

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

S. 6613--A

A. 9713--A

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

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

AN ACT to amend the mental hygiene law, in relation to the advisory council on alcoholism and substance abuse services; to amend the social services law, in relation to the William B. Hoyt Memorial children and family trust fund and the awarding of grants; to amend the state finance law, in relation to the state procurement council; to amend the social services law, in relation to the advisory committee on legal advocacy; to amend the social services law, in relation to the coordinated children's services for children with cross-system needs; to amend chapter 74 of the laws of 2007 amending the penal law and other laws relating to human trafficking, in relation to the effectiveness of certain provisions thereof; to amend chapter 884 of the laws of 1982 relating to requiring the governor to submit to the legislature detailed reports for each federal block grant, in relation to exempting the establishment of certain advisory councils; to amend the executive law, in relation to the advisory council on interactive media and youth violence; 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 chapter 521 of the laws of 1994 amending the public health law relating to immunizations for vaccine-preventable diseases, in relation to the effectiveness of certain provisions thereof; 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 effective-

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

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ness 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 environmental conservation law, in relation to authority of the department of environmental conservation to issue falconry licenses; to amend the environmental conservation law, in relation to making conforming technical changes; to amend the environmental conservation law, in relation to review of certain actions involving freshwater wetlands; to amend the highway law, in relation to the New York state scenic byways program; to amend the state finance law, in relation to the marine and coastal district of New York conservation, education, and research fund; to amend the vehicle and traffic law, in relation to the use of funds from the issuance of distinctive marine and coastal district of New York license plates; to amend the environmental conservation law, the state finance law, the agriculture and markets law and the county law, in relation to making technical corrections; to amend the executive law, in relation to specialized hazardous materials emergency response training and firefighting and code enforcement training; to amend the general business law, in relation to the advisory committee on fire alarm systems and making technical amendments thereto; to amend the general business law, in relation to the armored car carrier advisory board; to amend the general business law, in relation to the appearance enhancement industry; to amend the general business law, in relation to the hearing aid dispensing advisory board; to amend the not-for-profit corporation law, in relation to the state cemetery board; to amend the real property law, in relation to the state home inspection council; to amend the real property law, in relation to abolishing the state home inspection council; to amend the executive law and the state finance law, in relation to renaming the New York motor vehicle theft and insurance fraud prevention board to the New York motor vehicle theft and insurance fraud prevention demonstration program; to amend the executive law, in relation to abolishing the state board of real estate appraisal; to amend the labor law, in relation to abolishing the carnival, fair and amusement park safety advisory board; 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 19.06 of the mental hygiene law relating to the advisory council on underage alcohol consumption; to repeal section 481-d of the social services law relating to William B. Hoyt Memorial children and family trust fund advisory council; to repeal sections 520 and 521 of the executive law relating to boards of visitors and their powers and duties; to repeal section 372-a of the social services law relating to the child welfare research advisory panel; to repeal sections 401 and 402 of the state technology law relating to the statewide wireless network advisory council and its powers and duties; to repeal section 1-t of the legislative law relating to the advisory council on procurement lobbying; to repeal sections 2407 and 2408 of the public health law relating to an advisory council on breast and cervical cancer detection and education; to repeal section 3402 of the public health law relating to the funeral directing advisory board; to repeal section 364-jj of the social services law relating to the special advisory review panel Medicaid

managed care; to repeal subdivision 5 of section 2409 of the public health law relating to ovarian cancer information programs; to repeal section 2707 of the public health law relating to the osteoporosis advisory council; to repeal subdivisions 6 and 7 of section 2807-n of the public health law relating to the New York state palliative care education and training council; to 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 title 4 of article 2 of the public health law relating to the spinal cord injury research 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 27-2109 of the environmental conservation law relating to the advisory committee on mercury pollution; to repeal section 11-2003 of the environmental conservation law relating to the New York state bird conservation area program advisory committee; to repeal section 11-1005 of the environmental conservation law relating to the falconry advisory board; to repeal title 11 of article 24 and subdivision 7 of section 24-0107 of the environmental conservation law relating to the freshwater wetlands appeals board; to repeal section 349-cc of the highway law relating to the New York state scenic byways advisory board; to repeal section 13-0503 of the environmental conservation law relating to the marine and coastal district of New York conservation, education, and research board; to repeal certain provisions of the environmental conservation law relating to the New York invasive species advisory committee, the New York state oil, gas and solution mining advisory board, the state petroleum bulk storage advisory council, the regional forest practice boards and the solid waste management board, the state environmental board, the surf clam/ocean quahog management advisory board; to repeal certain provisions of the agriculture and markets law, in relation to the New York state veterinary diagnostic laboratory, the plant industry advisory committee, the apiary industry advisory committee, the

advisory council on petroleum product standards, the statewide direct marketing advisory council and the Hudson Valley agricultural advisory council; to repeal chapter 868 of the laws of 1976 establishing the organic food advisory committee; to repeal section 7 of chapter 654 of the laws of 1994 creating the agricultural transportation review panel; to repeal article 33 of the parks, recreation and historic preservation law relating to the New York state heritage areas advisory council; to repeal certain provisions of the executive law relating to the temporary advisory committee on the restoration and display of New York state's military battle flags; to repeal certain sections of the executive law relating to the fire safety advisory board, arson board, the fire fighting and code enforcement personnel standards and education commission, the emergency services council, the commission rules and regulations promulgated by the governor, the manufactured housing advisory council and the Long Island Sound coastal advisory commission; to repeal certain provisions of the general business law relating to an advisory committee on fire alarm systems, the armored car carrier advisory board; to repeal section 89-mmm and subdivision 5 of section 89-ppp of the general business law relating to the armored car carrier advisory board; to repeal section 403 of the general business law relating to the appearance enhancement industry advisory committee; to repeal section 433-a of the general business law relating to the barbers board; to repeal subdivision 3 of section 789 and section 791 of the general business law relating to the hearing aid dispensing advisory board; to repeal section 1507-a of the not-for-profit corporation law relating to the state cemetery board citizens advisory council; to repeal subdivision 1 of section 444-b of the real property law relating to the state home inspection council; to repeal section 844-a of the executive law relating to the New York statewide law enforcement telecommunications committee; to repeal section 160-c of the executive law relating to the state board of real estate appraisal; to repeal section 154 of the labor law relating to the child performer advisory board; to repeal section 870-n of the labor law, in relation to carnival, fair and amusement park safety advisory board; to repeal section 2004-a of the public health law relating to the coordinating council for services related to Alzheimer's disease and other dementia; 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 section 120 of the economic development law, in relation to the division of minority and women's business development a minority and women-owned business enterprise advisory board; to repeal article 28 of the executive law, in relation to the upstate and downstate tourism council; to repeal section 26 of chapter 115 of the laws of 2008 amending the racing, pari-mutuel wagering and breeding law and the public officers law relating to the New York city off-track betting corporation; to create a task force on the future of off-track betting in New York state; and to repeal certain provisions of the racing, pari-mutuel wagering and breeding law relating thereto; to amend the public health law, 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 and the workers' compensation law, in relation to the public health and health planning council

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

Section 1. Section 19.06 of the mental hygiene law is REPEALED.

