

1 AUDIT AND WARRANT OF THE COMPTROLLER ON VOUCHERS CERTIFIED AND APPROVED
2 BY THE DIRECTOR OF THE BUDGET OR HIS DULY DESIGNATED OFFICIAL.

3 S 115-A. FEE FOR THE START OF A HORSE IN NEW YORK STATE PARI-MUTUEL
4 RACES. 1. IN ORDER TO PROVIDE SUPPLEMENTAL FUNDING TO SUPPORT THE OPER-
5 ATIONS OF THE COMMISSION, A FEE IN THE AMOUNT OF TEN DOLLARS SHALL BE
6 ASSESSED AND PAID UPON EVERY HORSE ENTERED IN A PARI-MUTUEL RACE IN NEW
7 YORK STATE THAT ACTUALLY STARTS IN THE RACE. SUCH FEE SHALL BE REFUNDED
8 TO THE OWNER OR CREDITED TO THE OWNER'S ACCOUNT IN THE EVENT THE HORSE
9 DOES NOT ACTUALLY START IN THE RACE. THE COMMISSION SHALL, AS A CONDI-
10 TION OF RACING, REQUIRE ANY CORPORATION AUTHORIZED UNDER THIS CHAPTER TO
11 CONDUCT PARI-MUTUEL BETTING AT A RACE MEETING OR RACES RUN THEREAT, TO
12 REQUIRE THAT EACH OWNER RACING A HORSE SHALL HAVE PLACED ON DEPOSIT AT
13 THE TIME OF ENTRY WITH THE HORSEMEN'S BOOKKEEPER OR SIMILAR OFFICE OF
14 SUCH CORPORATION THE REQUIRED FEE IN THE AMOUNT OF TEN DOLLARS PER HORSE
15 ENTERED IN A PARI-MUTUEL RACE. UNLESS REFUNDED OR CREDITED, THE TOTAL
16 FEE AMOUNT COLLECTED DURING THE PRECEDING MONTH BY THE HORSEMEN'S BOOK-
17 KEEPER OR SIMILAR OFFICE OF SUCH CORPORATION SHALL BE PAID TO THE
18 COMMISSION ON THE FIRST BUSINESS DAY OF EACH MONTH. PAYMENT SHALL BE
19 ACCOMPANIED BY A REPORT, UNDER OATH, SHOWING SUCH INFORMATION AS THE
20 COMMISSION MAY REQUIRE. A PENALTY OF FIVE PERCENT, AND INTEREST AT THE
21 RATE OF ONE PERCENT PER MONTH FROM THE DATE THE REPORT IS REQUIRED TO BE
22 FILED TO THE DATE OF THE PAYMENT OF THE FEE, SHALL BE PAYABLE IN CASE
23 ANY FEE IMPOSED BY THIS SUBDIVISION IS NOT PAID WHEN DUE. IF THE COMMIS-
24 SION DETERMINES THAT ANY FEES RECEIVED BY IT UNDER THIS SUBDIVISION WERE
25 PAID IN ERROR, THE COMMISSION MAY CAUSE THE SAME TO BE REFUNDED WITHOUT
26 INTEREST OUT OF ANY MONIES COLLECTED HEREUNDER, PROVIDED AN APPLICATION
27 THEREFOR IS FILED WITH THE COMMISSION WITHIN ONE YEAR FROM THE TIME THE
28 ERRONEOUS PAYMENT IS MADE.

29 2. THE COMMISSION OR ITS DULY AUTHORIZED REPRESENTATIVES SHALL HAVE
30 THE POWER TO EXAMINE OR CAUSE TO BE EXAMINED THE BOOKS AND RECORDS OF
31 SUCH CORPORATIONS REQUIRED TO PAY OVER THE FEE IMPOSED BY THIS SECTION
32 FOR THE PURPOSE OF EXAMINING AND CHECKING THE SAME AND ASCERTAINING
33 WHETHER THE PROPER AMOUNT OR AMOUNTS DUE ARE BEING PAID. IF IN THE OPIN-
34 ION OF THE COMMISSION, AFTER SUCH EXAMINATION, ANY SUCH REPORT IS INCOR-
35 RECT, THE COMMISSION IS AUTHORIZED TO ISSUE AN ASSESSMENT FIXING THE
36 CORRECT AMOUNT OF SUCH FEE. SUCH ASSESSMENTS MAY BE ISSUED WITHIN THREE
37 YEARS FROM THE FILING OF ANY REPORT. ANY SUCH ASSESSMENT SHALL BE FINAL
38 AND CONCLUSIVE UNLESS AN APPLICATION FOR A HEARING IS FILED BY THE
39 REPORTING ENTITY WITHIN THIRTY DAYS OF THE ASSESSMENT. THE ACTION OF THE
40 COMMISSION IN MAKING SUCH FINAL ASSESSMENT SHALL BE REVIEWABLE IN THE
41 SUPREME COURT IN THE MANNER PROVIDED BY AND SUBJECT TO THE PROVISIONS OF
42 ARTICLE SEVENTY-EIGHT OF THE CIVIL PRACTICE LAW AND RULES.

43 3. THE COMMISSION SHALL PAY INTO THE RACING REGULATION ACCOUNT, UNDER
44 THE JOINT CUSTODY OF THE COMPTROLLER AND THE COMMISSION, THE TOTAL
45 AMOUNT OF THE FEES COLLECTED PURSUANT TO THIS SECTION. WITH THE APPROVAL
46 OF THE DIRECTOR OF THE BUDGET, MONIES TO BE UTILIZED TO PAY THE COSTS
47 AND EXPENSES OF THE OPERATIONS OF THE COMMISSION SHALL BE PAID OUT OF
48 SUCH ACCOUNT ON THE AUDIT AND WARRANT OF THE COMPTROLLER ON VOUCHERS,
49 CERTIFIED AND APPROVED BY THE DIRECTOR OF THE BUDGET OR HIS OR HER DULY
50 DESIGNATED OFFICIAL.

51 S 116. PENALTIES. NOTWITHSTANDING ANY INCONSISTENT PROVISION OF LAW,
52 ANY PERSON OR ENTITY THAT VIOLATES ANY PROVISION OF THIS CHAPTER, OR ANY
53 RULE, REGULATION OR ORDER PROMULGATED THERETO, OR THE TERMS AND CONDI-
54 TIONS OF ANY LICENSE, PERMIT OR APPROVAL ISSUED THEREUNDER, SHALL BE
55 LIABLE TO A CIVIL PENALTY OF NOT MORE THAN FIFTY THOUSAND DOLLARS FOR
56 EACH VIOLATION, AND AN ADDITIONAL CIVIL PENALTY OF NOT MORE THAN FIFTY

1 THOUSAND DOLLARS FOR EACH DAY DURING WHICH SUCH VIOLATION CONTINUES. ANY
2 CIVIL PENALTY MAY BE ASSESSED BY THE COMMISSION FOLLOWING A HEARING OR
3 OPPORTUNITY TO BE HEARD.

4 S 117. TRANSFER OF FUNCTIONS. ALL OF THE FUNCTIONS AND POWERS
5 POSSESSED BY AND THE OBLIGATIONS AND DUTIES OF THE FORMER RACING AND
6 WAGERING BOARD AND ITS PREDECESSORS AND THE DIVISION OF THE LOTTERY AND
7 ITS PREDECESSORS ARE HEREBY TRANSFERRED TO THE COMMISSION.

8 S 118. TRANSFER OF EMPLOYEES. 1. UPON THE TRANSFER OF FUNCTIONS,
9 POWERS, DUTIES AND OBLIGATIONS TO THE COMMISSION PURSUANT TO THIS ARTI-
10 CLE, PROVISION SHOULD BE MADE FOR THE TRANSFER TO THE COMMISSION OF SUCH
11 EMPLOYEES OF THE FORMER DIVISION OF THE LOTTERY AND FORMER RACING AND
12 WAGERING BOARD WHO ARE ENGAGED IN CARRYING OUT SUCH FUNCTIONS AS THE
13 CHAIR OF THE COMMISSION MAY DEEM NECESSARY FOR THE EXERCISE OF THE FUNC-
14 TIONS HEREIN TRANSFERRED TO THE COMMISSION. EMPLOYEES SO TRANSFERRED
15 SHALL BE TRANSFERRED WITHOUT FURTHER EXAMINATION OR QUALIFICATION AND
16 SHALL RETAIN THEIR RESPECTIVE CIVIL SERVICE CLASSIFICATIONS AND STATUS.
17 FOR THE PURPOSE OF DETERMINING THE EMPLOYEES HOLDING PERMANENT APPOINT-
18 MENTS IN COMPETITIVE CLASS POSITIONS TO BE TRANSFERRED, SUCH EMPLOYEES
19 SHALL BE SELECTED WITHIN EACH CLASS OF POSITIONS IN THE ORDER OF THEIR
20 ORIGINAL APPOINTMENT, WITH DUE REGARD TO THE RIGHT OF PREFERENCE IN
21 RETENTION OF DISABLED AND NON-DISABLED VETERANS. ANY SUCH EMPLOYEE WHO,
22 AT THE TIME OF SUCH TRANSFER, HAS A TEMPORARY OR PROVISIONAL APPOINTMENT
23 SHALL BE TRANSFERRED SUBJECT TO THE SAME RIGHT OF REMOVAL, EXAMINATION
24 OR TERMINATION AS THOUGH SUCH TRANSFER HAD NOT BEEN MADE. EMPLOYEES
25 HOLDING PERMANENT APPOINTMENTS IN COMPETITIVE CLASS POSITIONS WHO ARE
26 NOT TRANSFERRED PURSUANT TO THIS SECTION SHALL HAVE THEIR NAMES ENTERED
27 UPON AN APPROPRIATE PREFERRED LIST FOR REINSTATEMENT PURSUANT TO THE
28 CIVIL SERVICE LAW.

29 2. A TRANSFERRED EMPLOYEE SHALL REMAIN IN THE SAME COLLECTIVE BARGAIN-
30 ING UNIT AS WAS THE CASE PRIOR TO HIS OR HER TRANSFER; SUCCESSOR EMPLOY-
31 EES TO THE POSITIONS HELD BY SUCH TRANSFERRED EMPLOYEES SHALL, CONSIST-
32 ENT WITH THE PROVISIONS OF ARTICLE FOURTEEN OF THE CIVIL SERVICE LAW, BE
33 INCLUDED IN THE SAME UNIT AS THEIR PREDECESSORS. EMPLOYEES OTHER THAN
34 MANAGEMENT OR CONFIDENTIAL PERSONS AS DEFINED IN ARTICLE FOURTEEN OF THE
35 CIVIL SERVICE LAW SERVING POSITIONS IN NEWLY CREATED TITLES SHALL BE
36 ASSIGNED TO THE APPROPRIATE BARGAINING UNIT. NOTHING CONTAINED HEREIN
37 SHALL BE CONSTRUED TO AFFECT:

38 (A) THE RIGHTS OF EMPLOYEES PURSUANT TO A COLLECTIVE BARGAINING AGREE-
39 MENT;

40 (B) THE REPRESENTATIONAL RELATIONSHIPS AMONG EMPLOYEE ORGANIZATIONS OR
41 THE BARGAINING RELATIONSHIPS BETWEEN THE STATE AND AN EMPLOYEE ORGANIZA-
42 TION; OR

43 (C) EXISTING LAW WITH RESPECT TO AN APPLICATION TO THE PUBLIC EMPLOY-
44 MENT RELATIONS BOARD, PROVIDED, HOWEVER, THAT THE MERGER OF SUCH NEGOTI-
45 ATING UNITS OF EMPLOYEES SHALL BE EFFECTED ONLY WITH THE CONSENT OF THE
46 RECOGNIZED AND CERTIFIED REPRESENTATIVE OF SUCH UNITS AND OF THE DEPART-
47 MENT OF LAW.

48 S 119. TRANSFER OF RECORDS. ALL BOOKS, PAPERS, RECORDS AND PROPERTY OF
49 THE FORMER DIVISION OF THE LOTTERY AND FORMER RACING AND WAGERING BOARD
50 AND ITS PREDECESSORS WITH RESPECT TO THE FUNCTIONS, POWERS, DUTIES AND
51 OBLIGATIONS TRANSFERRED BY THIS ARTICLE ARE TO BE DELIVERED TO THE
52 APPROPRIATE SUCCESSOR OFFICES WITHIN THE COMMISSION, AT SUCH PLACE AND
53 TIME, AND IN SUCH MANNER AS THE CHAIR OF THE COMMISSION MAY REQUIRE.

54 S 120. CONTINUITY OF AUTHORITY. FOR THE PURPOSE OF SUCCESSION TO ALL
55 FUNCTIONS, POWERS, DUTIES AND OBLIGATIONS OF THE FORMER DIVISION OF THE
56 LOTTERY AND FORMER RACING AND WAGERING BOARD TRANSFERRED TO AND ASSUMED

1 BY THE COMMISSION, SUCH COMMISSION SHALL BE DEEMED TO AND HELD TO
2 CONSTITUTE THE CONTINUATION OF SUCH FUNCTIONS, POWERS, DUTIES AND OBLI-
3 GATIONS, AND NOT A DIFFERENT AGENCY OR AUTHORITY.

4 S 121. COMPLETION OF UNFINISHED BUSINESS. ANY BUSINESS OR OTHER MATTER
5 UNDERTAKEN OR COMMENCED BY THE FORMER DIVISION OF THE LOTTERY AND THE
6 FORMER RACING AND WAGERING BOARD PERTAINING TO OR CONNECTED WITH THE
7 FUNCTIONS, POWERS, DUTIES AND OBLIGATIONS TRANSFERRED AND ASSIGNED TO
8 THE STATE GAMING COMMISSION AND PENDING ON THE EFFECTIVE DATE OF THIS
9 ARTICLE SHALL BE CONDUCTED AND COMPLETED BY THE APPROPRIATE SUCCESSOR
10 OFFICES WITHIN THE COMMISSION IN THE SAME MANNER AND UNDER THE SAME
11 TERMS AND CONDITIONS AND WITH THE SAME EFFECT AS IF CONDUCTED AND
12 COMPLETED BY THE FORMER DIVISION OF THE LOTTERY AND FORMER RACING AND
13 WAGERING BOARD.

14 S 122. CONTINUATION OF RULES AND REGULATIONS. ALL RULES, REGULATIONS,
15 ACTS, ORDERS, DETERMINATIONS, AND DECISIONS OF THE FORMER DIVISION OF
16 THE LOTTERY AND FORMER RACING AND WAGERING BOARD IN FORCE AT THE TIME OF
17 SUCH TRANSFER AND ASSUMPTION, SHALL CONTINUE IN FORCE AND EFFECT AS
18 RULES, REGULATIONS, ACTS, ORDERS, DETERMINATIONS AND DECISIONS OF THE
19 COMMISSION UNTIL DULY MODIFIED OR ABROGATED BY SUCH COMMISSION.

20 S 123. TERMS OCCURRING IN LAWS, CONTRACTS AND OTHER DOCUMENTS. UNLESS
21 THE CONTEXT SHALL OTHERWISE REQUIRE, WHENEVER THE "RACING AND WAGERING
22 BOARD" OR "BOARD", "STATE RACING COMMISSION", "STATE HARNESS RACING
23 COMMISSION", "STATE QUARTER HORSE RACING COMMISSION", OR "DIVISION OF
24 THE LOTTERY" ARE REFERRED TO OR DESIGNATED IN ANY LAW, CONTRACT OR DOCU-
25 MENT PERTAINING TO THE FUNCTIONS, POWERS, OBLIGATIONS AND DUTIES TRANS-
26 FERRED AND ASSIGNED TO THE COMMISSION, SUCH REFERENCE OR DESIGNATION
27 SHALL BE DEEMED TO REFER TO THE "STATE GAMING COMMISSION".

28 S 124. EXISTING RIGHTS AND REMEDIES PRESERVED. NO EXISTING RIGHT OR
29 REMEDY OF ANY CHARACTER SHALL BE LOST, IMPAIRED OR AFFECTED BY REASON OF
30 THE TRANSFER OR ASSIGNMENT OF FUNCTIONS, POWERS, OBLIGATIONS AND DUTIES
31 FROM THE FORMER DIVISION OF THE LOTTERY AND FORMER RACING AND WAGERING
32 BOARD TO THE COMMISSION.

33 S 125. PENDING ACTIONS OR PROCEEDINGS. NO ACTION OR PROCEEDING PENDING
34 AT THE TIME THAT THIS ARTICLE SHALL TAKE EFFECT RELATING TO THE FUNC-
35 TIONS, POWERS AND DUTIES OF THE FORMER DIVISION OF THE LOTTERY AND
36 FORMER RACING AND WAGERING BOARD TRANSFERRED PURSUANT TO THIS ARTICLE,
37 BROUGHT BY OR AGAINST THE FORMER DIVISION OF THE LOTTERY OR FORMER
38 RACING AND WAGERING BOARD, OR THE OFFICERS THEREOF, SHALL BE AFFECTED BY
39 THE TRANSFER OR ASSIGNMENT OF FUNCTIONS, POWERS, OBLIGATIONS AND DUTIES
40 FROM THE FORMER DIVISION OF THE LOTTERY AND FORMER RACING AND WAGERING
41 BOARD TO THE COMMISSION, BUT THE SAME MAY BE PROSECUTED OR DEFENDED IN
42 THE NAME OF THE COMMISSION. IN ALL SUCH ACTIONS AND PROCEEDINGS, THE
43 COMMISSION, UPON APPLICATION TO THE COURT, SHALL BE SUBSTITUTED AS A
44 PARTY.

45 S 126. TRANSFER OF APPROPRIATIONS HERETOFORE MADE. SUBJECT TO THE
46 APPROVAL OF THE DIRECTOR OF THE BUDGET, ANY AND ALL APPROPRIATIONS AND
47 REAPPROPRIATIONS HERETOFORE MADE TO THE FORMER DIVISION OF THE LOTTERY,
48 STATE POLICE, AND FORMER RACING AND WAGERING BOARD FOR THE FUNCTIONS AND
49 PURPOSES TRANSFERRED BY THIS ARTICLE TO THE COMMISSION TO THE EXTENT OF
50 REMAINING UNEXPENDED OR UNENCUMBERED BALANCES THEREOF, WHETHER ALLOCATED
51 OR UNALLOCATED AND WHETHER OBLIGATED OR UNOBLIGATED, ARE HEREBY TRANS-
52 FERRED TO AND MADE AVAILABLE FOR USE AND EXPENDITURE BY THE COMMISSION
53 FOR THE SAME PURPOSES FOR WHICH ORIGINALLY APPROPRIATED OR REAPPROPRI-
54 ATED AND SHALL BE PAYABLE ON VOUCHERS CERTIFIED OR APPROVED BY THE CHAIR
55 OF THE COMMISSION OR HIS OR HER DESIGNEE ON AUDIT AND WARRANT OF THE
56 COMPTROLLER. PAYMENTS FOR LIABILITIES FOR EXPENSES OF PERSONAL SERVICES,

1 MAINTENANCE AND OPERATION HERETOFORE INCURRED BY AND FOR LIABILITIES
2 INCURRED AND TO BE INCURRED IN COMPLETING THE AFFAIRS OF THE FORMER
3 DIVISION OF THE LOTTERY AND FORMER RACING AND WAGERING BOARD WITH
4 RESPECT TO THE POWERS, DUTIES AND FUNCTIONS TRANSFERRED HEREIN, SHALL
5 ALSO BE MADE ON VOUCHERS OR CERTIFICATES APPROVED BY THE CHAIR OF THE
6 COMMISSION OR HIS OR HER DESIGNEE ON AUDIT AND WARRANT OF THE COMP-
7 TROLLER.

8 S 127. TRANSFER OF ASSETS AND LIABILITIES. ALL ASSETS AND LIABILITIES
9 OF THE FORMER DIVISION OF THE LOTTERY AND FORMER RACING AND WAGERING
10 BOARD ARE HEREBY TRANSFERRED TO AND ASSUMED BY THE COMMISSION.

11 S 128. PROMULGATION OF RULES AND REGULATIONS. NOTWITHSTANDING ANY
12 INCONSISTENT PROVISION OF THE STATE ADMINISTRATIVE PROCEDURE ACT, THE
13 COMMISSION SHALL BE AUTHORIZED TO PROMULGATE REGULATIONS ON AN EMERGENCY
14 BASIS TO ENSURE THE IMPLEMENTATION OF THIS ARTICLE.

15 S 129. CONSTRUCTION OF OTHER LAWS OR PROVISIONS. UNLESS THE CONTEXT
16 SHALL REQUIRE OTHERWISE, THE TERMS "DIVISION OF THE LOTTERY", "STATE
17 QUARTER HORSE RACING COMMISSION", "STATE RACING COMMISSION", "STATE
18 HARNESS RACING COMMISSION", "STATE RACING AND WAGERING BOARD" OR "BOARD"
19 WHEREVER OCCURRING IN ANY OF THE PROVISIONS OF THIS CHAPTER OR OF ANY
20 OTHER LAW, OR, IN ANY OFFICIAL BOOKS, RECORDS, INSTRUMENTS, RULES OR
21 PAPERS, SHALL HEREAFTER MEAN AND REFER TO THE STATE GAMING COMMISSION
22 CREATED BY SECTION ONE HUNDRED TWO OF THIS ARTICLE. THE PROVISIONS OF
23 ARTICLE THREE OF THIS CHAPTER SHALL BE INAPPLICABLE TO ARTICLE TWO OF
24 THIS CHAPTER; AND THE PROVISIONS OF SUCH ARTICLE TWO SHALL BE INAPPLICA-
25 BLE TO SUCH ARTICLE THREE, EXCEPT THAT SECTION TWO HUNDRED THIRTY-ONE OF
26 SUCH ARTICLE TWO SHALL APPLY TO SUCH ARTICLE THREE.

27 S 2. Subdivision 2 of section 186 of the general municipal law, as
28 amended by chapter 574 of the laws of 1978, is amended to read as
29 follows:

30 2. "Board" shall mean New York state [racing and wagering board]
31 GAMING COMMISSION CREATED PURSUANT TO SECTION ONE HUNDRED TWO OF THE
32 RACING, PARI-MUTUEL WAGERING AND BREEDING LAW.

33 S 3. Subdivision 2 of section 476 of the general municipal law, as
34 amended by chapter 46 of the laws of 1977, is amended to read as
35 follows:

36 2. "Control commission" or "commission" shall mean the NEW YORK state
37 [racing and wagering board] GAMING COMMISSION CREATED PURSUANT TO
38 SECTION ONE HUNDRED TWO OF THE RACING, PARI-MUTUEL WAGERING AND BREEDING
39 LAW.

40 S 4. Subdivision 1 of section 432 of the executive law, as amended by
41 chapter 46 of the laws of 1977, is amended to read as follows:

42 1. "Control commission" or "commission" shall mean the NEW YORK state
43 [racing and wagering board] GAMING COMMISSION CREATED PURSUANT TO
44 SECTION ONE HUNDRED TWO OF THE RACING, PARI-MUTUEL WAGERING AND BREEDING
45 LAW.

