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

S. 6608--B A. 9708--C

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

January 19, 2010

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 -- 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 -- again reported from said committee with amendments, ordered reprinted as amended and recommitted to said committee -- again reported from said committee with amendments, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the public health law, in relation to duties of the department and in relation to cardiac service information; to amend the public health law, in relation to the health information technology demonstration program; to amend chapter 178 of the laws of 2006 relating to establishing an advisory council on children's environmental health and safety, in relation to the effectiveness thereof; to amend the public health law, in relation to medical record access review committees; to amend the public health law, in relation to the commissioner's powers to promulgate rules and regulations pertaining to the practice of radiologic technology; to amend chapter 387 of the laws of 2004 amending the environmental conservation law relating to restricting the use of certain flame retardants, in relation to the effectiveness of certain provisions thereof; to amend chapter 356 of the laws of 2005 amending the public health law relating to establishing the New York state toxic mold task force, in relation to the effectiveness thereof; to amend the public health law, in relation to the state council on home care services; to amend the public health law, in relation to the powers and duties of the tick-borne disease institute; to amend the elder law, in relation to the naturally occurring retirement community supportive service program and replaces the term "elderly" with "older adult"; to repeal section 2707 of the public health law relating to the osteoporosis advisory council; to

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

LBD12671-05-0

repeal title 1-c of article 24 of the public health law relating to prostate and testicular cancer detection and education; to repeal subdivision 13 of section 3501 of the public health law relating to the definition of board; to repeal section 3503 of the public health law relating to the radiologic technologist advisory board; to repeal section 2 of chapter 41 of the laws of 1992 containing health care provider reimbursement rates relating to the work group to review the provision of and payment for certain adult day services; to repeal chapter 554 of the laws of 1996 creating the Brookhaven National Laboratory local oversight and monitoring committee relating thereto; to repeal section 18 of chapter 537 of the laws of 1998 amending the public health law relating to modifying the use of prescription forms for dispensing controlled substances relating to the task force appointed therefore; to repeal subdivision 7 of section 502 of the public health law relating to the environmental laboratories advisory board; to repeal section 123 of chapter 1 of the laws of 1999 enacting the New York Health Care Reform Act of 2000 relating to the commission on financially distressed residential health care facilities; to repeal section 3604 of the public health law relating to the state council on home care services; to repeal subdivision 4 of section 3222 of the public health law relating to the recombinant DNA advisory committee; to repeal section 3702 of the public health law relating to the advisory council on physician's assistants and specialist's assistants; to repeal section 1399-uu of the public health law relating to the technical advisory committee on the regulation of sharps; to repeal sections 2796 and 2799 of the public health law relating to the tick-borne disease institute research council; to repeal section 2799-a of the public health law relating to the tick-borne disease institute advisory council; to repeal section 216 of the elder law relating to the creation of the advisory council to the recreation program for the elderly; to repeal article III of the elder law relating to mature worker initiatives; and to repeal certain provisions of the public health law relating to a health systems agency; and to amend the business corporation law, the county law, the general business law, the general municipal law, the mental hygiene law, the not-for-profit corporation law, the social services law, the town law, the workers' compensation law and the public health law, in relation to the public health and health planning council (Part A); to amend chapter 474 of the laws of 1996, amending the education law and other laws relating to rates for residential healthcare facilities, in relation to reimbursement; authorizes the department of health to make certain payments for diagnostic treatment centers; in relation to Medicaid payments; to amend section 1 of part C of chapter 58 of the laws of 2005 amending the public health law and other laws relating to implementing the state fiscal plan for the 2005-2006 state fiscal year, in relation to diagnostic treatment centers; to amend the social services law and the public health law, in relation to prescription drug coverage for needy persons and health care initiatives pools; to amend the public health law, the social services law and the tax law, in relation to eligibility verification; to amend the public health law and the social services law, in relation to establishing an express lane eligibility for child health insurance and co-payments for certain individuals enrolled in family health plus plans; to amend the public health law, in relation to general hospital reimbursement rate periods; to amend the public health law, in relation to a physician loan repayment program; to amend the public health law, in relation to

audits of service providers; to amend the public health law, in relation to hospital mortgage loan construction; to amend chapter 392 of the laws of 1973 constituting the New York medical care facilities finance agency act, in relation to special hospital project bonds and secured hospital projects reserve funds and appropriations; to amend the social services law, in relation to documentation and eligibility under the medical assistance program; to amend section 17 of part C of chapter 58 of the laws of 2005, in relation to extending coverage for specialty outpatient services; to amend the social services law, in relation to diabetes self-management training services; to amend the public health law, in relation to violations of health laws or regulations, penalties and injunctions; to amend the public health law, in relation to reimbursements to certain diagnostic and treatment and ambulatory care centers; to amend the social services law, in relation to providing smoking cessation counseling services to adolescents to the age of nineteen; to direct the commissioner of health to create and implement a plan for the state administration of the medical assistance program performed by social services districts; and to repeal subdivision 2 of section 105 of part B of chapter 58 of the laws of 2005, amending the public health law and other laws relating to implementing the state fiscal plan for the 2005-2006 state fiscal year, in relation to the expiration of certain provisions thereof (Part B); to amend the social services law, in relation to creating the long term care financing demonstration programs; to amend the public health law, in relation to requiring a study of resident data, in relation to matters regarding fiscal solvency, in relation to certificates of authority and in relation to reporting requirements and in relation to the voluntary residential health care facility rightsizing demonstration program; to amend the public health law, in relation to general hospital indigent care pools, high need indigent care adjustment pool and hospital reimbursement rates; and creating a joint legislative task force to examine distribution methodology; to amend section 47 of part B of chapter 58 of the laws of 2008 amending the social services law and other laws relating to enacting major components of legislation necessary to implement the health and mental hygiene budget for the 2008-2009 state fiscal year, in relation to the effectiveness of certain provisions thereof; to repeal certain provisions of the public health law relating to managed long term care plans; and to repeal paragraph (g) of subdivision 5-a of section 2807-k of the public health law relating to the effectiveness thereof (Part C); to amend the public health law, in relation to residential health care facilities; and to amend chapter 58 of the laws of 2009, amending the public health law and other laws relating to Medicaid reimbursements to residential health care facilities, in relation to such reimbursements (Part D); to amend the social services law, in relation to electronic benefit transfers (Part E); to amend the social services law, the family court act and the surrogate's court procedure act, in relation to establishing a kinship guardianship assistance program (Part F); to amend the social services law, the family court act and the executive law, in relation to sexually exploited children (Part G); in relation to fair share payments by certain child care providers; and providing for the repeal of such provisions upon expiration thereof (Part H); to amend the social services law, in relation to increasing the standards of monthly need for aged, blind and disabled persons (Part I); to amend the social services law, in relation to the nutrition outreach and education program; and to repeal certain

provisions of the public health law relating thereto (Part J); to amend the social services law, in relation to establishing the savings plan demonstration project; and providing for the repeal of such provisions upon expiration thereof (Part K); and relating to the effectiveness and applicability of certain provisions of law (Part L)

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

Section 1. This act enacts into law major components of legislation which are necessary to implement the state fiscal plan for the 2010-2011 state fiscal year. Each component is wholly contained within a Part identified as Parts A through L. The effective date for each particular provision contained within such Part is set forth in the last section of such Part. Any provision in any section contained within a Part, including the effective date of the Part, which makes reference to a section "of this act", when used in connection with that particular component, shall be deemed to mean and refer to the corresponding section of the Part in which it is found. Section three of this act sets forth the general effective date of this act.

PART A

Section 1. Intentionally omitted.

S 2. Intentionally omitted.

S 3. Intentionally omitted.

S 4. Paragraph (m) of subdivision 1 of section 201 of the public health law, as amended by section 3 of part A of chapter 58 of the laws of 2009, is amended to read as follows:

(m) supervise and regulate the sanitary aspects of camps, hotels, boarding houses, public eating and drinking establishments, swimming pools, bathing establishments and other businesses and activities affecting public health and [where inspections otherwise occur under the state uniform fire prevention and building code, respond to complaints relating], IN RELATION to hotels, boarding houses and temporary residences as defined in the state sanitary code [and], inspect such facilities (I) WHERE INSPECTIONS DO NOT OTHERWISE OCCUR UNDER THE STATE UNIFORM FIRE PREVENTION AND BUILDING CODE, (II) TO RESPOND TO COMPLAINTS, OR (III) when otherwise necessary;

S 5. Subparagraph 5 of paragraph (b) of subdivision 3 of section 602 of the public health law, as added by chapter 901 of the laws of 1986, is amended to read as follows:

(5) environmental health, which shall include activities that promote health and prevent illness by ensuring sanitary conditions in water supplies, food service establishments, and other permit sites, and by [abating] ASSURING THE ABATEMENT OF public health nuisances BY RESPONSIBLE PARTIES.

S 6. Intentionally omitted.

S 7. Paragraph (a) of subdivision 5 of section 2819 of the public health law, as amended by chapter 239 of the laws of 2005, is amended to read as follows:

(a) Subject to paragraph (c) of this subdivision, on or before [May] SEPTEMBER first of each year the commissioner shall submit a report to the governor and the legislature, which shall simultaneously be published in its entirety on the department's web site, that includes,

but is not limited to, hospital acquired infection rates adjusted for the potential differences in risk factors for each reporting hospital, an analysis of trends in the prevention and control of hospital acquired infection rates in hospitals across the state, regional and, if available, national comparisons for the purpose of comparing individual hospital performance, and a narrative describing lessons for safety and quality improvement that can be learned from leadership hospitals and programs.

S 8. Section 2995-a of the public health law is amended by adding a new subdivision 1-a to read as follows:

1-A. EACH PHYSICIAN LICENSED AND REGISTERED TO PRACTICE IN THIS STATE SHALL WITHIN ONE HUNDRED TWENTY DAYS OF THE EFFECTIVE DATE OF THIS SUBDIVISION AND UPON ENTERING OR UPDATING HIS OR HER PROFILE INFORMATION:

(A) REGISTER AND MAINTAIN AN ACCOUNT WITH THE DEPARTMENT'S HEALTH PROVIDER NETWORK AND ANY SUCCESSOR ELECTRONIC SYSTEM ESTABLISHED TO FACILITATE COMMUNICATIONS BETWEEN THE DEPARTMENT AND LICENSED HEALTH CARE PROVIDERS; OR

(B) PROVIDE AN E-MAIL ADDRESS TO THE DEPARTMENT WHICH SHALL BE USED BY THE DEPARTMENT TO COMMUNICATE WITH THE PHYSICIAN. LICENSEES SHALL PROVIDE NOTICE TO THE DEPARTMENT OF CHANGED E-MAIL ADDRESSES WITHIN THIRTY DAYS OF THE CHANGE. LICENSEE E-MAIL ADDRESSES SHALL BE CONFIDENTIAL AND SHALL NOT BE PUBLISHED AS PART OF THE LICENSEE'S PROFILE. THE E-MAIL ADDRESSES MAY BE USED FOR DEPARTMENT PURPOSES ONLY.

S 9. The public health law is amended by adding a new section 2816-a to read as follows:

S 2816-A. CARDIAC SERVICES INFORMATION. 1. DEFINITIONS. FOR THE PURPOSES OF THIS SECTION, THE FOLLOWING TERMS SHALL HAVE THE FOLLOWING MEANINGS:

(A) "CARDIAC SERVICES INFORMATION" SHALL MEAN THE DEMOGRAPHIC, CLINICAL, PROCEDURAL AND OUTCOME INFORMATION COLLECTED FROM HOSPITALS AND MAINTAINED BY THE DEPARTMENT REGARDING PATIENTS WHO HAVE BEEN DIAGNOSED OR TREATED FOR CARDIAC DISEASE OR CONDITIONS.

(B) "CARDIAC DATA SET" SHALL MEAN A SUBSET OF CARDIAC SERVICES INFORMATION CONSISTING OF DATA ELEMENTS RELEVANT TO A RESEARCH PROJECT.

2. NOTWITHSTANDING ARTICLES SIX AND SIX-A OF THE PUBLIC OFFICERS LAW, THE COMMISSIONER MAY COLLECT AND MAINTAIN CARDIAC SERVICES INFORMATION AND PREPARE AND RELEASE CARDIAC DATA SETS FOR USE IN RESEARCH PROJECTS AS SET FORTH IN THIS SUBDIVISION. ANY CARDIAC DATA SET RELEASED SHALL CONTAIN THE MINIMUM AMOUNT OF PERSONALLY IDENTIFIABLE AND DEMOGRAPHIC INFORMATION WHICH THE COMMISSIONER DETERMINES IS NECESSARY TO CONDUCT THE RESEARCH PROJECT PROVIDED, HOWEVER, THAT NO CARDIAC DATA SET SHALL BE RELEASED THAT CONTAINS PATIENT NAMES, SOCIAL SECURITY NUMBERS, OR OTHER DATA ELEMENTS THAT DIRECTLY IDENTIFY ANY PATIENT.

3. THE COMMISSIONER MAY RELEASE CARDIAC DATA SETS FOR RESEARCH PROJECTS BASED ON THE FOLLOWING FACTORS:

(A) THE RESEARCH PROJECT'S POTENTIAL CONTRIBUTION TO IMPROVING THE QUALITY OF CARE AND OUTCOMES EXPERIENCED BY PATIENTS RECEIVING CARDIAC SERVICES, THE APPROPRIATENESS OF CARDIAC SERVICES, ACCESS TO CARDIAC SERVICES, AND/OR THE COST EFFECTIVENESS OF CARDIAC SERVICES;

(B) THE TECHNICAL FEASIBILITY OF PREPARING THE CARDIAC DATA SET REQUESTED;

(C) THE SCIENTIFIC MERIT OF THE RESEARCH PROJECT;

(D) THE EXPERIENCE AND QUALIFICATIONS OF THE RESEARCHERS;

(E) THE RESEARCH PROJECT'S FEASIBILITY;

(F) THE APPLICANT'S CAPACITY AND AGREEMENT TO PROTECT THE CONFIDENTIALITY OF THE DATA;

(G) THE RESEARCH PROJECT'S COMPLIANCE WITH APPLICABLE STATE AND FEDERAL LAWS, POLICIES AND REGULATIONS GOVERNING THE PROTECTION OF HUMAN SUBJECTS; AND

(H) SUCH OTHER CRITERIA AS THE COMMISSIONER DEVELOPS IN CONSULTATION WITH EXPERTS IN CARDIAC SERVICES.

4. ANY RESEARCHER AUTHORIZED BY THE COMMISSIONER TO ACCESS A CARDIAC DATA SET SHALL:

(A) MAINTAIN THE SECURITY AND CONFIDENTIALITY OF THE INFORMATION;

(B) NOT DISCLOSE THE CARDIAC DATA SET, OR ANY PORTION THEREOF, UNLESS SPECIFICALLY PERMITTED TO DO SO BY THE COMMISSIONER;

(C) RESTRICT THE USE OF THE DATA TO THE SPECIFIC RESEARCH PROJECT APPROVED BY THE COMMISSIONER;

(D) DESTROY, AND DOCUMENT THE DESTRUCTION OF, THE DATA WITHIN A TIME PERIOD SPECIFIED BY THE COMMISSIONER; AND

(E) EXECUTE AND COMPLY WITH A CARDIAC SERVICES DATA USE AGREEMENT, WHICH INCLUDES BUT IS NOT LIMITED TO PROVISIONS RESTRICTING THE USE AND DISCLOSURE OF THE DATA.

5. THE COMMISSIONER SHALL CHARGE A FEE FOR EACH CARDIAC DATA SET RELEASED. SUCH FEE SHALL BE PAYABLE TO THE DEPARTMENT, PRIOR TO THE RELEASE OF ANY CARDIAC DATA SET, FOR DEPOSIT INTO THE GENERAL FUND.

6. THE COMMISSIONER MAY PROMULGATE AND ENFORCE SUCH RULES AND REGULATIONS AS HE OR SHE DEEMS NECESSARY TO EFFECTUATE THE PURPOSES OF THIS SECTION.

S 10. Intentionally omitted.

S 11. Subdivision 18-a of section 206 of the public health law, as added by section 74 of part B of chapter 58 of the laws of 2005, is amended to read as follows:

18-a. (A) Health information technology demonstration program. [1.] (I) The commissioner is authorized to issue grant funding to one or more organizations broadly representative of physicians licensed in this state, from funds made available for the purpose of funding research and demonstration projects under [subdivision two of this section] SUBPARAGRAPH (II) OF THIS PARAGRAPH designed to promote the development of electronic health information exchange technologies in order to facilitate the adoption of interoperable health records.

[2.] (II) Project funding shall be disbursed to projects pursuant to a request for proposals based on criteria relating to promoting the efficient and effective delivery of quality physician services. Demonstration projects eligible for funding under this [section] PARAGRAPH shall include, but not be limited to:

[(a)] (A) efforts to incentivize electronic health record adoption;

[(b)] (B) interconnection of physicians through regional collaborations;

[(c)] (C) efforts to promote personalized health care and consumer choice;

[(d)] (D) efforts to enhance health care outcomes and health status generally through interoperable public health surveillance systems and streamlined quality monitoring.

[3.] (III) The department shall issue a report to the governor, the temporary president of the senate and the speaker of the assembly within one year following the issuance of the grants. Such report shall contain, at a minimum, the following information: the demonstration projects implemented pursuant to this [section] PARAGRAPH, their date of implementation, their costs and the appropriateness of a broader appli-

cation of the health information technology program to increase the quality and efficiency of health care across the state.

(B) THE COMMISSIONER SHALL MAKE SUCH RULES AND REGULATIONS AS MAY BE NECESSARY TO IMPLEMENT FEDERAL POLICIES AND DISBURSE FUNDS AS REQUIRED BY THE AMERICAN RECOVERY AND REINVESTMENT ACT OF 2009 AND TO PROMOTE THE DEVELOPMENT OF A STATEWIDE HEALTH INFORMATION NETWORK OF NEW YORK (SHIN-NY) TO ENABLE WIDESPREAD INTEROPERABILITY AMONG DISPARATE HEALTH INFORMATION SYSTEMS, INCLUDING ELECTRONIC HEALTH RECORDS, PERSONAL HEALTH RECORDS AND PUBLIC HEALTH INFORMATION SYSTEMS, WHILE PROTECTING PRIVACY AND SECURITY. SUCH RULES AND REGULATIONS SHALL INCLUDE, BUT NOT BE LIMITED TO, REQUIREMENTS FOR ORGANIZATIONS COVERED BY 42 U.S.C. 17938 OR ANY OTHER ORGANIZATIONS THAT EXCHANGE HEALTH INFORMATION THROUGH THE SHIN-NY.

S 12. Section 3 of chapter 178 of the laws of 2006 relating to establishing an advisory council on children's environmental health and safety, is amended to read as follows:

S 3. This act shall take effect on the one hundred eightieth day after it shall have become a law AND SHALL EXPIRE AND BE DEEMED REPEALED ON MARCH 31, 2013; provided that the commissioners of health, education and environmental conservation are authorized to promulgate any and all rules and regulations and take any other measures necessary to implement this act on its effective date on or before such date.

S 13. Subdivision 4 of section 18 of the public health law, as added by chapter 497 of the laws of 1986, is amended to read as follows:

4. Medical record access review committees. The commissioner shall [appoint] DESIGNATE medical record access review committees to hear appeals of the denial of access to patient information as provided in paragraph (e) of subdivision three of this section. [Members of such committees shall be appointed by the commissioner from a list of nominees submitted by statewide associations of providers in the particular licensed profession involved; provided, however, that, with respect to patient information maintained by a psychiatrist, the list of nominees shall be composed of psychiatrists. In the case of the licensed physicians, such association shall be the medical society of the state of New York. Such medical record access review committees shall consist of no less than three nor more than five licensed professionals.] The commissioner shall promulgate rules and regulations necessary to effectuate the provisions of this subdivision.

S 14. Section 2707 of the public health law is REPEALED.

S 15. Title 1-C of article 24 of the public health law is REPEALED.

S 16. Subdivision 13 of section 3501 of the public health law is REPEALED.

S 17. Section 3503 of the public health law is REPEALED.

S 18. Section 3504 of the public health law, as added by chapter 175 of the laws of 2006, is amended to read as follows:

S 3504. Rules and regulations. The commissioner shall have power to make such rules and regulations, not inconsistent with law, as may be necessary to carry out the provisions of this article, including but not limited to, the availability of emergency equipment appropriate to provide treatment in the event of an unanticipated reaction to the administration of contrast media. [In promulgating such rules and regulations, the commissioner shall act with benefit of advice of the board.]

S 19. Subdivision 1 of section 3511 of the public health law, as added by chapter 175 of the laws of 2006, is amended to read as follows:

1. Proceedings against any licensee under this section shall be begun by filing with the department a written charge or charges in the form of a petition under oath against such licensee. The charges may be preferred by any person, corporation, association or public officer, or by the department in the first instance. [A copy thereof, together with a report of such investigation as the department shall deem proper, shall be referred to the board for its recommendation to the commissioner.]

S 20. Section 4 of chapter 387 of the laws of 2004 amending the environmental conservation law relating to restricting the use of certain flame retardants, is amended to read as follows:

S 4. This act shall take effect immediately; provided, however, that sections one and two of this act shall take effect January 1, 2006; provided, however that effective immediately, the addition, amendment and/or repeal of any rule or regulation necessary for the implementation of this act on its effective date is authorized and directed to be made and completed on or before such effective date; AND PROVIDED, HOWEVER THAT SECTION THREE OF THIS ACT SHALL REMAIN IN FULL FORCE AND EFFECT UNTIL APRIL 1, 2013 WHEN UPON SUCH DATE THE PROVISIONS OF SUCH SECTION SHALL EXPIRE AND BE DEEMED REPEALED.

S 20-a. Section 3 of chapter 356 of the laws of 2005 amending the public health law relating to establishing the New York state toxic mold task force, is amended to read as follows:

S 3. This act shall take effect immediately AND SHALL REMAIN IN FULL FORCE AND EFFECT UNTIL APRIL 1, 2012 WHEN UPON SUCH DATE THE PROVISIONS OF THIS ACT SHALL EXPIRE AND BE DEEMED REPEALED.

S 21. Section 2 of chapter 41 of the laws of 1992 containing health care provider reimbursement rates, is REPEALED.

S 22. Chapter 554 of the laws of 1996 creating the Brookhaven National Laboratory local oversight and monitoring committee, is REPEALED.

S 23. Section 18 of chapter 537 of the laws of 1998 amending the public health law relating to modifying the use of prescription forms for dispensing controlled substances, is REPEALED.

S 24. Subdivision 7 of section 502 of the public health law is REPEALED and subdivisions 8, 9 and 10 are renumbered subdivisions 7, 8 and 9.

S 25. Section 123 of chapter 1 of the laws of 1999 enacting the New York Health Care Reform Act of 2000, is REPEALED.

S 26. Section 3604 of the public health law is REPEALED.

S 27. Subdivision 9 of section 3607 of the public health law, as amended by chapter 831 of the laws of 1985 and as renumbered by chapter 891 of the laws of 1990, is amended to read as follows:

9. The commissioner, [after consultation with the state council on home care services,] shall promulgate rules and regulations necessary to administer this section. [The state council on home care services shall advise the department of the availability and quality of home care services and on the methods that may be used to enhance the availability, appropriate utilization and coordination of home care services through the implementation of the grant program.]

S 28. Subdivision 4 of section 3609 of the public health law, as amended by chapter 831 of the laws of 1985, is amended to read as follows:

4. The grant applications shall include such information as required by the commissioner[, after consultation with the state council on home care services].

S 29. Subdivision 5 of section 3612 of the public health law, as amended by chapter 622 of the laws of 1988, is amended to read as follows:

5. The [state hospital review and planning council] PUBLIC HEALTH AND HEALTH PLANNING COUNCIL, by a majority vote of its members, shall adopt and amend rules and regulations, subject to the approval of the commissioner, to effectuate the provisions and purposes of this article with respect to certified home health agencies, providers of long term home health care programs and providers of AIDS home care programs, including, but not limited to, (a) the establishment of requirements for a uniform statewide system of reports and audits relating to the quality of services provided and their utilization and costs; (b) establishment by the department of schedules of rates, payments, reimbursements, grants and other charges; (c) standards and procedures relating to certificates of approval and authorization to provide long term home health care programs and AIDS home care programs; (d) uniform standards for quality of care and services to be provided by certified home health agencies, providers of long term home health care programs and providers of AIDS home care programs; (e) requirements for minimum levels of staffing, taking into consideration the size of the agency, provider of a long term home health care program or provider of an AIDS home care program, the type of care and service provided, and the special needs of the persons served; (f) standards and procedures relating to contractual arrangements between home care services agencies; (g) requirements for the establishment of plans for the coordination of home care services and discharge planning for former patients or residents of facilities under the regulatory jurisdiction of the department, the departments of social services or mental hygiene, the board of social welfare, or the office for the aging; (h) requirements for uniform review of the appropriate utilization of services; and (i) requirements for minimum qualifications and standards of training for personnel as appropriate. The commissioner [and the state council on home care services] may propose rules and regulations and amendments thereto for consideration by the council.

S 30. Subdivision 10 of section 3615 of the public health law, as amended by chapter 884 of the laws of 1990, is amended to read as follows:

10. The commissioner is authorized to promulgate such rules and regulations, [in consultation with the state council on home care services,] as are necessary to carry out the provisions of this section. Such rules and regulations may include, but not be limited to, minimum and maximum grant levels.

S 31. Subdivision 4 of section 3222 of the public health law is REPEALED and subdivisions 5, 6, 7, 8 and 9 are renumbered subdivisions 4, 5, 6, 7 and 8.

S 32. Section 3702 of the public health law is REPEALED.

S 33. Section 1399-uu of the public health law is REPEALED.

S 34. Section 2796 of the public health law, as added by chapter 550 of the laws of 1988, is REPEALED.

S 35. The opening paragraph of section 2798 of the public health law, as added by chapter 550 of the laws of 1988, is amended to read as follows:

The TICK-BORNE DISEASE institute ESTABLISHED BY SECTION TWENTY-SEVEN HUNDRED NINETY-SEVEN OF THIS ARTICLE shall have the following powers and duties:

S 36. Section 2799-a of the public health law is REPEALED.

S 37. Section 2799 of the public health law is REPEALED.
S 38. Intentionally omitted.
S 39. Section 216 of the elder law is REPEALED.
S 40. Article III of the elder law is REPEALED.
S 41. Section 209 of the elder law, subdivision 5-a as added and the opening paragraph of subdivision 8 as amended by section 2 of part E of chapter 58 of the laws of 2005, subdivision 6 as added and subdivisions 7 and 8 as renumbered by chapter 82 of the laws of 2008, is amended to read as follows:
S 209. Naturally occurring retirement community supportive service program. 1. As used in this section:
(a) "Advisory committee" or "committee" shall mean the advisory committee convened by the director [pursuant to subdivision three of] FOR THE PURPOSES SPECIFIED IN this section. Such committee shall be broadly representative of housing and senior citizen groups, and all geographic areas of the state.
(b) ["Elderly" or "elderly persons"] "OLDER ADULTS" shall mean persons who are sixty years of age or older and who are heads of households.
(c) "Eligible applicant" shall mean a not-for-profit agency specializing in housing, health or other human services which serves or would serve the community within which a naturally occurring retirement community is located.
(d) "Eligible services" shall mean services including, but not limited to: case management, care coordination, counseling, health assessment and monitoring, transportation, socialization activities, home care facilitation and monitoring, and other services designed to address the needs of residents of naturally occurring retirement communities by helping them extend their independence, improve their quality of life, and avoid unnecessary hospital and nursing home stays.
(e) "Government assistance" shall mean and be broadly interpreted to mean any monetary assistance provided by the federal, the state or a local government, or any agency thereof, or any authority or public benefit corporation, in any form, including loans or loan subsidies, for the construction of an apartment building or housing complex for low and moderate income persons, as such term is defined by the United States Department of Housing and Urban Development.
(f) "Naturally occurring retirement community" shall mean an apartment building or housing complex which:
(1) was constructed with government assistance;
(2) was not originally built for [elderly persons] OLDER ADULTS;
(3) does not restrict admissions solely to [the elderly] OLDER ADULTS;
(4) AT LEAST fifty percent of the units have an occupant who is [elderly] AN OLDER ADULT or in which AT LEAST twenty-five hundred of the residents are [elderly] OLDER ADULTS; and
(5) a majority of the [elderly] OLDER ADULTS to be served are low or moderate income, as defined by the United States Department of Housing and Urban Development.
2. A naturally occurring retirement community supportive service program is established as a demonstration program to be administered by the director.
3. The director shall [convene an] BE ASSISTED BY THE advisory committee [to aid in developing] IN THE DEVELOPMENT OF appropriate criteria for the selection of grantees of funds provided pursuant to this section AND PROGRAMMATIC ISSUES AS DEEMED APPROPRIATE BY THE DIRECTOR. [The functions otherwise required to be performed by the advisory committee shall be performed by the director until such committee is convened;

provided, however, that the director shall under no circumstances perform such functions after the expiration of six months after the effective date of this section.]

4. The criteria recommended by the committee and adopted by the director for the award of grants shall be consistent with the provisions of this section and shall include, at a minimum:

(a) the number, size, type and location of the projects to be served; provided, that the committee and director shall make reasonable efforts to assure that geographic balance in the distribution of such projects is maintained, consistent with the needs to be addressed, funding available, applications for eligible applicants, other requirements of this section, and other criteria developed by the committee and director;

(b) the appropriate number and concentration of [elderly] OLDER ADULT residents to be served by an individual project; provided, that such criteria need not specify, in the case of a project which includes several buildings, the number of [elderly] OLDER ADULTS to be served in any individual building;

(c) the demographic characteristics of the residents to be served;

(d) the financial support required to be provided to the project by the owners, managers and residents of the housing development; provided, however, that such criteria need not address whether the funding is public or private, or the source of such support;

(e) the scope and intensity of the services to be provided, and their appropriateness for the residents proposed to be served. The criteria shall not require that the applicant agency be the sole provider of such services, but shall require that the applicant at a minimum actively manage the provision of such services;

(f) the experience and financial stability of the applicant agency, provided that the criteria shall require that priority be given to programs already in operation, including those projects participating in the resident advisor program administered by the office, and enriched housing programs which meet the requirements of this section and which have demonstrated to the satisfaction of the director and the committee their fiscal and managerial stability and programmatic success in serving residents;

(g) the nature and extent of requirements proposed to be established for active, meaningful participation for residents proposed to be served in project design, implementation, monitoring, evaluation and governance;

(h) an agreement by the applicant to participate in the data collection and evaluation project necessary to complete the report required by this section;

(i) the policy and program roles of the applicant agency and any other agencies involved in the provision of services or the management of the project, including the housing development governing body, or other owners or managers of the apartment buildings and housing complexes and the residents of such apartment buildings and housing complexes. The criteria shall require a clear delineation of such policy and program roles;

(j) a requirement that each eligible agency document the need for the project and financial commitments to it from such sources as the committee and the director shall deem appropriate given the character and nature of the proposed project, and written evidence of support from the appropriate housing development governing body or other owners or managers of the apartment buildings and housing complexes. The purpose of such documentation shall be to demonstrate the need for the project,

support for it in the areas to be served, and the financial and managerial ability to sustain the project;

(k) a requirement that any aid provided pursuant to this section be matched by an equal amount from other sources and that at least twenty-five percent of such amount be contributed by the housing development governing body or other owners or managers and residents of the apartment buildings and housing complexes in which the project is proposed; and

(l) the circumstances under which the director may waive all or part of the requirement for provision of an equal amount of funding from other sources required pursuant to paragraph (k) of this subdivision, provided that such criteria shall include provision for waiver at the discretion of the director upon a finding by the director that the program will serve a low income or hardship community, and that such waiver is required to assure that such community receive a fair share of the funding available. The committee shall develop appropriate criteria for determining whether a community is a low income or hardship community.

5. Within amounts specifically appropriated therefor and consistent with the criteria developed and required pursuant to this section the director shall approve grants to eligible applicants in amounts not to exceed one hundred fifty thousand dollars for a project in any twelve month period. The director shall not approve more than ten grants in the first twelve month period after the effective date of this section.

5-a. The director may, in addition recognize neighborhood naturally occurring retirement communities, or Neighborhood NORCs, and provide program support within amounts specifically available by appropriation therefor, which shall be subject to the requirements, rules and regulations of this section, provided however that:

(a) the term Neighborhood NORC as used in this subdivision shall mean and refer to a residential dwelling or group of residential dwellings in a geographically defined neighborhood of a municipality containing not more than two thousand persons who are [elderly] OLDER ADULTS reside in at least forty percent of the units and which is made up of low-rise buildings six stories or less in height and/or single and multi-family homes and which area was not originally developed for [elderly persons] OLDER ADULTS, and which does not restrict admission strictly to [the elderly] OLDER ADULTS;

(b) grants to an eligible Neighborhood NORC shall be no less than sixty thousand dollars for any twelve-month period;

(c) the director shall [convene an] BE ASSISTED BY THE advisory committee [to help develop] IN THE DEVELOPMENT OF criteria for the selection of grants provided pursuant to this section AND PROGRAMMATIC ISSUES AS DEEMED APPROPRIATE BY THE DIRECTOR. [The functions otherwise required to be performed by the advisory committee shall be performed by the director until the committee is convened, or for six months after the effective date of this subdivision, whichever occurs earlier.] The criteria recommended by the committee and adopted by the director for the award of grants shall be consistent with the provisions of this subdivision and shall include, at a minimum, the following requirements or items of information using such criteria as the advisory committee and the director shall approve:

(1) the number, size, type and location of residential dwellings or group of residential dwellings selected as candidates for neighborhood NORCs funding. The director shall make reasonable efforts to assure that geographic balance in the distribution of such grants is maintained,

consistent with the needs to be addressed, funding available, applications from eligible applicants, ability to coordinate services and other requirements of this section;

(2) the appropriate number and concentration of [elderly] OLDER ADULT residents to be served by an individual Neighborhood NORC. The criteria need not specify the number of [elderly] OLDER ADULTS to be served in any individual building;

(3) the demographic characteristics of the residents to be served;

(4) a requirement that the applicant demonstrate the development or intent to develop community wide support from residents, neighborhood associations, community groups, nonprofit organizations and others;

(5) a requirement that the boundaries of the geographic area to be served are clear and coherent and create an identifiable program and supportive community;

(6) a requirement that the applicant commit to raising matching funds from non-state sources of fifteen percent of the state grant in the second year after the program is approved, twenty-five percent in the third year, forty percent in the fourth year, and fifty percent in the fifth year, and further commit that in each year, twenty-five percent of such required matching funds be raised within the community served. Such local community matching funds shall include but not be limited to: dues, fees for service, individual and community contributions, and such other funds as the advisory committee and the director shall deem appropriate;

(7) a requirement that the applicant demonstrate experience and financial stability;

(8) a requirement that priority in selection be given to programs in existence prior to the effective date of this subdivision which, except for designation and funding requirements established herein, would have otherwise generally qualified as a Neighborhood NORC;

(9) a requirement that the applicant conduct or have conducted a needs assessment on the basis of which such applicant shall establish the nature and extent of services to be provided; and further that such services shall provide a mix of appropriate services that provide active and meaningful participation for residents;

(10) a requirement that residents to be served shall be involved in design, implementation, monitoring, evaluation and governance of the Neighborhood NORC;

(11) an agreement by the applicant that it will participate in the data collection and evaluation necessary to complete the reporting requirements as established by the director;

(12) the policy and program roles of the applicant agency and any other agencies involved in the provision of services or the management of the Neighborhood NORC, provided that the criteria shall require a clear delineation of such policy and program roles;

(13) a requirement that each applicant document the need for the grant and financial commitments to it from such sources as the advisory committee and the director shall deem appropriate given the character and nature of the proposed Neighborhood NORC and written evidence of support from the community;

(14) the circumstances under which the director may waive all or part of the requirement for provision of an equal amount of funding from other sources required pursuant to this subdivision, provided that such criteria shall include provision for waiver at the discretion of the director upon a finding by the director that the Neighborhood NORC will serve a low income or hardship community, and that such waiver is

required to assure that such community receive a fair share of the funding available. For purposes of this paragraph, a hardship community may be one that has developed a successful model but which needs additional time to raise matching funds required herein. An applicant applying for a hardship exception shall submit a written plan in a form and manner determined by the director detailing its plans to meet the matching funds requirement in the succeeding year;

(15) a requirement that any proposed Neighborhood NORC in a geographically defined neighborhood of a municipality containing more than two thousand [seniors] OLDER ADULTS shall require the review and recommendation by the advisory committee before being approved by the director;

(d) on or before March first, two thousand eight, the director shall report to the governor and the fiscal and aging committees of the senate and the assembly concerning the effectiveness of Neighborhood NORCs in achieving the objectives set forth by this subdivision. Such report shall address each of the items required for Neighborhood NORCs in achieving the objectives set forth in this section and such other items of information as the director shall deem appropriate, including recommendations concerning continuation or modification of the program, and any recommendations from the advisory committee.

(e) in providing program support for Neighborhood NORCs as authorized by this subdivision, the director shall in no event divert or transfer funding for grants or program support from any naturally occurring retirement community supportive service programs authorized pursuant to other provisions of this section.

6. The director may allow services provided by a naturally occurring retirement community supportive service program or by a neighborhood naturally occurring retirement community to also include services to residents who live in neighborhoods contiguous to the boundaries of the geographic area served by such programs if: (a) the persons served are [elderly persons] OLDER ADULTS; (b) the services affect the health and welfare of such persons; and (c) the services are provided on a one-time basis in the year in which they are provided, and not in a manner which is said or intended to be continuous. The director may also consent to the provision of such services by such program if the program has received a grant which requires services to be provided beyond the geographic boundaries of the program. The director shall establish procedures under which a program may request the ability to provide such services.

7. The director shall promulgate rules and regulations as necessary to carry out the provisions of this section.

8. On or before March first, two thousand five, the director shall report to the governor and the finance committee of the senate and the ways and means committee of the assembly concerning the effectiveness of the naturally occurring retirement community supportive services program, other than Neighborhood NORCs, as defined in subdivision five-a of this section, in achieving the objectives set forth by this section, which include helping to address the needs of residents in such naturally occurring retirement communities, assuring access to a continuum of necessary services, increasing private, philanthropic and other public funding for programs, and preventing unnecessary hospital and nursing home stays. The report shall also include recommendations concerning continuation or modification of the program from the director and the committee, and shall note any divergence between the recommendations of the director and the committee. The director shall provide the required information and any other information deemed appropriate to the

report in such form and detail as will be helpful to the legislature and the governor in determining to extend, eliminate or modify the program including, but not limited to, the following:

(a) the number, size, type and location of the projects developed and funded, including the number, kinds and functions of staff in each program;

(b) the number, size, type and location of the projects proposed but not funded, and the reasons for denial of funding for such projects;

(c) the age, sex, religion and other appropriate demographic information concerning the residents served;

(d) the services provided to residents, reported in such manner as to allow comparison of services by demographic group and region;

(e) a listing of the services provided by eligible applicants, including the number, kind and intensity of such services; and

(f) a listing of other organizations providing services, the number, kind and intensity of such services, the number of referrals to such organizations and, to the extent practicable, the outcomes of such referrals.

S 42. Subdivision 1 of section 210 of the elder law is amended to read as follows:

1. There shall be within the office an advisory committee for the aging, consisting of not more than [twenty-five] THIRTY-FIVE members, appointed by the governor. In making such appointments, the governor shall give due consideration to representation from the major regions of the state. One member of the advisory committee shall be designated as chairperson by the governor and shall serve as chairperson at the pleasure of the governor. The advisory committee shall meet from time to time at the call of such chairperson or the director. The director shall seek the advice of the advisory committee with respect to the needs of the aging and, if so requested by the director, such committee shall make particular studies relating to the aging.

S 43. Section 2 of the public health law is amended by adding a new subdivision 3 to read as follows:

3. WHENEVER THE TERM "PUBLIC HEALTH COUNCIL" OR "STATE HOSPITAL REVIEW AND PLANNING COUNCIL" OCCURS, OR ANY REFERENCE IS MADE THERETO, IN ANY LAW, IT SHALL BE DEEMED TO MEAN OR REFER TO THE PUBLIC HEALTH AND HEALTH PLANNING COUNCIL AS DESCRIBED IN ARTICLE TWO OF THIS CHAPTER.

S 44. Subdivision 3 of section 201 of the public health law is amended to read as follows:

3. All the provisions of this chapter shall apply to the department continued by this chapter and to the commissioner, the public health council AND ANY SUCCESSOR COUNCIL, and to the divisions, bureaus and officers in such department.

S 45. Section 220 of the public health law, as amended by chapter 301 of the laws of 1989, is amended to read as follows:

S 220. Public health AND HEALTH PLANNING council; appointment of members. There shall continue to be in the department a public health AND HEALTH PLANNING council to consist of the commissioner and fourteen members to be appointed by the governor with the advice and consent of the senate; PROVIDED THAT EFFECTIVE DECEMBER FIRST, TWO THOUSAND TEN, THE MEMBERSHIP OF THE COUNCIL SHALL CONSIST OF THE COMMISSIONER AND TWENTY-FOUR MEMBERS TO BE APPOINTED BY THE GOVERNOR WITH THE ADVICE AND CONSENT OF THE SENATE. Membership on the council shall be reflective of the diversity of the state's population including, but not limited to, the various geographic areas and population densities throughout the state. THE MEMBERS SHALL INCLUDE REPRESENTATIVES OF THE PUBLIC HEALTH

SYSTEM, HEALTH CARE PROVIDERS THAT COMPRISE THE STATE'S HEALTH CARE DELIVERY SYSTEM, INDIVIDUALS WITH EXPERTISE IN THE CLINICAL AND ADMINISTRATIVE ASPECTS OF HEALTH CARE DELIVERY, ISSUES AFFECTING HEALTH CARE CONSUMERS, HEALTH PLANNING, HEALTH CARE FINANCING AND REIMBURSEMENT, HEALTH CARE REGULATION AND COMPLIANCE, AND PUBLIC HEALTH PRACTICE AND AT LEAST TWO MEMBERS SHALL ALSO BE MEMBERS OF THE MENTAL HEALTH SERVICES COUNCIL; AT LEAST FOUR MEMBERS SHALL BE REPRESENTATIVES OF GENERAL HOSPITALS OR NURSING HOMES; AND AT LEAST ONE MEMBER SHALL BE A REPRESENTATIVE OF EACH OF THE FOLLOWING GROUPS: HOME CARE AGENCIES, DIAGNOSTIC AND TREATMENT CENTERS, HEALTH CARE PAYORS, LABOR ORGANIZATIONS FOR HEALTH CARE EMPLOYEES, AND HEALTH CARE CONSUMER ADVOCACY ORGANIZATIONS.

S 46. Section 221 of the public health law, as amended by chapter 301 of the laws of 1989, is amended to read as follows:

S 221. Public health AND HEALTH PLANNING council; terms of office; vacancies. 1. The terms of office of members of the public health AND HEALTH PLANNING council shall be six years. The members of the council shall continue in office until the expiration of their terms and until their successors are appointed and have qualified. Such appointments shall be made by the governor, with the advice and consent of the senate, within one year following the expiration of such terms.

2. Vacancies shall be filled by appointment by the governor for the unexpired terms within one year of the date upon which such vacancies occur. [Any vacancy existing on the effective date of subdivision three of this section shall be filled by appointment within one year of such effective date.]

3. In making appointments to the council, the governor shall seek to ensure that membership on the council reflects the diversity of the state's population including, but not limited to the various geographic areas and population densities throughout the state.

4. NOTWITHSTANDING SUBDIVISION ONE OF THIS SECTION, OF THE TEN MEMBERS APPOINTED OR REAPPOINTED TO THE COUNCIL ON OR AFTER DECEMBER FIRST, TWO THOUSAND TEN, TWO SHALL SERVE A TERM OF THREE YEARS, TWO SHALL SERVE A TERM OF FOUR YEARS, THREE SHALL SERVE A TERM OF FIVE YEARS, AND THREE SHALL SERVE A TERM OF SIX YEARS. THEREAFTER, MEMBERS APPOINTED OR REAPPOINTED UPON EXPIRATION OF A TERM OF OFFICE SHALL BE APPOINTED FOR A TERM OF SIX YEARS AND SHALL CONTINUE IN OFFICE UNTIL THEIR SUCCESSORS ARE APPOINTED.

S 47. Section 222 of the public health law is amended to read as follows:

S 222. Public health AND HEALTH PLANNING council; meetings; by-laws. 1. The public health AND HEALTH PLANNING council shall meet as frequently as its business may require, and at least twice in each year.

2. The governor shall designate one of the members of the public health AND HEALTH PLANNING council as its [chairman] CHAIR.

3. The public health AND HEALTH PLANNING council shall enact and from time to time may amend by-laws in relation to its meetings and the transactions of its business.

4. All meetings of the public health AND HEALTH PLANNING council shall in every proceeding be deemed to have been duly called and regularly held, and all regulations and proceedings to have been duly authorized unless the contrary be proved.

S 48. Section 223 of the public health law, as amended by chapter 55 of the laws of 1992, is amended to read as follows:

S 223. Public health AND HEALTH PLANNING council; compensation and expenses. The members of the public health AND HEALTH PLANNING council other than the commissioner of health shall [each] receive [two hundred

twenty-five dollars for each day devoted to council work not to exceed two thousand seven hundred dollars in any one year plus necessary expenses] NO COMPENSATION FOR THEIR SERVICES, BUT SHALL BE REIMBURSED FOR EXPENSES ACTUALLY AND NECESSARILY INCURRED IN THE PERFORMANCE OF THEIR DUTIES.

S 49. Section 224 of the public health law is amended to read as follows:

S 224. Public health AND HEALTH PLANNING council; secretary, employees. The commissioner upon request of the public health AND HEALTH PLANNING council, shall designate an officer or employee of the department to act as secretary of the public health AND HEALTH PLANNING council, and shall assign from time to time such other employees as the public health AND HEALTH PLANNING council may require.