S 2. Subdivision (c) of section 19.05 of the mental hygiene law, as added by chapter 208 of the laws of 1996, is amended to read as follows:

(c) The council shall meet at least [four] TWO times in each full calendar year. The council shall meet at the request of its chairman or the commissioner.

S 3. Section 481-d of the social services law is REPEALED.

S 4. The opening paragraph of subdivision 4, subdivision 6 and the opening paragraph of subdivision 8 of section 481-e of the social services law, as amended by chapter 268 of the laws of 1992, are amended to read as follows:

The commissioner[, with the advice and recommendations of the William B. Hoyt Memorial children and family trust fund advisory board,] shall issue requests for proposals and specify methods to evaluate the effectiveness of proposed programs. Such evaluation shall include but not be limited to the following:

6. The commissioner[, with the advice of the William B. Hoyt Memorial children and family trust fund advisory board,] shall publicize the availability of funds to be used for purposes of this section. The commissioner shall request, on prescribed forms, information determined to be necessary and relevant for the evaluation of each application. The commissioner may solicit comments on the applications from concerned individuals and agencies. Applications for local grants shall be submitted to the local commissioner of social services and to the local youth bureau in the locality in which the program will operate and applicants for local grants shall solicit comments on the application from such local commissioner of social services and such local youth bureau prior to submitting such application to the commissioner. Applicants shall inform the local commissioner of social services and the local youth bureau that their comments upon the application may be submitted either to the applicant or to the commissioner or to both. The commissioner shall give full consideration to any such comments received within twenty-one days after the application deadline and shall review the applications in relation to relevant local plans before approving or disapproving such applications. The commissioner shall inform the local commissioner of social services and the local youth bureau of the final disposition of the applications. No grant award shall be for a period in excess of twelve months unless renewed by the commissioner[, with the advice of the advisory board]. The initial grant and the first year renewal, if any, shall not exceed one hundred percent of the cost of providing the service. The third year grant, if any, shall not exceed seventy-five percent of the initial grant. The fourth year grant and any grant thereafter, if any, shall not exceed fifty percent of the initial grant. No program shall receive funding after the fourth year unless the commissioner, annually, finds that the program effectively prevents family violence or provides a necessary service to victims of family violence.

The commissioner [with the advice and recommendations of the William B. Hoyt Memorial children and family trust fund advisory board] shall submit a report prior to the fifteenth day of December beginning in nineteen hundred eighty-five and annually thereafter to the governor and the legislature regarding the implementation and evaluation of the effectiveness of prevention and treatment services related to family

1 violence. [Prior to submitting such reports to the governor and the
2 legislature, the commissioner shall permit the William B. Hoyt Memorial
3 children and family trust fund advisory board to review and comment upon
4 such reports.] Such report shall include:

5 S 5. Sections 520 and 521 of the executive law are REPEALED.

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

7 S 7. Sections 401 and 402 of the state technology law are REPEALED.

8 S 8. Section 1-t of the legislative law is REPEALED.

9 S 9. Subdivision 2 of section 161 of the state finance law is amended
10 by adding two new paragraphs n and o and a new subdivision 2-a is added
11 to read as follows:

12 N. PROVIDE ADVICE TO THE COMMISSION WITH RESPECT TO THE IMPLEMENTATION
13 OF THE PROVISIONS OF THIS ARTICLE AS SUCH PROVISIONS PERTAIN TO PROCURE-
14 MENT LOBBYING.

15 O. ANNUALLY REPORT TO THE LEGISLATURE ANY PROBLEMS IN THE IMPLEMENTA-
16 TION OF THE PROVISIONS OF ARTICLE ONE-A OF THE LEGISLATIVE LAW AS SUCH
17 PROVISIONS PERTAIN TO PROCUREMENT LOBBYING, AND INCLUDE IN THE REPORT
18 ANY RECOMMENDED CHANGES TO INCREASE THE EFFECTIVENESS OF THAT IMPLEMEN-
19 TATION.

20 2-A. THE COUNCIL MAY, PURSUANT TO SECTION ONE HUNDRED THIRTY-NINE-J OF
21 THE STATE FINANCE LAW, ESTABLISH MODEL GUIDELINES FOR:

22 A. CONTACTS DURING THE RESTRICTED PERIOD BETWEEN DESIGNATED STAFF OF A
23 STATE AGENCY, EITHER HOUSE OF THE STATE LEGISLATURE, THE UNIFIED COURT
24 SYSTEM, OR A MUNICIPAL AGENCY, AS THAT TERM IS DEFINED IN PARAGRAPH (II)
25 OF SUBDIVISION (S) OF SECTION ONE-C OF THE LEGISLATIVE LAW, INVOLVED IN
26 GOVERNMENTAL PROCUREMENTS AND OFFICERS OR EMPLOYEES OF OFFERERS, OR
27 OFFICERS OR EMPLOYEES OF SUBCONTRACTORS OF OFFERERS, WHO ARE CHARGED
28 WITH THE PERFORMANCE OF FUNCTIONS RELATING TO CONTRACTS AND WHO ARE
29 QUALIFIED BY EDUCATION, TRAINING OR EXPERIENCE TO PROVIDE TECHNICAL
30 SERVICES TO EXPLAIN, CLARIFY OR DEMONSTRATE THE QUALITIES, CHARACTER-
31 ISTICS OR ADVANTAGES OF AN ARTICLE OF PROCUREMENT. SUCH AUTHORIZED
32 CONTACTS SHALL: (I) BE LIMITED TO PROVIDING INFORMATION TO STAFF OF A
33 STATE AGENCY, EITHER HOUSE OF THE STATE LEGISLATURE, THE UNIFIED COURT
34 SYSTEM, OR A MUNICIPAL AGENCY, AS THAT TERM IS DEFINED IN PARAGRAPH (II)
35 OF SUBDIVISION (S) OF SECTION ONE-C OF THE LEGISLATIVE LAW, TO ASSIST
36 THEM IN UNDERSTANDING AND ASSESSING THE QUALITIES, CHARACTERISTICS OR
37 ANTICIPATED PERFORMANCE OF AN ARTICLE OF PROCUREMENT, (II) NOT INCLUDE
38 ANY RECOMMENDATIONS OR ADVOCATE ANY CONTRACT PROVISIONS, AND (III) OCCUR
39 ONLY AT SUCH TIMES AND IN SUCH MANNER AS AUTHORIZED UNDER THE PROCURING
40 ENTITY'S SOLICITATION OR GUIDELINES AND PROCEDURES. FOR THE PURPOSES OF
41 THIS PARAGRAPH, THE TERM "TECHNICAL SERVICES" SHALL BE LIMITED TO ANALY-
42 SIS DIRECTLY APPLYING ANY ACCOUNTING, ENGINEERING, SCIENTIFIC, OR OTHER
43 SIMILAR TECHNICAL DISCIPLINES;

44 B. CONTACTS BETWEEN OFFERERS AND PUBLIC OFFICIALS AND OFFICERS OR
45 EMPLOYEES OF THE UNIFIED COURT SYSTEM DURING THE PREPARATION OF SPECIFI-
46 CATIONS, BID DOCUMENTS OR REQUEST FOR PROPOSALS, INVITATION FOR BIDS, OR
47 ANY OTHER METHOD FOR SOLICITING A RESPONSE FROM OFFERERS FOR A PROCURE-
48 MENT CONTRACT PRIOR TO THE RESTRICTED PERIOD.