46 S 5. The racing, pari-mutuel wagering and breeding law is amended by
47 adding a new article 12 to read as follows:

48 ARTICLE 12

49 OFFICE OF RACING PROMOTION AND DEVELOPMENT

50 SECTION 1201. NEW YORK STATE OFFICE OF RACING PROMOTION AND DEVELOPMENT.

51 1202. USE OF SERVICE EMPLOYEES.

52 S 1201. NEW YORK STATE OFFICE OF RACING PROMOTION AND DEVELOPMENT.
53 THERE IS HEREBY CREATED WITHIN THE NEW YORK STATE GAMING COMMISSION A
54 SEPARATE AND INDEPENDENT OFFICE OF RACING PROMOTION AND DEVELOPMENT. THE
55 OFFICE SHALL PROMOTE THE BREEDING OF HORSES AND THE CONDUCT OF EQUINE
56 RESEARCH IN THIS STATE AND SHALL ADMINISTER THE "STATE THOROUGHBRED

BREEDING AND DEVELOPMENT FUND", "AGRICULTURE AND NEW YORK STATE HORSE BREEDING DEVELOPMENT FUND" AND "NEW YORK STATE QUARTER HORSE BREEDING AND DEVELOPMENT FUND CORPORATION."

S 1202. USE OF SERVICE EMPLOYEES. THE OFFICE SHALL UTILIZE, PURSUANT TO A CONTRACT APPROVED BY THE DIRECTOR OF THE BUDGET, THE SERVICE EMPLOYEES OF THE STATE GAMING COMMISSION.

S 6. Sections 1602 and 1603 of the tax law are REPEALED and two new sections 1602 and 1603 are added to read as follows:

S 1602. DEFINITIONS. AS USED IN THIS ARTICLE:

1. "LOTTERY" MEANS THE LOTTERY OPERATED BY THE STATE PURSUANT TO THIS ARTICLE.

2. "DIVISION": (A) MEANS THE DIVISION OF THE LOTTERY, AS ESTABLISHED WITHIN THE NEW YORK STATE GAMING COMMISSION; AND (B) FOR THE PURPOSES OF SECTION SIXTEEN HUNDRED SEVENTEEN-A OF THIS ARTICLE, THE TERM "DIVISION OF THE LOTTERY" OR "DIVISION" MEANS THE "DIVISION OF GAMING" AS CREATED PURSUANT TO SECTION ONE HUNDRED TWO OF THE RACING, PARI-MUTUEL WAGERING AND BREEDING LAW.

3. "COMMISSIONER" MEANS THE COMMISSIONER OF TAXATION AND FINANCE OR HIS OR HER DULY APPOINTED DELEGATE.

4. "COMMISSION" MEANS THE NEW YORK STATE GAMING COMMISSION.

5. "DIRECTOR" MEANS THE DIRECTOR OF THE DIVISION OF THE LOTTERY, EXCEPT FOR PURPOSES OF PARAGRAPH FOUR OF SUBSECTION C OF SECTION ONE THOUSAND SIX HUNDRED THIRTEEN AND SECTIONS ONE THOUSAND SIX HUNDRED FOURTEEN AND ONE THOUSAND SIX HUNDRED FIFTEEN OF THIS CHAPTER THE TERM "DIRECTOR" SHALL MEAN THE "COMMISSION".

S 1603. DIVISION OF THE LOTTERY. THERE IS HEREBY CREATED WITHIN THE COMMISSION THE DIVISION OF THE LOTTERY.

S 7. Subdivision 3 of section 252 of the racing, pari-mutuel wagering and breeding law, such section as renumbered by chapter 18 of the laws of 2008, is amended to read as follows:

3. The board may delegate to one or more of the directors[,] OR officers[, agents or employees] of the fund such powers and duties as it may deem proper and [may] SHALL utilize, pursuant to a contract approved by the director of the budget, the service employees of the state racing and wagering board AND THE STATE OFFICE OF RACING PROMOTION AND DEVELOPMENT.

S 8. Section 330 of the racing, pari-mutuel wagering and breeding law, the opening paragraph as amended by chapter 197 of the laws of 2007, is amended to read as follows:

S 330. Agriculture and New York state horse breeding development fund.
1. There is hereby created within the state [racing and wagering board] GAMING COMMISSION the "agriculture and New York state horse breeding development fund". Such fund shall be a body corporate and politic constituting a public benefit corporation. It shall be administered by the commissioner of agriculture and markets, the [chairman] CHAIR of the New York state [racing and wagering board] GAMING COMMISSION or his or her designee, and [the chairman and] THREE members of the state [harness racing] GAMING commission as [reconstituted pursuant to article one of this chapter] DESIGNATED BY THE GOVERNOR. Members shall continue to hold office until their successors are appointed and qualified. The [chairman] CHAIR shall be designated by the members of the fund. The members of the fund shall receive no compensation from the fund for their services as such members but shall be reimbursed by the fund for the expenses actually and necessarily incurred by them in the performance of their duties under sections two hundred twenty-two through seven hundred five of this chapter. Such fund shall have perpetual existence

1 and shall exercise all powers authorized by this chapter and reasonably
2 necessary for accomplishing its purposes. Such powers shall be exer-
3 cised in the name of the fund.

4 2. THE BOARD MAY DELEGATE TO ONE OR MORE OF THE MEMBERS OR OFFICERS OF
5 THE FUND SUCH POWERS AND DUTIES AS IT MAY DEEM PROPER AND SHALL UTILIZE,
6 PURSUANT TO A CONTRACT APPROVED BY THE DIRECTOR OF THE BUDGET, THE
7 SERVICE EMPLOYEES OF THE STATE RACING AND WAGERING BOARD AND THE STATE
8 OFFICE OF RACING PROMOTION AND DEVELOPMENT.

9 3. The fund is created in order that it may promote the breeding of
10 horses and the conduct of equine research in this state on its own
11 responsibility and under its own business management. The policy, good
12 faith and interest of the state are concerned with the management and
13 development of the fund and are committed to promotion of horse breeding
14 and equine research in this state in active cooperation with the fund.
15 The promotion and encouragement of equine research shall be through a
16 fund of a land grant university within this state with a regents
17 approved veterinary college facility. Nothing herein, however, shall be
18 deemed in any way to obligate the state to any bondholder or other cred-
19 itor of the fund.

20 4. The fund is directed to report annually, on or before January thir-
21 ty-first, to the governor and the legislature, on the state of the stan-
22 dardbred breeding industry in this state. Such reports shall include,
23 but not be limited to, the impact of the fund's programs on the breeding
24 and racing aspects of the industry; economic factors affecting the
25 industry such as employment and employment growth, state and local bene-
26 fits of breeding farms, income and the production of income within this
27 state, economic comparisons with other states; and data relative to
28 mares and stallions standing in this state to include such information
29 as the number in this state, racing quality as measured by wins and
30 stakes won and placed and money won, the number of foals and foal racing
31 quality as measured by sales value and number of starts, races and money
32 won, the progeny quality, including earnings, and the success of New
33 York-breds nationally.

34 The fund is further directed to incorporate into its reports comments
35 from spokesmen representing all segments of the industry as well as
36 recommendations on preserving and enhancing the standardbred breeding
37 industry in this state.

38 S 9. Subdivision 3 of section 431 of the racing, pari-mutuel wagering
39 and breeding law is amended to read as follows:

40 3. The board may delegate to one or more of the directors[,] OR offi-
41 cers[, agents or employees] of the fund such powers and duties as it may
42 deem proper and [may] SHALL utilize, pursuant to a contract approved by
43 the director of the budget, the service employees of the state racing
44 and wagering board AND THE STATE OFFICE OF RACING PROMOTION AND DEVELOP-
45 MENT.

46 S 10. Subdivision 1 of section 169 of the executive law, as added by
47 chapter 986 of the laws of 1984, paragraph (a) as amended by section 94
48 of subpart B of part C of chapter 62 of the laws of 2011, paragraphs (b)
49 and (e) as amended by section 14 of part A of chapter 62 of the laws of
50 2011, paragraph (c) as separately amended by section 66 of part A and
51 section 2 of part W of chapter 56 of the laws of 2010, paragraph (d) as
52 amended by chapter 220 of the laws of 2005, and paragraph (f) as sepa-
53 rately amended by section 1 of part E and section 1 of part H of chapter
54 57 of the laws of 2011, is amended to read as follows:

55 1. Salaries of certain state officers holding the positions indicated
56 hereinbelow shall be as set forth in subdivision two of this section:

1 (a) commissioner of corrections and community supervision, commission-
2 er of education, commissioner of health, commissioner of mental health,
3 commissioner of developmental disabilities, commissioner of children and
4 family services, commissioner of temporary and disability assistance,
5 chancellor of the state university of New York, commissioner of trans-
6 portation, commissioner of environmental conservation, superintendent of
7 state police, commissioner of general services and commissioner of the
8 division of homeland security and emergency services;

9 (b) commissioner of labor, chairman of public service commission,
10 commissioner of taxation and finance, superintendent of financial
11 services, commissioner of criminal justice services, CHAIR OF THE STATE
12 GAMING COMMISSION and commissioner of parks, recreation and historic
13 preservation;

14 (c) commissioner of agriculture and markets, commissioner of alcohol-
15 ism and substance abuse services, adjutant general, commissioner and
16 president of state civil service commission, commissioner of economic
17 development, chair of the energy research and development authority,
18 president of higher education services corporation, commissioner of
19 motor vehicles, member-chair of board of parole, chair of public employ-
20 ment relations board, secretary of state, [chair of the state racing and
21 wagering board,] commissioner of alcoholism and substance abuse
22 services, executive director of the housing finance agency, commissioner
23 of housing and community renewal, executive director of state insurance
24 fund, commissioner-chair of state liquor authority, chair of the work-
25 ers' compensation board;

26 (d) director of office for the aging, commissioner of human rights,
27 commissioners of the department of public service, chairman of state
28 commission on quality of care for the mentally disabled, chairman of
29 commission on alcoholism and substance abuse prevention and education,
30 executive director of the council on the arts, MEMBERS OF THE STATE
31 GAMING COMMISSION and executive director of the board of social welfare;

32 (e) chairman of state athletic commission, director of the office of
33 victim services, chairman of human rights appeal board, chairman of the
34 industrial board of appeals, chairman of the state commission of
35 correction, members of the board of parole[, members of the state racing
36 and wagering board], member-chairman of unemployment insurance appeal
37 board, director of veterans' affairs, and vice-chairman of the workers'
38 compensation board;

39 (f) executive director of adirondack park agency, members of state
40 commission of correction, members of unemployment insurance appeal
41 board, and members of the workers' compensation board.

42 S 11. Terms. (a) Wherever the term "racing and wagering board", "state
43 racing commission" or "state harness racing commission" appears in the
44 executive law, the general municipal law, article 34 of the tax law or
45 the racing, pari-mutuel wagering and breeding law or otherwise in the
46 consolidated or unconsolidated laws of this state, such term is hereby
47 changed to "state gaming commission".

48 (b) Wherever the term "chairman of the racing and wagering board"
49 appears in the consolidated or unconsolidated laws of this state, such
50 term is hereby changed to "chair of the state gaming commission".

51 (c) The legislative bill drafting commission is hereby directed to
52 effectuate this provision, and shall be guided by a memorandum of
53 instruction setting forth the specific provisions of law to be amended.
54 Such memorandum shall be transmitted to the legislative bill drafting
55 commission within sixty days of the effective date of this provision.
56 Such memorandum shall be issued jointly by the governor, the temporary

1 president of the senate and the speaker of the assembly, or by the dele-
2 gate of each.

3 S 12. Subdivision 1 of section 252 of the racing, pari-mutuel wagering
4 and breeding law, as amended by chapter 197 of the laws of 2007 and such
5 section as renumbered by chapter 18 of the laws of 2008, is amended to
6 read as follows:

7 1. A corporation to be known as the New York state thoroughbred breed-
8 ing and development fund corporation is hereby created. Such corporation
9 shall be a body corporate and politic constituting a public benefit
10 corporation. It shall be administered by a board of directors consisting
11 of the [chairman] CHAIR of the state [racing and wagering board] GAMING
12 COMMISSION or his or her designee, the commissioner of agriculture and
13 markets, [the] THREE members of the state [racing] GAMING commission as
14 [defined in section one hundred three of this chapter,] DESIGNATED BY
15 THE GOVERNOR and six members appointed by the governor, all of whom are
16 experienced or have been actively engaged in the breeding of thorough-
17 bred horses in New York state, one, the president or the executive
18 director of the statewide thoroughbred breeders association representing
19 the majority of breeders of registered thoroughbreds in New York state,
20 one upon the recommendation of the majority leader of the senate, one
21 upon the recommendation of the speaker of the assembly, one upon the
22 recommendation of the minority leader of the senate, and one upon the
23 recommendation of the minority leader of the assembly. Two of the
24 appointed members shall initially serve for a two year term, two of the
25 appointed members shall initially serve for a three year term and two of
26 the appointed members shall initially serve for a four year term. All
27 successors appointed members shall serve for a four year term. All
28 members shall continue in office until their successors have been
29 appointed and qualified. The governor shall designate the chair from
30 among the sitting members who shall serve as such at the pleasure of the
31 governor.

32 S 13. This act shall take effect May 1, 2012.

33 PART B

34 Section 1. The section heading and subdivision 1 of section 5 of the
35 civil service law, as added by chapter 790 of the laws of 1958, are
36 amended to read as follows:

37 Department of [civil service] WORKFORCE MANAGEMENT; state civil
38 service commission.

39 1. The department. There shall [continue to] be in the state govern-
40 ment a department of [civil service] WORKFORCE MANAGEMENT. The head of
41 the department shall be the president of the state civil service commis-
42 sion who shall be responsible for the discharge of the duties and func-
43 tions of the department.

44 S 2. Section 7 of the civil service law is amended by adding a new
45 subdivision 7 to read as follows:

46 7. THE PRESIDENT OF THE COMMISSION SHALL PROMOTE HARMONIOUS AND COOP-
47 ERATIVE RELATIONSHIPS BETWEEN THE STATE AND ITS EMPLOYEES TO PROTECT THE
48 PUBLIC BY ASSURING, AT ALL TIMES, THE ORDERLY AND UNINTERRUPTED OPER-
49 ATIONS AND FUNCTIONS OF STATE GOVERNMENT; ASSIST THE GOVERNOR IN
50 CONDUCTING COLLECTIVE NEGOTIATIONS; ASSURE THE PROPER IMPLEMENTATION AND
51 ADMINISTRATION OF AGREEMENTS REACHED PURSUANT TO SUCH NEGOTIATIONS; AND
52 ASSIST THE GOVERNOR AND DIRECT AND COORDINATE THE STATE'S EFFORTS WITH
53 REGARD TO THE STATE'S POWERS AND DUTIES UNDER THE PUBLIC EMPLOYEES' FAIR
54 EMPLOYMENT ACT.

1 S 3. Transfer of powers of the department of civil service and the
2 office of employee relations to the department of workforce management.
3 The functions and powers possessed by and all of the obligations and
4 duties of the department of civil service, as established pursuant to
5 chapter 7 of the consolidated laws, shall be transferred and assigned
6 to, and assumed by and devolved upon, the department of workforce
7 management. The functions and powers possessed by and all of the obli-
8 gations and duties of the office of employee relations, as established
9 pursuant to article 24 of the executive law shall be transferred and
10 assigned to, and assumed by and devolved upon, the department of work-
11 force management.

12 S 4. Transfer of employees. (i) All employees of the department of
13 civil service shall be transferred to the department of workforce
14 management. This transfer of employees shall be deemed to be a transfer
15 of function pursuant to subdivision 2 of section 70 of the civil service
16 law. Officers and employees of the state department of civil service
17 shall be transferred without further examination or qualification, and
18 shall retain their respective civil service classification, status and
19 bargaining unit representation.

20 (ii) All employees in the office of employee relations shall be trans-
21 ferred to the department of workforce management. This transfer of
22 employees shall be deemed to be a transfer of function pursuant to
23 subdivision 2 of section 70 of the civil service law. Officers and
24 employees of the office of employee relations shall be transferred with-
25 out further examination or qualification, and shall retain their respec-
26 tive civil service classification, status and bargaining unit represen-
27 tation.

28 S 5. Abolition of the department of civil service and the office of
29 employee relations. Upon the transfer pursuant to this act of the func-
30 tions and powers possessed by and all of the obligations and duties of
31 the department of civil service and the office of employee relations, as
32 established pursuant to the civil service law, the executive law, and
33 other laws, the department of civil service and the office of employee
34 relations shall be abolished.

35 S 6. Continuity of authority of the civil service department and
36 office of employee relations. Except as herein otherwise provided, upon
37 the transfer pursuant to this act of the functions and powers possessed
38 by, and all of the obligations and duties of, the civil service depart-
39 ment and the office of employee relations as established pursuant to the
40 civil service law, the executive law and other laws, to the department
41 of workforce management as prescribed by this act, for the purpose of
42 succession all functions, powers, duties and obligations of the depart-
43 ment of workforce management shall be deemed and be held to constitute
44 the continuation of such functions, powers, duties and obligations and
45 not those of a different agency.

46 S 7. Transfer of records of the civil service department and the
47 office of employee relations. Upon the transfer pursuant to this act of
48 the functions and powers possessed by and all of the obligations and
49 duties of the civil service department and the office of employee
50 relations as established pursuant to the civil service law, the execu-
51 tive law and other laws, to the department of workforce management as
52 prescribed by this act, all books, papers, records and property pertain-
53 ing to the civil service department and the office of employee relations
54 shall be transferred to and maintained by the department of workforce
55 management, as appropriate.

1 S 8. Completion of unfinished business of the civil service department
2 and the office of employee relations. Upon the transfer pursuant to this
3 act of the functions and powers possessed by and all of the obligations
4 and duties of the civil service department and the office of employee
5 relations as established pursuant to the civil service law, the execu-
6 tive law and other laws, to the department of workforce management as
7 prescribed by this act, any business or other matter undertaken or
8 commenced by the civil service department and the office of employee
9 relations pertaining to or connected with the functions, powers, obli-
10 gations and duties so transferred and assigned to the department of
11 workforce management may be conducted or completed by the department of
12 workforce management, as appropriate.

13 S 9. Terms occurring in laws, contracts or other documents of or
14 pertaining to the civil service department and the office of employee
15 relations. Upon the transfer pursuant to this act of the functions and
16 powers possessed by and all of the obligations and duties of the civil
17 service department and the office of employee relations as established
18 pursuant to the civil service law, the executive law and other laws, as
19 prescribed by this act, whenever the civil service department and the
20 president thereof or the office of employee relations and the director
21 thereof, the functions, powers, obligations and duties of which are
22 transferred to the department of workforce management, are referred to
23 or designated in any law, regulation, contract or document pertaining to
24 the functions, powers, obligations and duties transferred and assigned
25 pursuant to this act, such reference or designation shall be deemed to
26 refer to the department of workforce management and its president. In
27 the case of any boards or other organizations where the president of the
28 civil service department and the director of the office of employee
29 relations both sit, the references or designations shall be deemed to
30 refer solely to the president of the department of workforce management.

31 S 10. (a) Wherever the terms "civil service department" or "department
32 of civil service" appear in the civil service law, such terms are hereby
33 changed to "department of workforce management".

34 (b) Wherever the term "office of employee relations" appears in the
35 civil service law, such term is hereby changed to "department of work-
36 force management".

37 (c) Wherever the terms "civil service department", "department of
38 civil service", "office of employee relations" or "director of employee
39 relations" appears in the consolidated or unconsolidated laws of this
40 state other than the civil service law, such terms are hereby changed to
41 "department of workforce management".

42 (d) The legislative bill drafting commission is hereby directed to
43 effectuate this provision, and shall be guided by a memorandum of
44 instruction setting forth the specific provisions of law to be amended.
45 Such memorandum shall be transmitted to the legislative bill drafting
46 commission within sixty days of enactment of this provision. Such memo-
47 randum shall be issued jointly by the governor, the temporary president
48 of the senate and the speaker of the assembly, or by the delegate of
49 each.

50 S 11. Existing rights and remedies of or pertaining to the civil
51 service department and the office of employee relations preserved. Upon
52 the transfer pursuant to this act of the functions and powers possessed
53 by and all of the obligations and duties of the civil service department
54 and of the office of employee relations as established pursuant to the
55 civil service law, the executive law and other laws, to the department
56 of workforce management as prescribed by this act, no existing right or

1 remedy of the state, including the civil service department and office
2 of employee relations, shall be lost, impaired or affected by reason of
3 this act.

4 S 12. Pending actions and proceedings of or pertaining to the civil
5 service department or the office of employee relations. Upon the trans-
6 fer pursuant to this act of the functions and powers possessed by and
7 all of the obligations and duties of the civil service department and
8 the office of employee relations as established pursuant to the civil
9 service law, the executive law and other laws, to the department of
10 workforce management as prescribed by this act, no action or proceeding
11 pending on the effective date of this act, brought by or against the
12 civil service department or the commissioners thereof or the office of
13 employee relations and the director thereof shall be affected by any
14 provision of this act, but the same may be prosecuted or defended in the
15 name of the New York state department of workforce management. In all
16 such actions and proceedings, the New York state department of workforce
17 management, upon application to the court, shall be substituted as a
18 party.

19 S 13. Continuation of rules and regulations of or pertaining to the
20 civil service department and the office of employee relations. Upon the
21 transfer pursuant to this act of the functions and powers possessed by
22 and all the obligations and duties of the civil service department and
23 the office of employee relations as established pursuant to the civil
24 service law, the executive law and other laws, to the department of
25 workforce management as prescribed by this act, all rules, regulations,
26 acts, orders, determinations, decisions, of the civil service department
27 and the office of employee relations pertaining to the functions trans-
28 ferred and assigned by this act to the department of workforce manage-
29 ment in force at the time of such transfer, assignment, assumption or
30 devolution shall continue in force and effect as rules, regulations,
31 acts, determinations and decisions of the department of workforce
32 management until duly modified or repealed.

33 S 14. Transfer of appropriations heretofore made to the civil service
34 department and the office of employee relations. Upon the transfer
35 pursuant to this act of the functions and powers possessed by and all of
36 the obligations and duties of the civil service department and the
37 office of employee relations as established pursuant to the civil
38 service law, the executive law and other laws, to the department of
39 workforce management as prescribed by this act, all appropriations and
40 reappropriations which shall have been made available as of the date of
41 such transfer to the civil service department or the office of employee
42 relations or segregated pursuant to law, to the extent of remaining
43 unexpended or unencumbered balances thereof, whether allocated or unal-
44 located and whether obligated or unobligated, shall be transferred to
45 and made available for use and expenditure by the department of work-
46 force management. Payments of liabilities for expenses of personnel
47 services, maintenance and operation which shall have been incurred as of
48 the date of such transfer by the civil service department or the office
49 of employee relations, and for liabilities incurred and to be incurred
50 in completing its affairs shall also be made.

51 S 15. Sections 650, 651, 652, 653 and 654 of the executive law are
52 REPEALED.

53 S 16. Severability. If any clause, sentence, paragraph or part of this
54 act shall be adjudged by any court of competent jurisdiction to be
55 invalid, such judgment shall not affect, impair or invalidate the
56 remainder thereof, but shall be confined in its operation to the clause,

1 sentence, paragraph or part thereof directly involved in the controversy
2 in which such judgment shall have been rendered.