S 50. The public health law is amended by adding a new section 224-b to read as follows:

S 224-B. PUBLIC HEALTH AND HEALTH PLANNING COUNCIL; POWERS AND DUTIES; HEALTH CARE FACILITIES, HOME CARE AGENCIES AND HOSPICES. THE PUBLIC HEALTH AND HEALTH PLANNING COUNCIL SHALL HAVE SUCH POWERS AND DUTIES AS ARE SET FORTH IN THIS CHAPTER, INCLUDING THE CONSIDERATION OF APPLICATIONS FOR THE ESTABLISHMENT AND CONSTRUCTION OF HEALTH CARE FACILITIES, HOME CARE AGENCIES AND HOSPICES LICENSED UNDER ARTICLES TWENTY-EIGHT, THIRTY-SIX OR FORTY OF THIS CHAPTER. IN CARRYING OUT ITS POWERS AND DUTIES, THE COUNCIL SHALL TAKE INTO ACCOUNT THE IMPACT OF ITS ACTIONS AND RECOMMENDATIONS ON THE QUALITY, ACCESSIBILITY, EFFICIENCY AND COST-EFFECTIVENESS OF HEALTH CARE THROUGHOUT THE STATE. THE COUNCIL SHALL UNDERTAKE A COMPREHENSIVE REVIEW OF REGULATIONS AND COUNCIL PROCEDURES GOVERNING THE ESTABLISHMENT AND CONSTRUCTION OF SUCH HEALTH CARE FACILITIES, HOME CARE AGENCIES AND HOSPICES AND SHALL SUBMIT TO THE COMMISSIONER ANY RECOMMENDATIONS FOR THE REVISIONS OF SUCH REGULATIONS. SUCH REVIEW SHALL BE CONDUCTED EVERY FIVE YEARS, AND THE FIRST SET OF RECOMMENDATIONS SHALL BE SUBMITTED TO THE COMMISSIONER ON OR BEFORE DECEMBER FIRST, TWO THOUSAND SIXTEEN.

S 51. The section heading and subdivisions 1, 2, 3, 4 and paragraphs (a) and (m) of subdivision 5 of section 225 of the public health law, subdivision 2 as added and subdivisions 3, 4 and paragraphs (a) and (m) of subdivision 5 as renumbered by chapter 626 of the laws of 1971, subdivision 3 as amended by chapter 617 of the laws of 1970 and paragraph (m) of subdivision 5 as amended by chapter 894 of the laws of 1958, are amended to read as follows:

Public health AND HEALTH PLANNING council; powers and duties; sanitary code.

1. The public health AND HEALTH PLANNING council shall, at the request of the commissioner, consider any matter relating to the preservation and improvement of public health, and may advise the commissioner thereon; and it may, from time to time, submit to the commissioner, any recommendations relating to the preservation and improvement of public health.

2. The public health AND HEALTH PLANNING council shall appoint one or more advisory committees expert in the major areas of public health concern, including but not limited to health education, health manpower, economics and delivery of health service, sanitation problems and interprofessional relationships. Members of advisory committees need not be members of the public health AND HEALTH PLANNING council.

3. The public health AND HEALTH PLANNING council shall have no executive, administrative or appointive duties except as otherwise provided by law.

4. The public health AND HEALTH PLANNING council shall have power by the affirmative vote of a majority of its members to establish, and from time to time, amend and repeal sanitary regulations, to be known as the sanitary code of the state of New York, subject to approval by the commissioner.

(a) deal with any matters affecting the security of life or health or the preservation and improvement of public health in the state of New York, and with any matters as to which the jurisdiction is conferred upon the public health AND HEALTH PLANNING council;

(m) require that application be made for a permit to operate a farm or food processing labor camp as defined in the sanitary code; authorize appropriate officers or agencies to issue such a permit when the applicant is in compliance with the established regulations; prescribe standards for living quarters at farm and food processing labor camps, including provisions for sanitary conditions; light, air, and safety; protection from fire hazards; maintenance; and such other matters as may be appropriate for security of life or health, provided however, that the provisions of the sanitary code established pursuant to the provisions hereof shall apply to all farm and food processing labor camps intended to house migrant workers and which are occupied by five or more persons. In the preparation of such regulations, the public health AND HEALTH PLANNING COUNCIL may request and shall receive technical assistance from the board of standards and appeals of the state department of labor and the state building code commission. Such regulation shall be enforced in the same manner as are other provisions of the sanitary code;

S 52. Section 226 of the public health law is amended to read as follows:

S 226. Sanitary code; filing and publication. 1. Every regulation adopted by the public health AND HEALTH PLANNING council shall state the date on which it takes effect, and a copy thereof, duly signed by the secretary of the public health AND HEALTH PLANNING council, shall be filed as a public record in the department and in the office of the secretary of state.

2. A copy of every regulation adopted by the public health AND HEALTH PLANNING council shall be sent by the commissioner to each health officer within the state, and shall be published in such manner as the public health AND HEALTH PLANNING council may from time to time determine.

S 53. Subdivisions 1 and 2 of section 228 of the public health law, as amended by chapter 626 of the laws of 1971, are amended to read as follows:

1. The provisions of the sanitary code, unless otherwise stated by the public health AND HEALTH PLANNING council, shall apply to and be effective in all portions of the state and shall supersede all local ordinances heretofore or hereafter enacted inconsistent therewith.

2. Each county, city, town or village, in the manner hereinafter prescribed, may enact sanitary regulations not inconsistent with the sanitary code established by the public health AND HEALTH PLANNING council.

S 54. Section 238 of the public health law is amended by adding a new subdivision 17 to read as follows:

17. "PUBLIC HEALTH COUNCIL" SHALL MEAN THE PUBLIC HEALTH AND HEALTH PLANNING COUNCIL.

S 55. Subdivision 3 of section 243 of the public health law, as added by chapter 757 of the laws of 1992, and such section as renumbered by chapter 443 of the laws of 1993, is amended to read as follows:

3. Meetings. a. The minority health council shall meet as frequently as its business may require, and at least twice in each year.

b. The governor shall designate one of the members of the public health AND HEALTH PLANNING council as its chair.

S 56. Subdivision 6 of section 2801 of the public health law, as added by chapter 795 of the laws of 1965, and as renumbered by chapter 653 of the laws of 1975, is amended to read as follows:

6. "Council" [means the state hospital review and planning council] AND "PUBLIC HEALTH COUNCIL" MEAN THE PUBLIC HEALTH AND HEALTH PLANNING COUNCIL.

S 57. Section 2801-a of the public health law, as amended by chapter 667 of the laws of 1997, subdivision 2-a as added by chapter 588 of the laws of 1998, paragraph (c) of subdivision 4 as amended by chapter 538 of the laws of 1998, subdivision 15 as added by chapter 315 of the laws of 2007, and subdivision 16 as added by section 86 of part C of chapter 58 of the laws of 2009, is amended to read as follows:

S 2801-a. Establishment or incorporation of hospitals. 1. No hospital, as defined in this article, shall be established except with the written approval of the public health AND HEALTH PLANNING council. No certificate of incorporation of a business membership or not-for-profit corporation shall hereafter be filed which includes among its corporate purposes or powers the establishment or operation of any hospital, as defined in this article, or the solicitation of contributions for any such purpose, or two or more of such purposes, except with the written approval of the public health AND HEALTH PLANNING council, and when otherwise required by law of a justice of the supreme court, endorsed on or annexed to the certificate of incorporation. No articles of organization of a limited liability company established pursuant to the New York limited liability company law which includes among its powers or purposes the establishment or operation of any hospital as defined in this article, shall be filed with the department of state except upon the approval of the public health AND HEALTH PLANNING council.

2. With respect to the incorporation or establishment of any hospital, as defined in this article, the public health AND HEALTH PLANNING council shall give written approval after all of the following requirements have been met. An application for approval of the proposed certificate of incorporation, articles of organization or establishment shall be filed with the public health AND HEALTH PLANNING council together with such other forms and information as shall be prescribed by, or acceptable to, the public health AND HEALTH PLANNING council. Thereafter, the public health AND HEALTH PLANNING council shall forward a copy of the proposed certificate or application for establishment, and accompanying documents, to [the state hospital review and planning council and] the health systems agency, IF ANY, having geographical jurisdiction of the area where the proposed institution is to be located. The public health AND HEALTH PLANNING council shall act upon such application after [the state council and] the health systems agency [have] HAS had a reasonable time to submit their recommendations. At the time members of the public health AND HEALTH PLANNING council are notified that an application is scheduled for consideration, the applicant and the health systems agency shall be so notified in writing. The public health AND HEALTH PLANNING council shall afford the applicant an opportunity to present information in person concerning the application to a committee designated by the

council. The public health AND HEALTH PLANNING council shall not take any action contrary to the advice of [either the state council or] the health systems agency until it affords to [either] THE HEALTH SYSTEMS AGENCY an opportunity to request a public hearing and, if so requested, a public hearing shall be held. If the public health AND HEALTH PLANNING council proposes to disapprove the application it shall afford the applicant an opportunity to request a public hearing. The public health AND HEALTH PLANNING council may hold a public hearing on the application on its own motion. Any public hearing held pursuant to this subdivision may be conducted by the public health AND HEALTH PLANNING council, or by any individual designated by the public health AND HEALTH PLANNING council. Beginning on January first, nineteen hundred ninety-four, and each year thereafter, a complete application received between January first and June thirtieth of each year shall be reviewed by the appropriate health systems agency and the department and presented to the [state hospital review and] PUBLIC HEALTH AND HEALTH planning council for its consideration prior to June thirtieth of the following year and a complete application received between July first and December thirty-first of each year shall be reviewed by the appropriate health systems agency and the department presented to the [state hospital review and] PUBLIC HEALTH AND HEALTH planning council for consideration prior to December thirty-first of the following year.

2-a. (a) Notwithstanding any provision of law to the contrary, the commissioner is authorized to approve a certificate of incorporation or articles of organization for establishment of a hospital, provided that: (i) the certificate of incorporation or articles of organization reflects solely a change in the form of the business organization of an existing entity which had been approved by the public health AND HEALTH PLANNING council OR ITS PREDECESSOR; and (ii) every incorporator, stockholder, member, director and sponsor of the new entity shall have been an owner, partner, incorporator, stockholder, member, director or sponsor of the existing entity; and (iii) the distribution of ownership, interests and voting rights in the new entity shall be the same as in the existing entity; and (iv) there shall be no change in the operator of a hospital other than the form of its business organization, as a result of the approval of such certificate of incorporation or articles of organization. Any approval by the public health AND HEALTH PLANNING council of a person as an owner, incorporator, stockholder, member, director or sponsor in the existing entity shall be deemed to be approval for the same degree of participation in the new entity. If the proposal is acceptable to the commissioner an amended operating certificate shall be issued. In the event the commissioner determines that the proposed transfer is not approvable the application shall be referred to the public health AND HEALTH PLANNING council for its review and action. If the public health AND HEALTH PLANNING council proposes to disapprove the application, it shall afford the applicant an opportunity to request a public hearing and, if so requested, a public hearing shall be held. Any public hearing held pursuant to this subdivision may be conducted by the public health AND HEALTH PLANNING council, or by any individual designated by the public health AND HEALTH PLANNING council.

3. The public health AND HEALTH PLANNING council shall not approve a certificate of incorporation, articles of organization or application for establishment unless it is satisfied, insofar as applicable, as to (a) the public need for the existence of the institution at the time and place and under the circumstances proposed, provided, however, that in the case of an institution proposed to be established or operated by an

organization defined in subdivision one of section one hundred seventy-two-a of the executive law, the needs of the members of the religious denomination concerned, for care or treatment in accordance with their religious or ethical convictions, shall be deemed to be public need; (b) the character, competence, and standing in the community, of the proposed incorporators, directors, sponsors, stockholders, members or operators; with respect to any proposed incorporator, director, sponsor, stockholder, member or operator who is already or within the past ten years has been an incorporator, director, sponsor, member, principal stockholder, principal member, or operator of any hospital, private proprietary home for adults, residence for adults, or non-profit home for the aged or blind which has been issued an operating certificate by the state department of social services, or a halfway house, hostel or other residential facility or institution for the care, custody or treatment of the mentally disabled which is subject to approval by the department of mental hygiene, no approval shall be granted unless the public health AND HEALTH PLANNING council, having afforded an adequate opportunity to members of health systems agencies, IF ANY, having geographical jurisdiction of the area where the institution is to be located to be heard, shall affirmatively find by substantial evidence as to each such incorporator, director, sponsor, principal stockholder or operator that a substantially consistent high level of care is being or was being rendered in each such hospital, home, residence, halfway house, hostel, or other residential facility or institution with which such person is or was affiliated; for the purposes of this paragraph, the public health AND HEALTH PLANNING council shall adopt rules and regulations, subject to the approval of the commissioner, to establish the criteria to be used to determine whether a substantially consistent high level of care has been rendered, provided, however, that there shall not be a finding that a substantially consistent high level of care has been rendered where there have been violations of the state hospital code, or other applicable rules and regulations, that (i) threatened to directly affect the health, safety or welfare of any patient or resident, and (ii) were recurrent or were not promptly corrected; (c) the financial resources of the proposed institution and its sources of future revenues; and (d) such other matters as it shall deem pertinent.

3-a. Notwithstanding any other provisions of this chapter, the public health council is hereby empowered to approve the establishment, for demonstration purposes, of not more than one existing hospital within the geographical jurisdiction of each health systems agency established under the provisions of subdivision (c) of section twenty-nine hundred four of this chapter. The purposes of such hospitals shall be to offer and provide nursing home services, board and lodging to persons requiring such services within one hospital. The public health council may approve the establishment of such hospitals without regard to the requirement of public need as set forth in subdivision three of this section.

4. (a) Any change in the person who is the operator of a hospital shall be approved by the public health AND HEALTH PLANNING council in accordance with the provisions of subdivisions two and three of this section. Notwithstanding any inconsistent provision of this paragraph, any change by a natural person who is the operator of a hospital seeking to transfer part of his or her interest in such hospital to another person or persons so as to create a partnership shall be approved in accordance with the provisions of paragraph (b) of this subdivision.

(b) (i) Any transfer, assignment or other disposition of ten percent or more of an interest or voting rights in a partnership or limited liability company, which is the operator of a hospital to a new partner or member, shall be approved by the public health AND HEALTH PLANNING council, in accordance with the provisions of subdivisions two and three of this section, except that: (A) any such change shall be subject to the approval by the public health AND HEALTH PLANNING council in accordance with paragraph (b) of subdivision three of this section only with respect to the new partner or member, and any remaining partners or members who have not been previously approved for that facility in accordance with such paragraph, and (B) such change shall not be subject to paragraph (a) of subdivision three of this section.

(ii) With respect to a transfer, assignment or disposition involving less than ten percent of an interest or voting rights in such partnership or limited liability company to a new partner or member, no prior approval of the public health AND HEALTH PLANNING council shall be required. However, no such transaction shall be effective unless at least ninety days prior to the intended effective date thereof, the partnership or limited liability company fully completes and files with the public health AND HEALTH PLANNING council notice on a form, to be developed by the public health AND HEALTH PLANNING council, which shall disclose such information as may reasonably be necessary for the public health AND HEALTH PLANNING council to determine whether it should bar the transaction for any of the reasons set forth in item (A), (B), (C) or (D) below. Within ninety days from the date of receipt of such notice, the public health AND HEALTH PLANNING council may bar any transaction under this subparagraph: (A) if the equity position of the partnership or limited liability company, determined in accordance with generally accepted accounting principles, would be reduced as a result of the transfer, assignment or disposition; (B) if the transaction would result in the ownership of a partnership or membership interest by any persons who have been convicted of a felony described in subdivision five of section twenty-eight hundred six of this article; (C) if there are reasonable grounds to believe that the proposed transaction does not satisfy the character and competence criteria set forth in subdivision three of this section; or (D) if the transaction, together with all transactions under this subparagraph for the partnership, or successor, during any five year period would, in the aggregate, involve twenty-five percent or more of the interest in the partnership. The public health AND HEALTH PLANNING council shall state specific reasons for barring any transaction under this subparagraph and shall so notify each party to the proposed transaction.

(iii) With respect to a transfer, assignment or disposition of an interest or voting rights in such partnership or limited liability company to any remaining partner or member, which transaction involves the withdrawal of the transferor from the partnership or limited liability company, no prior approval of the public health AND HEALTH PLANNING council shall be required. However, no such transaction shall be effective unless at least ninety days prior to the intended effective date thereof, the partnership or limited liability company fully completes and files with the public health AND HEALTH PLANNING council notice on a form, to be developed by the public health AND HEALTH PLANNING council, which shall disclose such information as may reasonably be necessary for the public health AND HEALTH PLANNING council to determine whether it should bar the transaction for the reason set forth below. Within ninety days from the date of receipt of such notice, the public health AND

HEALTH PLANNING council may bar any transaction under this subparagraph if the equity position of the partnership or limited liability company, determined in accordance with generally accepted accounting principles, would be reduced as a result of the transfer, assignment or disposition. The public health AND HEALTH PLANNING council shall state specific reasons for barring any transaction under this subparagraph and shall so notify each party to the proposed transaction.

(c) Any transfer, assignment or other disposition of ten percent or more of the stock or voting rights thereunder of a corporation which is the operator of a hospital or which is a member of a limited liability company which is the operator of a hospital to a new stockholder, or any transfer, assignment or other disposition of the stock or voting rights thereunder of such a corporation which results in the ownership or control of more than ten percent of the stock or voting rights thereunder of such corporation by any person not previously approved by the public health AND HEALTH PLANNING council, OR ITS PREDECESSOR, for that corporation shall be subject to approval by the public health AND HEALTH PLANNING council, in accordance with the provisions of subdivisions two and three of this section and rules and regulations pursuant thereto; except that: any such transaction shall be subject to the approval by the public health AND HEALTH PLANNING council in accordance with paragraph (b) of subdivision three of this section only with respect to a new stockholder or a new principal stockholder; and shall not be subject to paragraph (a) of subdivision three of this section. In the absence of such approval, the operating certificate of such hospital shall be subject to revocation or suspension. No prior approval of the public health AND HEALTH PLANNING council shall be required with respect to a transfer, assignment or disposition of ten percent or more of the stock or voting rights thereunder of a corporation which is the operator of a hospital or which is a member of a limited liability company which is the owner of a hospital to any person previously approved by the public health AND HEALTH PLANNING council, OR ITS PREDECESSOR, for that corporation. However, no such transaction shall be effective unless at least ninety days prior to the intended effective date thereof, the stockholder completes and files with the public health AND HEALTH PLANNING council notice on forms to be developed by the public health AND HEALTH PLANNING council, which shall disclose such information as may reasonably be necessary for the public health AND HEALTH PLANNING council to determine whether it should bar the transaction. Such transaction will be final as of the intended effective date unless, prior thereto, the public health AND HEALTH PLANNING council shall state specific reasons for barring such transactions under this paragraph and shall notify each party to the proposed transaction. Nothing in this paragraph shall be construed as permitting a person not previously approved by the public health AND HEALTH PLANNING council for that corporation to become the owner of ten percent or more of the stock of a corporation which is the operator of a hospital or which is a member of a limited liability company which is the owner of a hospital without first obtaining the approval of the public health AND HEALTH PLANNING council.

(d) No hospital shall be approved for establishment which would be operated by a limited partnership, or by a partnership any of the members of which are not natural persons.

(e) No hospital shall be approved for establishment which would be operated by a corporation any of the stock of which is owned by another corporation or a limited liability company if any of its corporate members' stock is owned by another corporation.

(f) No corporation shall be a member of a limited liability company authorized to operate a hospital unless its proposed incorporators, directors, stockholders or principal stockholders shall have been approved in accordance with the provisions of subdivision three of this section applicable to the approval of the proposed incorporators, directors or stockholders of any other corporation requiring approval for establishment.

(g) A natural person appointed as trustee of an express testamentary trust, created by a deceased sole proprietor, partner or shareholder in the operation of a hospital for the benefit of a person of less than twenty-five years of age, may, as the trustee, apply pursuant to subdivision two of this section for approval to operate or participate in the operation of a facility or interest therein which is included in the corpus of such trust until such time as all beneficiaries attain the age of twenty-five, unless the trust instrument provides for earlier termination, or such beneficiaries receive establishment approval in their own right, or until a transfer of the trust corpus is approved by the public health AND HEALTH PLANNING council, in accordance with this subdivision and subdivisions two and three of this section, whichever first occurs. The public health AND HEALTH PLANNING council shall not approve any such application unless it is satisfied as to:

(i) the character, competence and standing in the community of each proposed trustee operator pursuant to the provisions of paragraph (b) of subdivision three of this section; and

(ii) the ability of the trustee under the terms of the trust instrument to operate or participate in the operation of the hospital in a manner consistent with this chapter and regulations promulgated pursuant thereto.

(h) A natural person appointed conservator pursuant to article eighty-one of the mental hygiene law, or a natural person appointed committee of the property of an incompetent pursuant to article eighty-one of the mental hygiene law or a sole proprietor, partner or shareholder of a hospital, may apply pursuant to subdivision two of this section for approval to operate a hospital owned by the conservatee or incompetent for a period not exceeding two years or until a transfer of the hospital is approved by the public health AND HEALTH PLANNING council in accordance with subdivisions two and three of this section, whichever occurs first. The public health AND HEALTH PLANNING council shall not approve any such application unless it is satisfied as to:

(i) the character, competence and standing in the community of the proposed conservator operator or committee operator pursuant to the provisions of paragraph (b) of subdivision three of this section; and

(ii) the ability of the conservator or committee under the terms of the court order to operate the hospital in a manner consistent with this chapter and regulations promulgated pursuant thereto.

5. Except as otherwise hereinafter provided, no county, city, town, village or other governmental subdivision shall establish or create any agency concerned with the establishment of any hospital as defined in this article without securing the written approval of the public health AND HEALTH PLANNING council in accordance with the requirements and procedures of subdivisions two and three of this section with respect to certificates of incorporation, articles of organization and establishment, except that the requirements relating to the proposed incorporators, directors and sponsors shall not apply. The preceding shall not apply to the establishment of state hospitals by the state of New York or to the establishment of municipal hospitals by the city of New York.

6. No corporation having power to solicit contributions for charitable purposes shall be deemed to have authority to solicit contributions for any purpose for which the approval of the public health AND HEALTH PLANNING council is required, unless the certificate of incorporation specifically makes provision therefor, and the written approval of the public health AND HEALTH PLANNING council, OR ITS PREDECESSOR is endorsed on or annexed to such certificate.

7. Where such approval has not been obtained the public health AND HEALTH PLANNING council may institute and maintain an action in the supreme court through the attorney general to procure a judgment dissolving and vacating or annulling the certificate of incorporation of

(a) any such corporation, or

(b) any corporation hereafter incorporated, the name, purposes, objects or the activities of which in any manner may lead to the belief that the corporation possesses or may exercise any of such purposes.

8. No corporation heretofore formed, having among its powers the power to solicit contributions for charitable purposes, may solicit or continue to solicit contributions for a purpose for which the approval of the public health AND HEALTH PLANNING council is required without the written approval of the public health AND HEALTH PLANNING council, except: (A) a corporation which, prior to June first, nineteen hundred seventy, had received the approval of the state board of social welfare of a certificate of incorporation containing such power; OR (B) A CORPORATION, WHICH PRIOR TO DECEMBER FIRST, TWO THOUSAND TEN, HAD RECEIVED THE APPROVAL OF THE PUBLIC HEALTH COUNCIL OF A CERTIFICATE OF INCORPORATION CONTAINING SUCH POWER. If such approval is not obtained and the corporation continues to solicit or to receive contributions for such purpose or advertises that it has obtained such approval, the public health AND HEALTH PLANNING council may institute and maintain an action in the supreme court through the attorney general to procure a judgment dissolving and vacating or annulling the certificate of incorporation of any such corporation.

9. Only a natural person, a partnership or limited liability company may hereafter undertake to engage in the business of operating or conducting a hospital, as defined in this article, for profit, except that: (a) a person, partnership or corporation which owned and was operating a hospital on April fourth, nineteen hundred fifty-six, may continue to own and operate such hospital; (b) a business corporation may, with the approval of the public health council, and in accordance with the provisions of subdivisions two and three of this section, undertake to engage in the business of operating or conducting a hospital, as defined in this article for profit, provided that such corporation shall not discriminate because of race, color, creed, national origin or sponsor in admission or retention of patients; (c) a business corporation owning and operating a nursing home on May twenty-second, nineteen hundred sixty-nine, in accordance with applicable provisions of law, may continue to own and operate such nursing home; (d) a person who, or a partnership which, is operating a private proprietary nursing home in accordance with applicable provisions of law may, with the approval of the public health AND HEALTH PLANNING council, and in accordance with the provisions of subdivision three of this section and any rules and regulations thereunder form a business corporation to engage in the business of operating or conducting such nursing home, provided, however, that such corporation shall not discriminate because of race, color, creed, national origin or sponsor in admission or retention of patients; (e) a business corporation operating a nursing

home, which corporation was formed with the approval of the state board of social welfare, may continue to own and operate such nursing home.

10. (a) The public health AND HEALTH PLANNING council, by a majority vote of its members, shall adopt and amend rules and regulations, to effectuate the provisions and purposes of this section, and to provide for the revocation, limitation or annulment of approvals of establishment.

(b) (i) No approval of establishment shall be revoked, limited or annulled without first offering the person who received such approval the opportunity of requesting a public hearing. (ii) The commissioner, at the request of the public health AND HEALTH PLANNING council, shall fix a time and place for any such hearing requested. (iii) Notice of the time and place of the hearing shall be served in person or mailed by registered mail to the person who has received establishment approval at least twenty-one days before the date fixed for the hearing. (iv) Such person shall file with the department, not less than eight days prior to the hearing, a written answer. (v) All orders or determinations hereunder shall be subject to review as provided in article seventy-eight of the civil practice law and rules. Application for such review must be made within sixty days after service in person or by registered mail of a copy of such order or determination.

11. Any person filing a proposed certificate of incorporation, articles of organization or an application for establishment of a residential health care facility for approval of the public health AND HEALTH PLANNING council shall file with the commissioner such information on the ownership of the property interests in such facility as shall be prescribed by regulation, including the following:

(a) The name and address and a description of the interest held by each of the following persons:

(i) any person, who directly or indirectly, beneficially owns any interest in the land on which the facility is located;

(ii) any person who, directly or indirectly, beneficially owns any interest in the building in which the facility is located;

(iii) any person who, directly or indirectly, beneficially owns any interest in any mortgage, note, deed of trust or other obligation secured in whole or in part by the land on which or building in which the facility is located; and

(iv) any person who, directly or indirectly, has any interest as lessor or lessee in any lease or sub-lease of the land on which or the building in which the facility is located.

(b) If any person named in response to paragraph (a) of this subdivision is a partnership or limited liability company, then the name and address of each partner or member.

(c) If any person named in response to paragraph (a) of this subdivision is a corporation, other than a corporation whose shares are traded on a national securities exchange or are regularly quoted in an over-the-counter market or which is a commercial bank, savings bank or savings and loan association, then the name and address of each officer, director, stockholder and, if known, each principal stockholder and controlling person of such corporation.

(d) If any corporation named in response to paragraph (a) of this subdivision is a corporation whose shares are traded on a national securities exchange or are regularly quoted in an over-the-counter market or which is a commercial bank, savings bank or savings and loan association, then the name and address of the principal executive officers and

each director and, if known, each principal stockholder of such corporation.

12. The following definitions shall be applicable to this section:

(a) "Controlling person" of any corporation, partnership, limited liability company or other entity means any person who by reason of a direct or indirect ownership interest (whether of record or beneficial) has the ability, acting either alone or in concert with others with ownership or membership interests, to direct or cause the direction of the management or policies of said corporation, partnership, limited liability company or other entity. Neither the commissioner nor any employee of the department nor any member of a local legislative body of a county or municipality, nor any county or municipal official except when acting as the administrator of a residential health care facility, shall, by reason of his or her official position, be deemed a controlling person of any corporation, partnership, limited liability company or other entity, nor shall any person who serves as an officer, administrator or other employee of any corporation, partnership, limited liability company or other entity or as a member of a board of directors or trustees of any corporation be deemed to be a controlling person of such corporation, partnership, limited liability company or other entity as a result of such position or his or her official actions in such position.

(b) "Principal stockholder" of a corporation means any person who beneficially owns, holds or has the power to vote, ten percent or more of any class of securities issued by said corporation.

(c) "Principal member" of a limited liability company means any person who beneficially owns, holds or has the power to vote, ten percent or more interest determined by such member's share in the current profits of the limited liability company.

13. Any person who operates a hospital without the written approval of the public health AND HEALTH PLANNING council shall be liable to the people of the state for a civil penalty not to exceed ten thousand dollars for every such violation.

14. (a) The public health AND HEALTH PLANNING council may approve the establishment of not-for-profit rural health networks as defined in article twenty-nine-A of this chapter, pursuant to the provisions of subdivisions two and three of this section, except that the public health AND HEALTH PLANNING council shall not consider the public need for and financial resources and sources of future revenues of such networks which do not seek approval to operate a hospital. In addition to character and competence, the public health AND HEALTH PLANNING council may take into consideration available network plans.

(b) The board of directors or trustees of a not-for-profit rural health network shall be comprised of a representative or representatives of participating providers and members of the general public residing in the area served by such network.

15. (a) Diagnostic or treatment centers established exclusively to provide end stage renal disease services may be operated by corporations formed under the laws of New York whose stockholders or members, as applicable, are not natural persons if such corporations and their principal stockholders and members, as applicable, and controlling persons comply with all applicable requirements of this section and demonstrate, to the satisfaction of the public health AND HEALTH PLANNING council, sufficient experience and expertise in delivering high quality end stage renal disease care. For purposes of this subdivision, the public health AND HEALTH PLANNING council shall adopt and amend rules and regulations,

notwithstanding any inconsistent provision of this section, to address any matter it deems pertinent to the establishment and operation of diagnostic or treatment centers pursuant to this subdivision; provided that such rules and regulations shall include, but not be limited to provisions governing or relating to: (i) any direct or indirect changes or transfers of ownership interests or voting rights in such corporations or their stockholders or members, as applicable, and provide for public health council approval of any change in controlling interests, principal stockholders, controlling persons, parent company or sponsors; (ii) oversight of the operator and its stockholders or members, as applicable, including local governance of the diagnostic or treatment centers; and (iii) relating to the character and competence and qualifications of, and changes relating to, the directors and officers of the operator and its principal stockholders, controlling persons, parent company or sponsors.

(b) The following provisions of this section shall not apply to diagnostic or treatment centers operated pursuant to this subdivision: (i) paragraph (b) of subdivision three of this section, relating to stockholders and members; (ii) paragraph (c) of subdivision four of this section, relating to the disposition of stock or voting rights; and (iii) paragraph (e) of subdivision four of this section, relating to the ownership of stock or membership.

16. (a) The commissioner shall charge to applicants for the establishment of hospitals the following application fee:

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|---|---|
| (i) For general hospitals: | $3,000 |
| (ii) For nursing homes: | $3,000 |
| (iii) For safety net diagnostic and treatment centers as defined in paragraph (c) of this subdivision: | $1,000 |
| (iv) For all other diagnostic and treatment centers: | $2,000 |

(b) An applicant for both establishment and construction of a hospital shall not be subject to this subdivision and shall be subject to fees and charges as set forth in section twenty-eight hundred two of this article.

(c) The commissioner may designate a diagnostic and treatment center or proposed diagnostic and treatment center as a "safety net diagnostic and treatment center" if it is operated or proposes to be operated by a not-for-profit corporation or local health department; participates or intends to participate in the medical assistance program; demonstrates or projects that a significant percentage of its visits, as determined by the commissioner, were by uninsured individuals; and principally provides primary care services as defined by the commissioner.

(d) The fees and charges paid by an applicant pursuant to this subdivision for any application for establishment of a hospital approved in accordance with this section shall be deemed allowable capital costs in the determination of reimbursement rates established pursuant to this article. The cost of such fees and charges shall not be subject to reimbursement ceiling or other penalties used by the commissioner for the purpose of establishing reimbursement rates pursuant to this article. All fees pursuant to this section shall be payable to the department of health for deposit into the special revenue funds - other, miscellaneous special revenue fund - 339, certificate of need account.

S 58. Subdivisions 1, 2, 2-b, 3-a and 3-c of section 2802 of the public health law, subdivision 1 as amended by chapter 470 of the laws of 1976, subdivision 2 as amended by chapter 609 of the laws of 1982, subdivision 2-b as added by chapter 731 of the laws of 1993, subdivision 3-a as added by chapter 376 of the laws of 1992 and subdivision 3-c as

added by chapter 97 of the laws of 1993, are amended and a new subdivision 1-a is added to read as follows:

1. An application for such construction shall be filed with the department, together with such other forms and information as shall be prescribed by, or acceptable to, the department. Thereafter the department shall forward a copy of the application and accompanying documents to the [state hospital review and] PUBLIC HEALTH AND HEALTH planning council and the health systems agency, IF ANY, having geographical jurisdiction of the area where the hospital is located.

1-A. THE FOLLOWING TYPES OF CONSTRUCTION PROJECTS BY A HOSPITAL POSSESSING A VALID OPERATING CERTIFICATE SHALL NOT REQUIRE PRIOR APPROVAL PURSUANT TO THIS SECTION:

(A) CORRECTION OF CITED DEFICIENCIES, PROVIDED THAT:

(I) THE CONSTRUCTION IS LIMITED TO THE CORRECTION OF THE DEFICIENCIES AND IS AUTHORIZED BY A PLAN OF CORRECTION APPROVED BY THE DEPARTMENT;

(II) A WRITTEN NOTICE HAS BEEN SUBMITTED TO THE DEPARTMENT TOGETHER WITH, WHERE APPROPRIATE, A WRITTEN ARCHITECT AND/OR ENGINEERING CERTIFICATION THAT THE PROJECT MEETS THE APPLICABLE STATUTES, CODES AND REGULATIONS SPECIFIED IN THE CERTIFICATION STATEMENT; AND

(III) THE HOSPITAL SHALL IMPLEMENT A PLAN TO PROTECT PATIENT SAFETY DURING CONSTRUCTION; AND

(B) OTHER PROJECTS AS SPECIFIED IN REGULATIONS ADOPTED BY THE COUNCIL AND APPROVED BY THE COMMISSIONER.

2. The commissioner shall not act upon an application for construction of a hospital until the [state hospital review and] PUBLIC HEALTH AND HEALTH planning council and the health systems agency have had a reasonable time to submit their recommendations, and unless (a) the applicant has obtained all approvals and consents required by law for its incorporation or establishment (including the approval of the public health AND HEALTH PLANNING council pursuant to the provisions of this article) provided, however, that the commissioner may act upon an application for construction by an applicant possessing a valid operating certificate when the application qualifies for review without the recommendation of the council pursuant to regulations adopted by the council and approved by the commissioner; and (b) the commissioner is satisfied as to the public need for the construction, at the time and place and under the circumstances proposed, provided however that, in the case of an application by a hospital established or operated by an organization defined in subdivision one of section [four hundred eighty-two-a] FOUR HUNDRED EIGHTY-TWO-B of the social services law, the needs of the members of the religious denomination concerned, for care or treatment in accordance with their religious or ethical convictions, shall be deemed to be public need.

2-b. Beginning on January first, nineteen hundred ninety-four, and each year thereafter, a complete application received between January first and June thirtieth of each year shall be reviewed by the appropriate health systems agency and the department and presented to the [state hospital review and] PUBLIC HEALTH AND HEALTH planning council for its consideration prior to June thirtieth of the following year and a complete application received between July first and December thirty-first of each year shall be reviewed by the appropriate health systems agency and the department and presented to the [state hospital review and] PUBLIC HEALTH AND HEALTH planning council for consideration prior to December thirty-first of the following year.

3-a. Review of applications from hospitals in epidemic areas and hospitals serving state correctional facilities to renovate or provide

for capital improvement for the purpose of controlling the spread of tuberculosis infection may be approved by the commissioner, who to the extent practicable may, but shall not be required to, consider the recommendations of the health systems agency and the [state hospital review and] PUBLIC HEALTH AND HEALTH planning council for applications for which he grants approval. In such cases the commissioner shall take further measures necessary to expedite departmental reviews for such approval.

3-c. An application shall state the proposed site or location of the proposed construction. Where the applicant changes the site or location after approval of the application, the commissioner may, subject to regulations under this article, approve the change upon a finding that the change is in the best interest of the service area. In making such determination, the commissioner may seek a review of the proposed change by the [state hospital review and] PUBLIC HEALTH AND HEALTH planning council and the health systems agency having geographical jurisdiction.

S 59. Paragraph (a) of subdivision 2 of section 2802-a of the public health law, as added by section 87 of part B of chapter 58 of the laws of 2005, is amended to read as follows:

(a) The commissioner shall act upon such applications in a manner consistent with section twenty-eight hundred two of this article provided that the commissioner may not waive review and recommendation by the [state hospital review and] PUBLIC HEALTH AND HEALTH planning council. In the [state hospital review and] PUBLIC HEALTH AND HEALTH planning council's evaluation of applications and the commissioner acting upon such applications, priority shall be given to applicants who have a memorandum of understanding or other cooperative agreement with one or more skilled nursing facilities located within their service area. Further, in the [state hospital review and] PUBLIC HEALTH AND HEALTH planning council evaluating applications and the commissioner acting upon such applications, consideration shall also be given to the geographic distribution of applicants throughout the state, so that applications may be approved from the various geographic regions of the state.

S 60. Subdivisions (a), (b), (e), (f) and (k) of section 2904 of the public health law are REPEALED and subdivisions (g) and (h), as amended by chapter 470 of the laws of 1976, are amended to read as follows:

(g) [The council and any] ANY health systems agency, with respect to any of the matters with which [they] IT may deal may hold such public hearings as [they] IT MAY deem appropriate and may require the submission of such information and documents as [they] IT may deem appropriate.

(h) The members [of the council or] of any health systems agency shall receive no compensation for their services but shall be reimbursed for expenses actually and necessarily incurred in the performance of their duties.

S 61. Section 3602 of the public health law is amended by adding a new subdivision 16 to read as follows:

16. "PUBLIC HEALTH COUNCIL" AND "STATE HOSPITAL REVIEW AND PLANNING COUNCIL" SHALL MEAN THE PUBLIC HEALTH AND HEALTH PLANNING COUNCIL.

S 62. Subdivisions 2, 3 and 4 of section 3605 of the public health law, as added by chapter 959 of the laws of 1984, are amended to read as follows:

2. The commissioner shall not issue a license to any home care services agency except with the written approval of the public health

AND HEALTH PLANNING council issued pursuant to the provisions of this section.

3. An application for licensure as a home care services agency shall be filed with the public health AND HEALTH PLANNING council together with such other forms and information as shall be prescribed by, or acceptable to, the public health AND HEALTH PLANNING council. Thereafter, the public health AND HEALTH PLANNING council shall forward for comment, if any, a copy of the application for licensure and accompanying documents to the [state hospital review and planning council and the] health systems agency, IF ANY, having geographical jurisdiction of the area where the services of the proposed agency are to be offered. The public health AND HEALTH PLANNING council shall act upon such application, after the [state hospital review and planning council and the] health systems agency [have] HAS had reasonable time to submit [their] ITS comments, based solely upon criteria provided for in subdivision four of this section. If the public health AND HEALTH PLANNING council proposes to disapprove the application, it shall notify the applicant, provide reasons for disapproval and afford the applicant a hearing on the application, if requested, or on its own motion. Any hearing held pursuant to this subdivision may be conducted by the public health AND HEALTH PLANNING council or by any individual designated by the public health AND HEALTH PLANNING council.

4. The public health AND HEALTH PLANNING council shall not approve an application for licensure unless it is satisfied as to the character, competence and standing in the community of the applicant's incorporators, directors, sponsors, stockholders or operators.

S 63. Subdivisions 1 and 2 of section 3606 of the public health law, as amended by chapter 959 of the laws of 1984, are amended to read as follows:

1. The commissioner shall not issue a certificate of approval to any home care services agency except with the written approval of the public health AND HEALTH PLANNING council. However, a residential health care facility or hospital making application to the commissioner solely for authorization to provide a long term home health care program shall be deemed to have met such requirement, provided that the facility or hospital possesses a valid operating certificate under article twenty-eight of this chapter.

2. An application for approval of the proposed certified home health agency shall be filed with the public health AND HEALTH PLANNING council together with such other forms and information as shall be prescribed by, or acceptable to, the public health AND HEALTH PLANNING council. Thereafter, the public health AND HEALTH PLANNING council shall forward a copy of the proposed application for establishment and accompanying documents to the [state hospital review and planning council and the] health systems agency, IF ANY, having geographical jurisdiction of the area where the services of the proposed certified home health agency are to be offered. The public health AND HEALTH PLANNING council shall act upon such application after the [state hospital review and planning council and the] health systems agency [have] HAS had a reasonable time to submit [their] ITS recommendations. At the time members of the public health AND HEALTH PLANNING council are notified that an application is scheduled for consideration, the applicant and the health systems agency shall be so notified in writing. The public health AND HEALTH PLANNING council shall not take any action contrary to the advice of [either the state hospital review and planning council or] the health systems agency until it affords to [either] THE HEALTH SYSTEMS AGENCY an opportunity to

request a public hearing and, if so requested, a public hearing shall be held. If the public health AND HEALTH PLANNING council proposes to disapprove the application it shall afford the applicant an opportunity to request a public hearing. The public health AND HEALTH PLANNING council may hold a public hearing on the application on its own motion. Any public hearing held pursuant to this subdivision may be conducted by the public health AND HEALTH PLANNING council or by any individual designated by the public health AND HEALTH PLANNING council.

The public health AND HEALTH PLANNING council shall not approve an application for establishment unless it is satisfied, insofar as applicable, as to (a) the public need for the existence of the certified home health agency at the time and place and under the circumstances proposed; (b) the character, competence, and standing in the community, of the proposed incorporators, directors and sponsors; (c) the financial resources of the proposed certified home health agency and its sources of future revenues; and (d) such other matters as it shall deem pertinent.

Neither the tax status nor profit-making status of proposed certified home health agencies shall be criteria for establishment.

S 64. Subdivisions 2 and 3 of section 3606-a of the public health law, as added by chapter 576 of the laws of 1981, are amended to read as follows:

2. An application for such construction shall be filed with the department, together with such other forms and information as shall be prescribed by, or acceptable to, the department. Thereafter the department shall forward a copy of the application and accompanying documents to the [state hospital review and planning council] PUBLIC HEALTH AND HEALTH PLANNING COUNCIL and the health systems agency, IF ANY, having geographical jurisdiction of the area where the agency is located.

3. The commissioner shall not act upon an application for construction unless (a) the applicant has obtained all approvals and consents required by law for its incorporation or establishment (including the approval of the public health AND HEALTH PLANNING council pursuant to the provisions of this article) and until the [state hospital review and planning] PUBLIC HEALTH AND HEALTH PLANNING council and the health systems agency, IF ANY, concerned have had a reasonable time to submit their recommendations; and (b) the commissioner is satisfied as to the public need for the construction, at the time and place and under the circumstances proposed.

S 65. Subdivision 2 of section 3610 of the public health law, as amended by chapter 433 of the laws of 1980, is amended to read as follows:

2. A hospital, residential health care facility, or certified home health agency seeking authorization to provide a long term home health care program shall transmit to the commissioner an application setting forth the scope of the proposed program. Such application shall be in a format and shall be submitted in a quantity determined by the commissioner. The commissioner shall transmit the application to the [state hospital review and planning council] PUBLIC HEALTH AND HEALTH PLANNING COUNCIL and to the health systems agency, IF ANY, having geographic jurisdiction of the area where the proposed program is to be located. The application shall include a detailed description of the proposed program including, but not limited to, the following:

(a) an outline of the institution's or agency's plans for the program;

(b) the need for the proposed program;

(c) the number and types of personnel to be employed;

(d) the ability of the agency, hospital, or facility to provide the program;
(e) the estimated number of visits to be provided;
(f) the geographic area in which the proposed programs will be provided;
(g) any special or unusual services, programs, or equipment to be provided;
(h) a demonstration that the proposed program is feasible and adequate in terms of both short range and long range goals;
(i) such other information as the commissioner may require.
The health systems agency and the [state hospital review and planning council] PUBLIC HEALTH AND HEALTH PLANNING COUNCIL shall review the application and submit their recommendations to the commissioner. At the time members of the [state hospital review and planning council] PUBLIC HEALTH AND HEALTH PLANNING COUNCIL are notified that an application is scheduled for consideration, the applicant and the health systems agency shall be so notified in writing. The health systems agency or the [state hospital review and planning council] PUBLIC HEALTH AND HEALTH PLANNING COUNCIL shall not recommend approval of the application unless it is satisfied as to:
(a) the public need for the program at the time and place and under the circumstances proposed;
(b) the financial resources of the provider of the proposed program and its sources of future revenues;
(c) the ability of the proposed program to meet those standards established for participation as a home health agency under title XVIII of the federal Social Security Act; and
(d) such other matters as it shall deem pertinent.
After receiving and considering the recommendations of the [state hospital review and planning council] PUBLIC HEALTH AND HEALTH PLANNING COUNCIL and the health systems agency, the commissioner shall make his OR HER determination. The commissioner shall act upon an application after the [state hospital review and planning council] PUBLIC HEALTH AND HEALTH PLANNING COUNCIL and the health systems agency have had a reasonable time to submit their recommendations. The commissioner shall not take any action contrary to the advice of either until he OR SHE affords to either an opportunity to request a public hearing and, if so requested, a public hearing shall be held. The commissioner shall not approve the application unless he OR SHE is satisfied as to the detailed description of the proposed program and
(a) the public need for the existence of the program at the time and place and under the circumstances proposed;
(b) the financial resources of the provider of the proposed program and its sources of future revenues;
(c) the ability of the proposed program to meet those standards established for participation as a home health agency under title XVIII of the federal Social Security Act; and
(d) such other matters as he OR SHE shall deem pertinent.
If the application is approved, the applicant shall be so notified in writing. The commissioner's written approval of the application shall constitute authorization to provide a long term home health care program. In making his OR HER authorization, the commissioner shall stipulate the maximum number of persons which a provider of a long term home health care program may serve. If the commissioner proposes to disapprove the application, he OR SHE shall notify the applicant in

writing, stating his OR HER reasons for disapproval, and afford the applicant an opportunity for a public hearing.

S 66. Subdivision 2 of section 3611 of the public health law, as added by chapter 959 of the laws of 1984, is amended to read as follows:

2. The public health AND HEALTH PLANNING council shall not act upon an application for licensure or a certificate of approval for any agency referred to in [paragraph] SUBDIVISION one of this section unless it is satisfied as to the character, competence and standing in the community of the proposed incorporators, directors, sponsors, controlling persons, principal stockholders of the parent corporation, health related subsidiary corporation and the New York state corporation established pursuant to paragraph (a) of subdivision one of this section. For the purposes of this section the public health AND HEALTH PLANNING council may adopt rules and regulations relative to what constitutes parent and subsidiary corporations.