49 S 10. The section heading of section 35 of the social services law, as
50 added by chapter 300 of the laws of 1992, is amended to read as follows:

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

53 S 11. Subdivision 1 of section 35 of the social services law, as
54 amended by chapter 300 of the laws of 1992, is amended to read as
55 follows:

1 1. [a. There is hereby established within the department an advisory
2 committee on legal advocacy (hereinafter to be referred to as the "advi-
3 sory committee") which shall consist of nine members or their designated
4 representatives. The advisory committee shall consist of the following
5 nine members: the commissioner of mental health, the commissioner of
6 mental retardation and developmental disabilities, the advocate for the
7 disabled and six members appointed by the governor. The six members
8 appointed by the governor shall include three representatives of inter-
9 ested public and private groups, and shall include three representatives
10 of county government and the city of New York to be appointed from a
11 list of six names submitted by the New York state association of coun-
12 ties. The commissioner shall coordinate the functions and activities of
13 the department with those of the advisory committee.

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

21 S 12. Subdivisions 2 and 4 of section 35 of the social services law,
22 subdivision 2 as amended and subdivision 4 as added by chapter 300 of
23 the laws of 1992, are amended to read as follows:

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

39 4. Responsibility for local financial participation shall be deter-
40 mined by the commissioner based on either costs of and the number of
41 district residents served by each local entity or the alternative cost
42 allocation procedure deemed appropriate by the commissioner [in consul-
43 tation with the advisory committee].

44 S 13. Intentionally omitted.

45 S 14. Intentionally omitted.

46 S 15. Intentionally omitted.

47 S 16. Section 483-c of the social services law, as added by section 2
48 of part F2 of chapter 62 of the laws of 2003, is amended to read as
49 follows:

50 S 483-c. Coordinated children's services for children with [emotional
51 and/or behavioral disorders] CROSS-SYSTEM NEEDS. 1. Purpose. The
52 purpose of this section shall be to [establish] ENSURE a coordinated
53 system of care for children [with emotional and behavioral disorders]
54 AND YOUTH, and their families, who require assistance from multiple
55 agency systems to [appropriately maintain] ENABLE such children AND
56 YOUTH TO REMAIN with their families, in their communities and in their

1 local school systems, AND TO THEREBY REDUCE INAPPROPRIATE AND COSTLY
2 OUT-OF-HOME PLACEMENTS. Such INTEGRATED system of care shall provide A
3 FRAMEWORK for the effective collaboration among state and local health,
4 mental hygiene, education, CHILD WELFARE, juvenile justice, probation
5 [of care] and other human services agencies [directed at improving] TO
6 IMPROVE outcomes for children [with emotional and/or behavioral disor-
7 ders and their families leading to full participation in their communi-
8 ties and schools. This shall include children with co-occurring disor-
9 ders. The absence of coordinated care often results in inappropriate and
10 costly institutional placements and limited community-based services
11 that support maintaining the child in the community] AND YOUTH WHOSE
12 SIGNIFICANT EMOTIONAL, DEVELOPMENTAL, INTELLECTUAL, PHYSICAL, SOCIAL
13 AND/OR BEHAVIORAL CHALLENGES REQUIRE THE INTEGRATION OF FAMILY-CENTERED
14 INDIVIDUALIZED SUPPORTS AND SERVICES ACROSS MULTIPLE CHILD-SERVING
15 SYSTEMS. SUCH SYSTEM OF CARE SHALL BE DESIGNED TO BE CULTURALLY AND
16 LINGUISTICALLY COMPETENT AT EVERY LEVEL OF CARE. [Establishing the] THE
17 coordinated children's services initiative statewide is intended to
18 improve the manner in which services of multiple systems are delivered
19 and to eliminate barriers to a coordinated system of care.

20 2. Definitions. As used in this section:

21 (a) "Child [with an emotional and/or behavioral disorder] OR YOUTH
22 WITH CROSS-SYSTEM NEEDS" shall mean a person [under eighteen years of
23 age, or a person under twenty-one years of age who has not completed
24 secondary school, who has a mental illness, as defined in subdivision
25 twenty of section 1.03 of the mental hygiene law, or is classified as a
26 student with a disability pursuant to article eighty-nine of the educa-
27 tion law or section 504 of the federal rehabilitation act, or is consid-
28 ered to have a serious emotional or behavioral problem, as considered by
29 a tier I and/or tier II team representative pursuant to this section.
30 Such term shall include children with co-occurring disorders] WHO HAS
31 SIGNIFICANT EMOTIONAL, DEVELOPMENTAL, INTELLECTUAL, PHYSICAL, SOCIAL
32 AND/OR BEHAVIORAL CHALLENGES THAT REQUIRE THE INTEGRATION OF FAMILY-CEN-
33 TERED INDIVIDUALIZED SUPPORTS AND SERVICES UNDER THE JURISDICTION OF TWO
34 OR MORE STATE DEPARTMENTS OR AGENCIES.

35 (b) "Individualized family support plan" shall mean a plan developed
36 in conjunction with the family through a strength-based child and family
37 assessment containing a summary of the strengths, needs and goals of a
38 child OR YOUTH with [an emotional and/or behavioral disorder] CROSS-SYS-
39 TEM NEEDS, and the services and supports agreed to by the child OR
40 YOUTH, family and the [tier I] FAMILY-BASED team representatives. SUCH
41 PLAN SHALL BE CULTURALLY AND LINGUISTICALLY COMPETENT.

42 (c) "Family" shall mean, when appropriate, a child OR YOUTH with [an
43 emotional and/or behavioral disorder] CROSS-SYSTEM NEEDS, his or her
44 parents or those in parental relationship to the child OR YOUTH, blood
45 relatives and extended family, including non-relatives identified by the
46 child OR YOUTH and/or HIS OR HER parents OR THOSE IN A PARENTAL
47 RELATIONSHIP TO HIM OR HER. Nothing in this section shall be construed
48 to deny the child OR YOUTH, his or her parents or those persons in
49 parental relationship to [the] SUCH child OR YOUTH of any rights [they
50 are] HE OR SHE IS otherwise entitled to by law.

51 (d) "County" shall mean a county, except in the case of a county that
52 is wholly included within a city, such term shall mean such city.

53 (e) "Family [support] representative" shall mean [a volunteer who is
54 also] a parent [or primary caregiver of] OR PERSON IN A PARENTAL
55 RELATIONSHIP TO a child OR YOUTH with [an emotional and/or behavioral
56 disorder] CROSS-SYSTEM NEEDS. The family [support] representative shall

1 assist families throughout the process of developing and implementing
2 [an] individualized family support [plan] PLANS as defined in this
3 section.