3 S 17. This act shall take effect July 1, 2012; provided, however, that
4 the memorandum provided for in section ten of this act may be prepared
5 before the effective date of this act, provided that it shall not be
6 implemented until such effective date.

7 PART C

8 Section 1. The legislature finds and determines that Belleayre Moun-
9 tain ski center, an intensive use area of the forest preserve lands in
10 the Catskills, has required financial support from the department of
11 environmental conservation in each of the past five years to cover oper-
12 ating losses and capital investment. Community leaders have raised a
13 concern that, in light of the department's broad responsibilities for
14 managing state-owned land and regulating air, water and solid waste
15 facilities, the department may not be the best long-term manager of the
16 Belleayre Mountain ski center. The olympic regional development author-
17 ity, established in 1981 to create and administer a post-olympic program
18 for the Lake Placid facilities and to manage the ski center at Whiteface
19 Mountain, expanded its responsibility in 1984 to include the operation
20 and management of the Gore Mountain ski center, an intensive use area of
21 the forest preserve lands in the Adirondacks. Through its operation of
22 these ski centers, the authority has proven that it has expertise to
23 manage such centers effectively and efficiently for the benefit of the
24 community and in accordance with appropriate management of forest
25 preserve lands. Given this focus, core mission and expertise, the legis-
26 lature finds that the Belleayre Mountain ski center can be more effec-
27 tively and efficiently operated, maintained and managed by the olympic
28 regional development authority.

29 S 2. Subdivision 1 of section 2608 of the public authorities law, as
30 amended by chapter 592 of the laws of 1984, is amended to read as
31 follows:

32 1. For the purposes of effectuating the policy declared in section
33 twenty-six hundred six of this title, there is hereby created the "New
34 York state olympic regional development authority", referred to in this
35 title as "the authority", which shall be a body corporate and politic
36 constituting a public benefit corporation. The authority shall consist
37 of [ten] ELEVEN members who shall be the commissioner of environmental
38 conservation, the commissioner of [commerce] ECONOMIC DEVELOPMENT, the
39 commissioner of parks, recreation and historic preservation and [seven]
40 EIGHT persons to be appointed by the governor, by and with the advice
41 and consent of the senate. Of the [seven] EIGHT persons appointed by the
42 governor, by and with the advice and consent of the senate, one each
43 shall be appointed upon the recommendation of the temporary president of
44 the senate and the speaker of the assembly. Three of the persons
45 appointed by the governor, by and with the advice and consent of the
46 senate, shall be appointed upon the recommendation of the town board of
47 the town of North Elba and shall be residents of the park district. One
48 of the persons appointed by the governor, by and with the advice and
49 consent of the senate, shall be a resident of Warren county. ONE OF THE
50 PERSONS APPOINTED BY THE GOVERNOR, BY AND WITH THE ADVICE AND CONSENT OF
51 THE SENATE, SHALL BE A RESIDENT OF ULSTER OR DELAWARE COUNTY. The gover-
52 nor shall appoint a [chairman] CHAIR and a vice [chairman] CHAIR from
53 among any of the members of the authority and such [chairman] CHAIR and
54 vice [chairman] CHAIR shall serve at the pleasure of the governor,

1 provided, however, that the vice [chairman] CHAIR shall be appointed on
2 the recommendation of the town board of North Elba. From among any
3 candidates recommended by the [chairman] CHAIR, the members shall
4 appoint a president/chief executive officer of the authority.

5 The members first appointed by the governor shall be appointed within
6 thirty days of the effective date of this title. The members first
7 appointed by the governor upon the recommendation of the temporary pres-
8 ident of the senate and the speaker of the assembly shall serve terms of
9 three years respectively from January first next succeeding their
10 appointment. The remaining four members first appointed by the governor
11 shall serve terms of one, two, four and five years respectively from
12 January first next succeeding their appointment. The fifth member
13 appointed by the governor shall serve a term of two years from January
14 first, next succeeding his or her appointment. Each appointment of a
15 member following the expiration of the original terms of the appointment
16 shall be for a term of five years. Members shall continue to hold office
17 until their successors have been appointed and qualified. In the event
18 of a vacancy occurring during the term of a member's appointment, by
19 reason of death, resignation, disqualification or otherwise, such vacan-
20 cy shall be filled for the unexpired term in the same manner as the
21 original appointment.

22 S 3. Subdivision 4 of section 2614 of the public authorities law is
23 renumbered subdivision 5 and a new subdivision 4 is added to read as
24 follows:

25 4. THE AUTHORITY SHALL OPERATE, MAINTAIN AND MANAGE THE BELLEAYRE
26 MOUNTAIN SKI CENTER LOCATED IN ULSTER AND DELAWARE COUNTIES, STATE OF
27 NEW YORK. ALL OF THE POWERS OF THE AUTHORITY PROVIDED BY THIS TITLE OR
28 ANY OTHER LAW, INCLUDING THOSE PERTAINING TO PARTICIPATING OLYMPIC
29 FACILITIES, SHALL APPLY IN CONNECTION WITH THE OPERATION AND MANAGEMENT
30 OF THE BELLEAYRE MOUNTAIN SKI CENTER.

31 S 4. Subdivision 2 of section 2616 of the public authorities law, as
32 amended by chapter 99 of the laws of 1984, is amended to read as
33 follows:

34 2. On or before August fifteenth, nineteen hundred eighty-one, and on
35 each August fifteenth thereafter the [chairman] CHAIR of the authority
36 shall make and deliver to the director of the budget for his approval
37 and for submission to the legislature a budget for the operation of the
38 authority for the forthcoming fiscal year of the state. The [chairman]
39 CHAIR of the authority shall deliver a copy of such budget to the
40 [chairman] CHAIR of the senate finance committee and the [chairman]
41 CHAIR of the assembly ways and means committee at the same time that the
42 budget is delivered to the director of the budget. The budget shall
43 delineate the total amount needed for authority purposes, including the
44 funds required by the authority for operation of the olympic facilities
45 [and], the Gore Mountain ski center AND THE BELLEAYRE MOUNTAIN SKI
46 CENTER pursuant to agreements made in accordance with sections twenty-
47 six hundred twelve and twenty-six hundred fourteen of this title, the
48 source of all funds that the authority expects to receive and such other
49 information as the director of the budget shall require. The director
50 of the budget shall approve the budget for the operation of the authori-
51 ty and the governor shall recommend in his OR HER annual budget appro-
52 priations to the authority if the director of the budget determines that
53 the budget demonstrates that the authority, without operating at a defi-
54 cit, can continue in the forthcoming fiscal year of the state, in the
55 exercise of its corporate purposes, powers, duties and functions with
56 the appropriations from the state and park district in the amounts

1 determined in accordance with sections twenty-six hundred twelve and
2 twenty-six hundred fourteen of this title and income received by the
3 authority from other sources. The director of the budget shall notify
4 the park district, the [chairman] CHAIR of the senate finance committee
5 and the [chairman] CHAIR of the assembly ways and means committee not
6 later than October first of each year whether or not he has approved the
7 budget.

8 S 5. Section 2619 of the public authorities law, as amended by chapter
9 99 of the laws of 1984, is amended to read as follows:

10 S 2619. Capital repair and improvement account. At the end of any
11 authority fiscal year the members of the authority shall deposit not
12 less than twenty-five percent of the profits, if any, of the preceding
13 year's operations into a sinking fund for capital improvements. At the
14 discretion of the members, the authority may undertake capital improve-
15 ments and major repairs to the participating olympic facilities [and],
16 to the Gore Mountain ski center AND TO THE BELLEAYRE MOUNTAIN SKI
17 CENTER; provided, however, that no such repairs may be undertaken with-
18 out specific written approval by the entity which contracted with the
19 authority for the operation of said facility. Any such repairs or
20 improvements to real property shall upon completion become the property
21 of and be vested in the owners of said real property. In the event of
22 termination of the authority, the state and the park district each shall
23 receive fifty percent of all moneys in the sinking fund. If an agreement
24 between the authority and the park district or the state shall be termi-
25 nated, the park district or the state, as the case may be, shall receive
26 that portion of the moneys in the sinking fund it would have received if
27 the authority were terminated as of the date of the termination of the
28 agreement.

29 S 6. Subdivision 4 of section 2622 of the public authorities law, as
30 added by chapter 169 of the laws of 1994, is amended to read as follows:

31 4. Notwithstanding subdivision three of this section, exclusive juris-
32 diction is hereby conferred upon the court of claims to hear and deter-
33 mine any claim of any person brought hereafter against the authority to
34 recover damages for injuries to property or for personal injury arising
35 out of the operation by the authority of any participating olympic
36 facility owned by the state [or], OUT of the Gore mountain ski center OR
37 OUT OF THE BELLEAYRE MOUNTAIN SKI CENTER, in the same manner and to the
38 extent provided and subject to the provisions of the court of claims act
39 with respect to claims against the state, and to make awards and render
40 judgments therefor. The payment of awards and judgments for any such
41 claims brought in the supreme court pursuant to this title or in the
42 court of claims shall be made from appropriations for judgments against
43 the state pursuant to section twenty of the court of claims act.

44 S 7. Section 2629 of the public authorities law, as amended by chapter
45 99 of the laws of 1984, is amended to read as follows:

46 S 2629. Transfer of officers and employees. 1. Upon execution of the
47 agreements for operation of the olympic facilities and the Gore Mountain
48 ski center made pursuant to sections two thousand six hundred twelve and
49 two thousand six hundred fourteen of this title, those employees of the
50 state and the park district who are determined by the authority to be
51 essential to the operation of the olympic facilities and the Gore Moun-
52 tain ski center shall, with the approval of the employer and the employ-
53 ee, be transferred to the employment of the authority and shall be
54 eligible for such transfer and appointment without examination to compa-
55 rable offices, positions and employment under the authority. The salary
56 or compensation of any such officer or employee shall, after such trans-

1 fer, be paid by the authority. Notwithstanding the provisions of this
2 act, any such officers or employees so transferred to the authority,
3 pursuant to the provisions of this section, who are members of or bene-
4 ficiaries under any existing pension or retirement system, shall contin-
5 ue to have all rights, privileges, obligations and status with respect
6 to such fund system or systems as are prescribed by law, but during the
7 period of their employment by the authority, all contributions to any
8 pension or retirement fund or system to be paid by the employer on
9 account of such officers or employees, shall be paid by the authority;
10 and all such officers and employees who have been appointed to positions
11 under the rules and classifications of the state civil service commis-
12 sion shall have the same status with respect thereto after transfer to
13 the authority as they had under their original appointments.

14 2. NO LATER THAN THIRTY DAYS AFTER THE EFFECTIVE DATE OF THE CHAPTER
15 OF THE LAWS OF 2012 ENACTING THIS SUBDIVISION, PROVISION SHALL BE MADE
16 FOR THE TRANSFER TO THE OLYMPIC REGIONAL DEVELOPMENT AUTHORITY SUCH
17 EMPLOYEES OF THE DEPARTMENT OF ENVIRONMENTAL CONSERVATION ENGAGED IN
18 CARRYING OUT SUCH FUNCTIONS WITH RESPECT TO THE OPERATION, MAINTENANCE
19 AND MANAGEMENT OF THE BELLEAYRE MOUNTAIN SKI CENTER AS THE OLYMPIC
20 REGIONAL DEVELOPMENT AUTHORITY DEEMS NECESSARY FOR THE EXERCISE OF THE
21 FUNCTIONS TRANSFERRED TO THE OLYMPIC REGIONAL DEVELOPMENT AUTHORITY.
22 EMPLOYEES SO TRANSFERRED SHALL BE TRANSFERRED WITHOUT FURTHER EXAMINA-
23 TION OR QUALIFICATIONS AND SHALL RETAIN THEIR RESPECTIVE CIVIL SERVICE
24 CLASSIFICATIONS AND STATUS. THE SALARY OR COMPENSATION OF ANY SUCH
25 EMPLOYEES, AFTER SUCH TRANSFER, SHALL BE PAID BY THE AUTHORITY.
26 NOTWITHSTANDING THE PROVISIONS OF THIS SECTION, ANY SUCH OFFICERS OR
27 EMPLOYEES SO TRANSFERRED TO THE AUTHORITY, PURSUANT TO THE PROVISIONS OF
28 THIS SECTION, WHO ARE MEMBERS OF OR BENEFICIARIES UNDER ANY EXISTING
29 PENSION OR RETIREMENT SYSTEM, SHALL CONTINUE TO HAVE ALL RIGHTS, PRIVI-
30 LEGES, OBLIGATIONS AND STATUS WITH RESPECT TO SUCH FUND SYSTEM OR
31 SYSTEMS AS ARE PRESCRIBED BY LAW, BUT DURING THE PERIOD OF THEIR EMPLOY-
32 MENT BY THE AUTHORITY, ALL CONTRIBUTIONS TO ANY PENSION OR RETIREMENT
33 FUND OR SYSTEM TO BE PAID BY THE EMPLOYER ON ACCOUNT OF SUCH OFFICERS OR
34 EMPLOYEES, SHALL BE PAID BY THE AUTHORITY. FOR THE PURPOSE OF DETERMIN-
35 ING THE EMPLOYEES HOLDING PERMANENT APPOINTMENTS IN COMPETITIVE CLASS
36 POSITIONS TO BE TRANSFERRED, SUCH EMPLOYEES SHALL BE SELECTED WITHIN
37 EACH TITLE IN THE ORDER OF THEIR ORIGINAL APPOINTMENT, WITH DUE REGARD
38 FOR THE RIGHT OF PREFERENCE IN RETENTION OF DISABLED AND NON-DISABLED
39 VETERANS. ANY SUCH EMPLOYEE WHO, AT THE TIME OF SUCH TRANSFER, HAS AN
40 HOURLY, TEMPORARY OR PROVISIONAL APPOINTMENT SHALL BE TRANSFERRED
41 SUBJECT TO THE SAME RIGHT OF REMOVAL, EXAMINATION OR TERMINATION AS
42 THOUGH SUCH TRANSFER HAS NOT BEEN MADE. EMPLOYEES HOLDING PERMANENT
43 APPOINTMENTS IN COMPETITIVE CLASS POSITIONS WHO ARE NOT TRANSFERRED
44 PURSUANT TO THIS SECTION SHALL HAVE THEIR NAMES ENTERED UPON AN APPRO-
45 PRIATE PREFERRED LIST FOR REINSTATEMENT PURSUANT TO THE CIVIL SERVICE
46 LAW.

47 S 8. Transfer of appropriations. Upon the execution of an agreement as
48 set forth in section three of this act and notwithstanding any
49 provisions of the state finance law to the contrary, all appropriations
50 or reappropriations for the functions transferred pursuant to this act
51 heretofore made to the department of environmental conservation or
52 segregated pursuant to law, to the extent that unexpended or unencum-
53 bered balances remain, whether allocated or unallocated and whether
54 obligated or unobligated, are hereby transferred to and made available
55 for use and expenditure by the olympic regional development authority,
56 for the same purposes for which originally appropriated or reappropri-

ated and shall be payable on vouchers certified or approved by the chair of the olympic regional development authority on audit and warrant of the comptroller. Payments for liabilities for expenses of personal service, maintenance and operation heretofore incurred by the department of environmental conservation in connection with the functions transferred pursuant to this act, and for liabilities incurred and to be incurred in completing its affairs in relation to such functions, shall also be made on vouchers or certificates approved by the commissioner of the department of environmental conservation on audit or warrant of the comptroller.

S 9. This act shall take effect immediately.

PART D

Section 1. Section 285-a of the agriculture and markets law is REPEALED.

S 2. Subdivision 12 of section 283 of the agriculture and markets law is REPEALED and subdivisions 13 and 14 are renumbered subdivisions 12 and 13.

S 3. Section 7 of chapter 654 of the laws of 1994, amending the transportation law and other laws relating to equipment requirements for registered farm vehicles, is REPEALED.

S 4. Section 285-b of the agriculture and markets law is REPEALED.

S 5. Article 4 of the state technology law is REPEALED.

S 6. Section 372-a of the social services law is REPEALED.

S 7. Subdivision 1 of section 2803-r of the public health law, as added by chapter 439 of the laws of 2005, is amended to read as follows:

1. All hospitals and clinics shall notify their prenatal care and obstetric patients of the provisions of the abandoned infant protection act[, using materials provided by the office of children and family services, pursuant to section three hundred seventy-two-a of the social services law]. The department shall develop agreements with societies and organizations of medical practitioners under which the department or the office of children and family services shall provide materials to such societies to provide appropriate education and outreach concerning the abandoned infant protection act to their members and the public. Criminal penalties for violation pursuant to subdivisions one and two of section twelve-b of this chapter shall not apply to this section.

S 8. Sections 520 and 521 of the executive law are REPEALED.

S 9. Article 28 of the executive law is REPEALED.

S 10. Paragraph (p) of subdivision 1 of section 17 of the public officers law is REPEALED.

S 11. Section 92-y of the state finance law is REPEALED.

S 12. Paragraph (b) of subdivision 1 of section 88-a of the highway law, as amended by section 4 of part Z of chapter 383 of the laws of 2001, is amended to read as follows:

(b) the chairperson, or his or her designated representative, of the New York state thruway authority, the adirondack park agency[, AND the tourism advisory council[, the upstate New York tourism council and the downstate New York tourism council];

S 13. Subdivision 3 of section 349-bb of the highway law, as amended by section 5 of part Z of chapter 383 of the laws of 2001, is amended to read as follows:

3. The commissioner is hereby authorized to enter into contracts with qualified, responsible not-for-profit organizations involved in scenic byways activities [and the upstate New York tourism council] for

1 services relating to the development of the New York state scenic byways
2 program or services relating to the operation, development or promotion
3 of a specific scenic byway.

4 S 14. Subdivision 1 of section 349-cc of the highway law, as amended
5 by chapter 399 of the laws of 2005, is amended to read as follows:

6 1. An advisory board of state agencies with responsibilities related
7 to the designation and management of scenic byways and not-for-profit
8 organizations related to the promotion and development of scenic byways
9 is hereby formed to advise and assist the department in the operation of
10 its scenic byways program. The advisory board shall consist of one
11 member appointed by the temporary president of the senate, one member
12 appointed by the speaker of the assembly, the secretary of state, and
13 the commissioners of the department of agriculture and markets, the
14 department of economic development, and the department of environmental
15 conservation, and the office of parks, recreation and historic preserva-
16 tion or their duly designated representatives. The commissioner shall
17 appoint as members of the advisory board the chief executive officer, or
18 his or her duly authorized representative, of not-for-profit organiza-
19 tions related to the promotion and development of a scenic byway desig-
20 nated pursuant to this article[,] AND three representatives of organiza-
21 tions concerned with the preservation of scenic qualities, the motoring
22 public and tourism development [and members or representatives of the
23 upstate New York tourism council and of the downstate New York tourism
24 council]. The commissioner, or his or her duly designated represen-
25 tative, shall serve as chair. Members of the advisory board shall
26 receive no pay, but shall be eligible to receive actual and necessary
27 expenses from their respective agencies, or for the expenses of repre-
28 sentatives of organizations related to the promotion and development of
29 a scenic byway, the preservation of scenic qualities, the motoring
30 public and tourism development, from the department. The advisory board
31 shall consult with the Adirondack Park Agency regarding scenic byways
32 within the Adirondack Park. The advisory board shall also consult with
33 the Hudson River Valley Communities Council regarding scenic byways
34 within the Hudson River Valley Greenway as defined in article forty-four
35 of the environmental conservation law. The advisory board shall consult
36 with the Niagara River Greenway Commission regarding scenic byways with-
37 in the Niagara River Greenway as defined in article thirty-nine of the
38 parks, recreation and historic preservation law. [The advisory board
39 shall consult with the upstate New York tourism council regarding scenic
40 byways in the upstate New York region, and with the downstate New York
41 tourism council regarding scenic byways in the downstate New York
42 region.]

43 S 15. Paragraph a of subdivision 1 of section 233-b of the education
44 law, as amended by section 3 of part Z of chapter 383 of the laws of
45 2001, is amended to read as follows:

46 a. There is hereby established within the department the New York
47 state freedom trail commission. The commission shall consist of twelve
48 members, to be appointed as follows: three members to be appointed by
49 the governor, three members to be appointed by the board of regents, two
50 members to be appointed by the temporary president of the senate, one
51 member to be appointed by the minority leader of the senate, two members
52 to be appointed by the speaker of the assembly, and one member to be
53 appointed by the minority leader of the assembly. Such members shall be
54 representative of academic or public historians, corporations, founda-
55 tions, historical societies, civic organizations, and religious denomi-
56 nations. In addition, the following state officers, or their designees,

shall serve as members of the commission: the commissioner of education, the head of the state museum, the head of the state archives, the head of the office of state history, the commissioner of economic development, the head of the state tourism advisory council[, the chairperson of the upstate New York tourism council, the chairperson of the downstate New York tourism council,] and the commissioner of parks, recreation and historic preservation.

S 16. Section 120 of the economic development law is REPEALED.

S 17. Section 27-0702 of the environmental conservation law is REPEALED.

S 18. The opening paragraph of subdivision 2 of section 27-0103 of the environmental conservation law, as amended by chapter 55 of the laws of 1992, is amended to read as follows:

The commissioner shall[, with the advice of the state solid waste management board established pursuant to section 27-0702 of this article,] biennially review the status of programs and information contained within the plan and make recommendations for legislation or other state action related to:

S 19. Paragraph g of subdivision 3 of section 165 of the state finance law, as amended by chapter 95 of the laws of 2000, is amended to read as follows:

g. In addition to carrying out the provisions of paragraphs e and f of this subdivision, the commissioner shall identify and implement specific steps which will reduce, to the maximum extent practicable, waste generated in state facilities and maximize the recovery and reuse of secondary materials from such facilities. Such steps and their implementation shall be reviewed from time to time but no less frequently than annually or upon receiving recommendations for additional steps from [the solid waste management board,] the department of environmental conservation or the environmental facilities corporation.

S 20. Subdivision 3 and the closing paragraph of section 1285-d of the public authorities law, subdivision 3 as amended by chapter 283 of the laws of 1979 and the closing paragraph as added by chapter 639 of the laws of 1978, are amended to read as follows:

3. [To advise the corporation on technical matters, a technical advisory committee shall be constituted to be composed of the commissioners of transportation, commerce, health and environmental conservation, the secretary of state, and five persons representative of affected industries to be appointed by the governor with the advice and consent of the senate. Upon dissolution of the hazardous waste disposal advisory committee pursuant to subdivision three of section twelve hundred eighty-five-f of this article, two members of that committee designated by the governor shall become members of the committee established by this subdivision which committee shall be expanded by two members.]

In [exercising] EXERCISING its responsibilities, the corporation shall also cooperate and act in conjunction with industrial, commercial, medical, scientific, public interest and educational organizations within the state, and with agencies of the federal government, of the state and its political subdivisions, of other states, and joint agencies thereof.

S 21. Paragraph (c) of subdivision 3 of section 1285-f of the public authorities law is REPEALED.

S 22. Section 216-b of the vehicle and traffic law is REPEALED.

S 23. Section 191 of the executive law is REPEALED.

S 24. Subdivision 9 of section 3.23 of the parks, recreation and historic preservation law is REPEALED.