S 67. Subdivisions 1 and 2 of section 3611-a of the public health law, as amended by section 92 of part C of chapter 58 of the laws of 2009, are amended to read as follows:

1. Any change in the person who, or any transfer, assignment, or other disposition of an interest or voting rights of ten percent or more, or any transfer, assignment or other disposition which results in the ownership or control of an interest or voting rights of ten percent or more, in a limited liability company or a partnership which is the operator of a licensed home care services agency or a certified home health agency shall be approved by the public health AND HEALTH PLANNING council, in accordance with the provisions of subdivision four of section thirty-six hundred five of this article relative to licensure or subdivision two of section thirty-six hundred six of this article relative to certificate of approval, except that:

(a) Public health AND HEALTH PLANNING council approval shall be required only with respect to the person, or the member or partner that is acquiring the interest or voting rights; and

(b) With respect to certified home health agencies, such change shall not be subject to the public need assessment described in paragraph (a) of subdivision two of section thirty-six hundred six of this article.

(c) No prior approval of the public health AND HEALTH PLANNING council shall be required with respect to a transfer, assignment or disposition of:

(i) an interest or voting rights to any person previously approved by the public health AND HEALTH PLANNING council, OR ITS PREDECESSOR, for that operator; or

(ii) an interest or voting rights of less than ten percent in the operator. However, no such transaction shall be effective unless at least ninety days prior to the intended effective date thereof, the partner or member completes and files with the public health AND HEALTH PLANNING council notice on forms to be developed by the public health council, which shall disclose such information as may reasonably be necessary for the public health AND HEALTH PLANNING council to determine whether it should bar the transaction. Such transaction will be final as of the intended effective date unless, prior thereto, the public health AND HEALTH PLANNING council shall state specific reasons for barring such transactions under this paragraph and shall notify each party to the proposed transaction.

2. Any transfer, assignment or other disposition of ten percent or more of the stock or voting rights thereunder of a corporation which is the operator of a licensed home care services agency or a certified home

health agency, or any transfer, assignment or other disposition of the stock or voting rights thereunder of such a corporation which results in the ownership or control of more than ten percent of the stock or voting rights thereunder of such corporation by any person shall be subject to approval by the public health AND HEALTH PLANNING council in accordance with the provisions of subdivision four of section thirty-six hundred five of this article relative to licensure or subdivision two of section thirty-six hundred six of this article relative to certificate of approval, except that:

(a) Public health [council] AND HEALTH PLANNING COUNCIL approval shall be required only with respect to the person or entity acquiring such stock or voting rights; and

(b) With respect to certified home health agencies, such change shall not be subject to the public need assessment described in paragraph (a) of subdivision two of section thirty-six hundred six of this article. In the absence of such approval, the license or certificate of approval shall be subject to revocation or suspension.

(c) No prior approval of the public health AND HEALTH PLANNING council shall be required with respect to a transfer, assignment or disposition of an interest or voting rights to any person previously approved by the public health AND HEALTH PLANNING council, OR ITS PREDECESSOR, for that operator. However, no such transaction shall be effective unless at least one hundred twenty days prior to the intended effective date thereof, the partner or member completes and files with the public health AND HEALTH PLANNING council notice on forms to be developed by the public health AND HEALTH PLANNING council, which shall disclose such information as may reasonably be necessary for the public health AND HEALTH PLANNING council to determine whether it should bar the transaction. Such transaction will be final as of the intended effective date unless, prior thereto, the public health AND HEALTH PLANNING council shall state specific reasons for barring such transactions under this paragraph and shall notify each party to the proposed transaction.

S 68. Section 4002 of the public health law is amended by adding a new subdivision 4 to read as follows:

4. "PUBLIC HEALTH COUNCIL" AND "STATE HOSPITAL REVIEW AND PLANNING COUNCIL" SHALL MEAN THE PUBLIC HEALTH AND HEALTH PLANNING COUNCIL.

S 69. Subdivisions 1, 2, 3 and 4 of section 4004 of the public health law, as added by chapter 416 of the laws of 1983, are amended to read as follows:

1. The commissioner shall not issue a certificate of approval to any hospice except with the written approval of the public health AND HEALTH PLANNING council. However, a hospice demonstration program participant making application to the commissioner solely to establish a hospice shall be deemed to have met such requirement.

2. An application for approval of the proposed hospice shall be filed with the public health AND HEALTH PLANNING council together with such other forms and information as shall be prescribed by, or acceptable to, the public health AND HEALTH PLANNING council. Thereafter, the public health AND HEALTH PLANNING council shall forward a copy of the proposed application for establishment and accompanying documents to the [state hospital review and planning council and the] health systems agency, IF ANY, having geographical jurisdiction of the area where the services of the proposed hospice are to be offered. The public health AND HEALTH PLANNING council shall act upon such application after the [state hospital review and planning council and the] health systems agency [have] HAS had a reasonable time to submit [their] ITS recommendations. At the

time members of the public health AND HEALTH PLANNING council are notified that an application is scheduled for consideration, the applicant and the health systems agency shall be so notified in writing. The public health AND HEALTH PLANNING council shall not take any action contrary to the advice of [either the state hospital review and planning council or] the health systems agency until it affords to [either] THE HEALTH SYSTEM AGENCY an opportunity to request a public hearing and, if so requested, a public hearing shall be held. If the public health AND HEALTH PLANNING council proposes to disapprove the application, it shall afford the applicant an opportunity to request a public hearing. The public health AND HEALTH PLANNING council may hold a public hearing on the application on its own motion. Any public hearing held pursuant to this subdivision may be conducted by the public health AND HEALTH PLANNING council or by any individual designated by the public health AND HEALTH PLANNING council. The public health AND HEALTH PLANNING council shall not approve an application for establishment unless it is satisfied, insofar as applicable, as to (a) the public need for the existence of the hospice at the time and place and under the circumstances proposed; (b) the character, competence, and standing in the community, of the proposed incorporators, directors, sponsors, stockholders or operators; (c) the financial resources of the proposed hospice and its sources of future revenues; and (d) such other matters as it shall deem pertinent.

3. (a) No hospice shall be approved for establishment which would be operated by a corporation any of the stock of which is owned by another corporation.

(b) Any change in the person, principal stockholder or partnership which is the operator of a hospice shall be approved by the public health AND HEALTH PLANNING council in accordance with the provisions of subdivisions one and two of this section.

4. (a) The public health AND HEALTH PLANNING council, by a majority vote of its members, shall adopt and amend rules and regulations, to effectuate the provisions and purposes of this section, and to provide for the revocation, limitation or annulment of approvals of establishment.

(b) (i) No approval of establishment shall be revoked, limited or annulled without first offering the person who received such approval the opportunity of requesting a public hearing, (ii) the commissioner, at the request of the public health AND HEALTH PLANNING council, shall fix a time and place for any such hearing requested, (iii) notice of the time and place of the hearing shall be served in person or mailed by registered mail to the person who has received establishment approval at least twenty-one days before the date fixed for the hearing, (iv) such person shall file with the department, not less than eight days prior to the hearing, a written answer, (v) all orders or determinations hereunder shall be subject to review as provided in article seventy-eight of the civil practice law and rules. Application for such review must be made within sixty days after service in person or by registered mail of a copy of such order or determination.

S 70. Subdivisions 2 and 3 of section 4006 of the public health law, as added by chapter 416 of the laws of 1983, are amended to read as follows:

2. An application for such construction shall be filed with the department, together with such other forms and information as shall be prescribed by, or acceptable to, the department. Thereafter the department shall forward a copy of the application and accompanying documents

to the [state hospital review and] PUBLIC HEALTH AND HEALTH planning council and the health systems agency, IF ANY, having geographical jurisdiction of the area where the hospice is located.

3. The commissioner shall not act upon an application for construction unless (a) the applicant has obtained all approvals and consents required by law for its incorporation or establishment (including the approval of the public health AND HEALTH PLANNING council pursuant to the provisions of this article) and until the [state hospital review and] PUBLIC HEALTH AND HEALTH planning council and the health systems agency concerned have had a reasonable time to submit their recommendations, and (b) the commissioner is satisfied as to the public need for the construction, at the time and place and under the circumstances proposed.

S 71. Paragraph (e) of section 201 of the business corporation law, as added by chapter 669 of the laws of 1977, is amended to read as follows:

(e) A corporation may not include as its purpose or among its purposes the establishment or maintenance of a hospital or facility providing health related services, as those terms are defined in article twenty-eight of the public health law unless its certificate of incorporation shall so state and such certificate shall have annexed thereto the approval of the public health AND HEALTH PLANNING council.

S 72. Section 205-a of the county law, as added by chapter 873 of the laws of 1976, is amended to read as follows:

S 205-a. Certain pilot projects. Any county operating a county hospital employing physicians and dentists pursuant to a pilot project approved by the public health AND HEALTH PLANNING council, whereby such physicians and dentists may receive fees for private professional services rendered in accordance with section one hundred thirty of the general municipal law in addition to the amount of remuneration fixed by the respective county legislative bodies for regular services, shall be required to adopt rules and regulations to govern such fees. Such rules and regulations shall be subject to the approval of the public health AND HEALTH PLANNING council.

S 73. Subdivision 1-a of section 250 of the county law, as added by chapter 622 of the laws of 1984, is amended to read as follows:

1-a. For the purpose of (a) procuring by purchase, lease or other means and installing water quality treatment units or devices, if required; providing periodic testing and monitoring of raw and finished water from private wells in the district; monitoring, modifying, repairing, replacing, operation and maintenance, regenerating water quality treatment units and devices and the administering of the treatment and disposal of residuals generated in the operation of the district pursuant to rules and regulations adopted by the public health AND HEALTH PLANNING council under section two hundred twenty-five of the public health law; (b) assisting local, state and federal agencies and officials in efforts to establish causes of, and implement remedial measures to reduce water contamination and protect future water resources within the district; (c) conduct public meetings and issue an annual public report to members of the district on the operation, financial position and water quality condition of said district; provided, however, that with respect to any town in the county the board of supervisors shall first determine that such district or service will not be established or provided by such town.

S 74. Subdivision 1 of section 253 of the county law, as amended by chapter 622 of the laws of 1984, is amended to read as follows:

1. A petition may be presented to the board of supervisors requesting that a certain area or areas of the county be established as a county district. Such petition shall be executed and acknowledged on behalf of a municipality or district, any part of which is included within such area or areas, by the chief executive officer of such municipality, or of such district furnishing a similar service as the district to be established hereunder. In lieu of execution of the petition by the chief executive officer of such municipality or district, the petition may be executed and acknowledged by at least twenty-five owners of taxable real property of record situated within such municipality or district, or in Suffolk county, if all of the taxable real property of record situate within such municipality which is to be included within a certain area or areas of the county to be established as a county district is owned by one or more but less than twenty-five owners, then the petition may be executed and acknowledged by one or more of said owners within the area or areas to be established as a county district. Upon presentation of such a petition or on its own motion, the board of supervisors may direct the agency to cause maps and plans to be prepared for a project as requested in the petition or for the establishment of a certain area or areas of the county as a county district, provided, however, that if the petitioning municipality, district or owners of taxable property undertake to furnish or pay the cost of such maps and plans at its or their cost and expense, the board of supervisors shall direct the agency to accept or prepare the same. In the case of a petition to create or extend a water quality treatment district, the petition may be executed and acknowledged by one or more of the owners of taxable real property of record situated within such municipality whose private well water is contaminated. At the time the petition is executed and acknowledged, notice and copy of such petition shall be submitted to the state department of health. Such maps or plans shall show (1) the boundaries of the area or areas which the agency in its judgment considers will be benefited by the particular project, (2) a description of the area or areas sufficient to permit definite and conclusive identification of all parcels of property included therein, (3) the proposed location of all facilities such as (a) reservoirs, stand pipes, wells, pumping stations, water purification or treatment works, mains and hydrants, the source of water supply, a description of the lands, streams, water or water rights to be acquired and the mode of constructing the proposed water works, (b) benefited parcels of properties with water quality treatment units or devices installed prior to the formation of the district and/or those properties requiring installation of water quality treatment units or devices and the mode and frequency of testing, monitoring, modifying if required, operation and maintenance, regenerating of such water quality treatment units or devices and the administering of the treatment and disposal of residuals and any other requirements pursuant to rules and regulations adopted by the public health AND HEALTH PLANNING council under section two hundred twenty-five of the public health law. Any water quality treatment unit or device which has been installed prior to the formation of the district must be approved pursuant to rules and regulations adopted by the public health AND HEALTH PLANNING council under section two hundred twenty-five of the public health law, prior to acceptance of such unit or device and its benefited property within the district, (c) trunk, interceptor and outfall sewers, pumping stations, sewage treatment and disposal works, (d) properties requiring construction or replacement of private on-site wastewater disposal systems and the mode and frequency of conveying, treating and disposing

of wastewater and residual wastewater, (e) drains, ditches, channels, pumping stations, dams, dikes, bulkheads and retaining walls, or (f) refuse disposal and incinerator plants and all necessary appliances appurtenant thereto, (4) estimates of the cost of construction, or procurement and installation of the facilities, and/or in the case of water quality treatment districts, estimates of the costs of monitoring, testing, modifying, if required, operation and maintenance, regenerating of such water quality treatment units or devices and the treatment and disposal of residuals, as shown on the maps and plans and the method of financing the same and (5) an evaluation of rehabilitation needs based upon water quality, public use and private development, special wildlife, scenic or other values, sedimentation, shoreland zoning, potential for adequate pollution and erosion controls within the drainage basin, and potential for future successful management. Such maps and plans pertaining to sewer districts shall be consistent with, so far as possible, any comprehensive plan for sewers developed pursuant to section 17-1901 of the environmental conservation law. Such maps and plans pertaining to water districts shall be consistent with, so far as possible, any comprehensive plan for public water supply systems developed pursuant to title thirteen of article fifteen of the environmental conservation law.

S 75. Paragraph b of subdivision 1 of section 483 of the general business law, as added by section 3 of part B of chapter 58 of the laws of 2006, is amended to read as follows:

b. Pursuant to section two hundred twenty-five of the public health law, the public health AND HEALTH PLANNING council, subject to the approval of the commissioner of health, is hereby authorized and directed to prescribe such rules and regulations as may be necessary and proper for the administration and enforcement of this article with respect to radioactive material and radiation equipment. Such regulations may require the posting of a bond or other security.

S 76. The second undesignated paragraph of section 135-b of the general municipal law, as added by chapter 161 of the laws of 1922, is amended to read as follows:

The chief medical officer of such public general hospital, tuberculosis hospital or sanatorium shall have authority to employ one or more occupational therapists to carry on the work of such department under his supervision. The qualifications of occupational therapists so employed shall be defined by the public health AND HEALTH PLANNING council.

S 77. Paragraph 7 of subdivision (a) and subdivision (b) of section 7.05 of the mental hygiene law, paragraph 7 of subdivision (a) as amended by chapter 725 of the laws of 1982 and as renumbered by chapter 410 of the laws of 2008 and subdivision (b) as added by chapter 724 of the laws of 1982, are amended to read as follows:

7. the two members of the [state hospital review and planning council] PUBLIC HEALTH AND HEALTH PLANNING COUNCIL appointed by the governor pursuant to subdivision (b) of this section.

(b) The chairman shall recommend two members of the council for appointment by the governor to the [hospital review and planning council] PUBLIC HEALTH AND HEALTH PLANNING COUNCIL pursuant to section [twenty-nine hundred four] TWO HUNDRED TWENTY of the public health law.

S 78. Subparagraph 1 of paragraph (a) of section 301 of the not-for-profit corporation law, as amended by chapter 669 of the laws of 1977, is amended to read as follows:

(1) Shall, unless the corporation is formed for charitable or religious purposes, or for purposes for which the approval of the commissioner of social services or the public health AND HEALTH PLANNING council is required, or is a bar association, contain the word "corporation", "incorporated" or "limited" or an abbreviation of one of such words; or, in the case of a foreign corporation, it shall, for use in this state, add at the end of its name one of such words or an abbreviation thereof.

S 79. Paragraphs (o), (p) and (t) of section 404 of the not-for-profit corporation law, as amended by chapter 139 of the laws of 1993 and as relettered by chapter 431 of the laws of 1993, are amended to read as follows:

(o) Every certificate of incorporation which includes among its corporate purposes or powers the establishment or maintenance of any hospital, as defined in article twenty-eight of the public health law, or the solicitation of contributions for any such purpose, or purposes, shall have endorsed thereon or annexed thereto the approval of the public health AND HEALTH PLANNING council.

(p) Every certificate of incorporation of a medical corporation as defined in article forty-four of the public health law and organized pursuant thereto and pursuant to this chapter, shall have endorsed thereon or annexed thereto the consent of the commissioner of health and the approval of the public health AND HEALTH PLANNING council.

(t) Every certificate of incorporation which includes among its purposes and powers the establishment or maintenance of a hospital or facility providing health related services, as those terms are defined in article twenty-eight of the public health law, or the solicitation of contributions for any such purpose or two or more of such purposes, shall have endorsed thereon the approval of the public health AND HEALTH PLANNING council.

S 80. Subdivision 4 of section 364 of the social services law, as amended by chapter 474 of the laws of 1996, is amended to read as follows:

4. The public health AND HEALTH PLANNING council shall be responsible for establishing and maintaining qualifications for persons employed by social services districts as professional directors.

S 81. Subdivision 2 of section 365-b of the social services law, as amended by chapter 770 of the laws of 1977, is amended to read as follows:

2. The commissioner of social services of each social services district shall appoint a person, possessing the qualifications established by the public health AND HEALTH PLANNING council and promulgated by the department pursuant to section three hundred sixty-four OF THIS TITLE, to serve on a full or part-time basis. Each professional director shall serve under the general direction of the commissioner of social services and shall have the responsibility for supervising the program of medical assistance for needy persons in his social services district, pursuant to the regulations of the department. The state commissioner of health may authorize two or more social services districts to appoint the same person to serve as professional director in each of such districts.

S 82. Paragraphs (b), (c), (e) and (f) of subdivision 3 of section 461-l of the social services law, as added by chapter 165 of the laws of 1991, are amended to read as follows:

(b) If the application for the proposed program includes an application for licensure as a home care service agency, the department of

health shall forward the application for the proposed program and accompanying documents to the public health AND HEALTH PLANNING council for its written approval in accordance with the provisions of section thirty-six hundred five of the public health law.

(c) An application for an assisted living program shall not be approved unless the commissioner is satisfied as to:

(i) the character, competence and standing in the community of the operator of the adult care facility;

(ii) the financial responsibility of the operator of the adult care facility;

(iii) that the buildings, equipment, staff, standards of care and records of the adult care facility to be employed in the operation comply with applicable law, rule and regulation;

(iv) the commissioner of health is satisfied that the licensed home care agency has received the written approval of the public health AND HEALTH PLANNING council as required by paragraph (b) of this subdivision and the equipment, personnel, rules, standards of care, and home care services provided by [a] THE licensed home care agency and certified home health agency or long term home health care program are fit and adequate and will be provided in the manner required by article thirty-six of the public health law and the rules and regulations thereunder; and

(v) the commissioner and the commissioner of health are satisfied as to the public need for the assisted living program.

(e) The commissioner of health shall provide written notice of approval or disapproval of portions of the proposed application concerning a licensed home care agency, certified home health agency or long term home health care program, and, where applicable, of the approval or disapproval of the public health AND HEALTH PLANNING council to the commissioner. If an application receives all the necessary approvals, the commissioner shall notify the applicant in writing. The commissioner's written approval shall constitute authorization to operate an assisted living program.

(f) No assisted living program may be operated without the written approval of the department, the department of health and, where applicable, the public health AND HEALTH PLANNING council.

S 83. Subdivision 21 of section 130 of the town law, as amended by chapter 465 of the laws of 1955, is amended to read as follows:

21. House trailer camps, tourist camps and house trailers. Regulating house trailer camps, tourist camps or similar establishments; requiring approval of suitable plans for house trailer camps and tourist camps and prescribing regulations therefor including provision for sewer connection, water supply, toilets, bathing facilities, garbage removal, registration of occupants, inspection of camps. The town board may either adopt the provisions of the sanitary code established by the public health AND HEALTH PLANNING council or may formulate other rules and regulations relating to house trailer camps, tourist camps or similar establishments not inconsistent with the provisions of such state sanitary code. Regulating the parking, storage or otherwise locating of house trailers when used or occupied as living or sleeping quarters in any part of the town outside an established house trailer camp, tourist camp or similar establishment; providing time limits on duration of the stay of such house trailers and requiring registration of such house trailers when so used.

S 84. Subdivisions 1 and 2 of section 190-g of the town law, as added by chapter 622 of the laws of 1984, is amended to read as follows:

1. The town board of any town is hereby authorized to establish or extend a water quality treatment district, or more than one such district, for the purposes of (a) procuring by purchase, lease or other means, and installing water quality treatment units or devices, if required; providing periodic testing and monitoring of raw and finished water from private wells in the district; monitoring, modifying, repairing, replacing, operation and maintenance, regenerating water quality treatment units and devices and the administering of the treatment and disposal of residuals generated in the operation of the district pursuant to rules and regulations adopted by the public health AND HEALTH PLANNING council under section two hundred twenty-five of the public health law; (b) assisting local, state and federal agencies and officials in efforts to establish causes of, and implement remedial measures to reduce, water contamination and protect future water resources within the district; (c) conduct public meetings and issue an annual public report to members of the district on the operation, financial position and water quality condition of said district.

2. A water quality treatment district established hereunder may consist of noncontiguous or contiguous benefited parcels of property and shall be created by a resolution of the town board, upon petition after a public hearing. The petition may be executed and acknowledged by one or more of the owners of taxable real property of record situated within the town whose private well water is contaminated and at the time the petition is executed and acknowledged, notice and copy of such petition shall be submitted to the state department of health. Upon a petition signed and acknowledged the town board may, or on its own motion, after a public hearing, assemble data relating to the number and location of private wells within the town, the contaminants present in the water supply in such town's private wells, (for the purposes of this section, "contaminants" shall mean those substances found in amounts or concentrations which violate federal, state or local laws, guidelines or rules and regulations relating to drinking water or which may pose a risk to public health), the extent of contamination of the water supply in the town's private wells, and the availability of appropriate treatment technologies for the contaminants found to be present, or which are reasonably expected to be found, currently or in the future, in the water supply in the town's private wells. Upon presentation of the petition or on its own motion, the town board may direct or cause maps and plans to be prepared, provided however, that if the owner or owners of taxable real property undertake to furnish or pay the cost of such maps and plans at his or their cost and expense, the town board shall accept or prepare the same or the town board may adopt a resolution, subject to a permissive referendum, appropriating a specific amount to pay the cost of preparing a general map and plan for providing water quality treatment units or devices and related services. The town board may determine that such maps and plans shall be prepared by or under the supervision of town officers and employees to be designated by the town board, or by persons to be employed for that purpose, or the town board may contract for the preparation thereof, within the limitations of the amount appropriated. Except as otherwise provided herein, the expense incurred for the preparation of such maps and plans shall be a town charge, and shall be assessed, levied and collected in the same manner as other town charges. If the town board shall thereafter establish or extend a water quality treatment district, the expense incurred by the town for the preparation of the maps and plans therefor shall be deemed to be part of the cost of such improvement, and the town shall be reimbursed the

amount paid therefor, or such portion of that amount which the town board, at the public hearing held pursuant to section one hundred ninety-four of this chapter, shall allocate against such district. Nothing in this section contained, or in any other section of this act, shall be construed to prevent the financing, in whole or in part, of expenditures by private sources, grants or by other means. All such maps and plans shall be filed with the town clerk. Such maps and plans shall show (1) the location of all benefited parcels of properties with water quality treatment units or devices installed prior to the formation of the district and/or those properties requiring installation of water quality treatment units or devices and the mode and frequency of testing, monitoring, modifying if required, operation and maintenance, regenerating of such water quality treatment units or devices and the administering of the treatment and disposal of residuals and any other requirements pursuant to rules and regulations adopted by the public health AND HEALTH PLANNING council under section two hundred twenty-five of the public health law, and (2) estimates of the costs of procurement, installation, monitoring, testing, modifying, if required, operation and maintenance, regenerating of such water quality treatment units or devices and the treatment and disposal of residuals, and the method of financing the same. Any water quality treatment unit or device which has been installed prior to the formation of the district must be approved pursuant to rules and regulations adopted by the public health AND HEALTH PLANNING council under section two hundred twenty-five of the public health law, prior to acceptance of such unit or device and its benefited property within the district.

S 85. Subdivision 3 of section 13-b of the workers' compensation law, as amended by chapter 1068 of the laws of 1960, is amended to read as follows:

3. Laboratories and bureaus engaged in x-ray diagnosis or treatment or in physiotherapy or other therapeutic procedures and which participate in the diagnosis or treatment of injured workmen under this chapter shall be operated or supervised by qualified physicians duly authorized under this chapter and shall be subject to the provisions of section thirteen-c of this [chapter] ARTICLE. The person in charge of diagnostic clinical laboratories duly authorized under this chapter shall possess the qualifications established by the public health AND HEALTH PLANNING council for approval by the state commissioner of health or, in the city of New York, the qualifications approved by the board of health of said city and shall maintain the standards of work required for such approval.

S 86. This act shall take effect immediately and shall be deemed to have been in full force and effect on and after April 1, 2010, provided however that:

(a) section eight of this act shall take effect July 1, 2010;

(b) section nine of this act shall take effect on the one hundred eightieth day after it shall have become a law;

(c) the amendments to section 1 of part C of chapter 57 of the laws of 2006 made by section ten of this act shall not affect the repeal of such section and shall be deemed repealed therewith;

(c-1) the amendments to subdivision 10 of section 3615 of the public health law made by section thirty of this act shall not affect the expiration of such section and shall expire therewith;

(d) the amendments to subdivision 1 of section 210 of the elder law made by section forty-two of this act shall take effect on the first of September next succeeding the date on which it shall have become a law;

(e) the amendments to paragraph (a) of subdivision 2 of section 2802-a of the public health law made by section fifty-nine of this act shall not affect the repeal of such section and shall be deemed repealed therewith; and

(f) sections forty-three through eighty-five of this act shall take effect December 1, 2010, provided however, that the public health and health planning council shall be authorized to complete action on any application, regulation, complaint or other matter under consideration by the public health council or state hospital review and planning council on such effective date; and provided further that any final approval granted or regulation adopted by the public health council or state hospital review and planning council shall remain in effect according to its terms after the effective date of this act, unless otherwise lawfully annulled, revoked, modified, amended, limited or suspended.

PART B

Section 1. Intentionally omitted.

S 2. Paragraph (a) of subdivision 1 of section 212 of chapter 474 of the laws of 1996, amending the education law and other laws relating to rates for residential health care facilities, as amended by section 12 of part B of chapter 58 of the laws of 2009, is amended to read as follows:

(a) Notwithstanding any inconsistent provision of law or regulation to the contrary, effective beginning August 1, 1996, for the period April 1, 1997 through March 31, 1998, April 1, 1998 for the period April 1, 1998 through March 31, 1999, August 1, 1999, for the period April 1, 1999 through March 31, 2000, April 1, 2000, for the period April 1, 2000 through March 31, 2001, April 1, 2001, for the period April 1, 2001 through March 31, 2002, April 1, 2002, for the period April 1, 2002 through March 31, 2003, and for the state fiscal year beginning April 1, 2005 through March 31, 2006, and for the state fiscal year beginning April 1, 2006 through March 31, 2007, and for the state fiscal year beginning April 1, 2007 through March 31, 2008, and for the state fiscal year beginning April 1, 2008 through March 31, 2009, and for the state fiscal year beginning April 1, 2009 through March 31, 2010, and for the state fiscal year beginning April 1, 2010 through March 31, 2011, the department of health is authorized to pay public general hospitals, as defined in subdivision 10 of section 2801 of the public health law, operated by the state of New York or by the state university of New York or by a county, which shall not include a city with a population of over one million, of the state of New York, and those public general hospitals located in the county of Westchester, the county of Erie or the county of Nassau, additional payments for inpatient hospital services as medical assistance payments pursuant to title 11 of article 5 of the social services law for patients eligible for federal financial participation under title XIX of the federal social security act in medical assistance pursuant to the federal laws and regulations governing disproportionate share payments to hospitals up to one hundred percent of each such public general hospital's medical assistance and uninsured patient losses after all other medical assistance, including disproportionate share payments to such public general hospital for 1996, 1997, 1998, and 1999, based initially for 1996 on reported 1994 reconciled data as further reconciled to actual reported 1996 reconciled data, and for 1997 based initially on reported 1995 reconciled data as further reconciled to actual reported 1997 reconciled data, for 1998 based

initially on reported 1995 reconciled data as further reconciled to actual reported 1998 reconciled data, for 1999 based initially on reported 1995 reconciled data as further reconciled to actual reported 1999 reconciled data, for 2000 based initially on reported 1995 reconciled data as further reconciled to actual reported 2000 data, for 2001 based initially on reported 1995 reconciled data as further reconciled to actual reported 2001 data, for 2002 based initially on reported 2000 reconciled data as further reconciled to actual reported 2002 data, and for state fiscal years beginning on April 1, 2005, based initially on reported 2000 reconciled data as further reconciled to actual reported data for 2005, and for state fiscal years beginning on April 1, 2006, based initially on reported 2000 reconciled data as further reconciled to actual reported data for 2006, for state fiscal years beginning on and after April 1, 2007 through March 31, 2009, based initially on reported 2000 reconciled data as further reconciled to actual reported data for 2007 AND 2008, RESPECTIVELY, for state fiscal years beginning on and after April 1, 2009, based initially on reported 2007 reconciled data, adjusted for authorized Medicaid rate changes applicable to the state fiscal year, and as further reconciled to actual reported data for 2009, FOR STATE FISCAL YEARS BEGINNING ON AND AFTER APRIL 1, 2010, BASED INITIALLY ON REPORTED RECONCILED DATA FROM THE BASE YEAR TWO YEARS PRIOR TO THE PAYMENT YEAR, ADJUSTED FOR AUTHORIZED MEDICAID RATE CHANGES APPLICABLE TO THE STATE FISCAL YEAR, AND FURTHER RECONCILED TO ACTUAL REPORTED DATA FROM SUCH PAYMENT YEAR, and to actual reported data for each respective succeeding year. The payments may be added to rates of payment or made as aggregate payments to an eligible public general hospital.

S 3. Paragraph (b) of subdivision 1 of section 211 of chapter 474 of the laws of 1996, amending the education law and other laws relating to rates for residential health care facilities, as amended by section 13 of part B of chapter 58 of the laws of 2009, is amended to read as follows:

(b) Notwithstanding any inconsistent provision of law or regulation to the contrary, effective beginning April 1, 2000, the department of health is authorized to pay public general hospitals, other than those operated by the state of New York or the state university of New York, as defined in subdivision 10 of section 2801 of the public health law, located in a city with a population of over 1 million, additional initial payments for inpatient hospital services of $120 million during each state fiscal year until March 31, 2003, and up to $120 million during the state fiscal year beginning April 1, 2005 through March 31, 2006 and during the state fiscal year beginning April 1, 2006 through March 31, 2007 and during the state fiscal year beginning April 1, 2007 through March 31, 2008 and during the state fiscal year beginning April 1, 2008 through March 31, 2009, and up to four hundred twenty million dollars [annually for the state fiscal year beginning April 1, 2009 through March 31, 2010, and] FOR THE STATE FISCAL YEAR BEGINNING APRIL 1, 2009 THROUGH MARCH 31, 2010, AND FOUR HUNDRED TWENTY MILLION DOLLARS, AS FURTHER INCREASED BY UP TO THE MAXIMUM PAYMENT AMOUNTS PERMITTED UNDER SECTIONS 1923(F) AND 1923(G) OF THE FEDERAL SOCIAL SECURITY ACT, AS DETERMINED BY THE COMMISSIONER OF HEALTH AFTER APPLICATION OF ALL OTHER DISPROPORTIONATE SHARE HOSPITAL PAYMENTS AUTHORIZED BY STATE LAW, for the state fiscal year beginning April 1, 2010 through March 31, 2011 and up to one hundred twenty million dollars, AS FURTHER INCREASED BY UP TO THE MAXIMUM PAYMENT AMOUNTS PERMITTED UNDER SECTIONS 1923(F) AND 1923(G) OF THE FEDERAL SOCIAL SECURITY ACT, AS DETERMINED BY THE COMMIS-

SIONER OF HEALTH AFTER APPLICATION OF ALL OTHER DISPROPORTIONATE SHARE HOSPITAL PAYMENTS AUTHORIZED BY STATE LAW, annually for the state fiscal year beginning April 1, 2011, and annually thereafter, as medical assistance payments pursuant to title 11 of article 5 of the social services law for patients eligible for federal financial participation under title XIX of the federal social security act in medical assistance pursuant to the federal laws and regulations governing disproportionate share payments to hospitals based on the relative share of each such non-state operated public general hospital of medical assistance and uninsured patient losses after all other medical assistance, including disproportionate share payments to such public general hospitals for payments made during the state fiscal year ending March 31, 2001, based initially on reported 1995 reconciled data as further reconciled to actual reported 2000 or 2001 data, for payments made during the state fiscal year ending March 31, 2002, based initially on reported 1995 reconciled data as further reconciled to actual reported 2001 or 2002 data, for payments made during the state fiscal year ending March 31, 2003, based initially on reported 2000 reconciled data as further reconciled to actual reported 2002 or 2003 data, for payments made during the state fiscal year ending on [and after] March 31, 2006, based initially on reported 2000 reconciled data as further reconciled to actual reported 2005 or 2006 data, for payments made during the state fiscal year ending on [and after] March 31, 2007, based initially on reported 2000 reconciled data as further reconciled to actual reported 2006 or 2007 data, for payments made during the state fiscal years ending on [and after] March 31, 2008, based initially on reported 2000 reconciled data as further reconciled to actual reported 2007 or 2008 data, AND ACTUAL REPORTED 2008 OR 2009 DATA, RESPECTIVELY, for payments made during the state fiscal year ending on and after March 31, 2010, based initially on reported 2007 reconciled data, adjusted for authorized Medicaid rate changes applicable to the state fiscal year, and as further reconciled to actual reported 2009 OR 2010 data, FOR PAYMENTS MADE DURING THE STATE FISCAL YEAR ENDING ON MARCH 31, 2011, BASED INITIALLY ON REPORTED RECONCILED DATA FROM THE BASE YEAR TWO YEARS PRIOR TO THE PAYMENT YEAR, ADJUSTED FOR AUTHORIZED MEDICAID RATE CHANGES APPLICABLE TO THE STATE FISCAL YEAR, AND AS FURTHER RECONCILED TO ACTUAL REPORTED DATA FROM SUCH PAYMENT YEAR, and to actual reported data for each respective succeeding year. The payments may be added to rates of payment or made as aggregate payments to an eligible public general hospital.

S 3-a. 1. Notwithstanding any inconsistent provision of law, rule or regulation to the contrary, and subject to the availability of federal financial participation, effective for the period August 1, 2010 through March 31, 2011, and each state fiscal year thereafter, the department of health is authorized to make Medicaid payment increases for diagnostic and treatment centers (DTC) services issued pursuant to section 2807 of the public health law for public DTCs operated by the New York City Health and Hospitals Corporation, at the election of the social services district in which an eligible DTC is physically located, of up to twelve million six hundred thousand dollars on an annualized basis for DTC services pursuant to title 11 of article 5 of the social services law for patients eligible for federal financial participation under title XIX of the federal social security act based on each such DTC's proportionate share of the sum of all clinic visits for all facilities eligible for an adjustment pursuant to this section for the base year two years prior to the rate year. Such proportionate share payments may be

added to rates of payment or made as aggregate payments to eligible DTCs.

2. The social services district in which an eligible public DTC is physically located shall be responsible for the payment increase for such public DTC as determined in accordance with this section for all DTC services provided by such public DTC in accordance with section 365-a of the social services law, regardless of whether another social services district or the department of health may otherwise be responsible for furnishing medical assistance to the eligible persons receiving such services.

3. Any amounts provided pursuant to this section shall be effective for purposes of determining payments for public DTCs contingent on receipt of all approvals required by federal law or regulations for federal financial participation in payments made pursuant to title XIX of the federal social security act. If federal approvals are not granted for payments based on such amounts of components thereof, payments to eligible public DTCs shall be determined without consideration of such amounts or such components. In the event of such federal disapproval, public DTCs shall refund to the state, or the state may recoup from prospective payments, any payment received pursuant to this section, including those based on a retroactive reduction in the payments. Any reduction in federal financial participation pursuant to title XIX of the federal social security act related to federal upper payment limits shall be deemed to apply first to amounts provided pursuant to this section.

4. Reimbursement by the state for payments made whether by the department of health on behalf of a social services district pursuant to section 367-b of the social services law or by a social services district directly, for a payment determined in accordance with this section for public DTC services provided in accordance with section 365-a of the social services law shall be limited to the amount of federal funds properly received or to be received on account of such expenditures. Further, payments made pursuant to this section shall be excluded from all calculations made pursuant to section 1 of part C of chapter 58 of the laws of 2005.

5. Social services district funding of the non-federal share of any payments pursuant to this section shall be deemed to be voluntary for purposes of the increased federal medical assistance percentage provisions of the American Recovery and Reinvestment Act of 2009; provided however that, in the event the federal Centers for Medicare and Medicaid Services determines that such non-federal share payments are not voluntary payments for purposes of such Act or otherwise disallows federal financial participation in such payments, the provisions of this section shall be null and void and payments made pursuant to this section shall be recouped by the commissioner of health.

S 3-b. 1. Notwithstanding any inconsistent provision of law, rule or regulation to the contrary, and subject to the availability of federal financial participation, effective for the period August 1, 2010 through March 31, 2011, and each state fiscal year thereafter, the department of health, is authorized to make Medicaid payment increases for county operated diagnostic and treatment centers (DTC) services issued pursuant to section 2807 of the public health law and for services provided by county operated free-standing clinics licensed pursuant to articles 31 and 32 of the mental hygiene law, but not including facilities operated by the New York City Health and Hospitals Corporation, of up to five million four hundred thousand dollars on an annualized basis for such

services pursuant to title 11 of article 5 of the social services law for patients eligible for federal financial participation under title XIX of the federal social security act. Local social services districts may decline such increased payments to their sponsored DTCs and free-standing clinics, provided they provide written notification to the commissioner of health, within thirty days following receipt of notification of a payment pursuant to this section. Distributions pursuant to this section shall be based on each facility's proportionate share of the sum of all DTC and clinic visits for all facilities receiving payments pursuant to this section for the base year two years prior to the rate year. Such proportionate share payments may be added to rates or payment or made as aggregate payments to eligible facilities.

2. The social services district in which an eligible public DTC is physically located shall be responsible for the payment increases for such public DTC as determined in accordance with subdivision one of this section for all DTC services provided by such public DTC in accordance with section 365-a of the social services law, regardless of whether another social services district or the department of health may otherwise be responsible for furnishing medical assistance to the eligible persons receiving such services.

3. Any amounts provided pursuant to this section shall be effective for purposes of determining payments for public DTCs contingent on receipt of all approvals required by federal law or regulations for federal financial participation in payments made pursuant to title XIX of the federal social security act. If federal approvals are not granted for payments based on such amounts of components thereof, payments to eligible public DTCs shall be determined without consideration of such amounts or such components. In the event of such federal disapproval, public DTCs shall refund to the state, or the state may recoup from prospective payments, any payment received pursuant to this section, including those based on a retroactive reduction in the payments. Any reduction in federal financial participation pursuant to title XIX of the federal social security act related to federal upper payments limits shall be deemed to apply first to amounts provided pursuant to this section.

4. Reimbursement by the state for payments made whether by the department of health on behalf of a social services district pursuant to section 367-b of the social services law or by a social services district directly, for a payment determined in accordance with this section for public DTC services provided in accordance with section 365-a of the social services law shall be limited to the amount of federal funds properly received or to be received on account of such expenditures. Further, payments made pursuant to this section shall be excluded from all calculations made pursuant to section 1 of part C of chapter 58 of the laws of 2005.

5. Social services district funding of the non-federal share of any payments pursuant to this section shall be deemed to be voluntary for purposes of the increased federal medical assistance percentage provisions of the American Recovery and Reinvestment Act of 2009; provided however that, in the event the federal Centers for Medicare and Medicaid Services determines that such non-federal share payments are not voluntary payments for purposes of such Act or otherwise disallows federal financial participation in such payments, the provisions of this section shall be null and void and payments made pursuant to this section shall be recouped by the commissioner of health.

S 3-c. 1. Notwithstanding any contrary provision of law and subject to the availability of federal financial participation, effective for periods on or after August 1, 2010, the commissioner of health is authorized to seek all necessary federal approvals to utilize certified public expenditures ("CPE") with regard to Medicaid payments made to general hospitals in conformance with federal statute and regulations, for the purpose of recognizing otherwise un-reimbursed allowable medical assistance costs pursuant to title 11 of article 5 of the social services law for patients eligible for federal financial participation under title XIX of the federal social security act. Such CPEs may be utilized with regard to Medicaid payments made to or on behalf of non-state-owned general public hospitals located in a city of more than one million persons. General public hospitals seeking to utilize CPEs for Medicaid payment purposes shall provide such documentation and supporting data as the commissioner of health deems necessary to further such utilization. The federal matching funds received for approved CPEs pursuant to this section shall be remitted to the general public hospital whose expenditures formed the basis for such CPE. Further, the amount of such CPEs shall be excluded from all calculations made pursuant to section 1 of part C of chapter 58 of the laws of 2005. The commissioner of health may promulgate regulations, including emergency regulations, to implement the provisions of this section.

2. Notwithstanding any contrary provision of law, the social services district in which an eligible public general hospital is physically located shall be responsible for the payments as determined in accordance with this section for all services provided by such public general hospital in accordance with section 365-a of the social services law, regardless of whether another social services district or the department of health may otherwise be responsible for furnishing medical assistance to the eligible persons receiving such services.

3. Social services district funding of the non-federal share of any payments pursuant to this section shall be deemed to be voluntary for purposes of the increased federal medical assistance percentage provisions of the American Recovery and Reinvestment Act of 2009; provided however that, in the event the federal Centers for Medicare and Medicaid Services determines that such non-federal share payments are not voluntary payments for purposes of such Act or otherwise disallows federal financial participation in such payments, the provisions of this section shall be null and void and payments made pursuant to this section shall be recouped by the commissioner of health.

S 3-d. 1. Notwithstanding any provision of law, rule or regulation to the contrary, and subject to the availability of federal financial participation, for periods on and after April 1, 2010, payments made to managed care providers sponsored by a public benefit corporation located in a city of more than one million persons which provide coverage primarily to Medicaid patients in accordance with sections 364-j and 369-ee of the social services law may, at the election of the social services district, be increased up to an annual aggregate amount of two hundred million dollars; provided, however that, notwithstanding the social services district Medicaid cap provisions of part C of chapter 58 of the laws of 2005, such social services district shall be responsible for payment of one hundred percent of the non-federal share of such increase, and provided further, however, that such payment increases shall not be applied to payments related to the Medicaid advantage program or the HIV special needs plan. Social services district funding of the non-federal share of any such payments shall be deemed to be

voluntary for purposes of the increased federal medical assistance percentage provisions of the American Recovery and Reinvestment Act of 2009; provided however that, in the event the federal Centers for Medicare and Medicaid Services determines that such non-federal share payments are not voluntary payments for purposes of such Act, the provisions of this section shall be null and void.

2. Notwithstanding any contrary provision of law, the social services district in which an eligible managed care provider is primarily located shall be responsible for the increase to payments as determined in accordance with this section for services covered by such managed care provider in accordance with section 365-a of the social services law, regardless of whether another social services district or the department of health may otherwise be responsible for furnishing medical assistance to the eligible persons receiving such services.

S 3-e. Subdivision (a) of section 1 of part C of chapter 58 of the laws of 2005, as amended by section 60 of part A of chapter 57 of the laws of 2006, is amended to read as follows:

(a) Notwithstanding the provisions of section 368-a of the social services law, or any other provision of law, the department of health shall provide reimbursement for expenditures made by or on behalf of social services districts for medical assistance for needy persons, and the administration thereof, in accordance with the provisions of this section; provided, however, that this section shall not apply to amounts expended for health care services under section 369-ee of the social services law, which amounts shall be reimbursed in accordance with paragraph (t) of subdivision 1 of section 368-a of such law and shall be excluded from all calculations made pursuant to this section; and provided further that amounts paid to the public hospitals pursuant to subdivision 14-f of section 2807-c of the public health law and amounts expended pursuant to: subdivision 12 of section 2808 of the public health law; sections 211 and 212 of chapter 474 of the laws of 1996, as amended; and sections 11 through 14 of part A and sections 13 and 14 of part B of chapter 1 of the laws of 2002; AND AMOUNTS PAID TO PUBLIC DIAGNOSTIC AND TREATMENT CENTERS AS PROVIDED IN SECTIONS 3-A AND 3-B OF PART B OF THE CHAPTER OF THE LAWS OF 2010 WHICH AMENDED THIS SUBDIVISION, AMOUNTS PAID TO PUBLIC GENERAL HOSPITALS AS CERTIFIED PUBLIC EXPENDITURES AS PROVIDED IN SECTION 3-C OF PART B OF THE CHAPTER OF THE LAWS OF 2010 WHICH AMENDED THIS SUBDIVISION, AND AMOUNTS PAID TO MANAGED CARE PROVIDERS PURSUANT TO SECTION 3-D OF PART B OF THE CHAPTER OF THE LAWS OF 2010 WHICH AMENDED THIS SUBDIVISION, shall be excluded from all calculations made pursuant to this section.

S 3-f. Clause (E) of subparagraph (i) of paragraph (i) of subdivision 35 of section 2807-c of the public health law, as added by section 3-a of part B of chapter 109 of the laws of 2010, is amended to read as follows:

(E) Subject to the availability of federal financial participation and in conformance with all applicable federal statutes and regulations, such payments shall be made as upper payment limit payments and, further, such payments shall be made as aggregate monthly payments to eligible general hospitals [and provided further, however, that payments made pursuant to this paragraph shall not be available for periods after the last day of the calendar year during which enhanced federal medicaid assistance percentages (FMAP) payments to general hospitals in the state of New York pursuant to section five thousand one of the federal American Recovery and Reinvestment Act of 2009, or pursuant to an otherwise applicable federal law, cease to be available, provided, however, that

the department will in conjunction with hospital representatives review the impact associated with the expiration of such funding availability no later than sixty days prior to such expiration].