4 (F) "SYSTEM OF CARE" SHALL MEAN A COORDINATED NETWORK OF
5 COMMUNITY-BASED SERVICES AND SUPPORTS THAT ARE CREATED BY CHILDREN,
6 YOUTH AND FAMILIES WORKING IN PARTNERSHIP WITH PUBLIC AND PRIVATE AGEN-
7 CIES TO BUILD ON THE STRENGTHS OF INDIVIDUALS AND THAT ADDRESS EACH
8 PERSON'S CULTURAL AND LINGUISTIC NEEDS.

9 (G) "YOUTH REPRESENTATIVE" SHALL MEAN A YOUTH WHO IS CURRENTLY, OR WAS
10 PREVIOUSLY, ENGAGED WITH ONE OR MORE CHILD- AND FAMILY-SERVING HUMAN
11 SERVICE SYSTEMS. THE YOUTH REPRESENTATIVE SHALL ASSIST YOUTH AND FAMI-
12 LIES IN THE DEVELOPMENT OF INDIVIDUALIZED FAMILY SUPPORT PLANS AS
13 DEFINED IN THIS SECTION.

14 3. [Interagency] COORDINATED CHILDREN'S SERVICES INITIATIVE structure;
15 ROLES AND RESPONSIBILITIES. (a) [There shall be established a three
16 tiered interagency structure, as follows:

17 (i) State tier III team. There is hereby established a state team
18 designated as the "tier III team", which shall consist of the chair of
19 the council, the commissioners of children and family services, mental
20 health, health, education, alcohol and substance abuse services, and
21 mental retardation and developmental disabilities, and the director of
22 probation and correctional alternatives, or their designated represen-
23 tatives, and representatives of families of children with emotional
24 and/or behavioral disorders. Other representatives may be added at the
25 discretion of such team.

26 (ii) County tier II team. A] THE EXECUTIVE DIRECTOR OF THE COUNCIL ON
27 CHILDREN AND FAMILIES SHALL OVERSEE AND COORDINATE THE IMPLEMENTATION OF
28 THE COORDINATED CHILDREN'S SERVICES INITIATIVE WITH THE COMMISSIONER OF
29 CHILDREN AND FAMILY SERVICES, THE COMMISSIONER OF MENTAL HEALTH, THE
30 COMMISSIONER OF MENTAL RETARDATION AND DEVELOPMENTAL DISABILITIES, THE
31 COMMISSIONER OF HEALTH, THE COMMISSIONER OF EDUCATION, THE COMMISSIONER
32 OF ALCOHOLISM AND SUBSTANCE ABUSE SERVICES, THE COMMISSIONER OF TEMPO-
33 RARY AND DISABILITY ASSISTANCE, THE DIRECTOR OF PROBATION AND CORREC-
34 TIONAL ALTERNATIVES, THE CHAIR OF THE COMMISSION ON QUALITY OF CARE AND
35 ADVOCACY FOR PERSONS WITH DISABILITIES, AND YOUTH AND FAMILIES REPRES-
36 ENTING CHILDREN WITH CROSS-SYSTEM NEEDS WHO SHALL BE CHOSEN BY THE
37 PARTICIPATING STATE AGENCIES. UNDER THE LEADERSHIP OF THE COUNCIL ON
38 CHILDREN AND FAMILIES, THE STATE LEVEL COORDINATED CHILDREN'S SERVICES
39 INITIATIVE REPRESENTATIVES SHALL:

40 (I) ESTABLISH CROSS-SYSTEMS PRIORITIES;

41 (II) DEVELOP SHARED PRINCIPLES OF OPERATION, INCLUDING BUT NOT LIMITED
42 TO A SYSTEM OF CARE THAT IS CULTURALLY AND LINGUISTICALLY COMPETENT;

43 (III) ADDRESS CROSS-SYSTEMS BARRIERS; AND

44 (IV) DEVELOP A REPORTING MECHANISM IN COLLABORATION WITH THE REGIONAL
45 AND COUNTY TEAMS TO TRACK OUTCOMES ACHIEVED BY THE COORDINATED CHIL-
46 DREN'S SERVICES INITIATIVE.

47 (B) COORDINATED CHILDREN'S SERVICES REGIONAL TEAMS (HEREINAFTER
48 REFERRED TO IN THIS SECTION AS "REGIONAL TEAMS"). EXCEPT AS PROVIDED IN
49 PARAGRAPH (C) OF THIS SUBDIVISION, MEMBERSHIP ON REGIONAL TEAMS SHALL
50 INCLUDE REGIONAL STAFF OF PARTICIPATING STATE AGENCIES, AS WELL AS FAMI-
51 LY AND YOUTH REPRESENTATIVES. THE REGIONAL TEAMS SHALL:

52 (I) ACT AS A LIAISON BETWEEN THE COUNCIL ON CHILDREN AND FAMILIES AND
53 COUNTY TEAMS;

54 (II) ASSIST WITH THE RESOLUTION OF CROSS-SYSTEMS BARRIERS;

55 (III) PROVIDE CROSS-SYSTEMS TRAINING AND TECHNICAL ASSISTANCE ON A
56 LOCAL AND REGIONAL LEVEL; AND

1 (IV) PROMOTE SERVICES THAT ARE CULTURALLY AND LINGUISTICALLY COMPE-
2 TENT.

3 (C) IN A CITY WITH A POPULATION OF MORE THAN ONE MILLION PERSONS, THE
4 MAYOR SHALL ESTABLISH THE REGIONAL TEAM FOR SUCH CITY. THE MEMBERSHIP ON
5 SUCH TEAM SHALL INCLUDE, BUT NOT BE LIMITED TO, THE REQUIRED MEMBERSHIP
6 OF THE REGIONAL TEAM, AS DESCRIBED IN PARAGRAPH (B) OF THIS SUBDIVISION,
7 AND THE COUNTY TEAM, AS DESCRIBED IN PARAGRAPH (D) OF THIS SUBDIVISION.
8 SUCH TEAM SHALL HAVE THE POWERS AND DUTIES ASSIGNED TO A REGIONAL TEAM
9 AND A COUNTY TEAM AS PROVIDED FOR IN THIS SECTION.

10 (D) COORDINATED CHILDREN'S SERVICES COUNTY TEAMS (HEREINAFTER REFERRED
11 TO IN THIS SECTION AS "COUNTY TEAMS"). WITH THE EXCEPTION OF A CITY WITH
12 A POPULATION OF MORE THAN ONE MILLION, A county, or consortium of coun-
13 ties, choosing to participate in the coordinated children's services
14 initiative shall establish an interagency team consisting of, but not
15 limited to, the local commissioners or leadership assigned by the chief
16 elected official responsible for the local health, mental hygiene, juve-
17 nile justice, probation and other human services systems. The education
18 system shall be represented, AT A MINIMUM, by the district superinten-
19 dent of the board of cooperative educational services, or his or her
20 designee, and in the case of the city of New York, by the chancellor of
21 the city school district of the city of New York, or his or her desig-
22 nee, and appropriate local school district representatives as determined
23 by the district superintendent of the board of cooperative educational
24 services or such chancellor. Such team shall [be sensitive to issues of
25 cultural competence, and shall] include representatives of families of
26 children AND YOUTH with [an emotional and/or behavioral disorder]
27 CROSS-SYSTEM NEEDS. Regional state agency representatives may partic-
28 ipate when requested by such team.