1 S 25. Section 89-mmm of the general business law is REPEALED.

2 S 26. Subdivision 2 of section 100 of the executive law, as added by
3 chapter 557 of the laws of 1997, is amended to read as follows:

4 2. The secretary of state shall maintain all records collected for
5 applicants pursuant to the armored car guard act for a period of five
6 years after the applicant's termination as an armored car guard, retire-
7 ment, resignation, death, failure to be rehired, or non-renewal of the
8 applicant's registration card. Every armored car carrier shall file with
9 the secretary, on a monthly basis, a report, stating all armored car
10 guards in their employ who have retired, resigned, died, been termi-
11 nated, have [hot] NOT been rehired, or have otherwise been removed from
12 active duty, in such form and on such media as approved for such purpose
13 by the secretary[, upon recommendation of the armored car carrier advi-
14 sory board established pursuant to the provisions of section eighty-
15 nine-mmm of the general business law].

16 S 27. Subdivision 5 of section 89-bbb of the general business law is
17 REPEALED.

18 S 28. Section 89-lll of the general business law, as added by chapter
19 557 of the laws of 1997, is amended to read as follows:

20 S 89-lll. Regulations. The secretary[, in consultation with the
21 board,] is hereby authorized and empowered to promulgate rules and regu-
22 lations necessary for the proper conduct of the business authorized
23 under this article, and not inconsistent herewith.

24 S 29. Subdivision 5 of section 89-ppp of the general business law is
25 REPEALED.

26 S 30. Section 923 of the executive law is REPEALED.

27 S 31. Subdivision 14 of section 601 and sections 611 and 612 of the
28 executive law are REPEALED.

29 S 32. Subdivision 12 of section 604 of the executive law, as added by
30 chapter 729 of the laws of 2005, is amended to read as follows:

31 12. To create and maintain a consumer awareness pamphlet, [in conjunc-
32 tion with the advisory council,] to include, but not be limited to,
33 detailing the certification process, installer selection rights, the
34 dispute resolution process, the differences between the types of hous-
35 ing, and other consumer protection issues. Such pamphlet shall be avail-
36 able to the public, and published on the department's website.

37 S 33. Section 433-a of the general business law is REPEALED.

38 S 34. The section heading of section 35 of the social services law, as
39 amended by chapter 300 of the laws of 1992, is amended to read as
40 follows:

41 Legal representation of individuals whose federal disability benefits
42 have been denied or may be discontinued[; advisory committee].

43 S 35. Subdivision 1 of section 35 of the social services law, as
44 amended by chapter 300 of the laws of 1992, is amended to read as
45 follows:

46 1. [a. There is hereby established within the department an advisory
47 committee on legal advocacy (hereinafter to be referred to as the "advi-
48 sory committee") which shall consist of nine members or their designated
49 representatives. The advisory committee shall consist of the following
50 nine members: the commissioner of mental health, the commissioner of
51 mental retardation and developmental disabilities, the advocate for the
52 disabled and six members appointed by the governor. The six members
53 appointed by the governor shall include three representatives of inter-
54 ested public and private groups, and shall include three representatives
55 of county government and the city of New York to be appointed from a
56 list of six names submitted by the New York state association of coun-

ties. The commissioner shall coordinate the functions and activities of the department with those of the advisory committee.

b.] The [advisory committee] COMMISSIONER shall [make recommendations regarding] ESTABLISH criteria for selection of grant applications, review applications awarded pursuant to the provisions of this section, [make recommendations thereon to the commissioner] and exercise and perform such other [advisory] functions as are related to the purposes of this section[; provided however that the committee shall meet at least once every six months].

S 36. Subdivisions 2 and 4 of section 35 of the social services law, subdivision 2 as amended and subdivision 4 as added by chapter 300 of the laws of 1992, are amended to read as follows:

2. The commissioner[, after consultation with the advisory committee,] shall make grants, within the amounts appropriated for that purpose, to not-for-profit legal services corporations and not-for-profit agencies serving the disabled and local social services districts, to provide for representation of persons whose federal disability benefits including supplemental security income and social security disability insurance have been denied or may be discontinued for the purpose of representing these persons in appropriate proceedings. When the commissioner has contracted with a local social services district to provide such representation, the legislative body of such district may authorize and make provision for the commissioner of social services of the district to obtain necessary legal services on a fee for services basis or other appropriate basis which the department may approve. Such legal services may be provided by not-for-profit legal services corporations, not-for-profit agencies serving the disabled or private attorneys.

4. Responsibility for local financial participation shall be determined by the commissioner based on either costs of and the number of district residents served by each local entity or the alternative cost allocation procedure deemed appropriate by the commissioner [in consultation with the advisory committee].

S 37. Subdivisions 8 and 9 of section 350 of the executive law are REPEALED.

S 38. Subdivision 16 of section 353 of the executive law is REPEALED.

S 39. Sections 365, 365-a, 365-b, 365-c, 365-d, 365-e, 365-f and 365-g of the executive law are REPEALED.

S 40. Section 154 of the labor law is REPEALED.

S 41. Title 11 of article 24 of the environmental conservation law is REPEALED.

S 42. Subdivision 1 of section 24-0301 of the environmental conservation law, as amended by chapter 654 of the laws of 1977, is amended to read as follows:

1. The commissioner shall, as soon as practicable, conduct a study to identify and map those individual freshwater wetlands in the state of New York which shall have an area of at least twelve and four-tenths acres or more, or if less than twelve and four-tenths acres, (a) have, in the discretion of the commissioner[, and subject to review of his action by the board created pursuant to title eleven of this article,] unusual local importance for one or more of the specific benefits set forth in subdivision seven of section 24-0105 OF THIS ARTICLE or (b) are located within the Adirondack park and meet the definition of wetlands contained in subdivision sixty-eight of section eight hundred two [of article twenty-seven] of the executive law, and shall determine their characteristics. This study shall, in addition to such other data as the commissioner may determine to be included, consist of the freshwater

1 wetlands inventory of the department of environmental conservation,
2 currently being made, together with other available data on freshwater
3 wetlands, whether assisted by the state of New York under the tidal
4 wetlands act or otherwise, or assembled by federal or local governmental
5 or private agencies, all of which information shall be assembled and
6 integrated, as applicable, into a map of freshwater wetlands of the
7 state of New York. Such study may, in the discretion of the commission-
8 er, be carried out on a sectional or regional basis, as indicated by
9 need, subject to overall completion in an expeditious fashion subject to
10 the terms of this chapter. This map, and any orders issued pursuant to
11 the provisions of this article, shall comprise a part of the statewide
12 environmental plan as provided for in section 3-0303 of this chapter. As
13 soon as practicable the commissioner shall file with the secretary of
14 state a detailed description of the technical methods and requirements
15 to be utilized in compiling the inventory, and he shall afford the
16 public an opportunity to submit comments thereon.

17 S 43. Subdivision 5 of section 24-0703 of the environmental conserva-
18 tion law, as amended by chapter 233 of the laws of 1979, is amended to
19 read as follows:

20 5. Prior to the promulgation of the final freshwater wetlands map in a
21 particular area and the implementation of a freshwater wetlands
22 protection law or ordinance, no person shall conduct, or cause to be
23 conducted, any activity for which a permit is required under section
24 24-0701 of this [article] TITLE on any freshwater wetland unless he has
25 obtained a permit from the commissioner under this section. Any person
26 may inquire of the department as to whether or not a given parcel of
27 land will be designated a freshwater wetland subject to regulation. The
28 department shall give a definite answer in writing within thirty days of
29 such request as to whether such parcel will or will not be so desig-
30 nated. Provided that, in the event that weather or ground conditions
31 prevent the department from making a determination within thirty days,
32 it may extend such period until a determination can be made. Such answer
33 in the affirmative shall be reviewable [pursuant to title eleven of this
34 article]; such an answer in the negative shall be a complete defense to
35 the enforcement of this article as to such parcel of land. The commis-
36 sioner may by regulation adopted after public hearing exempt categories
37 or classes of wetlands or individual wetlands which he determines not to
38 be critical to the furtherance of the policies and purposes of this
39 article.

40 S 44. Subdivision 6 of section 24-0705 of the environmental conserva-
41 tion law, as amended by chapter 654 of the laws of 1977, is amended to
42 read as follows:

43 6. Review of the determination of the local government or of the
44 commissioner shall be, within a period of thirty days after the filing
45 thereof, pursuant to the provisions of [title eleven of this article or]
46 article seventy-eight of the civil practice law and rules. Any owner of
47 the wetland affected and any resident or citizen of the local government
48 shall be deemed to have the requisite standing to seek review.

49 S 45. Subdivision 2 of section 24-0801 of the environmental conserva-
50 tion law, as added by chapter 654 of the laws of 1977, is amended to
51 read as follows:

52 2. Where the activities otherwise subject to regulation under this
53 article involve freshwater wetlands located within the boundaries of the
54 Adirondack park, the inquiries referred to and the applications provided
55 for in section 24-0703 of this article shall be made to and filed with
56 the Adirondack park agency at its headquarters office, under such regu-

lations and procedures as the Adirondack park agency may promulgate. The Adirondack park agency shall review the application in place of the commissioner or local government as provided in section 24-0705 of this article, having due regard for the declaration of policy and statement of findings set forth in this article and for the considerations set forth in subdivision one of section 24-0705 of this article. The agency shall in addition determine prior to the granting of any permit that the proposed activity will be consistent with the Adirondack park land use and development plan and would not have an undue adverse impact upon the natural, scenic, aesthetic, ecological, wildlife, historic, recreational or open space resources of the park, taking into account the economic and social or other benefits to be derived from the activity. Any person may seek review of a ruling made solely pursuant to the provisions of this article by the Adirondack park agency pursuant to the provisions of [title eleven of this article or] article seventy-eight of the civil practice law and rules.

S 46. Subdivision 7 of section 24-0903 of the environmental conservation law, as added by chapter 614 of the laws of 1975, is amended to read as follows:

7. Any person aggrieved by any such order or regulation may seek [review pursuant to the provisions of title eleven of this article or] judicial review pursuant to article seventy-eight of the civil practice law and rules in the supreme court for the county in which the freshwater wetland is located, within thirty days after the date of the filing of the order with the clerk of the county in which the wetland is located.

S 47. Section 24-0507 of the environmental conservation law, as amended by chapter 654 of the laws of 1977, is amended to read as follows:

S 24-0507. Reservation of local jurisdiction.

Except as provided in this article, jurisdiction over all areas which would qualify as freshwater wetlands except that they are not designated as such on the freshwater wetlands map pursuant to section 24-0301 of this article because they are less than twelve and four-tenths acres in size and are not of unusual local importance is reserved to the city, town or village in which they are wholly or partially located, and the implementation of this article with respect thereto is the responsibility of said city, town or village, in accordance with section 24-0501 and title twenty-three of article seventy-one of this chapter, except that a city, town or village in the exercise of its powers under this section, shall not be subject to the provisions of subdivision four of section 24-0501, subdivisions two and three of section 24-0503, or section 24-0505[, but shall be subject to judicial review under subdivision two of section 24-1105] of this article.

S 48. Subdivision 3 of section 1-0303 of the environmental conservation law is REPEALED.

S 49. Paragraph a of subdivision 2 of section 3-0301 of the environmental conservation law, as amended by chapter 469 of the laws of 1974, is amended to read as follows:

a. [With the advice and approval of the board, adopt] ADOPT, amend or repeal environmental standards, criteria and those rules and regulations having the force and effect of standards and criteria to carry out the purposes and provisions of this act. [Upon approval by the board of any] ANY such environmental standard, criterion, rule or regulation or change thereto[, it] shall become effective thirty days after being filed with the Secretary of State for publication in the "Official Compilation of

1 Codes, Rules, and Regulations of the State of New York" published pursu-
2 ant to section 102 of the Executive Law. This provision shall not in any
3 way restrict the commissioner in the exercise of any function, power or
4 duty transferred to him OR HER and heretofore authorized to be exercised
5 by any other department acting through its commissioner to promulgate,
6 adopt, amend or repeal any standards, rules and regulations. No such
7 environmental standards, criterion, rule or regulation or change thereto
8 shall be proposed for approval unless a public hearing relating to the
9 subject of such standard shall be held by the commissioner prior thereto
10 not less than 30 days after date of notice therefor, any provision of
11 law to the contrary notwithstanding. Notice shall be given by public
12 advertisement of the date, time, place and purpose of such hearing.
13 [Members of the board shall be entitled to participate in such hearing
14 and opportunity to be heard by the commissioner with respect to the
15 subject thereof shall be given to the public.]

16 S 50. Article 5 of the environmental conservation law is REPEALED.

17 S 51. Section 17-1411 of the environmental conservation law, as added
18 by chapter 436 of the laws of 1989, is amended to read as follows:

19 S 17-1411. Regulations.

20 [1.] The commissioner may promulgate regulations necessary to effectuate
21 the purposes of section 17-1409 of this title including, but not
22 limited to, regulations setting forth criteria for submission and processing
23 of grant applications, components of best management practices
24 and state standards necessary to control nonpoint source pollution.

25 [2. Regulations promulgated pursuant to subdivision one of this
26 section shall not require the approval of the state environmental board
27 pursuant to paragraph a of subdivision two of section 3-0301 or subdivision
28 two of section 5-0107 of this chapter.]

29 S 52. Subdivision 4 of section 19-0303 of the environmental conservation
30 law, as added by chapter 608 of the laws of 1993, is amended to
31 read as follows:

32 4. In adopting any code, rule or regulation which contains a requirement
33 that is more stringent than the Act or regulations issued pursuant
34 to the Act by the United States environmental protection agency, the
35 commissioner shall, in addition to the provisions of section two hundred
36 two-a of the state administrative procedure act, include in the regulatory
37 impact statement:

38 (a) a detailed explanation of the reason or reasons that justify
39 exceeding federal minimum requirements, including:

40 (i) satisfying any requirement of the Act as it relates to New York
41 state, including any requirement for demonstrating attainment or maintenance
42 of ambient air quality standards or meeting reasonable further
43 progress pursuant to Title I of the Act;

44 (ii) preventing an assessment or imposition of sanctions, or the imposition
45 of a federal implementation plan, pursuant to the Act;

46 (iii) complying with a final decree of a court; or

47 (iv) protecting public health or the environment;

48 (b) an evaluation of the cost-effectiveness of the proposed code, rule
49 or regulation, in comparison with the cost-effectiveness of reasonably
50 available alternatives; and

51 (c) a review of the reasonably available alternative measures considered
52 by the commissioner and an explanation of the reasons for rejecting
53 such alternatives.

54 [Any code, rule or regulation to which this subdivision is applicable
55 shall be subject to the approval of the environmental board pursuant to
56 subdivision 2 of section 5-0107 of this chapter.]

1 S 53. Section 19-0917 of the environmental conservation law is
2 REPEALED.

3 S 54. Subdivision 3 of section 27-0903 of the environmental conserva-
4 tion law, as amended by chapter 831 of the laws of 1990, is amended to
5 read as follows:

6 3. The regulations setting forth the criteria for identification and
7 listing, and the list of, hazardous wastes subject to this title may be
8 amended by the commissioner from time to time as appropriate, based upon
9 hazardous waste conditions of particular relevance to the state. The
10 commissioner may promulgate the appropriately amended regulations only
11 [after approval of the state environmental board based] upon a showing
12 of the circumstances constituting the hazardous waste conditions of
13 particular relevance to this state, and then in a manner consistent with
14 the state administrative procedure act.

15 S 55. Subdivision 1 of section 27-1315 of the environmental conserva-
16 tion law, as amended by section 7 of part E of chapter 1 of the laws of
17 2003, is amended to read as follows:

18 1. The commissioner shall have the power to promulgate rules and regu-
19 lations necessary and appropriate to carry out the purposes of this
20 title. Any [such] regulations shall include provisions which establish
21 the procedures for a hearing pursuant to subdivision four of section
22 27-1313 of this title[. Any such provisions] AND shall ensure a division
23 of functions between the commissioner, the staff who present the case,
24 and any hearing officers appointed. In addition, any [such] regulations
25 shall set forth findings to be based on a factual record, which must be
26 made before the commissioner determines that a significant threat to the
27 environment exists. [Rules and regulations promulgated pursuant to this
28 title shall be subject to the approval of a board, which shall be known
29 as the inactive hazardous waste disposal site regulation review board,
30 which shall have the same members, rules, and procedures as the state
31 environmental board.]

32 S 56. Subdivision 1 of section 27-1504 of the environmental conserva-
33 tion law, as added by chapter 180 of the laws of 1989, is amended to
34 read as follows:

35 1. The commissioner shall promulgate new regulations or amend existing
36 regulations establishing a program for the tracking of the regulated
37 medical waste which is generated in this state. Such regulations shall
38 not be subject to the requirements of subdivision 2 of section 3-0301
39 [or subdivision 2 of section 5-0107] of this chapter.

40 S 57. Subdivision 4 of section 29-0103 of the environmental conserva-
41 tion law is REPEALED.

42 S 58. Subdivision 4 of section 70-0117 of the environmental conserva-
43 tion law, as added by chapter 723 of the laws of 1977, is amended to
44 read as follows:

45 4. In conjunction with one or more applications for permits, the
46 department may, on request of an applicant undertake a conceptual review
47 of a proposed project evaluating the general approvability or nonapprov-
48 ability of a proposed project, including all proposed phases or segments
49 thereof, subject to the development and submission of more detailed
50 plans and information and such additional applications for permits in
51 the future as may be necessary. The department shall, in rules and regu-
52 lations [approved by the state environmental board], establish criteria
53 and guidelines for the conceptual review of proposed projects. The
54 department shall establish, in rules and regulations adopted pursuant to
55 section 70-0107 of this chapter, procedures governing the conceptual
56 review of proposed projects.

1 S 59. Sections 9-0705, 9-0707, 9-0709 and 9-0711 of the environmental
2 conservation law are REPEALED.

3 S 60. Section 9-0713 of the environmental conservation law, as amended
4 by chapter 386 of the laws of 1980, is amended to read as follows:

5 S 9-0713. State assistance.

6 [Upon the establishment of regional forest practice boards, and upon
7 the adoption and promulgation of] THE COMMISSIONER SHALL ADOPT forest
8 practice standards[, the regional forest practice boards]. THE DEPART-
9 MENT shall notify [all the] owners of forest land [in their regions]
10 that the commissioner is prepared to assist cooperating owners in
11 connection with the application of [approved] forest practice standards.
12 The commissioner shall provide to cooperating forest and farm woodland
13 owners technical services in connection with all phases of forest
14 management including but not limited to, plantation establishment and
15 care, the marking of timber, marketing assistance and silvicultural
16 treatment of immature stands.

17 S 61. Subdivision 1 of section 444-b of the real property law is
18 REPEALED and subdivisions 2, 3, 4, 5, 6, 7 and 8 are renumbered subdivi-
19 sions 1, 2, 3, 4, 5, 6 and 7.

20 S 62. Subdivision 4 of section 444-b of the real property law, as
21 amended by chapter 225 of the laws of 2005 and as renumbered by section
22 sixty-one of this act, is amended to read as follows:

23 4. "Home inspection" means the process by which a home inspector
24 observes and provides a written report of the systems and components of
25 a residential building including but not limited to heating system,
26 cooling system, plumbing system, electrical system, structural compo-
27 nents, foundation, roof, masonry structure, exterior and interior compo-
28 nents or any other related residential building component as recommended
29 [by the home inspection council and implemented] OR REQUIRED by the
30 department through regulation to provide a client with objective infor-
31 mation about the condition of the residential building. The home inspec-
32 tor shall clearly identify in the written report which systems and
33 components of the residential building were observed. A home inspection
34 shall not include an inspection for radon or pests.

35 S 63. Section 444-c of the real property law, as added by chapter 461
36 of the laws of 2004, subdivisions 1, 2 and 3 as amended by chapter 225
37 of the laws of 2005, is amended to read as follows:

38 S 444-c. [State home inspection council] CODE OF ETHICS AND STANDARDS
39 OF PRACTICE. 1. [There is hereby established a state home inspection
40 council within the department. The council shall consist of the secre-
41 tary or the secretary's designee and six additional members who are
42 residents of the state, of whom three shall be persons licensed and
43 actively engaged in the business of home inspection in the state of New
44 York for at least five years immediately preceding their appointment and
45 three of whom shall be consumers who are the owners and principal resi-
46 dents of a residential building in the state of New York. Appointments
47 shall reflect the geographical diversity of the state.

48 2. For a period of one year after the effective date of this section,
49 and notwithstanding any other provisions of this section to the contra-
50 ry, the first three home inspectors appointed as members of the commit-
51 tee shall not be required, at the time of their first appointment, to be
52 licensed to practice home inspection, provided that such members be
53 licensed pursuant to this article within one year of appointment.

54 3. The governor shall appoint each member of the council for a term of
55 three years except that of the members first appointed, two shall serve
56 for terms of three years, two shall serve for terms of two years and two

1 shall serve for a term of one year. The governor shall appoint one home
2 inspector and one consumer solely in his or her discretion, one home
3 inspector and one consumer upon the recommendation of the temporary
4 president of the senate, and one home inspector and one consumer upon
5 the recommendation of the speaker of the assembly. Each member shall
6 hold office until his or her successor has been qualified. Any vacancy
7 in the membership of the council shall be filled for the unexpired term
8 in the manner provided for the original appointment. No member of the
9 council may serve more than two successive terms in addition to any
10 unexpired term to which he or she has been appointed.

11 4. Members of the council shall receive no compensation but shall be
12 reimbursed for their actual and necessary expenses and provided with
13 office and meeting facilities and personnel required for the proper
14 conduct of the council's business.

15 5. The council shall annually elect from among its members a chair and
16 vice-chair and may appoint a secretary, who need not be a member of the
17 council. The council shall meet at least twice a year and may hold addi-
18 tional meetings as necessary to discharge its duties.

19 6. The role of the council shall be advisory.] The [council shall
20 advise the secretary in the administration and enforcement of the
21 provisions of this article and recommend to the] secretary SHALL PROMUL-
22 GATE regulations to implement the provisions of this article including
23 but not limited to:

24 (a) standards for training including approval of the course of study
25 and examination required for licensure of home inspectors;

26 (b) requirements and standards for continuing education of home
27 inspectors;

28 (c) a code of ethics and standards of practice for licensed home
29 inspectors consistent with the provisions of this article and sound
30 ethical practices which code and standards shall be subject to public
31 notice and comment prior to [a council recommendation to the secretary]
32 ADOPTION OF THE REGULATIONS. The standards of practice shall not require
33 a reporting format or limit information which licensees are authorized
34 to provide a client pursuant to this article; and

35 (d) development of information and educational materials about home
36 inspection for distribution to clients.

37 2. Nothing in this section shall be deemed to supersede any estab-
38 lished authority, duty and power established by local law, state law or
39 regulation or otherwise granted to any agency, body or entity.