S 3-g. Notwithstanding any contrary provision of law or regulation, for Medicaid rates of payment for non-exempt general hospital inpatient discharges occurring on and after December 1, 2009 through June 30, 2010, reimbursement for general hospital inpatients re-admitted as inpatients shall be in accordance with the following:

1. A patient shall be defined as a readmitted inpatient (hereinafter "a readmission") when the inpatient is discharged and readmitted to the same general hospital within thirty-one days of the original discharge for the same or a related condition for which the inpatient was treated at the time of the original discharge.

2. The hospital shall receive a case-based payment determined pursuant to the provisions of subdivision 5 of this section for a readmission meeting one or more of the following criteria:

(a) the patient was a readmission and the commissioner of health determines that such readmission could reasonably have been prevented by the provision of medical care more consistent with generally accepted standards of medical care prior to discharge or during the immediate post-discharge follow-up period;

(b) the readmission is for a condition or procedure related to the care received prior to the previous inpatient stay or to the follow-up care received immediately following the previous discharge and such condition or procedure involve one or more of the following:

(i) a condition or procedure that is closely related to the previous inpatient stay;

(ii) an infection or other complication related to the previous inpatient stay;

(iii) a condition or procedure that reflects a failure to perform a medically necessary surgical procedure during the previous inpatient stay;

(iv) an acute decomposition of a coexisting chronic disease;

(v) other conditions or procedures as determined by the commissioner of health.

(c) the patient was admitted for surgery but surgery was delayed due to an operating room scheduling problem;

(d) a particular surgical team was not available during the previous inpatient stay;

(e) a biopsy or other surgical procedure during the previous inpatient stay indicated the need for additional surgery which could have been performed during that previous inpatient stay but which was delayed until a subsequent admission;

(f) the patient was admitted for surgery which had to be postponed because the patient had an infection or other medical problem which prevented surgery from being performed during the first admission;

(g) any bilateral procedure requiring more than one admission, except planned or staged procedures;

(h) the patient was admitted for elective surgery with an unstable medical problem which could be treated on an outpatient basis;

(i) there was a delay in obtaining a specific piece of equipment or device required for surgery; or

(j) the patient was a maternity patient who was readmitted for delivery of a baby within twenty-four hours of having been discharged.

3. A hospital shall have the right to request the commissioner of health to reconsider a determination under this subdivision and shall

have the right to submit additional documentation in support of its position. Such request and additional documentation shall be submitted within thirty days of the original determination of the commissioner of health and the commissioner of health shall act upon such request for reconsideration within forty-five days from receipt of the request and complete documentation.

4. Notwithstanding the provisions of subdivision (2) of this section, the hospital shall be eligible to receive a case-based payment for each hospitalization if the hospital demonstrates that the readmission occurred under any of the following circumstances:

(a) the original discharge was a patient initiated discharge and was Against Medical Advice (AMA) and the circumstances of such discharge and readmission are documented in the patient's medical record, or the original discharge was for the purpose of securing treatment of a metastic malignancy, multiple traumas or other extreme conditions as determined by the commissioner of health; or

(b) the readmission was for a planned or staged admission.

5. When it is determined that a patient's readmission was for any of the reasons described in subdivision 2 of this section, the hospital shall receive the lesser of: the total of the case-based payments for the two separate admissions; or, the payment which would have been otherwise received by billing for a single case-based payment by combining, according to the principal reason for patient admission, those diagnoses and procedures of the readmission with the diagnoses and procedures of the original admission, and total medically necessary days in the combined admissions.

S 4. Subdivision 2 of section 365-a of the social services law is amended by adding a new paragraph (v) to read as follows:

(V) ADMINISTRATION OF VACCINATIONS IN A PHARMACY BY A CERTIFIED PHARMACIST WITHIN HIS OR HER SCOPE OF PRACTICE.

S 5. Section 2511 of the public health law is amended by adding a new subdivision 2-b to read as follows:

2-B. (A) EFFECTIVE OCTOBER FIRST, TWO THOUSAND TEN, FOR PURPOSES OF CLAIMING FEDERAL FINANCIAL PARTICIPATION UNDER PARAGRAPH NINE OF SUBSECTION (C) OF SECTION TWENTY-ONE HUNDRED FIVE OF THE FEDERAL SOCIAL SECURITY ACT, FOR INDIVIDUALS DECLARING TO BE CITIZENS AT INITIAL APPLICATION, A HOUSEHOLD SHALL PROVIDE:

(I) THE SOCIAL SECURITY NUMBER FOR THE APPLICANT TO BE VERIFIED BY THE COMMISSIONER IN ACCORDANCE WITH A PROCESS ESTABLISHED BY THE SOCIAL SECURITY ADMINISTRATION PURSUANT TO FEDERAL LAW, OR

(II) DOCUMENTATION OF CITIZENSHIP AND IDENTITY OF THE APPLICANT CONSISTENT WITH REQUIREMENTS UNDER THE MEDICAL ASSISTANCE PROGRAM, AS SPECIFIED BY THE COMMISSIONER ON THE INITIAL APPLICATION.

(B) PENDING RECEIPT OF THE INFORMATION REQUIRED BY SUBPARAGRAPH (I) OF PARAGRAPH (A) OF THIS SUBDIVISION, AN INITIAL APPLICATION SHALL CONTINUE TO BE PROCESSED BY AN APPROVED ORGANIZATION OR ENROLLMENT FACILITATOR AND A CHILD SHALL BE PRESUMPTIVELY ENROLLED IN THE PROGRAM IN ACCORDANCE WITH PROCEDURES AND TIMEFRAMES CURRENTLY SPECIFIED IN CONTRACTS.

S 6. Subparagraphs (i) and (ii) of paragraph (f) of subdivision 2 of section 2511 of the public health law, subparagraph (i) as amended by section 4 and subparagraph (ii) as amended by section 5 of part OO of chapter 57 of the laws of 2008, are amended to read as follows:

(i) In order to establish income eligibility under this subdivision at initial application, a household shall provide such documentation specified in subparagraph (iii) of this paragraph, as necessary and sufficient to determine a child's financial eligibility for a subsidy payment

under this title. The commissioner may verify the accuracy of such income information provided by the household by matching it against income information contained in databases to which the commissioner has access, including the state's wage reporting system pursuant to subdivision five of section one hundred seventy-one-a of the tax law and by means of an income verification performed [by] PURSUANT TO A COOPERATIVE AGREEMENT WITH the department of taxation and finance pursuant to subdivision four of section one hundred seventy-one-b of the tax law.

(ii) In order to establish income eligibility under this subdivision at recertification, a household shall attest to all information regarding the household's income that is necessary and sufficient to determine a child's financial eligibility for a subsidy payment under this title and shall provide the social security numbers for each parent and legally responsible adult who is a member of the household and whose income is available to the child, subject to subparagraph (v) of this paragraph. The commissioner may verify the accuracy of such income information provided by the household by matching it against income information contained in databases to which the commissioner has access, including the state's wage reporting system and by means of an income verification performed [by] PURSUANT TO A COOPERATIVE AGREEMENT WITH the department of taxation and finance pursuant to subdivision four of section one hundred seventy-one-b of the tax law. In the event that there is an inconsistency between the income information attested to by the household and any information obtained by the commissioner from other sources pursuant to this subparagraph, and such inconsistency is material to the household's eligibility for a subsidy payment under this title, the commissioner shall require the approved organization to obtain income documentation from the household as specified in subparagraph (iii) of this paragraph.

S 7. Paragraph (a) of subdivision 8 of section 366-a of the social services law, as amended by section 45-c of part C of chapter 58 of the laws of 2008, is amended to read as follows:

(a) Notwithstanding subdivisions two and five of this section, information concerning income and resources of applicants for and recipients of medical assistance may be verified by matching client information with information contained in the wage reporting system established by section one hundred seventy-one-a of the tax law and in similar systems operating in other geographically contiguous states, by means of an income verification performed [by] PURSUANT TO A MEMORANDUM OF UNDERSTANDING WITH the department of taxation and finance pursuant to subdivision four of section one hundred seventy-one-b of the tax law, and, to the extent required by federal law, with information contained in the non-wage income file maintained by the United States internal revenue service, in the beneficiary data exchange maintained by the United States department of health and human services, and in the unemployment insurance benefits file. Such matching shall provide for procedures which document significant inconsistent results of matching activities. Nothing in this section shall be construed to prohibit activities the department reasonably believes necessary to conform with federal requirements under section one thousand one hundred thirty-seven of the social security act.

S 8. Subdivision 4 of section 171-b of the tax law, as amended by section 45-e of part C of chapter 58 of the laws of 2008, is amended to read as follows:

(4) The commissioner is authorized and directed to enter into an agreement with the commissioner of health which shall set forth the

procedures by which the commissioner shall (a) [verify] FACILITATE THE VERIFICATION OF income eligibility for subsidized health insurance coverage under the child health insurance plan pursuant to subparagraphs (i) and (ii) of paragraph (f) of subdivision two of section two thousand five hundred eleven of the public health law, and for the medical assistance and family health plus programs pursuant to subdivision eight of section three hundred sixty-six-a and paragraphs (b) and (d) of subdivision two of section three hundred sixty-nine-ee of the social services law, as specified by the commissioner of health and agreed to by the commissioner, and (b) shall provide the information required by subdivision two-a of section two thousand five hundred eleven of the public health law.

S 9. Section 2511 of the public health law is amended by adding a new subdivision 2-c to read as follows:

2-C. EXPRESS LANE ELIGIBILITY. (A) NOTWITHSTANDING ANY INCONSISTENT PROVISION OF LAW, RULE OR REGULATION, THE COMMISSIONER IS AUTHORIZED TO (I) ESTABLISH STANDARDS AND PROCEDURES FOR EXPRESS LANE ENROLLMENT AND RENEWAL IMPLEMENTED IN ACCORDANCE WITH SECTION 2107(E)(1)(B) OF THE FEDERAL SOCIAL SECURITY ACT, INCLUDING BUT NOT LIMITED TO RELIANCE ON A FINDING MADE BY AN EXPRESS LANE AGENCY, AS DEFINED IN SECTION 1902(E)(13)(F) OF THE FEDERAL SOCIAL SECURITY ACT, TO DETERMINE WHETHER A CHILD MEETS ONE OR MORE OF THE ELIGIBILITY CRITERIA SET FORTH IN SUBDIVISION TWO OF THIS SECTION; (II) SPECIFY SUCH STANDARDS AND PROCEDURES IN THE STATE CHILD HEALTH PLAN ESTABLISHED UNDER TITLE XXI OF THE FEDERAL SOCIAL SECURITY ACT AND APPLICABLE CONTRACTS WITH APPROVED ORGANIZATIONS AND ENROLLMENT FACILITATORS; AND (III) WAIVE ANY INFORMATION AND DOCUMENTATION REQUIREMENTS SET FORTH IN THIS SECTION NECESSARY TO IMPLEMENT EXPRESS LANE ELIGIBILITY PURSUANT TO STANDARDS AND PROCEDURES ESTABLISHED UNDER SUBPARAGRAPHS (I) AND (II) OF THIS PARAGRAPH; PROVIDED, HOWEVER, THAT INFORMATION AND DOCUMENTATION REQUIRED PURSUANT TO SUBDIVISION TWO-B OF THIS SECTION MAY NOT BE WAIVED.

(B) SUBJECT TO FEDERAL APPROVAL, SUCH STANDARDS AND PROCEDURES SHALL SPECIFY THAT INFORMATION AND DOCUMENTATION REGARDING CITIZENSHIP AND IMMIGRATION STATUS COLLECTED BY AN EXPRESS LANE AGENCY AND PROVIDED TO THE COMMISSIONER FOR THE PURPOSE OF EXPRESS LANE ELIGIBILITY MAY BE USED TO SATISFY THE REQUIREMENTS OF SUBDIVISION TWO-B OF THIS SECTION.

(C) SUCH STANDARDS AND PROCEDURES SHALL ALSO INCLUDE A PROCESS FOR DETERMINING ENROLLMENT ERROR RATES AND IMPLEMENTING CORRECTIVE ACTIONS AS REQUIRED BY SECTION 1902(E)(13)(E) OF THE FEDERAL SOCIAL SECURITY ACT.

S 10. Section 366-a of the social services law is amended by adding a new subdivision 11 to read as follows:

11. (A) NOTWITHSTANDING ANY INCONSISTENT PROVISION OF LAW, RULE OR REGULATION, THE COMMISSIONER OF HEALTH IS AUTHORIZED TO (I) ESTABLISH STANDARDS AND PROCEDURES FOR EXPRESS LANE ENROLLMENT AND RENEWAL IMPLEMENTED IN ACCORDANCE WITH SECTION 1902(E)(13) OF THE FEDERAL SOCIAL SECURITY ACT, INCLUDING BUT NOT LIMITED TO RELIANCE ON A FINDING MADE BY AN EXPRESS LANE AGENCY, AS DEFINED IN SECTION 1902(E)(13)(F) AND (H) OF THE FEDERAL SOCIAL SECURITY ACT, TO DETERMINE WHETHER A CHILD MEETS ONE OR MORE OF THE ELIGIBILITY CRITERIA FOR MEDICAL ASSISTANCE; (II) SPECIFY SUCH STANDARDS AND PROCEDURES IN THE MEDICAL ASSISTANCE STATE PLAN ESTABLISHED UNDER TITLE XIX OF THE FEDERAL SOCIAL SECURITY ACT; AND (III) WAIVE ANY INFORMATION AND DOCUMENTATION REQUIREMENTS SET FORTH IN THIS SECTION NECESSARY TO IMPLEMENT EXPRESS LANE ELIGIBILITY; PROVIDED, HOWEVER, INFORMATION AND DOCUMENTATION REQUIRED PURSUANT TO SECTION ONE HUNDRED TWENTY-TWO OF THIS CHAPTER MAY NOT BE WAIVED.

(B) SUBJECT TO FEDERAL APPROVAL, SUCH STANDARDS AND PROCEDURES SHALL SPECIFY THAT INFORMATION AND DOCUMENTATION REGARDING CITIZENSHIP AND IMMIGRATION STATUS COLLECTED BY AN EXPRESS LANE AGENCY AND PROVIDED TO THE COMMISSIONER FOR THE PURPOSE OF EXPRESS LANE ELIGIBILITY MAY BE USED TO SATISFY THE REQUIREMENTS OF SECTION ONE HUNDRED TWENTY-TWO OF THIS CHAPTER.

(C) SUCH STANDARDS AND PROCEDURES SHALL ALSO INCLUDE A PROCESS FOR DETERMINING ENROLLMENT ERROR RATES AND IMPLEMENTING CORRECTIVE ACTIONS AS REQUIRED BY SECTION 1902(E)(13)(E) OF THE FEDERAL SOCIAL SECURITY ACT.

(D) FOR PURPOSES OF A MEDICAL ASSISTANCE ELIGIBILITY DETERMINATION MADE IN ACCORDANCE WITH THIS SUBDIVISION, A CHILD SHALL BE DEEMED TO SATISFY THE INCOME ELIGIBILITY CRITERIA FOR MEDICAL ASSISTANCE IF AN EXPRESS LANE AGENCY, AS DEFINED IN SECTION 1902(E)(13)(F) AND (H) OF THE FEDERAL SOCIAL SECURITY ACT AND SPECIFIED IN THE STANDARDS AND PROCEDURES ESTABLISHED PURSUANT TO PARAGRAPH (A) OF THIS SUBDIVISION, HAS DETERMINED THAT: THE CHILD'S FAMILY HAS INCOME THAT DOES NOT EXCEED A SCREENING THRESHOLD AMOUNT, AS DETERMINED BY THE COMMISSIONER OF HEALTH, EQUAL TO A PERCENTAGE OF THE FEDERAL POVERTY LINE (AS DEFINED AND ANNUALLY REVISED BY THE UNITED STATES DEPARTMENT OF HEALTH AND HUMAN SERVICES) THAT EXCEEDS BY THIRTY PERCENTAGE POINTS THE HIGHEST INCOME ELIGIBILITY LEVEL APPLICABLE TO A FAMILY OF THE SAME SIZE UNDER THE MEDICAL ASSISTANCE PROGRAM.

S 11. Section 369-ff of the social services law is amended by adding four new subdivisions 5, 6, 7 and 8 to read as follows:

5. (A) INDIVIDUALS ENROLLED IN FAMILY HEALTH PLUS INSURANCE PLANS UNDER THIS SECTION WHO ARE NOT OTHERWISE ELIGIBLE FOR FAMILY HEALTH PLUS UNDER SECTION THREE HUNDRED SIXTY-NINE-EE OF THIS TITLE SHALL BE RESPONSIBLE TO MAKE CO-PAYMENTS IN ACCORDANCE WITH THE TERMS OF PARAGRAPH (B) OF THIS SUBDIVISION; PROVIDED HOWEVER THAT THE TOTAL AMOUNT OF ANY CO-PAYMENTS WHICH AN INDIVIDUAL SHALL BE REQUIRED TO MAKE MAY NOT EXCEED TWO THOUSAND DOLLARS PER ANNUM.

(B) CO-PAYMENTS MAY BE CHARGED IN THE FOLLOWING AMOUNTS:

(I) THE CO-PAYMENT CHARGED FOR EACH DISCHARGE FOR INPATIENT CARE MAY BE UP TO ONE HUNDRED FIFTY DOLLARS;

(II) THE CO-PAYMENT CHARGED FOR EACH EMERGENCY ROOM VISIT MAY BE UP TO FIFTY DOLLARS;

(III) THE CO-PAYMENT CHARGED FOR EACH OUTPATIENT SURGERY MAY BE UP TO ONE HUNDRED DOLLARS;

(IV) THE CO-PAYMENT CHARGED FOR EACH PRIMARY CARE PHYSICIAN OFFICE VISIT, FOR EACH DENTAL SERVICE VISIT, FOR EACH LABORATORY SERVICE, FOR EACH RADIOLOGY SERVICE, FOR EACH OUTPATIENT MENTAL HEALTH SERVICE, AND FOR EACH OUTPATIENT SUBSTANCE ABUSE SERVICE MAY BE UP TO TEN DOLLARS;

(V) THE CO-PAYMENT CHARGED FOR EACH PHYSICIAN SPECIALIST SERVICE OFFICE VISIT, FOR EACH PHYSICAL THERAPY SERVICE, FOR EACH OCCUPATIONAL THERAPY SERVICE, FOR EACH SPEECH THERAPY SERVICE, FOR EACH HEARING SERVICE, FOR EACH VISION SERVICE, AND FOR EACH PODIATRIC SERVICE MAY BE UP TO TWENTY-FIVE DOLLARS; AND

(VI) THE CO-PAYMENT CHARGED FOR EACH GENERIC PRESCRIPTION DRUG DISPENSED MAY BE UP TO FIVE DOLLARS AND FOR EACH BRAND NAME PRESCRIPTION DRUG DISPENSED MAY BE FIFTEEN DOLLARS.

(C) AN INDIVIDUAL WHO IS ELIGIBLE FOR COVERAGE UNDER A FAMILY HEALTH PLUS INSURANCE PLAN PURSUANT TO SECTION THREE HUNDRED SIXTY-NINE-EE OF THIS TITLE SHALL MAKE CO-PAYMENTS IN ACCORDANCE WITH SUCH SECTION THREE HUNDRED SIXTY-NINE-EE AND SHALL NOT MAKE CO-PAYMENTS AS PROVIDED IN PARAGRAPH (B) OF THIS SUBDIVISION.

(D) AN EMPLOYER OR DESIGNATED SPONSOR PARTICIPATING IN THE FAMILY HEALTH PLUS PROGRAM ON OR BEFORE JULY FIRST, TWO THOUSAND TEN, OR AN EMPLOYER OR OTHER DESIGNATED SPONSOR WHO ENTERED INTO A MEMORANDUM OF UNDERSTANDING WITH THE STATE ON OR BEFORE JULY FIRST, TWO THOUSAND TEN WITH RESPECT TO THE PURCHASE OF HEALTH INSURANCE COVERAGE UNDER THIS SECTION FOR CHILD CARE PROVIDERS REPRESENTED BY SUCH SPONSOR, SHALL HAVE THE OPTION TO ESTABLISH CO-PAYMENTS IN ACCORDANCE WITH SECTION THREE HUNDRED SIXTY-NINE-EE OF THIS TITLE OR TO ESTABLISH CO-PAYMENTS AS PROVIDED IN PARAGRAPH (B) OF THIS SUBDIVISION.

6. NOTWITHSTANDING ANY LAW, RULE OR REGULATION TO THE CONTRARY, THE COMMISSIONER MAY AMEND THE APPLICATION REQUIREMENTS FOR EMPLOYEES WHO MAY BE ELIGIBLE FOR FAMILY HEALTH PLUS INSURANCE PLANS TO LIMIT AND SIMPLIFY APPLICATION DOCUMENTATION REQUIREMENTS, PROVIDED HOWEVER, SUCH APPLICATION REQUIREMENTS SHALL OTHERWISE COMPLY WITH FEDERAL LAW.

7. WHERE A HEALTH CARE SERVICE UNDER A FAMILY HEALTH PLUS INSURANCE PLAN IS NOT COVERED UNDER A PAYMENT RATE METHODOLOGY AGREEMENT NEGOTIATED WITH A GENERAL HOSPITAL, THE RATE OF PAYMENT FOR EMERGENCY AND INPATIENT HOSPITAL SERVICES SHALL BE IN ACCORDANCE WITH SUBPARAGRAPH (I) OF PARAGRAPH (A-2) OF SUBDIVISION ONE OF SECTION TWENTY-EIGHT HUNDRED SEVEN-C OF THE PUBLIC HEALTH LAW.

8. AN EMPLOYER OR OTHER DESIGNATED SPONSOR SHALL NOT BE ELIGIBLE TO OFFER FAMILY HEALTH PLUS INSURANCE PLANS PURSUANT TO THIS SECTION IF SUCH EMPLOYER OR OTHER DESIGNATED SPONSOR HAS PROVIDED HEALTH COVERAGE DURING THE SIX-MONTH PERIOD PRIOR TO APPLICATION FOR A GROUP OF EMPLOYEES. THIS PROHIBITION SHALL NOT APPLY TO:

(A) AN EMPLOYER OR OTHER DESIGNATED SPONSOR WHICH EMPLOYS FEWER THAN FIFTY-ONE EMPLOYEES AND HAS EXPENDITURES FOR HEALTH COVERAGE OF MORE THAN FIFTEEN PERCENT OF ITS PAYROLL;

(B) A QUALIFYING SMALL EMPLOYER OR SOLE PROPRIETOR ENROLLED IN INSURANCE COVERAGE PURSUANT TO SECTION FORTY-THREE HUNDRED TWENTY-SIX OF THE INSURANCE LAW;

(C) AN EMPLOYER OR OTHER DESIGNATED SPONSOR PARTICIPATING IN THE PROGRAM ON OR BEFORE JULY FIRST, TWO THOUSAND TEN; OR

(D) AN EMPLOYER OR OTHER DESIGNATED SPONSOR WHO ENTERED INTO A MEMORANDUM OF UNDERSTANDING WITH THE STATE ON OR BEFORE JULY FIRST, TWO THOUSAND TEN WITH RESPECT TO THE PURCHASE OF HEALTH INSURANCE COVERAGE UNDER THIS SECTION FOR CHILD CARE PROVIDERS REPRESENTED BY SUCH SPONSOR.

S 12. Section 4327 of the insurance law is amended by adding a new subsection (m-1) to read as follows:

(M-1) IN THE EVENT THAT THE SUPERINTENDENT SUSPENDS THE ENROLLMENT OF NEW INDIVIDUALS FOR QUALIFYING GROUP HEALTH INSURANCE CONTRACTS OR QUALIFYING INDIVIDUAL HEALTH INSURANCE CONTRACTS, THE SUPERINTENDENT SHALL ENSURE THAT SMALL EMPLOYERS OR SOLE PROPRIETORS SEEKING TO ENROLL IN A QUALIFIED GROUP OR INDIVIDUAL HEALTH INSURANCE CONTRACT PURSUANT TO SECTION FORTY-THREE HUNDRED TWENTY-SIX OF THIS ARTICLE ARE PROVIDED INFORMATION ON AND DIRECTED TO THE FAMILY HEALTH PLUS EMPLOYER PARTNERSHIP PROGRAM UNDER SECTION THREE HUNDRED SIXTY-NINE-FF OF THE SOCIAL SERVICES LAW.

S 13. Paragraphs (a) and (c) of subdivision 10 of section 2807-m of the public health law, as added by section 75-e of part C of chapter 58 of the laws of 2008, are amended to read as follows:

(a) Beginning January first, two thousand eight, the commissioner is authorized, within amounts available pursuant to subdivision five-a of this section, to make loan repayment awards to primary care physicians or other physician specialties determined by the commissioner to be in short supply, licensed to practice medicine in New York state, who agree

to practice for at least five years in an underserved area, as determined by the commissioner. Such physician shall be eligible for a loan repayment award of up to one hundred fifty thousand dollars over a five year period distributed as follows: fifteen percent of total loan debt not to exceed twenty thousand dollars for the first year; fifteen percent of total loan debt not to exceed twenty-five thousand dollars for the second year; twenty percent of total loan debt not to exceed thirty-five thousand dollars for the third year; and twenty-five percent of total loan debt not to exceed thirty-five thousand dollars per year for the fourth [and] YEAR; AND ANY UNPAID BALANCE OF THE TOTAL LOAN DEBT NOT TO EXCEED THE MAXIMUM AWARD AMOUNT FOR THE fifth [years] YEAR of practice in such area.

(c) In the event that a five-year commitment pursuant to the agreement referenced in paragraph (a) of this subdivision is not fulfilled, the recipient shall be responsible for repayment[, plus interest at a rate determined by the commissioner but not less than the rate of interest set by the commissioner of taxation and finance with respect to underpayments of personal income tax pursuant to section six hundred eighty-four of the tax law, based upon the following schedule: service of less than two years requires repayment of one hundred percent of total funds received; service of less than three years requires repayment of fifty percent of total funds received; service of less than four years requires repayment of twenty-five percent of total funds received, and service of more than four years but less than five years requires repayment of ten percent of total funds received] IN AMOUNTS WHICH SHALL BE CALCULATED IN ACCORDANCE WITH THE FORMULA SET FORTH IN SUBDIVISION (B) OF SECTION TWO HUNDRED FIFTY-FOUR-O OF TITLE FORTY-TWO OF THE UNITED STATES CODE, AS AMENDED.

S 14. Subdivision 1 of section 2802-a of the public health law, as added by section 87 of part B of chapter 58 of the laws of 2005, is amended to read as follows:

1. Notwithstanding any other provision of law to the contrary, the commissioner is authorized to approve up to [five] EIGHTEEN general hospitals within the state to operate transitional care units by and within such general hospitals. For purposes of this section, "transitional care" shall mean sub acute care services provided to patients of a general hospital who no longer require acute care general hospital inpatient services, but continue to need specialized medical, nursing and other hospital ancillary services and are not yet appropriate for discharge.

S 15. Subdivision 2 of section 105 of part B of chapter 58 of the laws of 2005, amending the public health law and other laws relating to implementing the state fiscal plan for the 2005-2006 state fiscal year, as amended by chapter 83 of the laws of 2010 is REPEALED.

S 16. Intentionally omitted.

S 17. Paragraph (f) of subdivision 8-a of section 2807-j of the public health law, as added by section 39 of part B of chapter 58 of the laws of 2008, is amended to read as follows:

(f) The commissioner may enter into agreements with designated providers of services, and with third-party payors, in regard to which audit findings have been made pursuant to this section or section twenty-eight hundred seven-s of this article, extending and applying such audit findings or a portion thereof in settlement and satisfaction of potential audit liabilities for subsequent un-audited periods through the two thousand [five] NINE calendar year. The commissioner may REDUCE OR waive payment of interest and penalties otherwise applicable to such subse-

quent unaudited periods when such amounts due as a result of such agreement, other than REDUCED OR waived penalties and interest, are paid in full to the commissioner or the commissioner's designee within sixty days of execution of such agreement by all parties to the agreement. ANY PAYMENTS MADE PURSUANT TO AGREEMENTS ENTERED INTO IN ACCORDANCE WITH THIS PARAGRAPH SHALL BE DEEMED TO BE IN FULL SATISFACTION OF ANY LIABILITY ARISING UNDER THIS SECTION AND SECTION TWENTY-EIGHT HUNDRED SEVEN-S OF THIS ARTICLE, AS REFERENCED IN SUCH AGREEMENTS AND FOR THE TIME PERIODS COVERED BY SUCH AGREEMENTS, PROVIDED, HOWEVER, THAT THE COMMISSIONER MAY AUDIT FUTURE RETROACTIVE ADJUSTMENTS TO PAYMENTS MADE FOR SUCH PERIODS BASED ON REPORTS FILED BY PROVIDERS AND PAYORS SUBSEQUENT TO SUCH AGREEMENTS.

S 17-a. Paragraph (f) of subdivision 10 of section 2807-t of the public health law, as added by section 38 of part B of chapter 58 of the laws of 2008, is amended to read as follows:

(f) The commissioner may enter into agreements with specified third-party payors in regard to which audit findings have been made pursuant to this section, extending and applying such audit findings or a portion thereof in settlement and satisfaction of potential audit liabilities for subsequent un-audited periods through the two thousand [five] NINE calendar year. The commissioner may REDUCE OR waive payment of interest and penalties otherwise applicable to such subsequent unaudited periods when such amounts due as a result of such agreement, other than REDUCED OR waived interest and penalties, are paid in full to the commissioner or the commissioner's designee within sixty days of execution of such agreement by all parties to the agreement. ANY PAYMENTS MADE PURSUANT TO AGREEMENTS ENTERED INTO IN ACCORDANCE WITH THIS PARAGRAPH SHALL BE DEEMED TO BE IN FULL SATISFACTION OF ANY LIABILITY ARISING UNDER THIS SECTION, AS REFERENCED IN SUCH AGREEMENTS AND FOR THE TIME PERIODS COVERED BY SUCH AGREEMENTS, PROVIDED, HOWEVER, THAT THE COMMISSIONER MAY AUDIT FUTURE RETROACTIVE ADJUSTMENTS TO PAYMENTS MADE FOR SUCH PERIODS BASED ON REPORTS FILED BY PAYORS SUBSEQUENT TO SUCH AGREEMENTS.

S 18. Notwithstanding any contrary provision of law, surcharges and assessments due and owing pursuant to sections 2807-j, 2807-s and 2807-t of the public health law for any period prior to January 1, 2010, which are paid and accompanied by all required reports and which are received on or before December 31, 2010 shall not be subject to interest or penalties as otherwise provided in such sections, provided, however, that such reports may be based on estimates by payors and designated providers of services of the amounts owed, subject to subsequent audit by the commissioner of health or the commissioner's designee, and provided further, however, with regard to all principal, interest and penalty amounts collected by the commissioner of health prior to the effective date of this act, the penalty provisions of sections 2807-j, 2807-s and 2807-t of the public health law shall remain in full force and effect and such amounts collected shall not be subject to further adjustment pursuant to this section, and provided further, however, that payments of principal amounts of surcharges and assessments which were paid late and received prior to the effective date of this provision, and in regard to which interest and penalty amounts have not been collected, shall not be subject to such interest and penalties, and provided, further, however, that the provisions of this section shall not apply to delinquent amounts which have been referred by the commissioner of health for recoupment or collection proceeding. Furthermore, the provisions of this section shall not apply to any surcharge or

assessment payments made in response to a final audit finding issued by the commissioner of health or the commissioner's designee.

S 19. Section 2872 of the public health law is amended by adding a new subdivision 3-b to read as follows:

3-B. "ELIGIBLE SECURED HOSPITAL BORROWER". A NOT-FOR-PROFIT HOSPITAL CORPORATION ORGANIZED UNDER THE LAWS OF THIS STATE, WHICH HAS FINANCED OR REFINANCED A PROJECT OR PROJECTS PURSUANT TO THE FORMER SECTION SEVEN-A OF SECTION ONE OF CHAPTER THREE HUNDRED NINETY-TWO OF THE LAWS OF NINETEEN HUNDRED SEVENTY-THREE AND FOR WHICH SPECIAL HOSPITAL PROJECT BONDS (AS DEFINED IN FORMER PARAGRAPH (D) OF SUBDIVISION THREE OF SECTION THREE OF SECTION ONE OF CHAPTER THREE HUNDRED NINETY-TWO OF THE LAWS OF NINETEEN HUNDRED SEVENTY-THREE) REMAIN OUTSTANDING.

S 20. The public health law is amended by adding a new section 2874-b to read as follows:

S 2874-B. REFINANCING MORTGAGE LOANS TO ELIGIBLE SECURED HOSPITAL BORROWERS. ELIGIBLE SECURED HOSPITAL BORROWERS, AS DEFINED IN SUBDIVISION THREE-B OF SECTION TWENTY-EIGHT HUNDRED SEVENTY-TWO OF THIS ARTICLE, SHALL BE AUTHORIZED TO REFINANCE ANY MORTGAGE LOAN FINANCED WITH THE PROCEEDS OF SPECIAL HOSPITAL PROJECT BONDS, WHICH LOANS ARE OUTSTANDING AS OF THE EFFECTIVE DATE OF THIS SECTION. A MORTGAGE LOAN TO AN ELIGIBLE SECURED HOSPITAL BORROWER, AS DEFINED IN SUBDIVISION THREE-B OF SECTION TWENTY-EIGHT HUNDRED SEVENTY-TWO OF THIS ARTICLE, MADE BY THE MEDICAL CARE FACILITIES FINANCE AGENCY, AND ANY SUCCESSOR THERETO, MAY BE REFINANCED FOR A TERM NOT LONGER THAN THE TERM SUFFICIENT TO ASSURE THAT THE INTEREST ON BONDS ISSUED TO REFINANCE THE MORTGAGE LOAN WILL BE EXCLUDABLE FROM GROSS INCOME OF THE HOLDERS THEREOF FOR FEDERAL TAX PURPOSES, PROVIDED THAT IN NO EVENT SHALL THE TERM OF SUCH REFINANCING LOAN EXCEED THIRTY YEARS FROM THE DATE OF THE ISSUANCE OF THE REFUNDING BONDS AND SHALL INCLUDE ALL COSTS ASSOCIATED WITH THE REFINANCING OF INDEBTEDNESS. ALL REFINANCING APPLICATIONS BY ELIGIBLE SECURED HOSPITAL BORROWERS SHALL BE APPROVED BY THE ELIGIBLE SECURED HOSPITAL BORROWER'S BOARD AND THE COMMISSIONER. SUCH REFINANCING APPLICATIONS SHALL INCLUDE ANALYTICAL EVIDENCE SUFFICIENT TO DEMONSTRATE THAT THE PROPOSED REFINANCING IS BEING UNDERTAKEN FOR SOUND BUSINESS PURPOSES AND IN FURTHERANCE OF MAINTAINING OR IMPROVING THE FINANCIAL CONDITION OF THE HOSPITAL. SUCH EVIDENCE MAY INCLUDE BUT IS NOT LIMITED TO: PRESENT VALUE ANALYSIS OF DEBT SERVICE PAYMENTS, INCLUDING WHERE APPLICABLE, PRESENT VALUE ANALYSIS THAT SEGREGATES DEBT SERVICE PAYMENTS BETWEEN PRINCIPAL AND INTEREST COMPONENTS; FINANCIAL PRO FORMAS THAT PROJECT THE BORROWER'S REVENUES, EXPENSES AND FINANCIAL POSITION FOR A PERIOD DETERMINED BY THE COMMISSIONER; OR ANY OTHER ANALYSIS OR INFORMATION THE COMMISSIONER DEEMS NECESSARY TO EVALUATE THE APPLICATION (INCLUDING BUT NOT LIMITED TO ANALYSIS AND RECOMMENDATIONS OF CONSULTANTS). AS A CONDITION OF SUCH PRIOR APPROVAL, THE COMMISSIONER SHALL APPROVE THE PRINCIPAL AMOUNT OF THE REFINANCING, AND REQUIRE THE ELIGIBLE SECURED HOSPITAL BORROWER TO GIVE THE DEPARTMENT A WRITTEN UNDERTAKING, ACCEPTABLE TO THE COMMISSIONER, THAT IT WILL NOT CLAIM ADDITIONAL REIMBURSEMENT UNDER THE MEDICAL ASSISTANCE PROGRAM AS ESTABLISHED UNDER TITLE ELEVEN OF ARTICLE FIVE OF THE SOCIAL SERVICES LAW DUE TO INTEREST PAYMENTS ON REFINANCING INDEBTEDNESS. ANY SUCH ADDITIONAL INTEREST PAYMENTS ON REFINANCED INDEBTEDNESS COVERED BY SUCH WRITTEN UNDERTAKING SHALL NOT BE CONSIDERED AS ALLOWABLE COSTS UNDER THE MEDICAL ASSISTANCE PROGRAM AND SHALL NOT BE INCLUDED IN REIMBURSEMENT RATES OF PAYMENT UNDER ARTICLE TWENTY-EIGHT OF THIS CHAPTER.

S 21. Subdivision 3 of section 3 of section 1 of chapter 392 of the laws of 1973, constituting the New York state medical care facilities

finance agency act, is amended by adding a new paragraph (d-1) to read as follows:

(D-1) "SPECIAL HOSPITAL PROJECT BONDS" SHALL MEAN BONDS ISSUED PURSUANT TO SECTION SEVEN-C OF THIS ACT FOR THE PURPOSE OF REFINANCING OUTSTANDING MORTGAGE LOANS OF ELIGIBLE SECURED HOSPITAL BORROWERS, AS DEFINED IN SUBDIVISION SIX-C OF THIS SECTION, PURSUANT TO THIS ACT.

S 22. Section 3 of section 1 of chapter 392 of the laws of 1973, constituting the New York state medical care facilities finance agency act, is amended by adding a new subdivision 6-c to read as follows:

6-C. "ELIGIBLE SECURED HOSPITAL BORROWER" SHALL MEAN A NOT-FOR-PROFIT HOSPITAL CORPORATION ORGANIZED UNDER THE LAWS OF THIS STATE, WHICH HAS FINANCED OR REFINANCED A PROJECT OR PROJECTS PURSUANT TO FORMER SECTION SEVEN-A OF THIS ACT, AND FOR WHICH SPECIAL HOSPITAL PROJECT BONDS, AS DEFINED IN FORMER PARAGRAPH D OF SUBDIVISION THREE OF THIS SECTION, REMAIN OUTSTANDING.

S 23. Subdivision 10 of section 3 of section 1 of chapter 392 of the laws of 1973, constituting the New York state medical care facilities finance agency act, as amended by chapter 803 of the laws of 1984, is amended to read as follows:

10. "Hospital project" shall mean a specific work or improvement or the refinancing of existing indebtedness which constitutes a lien or encumbrance upon the real property or assets of the eligible borrower OR THE REFINANCING OF EXISTING INDEBTEDNESS OF AN ELIGIBLE SECURED HOSPITAL BORROWER, AS DEFINED IN SUBDIVISION SIX-C OF THIS SECTION, FOR WHICH SPECIAL HOSPITAL PROJECT BONDS, AS DEFINED IN FORMER PARAGRAPH (D) OF SUBDIVISION THREE OF THIS SECTION, REMAIN OUTSTANDING whether or not such refinancing is related to the construction, acquisition or rehabilitation of a specified work or improvement undertaken by a non-profit hospital corporation or a non-profit medical corporation, constituting an eligible borrower in accordance with the provisions of article [twenty-eight-B] 28-B of the public health law.

S 24. Subdivision 11 of section 3 of section 1 of chapter 392 of the laws of 1973, constituting the New York state medical care facilities finance agency act, is amended to read as follows:

11. "Hospital project cost" shall mean the sum total of all costs incurred by a non-profit hospital corporation or a non-profit medical corporation, constituting an eligible borrower undertaking a project as approved by the commissioner in accordance with the provisions of article [twenty-eight-B] 28-B of the public health law, OR, IN CASE OF AN ELIGIBLE SECURED HOSPITAL BORROWER, ALL COSTS INCURRED IN CONNECTION WITH THE REFINANCING OF EXISTING INDEBTEDNESS APPROVED BY THE COMMISSIONER PURSUANT TO SECTION 2874-B OF THE PUBLIC HEALTH LAW.

S 25. Subdivision 12 of section 3 of section 1 of chapter 392 of the laws of 1973, constituting the New York state medical care facilities finance agency act, as amended by chapter 156 of the laws of 1974, is amended to read as follows:

12. "Mortgage loan" shall mean a loan made by the agency to an eligible borrower in an amount not to exceed the total hospital project cost and secured by a first mortgage lien on the real property of which the hospital project consists and the personal property attached to or used in connection with the construction, acquisition, reconstruction, rehabilitation, improvement or operation of the hospital project. Such loan may be further secured by such a lien upon other real property owned by the eligible borrower. Notwithstanding the foregoing provisions of this subdivision or any other provisions of this act to the contrary, any personal property may be excluded from the lien of the mortgage provided

(a) the commissioner [of health] finds that such property is not essential for the rendition of required hospital services as such term is defined in article [twenty-eight] 28 of the public health law, and (b) the agency consents to such exclusion.

The term "mortgage loan" shall also mean and include a loan made by the agency to a limited-profit nursing home company in an amount not to exceed ninety-five [percentum] PER CENTUM of the nursing home project cost, or to a non-profit nursing home company in an amount not to exceed the total nursing home project cost, and secured by a first mortgage lien on the real property of which the nursing home project consists and the personal property attached to or used in connection with the construction, acquisition, reconstruction, rehabilitation, improvement or operation of the nursing home project. Notwithstanding the foregoing provisions of this subdivision or any other provision of this article to the contrary, any personal property may be excluded from the lien of the mortgage provided (a) the commissioner finds that such property is not essential for the nursing home project as such term is defined in article [twenty-eight-A] 28-A of the public health law, and (b) the agency consents to such exclusion.

THE TERM "MORTGAGE LOAN" SHALL ALSO MEAN AND INCLUDE A LOAN MADE TO AN ELIGIBLE SECURED HOSPITAL BORROWER, AS DEFINED IN SUBDIVISION SIX-C OF THIS SECTION, TO REFINANCE OUTSTANDING INDEBTEDNESS PURSUANT TO THIS ACT.

S 26. Subdivision 10 of section 5 of section 1 of chapter 392 of the laws of 1973 constituting the New York state medical care facilities finance agency act, as amended by chapter 387 of the laws of 2006, is amended to read as follows:

10. Subject to the approval of the commissioner of health pursuant to the provisions of article 28-B of the public health law, to make mortgage loans and project loans to non-profit hospital corporations and non-profit medical corporations constituting eligible borrowers AND ELIGIBLE SECURED HOSPITAL BORROWERS AS DEFINED IN SUBDIVISION SIX-C OF SECTION THREE OF THIS ACT and to undertake commitments to make any such mortgage loans and project loans;

S 27. Section 1 of chapter 392 of the laws of 1973, constituting the New York state medical care facilities finance agency act, is amended by adding a new section 7-c to read as follows:

S 7-C. SECURED HOSPITAL PROJECTS RESERVE FUNDS AND APPROPRIATIONS. 1. SPECIAL HOSPITAL PROJECT BONDS, AS DEFINED IN PARAGRAPH (D-1) OF SUBDIVISION THREE OF SECTION THREE OF THIS ACT, ISSUED TO REFINANCE THE PROJECTS OF ELIGIBLE SECURED HOSPITAL BORROWERS, AS DEFINED IN SUBDIVISION SIX-C OF SECTION THREE OF THIS ACT, SHALL BE SECURED BY (A) A MORTGAGE LIEN, (B) FUNDS AND ACCOUNTS ESTABLISHED UNDER THE BOND RESOLUTION, (C) THE SECURED HOSPITAL SPECIAL DEBT SERVICE RESERVE FUND OR FUNDS, (D) THE SECURED HOSPITAL CAPITAL RESERVE FUND OR FUNDS, AND (E) SUCH SERVICE CONTRACT OR CONTRACTS ENTERED INTO IN ACCORDANCE WITH THE PROVISIONS OF SUBDIVISION FOUR OF THIS SECTION.

2. (A) THE AGENCY SHALL ESTABLISH A SECURED HOSPITAL SPECIAL DEBT SERVICE RESERVE FUND OR FUNDS AND PAY INTO SUCH FUND OR FUNDS MONEYS FROM THE SECURED HOSPITAL FUND UP TO AN AMOUNT NOT TO EXCEED AN AMOUNT NECESSARY TO ENSURE THE REPAYMENT OF PRINCIPAL AND INTEREST DUE ON ANY OUTSTANDING INDEBTEDNESS ON SPECIAL HOSPITAL PROJECTS BONDS, AS DEFINED IN PARAGRAPH (D-1) OF SUBDIVISION THREE OF SECTION THREE OF THIS ACT.

FUNDS DEPOSITED IN SUCH SECURED HOSPITAL SPECIAL DEBT SERVICE RESERVE FUND OR FUNDS SHALL BE USED IN THE EVENT THAT AN ELIGIBLE SECURED HOSPITAL BORROWER, AS DEFINED IN SUBDIVISION SIX-C OF SECTION THREE OF THIS

ACT, FAILS TO MAKE PAYMENTS IN AN AMOUNT SUFFICIENT TO PAY THE REQUIRED DEBT SERVICE PAYMENTS ON SPECIAL HOSPITAL PROJECT BONDS, AS DEFINED IN PARAGRAPH (D-1) OF SUBDIVISION THREE OF SECTION THREE OF THIS ACT.

(B) THE AGENCY SHALL, FOR THE PURPOSES OF PARAGRAPH (A) OF THIS SUBDIVISION AND FOR THE SUPPORT OF ELIGIBLE SECURED HOSPITAL BORROWERS, PAY INTO THE SECURED HOSPITAL FUND CURRENTLY ESTABLISHED AND MAINTAINED BY THE AGENCY: (I) ALL FUNDS REQUIRED TO BE PAID IN ACCORDANCE WITH THE PROVISIONS OF ARTICLE TWENTY-EIGHT OF THE PUBLIC HEALTH LAW AND REGULATIONS PROMULGATED IN SUCH ARTICLE; (II) ANY MORTGAGE INSURANCE PREMIUM ASSESSED IN AN AMOUNT FIXED AT THE DISCRETION OF THE AGENCY, UPON THE ISSUANCE OF SPECIAL HOSPITAL PROJECT BONDS, AS DEFINED IN PARAGRAPH (D-1) OF SUBDIVISION THREE OF SECTION THREE OF THIS ACT; (III) ANY INCOME OR INTEREST EARNED ON OTHER RESERVE FUNDS WHICH THE AGENCY ELECTS TO TRANSFER TO THE SECURED HOSPITAL FUND; AND (IV) ANY OTHER MONEYS WHICH MAY BE MADE AVAILABLE TO THE AGENCY FROM ANY OTHER SOURCE OR SOURCES. MONEYS PAID INTO THE SECURED HOSPITAL FUND SHALL, IN THE DISCRETION OF THE AGENCY, BUT SUBJECT TO AGREEMENTS WITH BONDHOLDERS, BE USED TO FUND THE SPECIAL DEBT SERVICE RESERVE FUND OR FUNDS AT A LEVEL OR LEVELS WHICH MINIMIZE THE NEED FOR USE OF THE CAPITAL RESERVE FUND OR FUNDS IN THE EVENT OF THE FAILURE OF AN ELIGIBLE SECURED HOSPITAL BORROWER, AS DEFINED IN SUBDIVISION SIX-C OF SECTION THREE OF THIS ACT, TO MAKE THE REQUIRED DEBT SERVICE PAYMENTS ON SPECIAL HOSPITAL PROJECT BONDS, AS DEFINED IN PARAGRAPH (D-1) OF SUBDIVISION THREE OF SECTION THREE OF THIS ACT.