29 [(iii) Family-based tier I team. Tier II] COUNTY TEAMS SHALL COORDI-
30 NATE THE COORDINATED CHILDREN'S SERVICES INITIATIVE AT THE LOCAL LEVEL.
31 SUCH TEAMS SHALL:

32 (I) COORDINATE CROSS-SYSTEMS TRAINING AND PROVIDE LINKAGES TO OTHER
33 COUNTY AND SCHOOL DISTRICT PLANNING FOR CHILDREN;

34 (II) ADDRESS LOCAL AND REGIONAL BARRIERS TO THE COORDINATION OF
35 SERVICES;

36 (III) REPORT ON STATE LEVEL BARRIERS TO THE EFFECTIVE DELIVERY OF
37 COORDINATED SERVICES;

38 (IV) REPORT ON OUTCOMES USING THE MECHANISM DEVELOPED BY THE COUNCIL
39 ON CHILDREN AND FAMILIES;

40 (V) IMPLEMENT THE GOALS AND PRINCIPLES OF THE COORDINATED CHILDREN'S
41 SERVICES INITIATIVE;

42 (VI) ENSURE THAT SERVICES ARE CULTURALLY AND LINGUISTICALLY COMPETENT;
43 AND

44 (VII) MAKE MONIES AVAILABLE CONSISTENT WITH SUBDIVISION FIVE OF THIS
45 SECTION.

46 (E) COORDINATED CHILDREN'S SERVICES FAMILY-BASED TEAMS (HEREINAFTER
47 REFERRED TO IN THIS SECTION AS "FAMILY TEAMS"). COUNTY teams, in cooper-
48 ation with a child OR YOUTH with [an emotional and/or behavioral disorder]
49 CROSS-SYSTEM NEEDS and his or her family, shall establish intera-
50 gency FAMILY-BASED teams to work with such child OR YOUTH and family to
51 develop an individualized, strength-based family support plan and coord-
52 inate interagency services agreed to in such plan. Such teams shall
53 include such child OR YOUTH and family and, based on the needs of the
54 child OR YOUTH and family, should also include a family support repre-
55 sentative, representatives from the mental hygiene, education, CHILD

1 WELFARE, juvenile justice, probation, health, and other county child and
2 family services systems.

3 [(b) Roles and responsibilities of teams. (i) The state tier III team
4 shall coordinate statewide implementation of the coordinated children's
5 services initiative. Such team shall:

6 (A) coordinate planning across the health, mental hygiene, education,
7 juvenile justice, probation and human services systems;

8 (B) address barriers to the effective delivery of local interagency
9 services;

10 (C) coordinate the provision of technical assistance and training for
11 the effective implementation of the coordinated children's services
12 initiative;

13 (D) develop an appropriate reporting mechanism to track the outcomes
14 being achieved. Such mechanism shall be developed in concert with
15 participating counties; and

16 (E) report results and recommendations for change to the governor,
17 legislature and state board of regents, as appropriate.

18 (ii) The tier II teams shall coordinate the coordinated children's
19 services initiative at the local level. Such team shall:

20 (A) coordinate cross-systems training and provide linkages to other
21 county and school district planning for children;

22 (B) address local/regional barriers to the coordination of services;

23 (C) report on state level barriers to the effective delivery of coor-
24 dinated services and recommended changes to the state tier III team;

25 (D) report on outcomes using the mechanism developed by the state tier
26 III team;

27 (E) implement the goals and principles of the coordinated children's
28 services initiative; and

29 (F) make monies available consistent with subdivision five of this
30 section.

31 (iii) Each tier I team shall work collaboratively with the family to
32 develop an individualized family support plan that is:

33 (A) family-focused and family driven;

34 (B) built on child and family strengths; and

35 (C) comprehensive, including appropriate services and supports from
36 appropriate systems and natural supports from the community.] EACH FAMI-
37 LY TEAM SHALL WORK COLLABORATIVELY WITH THE FAMILY TO DEVELOP AN INDI-
38 VIDUALIZED FAMILY SUPPORT PLAN THAT IS:

39 (I) FAMILY FOCUSED AND FAMILY DRIVEN;

40 (II) BUILT ON CHILD AND FAMILY STRENGTHS;

41 (III) CULTURALLY AND LINGUISTICALLY COMPETENT; AND

42 (IV) COMPREHENSIVE, INCLUDING APPROPRIATE SERVICES AND SUPPORTS FROM
43 APPROPRIATE SYSTEMS AND NATURAL SUPPORTS FROM THE COMMUNITY.

44 4. Goals and principles of operation. (a) Goals. The coordinated chil-
45 dren's services initiative shall enable children AND YOUTH with
46 [emotional and/or behavioral disorders] CROSS-SYSTEM NEEDS, whenever
47 appropriate [for the child and family] to:

48 (i) reside with their families;

49 (ii) live and participate successfully in their communities;

50 (iii) attend and be successful in their local school systems; and

51 (iv) grow towards becoming independent, contributing members of the
52 community.

53 (b) Principles of operation. The [tier III and II teams] COORDINATED
54 CHILDREN'S SERVICES INITIATIVE shall provide a system for serving chil-
55 dren AND YOUTH with [emotional and/or behavioral disorders] CROSS-SYSTEM
56 NEEDS that is:

1 (i) community-based, allowing children AND YOUTH and families to
2 receive services close to their home;
3 (ii) culturally AND LINGUISTICALLY competent;
4 (iii) individualized and strengths-based in approach;
5 (iv) family friendly, involving the family as full and active partners
6 at every level of decision making, including policy development, plan-
7 ning, treatment and service delivery;
8 (v) comprehensive, involving all appropriate parties, including but
9 not limited to the family, child OR YOUTH, YOUTH AND FAMILY REPRESENTATIVES, natural supports, provider agencies and other necessary community services;
10 (vi) funded through multiple systems with flexible funding mechanisms
11 that support creative approaches;
12 (vii) unconditionally committed to the success of each child OR YOUTH;
13 and
14 (viii) accountable with respect to use of agreed on and measured
15 outcomes.
16 5. Funding. Counties and school districts, including boards of cooperative educational services as requested by component school districts, choosing to participate in the coordinated children's services initiative, unless expressly prohibited by law, shall have the authority to:
17
18 (a) combine state and federal resources of the participating county and educational agencies to provide services to groups or individual children OR YOUTHS and their families necessary to maintain children
19 [with emotional and/or behavioral disorders] AND YOUTH, WHO HAVE SIGNIFICANT EMOTIONAL, DEVELOPMENTAL, INTELLECTUAL, PHYSICAL, SOCIAL AND/OR BEHAVIORAL CHALLENGES THAT REQUIRE THE INTEGRATION OF FAMILY-CENTERED INDIVIDUALIZED SUPPORTS AND SERVICES ACROSS MULTIPLE CHILD-SERVING SYSTEMS, in their homes, communities and schools, and support families
20 in achieving this goal, as long as the use of the funds is consistent with the purposes for which they were appropriated; and
21
22 (b) apply flexibility in use of funds, pursuant to an individualized family-support plan, or for collaborative programs, an agreement among the county, city and school districts or the board of cooperative educational services, monies combined pursuant to paragraph (a) of this subdivision may be used to allow flexibility in determining and applying interventions that will address the unique needs of the family. [The tier III team] IN ACCORDANCE WITH THE COORDINATED CHILDREN'S SERVICES INITIATIVE, THE COUNCIL ON CHILDREN AND FAMILIES shall develop guidelines for the flexible use of funds in implementing an individualized family support plan.
23
24 6. Administration [and reports. The council shall be responsible for the administration of the provisions of this section].
25
26 (a) [The tier III team shall submit a report to the council detailing the effectiveness in reaching the goals and objectives of the program established by this section. Such report shall include recommendations, based on the experience gained pursuant to the provisions of this article, for modifying statewide policies, regulations or statutes. The council shall forward such report to the governor, the legislature and the state board of regents on or before the first day of July of each year, including the recommendations of the tier III members regarding the feasibility and implications of implementing the recommendations.
27
28 (b) The tier III team] IN ACCORDANCE WITH THE COORDINATED CHILDREN'S SERVICES INITIATIVE, THE COUNCIL ON CHILDREN AND FAMILIES shall have authority to receive funds and work within agency structures, as agreed to by [member] PARTICIPATING COORDINATED CHILDREN'S SERVICES INITIATIVE

1 agencies, to administer funds for the purposes of carrying out its
2 responsibilities.

3 [(c) Parents and representatives of families] (B) YOUTH AND FAMILY
4 REPRESENTATIVES, who are not compensated for [attendance] PARTICIPATION
5 as part of their employment, shall be compensated for their [tier III
6 team] COORDINATED CHILDREN'S SERVICES INITIATIVE participation AT THE
7 STATE LEVEL and reimbursed for actual expenses, including, but not
8 limited to, child care.

9 7. Confidentiality. (a) Notwithstanding any other provision of state
10 law to the contrary, [tier I, II and III] STATE AGENCY REPRESENTATIVES
11 AND REGIONAL, COUNTY, AND FAMILY team participants in the coordinated
12 children's services system shall have access to case record and related
13 treatment information as necessary to support the purposes of this
14 section, to the extent permitted by federal law.

15 (b) [Tier I, II and III team] ALL COORDINATED CHILDREN'S SERVICES
16 participants shall protect the confidentiality of all individual identi-
17 fying case record and related treatment information, and prevent access
18 thereto, by, or the distribution thereof to, other persons not author-
19 ized by State or federal law.

20 S 17. Section 14 of chapter 74 of the laws of 2007, amending the penal
21 law and other laws relating to human trafficking, is amended to read as
22 follows:

23 S 14. This act shall take effect on the first of November next
24 succeeding the date on which it shall have become a law; provided that
25 section 483-ee of the social services law, as added by section eleven of
26 this act, shall take effect immediately and shall remain in full force
27 and effect until [September 1] MARCH 31, 2011 when upon such date the
28 provisions of such section shall expire and be deemed repealed.
29 Provided, effective immediately, the addition, amendment and/or repeal
30 of any rule or regulation necessary for the timely implementation of the
31 provisions of article 10-D of the social services law, as added by
32 section eleven of this act, on its effective date are authorized to be
33 made on or before such effective date.

34 S 18. Section 1 of chapter 884 of the laws of 1982 relating to requir-
35 ing the governor to submit to the legislature detailed reports for each
36 federal block grant, is amended to read as follows:

37 Section 1. Notwithstanding any inconsistent provision of chapter
38 fifty or fifty-three of the laws of nineteen hundred eighty-two, or of
39 any other inconsistent provision of law, the governor shall submit to
40 the legislature detailed reports for each federal block grant. Such
41 reports must be filed prior to submission of applications or plans which
42 are required by the federal government at the inception of block grant
43 funding and at the beginning of each federal fiscal year. Such report
44 must include information concerning anticipated funding levels; state
45 funds required; allocation formula to counties and /or providers; admin-
46 istrative costs; allocation of discretionary funds; allocation among
47 services; transfers between block grants; any eligibility requirements;
48 and, the estimated number of persons to be served. Reports in the second
49 year should include data concerning the prior year's administration of
50 the grant.

51 The governor shall require each executive agency which administers a
52 block grant to establish an advisory council, EXCEPT THAT THIS REQUIRE-
53 MENT SHALL NOT APPLY TO THE ADMINISTRATION OF THE MATERNAL AND CHILD
54 HEALTH SERVICES BLOCK GRANT AUTHORIZED BY TITLE V OF THE SOCIAL SECURITY
55 ACT, THE TEMPORARY ASSISTANCE FOR NEEDY FAMILIES BLOCK GRANT AUTHORIZED
56 BY PART A OF TITLE IV OF THE SOCIAL SECURITY ACT, AND THE LOW-INCOME

HOME ENERGY ASSISTANCE BLOCK GRANT AUTHORIZED BY SUBCHAPTER II OF CHAPTER 94 OF TITLE 42 OF THE UNITED STATES CODE, ON AND AFTER APRIL 1, 2010. Such councils must include representatives from local government, private non-profit providers and the public. One-half of the members shall be appointed by the governor, one-quarter shall be appointed by the temporary president of the senate and one-quarter shall be appointed by the speaker of the assembly. Advisory councils must be consulted in the preparation of reports and in the development of applications and plans for the block grants.

S 19. Sections 2407 and 2408 of the public health law are REPEALED.

S 20. Intentionally omitted.

S 21. Intentionally omitted.

S 22. Subdivision 3 of section 554 of the executive law, as added by chapter 299 of the laws of 2008, is amended to read as follows:

3. The advisory council shall submit a written report to the governor and legislature on or before December thirty-first, two thousand [nine and annually thereafter, setting] ELEVEN THAT SETS forth the [recommendations and] activities AND ANY RECOMMENDATIONS of the advisory council on matters within the scope of its powers and duties as set forth in this section[, and describing the progress made regarding policies and priorities for effective intervention, public education and advocacy against youth violence].

S 23. 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 24. Intentionally omitted.

S 25. Intentionally omitted.

S 26. Intentionally omitted.

S 27. Section 3402 of the public health law is REPEALED.

S 28. Intentionally omitted.

S 29. Section 364-jj of the social services law is REPEALED.

S 30. 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 31. Section 12 of chapter 521 of the laws of 1994 amending the public health law relating to immunizations for vaccine-preventable

diseases, as amended by chapter 81 of the laws of 2007, is amended to read as follows:

S 12. This act shall take effect immediately; provided however, that sections one, two, three, four, five, six and seven of this act shall apply only to children beginning with their enrollment in the seventh grade in any public, private or parochial intermediate or middle school on or after September 1, 2000, and, to children born on or after January 1, 1993, beginning with their enrollment in any public, private or parochial kindergarten, elementary, intermediate or secondary school, and, to children born on or after January 1, 1995, beginning with their enrollment in any school, as defined in paragraph a of subdivision 1 of section 2164 of the public health law and SECTION TEN OF THIS ACT SHALL EXPIRE AND BE DEEMED REPEALED APRIL 1, 2010 AND section eleven of this act shall expire and be deemed repealed December 31, 2007.