40 S 64. Section 444-e of the real property law, as added by chapter 461
41 of the laws of 2004, paragraphs (b) and (c) of subdivision 1 and subdi-
42 vision 3 as amended by chapter 225 of the laws of 2005, is amended to
43 read as follows:

44 S 444-e. Qualifications for licensure. 1. An applicant for a license
45 as a home inspector shall:

46 (a) have successfully completed high school or its equivalent; and

47 (b) (i) have successfully completed a course of study of not less than
48 one hundred forty hours approved by the secretary[, in consultation with
49 the council], of which at least forty hours shall have been in the form
50 of unpaid field based inspections in the presence of and under the
51 direct supervision of a home inspector licensed by the state of New York
52 or a professional engineer or architect regulated by the state of New
53 York who oversees and takes full responsibility for the inspection and
54 any report provided to a client; or

55 (ii) have performed not less than one hundred home inspections in the
56 presence of and under the direct supervision of a home inspector

1 licensed by the state of New York or a professional engineer or archi-
2 tect regulated by the state of New York who oversees and takes full
3 responsibility for the inspection and any report provided to a client;
4 and

5 (c) have passed a written or electronic examination approved by the
6 secretary[, in consultation with the council], and designed to test
7 competence in home inspection practice as determined by a recognized
8 role definition methodology and developed and administered to the extent
9 practicable in a manner consistent with the American Educational
10 Research Association's "Standards for Educational and Psychological
11 Testing." An applicant who has passed an existing nationally recognized
12 examination, as approved by the secretary, prior to the effective date
13 of this article shall be in compliance with this paragraph; and

14 (d) pay the applicable fees.

15 2. The provisions of this section shall not apply to a person perform-
16 ing a home inspection pursuant to subparagraph (ii) of paragraph (b) of
17 subdivision one of this section for the purpose of meeting requirements
18 for a home inspector license.

19 3. Upon submission of an application and payment of the application
20 and licensure fee to the secretary, the secretary shall issue a home
21 inspector's license to a person who holds a valid license as a home
22 inspector issued by another state or possession of the United States or
23 the District of Columbia which has standards substantially equivalent to
24 those of this state as determined by the secretary[, in consultation
25 with the council].

26 4. On or before the effective date of this article, the secretary
27 shall, upon application, issue a home inspector license to a person who:

28 (a) meets the requirements of paragraphs (a) and (c) of subdivision
29 one of this section and has performed one hundred or more home
30 inspections for compensation within two years prior to the effective
31 date of this section; or

32 (b) meets the requirements of paragraph (a) of subdivision one of this
33 section and has been engaged in the practice of home inspection for
34 compensation for not less than three years prior to the effective date
35 of this section during which such person has performed two hundred fifty
36 home inspections for compensation within three years prior to the effec-
37 tive date of this section; or

38 (c) has education and experience which the secretary[, in consultation
39 with the council], considers equivalent to that required pursuant to
40 paragraphs (a) and (b) of this subdivision.

41 S 65. Subdivision 1 of section 444-f of the real property law, as
42 amended by chapter 225 of the laws of 2005, is amended to read as
43 follows:

44 1. Home inspector licenses and renewals thereof shall be issued for a
45 period of two years, except that the secretary may, in order to stagger
46 the expiration date thereof, provide that those licenses first issued or
47 renewed after the effective date of this section shall expire or become
48 void on a date fixed by the secretary, not sooner than six months nor
49 later than twenty-nine months after the date of issue. No renewal of a
50 license shall be issued unless the applicant has successfully completed
51 a course of continuing education approved by the secretary[, in consul-
52 tation with the council].

53 S 66. Subdivision 1 of section 444-k of the real property law, as
54 added by chapter 461 of the laws of 2004, is amended to read as follows:

55 1. Every licensed home inspector who is engaged in home inspection
56 shall secure, maintain, and file with the secretary proof of a certif-

1 icate of liability coverage, which terms and conditions shall be deter-
2 mined by the secretary [in consultation with the council].

3 S 67. Section 444-l of the real property law, as added by chapter 461
4 of the laws of 2004, is amended to read as follows:

5 S 444-l. Duties of the secretary. The secretary shall[, in consulta-
6 tion with the council,] establish such rules and regulations as shall be
7 necessary to implement the provisions of this article.

8 S 68. Subdivision 6 of section 69-n of the general business law is
9 REPEALED.

10 S 69. Chapter 868 of the laws of 1976, relating to the organic food
11 advisory committee, is REPEALED.

12 S 70. Subdivisions 6, 7, 8 and 9 of section 73-b of the agriculture
13 and markets law are REPEALED and subdivision 10 is renumbered subdivi-
14 sion 6.

15 S 71. Subdivision 5 of section 73-b of the agriculture and markets
16 law, as added by chapter 276 of the laws of 2001, is amended to read as
17 follows:

18 5. The advisory board, which shall be chaired by the commissioner,
19 shall:

20 (a) evaluate and prioritize the veterinary diagnostic laboratory needs
21 of industry, government and consumer entities;

22 (b) provide advice and recommendations to the dean of the New York
23 state college of veterinary medicine for strategic direction of diagnos-
24 tic laboratory services;

25 (c) make recommendations to the dean regarding appointment of the
26 director of the laboratory; [and]

27 (d) assess the feasibility of the consolidation, expansion and modern-
28 ization of the current physical facilities of the laboratory; AND

29 (E) PROVIDE ADVICE AND RECOMMENDATIONS TO THE DIRECTOR OF THE DIAGNOS-
30 TIC LABORATORY REGARDING INDUSTRY NEEDS AND THE EFFECTIVENESS OF VETERI-
31 NARY DIAGNOSTIC LABORATORY SERVICES.

32 S 72. Paragraph (g) of subdivision 3 of section 73-b of the agricul-
33 ture and markets law, as added by chapter 276 of the laws of 2001, is
34 amended to read as follows:

35 (g) one member to be appointed by the governor, upon recommendation by
36 the commissioner[, from nominations received from the animal health
37 issues committee];

38 S 73. Section 13-0308 of the environmental conservation law is
39 REPEALED.

40 S 74. The opening paragraph of subdivision 15 of section 13-0309 of
41 the environmental conservation law, as added by chapter 512 of the laws
42 of 1994, is amended to read as follows:

43 Unless and until regulations are adopted implementing a comprehensive
44 long-term management plan for the protection of surf clams and ocean
45 quahogs in New York waters [prepared in conjunction with the surf
46 clam/ocean quahog management advisory board pursuant to section 13-0308,
47 of this title], the following restrictions shall apply in addition to
48 any consistent regulations adopted prior to the date upon which such
49 section shall take effect:

50 S 75. Subparagraph (ii) of paragraph 3 of subdivision (a) of section
51 83 of the state finance law, as amended by section 6 of part A of chap-
52 ter 58 of the laws of 1998, is amended to read as follows:

53 (ii) Notwithstanding the provisions of subparagraph (i) of this para-
54 graph, moneys arising out of the application of subdivision fourteen of
55 section 13-0309 of the environmental conservation law, shall be deposit-
56 ed in a special account within the conservation fund, to be known as the

1 surf clam/ocean quahog account, and shall be available to the department
2 of environmental conservation, including contracts for such purposes
3 with a New York State institution of higher education currently involved
4 in local marine research, after appropriation, for the research and
5 stock assessment of surf clams and ocean quahogs [and the operations of
6 the surf clam/ocean quahog management advisory board].

7 S 76. Section 3000 of the public health law, as amended by chapter 804
8 of the laws of 1992, is amended to read as follows:

9 S 3000. Declaration of policy and statement of purpose. The furnishing
10 of medical assistance in an emergency is a matter of vital concern
11 affecting the public health, safety and welfare. Prehospital emergency
12 medical care, the provision of prompt and effective communication among
13 ambulances and hospitals and safe and effective care and transportation
14 of the sick and injured are essential public health services.

15 It is the purpose of this article to promote the public health, safety
16 and welfare by providing for certification of all advanced life support
17 first response services and ambulance services; the creation of regional
18 emergency medical services [councils] ADVISORY BOARDS; and a New York
19 state emergency medical services [council] ADVISORY BOARD to [develop]
20 ADVISE THE DEPARTMENT AND THE COMMISSIONER IN THE DEVELOPMENT OF minimum
21 training standards for certified first responders, emergency medical
22 technicians and advanced emergency medical technicians and minimum
23 equipment and communication standards for advanced life support first
24 response services and ambulance services.

25 S 77. Subdivision 2 and paragraphs (a), (c) and (e) of subdivision 3
26 of section 3000-b of the public health law, subdivision 2 as amended by
27 chapter 583 of the laws of 1999, paragraph (a) of subdivision 3 as
28 amended by chapter 243 of the laws of 2010 and paragraphs (c) and (e) of
29 subdivision 3 as added by chapter 552 of the laws of 1998, are amended
30 to read as follows:

31 2. Collaborative agreement. A person, firm, organization or other
32 entity may purchase, acquire, possess and operate an automated external
33 defibrillator pursuant to a collaborative agreement with an emergency
34 health care provider. The collaborative agreement shall include a writ-
35 ten agreement and written practice protocols, and policies and proce-
36 dures that shall assure compliance with this section. The public access
37 defibrillation provider shall file a copy of the collaborative agreement
38 with the department and with the appropriate regional [council] BOARD
39 prior to operating the automated external defibrillator.

40 (a) No person may operate an automated external defibrillator unless
41 the person has successfully completed a training course in the operation
42 of an automated external defibrillator approved by a nationally-recog-
43 nized organization or the [state emergency medical services council]
44 COMMISSIONER AND THE COMPLETION OF THE COURSE WAS RECENT ENOUGH TO STILL
45 BE EFFECTIVE UNDER THE STANDARDS OF THE APPROVING ORGANIZATION. Howev-
46 er, this section shall not prohibit operation of an automated external
47 defibrillator, (i) by a health care practitioner licensed or certified
48 under title VIII of the education law or a person certified under this
49 article acting within his or her lawful scope of practice; (ii) by a
50 person acting pursuant to a lawful prescription; or (iii) by a person
51 who operates the automated external defibrillator other than as part of
52 or incidental to his or her employment or regular duties, who is acting
53 in good faith, with reasonable care, and without expectation of monetary
54 compensation, to provide first aid that includes operation of an auto-
55 mated external defibrillator; nor shall this section limit any good

samaritan protections provided in section three thousand-a of this article.

(c) The public access defibrillation provider shall notify the APPROPRIATE regional [council] BOARD of the existence, location and type of any automated external defibrillator it possesses.

(e) The emergency health care provider shall participate in the regional quality improvement program pursuant to subdivision one of section three thousand [four-a] FOUR of this article.

S 78. Subdivision 2 and paragraph (a) of subdivision 3 of section 3000-c of the public health law, as added by chapter 578 of the laws of 1999, are amended to read as follows:

2. Collaborative agreement. Any eligible person, firm, organization or other entity may purchase, acquire, possess and use epinephrine auto-injector devices pursuant to a collaborative agreement with an emergency health care provider. The collaborative agreement shall include a written agreement that incorporates written practice protocols, and policies and procedures that shall ensure compliance with the provisions of this section. The person, firm, organization or entity shall file a copy of the collaborative agreement with the department and with the appropriate regional [council] BOARD prior to using any epinephrine auto-injector device.

(a) No person shall use an epinephrine auto-injector device unless such person shall have successfully completed a training course in the use of epinephrine auto-injector devices approved by the commissioner [pursuant to the rules of the department]. This section does not prohibit the use of an epinephrine auto-injector device (i) by a health care practitioner licensed or certified under title eight of the education law acting within the scope of his or her practice, or (ii) by a person acting pursuant to a lawful prescription.

S 79. Section 3001 of the public health law, as amended by chapter 804 of the laws of 1992, subdivisions 13 and 15 as amended by chapter 445 of the laws of 1993, is amended to read as follows:

S 3001. Definitions. As used in this article, unless the context otherwise requires:

1. "Emergency medical service" means initial emergency medical assistance including, but not limited to, the treatment of trauma, burns, respiratory, circulatory and obstetrical emergencies.

1-A. "PEDIATRIC CARE" MEANS MEDICAL CARE PROVIDED TO NEONATES, INFANTS, TODDLER, PRESCHOOLERS, SCHOOL AGERS AND ADOLESCENTS.

1-B. "TRAUMA CARE" MEANS HEALTH CARE PROVIDED TO PATIENTS AT HIGH RISK OF DEATH OR DISABILITY FROM MULTIPLE AND SEVERE INJURIES.

1-C. "DISASTER CARE" MEANS CARE PROVIDED TO PATIENTS WHO ARE THE VICTIMS OF NATURAL OR MAN-MADE DISASTERS, INCLUDING BUT NOT LIMITED TO BIOLOGIC, NUCLEAR, INCENDIARY, CHEMICAL AND EXPLOSIVE DISASTERS.

2. "Ambulance service" means an individual, partnership, association, corporation, municipality or any legal or public entity or subdivision thereof engaged in providing emergency medical care and the transportation of sick or injured persons by motor vehicle, aircraft or other forms of transportation to, from, or between general hospitals or other health care facilities.

3. "Voluntary ambulance service" means an ambulance service (i) operating not for pecuniary profit or financial gain, and (ii) no part of the assets or income of which is distributable to, or enures to the benefit of, its members, directors or officers except to the extent permitted under this article.

1 4. "Voluntary advanced life support first response service" means
2 advanced life support first response service (i) operating not for pecu-
3 niary profit or financial gain, and (ii) no part of the assets or income
4 of which is distributable to, or enures to the benefit of, its members,
5 directors or officers except to the extent permitted under this article.

6 5. "Certified first responder" means an individual who meets the mini-
7 mum TRAINING, EDUCATION AND CERTIFICATION requirements established by
8 [regulations pursuant to section three thousand two of this article] THE
9 COMMISSIONER and who is responsible for administration of initial life
10 saving care of sick and injured persons.

11 6. "Emergency medical technician" means an individual who meets the
12 minimum TRAINING, EDUCATION AND CERTIFICATION requirements established
13 by [regulations pursuant to section three thousand two of this article]
14 THE COMMISSIONER and who is responsible for administration or super-
15 vision of initial emergency medical care and transportation of sick or
16 injured persons.

17 7. "Advanced emergency medical technician" means an emergency medical
18 technician who [has satisfactorily completed an advanced course of
19 training approved by the state council under regulations pursuant to
20 section three thousand two of this article] MEETS THE MINIMUM TRAINING,
21 EDUCATION AND CERTIFICATION REQUIREMENTS ESTABLISHED BY THE COMMISSIONER
22 AND WHO IS RESPONSIBLE FOR ADMINISTRATION OR SUPERVISION OF ADVANCED
23 EMERGENCY MEDICAL CARE AND TRANSPORTATION OF SICK OR INJURED PERSONS.

24 8. "State [council] BOARD" means the New York state emergency medical
25 services [council] ADVISORY BOARD established pursuant to this article.

26 9. "Regional [council] BOARD" means a regional emergency medical
27 services [council] ADVISORY BOARD established pursuant to this article.

28 10. "Enrolled member" means any member of a voluntary ambulance
29 service or voluntary advanced life support first response service who
30 provides emergency medical care or transportation of sick or injured
31 persons without expectation of monetary compensation.

32 11. "Advanced life support care" means definitive acute medical care
33 provided, under medical control, by advanced emergency medical techni-
34 cians within an advanced life support system.

35 12. "Advanced life support system" means an organized acute medical
36 care system to provide advanced life support care on site or en route
37 to, from, or between general hospitals or other health care facilities.

38 13. "Advanced life support mobile unit" means an ambulance or advanced
39 life support first response vehicle approved to provide advanced life
40 support services pursuant to this article.

41 14. "Qualified medical and health personnel" means physicians, regis-
42 tered professional nurses and advanced emergency medical technicians
43 competent in the management of patients requiring advanced life support
44 care.

45 15. "Medical control" means: (a) advice and direction provided by a
46 physician or under the direction of a physician to certified first
47 responders, emergency medical technicians or advanced emergency medical
48 technicians who are providing medical care at the scene of an emergency
49 or en route to a health care facility; and (b) indirect medical control
50 including the written policies, procedures, and protocols for prehospi-
51 tal emergency medical care and transportation developed by [the state
52 emergency medical advisory committee, approved by the state emergency
53 medical services council and] the commissioner, and implemented by
54 regional EMERGENCY medical advisory committees.

55 16. "Regional EMERGENCY medical advisory committee" means a group of
56 five or more physicians, and one or more non-voting individuals repre-

1 tentative of each of the following: hospitals, basic life support
2 providers, advanced life support providers and emergency medical
3 services training sponsor medical directors approved by the affected
4 regional [emergency medical services councils] BOARDS.

5 17. "Advanced life support first response service" means an organiza-
6 tion which provides advanced life support care, but does not transport
7 patients.

8 18. ["EMS program agency" means a not-for-profit corporation or muni-
9 cipality designated by the state council and approved by the affected
10 regional council or councils to facilitate the development and operation
11 of an emergency medical services system within a region as directed by
12 the regional council under this article.

13 19.] "Operator" means any person who by reason of a direct or indirect
14 ownership interest (whether of record or beneficial) has the ability,
15 acting either alone or in concert with others with ownership interests,
16 to direct or cause the direction of the management or policies of an
17 ambulance service or advanced life support first response service.

18 19. "MUTUAL AID" MEANS THE PRE-PLANNED AND ORGANIZED RESPONSE OF EMER-
19 GENCY MEDICAL SERVICES, AND OTHER EMERGENCY PERSONNEL AND EQUIPMENT, TO
20 A REQUEST FOR ASSISTANCE IN AN EMERGENCY WHEN LOCAL RESOURCES HAVE BEEN
21 EXPENDED. THE RESPONSE IS PREDICATED ON FORMAL AGREEMENTS AMONG PARTIC-
22 IPATING AGENCIES OR JURISDICTIONS.

23 20. "Mutual aid agreement" means a written agreement, entered into by
24 two or more ambulance services or advanced life support first response
25 services possessing valid [ambulance service or advanced life support
26 first response service certificates or statements of registration] OPER-
27 ATING AUTHORITY, FIRE SERVICES AS DEFINED BY SECTION TWO HUNDRED NINE-B
28 OF THE GENERAL MUNICIPAL LAW, OR THE GOVERNING BODY OF ANY CITY, TOWN OR
29 VILLAGE, for the organized, SUPERVISED, coordinated, and cooperative
30 reciprocal mobilization of personnel, equipment, services, or facilities
31 for [back-up or support upon request as required pursuant to a written
32 mutual aid plan] OUTSIDE SERVICE UPON REQUEST. An ambulance service and
33 advanced life support first response service may participate in one or
34 more mutual aid agreements.

35 21. "Primary territory" means the geographic area or subdivisions
36 listed on an ambulance OR ADVANCED LIFE SUPPORT FIRST RESPONSE service
37 certificate [or statement of registration within which the ambulance
38 service may receive patients for transport].

39 22. "STATEWIDE EMS MOBILIZATION PLAN" MEANS AN ESTABLISHED PLAN FOR
40 THE FORMAL AND UNIFORM NOTIFICATION AND ACTIVATION OF AMBULANCE OR
41 ADVANCED LIFE SUPPORT FIRST RESPONSE SERVICES.

42 23. "COUNTY MUTUAL AID PLAN" MEANS A WRITTEN MUTUAL AID AGREEMENT,
43 ENTERED INTO BY TWO OR MORE AMBULANCE SERVICES OR ADVANCED LIFE SUPPORT
44 FIRST RESPONSE SERVICES POSSESSING VALID OPERATING AUTHORITY, FIRE
45 SERVICES AS DEFINED BY SECTION TWO HUNDRED NINE-B OF THE GENERAL MUNICI-
46 PAL LAW, OR THE GOVERNING BODY OF ANY CITY, TOWN OR VILLAGE, FACILITATED
47 OR COORDINATED BY THE COUNTY FOR THE ORGANIZED, SUPERVISED, COORDINATED,
48 AND COOPERATIVE RECIPROCAL MOBILIZATION OF PERSONNEL, EQUIPMENT,
49 SERVICES, OR FACILITIES FOR OUTSIDE SERVICE UPON REQUEST FOR THE
50 PURPOSES OF PROVIDING EMERGENCY MEDICAL TREATMENT AND/OR TRANSPORTATION.

51 S 80. Section 3002 of the public health law is REPEALED and a new
52 section 3002 is added to read as follows:

53 S 3002. NEW YORK STATE EMERGENCY MEDICAL SERVICES ADVISORY BOARD. 1.
54 THERE IS HEREBY CREATED WITHIN THE DEPARTMENT OF HEALTH THE NEW YORK
55 STATE EMERGENCY MEDICAL SERVICES ADVISORY BOARD. THE BOARD SHALL CONSIST
56 OF TWENTY-THREE MEMBERS, APPOINTED BY THE COMMISSIONER, WHO SHALL BE

1 REPRESENTATIVE OF THE DIVERSITY OF THE EMERGENCY MEDICAL AND TRAUMA
2 SYSTEM IN THE STATE, PARTICULARLY REGARDING DIVERSITY IN GEOGRAPHY,
3 INDUSTRY AND PATIENT CARE. MEMBERS SHALL SERVE AT THE PLEASURE OF THE
4 COMMISSIONER FOR THREE YEAR TERMS, EXCEPT THAT THE TERM OF ELEVEN OF THE
5 INITIAL ADVISORY MEMBERS SHALL BE FOR TWO YEARS; PROVIDED THAT A MEMBER
6 SHALL CONTINUE TO SERVE IN FULL CAPACITY UNTIL SUCH TIME AS THE MEMBER
7 RESIGNS, IS REMOVED OR REPLACED. NO PERSON MAY SERVE AS A MEMBER FOR
8 MORE THAN TWO CONSECUTIVE TERMS TOTAL. THE COMMISSIONER SHALL APPOINT A
9 CHAIR AND A VICE-CHAIR. MEMBERS OF THE STATE BOARD SHALL RECEIVE NO
10 COMPENSATION FOR THEIR SERVICES AS MEMBERS.

11 2. NO CIVIL ACTION SHALL BE BROUGHT IN ANY COURT AGAINST ANY MEMBER,
12 OFFICER OR EMPLOYEE OF THE STATE BOARD FOR ANY ACT DONE, FAILURE TO ACT,
13 OR STATEMENT OR OPINION MADE, WHILE DISCHARGING HIS OR HER DUTIES AS A
14 MEMBER, OFFICER OR EMPLOYEE OF THE STATE BOARD, WITHOUT LEAVE FROM A
15 JUSTICE OF THE SUPREME COURT, FIRST HAD AND OBTAINED. IN NO EVENT SHALL
16 SUCH MEMBER, OFFICER OR EMPLOYEE BE LIABLE FOR DAMAGES IN ANY SUCH
17 ACTION IF HE OR SHE SHALL HAVE ACTED IN GOOD FAITH, WITH REASONABLE CARE
18 AND UPON PROBABLE CAUSE.

19 3. THE STATE BOARD SHALL ADVISE THE DEPARTMENT ON ISSUES RELATED TO
20 EMERGENCY MEDICAL SERVICES, PEDIATRIC CARE, TRAUMA CARE AND DISASTER
21 CARE, AND ASSIST IN THE COORDINATION OF SUCH, INCLUDING BUT NOT LIMITED
22 TO THE DEVELOPMENT, PERIODIC REVISION, AND APPLICATION OF RULES AND
23 REGULATIONS, APPROPRIATENESS REVIEW STANDARDS, AND QUALITY IMPROVEMENT
24 GUIDELINES, AS THE COMMISSIONER AND THE DEPARTMENT MAY REQUEST. THE
25 STATE BOARD SHALL HAVE THE SAME AUTHORITY GRANTED TO REGIONAL BOARDS BY
26 THE ARTICLE IN ANY REGION OF THE STATE IN WHICH A REGIONAL BOARD HAS NOT
27 BEEN ESTABLISHED. THE STATE BOARD MAY MEET AS FREQUENTLY AS REQUESTED BY
28 THE DEPARTMENT.