(C) NOTWITHSTANDING THE PROVISIONS OF PARAGRAPHS (A) AND (B) OF THIS SUBDIVISION, THE STATE HEREBY EXPRESSLY RESERVES THE RIGHT TO MODIFY OR REPEAL THE PROVISIONS OF ARTICLE 28 OF THE PUBLIC HEALTH LAW.

3. THE AGENCY SHALL ESTABLISH A SECURED HOSPITAL CAPITAL RESERVE FUND OR FUNDS WHICH SHALL BE FUNDED AT AN AMOUNT OR AMOUNTS EQUAL TO THE LESSER OF EITHER: (A) THE MAXIMUM AMOUNT OF PRINCIPAL, SINKING FUND PAYMENTS AND INTEREST DUE IN ANY SUCCEEDING YEAR ON OUTSTANDING SPECIAL HOSPITAL PROJECT BONDS, AS DEFINED IN PARAGRAPH (D-1) OF SUBDIVISION THREE OF SECTION THREE OF THIS ACT, OR (B) FOR TAX EXEMPT BONDS, THE MAXIMUM AMOUNT TO ENSURE THAT SUCH BONDS WILL NOT BE CONSIDERED ARBITRAGE BONDS UNDER THE INTERNAL REVENUE CODE OF 1986, AS AMENDED. THE CAPITAL RESERVE FUND SHALL BE FUNDED BY THE SALE OF SPECIAL HOSPITAL PROJECT BONDS, AS DEFINED IN PARAGRAPH (D-1) OF SUBDIVISION THREE OF SECTION THREE OF THIS ACT, OR FROM SUCH OTHER FUNDS AS MAY BE LEGALLY AVAILABLE FOR SUCH PURPOSE, AS PROVIDED FOR IN THE BOND RESOLUTION OR RESOLUTIONS AUTHORIZING THE ISSUANCE OF SUCH BONDS.

4. (A) NOTWITHSTANDING THE PROVISIONS OF ANY GENERAL OR SPECIAL LAW TO THE CONTRARY, AND SUBJECT TO THE MAKING OF ANNUAL APPROPRIATIONS THEREFOR BY THE LEGISLATURE IN ORDER TO REFINANCE MORTGAGE LOANS TO ELIGIBLE SECURED HOSPITAL BORROWERS, AS DEFINED IN SUBDIVISION SIX-C OF SECTION THREE OF THIS ACT, THE DIRECTOR OF THE BUDGET IS AUTHORIZED IN ANY STATE FISCAL YEAR TO ENTER INTO ONE OR MORE SERVICE CONTRACTS, WHICH SERVICE CONTRACTS SHALL NOT EXCEED THE TERM OF THE SPECIAL HOSPITAL PROJECT BONDS, ISSUED FOR THE BENEFIT OF THE ELIGIBLE SECURED HOSPITAL BORROWER, UPON SUCH TERMS AS THE DIRECTOR OF THE BUDGET AND THE AGENCY AGREE, SO AS TO PROVIDE ANNUALLY TO THE AGENCY IN THE AGGREGATE SUCH SUM, IF ANY, AS NECESSARY TO MEET THE DEBT SERVICE PAYMENTS DUE ON OUTSTANDING SPECIAL HOSPITAL PROJECT BONDS, AS DEFINED IN PARAGRAPH (D-1) OF SUBDIVISION THREE OF SECTION THREE OF THIS ACT, IN ANY YEAR IF THE FUNDS PROVIDED FOR IN THIS SECTION ARE INADEQUATE.

(B) ANY SERVICE CONTRACT ENTERED INTO PURSUANT TO PARAGRAPH (A) OF THIS SUBDIVISION SHALL PROVIDE (I) THAT THE OBLIGATION OF THE DIRECTOR

OF THE BUDGET OR OF THE STATE TO FUND OR TO PAY THE AMOUNTS THEREIN PROVIDED FOR SHALL NOT CONSTITUTE A DEBT OF THE STATE WITHIN THE MEANING OF ANY CONSTITUTIONAL OR STATUTORY PROVISION AND SHALL BE DEEMED EXECUTORY ONLY TO THE EXTENT OF MONEYS AVAILABLE AND THAT NO LIABILITY SHALL BE INCURRED BY THE STATE BEYOND THE MONEYS AVAILABLE FOR SUCH PURPOSE, AND THAT SUCH OBLIGATION IS SUBJECT TO ANNUAL APPROPRIATION BY THE LEGISLATURE; AND (II) THAT THE AMOUNTS PAID TO THE AGENCY PURSUANT TO ANY SUCH CONTRACT MAY BE USED BY IT SOLELY TO PAY OR TO ASSIST IN FINANCING COSTS OF MORTGAGE LOANS TO ELIGIBLE SECURED HOSPITAL BORROWERS, AS DEFINED IN SUBDIVISION SIX-C OF SECTION THREE OF THIS ACT.

5. THE AGENCY SHALL NOT ISSUE SPECIAL HOSPITAL PROJECT BONDS, AS DEFINED IN PARAGRAPH (D-1) OF SUBDIVISION THREE OF SECTION THREE OF THIS ACT, EXCEPT TO REFINANCE MORTGAGE LOANS FOR ELIGIBLE SECURED HOSPITAL BORROWERS AS PROVIDED IN SECTION THREE OF THIS ACT.

S 28. Notwithstanding any other provision of this act: (i) reimbursement for interest on any indebtedness hereunder to be paid by the medical assistance program established under title 11 of article 5 of the social services law shall be subject to the availability of federal financial participation; and (ii) the refinancing of a mortgage loan pursuant to this act shall not alter, affect or change the component of medical assistance reimbursement applicable to the depreciation of any asset or assets.

S 29. Subdivision 2 of section 366-a of the social services law is amended by adding a new paragraph (d) to read as follows:

(D) NOTWITHSTANDING THE PROVISIONS OF PARAGRAPH (A) OF THIS SUBDIVISION, AN APPLICANT OR RECIPIENT WHOSE ELIGIBILITY UNDER THIS TITLE IS DETERMINED WITHOUT REGARD TO THE AMOUNT OF HIS OR HER ACCUMULATED RESOURCES MAY ATTEST TO THE AMOUNT OF INTEREST INCOME GENERATED BY SUCH RESOURCES IF THE AMOUNT OF SUCH INTEREST INCOME IS EXPECTED TO BE IMMATERIAL TO MEDICAL ASSISTANCE ELIGIBILITY, AS DETERMINED BY THE COMMISSIONER OF HEALTH. IN THE EVENT THERE IS AN INCONSISTENCY BETWEEN THE INFORMATION REPORTED BY THE APPLICANT OR RECIPIENT AND ANY INFORMATION OBTAINED BY THE COMMISSIONER OF HEALTH FROM OTHER SOURCES AND SUCH INCONSISTENCY IS MATERIAL TO MEDICAL ASSISTANCE ELIGIBILITY, THE COMMISSIONER OF HEALTH SHALL REQUEST THAT THE APPLICANT OR RECIPIENT PROVIDE ADEQUATE DOCUMENTATION TO VERIFY HIS OR HER INTEREST INCOME.

S 30. Subdivision 2 of section 369-ee of the social services law is amended by adding a new paragraph (b-1) to read as follows:

(B-1) NOTWITHSTANDING THE PROVISIONS OF PARAGRAPH (B) OF THIS SUBDIVISION, AN INDIVIDUAL MAY ATTEST TO THE AMOUNT OF INTEREST INCOME GENERATED BY HIS OR HER ACCUMULATED RESOURCES IF THE AMOUNT OF SUCH INTEREST INCOME IS EXPECTED TO BE IMMATERIAL TO ELIGIBILITY UNDER THIS SECTION, AS DETERMINED BY THE COMMISSIONER OF HEALTH. IN THE EVENT THERE IS AN INCONSISTENCY BETWEEN THE INFORMATION REPORTED BY THE INDIVIDUAL AND ANY INFORMATION OBTAINED BY THE COMMISSIONER OF HEALTH FROM OTHER SOURCES AND SUCH INCONSISTENCY IS MATERIAL TO ELIGIBILITY UNDER THIS SECTION, THE COMMISSIONER OF HEALTH SHALL REQUEST THAT THE INDIVIDUAL PROVIDE ADEQUATE DOCUMENTATION TO VERIFY HIS OR HER INTEREST INCOME.

S 31. Paragraph (d) of subdivision 5 of section 366-a of the social services law, as amended by section 1 of part R of chapter 58 of the laws of 2009, is amended to read as follows:

(d) In order to establish place of residence and income eligibility under this title at recertification, a recipient of assistance under this title shall attest to place of residence and to all information regarding the household's income that is necessary and sufficient to determine such eligibility; provided, however, that this paragraph shall

not apply to persons described in subparagraph two of paragraph (a) of subdivision one of section three hundred sixty-six of this title, or to persons receiving long term care services, as defined in paragraph (b) of subdivision two of this section; and provided, further, that a non-applying legally responsible relative recertifying on behalf of a recipient of assistance who is under the age of twenty-one years shall be permitted to attest to household income under this paragraph only if the social security numbers of all legally responsible relatives are provided to the district. Provided, however, for purposes of recertification OF ELIGIBILITY for assistance under this title [for a recipient of], PERSONS RECEIVING medicaid COMMUNITY COVERAGE WITH COMMUNITY-BASED LONG TERM CARE, INCLUDING BUT NOT LIMITED TO waiver services provided or authorized by the office of mental retardation and developmental disabilities, beginning on or after January first, two thousand ten, [such recipient] may be permitted, as determined by the commissioner of health, to attest to place of residence and to all information regarding the household's income and/or resources that are necessary to [determine] RECERTIFY such eligibility.

S 32. Paragraph (a) of subdivision 4 of section 366 of the social services law, as amended by chapter 453 of the laws of 1990, subparagraph (i) as amended by section 59 of part B of chapter 436 of the laws of 1997, is amended to read as follows:

(a) [(i)] Notwithstanding any other provision of law, each family which was eligible for medical assistance pursuant to subparagraph eight or nine of paragraph (a) of subdivision one of this section in at least [three] ONE of the six months immediately preceding the month in which such family became ineligible for such assistance because of hours of, or income from, employment of the caretaker relative, or because of loss of entitlement to the earnings disregard under subparagraph (iii) of paragraph (a) of subdivision eight of section one hundred thirty-one-a of this [chapter] ARTICLE shall, while such family includes a dependent child, remain eligible for medical assistance for [six] TWELVE calendar months immediately following the month in which such family would otherwise be determined to be ineligible for medical assistance pursuant to the provisions of this title and the regulations of the department governing income and resource limitations relating to eligibility determinations for families described in subparagraph eight of paragraph (a) of subdivision one of this section.

[(ii) Each family which received medical assistance for the entire six month period under subparagraph (i) of this paragraph and complied with the department's reporting requirements for such initial six month period shall be offered the option of extending such eligibility for an additional six calendar months if and for so long as such family includes a dependent child and meets the income requirements in subparagraph (ii) of paragraph (b) of this subdivision.]

S 33. Paragraph (b) of subdivision 4 of section 366 of the social services law, as added by chapter 453 of the laws of 1990, subparagraph (i) as amended by section 60 of part B of chapter 436 of the laws of 1997, is amended to read as follows:

(b) (i) Upon giving notice of termination of medical assistance provided pursuant to subparagraph eight or nine of paragraph (a) of subdivision one of this section, the department shall notify each such family of its rights to extended benefits under paragraph (a) of this subdivision and describe [any reporting requirements and] the conditions under which such extension may be terminated. [The department shall also provide subsequent notices of the option to extend coverage pursuant to

paragraph (a) of this subdivision in the third and sixth months of the initial six month extended coverage period and notices of the reporting requirements under such paragraph in each of the third and sixth months of the initial six month extended coverage period and in the third month of the additional extended coverage period.]

(ii) The department shall promulgate regulations implementing the requirements of this paragraph and paragraph (a) of this subdivision relating to the conditions under which [initial] extended coverage [and additional extended coverage] hereunder may be terminated, the scope of coverage, [the reporting requirements] and the conditions under which coverage may be extended pending a redetermination of eligibility. Such regulations shall, at a minimum, provide for: (A) termination of such coverage at the close of the first month in which the family ceases to include a dependent child [and at the close of the first or fourth month of the additional extended coverage period if the family fails to report, as required by the regulations, or the caretaker relative had no earnings in one or more of the previous three months unless such lack of earnings was for good cause, or the family's average gross monthly earnings, less necessary work related child care costs of the caretaker relative, during the preceding three months was greater than one hundred eighty-five percent of the federal income official poverty line applicable to the family's size]; (B) notice of termination prior to the effective date of any terminations; (C) [quarterly reporting of income and child care costs during the initial and additional extended coverage periods; (D)] coverage under employee health plans and health maintenance organizations; and [(E)] (D) disqualification of persons for extended coverage benefits under this paragraph for fraud.

S 34. Section 17 of part C of chapter 58 of the laws of 2005 amending the public health law and other laws relating to implementing the state fiscal plan for the 2005-2006 state fiscal year, as added by section 21 of part E of chapter 63 of the laws of 2005, is amended to read as follows:

S 17. 1. Notwithstanding any inconsistent provision of law, rule or regulation, for payments made by a state governmental agency to a general hospital for specialty inpatient SERVICES AND FOR OUTPATIENT hospital services RELATED TO AN EPISODE OF CARE THAT INCLUDES INPATIENT SERVICES provided to patients eligible for payments pursuant to title 11 of article 5 of the social services law discharged on or after April 1, 2005 through March 31, [2010] 2015, the commissioner of health, subject to the approval of the director of the budget, may:

(a) after a hospital has agreed to participate in a program selected pursuant to subdivision two of this section, establish rates of payment or special payment rate methodologies for specialty [inpatient] hospital services selected in accordance with subdivision two of this section provided to patients eligible for payments pursuant to title 11 of article 5 of the social services law through negotiations with hospitals in any area of the state. Such negotiated rates, if any, shall be negotiated with each individual selected hospital. Such negotiation shall include a process for the commissioner of health and each selected hospital to mutually identify services for which such negotiated rates shall apply. Such rates shall be reasonable and adequate to reimburse the costs of an economically and efficiently operated provider of services. The commissioner of health may establish adjusted rates of payment pursuant to an administrative rate appeal process to hospitals that participate in such negotiations and agree to receive the negotiated payment rates established under this paragraph for the patients

described in this paragraph in lieu of rates of payment otherwise applicable pursuant to section 2807-c of the public health law without a competitive bid or request for proposal process; and/or

(b) select among hospitals in any area of the state those eligible for reimbursement for specialty [inpatient] hospital services selected in accordance with subdivision two of this section and establish payments for such services based on a competitive bidding process.

(C) RATES ESTABLISHED PURSUANT TO THIS SUBDIVISION MAY INCLUDE REIMBURSEMENT FOR BOTH INPATIENT AND OUTPATIENT SERVICES, INCLUDING PHYSICIAN SERVICES, PROVIDED TO PATIENTS ELIGIBLE FOR PAYMENTS PURSUANT TO TITLE 11 OF ARTICLE 5 OF THE SOCIAL SERVICES LAW APPLICABLE TO ONE EPISODE OF CARE, AS DETERMINED BY THE COMMISSIONER OF HEALTH.

2. The commissioner of health shall select [a maximum of five geographically defined inpatient] hospital sites for which reimbursement may be negotiated for a maximum of five specialty inpatient AND OUTPATIENT services RELATED TO AN EPISODE OF CARE THAT INCLUDES INPATIENT SERVICES that are selected based on the following criteria:

(a) such services may be provided more efficiently and economically; and

(b) there is a correlation between the volume of such services or procedures performed by [an inpatient] A hospital and improved patient outcomes that is accepted by medical experts in the field as evidenced by inclusion in peer reviewed scientific literature published and/or recognized by national organizations; and

(c) identification of such services and the implementation of this section with respect to such services is consistent with other initiatives to enhance the quality and patient outcomes of [inpatient] HOSPITAL services and procedures that are or are being planned to be undertaken by the department of health, including but not limited to projects that identify centers of excellence for particular services; and

(d) identification of such services for purposes of implementing this section will not diminish access, including geographic access, which for purposes of this section shall mean that a patient shall not be prevented from accessing services in a timely fashion due to distance or travel time; [and]

(e) [such services have low utilization or are provided in units with low occupancy; and

(f)] any other criteria determined by the commissioner of health to promote the cost effective delivery of specialty [inpatient] hospital services; AND

(F) CRITERIA UTILIZED BY THE FEDERAL CENTERS FOR MEDICARE AND MEDICAID SERVICES WITH REGARD TO PAYMENT METHODOLOGIES UTILIZED WITH REGARD TO CENTERS OF EXCELLENCE PURSUANT TO TITLE XVIII OF THE FEDERAL SOCIAL SECURITY ACT (MEDICARE).

3. Selection of hospitals by the commissioner of health pursuant to subdivision two of this section shall be made based on the following criteria:

(a) Consultation with hospitals, hospital associations or other provider organizations, and consumers; and

(b) Assurances of patient access, including geographic access, to the selected specialty services; and

(c) Historical volume of services provided by the hospital; and

(d) Consistency with other quality and outcomes improvement initiatives being or planned to be pursued by the department of health, including but not limited to, projects that identify centers of excellence; and

(e) The order and timeline under which services identified pursuant to this section shall be provided; and

(f) Such other criteria that the commissioner of health may deem appropriate.

4. [Inpatient hospital] HOSPITAL services not selected by the commissioner of health pursuant to this section and not subject to negotiation under paragraph (a) of subdivision one of this section provided to patients eligible for payments pursuant to title 11 of article 5 of the social services law shall be reimbursed pursuant to [section] SECTIONS 2807 OR 2807-c of the public health law, AS APPLICABLE.

5. Notwithstanding any inconsistent provisions of law, rule or regulation, for purposes of this program, no payments within a geographically defined site shall be made for specialty [inpatient] hospital services selected by the commissioner of health in accordance with subdivision two of this section for which there is an adjusted rate of payment with a hospital pursuant to paragraph (a) or (b) of subdivision one of this section when such services are provided to patients eligible for payments pursuant to title 11 of article 5 of the social services law by a hospital which has not received adjusted rates of payment pursuant to paragraph (a) or (b) of subdivision one of this section; provided, however, payments may be made to such hospital in accordance with section 2807-c of the public health law if the provision of such services has been prior approved by the commissioner of health, or if the inpatient admission is a result of an emergency admission.

6. Payment of rates established pursuant to this section for purposes of this program shall be contingent upon federal approval of a waiver application submitted by the commissioner of health in order to receive federal financial participation for services provided under this section; provided, however, the commissioner of health shall provide a copy of such waiver application to the legislature prior to submission for federal approval. The commissioner of health may take any steps necessary to implement this section prior to receiving federal approval of such waiver application.

7. The commissioner of health shall report to the governor and the legislature concerning the implementation of this section, including available data regarding the cost effective delivery of specialty inpatient services selected in accordance with this section, within eighteen months from the date of issuance of adjusted rates of payment entered into pursuant to paragraphs (a) and (b) of subdivision one of this section.

S 35. Paragraph (q) of subdivision 2 of section 365-a of the social services law, as added by section 32 of part C of chapter 58 of the laws of 2008, is amended to read as follows:

(q) diabetes self-management training services for persons diagnosed with diabetes when such services are ordered by a physician, registered [physician's] PHYSICIAN assistant, registered nurse practitioner, or licensed midwife and provided by a licensed, registered, or certified health care professional, as determined by the commissioner of health, who is certified as a diabetes educator by the National Certification Board for Diabetes Educators, or a successor national certification board, OR PROVIDED BY SUCH A PROFESSIONAL WHO IS AFFILIATED WITH A PROGRAM CERTIFIED BY THE AMERICAN DIABETES ASSOCIATION, THE AMERICAN ASSOCIATION OF DIABETES EDUCATORS, THE INDIAN HEALTH SERVICES, OR ANY OTHER NATIONAL ACCREDITATION ORGANIZATION APPROVED BY THE FEDERAL CENTERS FOR MEDICARE AND MEDICAID SERVICES; provided, however, that the provisions of this paragraph shall not take effect unless all necessary

approvals under federal law and regulation have been obtained to receive federal financial participation in the costs of health care services provided pursuant to this paragraph. Nothing in this paragraph shall be construed to modify any licensure, certification or scope of practice provision under title eight of the education law.

S 36. The opening paragraph of paragraph (i) of subdivision 1 of section 2807-c of the public health law, as amended by section 19 of part B of chapter 58 of the laws of 2008, is amended to read as follows:

For the rate period July first, two thousand seven through March thirty-first, two thousand eight and for rates applicable to the state fiscal year commencing April first, two thousand eight, and each state fiscal year thereafter through March thirty-first, two thousand [eleven,] NINE, AND FOR THE PERIOD APRIL FIRST, TWO THOUSAND NINE THROUGH NOVEMBER THIRTIETH, TWO THOUSAND NINE, PROVIDED, HOWEVER, THAT FOR THE PERIOD APRIL FIRST, TWO THOUSAND NINE THROUGH NOVEMBER THIRTIETH, TWO THOUSAND NINE THE AGGREGATE RATE ADJUSTMENTS CALCULATED PURSUANT TO SUBPARAGRAPH (II) OF THIS PARAGRAPH SHALL NOT EXCEED FOUR MILLION DOLLARS, AND contingent upon the availability of federal financial participation:

S 37. The opening paragraph of paragraph (j) of subdivision 1 of section 2807-c of the public health law, as amended by section 19-a of part B of chapter 58 of the laws of 2008, is amended to read as follows:

For the rate period July first, two thousand seven through March thirty-first, two thousand eight and for rates applicable to the state fiscal year commencing April first, two thousand eight, and each state fiscal year thereafter through March thirty-first, two thousand [eleven,] NINE AND FOR THE PERIOD APRIL FIRST, TWO THOUSAND NINE THROUGH NOVEMBER THIRTIETH, TWO THOUSAND NINE, PROVIDED, HOWEVER, THAT FOR THE PERIOD APRIL FIRST, TWO THOUSAND NINE THROUGH NOVEMBER THIRTIETH, TWO THOUSAND NINE THE AGGREGATE RATE ADJUSTMENTS CALCULATED PURSUANT TO SUBPARAGRAPH (II) OF THIS PARAGRAPH SHALL NOT EXCEED TWENTY-EIGHT MILLION DOLLARS, AND contingent upon the availability of federal financial participation:

S 38. The opening paragraph of paragraph (1) of subdivision 1 of section 2807-c of the public health law, as added by section 65-f of part A of chapter 58 of the laws of 2007, is amended to read as follows:

Effective for periods on and after July first, two thousand seven THROUGH NOVEMBER THIRTIETH, TWO THOUSAND NINE:

S 39. Paragraph (a) of subdivision 32 of section 2807-c of the public health law, as amended by section 1 of part U of chapter 57 of the laws of 2007, is amended to read as follows:

(a) The commissioner shall adjust inpatient medical assistance rates of payment established pursuant to this section for rural hospitals as defined in paragraph (c) of subdivision one of section twenty-eight hundred seven-w of this article in accordance with paragraph (b) of this subdivision for purposes of supporting critically needed health care services in rural areas in the following aggregate amounts for the following periods:

seven million dollars for the period May first, two thousand five through December thirty-first, two thousand five, seven million dollars for the period January first, two thousand six through December thirty-first, two thousand six, seven million dollars for the period April first, two thousand seven through December thirty-first, two thousand seven, [and] seven million dollars for [each] calendar year [thereafter] TWO THOUSAND EIGHT, AND SIX MILLION FOUR HUNDRED SEVENTEEN THOUSAND

DOLLARS FOR THE PERIOD JANUARY FIRST, TWO THOUSAND NINE THROUGH NOVEMBER THIRTIETH, TWO THOUSAND NINE.

S 40. Subparagraph (ii) of paragraph (k) of subdivision 1 of section 2807-c of the public health law, as amended by section 30-a of part B of chapter 58 of the laws of 2008, is amended to read as follows:

(ii) for the period April first, two thousand eight through March thirty-first, two thousand nine, and each state fiscal year thereafter through [March thirty-first, two thousand eleven] NOVEMBER THIRTIETH, TWO THOUSAND NINE, thirty-eight million dollars shall be allocated ON AN ANNUALIZED BASIS for such purpose to such hospitals in accordance with [regulations promulgated by the commissioner and which shall provide] THE METHODOLOGY SET FORTH IN SUBPARAGRAPH (I) OF THIS PARAGRAPH, PROVIDED, HOWEVER, that [up to] thirty percent of such funds shall be allocated proportionally, based on the number of foreign languages utilized by one or more percent of the residents in each hospital total service area population, PROVIDED, HOWEVER, THAT FOR THE PERIOD APRIL FIRST, TWO THOUSAND NINE THROUGH NOVEMBER THIRTIETH, TWO THOUSAND NINE, SUCH ALLOCATION SHALL BE REDUCED TO TWENTY-FIVE MILLION THREE HUNDRED THIRTY-THREE THOUSAND DOLLARS.

S 41. The opening paragraph and subparagraphs (i) and (ii) of paragraph (e-1) of subdivision 4 of section 2807-c of the public health law, as added by section 12 of part C of chapter 58 of the laws of 2009, are amended to read as follows:

Notwithstanding any inconsistent provision of paragraph (e) of this subdivision or any other contrary provision of law and subject to the availability of federal financial participation, per diem rates of payment by governmental agencies for a general hospital or a distinct unit of a general hospital for inpatient psychiatric services that would otherwise be subject to the provisions of paragraph (e) of this subdivision[, and rates of payment for outpatient psychiatric services provided by such facilities as specified in this paragraph,] shall, with regard to days of service [and visits] ASSOCIATED WITH ADMISSIONS occurring on and after [December first, two thousand nine,] APRIL FIRST, TWO THOUSAND TEN, be in accordance with the following:

(i) For rate periods on and after [December first, two thousand nine] APRIL FIRST, TWO THOUSAND TEN, the commissioner, in consultation with the commissioner of the office of mental health, shall promulgate regulations, and may promulgate emergency regulations, establishing methodologies for determining the operating cost components of rates of payments for services described in this paragraph. Such regulations shall utilize two thousand five operating costs as submitted to the department prior to [December first, two thousand eight] JULY FIRST, TWO THOUSAND NINE and shall provide for methodologies establishing per diem inpatient rates that utilize case mix adjustment mechanisms [and provide for post-discharge referral to outpatient services]. Such regulations shall contain criteria for adjustments based on length of stay.

(ii) Rates of payment established pursuant to subparagraph [(ii)] (I) of this paragraph shall reflect an aggregate net statewide increase in reimbursement for such services of up to twenty-five million dollars on an annual basis.

S 42. Paragraph (u) of subdivision 2 of section 365-a of the social services law, as added by section 27 of part C of chapter 58 of the laws of 2009, is amended to read as follows:

(u) screening, brief intervention, and referral to treatment in hospital OUTPATIENT AND emergency departments AND FREE-STANDING DIAGNOSTIC AND TREATMENT CENTERS of individuals at risk for substance abuse includ-

ing referral to the appropriate level of intervention and treatment in a community setting; provided, however, that the provisions of this paragraph relating to screening, brief intervention, and referral to treatment services shall not take effect unless all necessary approvals under federal law and regulation have been obtained to receive federal financial participation in such costs.

S 43. Subparagraph (ii) of paragraph (f) of subdivision 2-a of section 2807 of the public health law, as amended by section 16-a of part C of chapter 58 of the laws of 2009, is amended to read as follows:

(ii) notwithstanding the provisions of paragraphs (a) and (b) of this subdivision, for periods on and after January first, two thousand nine, the following services provided by general hospital outpatient departments and diagnostic and treatment centers shall be reimbursed with rates of payment based entirely upon the ambulatory patient group methodology as described in paragraph (e) of this subdivision, provided, however, that the commissioner may utilize existing payment methodologies or may promulgate regulations establishing alternative payment methodologies for one or more of the services specified in [clauses (C) and (D) of] this subparagraph, effective for periods on and after March first, two thousand nine:

(A) services provided in accordance with the provisions of paragraphs (q) and (r) of subdivision two of section three hundred sixty-five-a of the social services law; and

(B) all services, but only with regard to additional payment amounts, as determined in accordance with regulations issued in accordance with paragraph (e) of this subdivision, for the provision of such services during times outside the facility's normal hours of operation, as determined in accordance with criteria set forth in such regulations; and

(C) individual psychotherapy services provided by licensed social workers, in accordance with licensing criteria set forth in applicable regulations, to persons under the age of [nineteen] TWENTY-ONE and to persons requiring such services as a result of or related to pregnancy or giving birth; and

(D) individual psychotherapy services provided by licensed social workers, in accordance with licensing criteria set forth in applicable regulations, at diagnostic and treatment centers that provided, billed for, and received payment for these services between January first, two thousand seven and December thirty-first, two thousand seven; [and]

(E) services provided to pregnant women pursuant to paragraph (s) of subdivision two of section three hundred sixty-five-a of the social services law and, for periods on and after January first, two thousand ten, all other services provided pursuant to such paragraph (s) and services provided pursuant to paragraph (t) of subdivision two of section three hundred sixty-five-a of the social services law;

(F) WHEELCHAIR EVALUATION SERVICES AND EYEGLASS DISPENSING SERVICES; AND

(G) IMMUNIZATION SERVICES, EFFECTIVE FOR SERVICES RENDERED ON AND AFTER JUNE TENTH, TWO THOUSAND NINE.

S 44. Clauses (A) and (B) of subparagraph (iii) of paragraph (g) of subdivision 35 of section 2807-c of the public health law, as added by section 2 of part C of chapter 58 of the laws of 2009, are amended to read as follows:

(A) for the period December first, two thousand nine through March thirty-first, two thousand ten, up to [seventy-five] THIRTY-THREE million FIVE HUNDRED THOUSAND dollars;

(B) for the period April first, two thousand ten through March thirty-first, two thousand eleven, up to [thirty-three] SEVENTY-FIVE million [five hundred thousand] dollars, PROVIDED, HOWEVER, THAT, NOTWITHSTANDING SUBPARAGRAPH (II) OF THIS PARAGRAPH, NO FACILITY SHALL RECEIVE AN AMOUNT PURSUANT TO THIS CLAUSE THAT IS LESS THAN SUCH FACILITY RECEIVED PURSUANT TO CLAUSE (A) OF THIS SUBPARAGRAPH;

S 45. Subparagraphs (i) and (ii) of paragraph (b) of subdivision 2-a of section 2807 of the public health law, as amended by section 14 of part C of chapter 58 of the laws of 2009, are amended to read as follows:

(i) for the period [March] SEPTEMBER first, two thousand nine through [December first] NOVEMBER THIRTIETH, two thousand nine, seventy-five percent of such rates of payment for services provided by each diagnostic and treatment center and each free-standing ambulatory surgery center shall reflect the average Medicaid payment per claim, as determined by the commissioner, for services provided by that facility in the two thousand seven calendar year, but excluding any payments for services covered by the facility's licensure, if any, under the mental hygiene law, and twenty-five percent of such rates of payment shall, for the operating cost component, reflect the utilization of the ambulatory patient groups reimbursement methodology described in paragraph (e) of this subdivision;

(ii) for the period [January] DECEMBER first, two thousand [ten] NINE through December thirty-first, two thousand ten, fifty percent of such rates for each facility shall reflect the average Medicaid payment per claim, as determined by the commissioner, for services provided by that facility in the two thousand seven calendar year, but excluding any payments for services covered by the facility's licensure, if any, under the mental hygiene law, and fifty percent of such rates of payment shall, for the operating cost component, reflect the utilization of the ambulatory patient groups reimbursement methodology described in paragraph (e) of this subdivision;

S 46. Paragraph (s) of subdivision 2 of section 365-a of the social services law, as added by section 27 of part C of chapter 58 of the laws of 2009, is amended to read as follows:

(s) smoking cessation counseling services for pregnant women on any day of pregnancy through the end of the month in which the one hundred eightieth day following the end of the pregnancy occurs, and children and adolescents ten to [nineteen] TWENTY years of age, during a medical visit when provided by a general hospital outpatient department or a free-standing clinic, or by a physician, registered physician's assistant, registered nurse practitioner or licensed midwife in office-based settings; provided, however, that the provisions of this paragraph relating to smoking cessation counseling services shall not take effect unless all necessary approvals under federal law and regulation have been obtained to receive federal financial participation in the costs of such services.

S 47. Subdivision 2-a of section 2807 of the public health law is amended by adding a new paragraph (f-1) to read as follows:

(F-1) NOTWITHSTANDING ANY INCONSISTENT PROVISION OF THIS SECTION OR ANY OTHER CONTRARY PROVISION OF LAW, THE COMMISSIONER MAY WITH THE APPROVAL OF THE DIRECTOR OF THE BUDGET, FOR PERIODS PRIOR TO TWO THOUSAND TWELVE, ESTABLISH RATES OF PAYMENTS FOR SELECTED PATIENT SERVICE CATEGORIES THAT ARE BASED ENTIRELY UPON THE AMBULATORY PATIENT GROUPS METHODOLOGY AS AUTHORIZED PURSUANT TO PARAGRAPH (E) OF THIS SUBDIVISION.

S 47-a. Subparagraph (i) of paragraph (a-3) of subdivision 1 of section 2807-c of the public health law is amended by adding two new clauses (E) and (F) to read as follows:

(E) NOTWITHSTANDING CLAUSES (A) THROUGH (D) OF THIS SUBPARAGRAPH, FOR PERIODS ON AND AFTER DECEMBER FIRST, TWO THOUSAND NINE, THE OPERATING COST COMPONENT OF RATES OF PAYMENT SUBJECT TO SUBDIVISION THIRTY-FIVE OF THIS SECTION, AND

(F) NOTWITHSTANDING CLAUSES (A) THROUGH (D) OF THIS SUBPARAGRAPH, FOR PERIODS ON AND AFTER DECEMBER FIRST, TWO THOUSAND NINE, THE OPERATING COST COMPONENT OF RATES OF PAYMENT SUBJECT TO PARAGRAPHS (E-1), (E-2) AND (1) OF SUBDIVISION FOUR OF THIS SECTION FOR GENERAL HOSPITALS OR DISTINCT UNITS OF GENERAL HOSPITALS NOT REIMBURSED ON THE BASIS OF CASE BASED PAYMENTS PER DISCHARGE; AND

S 47-b. 1. The commissioner of health shall create and implement a plan for the state to assume the administrative responsibilities of the medical assistance program performed by social services districts.

2. In developing such plan, the commissioner of health shall, in consultation with each social services district: (i) define the scope of administrative services performed by social services districts and expenditures related thereto; (ii) require social services districts to provide any information necessary to determine the scope of services currently provided and expenditures related thereto; (iii) review administrative processes and make determinations necessary for the state to assume responsibility for such services; and (iv) establish a process for a five-year implementation for state assumption of administrative services to begin April 1, 2011, with full implementation by April 1, 2016.

3. Such plan developed by the commissioner of health shall include, but is not limited to: (i) a definition of administrative services; (ii) a cost analysis related to the delivery of such administrative services; (iii) operational objectives that create efficiency in administrative functions; (iv) standards that provide greater uniformity in eligibility criteria and continued enrollment; (v) a plan to transition social services district employees to state employment and to ensure that such transition shall not interfere with existing collective bargaining contracts; (vi) a statewide informational system that facilitates and monitors enrollment and promotes efficient transfer of information; (vii) a streamlined approach to communicating medical assistance policy changes; (viii) coordination of state assumption of medical assistance administrative responsibilities with the requirements of the federal Patient Protection and Affordable Care Act; (ix) a plan, consistent with subdivision 6 of this section and including any recommendations for legislative action, for state assumption of expenditures related to the costs of administering the medical assistance program; (x) recognition of the unique circumstances of the counties including, but not limited to: population size, demographics, geography and existing program infrastructure; and (xi) other critical issues as determined by the commissioner of health to increase efficiency in administration of the medical assistance program.

4. The commissioner of health shall submit a report to the governor, temporary president of the senate and speaker of the assembly by November 30, 2010, on the anticipated implementation of such plan, its elements, a timeline for such implementation, any recommendations for legislative action, and such other matters as may be pertinent.

5. The commissioner of health is authorized to promulgate regulations addressing the elements described in subdivision 3 of this section.

6. Subject to the approval of the director of the budget, beginning state fiscal year April 1, 2011, reimbursement for expenditures made on or after such date, by or on behalf of social services districts for medical assistance pursuant to section 368-a of the social services law and chapter 58 of the laws of 2005 shall be adjusted to reflect the state assumption of local administrative functions and the expenditures thereto pursuant to this section.

S 48. Notwithstanding any inconsistent provision of law, rule or regulation, for purposes of implementing the provisions of the public health law and the social services law, references to titles XIX and XXI of the federal social security act in the public health law and the social services law shall be deemed to include and also to mean any successor titles thereto under the federal social security act.

S 49. Notwithstanding any inconsistent provision of law, rule or regulation, the effectiveness of the provisions of sections 2807 and 3614 of the public health law, section 18 of chapter 2 of the laws of 1988, and 18 NYCRR 505.14(h), as they relate to time frames for notice, approval or certification of rates of payment, are hereby suspended and without force or effect for purposes of implementing the provisions of this act.

S 50. Severability clause. If any clause, sentence, paragraph, subdivision, section or part of this act shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, subdivision, section or part thereof directly involved in the controversy in which such judgement shall have been rendered. It is hereby declared to be the intent of the legislature that this act would have been enacted even if such invalid provisions had not been included herein.

S 51. This act shall take effect immediately and shall be deemed to have been in full force and effect on and after April 1, 2010, provided that:

(a) section five of this act shall take effect October 1, 2010; section eleven of this act shall take effect January 1, 2011; and sections twenty-nine and thirty of this act shall take effect November 1, 2010;

(b) any rules or regulations necessary to implement the provisions of this act may be promulgated and any procedures, forms, or instructions necessary for such implementation may be adopted and issued on or after the date this act shall have become a law;

(c) this act shall not be construed to alter, change, affect, impair or defeat any rights, obligations, duties or interests accrued, incurred or conferred prior to the effective date of this act;

(d) the commissioner of health and the superintendent of insurance and any appropriate council may take any steps necessary to implement this act prior to its effective date;

(e) notwithstanding any inconsistent provision of the state administrative procedure act or any other provision of law, rule or regulation, the commissioner of health and the superintendent of insurance and any appropriate council is authorized to adopt or amend or promulgate on an emergency basis any regulation he or she or such council determines necessary to implement any provision of this act on its effective date;

(f) the provisions of this act shall become effective notwithstanding the failure of the commissioner of health or the superintendent of insurance or any council to adopt or amend or promulgate regulations implementing this act;

(g) the amendments to section 2802-a of the public health law made by section fourteen of this act shall not affect the repeal of such section and shall be deemed to repeal therewith; and

(h) sections nineteen, twenty, twenty-one, twenty-two, twenty-three, twenty-four, twenty-five, twenty-six, twenty-seven and twenty-eight of this act shall expire and be deemed repealed on and after March 31, 2011;

(i) section forty-seven-a shall take effect December 1, 2009; and

(j) the amendments to clause (E) of subparagraph (i) of paragraph (i) of subdivision 35 of section 2807-c of the public health law made by section three-f of this act shall take effect on the same date and same manner as section 3-a of part B of chapter 109 of the laws of 2010, takes effect.

PART C

Section 1. The social services law is amended by adding a new section 366-i to read as follows:

S 366-I. LONG-TERM CARE FINANCING DEMONSTRATION PROGRAM. 1. NOTWITHSTANDING ANY INCONSISTENT PROVISION OF SECTIONS THREE HUNDRED SIXTY-SIX OR THREE HUNDRED SIXTY-SIX-C OF THIS TITLE, OR ANY OTHER PROVISION OF LAW, THE COMMISSIONER OF HEALTH IS AUTHORIZED TO DEVELOP THE LONG-TERM CARE FINANCING DEMONSTRATION PROGRAM, AN ALTERNATIVE PROGRAM FOR THE ESTABLISHMENT OF ELIGIBILITY UNDER THE MEDICAL ASSISTANCE PROGRAM FOR UP TO FIVE THOUSAND PERSONS.

2. THE PROVISIONS OF THIS SECTION SHALL NOT TAKE EFFECT UNLESS ALL NECESSARY APPROVALS UNDER FEDERAL LAW AND REGULATION HAVE BEEN OBTAINED TO RECEIVE FEDERAL FINANCIAL PARTICIPATION IN THE COSTS OF HEALTH CARE SERVICES PROVIDED TO PERSONS DETERMINED TO BE ELIGIBLE FOR MEDICAL ASSISTANCE PURSUANT TO THIS SECTION.

3. DEFINED PRIVATE CONTRIBUTION. UPON BEING DETERMINED ELIGIBLE FOR THE DEMONSTRATION, A PERSON SHALL DISCLOSE HIS OR HER HOUSEHOLD'S RESOURCES AND INCOME TO THE LOCAL SOCIAL SERVICES DISTRICT, OR AN ENTITY ACTING ON BEHALF OF SUCH DISTRICT PURSUANT TO SUBDIVISION FIVE OF THIS SECTION, AND SHALL ENTER INTO AN AGREEMENT WITH SUCH DISTRICT OR ENTITY. THE AGREEMENT SHALL REQUIRE THE PERSON TO APPLY A DEFINED PRIVATE CONTRIBUTION TOWARD THE COST OF INSTITUTIONAL OR NON-INSTITUTIONAL LONG-TERM CARE, AS DEFINED BY THE COMMISSIONER IN REGULATIONS. SUCH REGULATIONS SHALL PROVIDE FOR TWO LEVELS OF CONTRIBUTION: (A) A LEVEL THAT WOULD PERMIT A FULL MEDICAL ASSISTANCE RESOURCE EXEMPTION PURSUANT TO PARAGRAPH (A) OF SUBDIVISION FOUR OF THIS SECTION; AND (B) A LEVEL OR LEVELS THAT WOULD PERMIT A MEDICAL ASSISTANCE RESOURCE EXEMPTION THAT IS EQUIVALENT TO THE VALUE OF THE CONTRIBUTION PURSUANT TO PARAGRAPH (B) OF SUBDIVISION FOUR OF THIS SECTION.

4. MEDICAL ASSISTANCE ELIGIBILITY. UPON COMPLETION OF THE DEFINED PRIVATE CONTRIBUTION REQUIRED BY SUCH AGREEMENT, THE PERSON MAY APPLY FOR MEDICAL ASSISTANCE UNDER THIS TITLE AND, IF OTHERWISE ELIGIBLE, SHALL BE ELIGIBLE FOR SUCH ASSISTANCE EITHER: (A) IN THE CASE OF AN INDIVIDUAL WHO OPTS FOR A CONTRIBUTION LEVEL UNDER PARAGRAPH (A) OF SUBDIVISION THREE OF THIS SECTION, WITHOUT REGARD TO OTHERWISE APPLICABLE RESOURCE REQUIREMENTS OF THIS TITLE; OR (B) IN THE CASE OF AN INDIVIDUAL WHO OPTS FOR A CONTRIBUTION LEVEL UNDER PARAGRAPH (B) OF SUBDIVISION THREE OF THIS SECTION, WITHOUT REGARD TO AN AMOUNT OF RESOURCES THAT IS EQUIVALENT TO THE VALUE OF THE CONTRIBUTION. IN EITHER CASE, ELIGIBILITY FOR MEDICAL ASSISTANCE UNDER THIS TITLE SHALL, WITH RESPECT TO THE AMOUNT OF RESOURCES THAT ARE EXEMPT FROM CONSIDERATION UNDER THIS

SUBDIVISION, BE WITHOUT REGARD TO THE LIEN AND ESTATE RECOVERY PROVISIONS OF SECTION THREE HUNDRED SIXTY-NINE OF THIS TITLE; PROVIDED, HOWEVER, THAT NOTHING HEREIN SHALL PREVENT THE IMPOSITION OF A LIEN OR RECOVERY AGAINST PROPERTY OF AN INDIVIDUAL ON ACCOUNT OF MEDICAL ASSISTANCE INCORRECTLY PAID.

5. THE COMMISSIONER IS AUTHORIZED TO ENTER INTO A CONTRACT WITH A PRIVATE ENTITY TO ASSIST IN THE ADMINISTRATION OF THE DEMONSTRATION PROGRAM ESTABLISHED BY THIS SECTION. SUCH A CONTRACT MAY INCLUDE, WITHOUT LIMITATION, ASSISTANCE IN THE DEVELOPMENT OF THE CRITERIA FOR THE DEFINED PRIVATE CONTRIBUTION, DRAFTING OF THE DEFINED CONTRIBUTION AGREEMENT, ACCEPTING AND PROCESSING APPLICATIONS FOR DEMONSTRATION PARTICIPATION UNDER THIS SECTION, AND ACCEPTING AND PROCESSING APPLICATIONS FOR MEDICAL ASSISTANCE FOR DEMONSTRATION PARTICIPANTS. NOTWITHSTANDING ANY INCONSISTENT PROVISION OF SECTIONS ONE HUNDRED TWELVE AND ONE HUNDRED SIXTY-THREE OF THE STATE FINANCE LAW, OR SECTION ONE HUNDRED FORTY-TWO OF THE ECONOMIC DEVELOPMENT LAW, OR ANY OTHER LAW, THE COMMISSIONER IS AUTHORIZED TO ENTER INTO A CONTRACT UNDER THIS SUBDIVISION WITHOUT A COMPETITIVE BID OR REQUEST FOR PROPOSAL PROCESS.