S 31-a. Subdivision 5 of section 2409 of the public health law, as added by chapter 300 of the laws of 1995, is REPEALED.

S 32. Section 2707 of the public health law is REPEALED.

S 33. Subdivisions 6 and 7 of section 2807-n of the public health law are REPEALED.

S 34. Subdivisions 1, 2, 3, 4 and 5 of section 2807-n of the public health law, as added by section 63-f of part C of chapter 58 of the laws of 2007, paragraph (b) of subdivision 2 as amended by chapter 409 of the laws of 2007, are amended to read as follows:

1. Definitions. The following words or phrases as used in this section shall have the following meanings:

(a) "Palliative care" shall mean (i) the active, interdisciplinary care of patients with advanced, life limiting illness, focusing on relief of distressing physical and psychosocial symptoms and meeting spiritual needs. Its goal is achievement of the best quality of life for patients and families as defined by paragraph (b) of subdivision two of section four thousand twelve-b of this chapter; and (ii) it shall also include similar care for patients with chronic or acute pain.

(b) "Palliative care certified medical school" shall mean a medical school in the state which is an institution granting a degree of doctor of medicine or doctor of osteopathic medicine in accordance with regulations by the commissioner of education under subdivision two of section sixty-five hundred twenty-four of the education law, and which meets standards defined by the commissioner of health[, after consultation with the council,] pursuant to regulations, and used to determine whether a medical school is eligible for funding under this section.

(c) "Palliative care certified residency program" shall mean a graduate medical education program in the state which has received accreditation from a nationally recognized accreditation body for medical or osteopathic residency programs, and which meets standards defined by the commissioner[, after consultation with the council,] pursuant to regulations, and used to determine whether a residency training program is eligible for funding under this section.

[(d) "New York state palliative care education and training council" or "council" shall mean the New York state palliative care education and training council established pursuant to subdivision six of this section.]

2. Grants for undergraduate medical education in palliative care. (a) The commissioner is authorized, within amounts appropriated for such purpose to make grants to palliative care certified medical schools to enhance the study of palliative care, increase the opportunities for

1 undergraduate medical education in palliative care and encourage the
2 education of physicians in palliative care.

3 (b) Grant proceeds under this subdivision may be used for faculty
4 development in palliative care; recruitment of faculty with expertise in
5 palliative care; costs incurred teaching medical students at hospital-
6 based sites, non-hospital-based ambulatory care settings, palliative
7 care sites, hospices, certified home health agencies, licensed long term
8 home health care programs and AIDS home care programs including, but not
9 limited to, personnel, administration and student-related expenses;
10 expansion or development of programs that train physicians in palliative
11 care; and other innovative programs designed to increase the competency
12 of medical students to provide hospice or palliative care.

13 (c) Grants under this subdivision shall be awarded by the commissioner
14 through a competitive application process [to the council. The council
15 shall make recommendations for funding to the commissioner]. In making
16 awards, consideration shall be given to applicants who:

17 (i) plan to incorporate palliative care longitudinally throughout the
18 medical school curriculum according to professionally recognized stand-
19 ards including, but not limited to, a plan that covers the seven domains
20 identified in the Palliative Education Assessment Tool (PEAT) as devel-
21 oped by the New York Academy of Medicine and the Associated Medical
22 Schools of New York State and Weill Cornell Medical College;

23 (ii) function in collaboration with hospital-based palliative care
24 programs and non-hospital-based sites; and

25 (iii) make complementary efforts to recruit or train qualified faculty
26 in palliative care education.

27 (d) The intent of this subdivision is to augment or increase pallia-
28 tive care undergraduate medical education. Grant funding shall not be
29 used to offset existing expenditures that the medical school has obli-
30 gated or intends to obligate for palliative care education programs.

31 3. Grants for graduate medical education in palliative care. (a) The
32 commissioner is authorized, within amounts appropriated for such purpose
33 to make grants in support of palliative care certified residency educa-
34 tion programs to establish or expand education in palliative care for
35 graduate medical education, and to increase the opportunities for train-
36 ee education in palliative care in hospital-based palliative care
37 programs or non-hospital-based care sites.

38 (b) Grants under this subdivision for graduate medical education and
39 education in palliative care may be used for administration, faculty
40 recruitment and development, start-up costs and costs incurred teaching
41 palliative care in hospital-based palliative care programs or non-hospi-
42 tal-based care sites, including, but not limited to, personnel, adminis-
43 tration and trainee related expenses and other expenses judged reason-
44 able and necessary by the commissioner.

45 (c) Grants under this subdivision shall be awarded by the commissioner
46 through a competitive application process [to the council. The council
47 shall make recommendations for funding to the commissioner]. In making
48 awards, the commissioner shall consider the extent to which the appli-
49 cant:

50 (i) plans to incorporate palliative care longitudinally throughout the
51 residency training program according to professionally recognized stand-
52 ards including, but not limited to, a plan that covers the seven domains
53 identified in the Palliative Education Assessment Tool (PEAT) as devel-
54 oped by the New York Academy of Medicine and the Associated Medical
55 Schools of New York State and Weill Cornell Medical College;

(ii) functions in collaboration with hospital-based palliative care programs or non-hospital-based sites, or both; and

(iii) makes complementary efforts to recruit or train qualified faculty in palliative care education.

(d) The intent of this subdivision is to augment or increase training in palliative care during residency. Grant funding shall not be used to offset existing expenditures the institution or program has obligated or intends to obligate for such training programs.

4. Centers for palliative care excellence. The commissioner shall designate organizations licensed pursuant to this article and article forty of this chapter, upon successful application, as centers for palliative care excellence. Such designations shall be pursuant to an application [as designed by the department,] and based on service, staffing and other criteria [as] developed by the [council] DEPARTMENT. Such centers of excellence shall provide specialized palliative care, treatment, education and related services. Designation as a center for palliative care excellence shall not entitle a center to enhanced reimbursement, but may be utilized in outreach and other promotional activities.

5. Palliative care practitioner resource centers. The commissioner[, in consultation with the council,] may designate palliative care practitioner resource centers (a "resource center"). A resource center may be statewide or regional, and shall act as a source of technical information and guidance for practitioners on the latest palliative care strategies, therapies and medications. The department[, in consultation with the council,] may contract with not-for-profit organizations or associations to establish and manage resource centers. A resource center may charge a fee to defray the cost of the service.

S 35. Title 1-C of article 24 of the public health law is REPEALED.

S 36. Subdivision 13 of section 3501 of the public health law is REPEALED.

S 37. Section 3503 of the public health law is REPEALED.

S 38. 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 39. 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 40. Title 4 of article 2 of the public health law is REPEALED.