29 4. UPON APPEAL FROM ANY CONCERNED PARTY, THE STATE BOARD MAY RECOMMEND
30 AMENDMENT, MODIFICATION AND REVERSAL OF DETERMINATIONS OF THE REGIONAL
31 BOARDS AND REGIONAL EMERGENCY MEDICAL ADVISORY COMMITTEES MADE PURSUANT
32 TO ANY SECTION OF THIS ARTICLE. THE COMMISSIONER SHALL REVIEW ALL RECOM-
33 MENDATIONS OF THE STATE BOARD AND MAY APPROVE, DISAPPROVE OR MODIFY SUCH
34 RECOMMENDATIONS. ALL RECOMMENDATIONS APPROVED, DISAPPROVED OR MODIFIED
35 BY THE COMMISSIONER SHALL BE SUBJECT TO REVIEW AS PROVIDED IN ARTICLE
36 SEVENTY-EIGHT OF THE CIVIL PRACTICE LAW AND RULES. APPLICATION FOR SUCH
37 REVIEW MUST BE MADE WITHIN SIXTY DAYS AFTER SERVICE IN PERSON OR BY
38 REGISTERED OR CERTIFIED MAIL.

39 5. THE COMMISSIONER MAY APPOINT A TECHNICAL ADVISORY GROUP TO COMPILE
40 AND REVIEW DATA, DRAFT DOCUMENTS, OR PERFORM OTHER TASKS RELATED TO THE
41 DISCOVERY OR PRODUCTION OF INFORMATION NEEDED IN ORDER FOR THE STATE
42 BOARD TO PROPERLY CONSIDER A MATTER. TECHNICAL ADVISORY GROUPS SHALL BE
43 APPOINTED ONLY FOR A LIMITED AND DEFINED PERIOD OF TIME IN THE PERFORM-
44 ANCE OF A SPECIFIC TASK IN RELATION TO A SPECIFIC MATTER. INFORMATION
45 OBTAINED OR PRODUCED BY THE TECHNICAL ADVISORY GROUP SHALL BE PROVIDED
46 TO AND EXAMINED BY THE STATE ADVISORY BOARD.

47 S 81. Section 3002-a of the public health law is REPEALED.

48 S 82. Section 3003 of the public health law, as added by chapter 1053
49 of the laws of 1974, subdivision 1 as amended by chapter 1054 of the
50 laws of 1974, subdivisions 2 and 5 as amended by chapter 445 of the laws
51 of 1993, subdivisions 3 and 5-a as added and paragraph (a) of subdivi-
52 sion 10 as amended by chapter 804 of the laws of 1992, subdivision 4 as
53 amended by chapter 580 of the laws of 2007 and subdivision 10 as added
54 by chapter 1016 of the laws of 1981, is amended to read as follows:

55 S 3003. Regional emergency medical services [councils] ADVISORY
56 BOARDS. 1. The commissioner[, with the approval of the state council,]

1 shall designate regional emergency medical services [councils on or
2 before January first, nineteen hundred seventy-eight] BOARDS but in no
3 event shall the number of regional [councils] BOARDS exceed [eighteen]
4 SIX. Such A regional [councils] BOARD shall be established on the basis
5 of application for designation as A regional [councils] BOARD submitted
6 by local organizations, the members of which are knowledgeable in vari-
7 ous aspects of emergency medical services. Such application shall
8 describe the geographic area to be served and contain a list of nominees
9 for appointment to membership on such regional [councils] BOARD and a
10 statement as to the proposed method of operation in such detail as the
11 commissioner[, with the approval of the state council,] shall prescribe.

12 2. Each regional [council] BOARD shall be comprised of at least
13 fifteen but not more than thirty members to be initially appointed by
14 the commissioner, [with the approval of the state council] IN CONSULTA-
15 TION WITH THE STATE BOARD, from nominations submitted by local organiza-
16 tions applying for establishment as the regional [council] BOARD. SUCH
17 MEMBERS SHALL BE REPRESENTATIVE OF THE DIVERSITY OF EMERGENCY MEDICAL
18 SERVICES IN THE REGION; PARTICULARLY WITH RESPECT TO DIVERSITY IN
19 GEOGRAPHY, INDUSTRY AND PATIENT CARE. Not less than one-third of the
20 membership of the regional [councils] BOARDS shall be representatives of
21 ambulance services and the remaining membership of the regional [coun-
22 cils] BOARDS shall consist of, but not be limited to, representatives of
23 existing local emergency medical care committees, physicians, nurses,
24 hospitals, health planning agencies, fire department emergency and
25 rescue squads, public health officers and the general public. The county
26 EMS coordinator, established pursuant to section two hundred twenty-
27 three-b of the county law, of any county within the region shall serve
28 as an ex officio member of the regional [council] BOARD; provided,
29 however, nothing in this subdivision shall prevent a county EMS coordi-
30 nator from serving as a voting member of a regional [council] BOARD.
31 Members of each regional [council] BOARD shall be residents living with-
32 in the geographic area to be served by the regional [council] BOARD. The
33 presence of a majority of members shall constitute a quorum.

34 3. Each regional [council] BOARD shall ASSIST THE REGIONAL EMERGENCY
35 MEDICAL ADVISORY COMMITTEES, OTHER REGIONAL BOARDS, STATE BOARD, DEPART-
36 MENT AND COMMISSIONER, AS REQUIRED BY THIS ARTICLE AND REQUESTED BY THE
37 DEPARTMENT AND COMMISSIONER, IN CARRYING OUT THE PROVISIONS OF THIS
38 ARTICLE, AND SHALL have the power to:

39 (a) [have a seal and alter the same at pleasure;
40 (b) acquire, lease, hold, and dispose of real and personal property or
41 any interest therein for its purposes;

42 (c) make and alter by-laws for its organization and internal manage-
43 ment, and rules and regulations governing the exercise of its powers and
44 the fulfillment of its purposes under this article; such rules and regu-
45 lations must be filed with the secretary of state and the state EMS
46 council;

47 (d) enter into contracts for employment of such officers and employees
48 as it may require for the performance of its duties; and to fix and
49 determine their qualifications, duties, and compensation, and to retain
50 and employ such personnel as may be required for its purposes; and
51 private consultants on a contract basis or otherwise, for the rendering
52 of professional or technical services and advice;

53 (e) enter into contracts, leases, and subleases and to execute all
54 instruments necessary or convenient for the conduct of its business,
55 including contracts with the commissioner and any state agency or munic-

1 ipal entity; and contracts with hospitals and physicians for the
2 purposes of carrying out its powers under this article;

3 (f)] undertake or cause to be undertaken plans, surveys, analyses and
4 studies necessary, convenient or desirable for the effectuation of its
5 purposes and powers, and to prepare recommendations and reports in
6 regard thereto;

7 [(g)] (B) fix and collect reasonable fees, rents, and other charges
8 for the use of its equipment and the provision of its services;

9 [(h) contract for and to accept any gifts or grants, subsidies, or
10 loans of funds or property, or financial or other aid in any form from
11 the federal or state government or any agency or instrumentality there-
12 of; or from any other source, public or private, and to comply, subject
13 to the provisions of this article, with the terms and conditions there-
14 of; provided, however, that the councils may contract for payment of
15 debt evidenced by bonds or notes or other evidence of indebtedness,
16 either directly or through a lease purchase agreement;

17 (i)] (C) recommend to the department approval of training course spon-
18 sors within its region, and to develop, promulgate and implement annual-
19 ly an EMS training plan which addresses the needs of its region;

20 [(j)] (D) enter into [contracts or memoranda of agreement] AGREEMENTS
21 with other regional [councils] BOARDS to provide services in a joint or
22 cooperative manner; and [to enter into contracts or memoranda of agree-
23 ment with an EMS program agency to carry out one or more of its respon-
24 sibilities under this article;

25 (k) procure insurance against any loss or liability in connection with
26 the use, management, maintenance, and operation of its equipment and
27 facilities, in such amounts and from such insurers as it reasonably
28 deems necessary;

29 (l) approve] (E) RECOMMEND TO THE COMMISSIONER INDIVIDUALS FOR
30 APPOINTMENT TO ITS regional medical advisory committee [nominees];

31 (m) provide focused technical assistance and support to those volun-
32 tary ambulance services operating under exemptions, to assist such
33 services in progressing toward the uniform standards established pursu-
34 ant to this section. Such assistance and support shall include, but not
35 be limited to, volunteer recruitment and management training; and

36 (n) do all things necessary, convenient and desirable to carry out its
37 purposes and for the exercise of the powers granted in this article].

38 4. Each regional [council] BOARD shall have the responsibility to
39 coordinate emergency medical services programs within its region,
40 including but not limited to, the establishment of emergency medical
41 technician courses and the issuance of uniform emergency medical techni-
42 cian insignia and certificates. Such training courses shall be made
43 available by video or computer to the maximum extent possible.

44 5. [The] EACH regional [council] BOARD shall have the responsibility
45 to make determinations of public need for the establishment of addi-
46 tional emergency medical services and ambulance services WITHIN ITS
47 GEOGRAPHIC AREA and to make the determinations of public need as
48 provided in section three thousand eight OF THIS ARTICLE. The regional
49 [council] BOARD shall make such determination by an affirmative vote of
50 a majority of all of those members consisting of voting members.

51 [5-a. The regional emergency medical services council is authorized to
52 grant an exemption from the staffing standards set forth in section
53 three thousand five-a of this article to a voluntary ambulance service
54 operating solely with enrolled members or paid emergency medical techni-
55 cians which has demonstrated a good faith effort to meet the standards
56 and is unable to meet such standards because of factors deemed appropri-

1 ate by the regional council. An exemption shall be for a period not to
2 exceed two years and shall be conditioned on the participation by the
3 voluntary service in a program to achieve compliance which shall include
4 technical assistance and support from the regional council tailored to
5 the needs and resources at the local level, as provided by paragraph (m)
6 of subdivision three of this section, to be funded by the New York state
7 emergency medical services training account established pursuant to
8 section ninety-seven-q of the state finance law, such account as funded
9 by a chapter of the laws of nineteen hundred ninety-three. Nothing shall
10 prevent the regional council from issuing subsequent exemptions. Such
11 exemptions shall have no effect whatsoever on the insurability of the
12 organization receiving such exemption and such exemption shall not be
13 used as a basis for increasing insurance rates or premiums related ther-
14 eto, notwithstanding any other provision of law, rule, regulation, or
15 commissioner's ruling or advisory to the contrary. Prior to issuing an
16 exemption, the regional council shall provide written notice by certi-
17 fied mail to the chief executive officers of all general hospitals and
18 municipalities in the county or counties within which the service
19 requesting an exemption operates. Such notice shall provide opportunity
20 for comment on the issuance of the exemption. Notice of the determi-
21 nation of the regional council shall be provided within ten days of the
22 determination to the applicant, the department, and any party receiving
23 notification of the application who requests notice of the determi-
24 nation. The applicant, the department, or any concerned party may appeal
25 the determination of the regional council to the state council within
26 thirty days after the regional council makes its determination.]

27 6. The term of office of members of [the] EACH regional [council]
28 BOARD shall be four years, except that of those members first appointed,
29 at least one-half but not more than two-thirds shall be for [terms] A
30 TERM not to exceed two years.

31 7. Each regional [council] BOARD shall meet as frequently as its busi-
32 ness may require.

33 8. [The commissioner, upon request of the regional council, may desig-
34 nate an officer or employee of the department to act as secretary of the
35 regional council, and may assign from time to time such other employees
36 as the regional council may require.

37 9.] No civil action shall be brought in any court against any member,
38 officer or employee of any designated regional [council] BOARD for any
39 act done, failure to act, or statement or opinion made, while discharg-
40 ing his duties as a member, officer or employee of the regional [coun-
41 cil] BOARD, without leave from a justice of the supreme court, first had
42 and obtained. In any event such member, officer or employee shall not be
43 liable for damages in any such action if he shall have acted in good
44 faith, with reasonable care and upon probable cause.

45 [10. (a) The department shall provide each regional council with the
46 funds necessary to enable such regional council to carry out its respon-
47 sibilities as mandated under this section within amounts appropriated
48 therefor.

49 (b) Such funds shall be provided upon approval by the department of an
50 application submitted by a regional council. The application shall
51 contain such information and be in such form as the commissioner shall
52 require pursuant to rules and regulations which he shall promulgate
53 after consultation with the state council in order to effect the
54 purposes and provisions of this subdivision.]

1 9. ALL DETERMINATIONS OF THE REGIONAL BOARDS MAY BE APPEALED TO THE
2 STATE BOARD PURSUANT TO SUBDIVISION THREE OF SECTION THREE THOUSAND TWO
3 OF THIS ARTICLE.

4 S 83. Section 3003-a of the public health law is REPEALED.

5 S 84. Section 3004-a of the public health law, as added by chapter 804
6 of the laws of 1992, subdivision 4 as added by chapter 445 of the laws
7 of 1993, is renumbered section 3004 and amended to read as follows:

8 S 3004. Regional emergency medical advisory committees. 1. Regional
9 emergency medical advisory committees shall develop policies, proce-
10 dures, and triage, treatment, and transportation protocols FOR EMERGENCY
11 MEDICAL SERVICES which are consistent with the STATE-WIDE MINIMUM stand-
12 ards [of the state emergency medical advisory committee] ESTABLISHED BY
13 THE COMMISSIONER IN CONSULTATION WITH THE STATE BOARD, and which address
14 specific local conditions. Regional emergency medical advisory commit-
15 tees may also approve physicians to provide on line medical control,
16 coordinate the development of regional medical control systems, and
17 participate in quality improvement activities addressing system-wide
18 concerns. Hospitals and prehospital medical care services shall be
19 authorized to release patient outcome information to regional emergency
20 medical advisory committees for purposes of assessing prehospital care
21 concerns. Regional quality improvement programs shall be presumed to be
22 an extension of the quality improvement program set forth in section
23 three thousand six of this article, and the provisions of subdivisions
24 two and three of such section three thousand six shall apply to such
25 programs.

26 2. [The committee shall nominate to the commissioner a physician with
27 demonstrated knowledge and experience in emergency medical services to
28 serve on the state emergency medical advisory committee.

29 3.] No civil action shall be brought in any court against any member,
30 officer or employee of the committee for any act done, failure to act,
31 or statement or opinion made, while discharging his or her duties as a
32 member, officer, or employee of the committee, without leave from a
33 justice of the supreme court, first had and obtained. In no event shall
34 such member, officer, or employee be liable for damages in any such
35 action if he or she shall have acted in good faith, with reasonable care
36 and upon probable cause.

37 [4.] 3. Any decision of a regional emergency medical advisory commit-
38 tee regarding provision of a level of care, including staffing require-
39 ments, may be appealed to the state [emergency medical advisory commit-
40 tee] BOARD by any regional [EMS council] BOARD, ambulance service,
41 advanced life support service, certified first responder, emergency
42 medical technician, or advanced emergency medical technician adversely
43 affected. No action shall be taken to implement a decision regarding
44 existing levels of care or staffing while an appeal of such decision is
45 pending. [Any decision of the state emergency medical advisory committee
46 may be appealed pursuant to subdivision two-a of section three thousand
47 two-a of this article.]

48 S 85. Section 3005 of the public health law, as amended by chapter 804
49 of the laws of 1992, subdivision 5 as amended and subdivision 8 as added
50 by chapter 445 of the laws of 1993, is amended to read as follows:

51 S 3005. Ambulance service certificates. 1. No ambulance service [oper-
52 ating for profit, hospital ambulance service or municipal ambulance
53 service of a city of over one million population shall operate on or
54 after September first, nineteen hundred seventy-five unless it possesses
55 a valid ambulance service certificate issued pursuant to this article.
56 Effective January first, nineteen hundred ninety-seven, no ambulance

1 service shall be operated unless it possesses a valid ambulance service
2 operating certificate issued pursuant to this article or has been issued
3 a statement of registration. No advanced life support first response
4 service shall operate unless it possesses a valid advanced life support
5 first responder service operating certificate. Effective January first,
6 two thousand, no ambulance service] OR ADVANCE LIFE SUPPORT FIRST
7 RESPONSE SERVICE shall be operated unless it possesses a valid operating
8 certificate.

9 2. [The department shall issue an initial certificate to an ambulance
10 service certified prior to the effective date of this section upon
11 submission of proof that it is the holder of a valid ambulance service
12 certificate and is otherwise in compliance with provisions of section
13 three thousand nine of this article.

14 2-a. Prior to January first, two thousand, the department shall issue
15 an initial certificate to a registered ambulance service in possession
16 of a valid registration provided that such service has been issued an
17 exemption issued by a regional council pursuant to subdivision five-a of
18 section three thousand three of this article.

19 3. The department shall issue an initial certificate to an advanced
20 life support first response service upon submission of proof that such
21 advanced life support first response service is staffed and equipped in
22 accordance with rules and regulations promulgated pursuant to this arti-
23 cle and is otherwise in compliance with provisions of section three
24 thousand nine of this article.

25 4.] A certificate issued BY THE DEPARTMENT to an ambulance service or
26 advanced life support first response service shall be valid for two
27 years. The initial certification fee shall be one hundred dollars. Ther-
28 eafter the biennial fee shall be in accordance with the schedule of fees
29 established by the commissioner pursuant to this article. However, there
30 shall be no initial or renewal certification fee required of a voluntary
31 ambulance service or voluntary advanced life support first response
32 service.

33 [5.] 3. No initial certificate [(except initial certificates issued
34 pursuant to subdivision two of this section)] shall be issued unless the
35 commissioner finds that the proposed operator or operators are competent
36 and fit to operate the service and that the ambulance service or
37 advanced life support first response service is staffed and equipped in
38 accordance with rules and regulations promulgated pursuant to this arti-
39 cle.

40 [6.] 4. No ambulance service or advanced life support first response
41 service shall begin operation without prior approval of the appropriate
42 regional [council] BOARD, or if there is no appropriate regional [coun-
43 cil] BOARD established such ambulance service or advanced life support
44 first response service shall apply for approval from the state [council]
45 BOARD as to the public need for the establishment of additional ambu-
46 lance service or advanced life support first response service, pursuant
47 to section three thousand eight of this article.

48 [7.] 5. Applications for a certificate shall be made by the owner of
49 an ambulance service or advanced life support first response service
50 operating for profit or the responsible official of a voluntary ambu-
51 lance service or advanced life support first response service upon forms
52 provided by the department. The application shall state the name and
53 address of the owner and PROVIDE such other information as the depart-
54 ment may require pursuant to rules and regulations.

55 [8.] 6. For purposes of this article, competent means that any
56 proposed operator of any ambulance service or advanced life support

1 first response service who is already or had been within the last ten
2 years an incorporator, director, sponsor, principal stockholder, or
3 operator of any ambulance service, hospital, private proprietary home
4 for adults, residence for adults, or non-profit home for the aged or
5 blind which has been issued an operating certificate by the state
6 department of social services, or a halfway house, hostel, or other
7 residential facility or institution for the care, custody, or treatment
8 of the mentally disabled subject to the approval by the department of
9 mental hygiene, or any invalid coach service subject to approval by the
10 department of transportation, is rendering or did render a substantially
11 consistent high level of care. For purposes of this subdivision, the
12 [state emergency medical services council] COMMISSIONER, IN CONSULTATION
13 WITH THE STATE BOARD, shall [adopt] PROMULGATE rules and regulations[,
14 subject to the approval of the commissioner,] to establish the criteria
15 to be used to define substantially consistent high level of care with
16 respect to ambulance services, advanced life support first response
17 services, and invalid coaches, except that the commissioner may not find
18 that a consistently high level of care has been rendered where there
19 have been violations of the state EMS code, or other applicable rules
20 and regulations, that (i) threatened to directly affect the health,
21 safety, or welfare of any patient, and (ii) were recurrent or were not
22 promptly corrected. For purposes of this article, the rules adopted by
23 the state [hospital review and planning council] PUBLIC HEALTH AND PLAN-
24 NING COUNCIL with respect to subdivision three of section twenty-eight
25 hundred one-a of this chapter shall apply to other types of operators.
26 Fit means that the operator or proposed operator (a) has not been
27 convicted of a crime or pleaded nolo contendere to a felony charge
28 involving murder, manslaughter, assault, sexual abuse, theft, robbery,
29 fraud, embezzlement, drug abuse, or sale of drugs and (b) is not or was
30 not subject to a state or federal administrative order relating to fraud
31 or embezzlement, unless the commissioner finds that such conviction or
32 such order does not demonstrate a present risk or danger to patients or
33 the public.

34 S 86. Section 3005-a of the public health law, as added by chapter 804
35 of the laws of 1992, subdivision 1 as amended by chapter 445 of the laws
36 of 1993, is amended to read as follows:

37 S 3005-a. Staffing standards; ambulance services and advanced life
38 support first response services. [1.] The following staffing standards
39 shall be in effect unless otherwise provided by this section:

40 [(a) effective January first, nineteen hundred ninety-seven the mini-
41 mum staffing standard for a registered ambulance service shall be a
42 certified first responder with the patient;

43 (b) effective January first, two thousand, the] 1. THE minimum staff-
44 ing standard for [a voluntary] EACH ambulance service shall be an emer-
45 gency medical technician with the patient;

46 [(c) the minimum staffing standard for all other ambulance services
47 shall be an emergency medical technician with the patient; and

48 (d)] 2. the minimum staffing standard for an advanced life support
49 first response service shall be an advanced emergency medical technician
50 with the patient. Circumstances permitting other than advanced life
51 support care by an advanced life support first response service may be
52 established by rule PROMULGATED by [the state council, subject to the
53 approval of] the commissioner, IN CONSULTATION WITH THE STATE BOARD.

54 [2. Any service granted an exemption by the regional council pursuant
55 to subdivision five-a of section three thousand three of this article
56 shall be subject to the standards and terms of the exemption.

1 3. Notwithstanding any other provision of this article, the effective
2 date of the standards established by this section shall be delayed by
3 one year for each fiscal year, prior to January first, two thousand, in
4 which the amounts appropriated are less than that which would have been
5 expended pursuant to the provisions of section ninety-seven-q of the
6 state finance law.]

7 S 87. Section 3005-b of the public health law, as added by chapter 563
8 of the laws of 2001, subdivision 2 as amended by chapter 643 of the laws
9 of 2006, is amended to read as follows:

10 S 3005-b. Emergency medical technician five year re-certification
11 demonstration program. 1. There is hereby created within the department
12 a demonstration program (referred to in this section as the "program")
13 to allow emergency medical technicians and advanced emergency medical
14 technicians who have been in continuous practice and who have demon-
15 strated competence in applicable behavioral and performance objectives,
16 to be re-certified for a five year period. No person shall be re-certi-
17 fied under the program unless he or she has completed at least one
18 hundred thirty hours of instruction in emergency medical services as
19 approved by the commissioner including but not limited to pediatrics,
20 geriatrics, environmental emergencies, legal issues, emergency vehicle
21 operations course and medical emergencies. [Renewals of certification
22 under the program shall be deemed equivalent to renewals under subdivi-
23 sion two of section three thousand two of this article.]