6. IF THE COMMISSIONER EXERCISES HIS OR HER AUTHORITY TO IMPLEMENT A DEMONSTRATION PROGRAM UNDER THIS SECTION HE OR SHE SHALL SUBMIT A REPORT TO THE GOVERNOR, PRESIDENT PRO TEM OF THE SENATE AND SPEAKER OF THE ASSEMBLY BY THE FIRST DAY OF NOVEMBER, TWO THOUSAND FIFTEEN, ON THE IMPLEMENTATION OF THIS SECTION. SUCH REPORT SHALL INCLUDE A STATEMENT AS TO THE EXTENT TO WHICH INDIVIDUALS HAVE OPTED TO PARTICIPATE IN THE DEMONSTRATION, AN ANALYSIS OF THE IMPACT OF THE DEMONSTRATION ON MEDICAL ASSISTANCE PROGRAM LONG-TERM CARE COSTS, ANY RECOMMENDATIONS FOR LEGISLATIVE ACTION, AND SUCH OTHER MATTERS AS MAY BE PERTINENT.

S 2. The social services law is amended by adding a new section 367-v to read as follows:

S 367-V. COUNTY LONG-TERM CARE FINANCING DEMONSTRATION PROGRAM. 1. NOTWITHSTANDING ANY INCONSISTENT PROVISION OF LAW, THE COMMISSIONER IS AUTHORIZED TO ESTABLISH A LONG-TERM CARE FINANCING DEMONSTRATION PROGRAM, TO OPERATE IN UP TO FIVE COUNTIES, FOR THE PURPOSE OF CREATING INCENTIVES AND FUNDING FOR THE TRANSFORMATION OF COUNTY NURSING HOME BEDS INTO OTHER LONG-TERM CARE SETTINGS.

2. (A) THE DEMONSTRATION PROGRAM ESTABLISHED PURSUANT TO THIS SECTION SHALL PERMIT A PARTICIPATING COUNTY TO REDUCE ITS COUNTY NURSING HOME BED CAPACITY, OR TO CLOSE A COUNTY NURSING HOME, AND TO INVEST ANY RESULTING DEMONSTRATED SAVINGS IN PROGRAMS OR SERVICES THAT WILL, TO THE EXTENT FEASIBLE, ENCOURAGE THE USE OF COMMUNITY-BASED LONG-TERM CARE ALTERNATIVES TO INSTITUTIONAL CARE.

(B) SUCH PROGRAMS OR SERVICES MAY INCLUDE, BUT ARE NOT LIMITED TO:

(I) EXPANSION OF COMMUNITY-BASED SERVICES SUCH AS THE PROGRAM FOR ALL-INCLUSIVE CARE FOR THE ELDERLY (PACE), THE LONG TERM HOME HEALTH CARE PROGRAM, THE MANAGED LONG TERM CARE PROGRAM, ADULT DAY CARE SERVICES, AND CAREGIVER SUPPORT SERVICES;

(II) EXPANSION OF SENIOR HOUSING;

(III) ASSISTED LIVING PROGRAM;

(IV) PAYMENT OF SUBSIDIES TO ENCOURAGE ASSISTED LIVING PROGRAMS, ADULT CARE FACILITIES, AND NON-PUBLIC NURSING HOMES TO ACCEPT HARD-TO-SERVE RESIDENTS; AND

(V) CONTRACTS WITH NON-PUBLIC NURSING HOMES TO GUARANTEE BEDS FOR THOSE HARD-TO-SERVE PERSONS WHO CHOOSE NURSING HOME CARE OR FOR WHOM OTHER COMMUNITY-BASED OPTIONS ARE NOT FEASIBLE OR ARE UNAVAILABLE.

3. A COUNTY WISHING TO PARTICIPATE IN THE DEMONSTRATION PROGRAM ESTABLISHED PURSUANT TO THIS SECTION SHALL DEVELOP A PLAN AND SUBMIT AN

APPLICATION FOR PARTICIPATION TO THE COMMISSIONER OF HEALTH DETAILING SUCH PLAN AT A TIME AND IN A MANNER TO BE DETERMINED BY SUCH COMMISSIONER. THE COMMISSIONER IS AUTHORIZED TO APPROVE OR DISAPPROVE ANY SUCH APPLICATION AND TO CERTIFY THE AMOUNT OF DEMONSTRATED SAVINGS.

4. NOTWITHSTANDING THE CAP ON SOCIAL SERVICES DISTRICT SHARES OF MEDICAL ASSISTANCE EXPENDITURES ESTABLISHED PURSUANT TO SECTION ONE OF PART C OF CHAPTER FIFTY-EIGHT OF THE LAWS OF TWO THOUSAND FIVE, THE DIRECTOR OF THE DIVISION OF THE BUDGET IS AUTHORIZED, IN HIS OR HER SOLE DISCRETION, TO ADJUST A DISTRICT'S CAP AMOUNT TO ACCOUNT FOR CHANGES IN THE NON-FEDERAL SHARE OF MEDICAL ASSISTANCE RESULTING FROM ANY APPROVED DEMONSTRATION PLAN.

5. THE COMMISSIONER OF HEALTH IS AUTHORIZED TO SUBMIT ANY AMENDMENTS TO THE STATE PLAN FOR MEDICAL ASSISTANCE AND ANY WAIVERS OF THE FEDERAL SOCIAL SECURITY ACT THAT SUCH COMMISSIONER DETERMINES TO BE NECESSARY TO OBTAIN FEDERAL FINANCIAL PARTICIPATION IN THE COSTS OF SERVICES PROVIDED PURSUANT TO THIS SECTION.

6. THE COMMISSIONER OF HEALTH SHALL SUBMIT A REPORT TO THE GOVERNOR, TEMPORARY PRESIDENT OF THE SENATE AND SPEAKER OF THE ASSEMBLY BY THE FIRST DAY OF NOVEMBER, TWO THOUSAND FIFTEEN, ON THE IMPLEMENTATION OF THIS SECTION. SUCH REPORT SHALL INCLUDE IDENTIFICATION OF THE COUNTIES APPROVED TO PARTICIPATE IN THE DEMONSTRATION, A DESCRIPTION OF SUCH COUNTIES' APPROVED DEMONSTRATION PLANS, AN ANALYSIS OF THE IMPACT OF THE DEMONSTRATION ON LONG-TERM CARE COSTS AND SERVICE DELIVERY, ANY RECOMMENDATIONS FOR LEGISLATIVE ACTION, AND SUCH OTHER MATTERS AS MAY BE PERTINENT.

S 3. Subdivision 6 of section 3614 of the public health law, as amended by chapter 645 of the laws of 2003, is amended by adding a new paragraph (c) to read as follows:

(C) THE DEPARTMENT SHALL CONDUCT A STUDY OF THE USE OF RESIDENT DATA COLLECTED FROM A UNIFORM ASSESSMENT TOOL IDENTIFIED BY THE COMMISSIONER WITH RESPECT TO ITS EFFECTIVENESS IN EVALUATION AND ADJUSTING RATES OF PAYMENT FOR ASSISTED LIVING PROGRAMS. ON OR BEFORE JULY THIRTY-FIRST, TWO THOUSAND ELEVEN, THE COMMISSIONER SHALL PROVIDE THE GOVERNOR, THE SPEAKER OF THE ASSEMBLY, THE TEMPORARY PRESIDENT OF THE SENATE, AND THE CHAIRPERSONS OF THE ASSEMBLY AND SENATE HEALTH COMMITTEES WITH A REPORT SETTING FORTH THE CONCLUSIONS OF SUCH STUDY.

S 4. Subdivision 2 of section 2801-e of the public health law, as added by chapter 750 of the laws of 2004, is amended to read as follows:

2. Notwithstanding any inconsistent provision of law or regulation to the contrary, a residential health care facility, as defined in section twenty-eight hundred one of this article, may apply to temporarily decertify or permanently convert a portion of its existing certified beds to another type of program or service under the voluntary residential health care facility rightsizing demonstration program. The commissioner may approve temporary decertifications and permanent conversions of beds totaling no more than [two thousand five hundred] FIVE THOUSAND residential health care facility beds on a statewide basis under this program. Such approvals shall reflect, to the extent practicable, participation by a variety of residential health care facilities based on geography, size and other pertinent factors.

S 5. Subdivision 4 of section 4403-f of the public health law is REPEALED and two new subdivisions 4 and 4-a are added to read as follows:

4. SOLVENCY. (A) THE COMMISSIONER SHALL BE RESPONSIBLE FOR EVALUATING, APPROVING AND REGULATING ALL MATTERS RELATING TO FISCAL SOLVENCY, INCLUDING RESERVES, SURPLUS AND PROVIDER CONTRACTS. THE COMMISSIONER MAY

PROMULGATE REGULATIONS TO IMPLEMENT THIS SECTION. THE COMMISSIONER, IN THE ADMINISTRATION OF THIS SUBDIVISION:

(I) SHALL BE GUIDED BY THE STANDARDS WHICH GOVERN THE FISCAL SOLVENCY OF A HEALTH MAINTENANCE ORGANIZATION, PROVIDED, HOWEVER, THAT THE COMMISSIONER SHALL RECOGNIZE THE SPECIFIC DELIVERY COMPONENTS, OPERATIONAL CAPACITY AND FINANCIAL CAPABILITY OF THE ELIGIBLE APPLICANT FOR A CERTIFICATE OF AUTHORITY;

(II) SHALL NOT APPLY FINANCIAL SOLVENCY STANDARDS THAT EXCEED THOSE REQUIRED FOR A HEALTH MAINTENANCE ORGANIZATION; AND

(III) SHALL ESTABLISH REASONABLE CAPITALIZATION AND CONTINGENT RESERVE REQUIREMENTS.

(B) STANDARDS ESTABLISHED PURSUANT TO THIS SUBDIVISION SHALL BE ADEQUATE TO PROTECT THE INTERESTS OF ENROLLEES IN MANAGED LONG TERM CARE PLANS. THE COMMISSIONER SHALL BE SATISFIED THAT THE ELIGIBLE APPLICANT IS FINANCIALLY SOUND, AND HAS MADE ADEQUATE PROVISIONS TO PAY FOR SERVICES.

4-A. ROLE OF THE SUPERINTENDENT OF INSURANCE. (A) THE SUPERINTENDENT OF INSURANCE SHALL DETERMINE AND APPROVE PREMIUMS IN ACCORDANCE WITH THE INSURANCE LAW WHENEVER ANY POPULATION OF ENROLLEES NOT ELIGIBLE UNDER TITLE XIX OF THE FEDERAL SOCIAL SECURITY ACT IS TO BE COVERED. THE DETERMINATION AND APPROVAL OF THE SUPERINTENDENT OF INSURANCE SHALL RELATE TO PREMIUMS CHARGED TO SUCH ENROLLEES NOT ELIGIBLE UNDER TITLE XIX OF THE FEDERAL SOCIAL SECURITY ACT.

(B) THE SUPERINTENDENT OF INSURANCE SHALL EVALUATE AND APPROVE ANY ENROLLEE CONTRACTS WHENEVER SUCH ENROLLEE CONTRACTS ARE TO COVER ANY POPULATION OF ENROLLEES NOT ELIGIBLE UNDER TITLE XIX OF THE FEDERAL SOCIAL SECURITY ACT.

S 6. Paragraphs (a), (b) and (c) of subdivision 6 of section 4403-f of the public health law, paragraph (a) as added by section 16 of part C of chapter 58 of the laws of 2007 and paragraphs (b) and (c) as added by chapter 659 of the laws of 1997, are amended to read as follows:

(a) An applicant shall be issued a certificate of authority as a managed long term care plan upon a determination by the commissioner[, subject to any applicable evaluations, approvals, and regulations of the superintendent of insurance as stated in this section,] that the applicant complies with the operating requirements for a managed long term care plan under this section. The commissioner shall issue no more than fifty certificates of authority to managed long term care plans pursuant to this section. For purposes of issuance of no more than fifty certificates of authority, such certificates shall include those certificates issued pursuant to paragraphs (b) and (c) of this subdivision.

(b) An operating demonstration shall be issued a certificate of authority as a managed long term care plan upon a determination by the commissioner[, subject to the necessary evaluations, approvals and regulations of the superintendent of insurance as stated in this section,] that such demonstration complies with the operating requirements for a managed long term care plan under this section. Except as otherwise expressly provided in paragraphs (d) and (e) of subdivision seven of this section, nothing in this section shall be construed to affect the continued legal authority of an operating demonstration to operate its previously approved program.

(c) An approved managed long term care demonstration shall be issued a certificate of authority as a managed long term care plan upon a determination by the commissioner[, subject to the necessary evaluations, approvals and regulations of the superintendent of insurance set forth in this section,] that such demonstration complies with the operating

requirements for a managed long term care plan under this section. Notwithstanding any inconsistent provision of law to the contrary, all authority for the operation of approved managed long term care demonstrations which have not been issued a certificate of authority as a managed long term care plan, shall expire one year after the adoption of regulations implementing managed long term care plans.

S 7. Paragraph (f) of subdivision 7 of section 4403-f of the public health law, as added by chapter 659 of the laws of 1997 and as relettered by section 20 of part C of chapter 58 of the laws of 2007, is amended to read as follows:

(f) Continuation of a certificate of authority issued under this section[, subject to the necessary evaluations, approvals and regulations of the superintendent of insurance,] shall be contingent upon satisfactory performance by the managed long term care plan in the delivery, continuity, accessibility, cost effectiveness and quality of the services to enrolled members; compliance with applicable provisions of this section and rules and regulations promulgated thereunder; the continuing fiscal solvency of the organization; and, federal financial participation in payments on behalf [on] OF enrollees who are eligible to receive services under title XIX of the federal social security act.

S 8. Subdivision 9 of section 4403-f of the public health law, as added by chapter 659 of the laws of 1997, is amended to read as follows:

9. Reports. The department shall provide an interim report to the governor, temporary president of the senate and the speaker of the assembly on or before April first, two thousand three and a final report on or before April first, two thousand six on the results of the managed long term care plans under this section. Such results shall be based on data provided by the managed long term care plans and shall include but not be limited to the quality, accessibility and appropriateness of services; consumer satisfaction; the mean and distribution of impairment measures of the enrollees by payor for each plan; the current method of calculating premiums and the cost of comparable health and long term care services provided on a fee-for-service basis for enrollees eligible for services under title XIX of the federal social security act; and the results of periodic reviews of enrollment levels and practices. [Such reports shall contain a section prepared by the superintendent of insurance as to the results of the plans approved in accordance with this section concerning the matters regulated by the superintendent of insurance.] Such reports shall [also] provide data on the demographic and clinical characteristics of enrollees, voluntary and involuntary disenrollments from plans, AND utilization of services and shall examine the feasibility of increasing the number of plans that may be approved. Data collected pursuant to this section shall be available to the public in an aggregated format to protect individual confidentiality, however under no circumstance will data be released on items with cells with smaller than statistically acceptable standards.

S 9. Notwithstanding any contrary provision of law, assessments due and owing pursuant to paragraph (b) of subdivision two of section 2807-d of the public health law for monthly periods prior to January 1, 2009, which are paid on or before December 1, 2010, shall not be subject to interest or penalties as otherwise provided in section 2807-d of the public health law, provided, however, that all assessment, interest and penalty amounts collected by the commissioner of health prior to the receipt of such payments, whether through recoupment or otherwise, shall remain in full force and effect and such amounts collected shall not be subject to further reconciliation or adjustment, and provided further,

however, that in the event payments are made pursuant to this section which, as determined by the commissioner of health, constitute less than 100% of the principal amounts remaining outstanding for periods prior to 2009, the commissioner of health shall apply such payments to each unpaid month in order, starting with the oldest unpaid month that is outstanding at the time such payments are received. Furthermore, the provisions of this act shall not apply to any assessment payment made in response to an audit finding made by the commissioner of health, the commissioner of health's designee or the office of the attorney general; and, further, the provisions of this section shall not apply to recoupments implemented through offsets applied to retroactive lump sum payments.

S 10. Paragraph (b-1) of subdivision 1 of section 2807-c of the public health law, as added by chapter 639 of the laws of 1996 and subparagraph (i) as amended by section 7 of part OO of chapter 57 of the laws of 2008, is amended to read as follows:

(b-1) (i) For patients discharged on and after January first, nineteen hundred ninety-seven and prior to January first, two thousand and on and after January first, two thousand, payments to general hospitals for reimbursement of inpatient hospital services provided to patients eligible for payments pursuant to the workers' compensation law, the volunteer firefighters' benefit law, the volunteer ambulance workers' benefit law, and the comprehensive motor vehicle insurance reparations act shall be at the rates of payment determined pursuant to this section for state governmental agencies, excluding adjustments pursuant to subdivision fourteen-f of this section and subdivision thirty-three of this section AND EXCLUDING SUCH FURTHER REDUCTIONS TO SUCH PAYMENTS AS ARE ENACTED AS PART OF THE STATE BUDGET FOR THE STATE FISCAL YEAR COMMENCING APRIL FIRST, TWO THOUSAND TEN.

(ii) The provisions of paragraph (d) of subdivision eleven of this section shall continue to apply to such payors for payments determined pursuant to this paragraph.

S 11. The opening paragraph of subdivision 5-a of section 2807-k of the public health law, as added by section 28-b of part B of chapter 58 of the laws of 2008, is amended to read as follows:

Notwithstanding any inconsistent provision of this section, section twenty-eight hundred seven-w of this article or any other contrary provision of law, subject to the availability of federal financial participation and within amounts appropriated, for periods on and after January first, two thousand nine [through December thirty-first, two thousand ten], ten percent of the aggregate distributions to each general hospital made otherwise pursuant to this section and section twenty-eight hundred seven-w of this article shall be reserved and set aside and distributed in accordance with the following:

S 12. Paragraph (g) of subdivision 5-a of section 2807-k is REPEALED.

S 13. Subdivision 1-a of section 47 of part B of chapter 58 of the laws of 2008 amending the social services law and other laws relating to enacting major components of legislation necessary to implement the health and mental hygiene budget for the 2008-2009 state fiscal year, is amended to read as follows:

1-a. Section twenty-eight-b of this act shall take effect April 1, 2008 [and shall expire April 1, 2011 when upon such date the provisions of such section shall be deemed repealed];

S 14. The opening paragraph, paragraph (a) of subdivision 1 and subdivision 2 of section 2807-w of the public health law, as amended by

section 2 of part OO of chapter 57 of the laws of 2008, are amended to read as follows:

Funds allocated pursuant to paragraph (p) of subdivision one of section twenty-eight hundred seven-v of this article, shall be deposited as authorized and used for the purpose of making medicaid disproportionate share payments of up to eighty-two million dollars on an annualized basis pursuant to subdivision twenty-one of section twenty-eight hundred seven-c of this article, for the period January first, two thousand through March thirty-first, two thousand [ten] ELEVEN, in accordance with the following:

(a) Each eligible rural hospital shall receive one hundred forty thousand dollars on an annualized basis for the periods January first, two thousand through December thirty-first, two thousand [ten] ELEVEN, provided as a disproportionate share payment; provided, however, that if such payment pursuant to this paragraph exceeds a hospital's applicable disproportionate share limit, then the total amount in excess of such limit shall be provided as a nondisproportionate share payment in the form of a grant directly from this pool without allocation to the special revenue funds - other, indigent care fund - 068, or any successor fund or account, and provided further that payments for periods on and after January first, two thousand nine shall be subject to the provisions of subdivision five-a of section twenty-eight hundred seven-k of this article;

2. From the funds in the pool each year, thirty-six million dollars on an annualized basis for the periods January first, two thousand through December thirty-first, two thousand [ten] ELEVEN, of the funds not distributed in accordance with subdivision one of this section, shall be distributed in accordance with the formula set forth in subdivision six of section twenty-eight hundred seven-k of this article, provided, however, that payments for periods on and after January first, two thousand nine shall be subject to the provisions of subdivision five-a of section twenty-eight hundred seven-k of this article.

S 15. Subdivision 3 and paragraph (a) of subdivision 4 of section 2807-k of the public health law, as amended by section 1 of part OO of chapter 57 of the laws of 2008, are amended to read as follows:

3. Each major public general hospital shall be allocated for distribution from the pools established pursuant to this section for each year through December thirty-first, two thousand [ten] ELEVEN, an amount equal to the amount allocated to such major public general hospital from the regional pool established pursuant to subdivision seventeen of section twenty-eight hundred seven-c of this article for the period January first, nineteen hundred ninety-six through December thirty-first, nineteen hundred ninety-six, provided, however, that payments on and after January first, two thousand nine shall be subject to the provisions of subdivision five-a of this section.

(a) From funds in the pool for each year, thirty-six million dollars shall be reserved on an annual basis through December thirty-first, two thousand [ten] ELEVEN, for distribution as high need adjustments in accordance with subdivision six of this section, provided, however, that payments on and after January first, two thousand nine shall be subject to the provisions of subdivision five-a of this section.

S 16. To ensure transparency and accountability, a joint legislative task force shall be established to examine the distribution methodology and use of indigent care pool funds to public and non-public general hospitals pursuant to sections 2807-k and 2807-w of the public health law. The task force shall be appointed by the temporary president of the

senate and the speaker of the assembly. The chairs of the senate and assembly standing committees on health shall serve as co-chairpersons of the task force. The task force shall be comprised of various stakeholders and experts including, but not limited to, representatives of health care institutions, hospital associations, community providers, governmental agencies, consumers, and such other individuals as the temporary president of the senate and the speaker of the assembly may designate. The task force shall report its findings and make recommendations to the temporary president of the senate and the speaker of the assembly, chairs of the senate and assembly standing committees on health, and the governor on or before February 1, 2011.

S 17. Notwithstanding any inconsistent provision of law, rule or regulation, for purposes of implementing the provisions of the public health law and the social services law, references to titles XIX and XXI of the federal social security act in the public health law and the social services law shall be deemed to include and also to mean any successor titles thereto under the federal social security act.

S 18. Notwithstanding any inconsistent provision of law, rule or regulation, the effectiveness of the provisions of sections 2807 and 3614 of the public health law, section 18 of chapter 2 of the laws of 1988, and 18 NYCRR 505.14(h), as they relate to time frames for notice, approval or certification of rates of payment, are hereby suspended and without force or effect for purposes of implementing the provisions of this act.

S 19. Severability clause. If any clause, sentence, paragraph, subdivision, section or part of this act shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, subdivision, section or part thereof directly involved in the controversy in which such judgment shall have been rendered. It is hereby declared to be the intent of the legislature that this act would have been enacted even if such invalid provisions had not been included herein.

S 20. This act shall take effect immediately and shall be deemed to have been in full force and effect on and after April 1, 2010, provided, however, that:

1. the amendments to section 4403-f of the public health law made by sections five, six, seven and eight of this act shall not affect the repeal of such section and shall be deemed repealed therewith;

2. the amendments to paragraph (b-1) of subdivision 1 of section 2807-c of the public health law made by section ten of this act shall not affect the expiration of such paragraph and shall be deemed to expire therewith;

3. any rules or regulations necessary to implement the provisions of this act may be promulgated and any procedures, forms, or instructions necessary for such implementation may be adopted and issued on or after the date this act shall have become a law;

4. this act shall not be construed to alter, change, affect, impair or defeat any rights, obligations, duties or interests accrued, incurred or conferred prior to the effective date of this act;

5. the commissioner of health and the superintendent of insurance and any appropriate council may take any steps necessary to implement this act prior to its effective date;

6. notwithstanding any inconsistent provision of the state administrative procedure act or any other provision of law, rule or regulation, the commissioner of health and the superintendent of insurance and any appropriate council is authorized to adopt or amend or promulgate on an

emergency basis any regulation he or she or such council determines necessary to implement any provision of this act on its effective date;

7. the provisions of this act shall become effective notwithstanding the failure of the commissioner of health or the superintendent of insurance or any council to adopt or amend or promulgate regulations implementing this act.

PART D

Section 1. Subparagraph (i) of paragraph (b) of subdivision 2-b of section 2808 of the public health law, as amended by section 1 of part E of chapter 19 of the laws of 2010, is amended to read as follows:

(i) Subject to the provisions of subparagraphs (ii) through (xiv) of this paragraph, for periods on and after April first, two thousand nine THROUGH JUNE THIRTIETH, TWO THOUSAND ELEVEN the operating cost component of rates of payment shall reflect allowable operating costs as reported in each facility's cost report for the two thousand two calendar year, as adjusted for inflation on an annual basis in accordance with the methodology set forth in paragraph (c) of subdivision ten of section twenty-eight hundred seven-c of this article, provided, however, that for those facilities which do not receive a per diem add-on adjustment pursuant to subparagraph (ii) of paragraph (a) of this subdivision, rates shall be further adjusted to include the proportionate benefit, as determined by the commissioner, of the expiration of the opening paragraph and paragraph (a) of subdivision sixteen of this section and of paragraph (a) of subdivision fourteen of this section, and provided further that the operating cost component of rates of payment for those facilities which did not receive a per diem adjustment in accordance with subparagraph (ii) of paragraph (a) of this subdivision shall not be less than the operating component such facilities received in the two thousand eight rate period, as adjusted for inflation on an annual basis in accordance with the methodology set forth in paragraph (c) of subdivision ten of section twenty-eight hundred seven-c of this article and further provided, however, that rates for facilities whose operating cost component reflects base year costs subsequent to January first, two thousand two shall have rates computed in accordance with this paragraph, utilizing allowable operating costs as reported in such subsequent base year period, and trended forward to the rate year in accordance with applicable inflation factors.

S 2. The opening paragraph and subparagraph (vi) of paragraph (a) of subdivision 2-c of section 2808 of the public health law, as amended by section 2 of part E of chapter 19 of the laws of 2010, are amended to read as follows:

Notwithstanding [paragraph (b) of subdivision two-b of this section and] any [other] inconsistent provision of this section or any other contrary provision of law and subject to the availability of federal financial participation, the operating costs of rates of payment by governmental agencies for inpatient services provided by residential health care facilities on and after [April first, two thousand ten, or on and after the date the state budget for the state fiscal year beginning April first, two thousand ten is enacted into law, whichever is later,] JULY FIRST, TWO THOUSAND ELEVEN shall be determined in accordance with the following:

(vi) Notwithstanding subparagraph (i) of this paragraph, the operating cost component of the rates, effective [for the periods on and after the date rates pursuant to subparagraph (i) of this paragraph take effect]

JULY FIRST, TWO THOUSAND ELEVEN for the following categories of facilities, as established pursuant to applicable regulations, shall reflect the rates in effect for such facilities on [the day immediately preceding the date rates pursuant to subparagraph (i) of this paragraph take effect] JUNE THIRTIETH, TWO THOUSAND ELEVEN, as adjusted for inflation in accordance with applicable statutes: (A) AIDS facilities or discrete AIDS units within facilities, (B) discrete units for residents receiving care in a long-term inpatient rehabilitation program for traumatic brain injured persons, (C) discrete units providing specialized programs for residents requiring behavioral interventions, (D) discrete units for long-term ventilator dependent residents, and (E) facilities or discrete units within facilities that provide extensive nursing, medical, psychological and counseling support services solely to children. Such rate shall remain in effect until the department, in consultation with representatives of the nursing home industry, as selected by the commissioner, develops a regional pricing or alternative methodology for determining such rates.

S 3. Section 2 of part D of chapter 58 of the laws of 2009, amending the public health law and other laws relating to Medicaid reimbursements to residential health care facilities, as amended by section 3 of part E of chapter 19 of the laws of 2010, is amended to read as follows:

S 2. Notwithstanding paragraph (b) of subdivision 2-b of section 2808 of the public health law or any other contrary provision of law, with regard to adjustments to medicaid rates of payment for inpatient services provided by residential health care facilities for the period April 1, 2009 through March 31, 2010, made pursuant to paragraph (b) of subdivision 2-b of section 2808 of the public health law, the commissioner of health and the director of the budget shall, upon a determination that such adjustments, including the application of adjustments authorized by the provisions of paragraph (g) of subdivision 2-b of section 2808 of the public health law, shall result in an aggregate increase in total Medicaid rates of payment for such services for such period that is less than or more than two hundred ten million dollars ($210,000,000), make such proportional adjustments to such rates as are necessary to result in an increase of such aggregate expenditures of two hundred ten million dollars ($210,000,000), [and provided further, however, that the operating component of such rates for the period April 1, 2009 through March 31, 2010 shall not be subject to case mix adjustments pursuant to subparagraph (ii) of paragraph (b) of subdivision 2-b of section 2808 of the public health law, as otherwise scheduled pursuant to such subparagraph for January of 2010,] and provided further, however, that notwithstanding section 2808 of the public health law or any other contrary provision of law, with regard to adjustments to inpatient rates of payment made pursuant to section 2808 of the public health law for inpatient services provided by residential health care facilities for the period April 1, 2010 through [March 31] JUNE 30, 2011, the commissioner of health and the director of the budget shall, upon a determination by such commissioner and such director that such rate adjustments shall, prior to the application of any applicable adjustment for inflation, result in an aggregate increase in total Medicaid rates of payment for such services, INCLUDING PAYMENTS MADE PURSUANT TO SUBPARAGRAPH (I) OF PARAGRAPH (D) OF SUBDIVISION 2-C OF SECTION 2808 OF THE PUBLIC HEALTH LAW, make such proportional adjustments to such rates as are necessary to reduce such total aggregate rate adjustments such that the aggregate total reflects no such increase or decrease, AND PROVIDED FURTHER, HOWEVER, THE CASE MIX ADJUSTMENTS AS

OTHERWISE AUTHORIZED BY SUBPARAGRAPH (II) OF PARAGRAPH (B) OF SUBDIVISION 2-B OF SECTION 2808 OF THE PUBLIC HEALTH LAW AND AS SCHEDULED FOR JANUARY OF 2011 SHALL NOT BE MADE. Adjustments made pursuant to this section shall not be subject to subsequent correction or reconciliation.

S 4. This act shall take effect immediately and shall be deemed to have been in full force and effect on and after April 1, 2010.

PART E

Section 1. Section 398-a of the social services law is amended by adding a new subdivision 2-b to read as follows:

(2-B) PAYMENTS MADE DIRECTLY BY SOCIAL SERVICES DISTRICTS TO FOSTER BOARDING HOMES FOR FOSTER CARE PURSUANT TO THIS SECTION MAY BE MADE BY DIRECT DEPOSIT OR DEBIT CARD, AS ELECTED BY THE RECIPIENT, AND ADMINISTERED ELECTRONICALLY, AND IN ACCORDANCE WITH SUCH GUIDELINES AS MAY BE SET FORTH BY REGULATION OF THE OFFICE OF CHILDREN AND FAMILY SERVICES. THE OFFICE OF CHILDREN AND FAMILY SERVICES MAY ENTER INTO CONTRACTS ON BEHALF OF SOCIAL SERVICES DISTRICTS FOR SUCH DIRECT DEPOSIT OR DEBIT CARD SERVICES IN ACCORDANCE WITH SECTION TWENTY-ONE-A OF THIS CHAPTER.

S 2. Subdivision 1 of section 453 of the social services law is amended by adding a new paragraph (a-1) to read as follows:

(A-1) PAYMENTS PURSUANT TO THIS SECTION MAY BE MADE BY DIRECT DEPOSIT OR DEBIT CARD, AS ELECTED BY THE RECIPIENT, AND ADMINISTERED ELECTRONICALLY, AND IN ACCORDANCE WITH SUCH GUIDELINES AS MAY BE SET FORTH BY REGULATION OF THE OFFICE OF CHILDREN AND FAMILY SERVICES. THE OFFICE OF CHILDREN AND FAMILY SERVICES MAY ENTER INTO CONTRACTS ON BEHALF OF LOCAL SOCIAL SERVICES DISTRICTS FOR SUCH DIRECT DEPOSIT OR DEBIT CARD SERVICES IN ACCORDANCE WITH SECTION TWENTY-ONE-A OF THIS CHAPTER.

S 3. This act shall take effect immediately and shall be deemed to have been in full force and effect on and after April 1, 2010.

PART F

Section 1. Paragraph (h) of subdivision 12 of section 366 of the social services law, as added by section 1 of part E of chapter 58 of the laws of 2006, is amended to read as follows:

(h) A person participating in the waiver program established by this subdivision may continue participation in the program until it is no longer consistent with the plan of care, or until age twenty-one, whichever occurs earlier, notwithstanding the person's status as having been discharged from the care and placement of the local commissioner of a social services district or the commissioner of children and family services, including adoption OR PARTICIPATION IN THE KINSHIP GUARDIANSHIP ASSISTANCE PROGRAM UNDER TITLE TEN OF ARTICLE SIX OF THIS CHAPTER.

S 2. Section 366 of the social services law is amended by adding a new subdivision 13 to read as follows:

13. THE COMMISSIONER OF HEALTH, IN CONSULTATION WITH THE COMMISSIONER OF THE OFFICE OF CHILDREN AND FAMILY SERVICES, SHALL MAKE ANY AVAILABLE AMENDMENTS TO THE STATE PLAN FOR MEDICAL ASSISTANCE SUBMITTED PURSUANT TO SECTION THREE HUNDRED SIXTY-THREE-A OF THIS TITLE, OR, IF AN AMENDMENT IS NOT POSSIBLE, DEVELOP AND SUBMIT AN APPLICATION FOR ANY WAIVER UNDER THE FEDERAL SOCIAL SECURITY ACT THAT MAY BE AVAILABLE TO PROVIDE MEDICAL ASSISTANCE FOR THOSE CHILDREN RECEIVING KINSHIP GUARDIANSHIP ASSISTANCE PAYMENTS UNDER TITLE TEN OF ARTICLE SIX OF THIS CHAPTER WHO ARE NOT AUTOMATICALLY ELIGIBLE FOR SUCH MEDICAL ASSISTANCE UNDER TITLE IV-E OF THE FEDERAL SOCIAL SECURITY ACT.

S 3. The social services law is amended by adding a new section 392 to read as follows:

S 392. SERVICES FOR RELATIVE CAREGIVERS. NOTWITHSTANDING ANY OTHER PROVISION OF LAW TO THE CONTRARY, LOCAL SOCIAL SERVICES DISTRICTS SHALL MAKE AVAILABLE THROUGH THE DISTRICT'S WEBSITE OR BY OTHER MEANS INFORMATION FOR RELATIVES CARING FOR CHILDREN OUTSIDE OF THE FOSTER CARE SYSTEM. SUCH INFORMATION SHALL INCLUDE BUT NOT NECESSARILY BE LIMITED TO:

1. INFORMATION RELATING TO CHILD ONLY GRANTS, INCLUDING BUT NOT LIMITED TO, HOW TO APPLY FOR CHILD ONLY GRANTS; AND

2. INFORMATION ON DEPARTMENT OF FAMILY ASSISTANCE OR LOCAL DEPARTMENT OF SOCIAL SERVICES FUNDED RESOURCES FOR RELATIVE CAREGIVERS, INCLUDING THOSE THAT PROVIDE SUPPORTIVE SERVICES FOR RELATIVE CAREGIVERS.

S 4. Article 6 of the social services law is amended by adding a new title 10 to read as follows:

TITLE 10

KINSHIP GUARDIANSHIP ASSISTANCE PROGRAM

SECTION 458-A. DEFINITIONS.
458-B. KINSHIP GUARDIANSHIP ASSISTANCE PAYMENTS.
458-C. PAYMENTS FOR NON-RECURRING GUARDIANSHIP EXPENSES.
458-D. MEDICAL SUBSIDY.
458-E. INDEPENDENT LIVING SERVICES.
458-F. FAIR HEARINGS.

S 458-A. DEFINITIONS. AS USED IN THIS TITLE:

1. "CHILD" SHALL MEAN A PERSON UNDER THE AGE OF TWENTY-ONE YEARS WHOSE CUSTODY, CARE AND CUSTODY, OR CUSTODY AND GUARDIANSHIP HAVE BEEN COMMITTED TO A SOCIAL SERVICES OFFICIAL PRIOR TO SUCH PERSON'S EIGHTEENTH BIRTHDAY PURSUANT TO SECTION THREE HUNDRED FIFTY-EIGHT-A, THREE HUNDRED EIGHTY-FOUR, THREE HUNDRED EIGHTY-FOUR-A OR THREE HUNDRED EIGHTY-FOUR-B OF THIS CHAPTER OR ARTICLE THREE, SEVEN OR TEN OF THE FAMILY COURT ACT.

2. "APPLICABLE BOARD RATE" SHALL MEAN AN AMOUNT EQUAL TO THE MONTHLY PAYMENT THAT HAS BEEN MADE BY A SOCIAL SERVICES OFFICIAL, IN ACCORDANCE WITH SECTION THREE HUNDRED NINETY-EIGHT-A OF THIS ARTICLE AND OTHER PROVISIONS OF THIS CHAPTER, FOR THE CARE AND MAINTENANCE OF THE CHILD, WHILE SUCH CHILD WAS BOARDED OUT IN THE APPROVED OR CERTIFIED FOSTER FAMILY BOARDING HOME WITH THE PROSPECTIVE RELATIVE GUARDIAN. SUCH RATE SHALL REFLECT ANNUAL CHANGES IN ROOM AND BOARD RATES AND CLOTHING REPLACEMENT ALLOWANCES.

3. "PROSPECTIVE RELATIVE GUARDIAN" SHALL MEAN A PERSON OR PERSONS WHO IS RELATED TO THE CHILD THROUGH BLOOD, MARRIAGE, OR ADOPTION WHO HAS BEEN CARING FOR THE CHILD AS A FULLY CERTIFIED OR APPROVED FOSTER PARENT FOR AT LEAST SIX CONSECUTIVE MONTHS PRIOR TO APPLYING FOR KINSHIP GUARDIANSHIP ASSISTANCE PAYMENTS.

4. "RELATIVE GUARDIAN" SHALL MEAN A PERSON OR PERSONS WHO WAS APPOINTED, AS A GUARDIAN OR PERMANENT GUARDIAN FOR A CHILD AFTER ENTERING INTO AN AGREEMENT WITH A SOCIAL SERVICES OFFICIAL FOR THE RECEIPT OF PAYMENTS AND SERVICES IN ACCORDANCE WITH THIS TITLE.

5. "SOCIAL SERVICES OFFICIAL" SHALL MEAN A COUNTY COMMISSIONER OF SOCIAL SERVICES, A CITY COMMISSIONER OF SOCIAL SERVICES, OR AN INDIAN TRIBE WITH WHICH THE OFFICE OF CHILDREN AND FAMILY SERVICES HAS ENTERED INTO AN AGREEMENT TO PROVIDE FOSTER CARE SERVICES IN ACCORDANCE WITH SUBDIVISION TWO OF SECTION THIRTY-NINE OF THIS CHAPTER.

S 458-B. KINSHIP GUARDIANSHIP ASSISTANCE PAYMENTS. 1. A CHILD IS ELIGIBLE FOR KINSHIP GUARDIANSHIP ASSISTANCE PAYMENTS UNDER THIS TITLE IF THE SOCIAL SERVICES OFFICIAL DETERMINES THE FOLLOWING:

(A) THE CHILD HAS BEEN IN FOSTER CARE FOR AT LEAST SIX CONSECUTIVE MONTHS IN THE HOME OF THE PROSPECTIVE RELATIVE GUARDIAN; AND

(B) THE CHILD BEING RETURNED HOME OR ADOPTED ARE NOT APPROPRIATE PERMANENCY OPTIONS FOR THE CHILD; AND

(C) THE CHILD DEMONSTRATES A STRONG ATTACHMENT TO THE PROSPECTIVE RELATIVE GUARDIAN AND THE PROSPECTIVE RELATIVE GUARDIAN HAS A STRONG COMMITMENT TO CARING PERMANENTLY FOR THE CHILD; AND

(D) THAT AGE APPROPRIATE CONSULTATION HAS BEEN HELD WITH THE CHILD, PROVIDED HOWEVER WITH RESPECT TO A CHILD WHO HAS ATTAINED FOURTEEN YEARS OF AGE, THAT THE CHILD HAS BEEN CONSULTED REGARDING THE KINSHIP GUARDIANSHIP ARRANGEMENT, AND WITH RESPECT TO A CHILD WHO HAS ATTAINED EIGHTEEN YEARS OF AGE, THAT THE CHILD HAS CONSENTED TO THE KINSHIP GUARDIANSHIP ARRANGEMENT.

(E) (I) IF THE CHILD HAS BEEN PLACED INTO FOSTER CARE PURSUANT TO ARTICLE TEN OF THE FAMILY COURT ACT, THAT BOTH THE FACT FINDING HEARING PURSUANT TO SECTION ONE THOUSAND FIFTY-ONE OF THE FAMILY COURT ACT AND THE FIRST PERMANENCY HEARING PURSUANT TO PARAGRAPH TWO OF SUBDIVISION (A) OF SECTION ONE THOUSAND EIGHTY-NINE OF THE FAMILY COURT ACT HAVE BEEN COMPLETED; OR

(II) FOR ALL THE OTHER CHILDREN, THAT THE FIRST PERMANENCY HEARING HAS BEEN COMPLETED.

(F) THE FINANCIAL STATUS OF THE PROSPECTIVE RELATIVE GUARDIAN SHALL NOT BE CONSIDERED IN DETERMINING ELIGIBILITY FOR KINSHIP GUARDIANSHIP ASSISTANCE PAYMENTS.

2. (A) A PROSPECTIVE RELATIVE GUARDIAN WHO HAS BEEN CARING FOR AN ELIGIBLE FOSTER CHILD FOR AT LEAST SIX CONSECUTIVE MONTHS AND WHO INTENDS TO SEEK GUARDIANSHIP OR PERMANENT GUARDIANSHIP OF THE CHILD MAY APPLY TO THE SOCIAL SERVICES OFFICIAL WHO HAS CUSTODY, CARE AND CUSTODY, OR GUARDIANSHIP AND CUSTODY OF THE CHILD TO RECEIVE KINSHIP GUARDIANSHIP ASSISTANCE PAYMENTS, NON-RECURRING GUARDIANSHIP PAYMENTS, AND OTHER APPLICABLE SERVICES AND PAYMENTS AVAILABLE UNDER THIS TITLE ON BEHALF OF THE CHILD.

(B) APPLICATIONS SHALL ONLY BE ACCEPTED PRIOR TO ISSUANCE OF LETTERS OF GUARDIANSHIP OF THE CHILD TO THE RELATIVE GUARDIAN PURSUANT TO THE PROVISIONS OF THE FAMILY COURT ACT OR THE SURROGATE'S COURT PROCEDURE ACT.

(C) NOTWITHSTANDING ANY OTHER PROVISION OF LAW TO THE CONTRARY, A PROSPECTIVE RELATIVE GUARDIAN AND ANY PERSON OVER THE AGE OF EIGHTEEN LIVING IN THE HOME OF THE PROSPECTIVE RELATIVE GUARDIAN WHO HAS NOT ALREADY BEEN SUBJECT TO A NATIONAL AND STATE CRIMINAL HISTORY RECORD CHECK PURSUANT TO SECTION THREE HUNDRED SEVENTY-EIGHT-A OF THIS ARTICLE AS PART OF THE PROCESS OF THE PROSPECTIVE RELATIVE GUARDIAN BECOMING A CERTIFIED OR APPROVED FOSTER PARENT MUST COMPLETE SUCH A RECORD CHECK IN ACCORDANCE WITH THE PROCEDURES AND STANDARDS SET FORTH IN SUCH SECTION PRIOR TO THE SOCIAL SERVICES OFFICIAL ACTING UPON THE APPLICATION. THE SOCIAL SERVICES OFFICIAL MUST INQUIRE OF THE OFFICE OF CHILDREN AND FAMILY SERVICES WHETHER EACH PROSPECTIVE RELATIVE GUARDIAN AND EACH PERSON OVER THE AGE OF EIGHTEEN LIVING IN THE HOME OF THE PROSPECTIVE RELATIVE GUARDIAN HAS BEEN OR IS CURRENTLY THE SUBJECT OF AN INDICATED REPORT OF CHILD ABUSE OR MALTREATMENT ON FILE WITH THE STATEWIDE CENTRAL REGISTER OF CHILD ABUSE AND MALTREATMENT AND, IF THE PROSPECTIVE RELATIVE GUARDIAN OR ANY OTHER PERSON OVER THE AGE OF EIGHTEEN RESIDING IN THE HOME OF THE PROSPECTIVE RELATIVE GUARDIAN RESIDED IN ANOTHER STATE IN THE FIVE YEARS PRECEDING THE APPLICATION, REQUEST CHILD ABUSE AND MALTREATMENT INFORMATION MAINTAINED BY THE CHILD ABUSE AND MALTREATMENT REGISTRY FROM THE APPLICABLE CHILD WELFARE AGENCY IN EACH SUCH STATE OF

PREVIOUS RESIDENCE, IF SUCH A REQUEST HAS NOT BEEN MADE AS PART OF THE PROCESS OF THE PROSPECTIVE RELATIVE GUARDIAN BECOMING A CERTIFIED OR APPROVED FOSTER PARENT.

3. IF THE SOCIAL SERVICES OFFICIAL DETERMINES THAT THE CHILD IS ELIGIBLE FOR KINSHIP GUARDIANSHIP ASSISTANCE PAYMENTS AND IT IS IN THE BEST INTERESTS OF THE CHILD FOR THE RELATIVE TO BECOME THE LEGAL GUARDIAN OF THE CHILD, THE SOCIAL SERVICES OFFICIAL SHALL ENTER INTO AN AGREEMENT WITH THE PROSPECTIVE RELATIVE GUARDIAN AUTHORIZING THE PROVISION OF KINSHIP GUARDIANSHIP ASSISTANCE PAYMENTS, NON-RECURRING GUARDIANSHIP PAYMENTS, AND OTHER SERVICES AND PAYMENTS AVAILABLE UNDER THIS TITLE SUBJECT TO THE ISSUANCE BY THE COURT OF LETTERS OF GUARDIANSHIP OF THE CHILD TO THE PROSPECTIVE RELATIVE GUARDIAN AND THE CHILD BEING FINALLY DISCHARGED FROM FOSTER CARE TO SUCH RELATIVE. IN DETERMINING WHETHER IT IS IN THE BEST INTERESTS OF THE CHILD FOR THE RELATIVE TO BECOME THE RELATIVE GUARDIAN OF THE CHILD, THE SOCIAL SERVICES OFFICIAL MUST DETERMINE AND DOCUMENT THAT COMPELLING REASONS EXIST FOR DETERMINING THAT THE RETURN HOME OF THE CHILD AND THE ADOPTION OF THE CHILD ARE NOT IN THE BEST INTERESTS OF THE CHILD AND ARE, THEREFORE, NOT APPROPRIATE PERMANENCY OPTIONS. A COPY OF THE FULLY EXECUTED AGREEMENT MUST BE PROVIDED BY THE SOCIAL SERVICES OFFICIAL TO THE PROSPECTIVE RELATIVE GUARDIAN.