24 2. The program shall be limited to persons who are employed by the New
25 York city fire department [or who are in practice in the following coun-
26 ties: Delaware, Fulton, Hamilton, Montgomery, Nassau, Otsego, Schoharie
27 or Suffolk]. The commissioner may limit the number of participants in
28 the program, except that such limit shall be no less than four thousand
29 participants.

30 [3. Within a year after implementing the program and annually there-
31 after, the commissioner shall report to the governor and the legislature
32 on the impact of the program on the quality of patient care and the
33 effectiveness of the program in retaining and recruiting certified emer-
34 gency medical technicians and advanced emergency medical technicians.

35 4. The commissioner, in consultation with the state emergency medical
36 services council, shall make regulations necessary to implement this
37 section.]

38 S 88. Section 3006 of the public health law, as added by chapter 804
39 of the laws of 1992, subdivision 1 as amended and subdivision 4 as added
40 by chapter 445 of the laws of 1993, is amended to read as follows:

41 S 3006. Quality improvement program. 1. [By January first, nineteen
42 hundred ninety-seven, every] EVERY ambulance service and advanced life
43 support first response service shall establish or participate in a qual-
44 ity improvement program, which shall be an ongoing system to monitor and
45 evaluate the quality and appropriateness of the medical care provided by
46 the ambulance service or advanced life support first response service,
47 and which shall pursue opportunities to improve patient care and to
48 resolve identified problems. The quality improvement program may be
49 conducted independently or in collaboration with other services, with
50 the appropriate regional [council, with an EMS program agency] BOARD,
51 with a hospital, or with another appropriate organization approved by
52 the department. Such program shall include a committee of at least five
53 members, at least three of whom do not participate in the provision of
54 care by the service. At least one member shall be a physician, and the
55 others shall be nurses, or emergency medical technicians, or advanced
56 emergency medical technicians, or other appropriately qualified allied

1 health personnel. The quality improvement committee shall have the
2 following responsibilities:

3 (a) to review the care rendered by the service, as documented in
4 prehospital care reports and other materials. The committee shall have
5 the authority to use such information to review and to recommend to the
6 governing body changes in administrative policies and procedures, as may
7 be necessary, and shall notify the governing body of significant defi-
8 ciencies;

9 (b) to periodically review the credentials and performance of all
10 persons providing emergency medical care on behalf of the service;

11 (c) to periodically review information concerning compliance with
12 standard of care procedures and protocols, grievances filed with the
13 service by patients or their families, and the occurrence of incidents
14 injurious or potentially injurious to patients. A quality improvement
15 program shall also include participation in the department's prehospital
16 care reporting system and the provision of continuing education programs
17 to address areas in which compliance with procedures and protocols is
18 most deficient and to inform personnel of changes in procedures and
19 protocols. Continuing education programs may be provided by the service
20 itself or by other organizations; and

21 (d) to present data to the regional EMERGENCY medical advisory commit-
22 tee and to participate in system-wide evaluation.

23 1-A. THE DEPARTMENT SHALL DEVELOP AND MAINTAIN STATEWIDE AND REGIONAL
24 QUALITY IMPROVEMENT PROGRAMS FOR TRAUMA AND DISASTER CARE, WHICH SHALL
25 BE INTEGRATED WITH THE QUALITY IMPROVEMENT PROGRAM FOR EMERGENCY MEDICAL
26 SERVICES, AND INCORPORATE QUALITY IMPROVEMENT PROGRAMS FROM ALL COMPO-
27 NENTS OF THE TRAUMA SYSTEM, INCLUDING, BUT NOT LIMITED TO, FULLY INTE-
28 GRATED STATEWIDE AND REGIONAL TRAUMA REGISTRIES.

29 2. The information required to be collected and maintained, including
30 [information from the prehospital care reporting system which identifies
31 an individual] PATIENT IDENTIFYING INFORMATION AND PROTECTED HEALTH
32 INFORMATION, shall be kept confidential and shall not be released except
33 to the department or pursuant to section three thousand [four-a] FOUR of
34 this article.

35 3. Notwithstanding any other provisions of law, none of the MEDICAL
36 records, documentation, or [committee] actions or records required OF
37 ANY QUALITY IMPROVEMENT COMMITTEE pursuant to this section shall be
38 subject to disclosure under article six of the public officers law or
39 article thirty-one of the civil practice law and rules, except as here-
40 inafter provided or as provided in any other provision of law. No person
41 in attendance at a meeting of any [such] QUALITY IMPROVEMENT committee
42 shall be required to testify as to what transpired thereat. The prohi-
43 bition related to disclosure of testimony shall not apply to the state-
44 ments made by any person in attendance at such a meeting who is a party
45 to an action or proceeding the subject of which was reviewed at the
46 meeting. The prohibition of disclosure of information from the prehos-
47 pital care reporting system shall not apply to information which does
48 not identify a particular ambulance service or individual.

49 4. Any person who in good faith and without malice provides informa-
50 tion to further the purpose of this section or who, in good faith and
51 without malice, participates on the quality improvement committee shall
52 not be subject to any action for civil damages or other relief as a
53 result of such activity.

54 S 89. Section 3008 of the public health law, as added by chapter 1053
55 of the laws of 1974, subdivisions 1 and 2 as amended by chapter 804 of
56 the laws of 1992, subdivision 3 as amended by chapter 252 of the laws of

1 1981, subdivision 6 as added by chapter 850 of the laws of 1992 and
2 subdivision 7 as added by chapter 510 of the laws of 1997, is amended to
3 read as follows:

4 S 3008. Applications for determinations of public need. 1. Every
5 application for a determination of public need shall be made in writing
6 to the appropriate regional [council] BOARD, shall specify the primary
7 territory within which the applicant requests to operate, be verified
8 under oath, and shall be in such form and contain such information as
9 required by the rules and regulations promulgated pursuant to this arti-
10 cle.

11 2. Notice of the application shall be forwarded by registered or
12 certified mail by the appropriate regional [council] BOARD to the chief
13 executive officers of all general hospitals, ambulance services, and
14 municipalities operating within the same county or counties where the
15 services seeks to operate. The notice shall provide opportunity for
16 comment.

17 3. Notice pursuant to this section shall be deemed filed with the
18 ambulance service and municipality upon being mailed by the appropriate
19 regional BOARD or state [council] BOARD by registered or certified mail.

20 4. The appropriate regional [council] BOARD or the state [council]
21 BOARD shall make its determination of public need within sixty days
22 after receipt of the application.

23 5. The applicant or any concerned party may appeal the determination
24 of the appropriate regional [council] BOARD to the state council within
25 thirty days after the regional [council] BOARD makes its determination.

26 6. In the case of an application for certification under this article
27 by a municipal ambulance service to serve the area within the munici-
28 pality, and the municipal ambulance service meets appropriate training,
29 staffing and equipment standards, there should be a presumption in favor
30 of approving the application.

31 7. (a) Notwithstanding any other provision of law and subject to the
32 provisions of this article, any municipality within this state, or fire
33 district acting on behalf of any such municipality, and acting through
34 its local legislative body, is hereby authorized and empowered to adopt
35 and amend local laws, ordinances or resolutions to establish and operate
36 advanced life support first [responder] RESPONSE services or municipal
37 ambulance services within the municipality, upon meeting or exceeding
38 all standards set by the department for appropriate training, staffing
39 and equipment, and upon filing with the [New York state emergency
40 medical services council] DEPARTMENT, a written request for such author-
41 ization. Upon such filing, such municipal advanced life support first
42 [responder] RESPONSE service or municipal ambulance service shall be
43 deemed to have satisfied any and all requirements for determination of
44 public need for the establishment of additional emergency medical
45 services pursuant to this article for a period of two years following
46 the date of such filing. Nothing in this article shall be deemed to
47 exclude the municipal advanced life support first [responder] RESPONSE
48 service or municipal ambulance service authorized to be established and
49 operated pursuant to this article from complying with any other require-
50 ment or provision of this article or any other applicable provision of
51 law.

52 (b) In the case of an application for certification pursuant to this
53 subdivision, for a municipal advanced life support or municipal ambu-
54 lance service, to serve the area within the municipality, where the
55 proposed service meets or exceeds the appropriate training, staffing and

1 equipment standards, there shall be a strong presumption in favor of
2 approving the application.

3 S 90. Section 3009 of the public health law is REPEALED.

4 S 91. Section 3010 of the public health law, as amended by chapter 804
5 of the laws of 1992, subdivision 1 as amended by chapter 588 of the laws
6 of 1993 and subdivisions 2 and 3 as amended by chapter 445 of the laws
7 of 1993, is amended to read as follows:

8 S 3010. Area of operation; transfers. 1. Every ambulance OR ADVANCED
9 LIFE SUPPORT FIRST RESPONSE service certificate [or statement of regis-
10 tration] issued under this article shall specify the primary territory
11 within which the ambulance service shall be permitted to operate. An
12 ambulance OR ADVANCED LIFE SUPPORT FIRST RESPONSE service shall receive
13 patients only within the primary territory specified on its ambulance OR
14 ADVANCED LIFE SUPPORT FIRST RESPONSE service certificate [or statement
15 of registration], except: (a) when receiving a patient which it initial-
16 ly transported to a facility or location outside its primary territory;
17 (b) as required for the fulfillment of a mutual aid agreement authorized
18 by the regional [council] BOARD, DEPARTMENT AND COMMISSIONER; (c) upon
19 express approval of the department and the appropriate regional [emer-
20 gency medical services council] BOARD for a maximum of sixty days if
21 necessary to meet an emergency need; provided that in order to continue
22 such operation beyond the sixty day maximum period necessary to meet an
23 emergency need, the ambulance service must satisfy the requirements of
24 this article, regarding determination of public need and specification
25 of the primary territory on the ambulance OR ADVANCED LIFE SUPPORT FIRST
26 RESPONSE service certificate [or statement of registration]; or (d) an
27 ambulance service or advanced life support first response service organ-
28 ization formed to serve the need for the provision of emergency medical
29 services in accordance with the religious convictions of a religious
30 denomination may serve such needs in an area adjacent to such primary
31 territory and, while responding to a call for such service, the needs of
32 other residents of such area at the emergency scene. Any ambulance OR
33 ADVANCED LIFE SUPPORT FIRST RESPONSE service seeking to operate in more
34 than one region shall make application to each appropriate regional
35 [council] BOARD. Whenever an application is made simultaneously to more
36 than one regional [council] BOARD, the applications submitted to the
37 regional [councils] BOARDS shall be identical, or copies of each appli-
38 cation shall be submitted to all the regional [councils] BOARDS
39 involved.

40 2. No ambulance OR ADVANCED LIFE SUPPORT FIRST RESPONSE service
41 certificate shall be transferable unless the regional [council] BOARD
42 and the department [reviews] REVIEW and [approves] APPROVE the transfer
43 as follows:

44 a. Any change in the individual who is the sole proprietor of an ambu-
45 lance service shall only be approved upon a determination that the
46 proposed new operator is competent and fit to operate the service.

47 b. Any change in a partnership which is the owner of an ambulance
48 service shall be approved based upon a determination that the new part-
49 ner or partners are competent and fit to operate the service. The
50 remaining partners shall not be subject to a character and fitness
51 review.

52 c. Any transfer, assignment or other disposition of ten percent or
53 more of the stock or voting rights thereunder of a corporation which is
54 the owner of an ambulance OR ADVANCED LIFE SUPPORT FIRST RESPONSE
55 service, or any transfer, assignment or other disposition of the stock
56 or voting rights thereunder of such a corporation which results in the

ownership or control of ten percent or more of the stock or voting rights thereunder by any person, shall be approved based upon a determination that the new stockholder or stockholder proposing to obtain ten percent or more of the stock or voting rights thereunder of such corporation is competent and fit to operate the service. The remaining stockholders shall not be subject to a character and fitness review.

d. Any transfer of all or substantially all of the assets of a corporation which owns or operates [a certified] AN ambulance OR ADVANCED LIFE SUPPORT FIRST RESPONSE service shall be approved based upon a determination that the individual, partnership, or corporation proposing to obtain all or substantially all of the assets of the corporation is competent and fit to operate the service.

e. Any transfer affected in the absence of the review and approval required by this section shall be null and void and the certificate of such ambulance OR ADVANCED LIFE SUPPORT FIRST RESPONSE service shall be subject to revocation or suspension.

3. Nothing contained in this section shall be construed to prohibit any voluntary ambulance service authorized by its governing authority to do so from transporting any sick or injured resident of its primary territory from any general hospital or other health care facility licensed by the department, whether or not such general hospital or health care facility is within the service's primary territory, to any other general hospital or health care facility licensed by the department for further care, or to such resident's home. Nothing contained in this section shall be construed to prohibit any proprietary ambulance service authorized by its governing body to do so from transporting any sick or injured patient from any general hospital or other health care facility licensed by the department whether or not such general hospital or health care facility is within the service's primary territory, to any other general hospital or health care facility licensed by the department within the service's primary territory for further care, or to such patient's home, if such patient's home is within its primary territory. Any ambulance service owned by or under contract to a general hospital licensed by the department may transport any specialty patient from any other general hospital or health care facility licensed by the department to the hospital owning such ambulance service, or with which it has a contract. Categories of specialty patients shall be defined by rule PROMULGATED by [the state emergency medical services council, subject to the approval of] the commissioner.

4. No ambulance service certificate of an ambulance service which has discontinued operations for a continuous period in excess of thirty days shall be transferable without the approval of the appropriate regional [council] BOARD AND THE DEPARTMENT.

S 92. Section 3011 of the public health law, as amended by chapter 804 of the laws of 1992, subdivision 3 as amended and subdivision 3-a as added by chapter 501 of the laws of 2000, subdivision 10 as amended by chapter 206 of the laws of 2008 and subdivision 11 as added by chapter 542 of the laws of 1995, is amended to read as follows:

S 3011. Powers and duties of the department and the commissioner. 1. THE COMMISSIONER SHALL ISSUE CERTIFICATION FOR CERTIFIED FIRST RESPONDER, EMERGENCY MEDICAL TECHNICIAN OR ADVANCED EMERGENCY MEDICAL TECHNICIAN TO AN INDIVIDUAL WHO MEETS THE MINIMUM REQUIREMENTS ESTABLISHED BY REGULATIONS.

2. THE COMMISSIONER SHALL ISSUE CERTIFICATION FOR AMBULANCE AND ADVANCED LIFE SUPPORT FIRST RESPONSE SERVICES WHO HAVE RECEIVED A DETER-

MINATION OF NEED BY THE APPROPRIATE REGIONAL ADVISORY BOARD AND MEET THE MINIMUM REQUIREMENTS ESTABLISHED BY REGULATIONS.

3. The department may inquire into the operation of ambulance services and advanced life support first response services and conduct periodic inspections of facilities, communication services, vehicles, methods, procedures, materials, [staff and] STAFFING, RECORDS, equipment AND QUALITY ASSURANCE ACTIVITIES AND DOCUMENTATION. It may also evaluate data received from ambulance services and advanced life support first response services.

[2.] 4. The department may require ambulance services and advanced life support first response services to submit periodic reports of calls received, services performed and such other information as may be necessary to carry out the provisions of this article.

[3.] 5. THE COMMISSIONER, IN CONSULTATION WITH THE STATE BOARD, SHALL DEVELOP STATEWIDE MINIMUM STANDARDS FOR: (A) MEDICAL CONTROL; (B) SCOPE OF PREHOSPITAL CARE PRACTICE; (C) TREATMENT, TRANSPORTATION AND TRIAGE PROTOCOLS, INCLUDING PROTOCOLS FOR INVASIVE PROCEDURES AND INFECTION CONTROL; AND (D) THE USE OF REGULATED MEDICAL DEVICES AND DRUGS BY EMERGENCY MEDICAL SERVICES PERSONNEL CERTIFIED PURSUANT TO THIS ARTICLE. THE COMMISSIONER MAY ISSUE ADVISORY GUIDELINES IN ANY OF THESE AREAS. THE DEPARTMENT SHALL REVIEW PROTOCOLS DEVELOPED BY REGIONAL EMERGENCY MEDICAL ADVISORY COMMITTEES FOR CONSISTENCY WITH STATEWIDE STANDARDS.

6. The commissioner, [with the advice and consent of the state council] IN CONSULTATION WITH THE STATE BOARD, shall designate not more than [eighteen] SIX geographic areas within the state wherein a regional [emergency medical services council] BOARD shall be established. In making the determination of a geographic area, the commissioner shall take into consideration the presence of ambulance services, hospital facilities, existing emergency medical services committees, trained health personnel, health planning agencies and communication and transportation facilities[; and shall establish separate regional emergency medical services councils for the counties of Nassau and Westchester]. The commissioner shall [promote and encourage the establishment of] ESTABLISH a regional [emergency medical services council] BOARD in each of said designated areas.

[3-a. Notwithstanding any inconsistent provision of this article:

a. The creation of any regional council or emergency medical services program agency on or after January first, two thousand shall not diminish any then existing funding appropriated after the effective date of this subdivision to regional councils or emergency medical services program agencies;

b. Subject to the provisions of paragraph c of this subdivision, funding for regional councils and emergency medical services program agencies existing on or after January first, two thousand shall be increased in proportion to any funding appropriated therefor by the department and in such proportion as determined by the department;

c. Funding for any regional council or emergency medical services program agency created on or after January first, two thousand shall be in addition to any funds appropriated on the effective date of this subdivision for regional councils or emergency medical services program agencies existing on January first, two thousand. Funding for any regional council or emergency medical services program agency created after January first, two thousand shall be in an amount at least equal to the minimum funding level appropriated to regional councils or emergency medical services program agencies existing on such date, or in an amount equal to the proportion that such new regional council or emer-

1 agency medical services program agency represented on the basis of popu-
2 lation in its former regional council or emergency medical services
3 program agency, whichever is larger.

4 4. The commissioner may propose rules and regulations and amendments
5 thereto for consideration by the state council.] 7. The commissioner
6 shall establish a schedule of certification fees for ambulance services
7 and advanced life support first response services other than voluntary
8 ambulance services and voluntary advanced life support first response
9 services.

10 [5.] 8. For the purpose of promoting the public health, safety and
11 welfare the commissioner is hereby authorized and empowered to contract
12 with voluntary ambulance services and municipal ambulance services, or
13 with the fire commissioners of fire districts operating voluntary ambu-
14 lance services, upon such terms and conditions as he OR SHE shall deem
15 appropriate and within amounts made available therefor, for reimburse-
16 ment of the necessary and incidental costs incurred by such ambulance
17 services in order to effectuate the provisions of this article.

18 [6.] 9. The commissioner is hereby authorized, for the purposes of
19 effectuating the provisions of this article in the development of a
20 statewide emergency medical service system, to contract with any ambu-
21 lance service or with the fire commissioners of fire districts operating
22 certified voluntary ambulance services for the use of necessary equip-
23 ment upon such terms and conditions as the commissioner shall deem
24 appropriate.

25 [7.] 10. THE DEPARTMENT AND COMMISSIONER SHALL PREPARE, AND PERIOD-
26 ICALLY UPDATE AS NECESSARY, A STATEWIDE EMERGENCY MEDICAL SERVICES MOBI-
27 LIZATION PLAN, WHICH PROVIDES FOR THE IDENTIFICATION AND DEPLOYMENT OF
28 EMERGENCY MEDICAL SERVICES PERSONNEL AND RESOURCES THROUGHOUT THE STATE
29 IN RESPONSE TO A LOCAL OR REGIONAL REQUEST. UPON NOTIFICATION TO THE
30 STATE BOARD, THE REGIONAL BOARDS, AND THE REGIONAL EMERGENCY MEDICAL
31 ADVISORY COMMITTEES, THE PLAN SHALL BECOME THE STATEWIDE EMERGENCY
32 MEDICAL SERVICES MOBILIZATION PLAN.

33 11. The commissioner [may recommend to the state council minimum qual-
34 ifications] SHALL, IN CONSULTATION WITH THE STATE BOARD, ESTABLISH A
35 MINIMUM SCOPE OF PRACTICE, EDUCATION, TRAINING, CERTIFICATION AND
36 CREDENTIALING QUALIFICATIONS for certified first responders [(which
37 shall not exceed fifty-one hours)], emergency medical technicians and
38 advanced emergency medical technicians in all phases of emergency
39 medical technology including but not limited to, communications, first
40 aid, equipment, maintenance, emergency techniques and procedures,
41 patient management and knowledge of procedures and equipment for emer-
42 gency medical care.

43 [8. The commissioner shall provide every certified ambulance service
44 and advanced life support first response service with an official insig-
45 nia which may be attached to every vehicle owned or operated by a certi-
46 fied ambulance service or advanced life support first response service.

47 9. The department shall provide the state council with such assistance
48 as the council may request in order to carry out its responsibilities as
49 set forth in subdivision two-a of section three thousand two of this
50 article.

51 10.] 12. THE DEPARTMENT SHALL REQUIRE EVERY CERTIFIED AMBULANCE
52 SERVICE AND ADVANCED LIFE SUPPORT FIRST RESPONSE SERVICE TO DISPLAY AN
53 OFFICIAL INSIGNIA WHICH MUST BE ATTACHED TO EVERY VEHICLE OWNED OR OPER-
54 ATED BY A CERTIFIED AMBULANCE SERVICE OR ADVANCED LIFE SUPPORT FIRST
55 RESPONSE SERVICE.

13. The commissioner is hereby authorized and empowered to extend the certification for emergency medical technicians, advanced emergency medical technicians or certified first responders who have been ordered to active military duty, other than for training, [on or after the eleventh day of September, two thousand one] and whose certification will expire during their military duty [or within the six months immediately following separation from military service]. The extended certification shall be for the period of military duty and for twelve months after they have been released from active military duty.

[11.] 14. The commissioner, [with the advice and consent of the state council] IN CONSULTATION WITH THE STATE BOARD, shall promulgate rules and regulations necessary to ensure compliance with the provisions of subdivision two of section sixty-seven hundred thirteen of the education law; AND MAY FACILITATE DEVELOPMENT AND PERIODIC REVISION OF APPROPRIATENESS REVIEW STANDARDS FOR EMERGENCY MEDICAL SERVICES AND EMERGENCY DEPARTMENTS, PEDIATRIC SERVICES AND PEDIATRIC CENTERS, TRAUMA SERVICES AND TRAUMA CENTERS, BURN SERVICES AND BURN CENTERS, AND DISASTER CARE UNDER ARTICLE TWENTY-EIGHT OF THIS CHAPTER, FOR ADOPTION BY THE COMMISSIONER OR STATE PUBLIC HEALTH AND HEALTH PLANNING COUNCIL, AS APPROPRIATE.

15. THE DEPARTMENT AND COMMISSIONER, IN CONSULTATION WITH THE STATE BOARD, SHALL CONTINUE THE CATEGORIZATION OF GENERAL HOSPITALS AND OTHER HEALTH CARE FACILITIES FOR EMERGENCY MEDICAL CARE AND TRAUMA CARE UNDER ARTICLE TWENTY-EIGHT OF THIS CHAPTER, AND THE DESIGNATION OF EMERGENCY FACILITIES IN GENERAL HOSPITALS AND OTHER HEALTH CARE FACILITIES, AS EMERGENCY DEPARTMENTS OR EMERGENCY SERVICES APPROPRIATE FOR EMERGENCY MEDICAL CARE AND GENERAL HOSPITALS AND OTHER HEALTH CARE FACILITIES AS TRAUMA CENTERS OR TRAUMA STATIONS APPROPRIATE FOR TRAUMA CARE, BASED UPON SUCH CATEGORIZATION.