4. (A) PAYMENTS AND ELIGIBILITY FOR SERVICES UNDER THIS TITLE SHALL BE MADE PURSUANT TO A WRITTEN AGREEMENT BETWEEN THE SOCIAL SERVICES OFFICIAL AND THE PROSPECTIVE RELATIVE GUARDIAN.

(B) THE WRITTEN AGREEMENT SHALL SPECIFY, AT A MINIMUM: THE AMOUNT OF, AND MANNER IN WHICH, EACH KINSHIP GUARDIANSHIP ASSISTANCE PAYMENT WILL BE PROVIDED UNDER THE AGREEMENT; THE MANNER IN WHICH THE PAYMENTS MAY BE ADJUSTED PERIODICALLY, IN CONSULTATION WITH THE RELATIVE GUARDIAN, BASED ON THE CIRCUMSTANCES OF THE RELATIVE GUARDIAN AND THE NEEDS OF THE CHILD; THE ADDITIONAL SERVICES AND ASSISTANCE THAT THE CHILD AND THE RELATIVE GUARDIAN WILL BE ELIGIBLE FOR UNDER THE AGREEMENT, WHICH SHALL BE LIMITED TO THE ADDITIONAL SERVICES AND ASSISTANCE SET FORTH IN THIS TITLE; THE PROCEDURES BY WHICH THE RELATIVE GUARDIAN MAY APPLY FOR ADDITIONAL SERVICES, AS NEEDED; THAT THE SOCIAL SERVICES OFFICIAL WILL PAY THE TOTAL COST OF NONRECURRING EXPENSES ASSOCIATED WITH OBTAINING LEGAL GUARDIANSHIP OF THE CHILD, TO THE EXTENT THE TOTAL COST DOES NOT EXCEED TWO THOUSAND DOLLARS IN ACCORDANCE WITH SECTION FOUR HUNDRED FIFTY-EIGHT-C OF THIS TITLE; AND, THAT THE AGREEMENT WILL REMAIN IN EFFECT REGARDLESS OF THE STATE OF RESIDENCE OF THE RELATIVE GUARDIAN AT ANY TIME.

(C) THE AGREEMENT MUST BE FULLY EXECUTED PRIOR TO THE ISSUANCE OF LETTERS OF GUARDIANSHIP OF THE CHILD TO THE RELATIVE GUARDIAN IN ORDER FOR THE CHILD TO BE ELIGIBLE FOR PAYMENTS AND SERVICES UNDER THIS TITLE.

5. ONCE THE PROSPECTIVE RELATIVE GUARDIAN WITH WHOM A SOCIAL SERVICES OFFICIAL HAS ENTERED INTO AN AGREEMENT UNDER SUBDIVISION FOUR OF THIS SECTION HAS BEEN ISSUED LETTERS OF GUARDIANSHIP FOR THE CHILD AND THE CHILD HAS BEEN FINALLY DISCHARGED FROM FOSTER CARE TO SUCH RELATIVE, A SOCIAL SERVICES OFFICIAL SHALL MAKE MONTHLY KINSHIP GUARDIANSHIP ASSISTANCE PAYMENTS FOR THE CARE AND MAINTENANCE OF THE CHILD.

6. THE AMOUNT OF THE MONTHLY KINSHIP GUARDIANSHIP ASSISTANCE PAYMENT MADE PURSUANT TO THIS SECTION SHALL BE DETERMINED PURSUANT TO REGULATIONS OF THE OFFICE. THE AMOUNT OF THE MONTHLY PAYMENT SHALL NOT BE LESS THAN SEVENTY-FIVE PER CENTUM OF THE APPLICABLE BOARD RATE NOR MORE THAN ONE HUNDRED PER CENTUM OF SUCH RATE AS DETERMINED BY THE SOCIAL SERVICES DISTRICT IN ACCORDANCE WITH THE REGULATIONS OF THE OFFICE; PROVIDED, HOWEVER, THAT THE RATE CHOSEN BY THE SOCIAL SERVICES DISTRICT SHALL BE EQUAL TO THE RATE USED BY THE DISTRICT FOR ADOPTION SUBSIDY

PAYMENTS UNDER SECTION FOUR HUNDRED FIFTY-THREE OF THIS ARTICLE. THE SOCIAL SERVICES OFFICIAL SHALL CONSIDER THE FINANCIAL STATUS OF THE PROSPECTIVE RELATIVE GUARDIAN OR RELATIVE GUARDIAN ONLY FOR THE PURPOSE OF DETERMINING THE AMOUNT OF THE PAYMENTS TO BE MADE.

7. (A) KINSHIP GUARDIANSHIP ASSISTANCE PAYMENTS SHALL BE MADE TO THE RELATIVE GUARDIAN OR GUARDIANS UNTIL THE CHILD'S EIGHTEENTH BIRTHDAY OR, IF THE CHILD HAD ATTAINED SIXTEEN YEARS OF AGE BEFORE THE AGREEMENT BECAME EFFECTIVE, UNTIL THE CHILD ATTAINS TWENTY-ONE YEARS OF AGE PROVIDED THE CHILD IS: (I) COMPLETING SECONDARY EDUCATION OR A PROGRAM LEADING TO AN EQUIVALENT CREDENTIAL; (II) ENROLLED IN AN INSTITUTION WHICH PROVIDES POST-SECONDARY OR VOCATIONAL EDUCATION; (III) EMPLOYED FOR AT LEAST EIGHTY HOURS PER MONTH; (IV) PARTICIPATING IN A PROGRAM OR ACTIVITY DESIGNED TO PROMOTE, OR REMOVE BARRIERS TO, EMPLOYMENT; OR (V) INCAPABLE OF ANY OF SUCH ACTIVITIES DUE TO A MEDICAL CONDITION, WHICH INCAPABILITY IS SUPPORTED BY REGULARLY UPDATED INFORMATION IN THE CASE PLAN OF THE CHILD.

(B) NOTWITHSTANDING PARAGRAPH (A) OF THIS SUBDIVISION, NO KINSHIP GUARDIANSHIP ASSISTANCE PAYMENTS MAY BE MADE PURSUANT TO THIS TITLE IF THE SOCIAL SERVICES OFFICIAL DETERMINES THAT THE RELATIVE GUARDIAN IS NO LONGER LEGALLY RESPONSIBLE FOR THE SUPPORT OF THE CHILD, INCLUDING IF THE STATUS OF THE LEGAL GUARDIAN IS TERMINATED OR THE CHILD IS NO LONGER RECEIVING ANY SUPPORT FROM SUCH GUARDIAN. IN ACCORDANCE WITH THE REGULATIONS OF THE OFFICE, A RELATIVE GUARDIAN WHO HAS BEEN RECEIVING KINSHIP GUARDIANSHIP ASSISTANCE PAYMENTS ON BEHALF OF A CHILD UNDER THIS TITLE MUST KEEP THE SOCIAL SERVICES OFFICIAL INFORMED, ON AN ANNUAL BASIS, OF ANY CIRCUMSTANCES THAT WOULD MAKE THE RELATIVE GUARDIAN INELIGIBLE FOR SUCH PAYMENTS OR ELIGIBLE FOR PAYMENTS IN A DIFFERENT AMOUNT.

8. THE PLACEMENT OF THE CHILD WITH THE RELATIVE GUARDIAN AND ANY KINSHIP GUARDIANSHIP ASSISTANCE PAYMENTS MADE ON BEHALF OF THE CHILD UNDER THIS SECTION SHALL BE CONSIDERED NEVER TO HAVE BEEN MADE WHEN DETERMINING THE ELIGIBILITY FOR ADOPTION SUBSIDY PAYMENTS UNDER TITLE NINE OF THIS ARTICLE OF A CHILD IN SUCH LEGAL GUARDIANSHIP ARRANGEMENT.

S 458-C. PAYMENTS FOR NON-RECURRING GUARDIANSHIP EXPENSES. 1. A SOCIAL SERVICES OFFICIAL SHALL MAKE PAYMENTS FOR NON-RECURRING GUARDIANSHIP EXPENSES INCURRED BY OR ON BEHALF OF THE RELATIVES WHO HAVE BEEN APPROVED BY THE SOCIAL SERVICES OFFICIAL TO RECEIVE KINSHIP GUARDIANSHIP ASSISTANCE PAYMENTS, WHEN SUCH EXPENSES ARE INCURRED IN CONNECTION WITH ASSUMING THE GUARDIANSHIP OF A FOSTER CHILD. THE AGREEMENT FOR THE PAYMENT OF NON-RECURRING GUARDIANSHIP EXPENSES MUST BE REFLECTED IN THE WRITTEN AGREEMENT SET FORTH IN SUBDIVISION FOUR OF SECTION FOUR HUNDRED FIFTY-EIGHT-B OF THIS TITLE. IN ACCORDANCE WITH SUBDIVISION TWO OF THIS SECTION, THE PAYMENTS SHALL BE MADE BY THE SOCIAL SERVICES OFFICIAL EITHER TO THE RELATIVE GUARDIAN OR GUARDIANS DIRECTLY OR TO AN ATTORNEY ON BEHALF OF THE RELATIVE GUARDIAN OR GUARDIANS FOR THE ALLOWABLE AMOUNT OF NON-RECURRING GUARDIANSHIP EXPENSES INCURRED IN CONNECTION WITH OBTAINING SUCH GUARDIANSHIP.

2. THE AMOUNT OF THE PAYMENT MADE PURSUANT TO THIS SECTION SHALL NOT EXCEED TWO THOUSAND DOLLARS FOR EACH FOSTER CHILD FOR WHOM THE RELATIVES SEEK GUARDIANSHIP OR PERMANENT GUARDIANSHIP AND SHALL BE AVAILABLE ONLY FOR THOSE EXPENSES THAT ARE DETERMINED TO BE ELIGIBLE FOR REIMBURSEMENT BY THE SOCIAL SERVICES OFFICIAL IN ACCORDANCE WITH THE REGULATIONS OF THE OFFICE OF CHILDREN AND FAMILY SERVICES.

3. PAYMENTS FOR NON-RECURRING GUARDIANSHIP EXPENSES MADE BY A SOCIAL SERVICES OFFICIAL PURSUANT TO THIS SECTION SHALL BE TREATED AS ADMINISTRATIVE EXPENDITURES UNDER TITLE IV-E OF THE FEDERAL SOCIAL SECURITY ACT AND SHALL BE REIMBURSED BY THE STATE ACCORDINGLY.

4. AS USED IN THIS SECTION, NON-RECURRING GUARDIANSHIP EXPENSES SHALL MEAN REASONABLE AND NECESSARY FEES, COURT COSTS, ATTORNEY FEES, AND OTHER EXPENSES WHICH ARE DIRECTLY RELATED TO OBTAINING LEGAL GUARDIANSHIP OF AN ELIGIBLE CHILD AND WHICH ARE NOT INCURRED IN VIOLATION OF FEDERAL LAW OR THE LAWS OF THIS STATE OR ANY OTHER STATE.

S 458-D. MEDICAL SUBSIDY. 1. ANY CHILD WITH RESPECT TO WHOM FEDERALLY REIMBURSABLE KINSHIP GUARDIANSHIP ASSISTANCE PAYMENTS ARE MADE UNDER THIS TITLE IS ELIGIBLE FOR MEDICAL ASSISTANCE UNDER TITLE XIX OF THE FEDERAL SOCIAL SECURITY ACT.

2. IN ADDITION, A SOCIAL SERVICES OFFICIAL SHALL MAKE PAYMENTS FOR THE COST OF CARE, SERVICES AND SUPPLIES PAYABLE UNDER THE STATE'S PROGRAM OF MEDICAL ASSISTANCE FOR NEEDY PERSONS PROVIDED TO ANY CHILD FOR WHOM KINSHIP GUARDIANSHIP ASSISTANCE PAYMENTS ARE BEING MADE UNDER THIS TITLE WHO IS NOT ELIGIBLE FOR MEDICAL ASSISTANCE UNDER SUBDIVISION ONE OF THIS SECTION AND FOR WHOM THE RELATIVE GUARDIAN IS UNABLE TO OBTAIN APPROPRIATE AND AFFORDABLE MEDICAL COVERAGE THROUGH ANY OTHER AVAILABLE MEANS, REGARDLESS OF WHETHER THE CHILD OTHERWISE QUALIFIES FOR MEDICAL ASSISTANCE FOR NEEDY PERSONS. PAYMENTS PURSUANT TO THIS SUBDIVISION SHALL BE MADE ONLY WITH RESPECT TO THE COST OF CARE, SERVICES, AND SUPPLIES WHICH ARE NOT OTHERWISE COVERED OR SUBJECT TO PAYMENT OR REIMBURSEMENT BY INSURANCE, MEDICAL ASSISTANCE OR OTHER SOURCES. PAYMENTS MADE PURSUANT TO THIS SUBDIVISION SHALL ONLY BE MADE IF THE RELATIVE GUARDIAN APPLIES TO OBTAIN SUCH MEDICAL COVERAGE FOR THE CHILD FROM ALL AVAILABLE SOURCES, UNLESS THE SOCIAL SERVICES OFFICIAL DETERMINES THAT THE RELATIVE GUARDIAN HAS GOOD CAUSE FOR NOT APPLYING FOR SUCH COVERAGE; WHICH SHALL INCLUDE THAT APPROPRIATE COVERAGE IS NOT AVAILABLE OR AFFORDABLE.

3. AN APPLICATION FOR PAYMENTS UNDER THIS SECTION SHALL BE MADE PRIOR TO THE ISSUANCE OF LETTERS OF GUARDIANSHIP FOR THE CHILD. AN APPROVAL OF AN APPLICATION FOR PAYMENTS UNDER THIS SECTION SHALL NOT BE SUBJECT TO ANNUAL REVIEW BY THE SOCIAL SERVICES OFFICIAL, AND SUCH APPROVAL SHALL REMAIN IN EFFECT FOR AS LONG AS KINSHIP GUARDIANSHIP ASSISTANCE PAYMENTS ARE BEING MADE UNDER THIS TITLE FOR THE CHILD. APPLICATIONS FOR SUCH PAYMENTS SHALL BE ACCEPTED PRIOR TO THE ISSUANCE OF LETTERS OF GUARDIANSHIP OF THE CHILD, AND APPROVAL THEREOF MAY BE GRANTED CONTINGENT UPON SUCH ISSUANCE.

S 458-E. INDEPENDENT LIVING SERVICES. IN ACCORDANCE WITH REGULATIONS OF THE OFFICE OF CHILDREN AND FAMILY SERVICES, ANY CHILD WHO LEAVES FOSTER CARE FOR GUARDIANSHIP WITH A RELATIVE AFTER ATTAINING SIXTEEN YEARS OF AGE FOR WHOM KINSHIP GUARDIANSHIP ASSISTANCE PAYMENTS ARE BEING MADE UNDER THIS TITLE SHALL BE ELIGIBLE:

1. TO RECEIVE THOSE INDEPENDENT LIVING SERVICES THAT ARE MADE AVAILABLE BY THE SOCIAL SERVICES DISTRICT TO FOSTER CHILDREN PURSUANT TO SECTION 477 OF THE FEDERAL SOCIAL SECURITY ACT; AND

2. TO APPLY FOR EDUCATIONAL AND TRAINING VOUCHERS MADE AVAILABLE PURSUANT TO SUCH SECTION, WHICH WILL BE AWARDED BASED ON THE PRIORITIES ESTABLISHED BY THE OFFICE OF CHILDREN AND FAMILY SERVICES AND THE AMOUNT OF FUNDS MADE AVAILABLE THEREFOR.

S 458-F. FAIR HEARINGS. 1. ANY PERSON AGGRIEVED BY THE DECISION OF A SOCIAL SERVICES OFFICIAL NOT TO MAKE A PAYMENT OR PAYMENTS PURSUANT TO THIS TITLE OR TO MAKE SUCH PAYMENT OR PAYMENTS IN AN INADEQUATE OR INAPPROPRIATE AMOUNT OR THE FAILURE OF A SOCIAL SERVICES OFFICIAL TO DETERMINE AN APPLICATION UNDER THIS TITLE WITHIN THIRTY DAYS AFTER FILING, MAY APPEAL TO THE OFFICE OF CHILDREN AND FAMILY SERVICES, WHICH SHALL REVIEW THE CASE AND GIVE SUCH PERSON AN OPPORTUNITY FOR A FAIR HEARING THEREON AND RENDER ITS DECISION WITHIN THIRTY DAYS. ALL DECISIONS OF THE OFFICE OF CHILDREN AND FAMILY SERVICES SHALL BE BINDING UPON THE

SOCIAL SERVICES DISTRICT INVOLVED AND SHALL BE COMPLIED WITH BY THE SOCIAL SERVICES OFFICIAL THEREOF.

2. THE ONLY ISSUES WHICH MAY BE RAISED IN A FAIR HEARING UNDER THIS SECTION ARE: (A) WHETHER THE SOCIAL SERVICES OFFICIAL HAS IMPROPERLY DENIED AN APPLICATION FOR PAYMENTS UNDER THIS TITLE; (B) WHETHER THE SOCIAL SERVICES OFFICIAL HAS IMPROPERLY DISCONTINUED PAYMENTS UNDER THIS TITLE; (C) WHETHER THE SOCIAL SERVICES OFFICIAL HAS DETERMINED THE AMOUNT OF THE PAYMENTS MADE OR TO BE MADE IN VIOLATION OF THE PROVISIONS OF THIS TITLE OR THE REGULATIONS OF THE OFFICE OF CHILDREN AND FAMILY SERVICES PROMULGATED HEREUNDER; OR (D) WHETHER THE SOCIAL SERVICES OFFICIAL HAS FAILED TO DETERMINE AN APPLICATION UNDER THIS TITLE WITHIN THIRTY DAYS.

3. THE PROVISIONS OF SUBDIVISIONS TWO AND FOUR OF SECTION TWENTY-TWO OF THIS CHAPTER SHALL APPLY TO FAIR HEARINGS HELD AND APPEALS TAKEN PURSUANT TO THIS SECTION.

S 5. Section 657 of the family court act is amended by adding a new subdivision (c) to read as follows:

(C) NOTWITHSTANDING ANY OTHER PROVISION OF LAW TO THE CONTRARY, PERSONS POSSESSING A LAWFUL ORDER OF GUARDIANSHIP OF A CHILD SHALL HAVE THE RIGHT AND RESPONSIBILITY TO MAKE DECISIONS, INCLUDING ISSUING ANY NECESSARY CONSENTS, REGARDING THE CHILD'S PROTECTION, EDUCATION, CARE AND CONTROL, HEALTH AND MEDICAL NEEDS, AND THE PHYSICAL CUSTODY OF THE PERSON OF THE CHILD. PROVIDED, HOWEVER, THAT NOTHING IN THIS SUBDIVISION SHALL BE CONSTRUED TO LIMIT THE ABILITY OF A CHILD TO CONSENT TO HIS OR HER OWN MEDICAL CARE AS MAY BE OTHERWISE PROVIDED BY LAW.

S 6. Section 661 of the family court act is amended by adding a new subdivision (c) to read as follows:

(C) SPECIAL PROVISIONS IN RELATION TO GUARDIANSHIP OF A FOSTER CHILD. WHERE THE PERMANENCY GOAL FOR A FOSTER CHILD WHO IS THE SUBJECT OF A PROCEEDING UNDER ARTICLE TEN OR TEN-A OF THIS ACT IS REFERRAL FOR LEGAL GUARDIANSHIP, A PETITION UNDER THIS ARTICLE FILED BY A FIT AND WILLING RELATIVE OR OTHER SUITABLE PERSON SHALL BE FILED WITH THE COURT BEFORE WHOM THE MOST RECENT PROCEEDING UNDER ARTICLE TEN OR TEN-A OF THIS ACT IS PENDING. THE COURT PRESIDING OVER THE PROCEEDING PURSUANT TO ARTICLE TEN OR TEN-A OF THIS ACT MAY CONSOLIDATE THE HEARING OF THE GUARDIANSHIP PETITION OR PERMANENT GUARDIANSHIP PETITION FILED BY SUCH RELATIVE OR OTHER SUITABLE PERSON WITH THE DISPOSITIONAL HEARING UNDER ARTICLE TEN OF THIS ACT OR A PERMANENCY HEARING UNDER ARTICLE TEN-A OF THIS ACT, AS APPLICABLE. IN GRANTING SUCH A PETITION, THE COURT MUST MAKE SUCH ORDER IN ACCORDANCE WITH THE PROCEDURES AND MAKE THE FINDINGS ENUMERATED IN SECTION ONE THOUSAND FIFTY-FIVE-B OR ONE THOUSAND EIGHTY-NINE-A OF THIS ACT, AS APPLICABLE.

S 7. Section 1055-b of the family court act, as added by chapter 519 of the laws of 2008, paragraph (c) as amended by chapter 41 of the laws of 2010, is amended to read as follows:

S 1055-b. Custody or guardianship with relatives or suitable persons pursuant to article six of this act OR GUARDIANSHIP WITH SUCH A PERSON PURSUANT TO ARTICLE SEVENTEEN OF THE SURROGATE'S COURT PROCEDURE ACT. (a) At the conclusion of the dispositional hearing under this article, the court may enter an order of disposition granting custody or guardianship of the child to a relative or OTHER suitable person under article six of this act OR AN ORDER OF GUARDIANSHIP OF THE CHILD TO SUCH A PERSON UNDER ARTICLE SEVENTEEN OF THE SURROGATE'S COURT PROCEDURE ACT if:

(i) the relative or suitable person has filed a petition for custody or guardianship of the child pursuant to article six of this act OR A

PETITION FOR GUARDIANSHIP OF THE CHILD UNDER ARTICLE SEVENTEEN OF THE SURROGATE'S COURT PROCEDURE ACT; and

(ii) the court finds that granting custody or guardianship of the child to the relative or suitable person is in the best interests of the child and that the safety of the child will not be jeopardized if the respondent or respondents under the child protective proceeding are no longer under supervision or receiving services. IN DETERMINING WHETHER THE BEST INTERESTS OF THE CHILD WILL BE PROMOTED BY THE GRANTING OF GUARDIANSHIP OF THE CHILD TO A RELATIVE WHO HAS CARED FOR THE CHILD AS A FOSTER PARENT, THE COURT SHALL GIVE DUE CONSIDERATION TO THE PERMANENCY GOAL OF THE CHILD, THE RELATIONSHIP BETWEEN THE CHILD AND THE RELATIVE, AND WHETHER THE RELATIVE AND THE SOCIAL SERVICES DISTRICT HAVE ENTERED INTO AN AGREEMENT TO PROVIDE KINSHIP GUARDIANSHIP ASSISTANCE PAYMENTS FOR THE CHILD TO THE RELATIVE UNDER TITLE TEN OF ARTICLE SIX OF THE SOCIAL SERVICES LAW, AND, IF SO, WHETHER THE FACT-FINDING HEARING PURSUANT TO SECTION ONE THOUSAND FIFTY-ONE OF THIS PART AND A PERMANENCY HEARING PURSUANT TO SECTION ONE THOUSAND EIGHTY-NINE OF THIS CHAPTER HAS OCCURRED AND WHETHER COMPELLING REASONS EXIST FOR DETERMINING THAT THE RETURN HOME OF THE CHILD AND THE ADOPTION OF THE CHILD ARE NOT IN THE BEST INTERESTS OF THE CHILD AND ARE, THEREFORE, NOT APPROPRIATE PERMANENCY OPTIONS; and

(iii) the court finds that granting custody or guardianship of the child to the relative or suitable person under article six of this act OR GRANTING GUARDIANSHIP OF THE CHILD TO THE RELATIVE OR OTHER SUITABLE PERSON UNDER ARTICLE SEVENTEEN OF THE SURROGATE'S COURT PROCEDURE ACT will provide the child with a safe and permanent home; and

(iv) all parties to the child protective proceeding consent to the granting of custody or guardianship under article six of this act OR THE GRANTING OF GUARDIANSHIP UNDER ARTICLE SEVENTEEN OF THE SURROGATE'S COURT PROCEDURE; or

(v) after a consolidated dispositional hearing on the child protective petition and the petition under article six of this act OR UNDER ARTICLE SEVENTEEN OF THE SURROGATE'S COURT PROCEDURE ACT;

(A) if a parent or parents fail to [contest] CONSENT TO the granting of custody or guardianship under article six of this act OR THE GRANTING OF GUARDIANSHIP UNDER ARTICLE SEVENTEEN OF THE SURROGATE'S COURT PROCEDURE ACT, the court finds that extraordinary circumstances exist that support granting an order of custody or guardianship [under article six of this act]; or

(B) if a party other than the parent [of] OR parents fail to consent to the granting of custody or guardianship under article six of this act OR THE GRANTING OF GUARDIANSHIP UNDER ARTICLE SEVENTEEN OF THE SURROGATE'S COURT PROCEDURE ACT, the court finds that granting custody or guardianship of the child to the relative or suitable person is in the best interests of the child.

(b) An order made in accordance with the provisions of this section shall set forth the required findings as described in subdivision (a) of this section INCLUDING, IF THE GUARDIAN AND THE LOCAL DEPARTMENT OF SOCIAL SERVICES HAVE ENTERED INTO AN AGREEMENT TO PROVIDE KINSHIP GUARDIANSHIP ASSISTANCE PAYMENTS FOR THE CHILD TO THE RELATIVE UNDER TITLE TEN OF ARTICLE SIX OF THE SOCIAL SERVICES LAW, THAT A FACT-FINDING HEARING PURSUANT TO SECTION ONE THOUSAND FIFTY-ONE OF THIS PART AND A PERMANENCY HEARING PURSUANT TO SECTION ONE THOUSAND EIGHTY-NINE OF THIS CHAPTER HAS OCCURRED, AND THE COMPELLING REASONS THAT EXIST FOR DETERMINING THAT THE RETURN HOME OF THE CHILD AND THE ADOPTION OF THE CHILD ARE NOT IN THE BEST INTERESTS OF THE CHILD AND ARE, THEREFORE, NOT

APPROPRIATE PERMANENCY OPTIONS FOR THE CHILD, and shall constitute the final disposition of the child protective proceeding. Notwithstanding any other provision of law, the court shall not issue an order of supervision nor may the court require the local department of social services to provide services to the respondent or respondents when granting custody or guardianship pursuant to article six of this act under this section OR GRANTING GUARDIANSHIP UNDER ARTICLE SEVENTEEN OF THE SURROGATE'S COURT PROCEDURE ACT.

(c) As part of the order granting custody or guardianship pursuant to article six of this act OR GRANTING GUARDIANSHIP UNDER ARTICLE SEVENTEEN OF THE SURROGATE'S COURT PROCEDURE ACT, the court may require that the local department of social services and the attorney for the child receive notice of, and be made parties to, any subsequent proceeding to modify the order of custody or guardianship granted pursuant to the article six proceeding OR THE ORDER OF GUARDIANSHIP GRANTED PURSUANT TO ARTICLE SEVENTEEN OF THE SURROGATE'S COURT PROCEDURE ACT; PROVIDED, HOWEVER, IF THE GUARDIAN AND THE LOCAL DEPARTMENT OF SOCIAL SERVICES HAD ENTERED INTO AN AGREEMENT TO PROVIDE KINSHIP GUARDIANSHIP ASSISTANCE PAYMENTS FOR THE CHILD TO THE RELATIVE UNDER TITLE TEN OF ARTICLE SIX OF THE SOCIAL SERVICES LAW, THE ORDER MUST REQUIRE THAT THE LOCAL DEPARTMENT OF SOCIAL SERVICES AND THE ATTORNEY FOR THE CHILD RECEIVE NOTICE OF, AND BE MADE PARTIES TO, ANY SUCH SUBSEQUENT PROCEEDING REGARDING CUSTODY OR GUARDIANSHIP OF THE CHILD.

(d) An order entered in accordance with this section shall conclude the court's jurisdiction over the proceeding held pursuant to this article and the court shall not maintain jurisdiction over the parties for the purposes of permanency hearings held pursuant to article ten-A of this act.

(E) THE COURT SHALL HOLD AGE APPROPRIATE CONSULTATION WITH THE CHILD, HOWEVER, IF THE YOUTH HAS ATTAINED FOURTEEN YEARS OF AGE, THE COURT SHALL ASCERTAIN HIS OR HER PREFERENCE FOR A SUITABLE GUARDIAN. NOTWITHSTANDING ANY OTHER SECTION OF LAW, WHERE THE YOUTH IS OVER THE AGE OF EIGHTEEN, HE OR SHE SHALL CONSENT TO THE APPOINTMENT OF A SUITABLE GUARDIAN.

S 8. Section 1089-a of the family court act, as added by chapter 519 of the laws of 2008, subparagraph (B) of paragraph (iv) of subdivision (a) and subdivision (c) as amended by chapter 41 of the laws of 2010, is amended to read as follows:

S 1089-a. Custody or guardianship with relatives or suitable persons pursuant to article six of this act OR GUARDIANSHIP PURSUANT TO ARTICLE SEVENTEEN OF THE SURROGATE'S COURT PROCEDURE ACT. (a) Where the permanency plan is placement with a fit and willing relative, the court may issue an order of custody or guardianship in response to a petition filed by a relative or suitable person seeking custody or guardianship of the child under article six of this act OR AN ORDER OF GUARDIANSHIP OF THE CHILD UNDER ARTICLE SEVENTEEN OF THE SURROGATE'S COURT PROCEDURE ACT at a permanency hearing held pursuant to this article and terminate [the order] ALL PENDING ORDERS ISSUED pursuant to article ten of this act if:

(i) the court finds that granting custody or guardianship of the child to the relative or suitable person is in the best interests of the child and that the termination of the order placing the child pursuant to article ten of this act will not jeopardize the safety of the child. IN DETERMINING WHETHER THE BEST INTERESTS OF THE CHILD WILL BE PROMOTED BY THE GRANTING OF GUARDIANSHIP OF THE CHILD TO A RELATIVE WHO HAS CARED FOR THE CHILD AS A FOSTER PARENT, THE COURT SHALL GIVE DUE CONSIDERATION

TO THE PERMANENCY GOAL OF THE CHILD, THE RELATIONSHIP BETWEEN THE CHILD AND THE RELATIVE, AND WHETHER THE RELATIVE AND THE LOCAL DEPARTMENT OF SOCIAL SERVICES HAVE ENTERED INTO AN AGREEMENT TO PROVIDE KINSHIP GUARDIANSHIP ASSISTANCE PAYMENTS FOR THE CHILD TO THE RELATIVE UNDER TITLE TEN OF ARTICLE SIX OF THE SOCIAL SERVICES LAW, AND, IF SO, WHETHER A FACT-FINDING HEARING PURSUANT TO SECTION ONE THOUSAND FIFTY-ONE OF THIS CHAPTER HAS OCCURRED, AND WHETHER COMPELLING REASONS EXIST FOR DETERMINING THAT THE RETURN HOME OF THE CHILD AND THE ADOPTION OF THE CHILD ARE NOT IN THE BEST INTERESTS OF THE CHILD AND ARE, THEREFORE, NOT APPROPRIATE PERMANENCY OPTIONS; and

(ii) the court finds that granting custody or guardianship of the child to the relative or suitable person will provide the child with a safe and permanent home; and

(iii) the parents, the [law guardian] ATTORNEY for the child, the local department of social services, and the foster parent of the child who has been the foster parent for the child for one year or more consent to the issuance of an order of custody or guardianship under article six of this act OR THE GRANTING OF GUARDIANSHIP UNDER ARTICLE SEVENTEEN OF THE SURROGATE'S COURT PROCEDURE ACT and the termination of the order of placement pursuant to article ten of this act; or

(iv) after a consolidated hearing on the permanency of the child and the petition under article six of this act OR ARTICLE SEVENTEEN OF THE SURROGATE'S COURT PROCEDURE ACT;

(A) if a parent [of] OR parents fail to consent to the granting of custody or guardianship under article six of this act OR THE GRANTING OF GUARDIANSHIP UNDER ARTICLE SEVENTEEN OF THE SURROGATE'S COURT PROCEDURE ACT, the court finds that extraordinary circumstances exist that support granting an order of custody or guardianship under article six of this act OR THE GRANTING OF GUARDIANSHIP UNDER ARTICLE SEVENTEEN OF THE SURROGATE'S COURT PROCEDURE ACT; or

(B) if the local department of social services, the attorney for the child, or the foster parent of the child who has been the foster parent for the child for one year or more fail to consent to the granting of custody or guardianship under article six of this act OR THE GRANTING OF GUARDIANSHIP UNDER ARTICLE SEVENTEEN OF THE SURROGATE'S COURT PROCEDURE ACT, the court finds that granting custody or guardianship of the child to the relative or suitable person is in the best interests of the child.

(b) An order made in accordance with the provisions of this section shall set forth the required findings as described in subdivision (a) of this section INCLUDING, IF THE GUARDIAN AND LOCAL DEPARTMENT OF SOCIAL SERVICES HAVE ENTERED INTO AN AGREEMENT TO PROVIDE KINSHIP GUARDIANSHIP ASSISTANCE PAYMENTS FOR THE CHILD TO THE RELATIVE UNDER TITLE TEN OF ARTICLE SIX OF THE SOCIAL SERVICES LAW, THAT A FACT-FINDING HEARING PURSUANT TO SECTION ONE THOUSAND FIFTY-ONE OF THIS CHAPTER HAS OCCURRED, AND THE COMPELLING REASONS THAT EXIST FOR DETERMINING THAT THE RETURN HOME OF THE CHILD ARE NOT IN THE BEST INTERESTS OF THE CHILD AND ARE, THEREFORE, NOT APPROPRIATE PERMANENCY OPTIONS FOR THE CHILD, and shall result in the termination of any orders in effect pursuant to article ten of this act or pursuant to this article. Notwithstanding any other provision of law, the court shall not issue an order of supervision nor may the court require the local department of social services to provide services to the respondent or respondents when granting custody or guardianship pursuant to article six of this act OR THE GRANTING OF GUARDIANSHIP UNDER ARTICLE SEVENTEEN OF THE SURROGATE'S COURT PROCEDURE ACT in accordance with this section.

(c) As part of the order granting custody or guardianship to the relative or suitable person pursuant to article six of this act OR THE GRANTING OF GUARDIANSHIP UNDER ARTICLE SEVENTEEN OF THE SURROGATE'S COURT PROCEDURE ACT, the court may require that the local department of social services and the attorney for the child receive notice of, and be made parties to, any subsequent proceeding to modify the order of custody or guardianship granted pursuant to the article six proceeding; PROVIDED, HOWEVER, IF THE GUARDIAN AND THE LOCAL DEPARTMENT OF SOCIAL SERVICES HAVE ENTERED INTO AN AGREEMENT TO PROVIDE KINSHIP GUARDIANSHIP ASSISTANCE PAYMENTS FOR THE CHILD TO THE RELATIVE UNDER TITLE TEN OF ARTICLE SIX OF THE SOCIAL SERVICES LAW, THE ORDER MUST REQUIRE THAT THE LOCAL DEPARTMENT OF SOCIAL SERVICES AND THE ATTORNEY FOR THE CHILD RECEIVE NOTICE OF, AND BE MADE PARTIES TO, ANY SUCH SUBSEQUENT PROCEEDING INVOLVING CUSTODY OR GUARDIANSHIP OF THE CHILD.

(d) Any order entered pursuant to this section shall conclude the court's jurisdiction over the article ten proceeding and the court shall not maintain jurisdiction over the proceeding for further permanency hearings.

(E) THE COURT SHALL HOLD AGE APPROPRIATE CONSULTATION WITH THE CHILD, HOWEVER, IF THE YOUTH HAS ATTAINED FOURTEEN YEARS OF AGE, THE COURT SHALL ASCERTAIN HIS OR HER PREFERENCE FOR A SUITABLE GUARDIAN OR CUSTODIAN. NOTWITHSTANDING ANY OTHER SECTION OF LAW, WHERE THE YOUTH IS OVER THE AGE OF EIGHTEEN, HE OR SHE SHALL CONSENT TO THE APPOINTMENT OF A SUITABLE GUARDIAN OR CUSTODIAN.

S 9. Section 1702 of the surrogate's court procedure act is amended by adding a new subdivision 3 to read as follows:

3. WHERE THE PERMANENCY GOAL FOR A FOSTER CHILD WHO IS THE SUBJECT OF A PROCEEDING UNDER ARTICLE TEN OR TEN-A OF THE FAMILY COURT ACT IS REFERRAL FOR LEGAL GUARDIANSHIP, A PETITION FILED UNDER THIS ARTICLE BY A FIT AND WILLING RELATIVE OR OTHER SUITABLE PERSON SHALL BE FILED WITH THE COURT BEFORE WHOM THE MOST RECENT PROCEEDING UNDER ARTICLE TEN OR TEN-A OF THE FAMILY COURT ACT IS PENDING.

S 10. Subdivision 1 of section 1706 of the surrogate's court procedure act, as amended by chapter 404 of the laws of 2008, is amended to read as follows:

1. Where process is not issued or upon the return of process, the court shall ascertain the age of the infant, the amount of his or her personal property, the gross amount of the rents and profits of his or her real estate during his or her minority and the sufficiency of the security offered by the proposed guardian. With respect to applications for appointment as a [permanent] guardian of a child, the [permanent] guardian shall have the right and responsibility to make decisions, including issuing any necessary consents, regarding the child's protection, education, care and control, health and medical needs, and the physical custody of the person of the child[, and]. A PERMANENT GUARDIAN may consent to the adoption of the child. Provided, however, that nothing in this subdivision shall be construed to limit the ability of a child to consent to his or her own medical care as may be otherwise provided by law. If the [infant] YOUTH is over the age of fourteen years, the court shall ascertain his or her preference for a suitable guardian. Notwithstanding any other section of law, where the [infant] YOUTH is over the age of eighteen, [the infant] HE OR SHE shall consent to the appointment of a suitable guardian.

S 11. Subdivisions 1 and 2 of section 1707 of the surrogate's court procedure act, as amended by chapter 404 of the laws of 2008, are amended to read as follows:

1. If the court be satisfied that the interests of the infant will be promoted by the appointment of a guardian or by the issuance of temporary letters of guardianship of his or her person or of his or her property, or of both, it must make a decree accordingly. If the court determines that appointment of a permanent guardian is in the best interests of the infant or child, the court shall issue a decree appointing such guardian. The same person may be appointed guardian of both the person and the property of the infant or the guardianship of the person and of the property may be committed to different persons. The court may appoint a person other than the parent of the infant or the person nominated by the petitioner. When the court is informed that the infant, a person nominated to be a guardian of such infant, the petitioner, or any individual eighteen years of age or over who resides in the home of the proposed guardian is a subject of or another person named in an indicated report, as such terms are defined in section four hundred twelve of the social services law, filed with the statewide register of child abuse and maltreatment pursuant to title six of article six of the social services law or is or has been the subject of or the respondent in or a party to a child protective proceeding commenced under article ten of the family court act which resulted in an order finding that the child is an abused or neglected child the court shall obtain such records regarding such report or proceeding as it deems appropriate and shall give the information contained therein due consideration in its determination. THE COURT SHALL PROVIDE IN ITS ORDER APPOINTING A GUARDIAN OF A CHILD FOR WHOM THE GUARDIAN AND A LOCAL DEPARTMENT OF SOCIAL SERVICES HAVE ENTERED INTO AN AGREEMENT UNDER TITLE TEN OF ARTICLE SIX OF THE SOCIAL SERVICES LAW: (A) THE COMPELLING REASONS THAT EXIST FOR DETERMINING THAT THE RETURN HOME OF THE CHILD AND THE ADOPTION OF THE CHILD ARE NOT IN THE BEST INTERESTS OF THE CHILD AND ARE, THEREFORE, NOT APPROPRIATE PERMANENCY OPTIONS FOR THE CHILD; AND (B) THAT THE LOCAL DEPARTMENT OF SOCIAL SERVICES AND THE ATTORNEY FOR THE CHILD MUST RECEIVE NOTICE OF, AND BE MADE PARTIES TO, ANY SUBSEQUENT PROCEEDING TO VACATE OR MODIFY THE ORDER OF GUARDIANSHIP.

2. The term of office of a guardian of the person or property so appointed expires when the infant attains majority, unless the infant consents to the continuation of or appointment of a guardian after his or her eighteenth birthday, in which case such term of office expires on his or her twenty-first birthday, or after such other shorter period as the court establishes upon good cause shown; except that the term of office of a guardian of the person of an infant expires upon the infant's marriage prior to attaining majority. The appointment of a [permanent] guardian of a child shall expire when the infant or child reaches the age of eighteen years, unless the infant or child consents to the continuation of a guardian after his or her eighteenth birthday, in which case such term of office expires on his or her twenty-first birthday, or unless vacated by the court prior to the infant or child's eighteenth or twenty-first birthday if the court finds that, based upon clear and convincing evidence, the guardian failed to or is unable, unavailable or unwilling to provide proper care and custody of the infant or child, or that the guardianship is no longer in the best interests of the infant or child.

S 12. The office of children and family services shall report to the governor, the speaker of the assembly, the temporary president of the senate, the minority leader of the assembly, the minority leader of the senate, the chair of the assembly committee on children and families and the chair of the senate committee on children and families no later than

February 1, 2012, and each year thereafter, detailing the implementation and progress of the kinship guardianship assistance program, as established by this act. The report shall include, but not be limited to, the following information occurring within each yearly reporting period:

(a) the total number, and number per local social services district, of children who have entered into the kinship guardianship assistance program within the yearly reporting period, as well as the total cumulative number of children in the program;

(b) the total number, and number per local social services district, of applications for kinship guardianship assistance, including the number of applications denied and the number accepted by the local social services district;

(c) the ages of children entering into the kinship guardianship assistance program;

(d) the number of fair hearings requested by applicants for, and recipients of, kinship guardianship assistance, including the reasons for such hearing requests, the number of fair hearings held, the timeframes within which decisions were rendered, and the number of fair hearings resolved in favor of the aggrieved party and in favor of the local social services district;

(e) changes since implementation of the kinship guardianship assistance program in: the percentage of foster children adopted, reunified, and released to other permanency outcomes; the percentage of children directly placed with relatives under article ten of the family court act; and the average length of stay in foster care.

S 13. This act shall take effect April 1, 2011:

(a) Notwithstanding any other provision of law, this act shall not take effect unless or until the state title IV-E agency submits to the United States Department of Health and Human Services, Administration for Children, Youth and Families an amendment to the state title IV-E state plan to establish a guardianship assistance program containing the provisions of this act, and the United States Department of Health and Human Services, Administration for Children, Youth and Families approves said title IV-E state plan amendment establishing a guardianship assistance program;

(b) provided that the office of children and family services shall notify the legislative bill drafting commission upon the occurrence of the submission set forth in this section in order that the commission may maintain an accurate and timely effective data base of the official text of the laws of the state of New York in furtherance of effectuating the provisions of section 44 of the legislative law and section 70-b of the public officers law;

(c) effective immediately, the addition, amendment or repeal of any rule or regulation necessary for the implementation of the kinship guardianship assistance program as authorized under this act on its effective date are authorized and directed to be made and completed on or before such effective date.

PART G

Section 1. Subdivisions 1, 4 and 5 of section 447-a of the social services law, as added by chapter 569 of the laws of 2008, are amended to read as follows:

1. The term "sexually exploited child" means any person under the age of eighteen who has been subject to sexual exploitation because he or she:

(a) is the victim of the crime of sex trafficking as defined in section 230.34 of the penal law;
(b) [is an abused child as defined in paragraph (iii) of subdivision (e) of section ten hundred twelve of the family court act;
(c)] engages in any act as defined in section 230.00 [or 240.37] of the penal law;
[(d)] (C) is a victim of the crime of compelling prostitution as defined in section 230.33 of the penal law;
[(e)] (D) engages in acts or conduct described in article two hundred sixty-three OR SECTION 240.37 of the penal law.
4. The term "safe house" means a residential facility operated by an authorized agency as defined in subdivision ten of section three hundred seventy-one of this article including a residential facility operating as part of an approved runaway program as defined in subdivision four of section five hundred thirty-two-a of the executive law or a not-for-profit agency with experience in providing services to sexually exploited youth and approved in accordance with the regulations of the office of children and family services that provides shelter for sexually exploited children. IN ADDITION, A LONG-TERM SAFE HOUSE MAY BE OPERATED BY A TRANSITIONAL INDEPENDENT LIVING SUPPORT PROGRAM AS DEFINED IN SUBDIVISION SIX OF SECTION FIVE HUNDRED THIRTY-TWO-A OF THE EXECUTIVE LAW. A safe house [created under this article] SERVING SEXUALLY EXPLOITED CHILDREN AS DEFINED IN THIS TITLE shall provide or assist in securing necessary services for such sexually exploited children either through direct provision of services, or through written agreements with other community and public agencies for the provision of services including but not limited to housing, assessment, case management, medical care, legal, mental health and substance and alcohol abuse services. Where appropriate such safe house in accordance with a service plan for such sexually exploited child may also provide counseling and therapeutic services, educational services including life skills services and planning services to successfully transition residents back to the community. [The safe house shall be available as a final disposition pursuant to section seven hundred fifty-six of the family court act to any sexually exploited child who is in need of long term housing.] Nothing in the provisions of this [article] TITLE OR ARTICLE NINETEEN-H OF THE EXECUTIVE LAW shall prevent a child who is the subject of a proceeding which has not reached final disposition from residing at the safe house for the duration of that proceeding nor shall it prevent any sexually exploited child who is not the subject of a proceeding from residing at the safe house. AN ADVOCATE EMPLOYED BY A SHORT-TERM SAFE HOUSE OR OTHER APPROPRIATE STAFF OF A SHORT-TERM SAFE HOUSE SHALL, TO THE MAXIMUM EXTENT POSSIBLE, PREFERABLY WITHIN TWENTY-FOUR HOURS BUT WITHIN NO MORE THAN SEVENTY-TWO HOURS FOLLOWING A SEXUALLY EXPLOITED CHILD'S ADMISSION INTO THE PROGRAM OTHER THAN PURSUANT TO A COURT ORDER, NOTIFY SUCH CHILD'S PARENT, GUARDIAN OR CUSTODIAN OF HIS OR HER PHYSICAL AND EMOTIONAL CONDITION AND THE CIRCUMSTANCES SURROUNDING THE CHILD'S PRESENCE AT THE PROGRAM, UNLESS THERE ARE COMPELLING CIRCUMSTANCES WHY THE PARENT, GUARDIAN OR CUSTODIAN SHOULD NOT BE SO NOTIFIED. WHERE SUCH CIRCUMSTANCES EXIST, THE ADVOCATE OR OTHER APPROPRIATE STAFF MEMBER SHALL EITHER FILE AN APPROPRIATE PETITION IN THE FAMILY COURT, REFER THE YOUTH TO THE LOCAL SOCIAL SERVICES DISTRICT, OR IN INSTANCES WHERE ABUSE OR NEGLECT IS SUSPECTED, REPORT SUCH CASE PURSUANT TO TITLE SIX OF THIS ARTICLE.
5. The term "community-based program" means a program operated by a not-for-profit organization that provides services such as street

outreach, voluntary drop-in services, peer counseling, individual counseling, family-therapy and referrals for services such as educational and vocational training and health care. Any SUCH community-based program [funded under this article shall] MAY also work with the safe house [created under this article] SERVING SEXUALLY EXPLOITED CHILDREN AS DEFINED IN THIS TITLE to provide transitional services to SUCH children returning to the community.

S 2. Subdivisions 1, 2, 3, 5 and 6 of section 447-b of the social services law, as added by chapter 569 of the laws of 2008, are amended to read as follows:

1. Notwithstanding any inconsistent provision of law, pursuant to regulations of the office of children and family services, every local social services district shall as a component of the district's multi-year consolidated services child welfare services plan address the child welfare services needs of sexually exploited children and to the extent that funds are available SPECIFICALLY THEREFOR ensure that [preventative services including] a short-term safe house or another short-term safe placement such as an approved runaway and homeless youth program, approved respite or crisis program providing crisis intervention or respite services or community-based program to serve sexually exploited children is available to children residing in such district. Nothing in this section shall prohibit a local social services district from utilizing existing respite or crisis intervention services already operated by such social services district or homeless youth programs or services for victims of human trafficking pursuant to article ten-D of this chapter so long as the staff members have received appropriate training approved by the office of children and family services regarding sexually exploited children and the existing programs and facilities provide a safe, secure and appropriate environment for sexually exploited children. Crisis intervention services, short-term safe house care and community-based programming may, where appropriate, be provided by the same not-for-profit agency. Local social services districts may work cooperatively to provide such short-term safe house or other short-term safe placement, services and programming and access to such placement, services and programming may be provided on a regional basis, provided, however, that every local social services district shall to the extent that funds are available ensure that such placement, services and programs shall be readily accessible to sexually exploited children residing within the district.

2. All of the services created under this [article] TITLE may, to the extent possible provided by law, be available to all sexually exploited children whether they are accessed voluntarily, as a condition of an adjournment in contemplation of dismissal issued in criminal court, through the diversion services created under section seven hundred thirty-five of the family court act, through a proceeding under article three of the family court act, a proceeding under article ten of the family court act or through a referral from a local social services agency.

3. The capacity of the crisis intervention services and community-based programs in subdivision one of this section shall be based on the number of sexually exploited children in each district who are in need of such services. A determination of such need shall be made [annually] IN TWO THOUSAND TEN AND EVERY FIVE YEARS THEREAFTER in every social services district by the local commissioner of social services and be included in the integrated county plan. Such determination shall be made in consultation with local law enforcement, runaway and homeless youth

program providers, local probation departments, local social services commissioners, the runaway and homeless youth coordinator for the local social services district, local law guardians, presentment agencies, public defenders and district attorney's offices and child advocates and services providers who work directly with sexually exploited youth.

5. [The] TO THE EXTENT FUNDS ARE SPECIFICALLY APPROPRIATED THEREFOR, THE office of children and family services shall contract with an appropriate not-for-profit agency with experience working with sexually exploited children to operate at least one LONG-TERM safe house in a geographically appropriate area of the state which shall provide safe and secure long term housing and specialized services for sexually exploited children throughout the state. The appropriateness of the geographic location shall be determined taking into account the areas of the state with high numbers of sexually exploited children and the need for sexually exploited children to find shelter and long term placement in a region that cannot be readily accessed by the perpetrators of sexual exploitation. The need for more than one LONG-TERM safe house shall be determined by the office of children and family services based on the numbers and geographical location of sexually exploited children within the state. NOTHING HEREIN SHALL BE CONSTRUED TO PRECLUDE AN AGENCY FROM APPLYING FOR AND ACCEPTING GRANTS, GIFTS AND BEQUESTS OF FUNDS FROM PRIVATE INDIVIDUALS, FOUNDATIONS AND THE FEDERAL GOVERNMENT FOR THE PURPOSE OF CREATING OR CARRYING OUT THE DUTIES OF A LONG-TERM SAFE HOUSE.

6. The local social services commissioner may, to the extent that funds are available, in conjunction with THE DIVISION OF CRIMINAL JUSTICE SERVICES AND local law enforcement officials, contract with an appropriate not-for-profit agency with experience working with sexually exploited children to train law enforcement officials who are likely to encounter sexually exploited children in the course of their law enforcement duties on the provisions of this section and how to identify and obtain appropriate services for sexually exploited children. Local social services districts may work cooperatively to provide such training and such training may be provided on a regional basis. The [office of children and family services] DIVISION OF CRIMINAL JUSTICE SERVICES shall assist local social services districts in obtaining any available funds for the purposes of conducting law enforcement training from the federal justice department [and/or] AND the office of juvenile justice and delinquency prevention.

S 3. Paragraph (c) of subdivision 4 of section 305.2 of the family court act, as added by chapter 920 of the laws of 1982, is amended and two new paragraphs (d) and (e) are added to read as follows:

(c) take the child to a place certified by the [state division for youth] OFFICE OF CHILDREN AND FAMILY SERVICES as a juvenile detention facility for the reception of children[.]; OR

(D) TAKE THE CHILD WHO SUCH OFFICER HAS DECIDED TO TAKE INTO CUSTODY IN ACCORDANCE WITH THIS SECTION OR SECTION 305.1 OF THIS PART FOR VIOLATING THE PROVISIONS OF SECTION 230.00 OF THE PENAL LAW, TO AN AVAILABLE SHORT-TERM SAFE HOUSE AS DEFINED IN SUBDIVISION TWO OF SECTION FOUR HUNDRED FORTY-SEVEN-A OF THE SOCIAL SERVICES LAW; OR

(E) TAKE THE CHILD, IF IT APPEARS THAT SUCH CHILD IS A SEXUALLY EXPLOITED CHILD AS DEFINED IN PARAGRAPH (A), (C) OR (D) OF SUBDIVISION ONE OF SECTION FOUR HUNDRED FORTY-SEVEN-A OF THE SOCIAL SERVICES LAW, TO AN AVAILABLE SHORT-TERM SAFE HOUSE, BUT ONLY IF THE CHILD CONSENTS TO BE TAKEN.

S 4. Subdivision 3 of section 311.4 of the family court act, as added by chapter 569 of the laws of 2008, is amended to read as follows:

3. In any proceeding under this article based upon an arrest for an act of prostitution, there is a presumption that the respondent meets the criteria [for a certification] as a victim of a severe form of trafficking as defined in section 7105 of title 22 of the United States Code (Trafficking Victims Protection Act of 2000). Upon the motion of the respondent, without the consent of the presentment agency, a petition alleging that the respondent is in need of supervision shall be substituted for the delinquency petition. If, however, the respondent [is not a victim of a severe form of trafficking as defined by the federal Trafficking Victims Protection Act of 2000, or] has been previously [found] ADJUDICATED AS A JUVENILE DELINQUENT under this article [to have committed an offense] FOR AN ACT WHICH WOULD BE A CRIME pursuant to article two hundred thirty of the penal law, [or has been previously adjudicated under section seven hundred fifty-two of this chapter and placed with a commissioner of social services pursuant to subdivisions (a) and (b) of section seven hundred fifty-six of this chapter] IF THE RESPONDENT WAS AN ADULT, or expresses a current unwillingness to cooperate with specialized services for sexually exploited youth, continuing with the delinquency proceeding shall be within the court's discretion. The necessary findings of fact to support the continuation of the delinquency proceeding shall be reduced to writing and made part of the court record. If, subsequent to issuance of a substitution order under this subdivision AND PRIOR TO THE CONCLUSION OF THE FACT FINDING HEARING ON THE PETITION ALLEGING THAT THE RESPONDENT IS A PERSON IN NEED OF SUPERVISION, the respondent is not in substantial compliance with a lawful order of the court, the court may, in its discretion, substitute [a] THE ORIGINAL petition alleging that the respondent is a juvenile delinquent for the petition alleging that the respondent is in need of supervision.

S 5. Subdivision 3 of section 320.5 of the family court act is amended by adding a new paragraph (d) to read as follows:

(D) IF THE RESPONDENT MAY BE A SEXUALLY EXPLOITED CHILD AS DEFINED IN SUBDIVISION ONE OF SECTION FOUR HUNDRED FORTY-SEVEN-A OF THE SOCIAL SERVICES LAW, THE COURT MAY DIRECT THE RESPONDENT TO AN AVAILABLE SHORT-TERM SAFE HOUSE AS A CONDITION OF RELEASE.

S 6. Section 353.3 of the family court act, as added by chapter 920 of the laws of 1982, paragraphs (a), (b) and (c) of subdivision 3 as amended by chapter 465 of the laws of 1992, subdivision 4 and the opening paragraph of subdivision 7 as amended by chapter 41 of the laws of 2010, subdivision 5 as amended and subdivision 10 as added by chapter 419 of the laws of 1987 and subdivision 7 as amended by chapter 181 of the laws of 2000, is amended to read as follows:

S 353.3 Placement. 1. In accordance with section 352.2 OF THIS PART, the court may place the respondent in his OR HER own home or in the custody of a suitable relative or other suitable private person or the commissioner of THE LOCAL social services DISTRICT or [the division for youth] THE OFFICE OF CHILDREN AND FAMILY SERVICES pursuant to article nineteen-G of the executive law, subject to the orders of the court.

2. Where the respondent is placed with the commissioner of THE LOCAL social services DISTRICT, the court may direct the commissioner to place him OR HER with an authorized agency or class of authorized agencies, INCLUDING, IF THE COURT FINDS THAT THE RESPONDENT IS A SEXUALLY EXPLOITED CHILD AS DEFINED IN SUBDIVISION ONE OF SECTION FOUR HUNDRED FORTY-SEVEN-A OF THE SOCIAL SERVICES LAW, AN AVAILABLE LONG-TERM SAFE HOUSE. Unless the dispositional order provides otherwise, the court so

directing shall include one of the following alternatives to apply in the event that the commissioner is unable to so place the respondent:

(a) the commissioner shall apply to the court for an order to stay, modify, set aside, or vacate such directive pursuant to the provisions of section 355.1 OF THIS PART; or

(b) the commissioner shall return the respondent to the family court for a new dispositional hearing and order.

3. Where the respondent is placed with the [division for youth] OFFICE OF CHILDREN AND FAMILY SERVICES, the court shall, unless it directs the [division] OFFICE to place him OR HER with an authorized agency or class of authorized agencies, INCLUDING IF THE COURT FINDS THAT THE RESPONDENT IS A SEXUALLY EXPLOITED CHILD AS DEFINED IN SUBDIVISION ONE OF SECTION FOUR HUNDRED FORTY-SEVEN-A OF THE SOCIAL SERVICES LAW, AN AVAILABLE LONG-TERM SAFE HOUSE pursuant to subdivision four OF THIS SECTION, authorize the [division] OFFICE to do one of the following:

(a) place the respondent in a secure facility without a further hearing at any time or from time to time during the first sixty days of residency in [division for youth] OFFICE OF CHILDREN AND FAMILY SERVICES facilities. Notwithstanding the discretion of the [division] OFFICE to place the respondent in a secure facility at any time during the first sixty days of residency in a [division for youth] OFFICE OF CHILDREN AND FAMILY SERVICES facility, the respondent may be placed in a non-secure facility. In the event that the [division] OFFICE desires to transfer a respondent to a secure facility at any time after the first sixty days of residency in [division] OFFICE facilities, a hearing shall be held pursuant to subdivision three of section five hundred four-a of the executive law; or

(b) place the respondent in a limited secure facility. The respondent may be transferred by the [division] OFFICE to a secure facility after a hearing is held pursuant to section five hundred four-a of the executive law; provided, however, that during the first twenty days of residency in [division] OFFICE facilities, the respondent shall not be transferred to a secure facility unless the respondent has committed an act or acts which are exceptionally dangerous to the respondent or to others; or

(c) place the respondent in a non-secure facility. No respondent placed pursuant to this paragraph may be transferred by the [division for youth] OFFICE OF CHILDREN AND FAMILY SERVICES to a secure facility.

4. Where the respondent is placed with the [division for youth] OFFICE OF CHILDREN AND FAMILY SERVICES, the court may direct the [division] OFFICE to place the respondent with an authorized agency or class of authorized agencies, INCLUDING, IF THE COURT FINDS THAT THE RESPONDENT IS A SEXUALLY EXPLOITED CHILD AS DEFINED IN SUBDIVISION ONE OF SECTION FOUR HUNDRED FORTY-SEVEN-A OF THE SOCIAL SERVICES LAW, AN AVAILABLE LONG-TERM SAFE HOUSE, and in the event the [division] OFFICE is unable to so place the respondent or, discontinues the placement with the authorized agency, the respondent shall be deemed to have been placed with the [division] OFFICE pursuant to paragraph (b) or (c) of subdivision three of this section. In such cases, the [division] OFFICE shall notify the court, presentment agency, respondent's attorney and parent or other person responsible for the respondent's care, of the reason for discontinuing the placement with the authorized agency and the level and location of the youth's placement.

5. If the respondent has committed a felony the initial period of placement shall not exceed eighteen months. If the respondent has committed a misdemeanor such initial period of placement shall not exceed twelve months. If the respondent has been in detention pending

disposition, the initial period of placement ordered under this section shall be credited with and diminished by the amount of time spent by the respondent in detention prior to the commencement of the placement unless the court finds that all or part of such credit would not serve the needs and best interests of the respondent or the need for protection of the community.

6. The court may at any time conduct a hearing in accordance with section 355.1 OF THIS PART concerning the need for continuing a placement.

7. The place in which or the person with whom the respondent has been placed under this section shall submit a report to the court, respondent's attorney of record, and presentment agency at the conclusion of the placement period, except as provided in paragraphs (a) and (b) of this subdivision. Such report shall include recommendations and such supporting data as is appropriate. The court may extend a placement pursuant to section 355.3 of this [article] PART.

(a) Where the respondent is placed pursuant to subdivision two or three of this section and where the agency is not seeking an extension of the placement pursuant to section 355.3 of this [article] PART, such report shall be submitted not later than thirty days prior to the conclusion of the placement.

(b) Where the respondent is placed pursuant to subdivision two or three of this section and where the agency is seeking an extension of the placement pursuant to section 355.3 of this [article] PART and a permanency hearing pursuant to section 355.5 of this [article] PART, such report shall be submitted not later than sixty days prior to the date on which the permanency hearing must be held and shall be annexed to the petition for a permanency hearing and extension of placement.

(c) Where the respondent is placed pursuant to subdivision two or three of this section, such report shall contain a plan for the release, or conditional release (pursuant to section five hundred ten-a of the executive law), of the respondent to the custody of his or her parent or other person legally responsible, to independent living or to another permanency alternative as provided in paragraph (d) of subdivision seven of section 355.5 of this [article] PART. If the respondent is subject to article sixty-five of the education law or elects to participate in an educational program leading to a high school diploma, such plan shall include, but not be limited to, the steps that the agency with which the respondent is placed has taken and will be taking to facilitate the enrollment of the respondent in a school or educational program leading to a high school diploma following release, or, if such release occurs during the summer recess, upon the commencement of the next school term. If the respondent is not subject to article sixty-five of the education law and does not elect to participate in an educational program leading to a high school diploma, such plan shall include, but not be limited to, the steps that the agency with which the respondent is placed has taken and will be taking to assist the respondent to become gainfully employed or enrolled in a vocational program following release.

8. In its discretion, the court may recommend restitution or require services for the public good pursuant to section 353.6 OF THIS PART in conjunction with an order of placement.

9. If the court places a respondent with the [division for youth] OFFICE OF CHILDREN AND FAMILY SERVICES pursuant to this section after finding that such child committed a felony, the court may, in its discretion, further order that such respondent shall be confined in a

residential facility for a minimum period set by the order, not to exceed six months.

10. A placement pursuant to this section with the commissioner of THE LOCAL social services DISTRICT shall not be directed in any detention facility, but the court may direct detention pending transfer to a placement authorized and ordered under this section for no more than thirty days after the order of placement is made or in a city of one million or more, for no more than fifteen days after such order of placement is made. Such direction shall be subject to extension pursuant to subdivision three of section three hundred ninety-eight of the social services law.

S 7. Subdivision (a) of section 712 of the family court act, as amended by chapter 569 of the laws of 2008, is amended to read as follows:

(a) "Person in need of supervision". A person less than eighteen years of age who does not attend school in accordance with the provisions of part one of article sixty-five of the education law or who is incorrigible, ungovernable or habitually disobedient and beyond the lawful control of a parent or other person legally responsible for such child's care, or other lawful authority, or who violates the provisions of section 221.05[,]OR 230.00[, or 240.37] of the penal law, OR WHO APPEARS TO BE A SEXUALLY EXPLOITED CHILD AS DEFINED IN PARAGRAPH (A), (C) OR (D) OF SUBDIVISION ONE OF SECTION FOUR HUNDRED FORTY-SEVEN-A OF THE SOCIAL SERVICES LAW, BUT ONLY IF THE CHILD CONSENTS TO THE FILING OF A PETITION UNDER THIS ARTICLE.

S 8. Subdivision 5 of section 720 of the family court act is amended by adding a new paragraph (c) to read as follows:

(C) IF THE RESPONDENT MAY BE A SEXUALLY EXPLOITED CHILD AS DEFINED IN SUBDIVISION ONE OF SECTION FOUR HUNDRED FORTY-SEVEN-A OF THE SOCIAL SERVICES LAW, THE COURT MAY DIRECT THE RESPONDENT TO AN AVAILABLE SHORT-TERM SAFE HOUSE AS DEFINED IN SUBDIVISION TWO OF SECTION FOUR HUNDRED FORTY-SEVEN-A OF THE SOCIAL SERVICES LAW AS AN ALTERNATIVE TO DETENTION.

S 9. Subdivisions (a), (b), (c) and (d) of section 732 of the family court act, subdivision (a) as amended by chapter 569 of the laws of 2008, subdivisions (b) and (c) as amended and subdivision (d) as added by section 6 of part E of chapter 57 of the laws of 2005, are amended to read as follows:

(a) (I) the respondent is an habitual truant or is incorrigible, ungovernable, or habitually disobedient and beyond the lawful control of his or her parents, guardian or lawful custodian, or has been the victim of sexual exploitation as defined in subdivision one of section four hundred forty-seven-a of the social services law, and specifying the acts on which the allegations are based and the time and place they allegedly occurred. Where habitual truancy is alleged or the petitioner is a school district or local educational agency, the petition shall also include the steps taken by the responsible school district or local educational agency to improve the school attendance and/or conduct of the respondent;

[(b)] (II) the respondent was under eighteen years of age at the time of the specified acts;

[(c)] (III) the respondent requires supervision or treatment; and

[(d)] (IV) the petitioner has complied with the provisions of section seven hundred thirty-five of this article[.]; OR

(B) THE RESPONDENT APPEARS TO BE A SEXUALLY EXPLOITED CHILD AS DEFINED IN PARAGRAPH (A), (C) OR (D) OF SUBDIVISION ONE OF SECTION FOUR HUNDRED

FORTY-SEVEN-A OF THE SOCIAL SERVICES LAW BUT ONLY IF THE CHILD CONSENTS TO THE FILING OF A PETITION UNDER THIS ARTICLE.

S 10. Subdivision (a) of section 739 of the family court act, as amended by section 8 of part E of chapter 57 of the laws of 2005, is amended to read as follows:

(a) After the filing of a petition under section seven hundred thirty-two of this [article] PART, the court in its discretion may release the respondent or direct his or her detention. IF THE RESPONDENT MAY BE A SEXUALLY EXPLOITED CHILD AS DEFINED IN SUBDIVISION ONE OF SECTION FOUR HUNDRED FORTY-SEVEN-A OF THE SOCIAL SERVICES LAW, THE COURT MAY DIRECT THE RESPONDENT TO AN AVAILABLE SHORT-TERM SAFE HOUSE AS AN ALTERNATIVE TO DETENTION. However, the court shall not direct detention unless it finds and states the facts and reasons for so finding that unless the respondent is detained there is a substantial probability that the respondent will not appear in court on the return date and all available alternatives to detention have been exhausted.

S 11. Paragraph (ii) of subdivision (a) of section 756 of the family court act, as amended by chapter 920 of the laws of 1982, is amended to read as follows:

(ii) Where the child is placed with the commissioner of THE LOCAL social services DISTRICT, the court may direct the commissioner to place the child with an authorized agency or class of authorized agencies, INCLUDING, IF THE COURT FINDS THAT THE RESPONDENT IS A SEXUALLY EXPLOITED CHILD AS DEFINED IN SUBDIVISION ONE OF SECTION FOUR HUNDRED FORTY-SEVEN-A OF THE SOCIAL SERVICES LAW, AN AVAILABLE LONG-TERM SAFE HOUSE. Unless the dispositional order provides otherwise, the court so directing shall include one of the following alternatives to apply in the event that the commissioner is unable to so place the child:

S 12. Paragraph (i) of subdivision (a) of section 1055 of the family court act, as amended by chapter 519 of the laws of 2008, is amended to read as follows:

(i) For purposes of section one thousand fifty-two of this part the court may place the child in the custody of a relative or other suitable person pursuant to this article, or of the local commissioner of social services or of such other officer, board or department as may be authorized to receive children as public charges, or a duly authorized association, agency, society or in an institution suitable for the placement of a child. THE COURT MAY ALSO PLACE A CHILD WHO IT FINDS TO BE A SEXUALLY EXPLOITED CHILD AS DEFINED IN SUBDIVISION ONE OF SECTION FOUR HUNDRED FORTY-SEVEN-A OF THE SOCIAL SERVICES LAW WITH THE LOCAL COMMISSIONER OF SOCIAL SERVICES FOR PLACEMENT IN AN AVAILABLE LONG-TERM SAFE HOUSE. The court may also place the child in the custody of the local commissioner of social services and may direct such commissioner to have the child reside with a relative or other suitable person who has indicated a desire to become a foster parent for the child and further direct such commissioner, pursuant to regulations of the office of children and family services, to commence an investigation of the home of such relative or other suitable person within twenty-four hours and thereafter expedite approval or certification of such relative or other suitable person, if qualified, as a foster parent. If such home is found to be unqualified for approval or certification, the local commissioner shall report such fact to the court forthwith so that the court may make a placement determination that is in the best interests of the child.

S 13. Section 532-a of the executive law is amended by adding a new subdivision 7 to read as follows:

7. "SAFE HOUSE" SHALL MEAN A RESIDENTIAL PROGRAM FOR SEXUALLY EXPLOITED CHILDREN AS DEFINED IN SUBDIVISION ONE OF SECTION FOUR HUNDRED FORTY-SEVEN-A OF THE SOCIAL SERVICES LAW. AN APPROVED RUNAWAY PROGRAM MAY OPERATE A SHORT-TERM SAFE HOUSE, AS DEFINED IN SUBDIVISION TWO OF SECTION FOUR HUNDRED FORTY-SEVEN-A OF THE SOCIAL SERVICES LAW, FOR SEXUALLY EXPLOITED CHILDREN. A TRANSITIONAL INDEPENDENT LIVING SUPPORT PROGRAM MAY OPERATE A LONG-TERM SAFE HOUSE FOR SEXUALLY EXPLOITED CHILDREN.

S 14. This act shall take effect immediately and shall be deemed to have been in full force and effect on and after April 1, 2010.

PART H

Section 1. Notwithstanding any provisions of law to the contrary, an organization that is certified by the State Employment Relations Board or any successor agency to be the designated unit representative of a representative unit comprised of licensed group family day care home, registered family day care home, or legally-exempt child care providers, or some combination thereof, may require the providers in such a representative unit that choose not to be members of the organization to pay to the organization a payment for services rendered. The amount of the payment shall not exceed the amount of dues uniformly required of the providers in such representative unit who choose to be members of the organization.

The provisions of this section shall only be applicable in the case of a representative unit which has established and maintained a procedure providing for the refund to any provider demanding the return of any part of such a payment which represents the provider's pro rata share of expenditures by the representation unit in aid of activities or causes of a political or ideological nature only incidentally related to being a licensed group family day care provider, registered family day care provider or legally-exempt child care provider. Nothing in this section shall be deemed to require a provider to become a member of such representation unit.

For each non-member provider in a representative unit who is paid directly by a social services district on behalf of one or more families receiving subsidized child care services in accordance with the social services law, the social services district shall deduct the amount of the payment required under this section from child care subsidy funds otherwise due to be paid to the provider and transmit such payment to the applicable designated unit representative. The designated unit representative will assume all the design, development and on-going maintenance costs for any changes to the applicable payment systems of the state or the city of New York, as applicable, and any other associated administrative costs necessary for the payments to be deducted and transferred to the designated unit representative from payments due to the applicable providers. Payments will only be deducted for activities occurring after the completion of the necessary technical changes and after the provision to the state by the designated unit representative of information about those providers who are responsible for making payments required under this section. Such information shall be provided to the state, in a format determined by the state as is necessary to electronically input the information into the applicable payment systems to enable the systems to deduct and transfer the payments to the designated unit representative. The designated unit representative shall be responsible for responding to all complaints and concerns regarding the

deduction of payments required under this section; provided, however, that nothing in this section shall preclude any public entity from appearing and making any arguments in any legal proceeding, or otherwise representing their interests, concerning payments required under this section. The designated unit representative shall indemnify and hold the state and its social services districts harmless against any and all claims, damages, suits, and other forms of liability which may arise out of any action taken or not taken by the state or a social services district for the purposes of complying with the provisions of this section.

Should any part of this section or any provision contained herein be determined to be contrary to law; be determined by the federal government to jeopardize the receipt by the state of any federal child care funds; and/or, in cases where it may be necessary, not be approved by the federal government, such part or provision shall be deemed invalid; provided, however, that invalidation of such part or provision shall not invalidate the remaining portions of this section and the remaining portions shall remain in full force and effect.

S 2. This act shall take effect immediately and shall expire September 30, 2013 when upon such date the provisions of this act shall be deemed repealed.

PART I

Section 1. Paragraphs (a), (b), (c) and (d) of subdivision 1 of section 131-o of the social services law, paragraphs (a), (b) and (d) as amended and paragraph (c) as added by section 1 of part U of chapter 57 of the laws of 2009, are amended to read as follows:

(a) in the case of each individual receiving family care, an amount equal to at least $130.00 for each month beginning on or after January first, two thousand [nine] TEN.

(b) in the case of each individual receiving residential care, an amount equal to at least $150.00 for each month beginning on or after January first, two thousand [nine] TEN.

(c) in the case of each individual receiving enhanced residential care, an amount equal to at least $178.00 for each month beginning on or after January first, two thousand [nine] TEN.

(d) for the period commencing January first, two thousand [ten] ELEVEN, the monthly personal needs allowance shall be an amount equal to the sum of the amounts set forth in subparagraphs one and two of this paragraph:

(1) the amounts specified in paragraphs (a), (b) and (c) of this subdivision; and

(2) the amount in subparagraph one of this paragraph, multiplied by the percentage of any federal supplemental security income cost of living adjustment which becomes effective on or after January first, two thousand [ten] ELEVEN, but prior to June thirtieth, two thousand [ten] ELEVEN, rounded to the nearest whole dollar.

S 2. Paragraphs (a), (b), (c), (d), (e) and (f) of subdivision 2 of section 209 of the social services law, paragraphs (a), (b), (c), (d) and (e) as amended by section 3 and paragraph (f) as added by section 4 of part U of chapter 57 of the laws of 2009, are amended to read as follows:

(a) On and after January first, two thousand [nine] TEN, for an eligible individual living alone, $761.00; and for an eligible couple living alone, $1115.00.

(b) On and after January first, two thousand [nine] TEN, for an eligible individual living with others with or without in-kind income, $697.00; and for an eligible couple living with others with or without in-kind income, $1057.00.

(c) On and after January first, two thousand [nine] TEN, (i) for an eligible individual receiving family care, $940.48 if he or she is receiving such care in the city of New York or the county of Nassau, Suffolk, Westchester or Rockland; and (ii) for an eligible couple receiving family care in the city of New York or the county of Nassau, Suffolk, Westchester or Rockland, two times the amount set forth in subparagraph (i) of this paragraph; or (iii) for an eligible individual receiving such care in any other county in the state, $902.48; and (iv) for an eligible couple receiving such care in any other county in the state, two times the amount set forth in subparagraph (iii) of this paragraph.

(d) On and after January first, two thousand [nine] TEN, (i) for an eligible individual receiving residential care, $1109.00 if he or she is receiving such care in the city of New York or the county of Nassau, Suffolk, Westchester or Rockland; and (ii) for an eligible couple receiving residential care in the city of New York or the county of Nassau, Suffolk, Westchester or Rockland, two times the amount set forth in subparagraph (i) of this paragraph; or (iii) for an eligible individual receiving such care in any other county in the state, $1079.00; and (iv) for an eligible couple receiving such care in any other county in the state, two times the amount set forth in subparagraph (iii) of this paragraph.

(e) (i) On and after January first, two thousand [nine] TEN, for an eligible individual receiving enhanced residential care, $1368.00; and (ii) for an eligible couple receiving enhanced residential care, two times the amount set forth in subparagraph (i) of this paragraph.

(f) The amounts set forth in paragraphs (a) through (e) of this subdivision shall be increased to reflect any increases in federal supplemental security income benefits for individuals or couples which become effective on or after January first, two thousand [ten] ELEVEN but prior to June thirtieth, two thousand [ten] ELEVEN.

S 3. This act shall take effect December 31, 2010.

## PART J

Section 1. Title 7 of article 25 of the public health law is REPEALED.

S 2. The social services law is amended by adding a new article 8-A to read as follows:

### ARTICLE 8-A
### NUTRITION OUTREACH AND PUBLIC EDUCATION PROGRAM

SECTION 465. NUTRITION OUTREACH AND PUBLIC EDUCATION PROGRAM; ESTABLISHMENT.
465-A. DEFINITIONS.
465-B. RESPONSIBILITIES OF THE COMMISSIONER.
465-C. GRANTS TO COMMUNITY ORGANIZATIONS.
465-D. CRITERIA FOR HIGH RISK AREAS.

S 465. NUTRITION OUTREACH AND PUBLIC EDUCATION PROGRAM; ESTABLISHMENT. THE NUTRITION OUTREACH AND PUBLIC EDUCATION PROGRAM IS ESTABLISHED WITHIN THE OFFICE OF TEMPORARY AND DISABILITY ASSISTANCE. SUCH PROGRAM IS ESTABLISHED TO ENSURE MAXIMUM PARTICIPATION BY ELIGIBLE PERSONS IN

FEDERAL AND STATE FOOD ASSISTANCE PROGRAMS. THE PROGRAM SHALL BE STRUCTURED SO AS TO INCREASE PARTICIPATION STATEWIDE BUT WITH PARTICULAR ATTENTION TO HIGH RISK AREAS WITH A FOCUS ON CERTAIN AT RISK POPULATIONS.

S 465-A. DEFINITIONS. AS USED IN THIS ARTICLE:

1. "HIGH RISK AREAS" MEANS ANY COUNTY OR URBAN AREA WHERE A SIGNIFICANT PERCENTAGE OR NUMBER OF THOSE POTENTIALLY ELIGIBLE FOR FOOD ASSISTANCE PROGRAMS ARE NOT PARTICIPATING IN SUCH PROGRAMS.

2. "FOOD ASSISTANCE PROGRAMS" MEANS PROGRAMS INCLUDING BUT NOT LIMITED TO FOOD STAMP PROGRAMS, SCHOOL BREAKFAST AND LUNCH PROGRAMS, CHILD CARE FOOD PROGRAMS, SUMMER FOOD SERVICE PROGRAMS, SPECIAL SUPPLEMENTAL PROGRAMS FOR WOMEN, INFANTS AND CHILDREN, CONGREGATE MEAL PROGRAMS AND HOME DELIVERED MEAL PROGRAMS.

3. "AT RISK POPULATIONS" MEANS POPULATIONS INCLUDING BUT NOT LIMITED TO FAMILIES WITH CHILDREN RECEIVING FAMILY ASSISTANCE, HOUSEHOLDS RECEIVING FEDERAL SUPPLEMENTAL SECURITY INCOME PAYMENTS, HOUSEHOLDS WITH INCOMES AT OR BELOW ONE HUNDRED EIGHTY-FIVE PERCENT OF THE POVERTY LEVEL, RECIPIENTS OF EMERGENCY FOOD, ELDERLY OR DISABLED PERSONS, HOMELESS PERSONS, UNEMPLOYED PERSONS, AND FAMILIES AND PERSONS RESIDING IN RURAL HOUSEHOLDS WHO ARE AT RISK OF NUTRITIONAL DEFICIENCIES.

S 465-B. RESPONSIBILITIES OF THE COMMISSIONER. THE COMMISSIONER SHALL DIRECTLY OR THROUGH CONTRACT ADMINISTER A PROGRAM OF NUTRITION OUTREACH THAT SHALL INCLUDE BUT NOT BE LIMITED TO:

1. STATEWIDE COORDINATION;

2. PROVISION OF INFORMATION AS TO THE AVAILABILITY OF, ELIGIBILITY CRITERIA FOR, AND APPLICATION PROCEDURE FOR FOOD ASSISTANCE PROGRAMS;

3. COORDINATION OF EFFORTS AMONG STATE AGENCIES INCLUDING, BUT NOT LIMITED TO, THE DEPARTMENT OF HEALTH, THE OFFICE FOR THE AGING, AND THE EDUCATION DEPARTMENT AND COMMUNITY AGENCIES INVOLVED IN FOOD ASSISTANCE PROGRAMS;

4. COMPILATION OF STATISTICAL DATA FROM STATE AND LOCAL AGENCIES AND DISSEMINATION TO COMMUNITY ORGANIZATIONS; AND

5. NUTRITION EDUCATION.

S 465-C. GRANTS TO COMMUNITY ORGANIZATIONS. THE COMMISSIONER SHALL MAKE GRANTS WITHIN THE AMOUNT APPROPRIATED THEREFOR TO COMMUNITY-BASED ORGANIZATIONS OR CONSORTIA OF COMMUNITY-BASED ORGANIZATIONS IN HIGH RISK AREAS FOR OUTREACH ACTIVITIES. SUCH OUTREACH ACTIVITIES SHALL INCLUDE BUT NOT BE LIMITED TO:

1. IDENTIFICATION OF BARRIERS TO PARTICIPATION IN FOOD ASSISTANCE PROGRAMS INCLUDING THE UNAVAILABILITY OF SUCH PROGRAMS;

2. INFORMATION AS TO PROGRAM AVAILABILITY, INDIVIDUAL OR HOUSEHOLD ELIGIBILITY, AND APPLICATION PROCEDURE;

3. IDENTIFICATION OF AT RISK POPULATIONS AND INDIVIDUALS WITHIN THE AT RISK POPULATIONS WHO ARE NOT PARTICIPATING;

4. ASSISTANCE WITH ELIGIBILITY REQUIREMENTS INCLUDING VERIFICATION AND ENROLLMENT;

5. DISSEMINATION OF INFORMATION TO AND CONDUCTING TRAINING SESSIONS FOR LOCAL GROUPS; AND

6. NUTRITION EDUCATION TO AT RISK POPULATIONS.

S 465-D. CRITERIA FOR HIGH RISK AREAS. IN SELECTING THOSE AREAS WHICH WOULD BE DETERMINED TO BE HIGH RISK AND THEREFORE ELIGIBLE FOR A GRANT, THE COMMISSIONER MAY CONSIDER FACTORS INCLUDING, BUT NOT LIMITED TO:

1. FIFTY PERCENT OR MORE OF THOSE POTENTIALLY ELIGIBLE ARE NOT PARTICIPATING IN THE FOOD STAMP PROGRAM OR WHERE A SIGNIFICANT NUMBER OF THE POPULATION POTENTIALLY ELIGIBLE, PARTICULARLY THE WORKING POOR AND THE ELDERLY, ARE NOT PARTICIPATING;

2. TWENTY-FIVE PERCENT OR MORE OF CHILDREN ARE ELIGIBLE FOR FREE OR REDUCED PRICE MEALS WITHIN THE SCHOOL LUNCH PROGRAM;
3. INFANT MORTALITY OR MORBIDITY RATES;
4. ECONOMIC INDICATORS INCLUDING, BUT NOT LIMITED TO, THE UNEMPLOYMENT RATE, PREVAILING WAGES, AND RECENT LOSS OF JOB BASE;
5. HIGH CONCENTRATION OF AT RISK POPULATIONS; AND
6. UNAVAILABILITY OF FOOD ASSISTANCE PROGRAMS IN THE AREA BECAUSE OF LACK OF PROVIDER PARTICIPATION OR KNOWLEDGE ABOUT THE EXISTENCE OF SUCH PROGRAMS.

S 3. This act shall take effect immediately.

## PART K

Section 1. The social services law is amended by adding a new section 36-c to read as follows:

S 36-C. SAVINGS PLAN DEMONSTRATION PROJECT. 1. NOTWITHSTANDING ANY OTHER PROVISION OF LAW TO THE CONTRARY, IN ANY SOCIAL SERVICES DISTRICT WITH A CITY HAVING A POPULATION OF ONE MILLION OR MORE, THE SOCIAL SERVICES DISTRICT SHALL CONDUCT A DEMONSTRATION PROJECT AS SET FORTH IN THIS SECTION, AND SHALL EVALUATE AND REPORT ON SUCH PROJECT, PURSUANT TO A PLAN APPROVED BY THE OFFICE OF TEMPORARY AND DISABILITY ASSISTANCE AND THE DIVISION OF BUDGET PRIOR TO THE IMPLEMENTATION OF THE PROJECT.

2. SUCH SOCIAL SERVICES DISTRICT, IN LIEU OF APPLYING THAT PORTION OF A TEMPORARY HOUSING ASSISTANCE RECIPIENT'S EARNED INCOME THAT, BUT FOR THE OTHER PROVISIONS OF THIS CHAPTER, WOULD BE APPLIED TO REDUCE THE NEED FOR THE SHELTER COMPONENT OF TEMPORARY HOUSING ASSISTANCE PROVIDED IN A TEMPORARY EMERGENCY SHELTER, SHALL DIRECT SUCH A RECIPIENT TO PARTICIPATE IN A SAVINGS PLAN WITH SUCH FUNDS AND, AS LONG AS SUCH FUNDS ARE NOT WITHDRAWN, THEY SHALL NOT BE APPLIED TO REDUCE THE NEED FOR THE SHELTER COMPONENT OF THE TEMPORARY HOUSING ASSISTANCE GRANTED FOR THE DURATION OF HIS OR HER RESIDENCE IN TEMPORARY EMERGENCY SHELTER; PROVIDED, HOWEVER, THAT THE PROVISIONS OF THIS SECTION SHALL ONLY APPLY TO A PERSON RECEIVING TEMPORARY HOUSING ASSISTANCE IN A SHELTER OR OTHER FACILITY FUNDED AND OVERSEEN BY THE NEW YORK CITY DEPARTMENT OF HOMELESS SERVICES OR THE NEW YORK CITY DEPARTMENT OF HOUSING PRESERVATION AND DEVELOPMENT. FAILURE BY A RECIPIENT OF TEMPORARY HOUSING ASSISTANCE TO CONTRIBUTE TO SUCH A SAVINGS PLAN SHALL NOT IN ITSELF RESULT IN THE DISCONTINUANCE OF TEMPORARY HOUSING ASSISTANCE, UNLESS THE RECIPIENT SEPARATELY FAILS TO COMPLY WITH CONDITIONS OF ELIGIBILITY THAT COULD RESULT IN THE DISCONTINUANCE OF TEMPORARY HOUSING ASSISTANCE.

3. IN SUCH SOCIAL SERVICES DISTRICT, ANY SUCH FUNDS COLLECTED FROM THE EARNED INCOME OF A RECIPIENT OF TEMPORARY HOUSING ASSISTANCE WHILE HE OR SHE IS RESIDING IN A TEMPORARY EMERGENCY SHELTER SHALL BE DEPOSITED IN A SAVINGS PLAN APPROVED BY THE OFFICE OF TEMPORARY AND DISABILITY ASSISTANCE AND THE DIVISION OF BUDGET; SHALL BE PAYABLE TO THE RECIPIENT FOR THE RECIPIENT'S USE TO FACILITATE HIS OR HER TRANSITION TO, OR STABILIZE HIS OR HER RESIDENCE IN, PERMANENT HOUSING UPON HIS OR HER DISCHARGE FROM SHELTER OR UPON VERIFICATION OF SUCH RECIPIENT'S DATE OF DISCHARGE FROM SHELTER; AND SHALL BE CONSIDERED EXEMPT AS INCOME OR A RESOURCE UNTIL THE TWELFTH MONTH FOLLOWING THE MONTH IN WHICH THE RECIPIENT CEASES RECEIVING TEMPORARY HOUSING ASSISTANCE IN TEMPORARY EMERGENCY SHELTER. FUNDS COLLECTED IN SUCH SAVINGS PLANS SHALL BE POOLED, TRACKED INDIVIDUALLY, AND MAINTAINED IN A SAVINGS OR MONEY-MARKET ACCOUNT AT INTEREST RATES SET BY THE INSTITUTION WITH WHICH SUCH FUNDS ARE DEPOSITED. ANY SAVINGS AND INTEREST ACCRUED IN SUCH ACCOUNT OR ACCOUNTS SHALL BE DISTRIBUTED TO A TEMPORARY HOUSING ASSISTANCE RECIPIENT UPON HIS OR

HER DISCHARGE FROM TEMPORARY EMERGENCY SHELTER OR UPON VERIFICATION OF SUCH RECIPIENT'S DATE OF DISCHARGE FROM SHELTER, IN ACCORDANCE WITH THE PROVISIONS OF THIS SECTION.

4. SUCH SOCIAL SERVICES DISTRICT SHALL BE DEEMED IN COMPLIANCE WITH SECTION ONE HUNDRED THIRTY-ONE-A OF THIS CHAPTER FOR REIMBURSEMENT OF EXPENDITURES MADE FOR TEMPORARY HOUSING ASSISTANCE, PROVIDED THE DISTRICT IS CONDUCTING THE PROJECT FULLY IN ACCORDANCE WITH THE PROVISIONS OF THIS SECTION. UNEARNED INCOME OF A RECIPIENT OF TEMPORARY HOUSING ASSISTANCE IN SUCH SOCIAL SERVICES DISTRICT SHALL NOT BE APPLIED TO THE SAVINGS PLAN, AND SHALL NOT BE REQUIRED TO BE APPLIED TO THAT PORTION OF THE SHELTER COSTS NOT PAID FOR WITH PUBLIC ASSISTANCE. TEMPORARY HOUSING ASSISTANCE RECIPIENTS SHALL NOT BE REQUIRED TO CONTRIBUTE TO THE COST OF SUCH SHELTER, AS PROVIDED FOR IN THIS SECTION. SUCH PROJECT SHALL NOT BE IMPLEMENTED SO AS TO COMPROMISE THE FEDERAL BENEFITS OF A RECIPIENT OR ANY OF HIS OR HER HOUSEHOLD MEMBERS.

S 2. This act shall take effect on the one hundred eightieth day after it shall have become a law provided, however, that:

a. if the office of temporary and disability assistance and the division of budget approve a demonstration project provided for in this act prior to the one hundred eightieth day, this act shall take effect on the date of such approval except that the office of temporary and disability assistance shall be authorized immediately to promulgate any rule or regulation necessary for the implementation of this act;

b. the office of temporary and disability assistance and the division of budget shall notify the legislative bill drafting commission upon the occurrence of the approval of the demonstration project provided for in this act in order that the commission may maintain an accurate and timely effective data base of the official text of the laws of the state of New York in furtherance of effectuating the provisions of section 44 of the legislative law and section 70-b of the public officers law; and

c. this act shall expire and be deemed repealed March 31, 2016.

PART L

Section 1. Notwithstanding the requirements of sections 16 and 17 of chapter 20 of the laws of 2010 relating to making appropriations for the support of government, and repeal thereof, section 8 of chapter 20 of the laws of 2010, providing an appropriation to the division of housing and community renewal within such section shall be deemed to have been in full force and effect on and after April 1, 2010 through March 31, 2011, and provided further, that section 8 of chapter 110 of the laws of 2010 shall be deemed for all purposes to have the same effect as final legislative action upon appropriations submitted by the governor in budget bills for the purposes identified in those appropriations.

S 2. Notwithstanding the requirements of sections 18 and 20 of chapter 108 of the laws of 2010 relating to making appropriations for the support of government, and repeal thereof, section 11 of chapter 108 of the laws of 2010, providing appropriations to the department of health and the state office for the aging within such section shall be deemed to have been in full force and effect on and after April 1, 2010 through March 31, 2011, and provided further, that section 11 of chapter 108 of the laws of 2010 shall be deemed for all purposes to have the same effect as final legislative action upon appropriations submitted by the governor in budget bills for the purposes identified in those appropriations.

S 3. Notwithstanding the requirements of sections 22 and 24 of chapter 110 of the laws of 2010 relating to making appropriations for the support of government, and repeal thereof, sections 15 through 20 of chapter 110 of the laws of 2010, providing appropriations to the office of children and family services; office of temporary and disability assistance; office of alcoholism and substance abuse services; office of mental health; office of mental retardation and developmental disabilities; and commission on quality of care and advocacy for persons with disabilities within such sections shall be deemed to have been in full force and effect on and after April 1, 2010 through March 31, 2011, and provided further, that sections 15 through 20 of chapter 110 of the laws of 2010 shall be deemed for all purposes to have the same effect as final legislative action upon appropriations submitted by the governor in budget bills for the purposes identified in those appropriations.

S 4. Notwithstanding the requirements of sections 20 and 22 of chapter 133 of the laws of 2010 relating to making appropriations for the support of government, and repeal thereof, section 11 of chapter 133 of the laws of 2010, providing appropriations to the department of health within such sections shall be deemed to have been in full force and effect on and after April 1, 2010 through March 31, 2011, and provided further, that section 11 of chapter 133 of the laws of 2010 shall be deemed for all purposes to have the same effect as final legislative action upon appropriations submitted by the governor in budget bills for the purposes identified in those appropriations.

S 5. This act shall take effect immediately.

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

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