16. THE DEPARTMENT AND COMMISSIONER, IN CONSULTATION WITH THE STATE BOARD, SHALL DEVELOP AND MAINTAIN A STATEWIDE SYSTEM FOR RECOGNITION OF FACILITIES ABLE TO PROVIDE SUSTENTATIVE OR DEFINITIVE SPECIALTY PEDIATRIC EMERGENCY MEDICAL AND TRAUMA CARE FOR SUDDEN CHILDHOOD ILLNESS AND INJURY AND FOR PREFERENTIAL TRANSPORT OF SUDDENLY ILL OR INJURED CHILDREN TO SUCH FACILITIES, AND SHALL PROMOTE THE USE OF SUCH FACILITIES IN ACCORDANCE WITH WRITTEN PROTOCOLS OR TRANSFER AGREEMENTS AS APPROPRIATE.

17. UPON APPEAL OF ANY INTERESTED PARTY, THE COMMISSIONER MAY AMEND, MODIFY, AND REVERSE DECISIONS OF THE STATE BOARD, ANY REGIONAL BOARD, OR ANY REGIONAL EMERGENCY MEDICAL ADVISORY COMMITTEE; PROVIDED THAT IN CONSIDERATION OF A REGIONAL BOARD OR REGIONAL EMERGENCY MEDICAL ADVISORY COMMITTEE DECISION, THE COMMISSIONER SHALL CONSULT THE STATE ADVISORY BOARD.

S 93. Section 3012 of the public health law, as added by chapter 1053 of the laws of 1974, subdivision 1 as amended by chapter 445 of the laws of 1993, subdivision 2 as amended by chapter 804 of the laws of 1992 and subdivisions 3 and 4 as amended by chapter 252 of the laws of 1981, is amended to read as follows:

S 3012. Enforcement. 1. Any ambulance service or advanced life support first response service certificate issued pursuant to section three thousand five of this article may be revoked, suspended, limited or annulled by the department upon proof that the operator or certificate holder or one or more enrolled members or one or more persons in his OR HER employ:

(a) has been guilty of misrepresentation in obtaining the certificate or in the operation of the ambulance service or advanced life support first response service; or

1 (b) has not been competent in the operation of the service or has
2 shown inability to provide adequate ambulance services or advanced life
3 support first response service; or

4 (c) has failed to pay the biennial certification fee as required
5 [except in the case of any voluntary ambulance service or voluntary
6 advanced life support first response service]; or

7 (d) has failed to file any report required by the provisions of this
8 article or the rules and regulations promulgated thereunder; or

9 (e) has violated or aided and abetted in the violation of any
10 provision of this article, the rules and regulations promulgated or
11 continued thereunder, or the state sanitary code; or

12 (f) had discontinued operations for a period in excess of one month;
13 or

14 (g) a voluntary ambulance service or voluntary advanced life support
15 first response service has failed to meet the minimum staffing standard
16 and has not been issued an exemption[, except that such certificate
17 shall not be suspended or revoked unless the commissioner finds that an
18 adequate alternative service exists. The commissioner shall consider the
19 recommendation of the regional emergency medical services council in
20 making a finding]; or

21 (h) an ambulance service operating for profit has failed to meet the
22 minimum staffing standard; or

23 (i) has been convicted of a crime or pleaded nolo contendere to a
24 felony charge involving murder, manslaughter, assault, sexual abuse,
25 theft, robbery, fraud, embezzlement, drug abuse, or sale of drugs,
26 unless the commissioner finds that such conviction does not demonstrate
27 a present risk or danger to patients or the public; or

28 (j) is or was subject to a state or federal administrative order
29 relating to fraud or embezzlement, unless the commissioner finds that
30 such order does not demonstrate a present risk or danger to patients or
31 the public.

32 2. Proceedings under this section may be initiated by any person,
33 corporation, association, or public officer, or by the department by the
34 filing of written charges with the department. Whenever the department
35 seeks revocation or suspension of a certificate of an ambulance service
36 or an advanced life support first response service, a copy of the charges
37 shall be referred to the appropriate regional [council] BOARD for
38 review and recommendation to the department prior to a hearing. [Such
39 recommendation shall include a determination as to whether the public
40 need would be served by a revocation, suspension, annulment or limita-
41 tion. If there is no appropriate regional council established, the state
42 council shall make such determination and present to the department its
43 recommendations.]

44 3. No certificate shall be revoked, [suspended,] limited or annulled
45 without a hearing. However, a certificate may be [temporarily] suspended
46 without a hearing and without the [approval] REVIEW of the appropriate
47 regional [council] BOARD or state [council] BOARD for a period not in
48 excess of [thirty] NINETY days upon notice to the certificate holder
49 following a finding by the department that the public health, safety or
50 welfare is in imminent danger.

51 4. The [commissioner] DEPARTMENT shall fix a time and place for the
52 hearing. A copy of the charges and the recommendations of the appropri-
53 ate regional [council] BOARD or state [council] BOARD together with the
54 notice of the time and place of the hearing, shall be mailed to the
55 certificate holder by registered or certified mail, at the address spec-
56 ified on the certificate, at least fifteen days before the date fixed

1 for the hearing. The appropriate regional [council] BOARD may be a party
2 to such hearing. The certificate holder may file with the department,
3 not less than five days prior to the hearing, a written answer to the
4 charges.

5 S 94. Section 3016 of the public health law, as amended by chapter 252
6 of the laws of 1981, is amended to read as follows:

7 S 3016. Continuance of rules and regulations. All rules and regu-
8 lations heretofore adopted by the commissioner pertaining to all ambu-
9 lance OR ADVANCED LIFE SUPPORT FIRST RESPONSE services shall continue in
10 full force and effect as rules and regulations until duly modified or
11 superseded by rules and regulations hereafter adopted and enacted by the
12 [state council pursuant to section three thousand two of this article]
13 COMMISSIONER.

14 S 95. Section 3017 of the public health law is REPEALED.

15 S 96. Section 3030 of the public health law, as added by chapter 439
16 of the laws of 1979, is amended to read as follows:

17 S 3030. Advanced life support services. Advanced life support
18 services provided by an advanced emergency medical technician, shall be
19 (1) provided under the direction of qualified medical and health person-
20 nel utilizing patient information and data transmitted by voice or
21 telemetry, (2) limited to the category or categories in which the
22 advanced emergency medical technician is certified pursuant to this
23 article, [and] (3) recorded for each patient, on an individual treat-
24 ment-management record, AND (4) LIMITED TO PARTICIPATION IN AN ADVANCE
25 LIFE SUPPORT SYSTEM.

26 S 97. Section 3031 of the public health law, as added by chapter 439
27 of the laws of 1979, is amended to read as follows:

28 S 3031. Advanced life support system. Advanced life support system
29 must (1) be under the overall supervision and direction of a qualified
30 physician [with respect to the advanced life support services provided],
31 (2) UTILIZE ADVANCED LIFE SUPPORT PROTOCOLS DEVELOPED BY THE REGIONAL
32 EMERGENCY MEDICAL ADVISORY COMMITTEE AND APPROVED BY THE COMMISSIONER,
33 (3) be staffed by qualified medical and health personnel, [(3)] (4)
34 utilize advanced emergency medical technicians whose certification is
35 appropriate to the advanced life support services provided, [(4)] (5)
36 utilize advanced support mobile units appropriate to the advanced life
37 support services provided, [(5)] (6) maintain a treatment-management
38 record for each patient receiving advanced life support services, and
39 [(6)] (7) be integrated with a hospital emergency, intensive care, coro-
40 nary care or other appropriate service.

41 S 98. Section 3032 of the public health law, as amended by chapter 445
42 of the laws of 1993, is amended to read as follows:

43 S 3032. Rules and regulations. The [state council, with the approval
44 of the] commissioner, IN CONSULTATION WITH THE STATE BOARD, shall
45 promulgate rules and regulations to effectuate the purposes of sections
46 three thousand thirty and three thousand thirty-one of this article.

47 S 99. Section 3052 of the public health law, as added by chapter 727
48 of the laws of 1986, is amended to read as follows:

49 S 3052. Establishment of a training program for emergency medical
50 services personnel. 1. There is hereby established a training program
51 for emergency medical services personnel including, but not limited to,
52 first responders, emergency medical technicians, advanced emergency
53 medical technicians and emergency vehicle operators.

54 1-A. SUCH TRAINING PROGRAM MAY USE ANY COMBINATION OF COURSEWORK,
55 TESTING, CONTINUING EDUCATION AND CONTINUOUS PRACTICE TO PROVIDE THE
56 MEANS BY WHICH SUCH PERSONNEL, INCLUDING INSTRUCTOR LEVEL PERSONNEL, MAY

1 BE TRAINED AND CERTIFIED. THE PROGRAM MAY INCLUDE MEANS THAT ALLOW FOR
2 CERTIFICATION OF EMERGENCY MEDICAL TECHNICIANS AND ADVANCED EMERGENCY
3 MEDICAL TECHNICIANS WITHOUT THE REQUIREMENT OF PRACTICAL SKILLS OR WRIT-
4 TEN EXAMINATION.

5 1-B. THE COMMISSIONER, IN CONSULTATION WITH THE STATE BOARD, SHALL
6 DEVELOP SUCH TRAINING PROGRAM, PROMULGATING RULES AND REGULATIONS AS MAY
7 BE NECESSARY FOR ADMINISTRATION AND COMPLIANCE.

8 2. The commissioner shall provide state aid within the amount appro-
9 priated to entities such as local governments, regional [emergency
10 medical services councils] BOARDS, and voluntary agencies and organiza-
11 tions to conduct training courses for emergency medical services person-
12 nel and to conduct practical examinations for certification of such
13 personnel. The commissioner shall establish a schedule for determining
14 the amount of state aid provided pursuant to this section.

15 a. Such schedule may include varying rates for distinct geographic
16 areas of the state and for various course sizes, giving special consid-
17 eration to areas with the most need for additional emergency medical
18 technicians. In determining the need for additional emergency medical
19 technicians, the commissioner shall use measurements such as the average
20 number of emergency medical technicians per ambulance service, the ratio
21 of emergency medical technicians per square mile, the average number of
22 calls per service and the percentage of calls to which an emergency
23 medical technician has responded, provided such data is available to the
24 commissioner.

25 b. Such schedule shall provide sufficient reimbursement to permit
26 sponsors to offer basic emergency medical technician courses which
27 adhere to curricula approved by the [New York state emergency medical
28 services council and the] commissioner without the need to charge
29 tuition to participants.

30 3. Upon request, the [commissioner] DEPARTMENT shall provide manage-
31 ment advice and technical assistance to regional [emergency medical
32 services councils] BOARDS, county emergency medical services coordina-
33 tors, and course sponsors and instructors to stimulate the improvement
34 of training courses and the provision of courses in a manner which
35 encourages participation. Such advice and technical assistance may
36 relate to, but need not be limited to the location, scheduling and
37 structure of courses.

38 4. The department is authorized, either directly or through contractu-
39 al arrangement, to develop and distribute training materials for use by
40 course instructors and sponsors, to recruit additional instructors and
41 sponsors and to provide training courses for instructors.

42 [5. The commissioner shall conduct a public service campaign to
43 recruit additional volunteers to join ambulance services targeted to
44 areas in need for additional emergency medical technicians.]

45 S 100. Section 3053 of the public health law, as amended by chapter
46 445 of the laws of 1993, is amended to read as follows:

47 S 3053. Reporting. Advanced life support first response services and
48 ambulance services [registered or] certified pursuant to article thirty
49 of this chapter shall submit detailed individual call reports on a form
50 to be [provided] DETERMINED by the department, or may submit data elec-
51 tronically in a format approved by the department. The [state emergency
52 medical services council, with the approval of the] commissioner, IN
53 CONSULTATION WITH THE STATE BOARD, may adopt rules and regulations
54 permitting or requiring ambulance AND ADVANCED LIFE SUPPORT FIRST
55 RESPONSE services whose volume exceeds [twenty thousand calls per year]
56 A SPECIFIED ANNUAL THRESHOLD to submit call report data electronically.

Such rules shall define the data elements to be submitted, and may include requirements that assure availability of data to the REGIONAL BOARDS AND regional emergency medical advisory [committee] COMMITTEES.

S 101. Articles 30-B and 30-C of the public health law are REPEALED.

S 102. Subdivisions 3 and 4 of section 97-q of the state finance law, as added by chapter 804 of the laws of 1992, are amended to read as follows:

3. Moneys of the account, when allocated, shall be available to the department of health for the purpose of funding the training of emergency medical services personnel, and funding as shall be provided by appropriation for the [state] OPERATION OF THE STATE'S emergency medical services [council, regional emergency medical services councils, emergency medical services program agencies or other emergency medical services training programs] SYSTEM, in order to carry out the purposes of articles thirty and thirty-A of the public health law.

4. [Not less than fifty percent of the] THE monies of the account shall be expended for the direct costs of providing emergency medical services training at the local level. [The legislature shall annually appropriate from the remaining available monies, funding for the state emergency medical services council, the regional emergency medical services councils, the emergency medical services program agencies and] ANNUAL APPROPRIATIONS SHALL BE USED TO ENABLE the department of health [in order to carry out] TO ACHIEVE the purposes of articles thirty and thirty-A of the public health law. At the end of any fiscal year, any funds not encumbered for these purposes shall be reallocated for the costs of training advanced life support personnel.

S 103. Paragraph 4 of subdivision a of section 19-162.2 of the administrative code of the city of New York, as added by local law number 40 of the city of New York for the year 1997, is amended to read as follows:

4. "certified first responder" shall mean an individual who meets the minimum requirements established by [regulations pursuant to section three thousand two] THE COMMISSIONER OF HEALTH PURSUANT TO ARTICLE THIRTY of the public health law and who is responsible for administration of initial life saving care of sick and injured persons.

S 104. Subdivision 1-a of section 122-b of the general municipal law, as amended by chapter 303 of the laws of 1980, is amended to read as follows:

1-a. As used in this section:

(a) "Emergency medical technician" means an individual who meets the minimum requirements established by [regulations pursuant to section three thousand two] THE COMMISSIONER OF HEALTH PURSUANT TO ARTICLE THIRTY of the public health law and who is responsible for administration or supervision of initial emergency medical assistance and handling and transportation of sick, disabled or injured persons.

(b) "Advanced emergency medical technician" means an emergency medical technician who has satisfactorily completed an advanced course of training approved by the [state council under regulations pursuant to section three thousand two] COMMISSIONER OF HEALTH PURSUANT TO ARTICLE THIRTY of the public health law.

S 105. Subparagraph (iii) of paragraph (e) of subdivision 3 of section 219-e of the general municipal law, as added by chapter 514 of the laws of 1998, is amended to read as follows:

(iii) A volunteer ambulance worker appointed to serve on the New York state emergency medical services [council, the state emergency medical advisory committee] ADVISORY BOARD, a regional emergency medical

1 services [council] ADVISORY BOARD or a regional emergency medical advi-
2 sory committee, established pursuant to article thirty of the public
3 health law shall also be eligible to receive one point per meeting.

4 S 106. Subparagraph (iii) of paragraph (e) of subdivision 3 of section
5 219-m of the general municipal law, as added by chapter 558 of the laws
6 of 1998, is amended to read as follows:

7 (iii) A volunteer ambulance worker appointed to serve on the New York
8 state emergency medical services [council, the state emergency medical
9 advisory committee] ADVISORY BOARD, a regional emergency medical
10 services [council] ADVISORY BOARD or a regional emergency medical advi-
11 sory committee, established pursuant to article thirty of the public
12 health law shall also be eligible to receive one point per meeting.

13 S 107. Subdivision 2 of section 10 of the workers' compensation law,
14 as added by chapter 872 of the laws of 1985, is amended to read as
15 follows:

16 2. Notwithstanding any other provisions of this chapter, an injury
17 incurred by an individual currently employed as an emergency medical
18 technician or an advanced emergency medical technician who is certified
19 pursuant to [section three thousand two] ARTICLE THIRTY of the public
20 health law, while voluntarily and without expectation of monetary
21 compensation rendering medical assistance at the scene of an accident
22 shall be deemed to have arisen out of and in the course of the employ-
23 ment with that emergency medical technician or advanced emergency
24 medical technician's current employer.

25 S 108. Subdivision 1 of section 580 of the executive law, as added by
26 chapter 300 of the laws of 2000, is amended to read as follows:

27 1. Creation; members. There is hereby created in the department of
28 state an emergency services council, the members of which shall be the
29 directors of the office of fire prevention and control, the bureau of
30 emergency medical services and the state emergency management office,
31 the superintendent of state police, the commissioner of health, the
32 secretary of state and the director of state operations who shall be the
33 chairperson unless otherwise appointed by the governor. There shall also
34 be two representatives appointed by the state emergency medical services
35 [council] ADVISORY BOARD, one of whom shall be a representative of
36 volunteer ambulance service and one of whom shall be a representative of
37 proprietary ambulance service; two representatives appointed by the fire
38 advisory board, one of which shall be representative of volunteer fire
39 service and one of which shall be representative of paid fire service;
40 one representative shall be appointed by the disaster preparedness
41 commission; one physician shall be appointed by the [state emergency
42 medical advisory committee] COMMISSIONER OF HEALTH; one appointment
43 shall be made by the governor; one appointment shall be made by the
44 temporary president of the senate; and one appointment shall be made by
45 the speaker of the assembly.

46 S 109. Section 804-d of the education law, as added by chapter 315 of
47 the laws of 2005, is amended to read as follows:

48 S 804-d. Automated external defibrillator instruction. Instructions
49 regarding the correct use of an automated external defibrillator shall
50 be included as a part of the health education curriculum in all senior
51 high schools when cardiopulmonary resuscitation instruction is being
52 provided as authorized by section eight hundred four-c of this article.
53 In addition to the requirement that all teachers of health education
54 shall be certified to teach health, persons instructing pupils in the
55 correct use of automated external defibrillators shall possess valid
56 certification by a nationally recognized organization or the [state

1 emergency medical services council] COMMISSIONER OF HEALTH offering
2 certification in the operation of an automated external defibrillator
3 and in its instruction.

4 S 110. Section 2407 of the public health law is REPEALED.

5 S 111. Subdivision 5 of section 2409 of the public health law is
6 REPEALED and subdivisions 6 and 7 are renumbered subdivisions 5 and 6.

7 S 112. The public health law is amended by adding a new section 2409-a
8 to read as follows:

9 S 2409-A. ADVISORY COUNCIL. 1. THERE IS HEREBY ESTABLISHED IN THE
10 DEPARTMENT THE BREAST, CERVICAL AND OVARIAN CANCER DETECTION AND EDUCA-
11 TION PROGRAM ADVISORY COUNCIL, FOR THE PURPOSE OF ADVISING THE COMMIS-
12 SIONER WITH REGARDS TO PROVIDING INFORMATION TO CONSUMERS, PATIENTS, AND
13 HEALTH CARE PROVIDERS RELATING, BUT NOT LIMITED TO, BREAST, CERVICAL AND
14 OVARIAN CANCER, INCLUDING SIGNS AND SYMPTOMS, RISK FACTORS, THE BENEFITS
15 OF PREVENTION AND EARLY DETECTION, GUIDELINE CONCORDANT CANCER SCREENING
16 AND DISEASE MANAGEMENT, OPTIONS FOR DIAGNOSTIC TESTING AND TREATMENT,
17 NEW TECHNOLOGIES, AND SURVIVORSHIP.

18 2. THE ADVISORY COUNCIL SHALL MAKE RECOMMENDATIONS TO THE DEPARTMENT
19 REGARDING THE PROMOTION AND IMPLEMENTATION OF PROGRAMS UNDER SECTIONS
20 TWENTY-FOUR HUNDRED SIX AND TWENTY-FOUR HUNDRED NINE OF THIS TITLE.

21 3. THE COMMISSIONER SHALL APPOINT TWENTY-ONE VOTING MEMBERS, WHICH
22 SHALL INCLUDE REPRESENTATION OF HEALTH CARE PROFESSIONALS, CONSUMERS,
23 PATIENTS AND OTHER APPROPRIATE INTEREST REFLECTIVE OF THE DIVERSITY OF
24 THE STATE, WITH EXPERTISE IN BREAST, CERVICAL AND/OR OVARIAN CANCER. THE
25 COMMISSIONER SHALL APPOINT ONE MEMBER AS A CHAIRPERSON. THE MEMBERS OF
26 THE COUNCIL SHALL RECEIVE NO COMPENSATION FOR THEIR SERVICES, BUT SHALL
27 BE ALLOWED THEIR ACTUAL AND NECESSARY EXPENSES INCURRED IN PERFORMANCE
28 OF THEIR DUTIES.

29 4. A MAJORITY OF THE APPOINTED VOTING MEMBERSHIP OF THE BOARD SHALL
30 CONSTITUTE QUORUM.

31 5. THE ADVISORY COUNCIL SHALL MEET AT LEAST TWICE A YEAR, AT THE
32 REQUEST OF THE DEPARTMENT.

33 S 113. Section 844-a of the executive law is REPEALED.

34 S 114. This act shall take effect immediately; provided that:

35 (a) the amendments to the opening paragraph of subdivision 15 of
36 section 13-0309 of the environmental conservation law, made by section
37 seventy-four of this act, shall take effect on the same date as the
38 reversion of such subdivision as provided in section 2 of chapter 158 of
39 the laws of 2011, as amended.

40 (b) the amendments to section 3005-b of the public health law, made by
41 section eighty-seven of this act shall not affect the repeal of such
42 section and shall be deemed repealed therewith;

43 (c) sections forty-one, forty-two, forty-three, forty-four, forty-
44 five, forty-six and forty-seven of this act shall take effect upon the
45 resolution of all appeals pending before the freshwater appeals board;
46 provided, however, that such board, created by title 11 of article 24 of
47 the environmental conservation law, as repealed by section forty-one of
48 this act, shall not accept any new cases as of the effective date of
49 this act; and

50 (d) the commissioner of the department of environmental conservation
51 shall notify the legislative bill drafting commission upon the resol-
52 ution of all appeals pending before the freshwater appeals board in
53 order that the commission may maintain an accurate and timely effective
54 date data base of the official text of the laws of the state of New York
55 in furtherance of effectuating the provisions of section 44 of the
56 legislative law and section 70-b of the public officers law.

1 S 2. Severability clause. If any clause, sentence, paragraph, subdivi-
2 sion, section or part of this act shall be adjudged by any court of
3 competent jurisdiction to be invalid, such judgment shall not affect,
4 impair, or invalidate the remainder thereof, but shall be confined in
5 its operation to the clause, sentence, paragraph, subdivision, section
6 or part thereof directly involved in the controversy in which such judg-
7 ment shall have been rendered. It is hereby declared to be the intent of
8 the legislature that this act would have been enacted even if such
9 invalid provisions had not been included herein.

10 S 3. This act shall take effect immediately provided, however, that
11 the applicable effective date of Parts A through D of this act shall be
12 as specifically set forth in the last section of such Parts.