S 41. 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:

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

10 S 42. Intentionally omitted.

11 S 43. Section 3 of chapter 356 of the laws of 2005 amending the public
12 health law relating to establishing the New York state toxic mold task
13 force, is amended to read as follows:

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

17 S 44. Section 2 of chapter 41 of the laws of 1992 containing health
18 care provider reimbursement rates, is REPEALED.

19 S 45. Chapter 554 of the laws of 1996 creating the Brookhaven National
20 Laboratory local oversight and monitoring committee, is REPEALED.

21 S 46. Section 18 of chapter 537 of the laws of 1998 amending the
22 public health law relating to modifying the use of prescription forms
23 for dispensing controlled substances, is REPEALED.

24 S 47. Subdivision 7 of section 502 of the public health law is
25 REPEALED and subdivisions 8, 9 and 10 are renumbered subdivisions 7, 8
26 and 9.

27 S 48. Section 123 of chapter 1 of the laws of 1999 enacting the New
28 York Health Care Reform Act of 2000, is REPEALED.

29 S 49. Section 3604 of the public health law is REPEALED.

30 S 50. Subdivision 9 of section 3607 of the public health law, as
31 amended by chapter 831 of the laws of 1985 and as renumbered by chapter
32 891 of the laws of 1990, is amended to read as follows:

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

40 S 51. Subdivision 4 of section 3609 of the public health law, as
41 amended by chapter 831 of the laws of 1985, is amended to read as
42 follows:

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

46 S 52. Subdivision 5 of section 3612 of the public health law, as
47 amended by chapter 622 of the laws of 1988, is amended to read as
48 follows:

49 5. The [state hospital review and planning council, by a majority vote
50 of its members,] COMMISSIONER shall adopt and amend rules and regu-
51 lations, [subject to the approval of the commissioner,] to effectuate
52 the provisions and purposes of this article with respect to certified
53 home health agencies, providers of long term home health care programs
54 and providers of AIDS home care programs, including, but not limited to,
55 (a) the establishment of requirements for a uniform statewide system of
56 reports and audits relating to the quality of services provided and

1 their utilization and costs; (b) establishment by the department of
2 schedules of rates, payments, reimbursements, grants and other charges;
3 (c) standards and procedures relating to certificates of approval and
4 authorization to provide long term home health care programs and AIDS
5 home care programs; (d) uniform standards for quality of care and
6 services to be provided by certified home health agencies, providers of
7 long term home health care programs and providers of AIDS home care
8 programs; (e) requirements for minimum levels of staffing, taking into
9 consideration the size of the agency, provider of a long term home
10 health care program or provider of an AIDS home care program, the type
11 of care and service provided, and the special needs of the persons
12 served; (f) standards and procedures relating to contractual arrange-
13 ments between home care services agencies; (g) requirements for the
14 establishment of plans for the coordination of home care services and
15 discharge planning for former patients or residents of facilities under
16 the regulatory jurisdiction of the department, the departments of social
17 services or mental hygiene, the board of social welfare, or the office
18 for the aging; (h) requirements for uniform review of the appropriate
19 utilization of services; and (i) requirements for minimum qualifications
20 and standards of training for personnel as appropriate. The commissioner
21 [and the state council on home care services] may propose rules and
22 regulations and amendments thereto [for consideration by the council].

23 S 53. Subdivision 10 of section 3615 of the public health law, as
24 amended by chapter 884 of the laws of 1990, is amended to read as
25 follows:

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

31 S 54. Subdivision 4 of section 3222 of the public health law is
32 REPEALED and subdivisions 5, 6, 7, 8 and 9 are renumbered subdivisions
33 4, 5, 6, 7 and 8.

34 S 55. Section 3702 of the public health law is REPEALED.

35 S 56. Section 1399-uu of the public health law is REPEALED.

36 S 57. Section 2796 of the public health law, as added by chapter 550
37 of the laws of 1988, is REPEALED.

38 S 57-a. The opening paragraph of section 2798 of the public health
39 law, as added by chapter 550 of the laws of 1988, is amended to read as
40 follows:

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

44 S 58. Section 2799-a of the public health law is REPEALED.

45 S 59. Section 2799 of the public health law is REPEALED.

46 S 60. Section 27-2109 of the environmental conservation law is
47 REPEALED.

48 S 61. Section 11-2003 of the environmental conservation law is
49 REPEALED.

50 S 62. Intentionally omitted.

51 S 63. Section 11-1005 of the environmental conservation law is
52 REPEALED.

53 S 64. Section 11-1007 of the environmental conservation law, as
54 amended by chapter 911 of the laws of 1990, is amended to read as
55 follows:

56 S 11-1007. Department authority.

1 The department shall make such rules and regulations governing the
2 issuance and use of falconry licenses as it shall deem proper and neces-
3 sary[, giving due consideration to the recommendations of the falconry
4 advisory board]. The department may fix by regulation special open
5 seasons for the taking of small game or upland game birds by falconry.
6 The department may revoke any falconry license and may seize raptors
7 held pursuant thereto if the licensee (i) fails to provide proper care
8 for the raptors in the licensee's possession, (ii) allows raptors in the
9 licensee's possession to become a public nuisance, (iii) is convicted of
10 or settles by civil compromise any violation of any provision of this
11 chapter or regulation of the department, or (iv) fails to comply with
12 any of the terms or conditions of the falconry license.

13 S 65. Title 11 of article 24 of the environmental conservation law is
14 REPEALED.

15 S 66. Subdivision 7 of section 24-0107 of the environmental conserva-
16 tion law is REPEALED and subdivision 8 is renumbered subdivision 7.

17 S 67. Subdivision 1 of section 24-0301 of the environmental conserva-
18 tion law, as amended by chapter 654 of the laws of 1977, is amended to
19 read as follows:

20 1. The commissioner shall, as soon as practicable, conduct a study to
21 identify and map those individual freshwater wetlands in the state of
22 New York which shall have an area of at least twelve and four-tenths
23 acres or more, or if less than twelve and four-tenths acres, (a) have,
24 in the discretion of the commissioner[, and subject to review of his
25 action by the board created pursuant to title eleven of this article],
26 unusual local importance for one or more of the specific benefits set
27 forth in subdivision seven of section 24-0105 or (b) are located within
28 the Adirondack park and meet the definition of wetlands contained in
29 subdivision sixty-eight of section eight hundred two of article twenty-
30 seven of the executive law, and shall determine their characteristics.
31 This study shall, in addition to such other data as the commissioner may
32 determine to be included, consist of the freshwater wetlands inventory
33 of the department of environmental conservation, currently being made,
34 together with other available data on freshwater wetlands, whether
35 assisted by the state of New York under the tidal wetlands act or other-
36 wise, or assembled by federal or local governmental or private agencies,
37 all of which information shall be assembled and integrated, as applica-
38 ble, into a map of freshwater wetlands of the state of New York. Such
39 study may, in the discretion of the commissioner, be carried out on a
40 sectional or regional basis, as indicated by need, subject to overall
41 completion in an expeditious fashion subject to the terms of this chap-
42 ter. This map, and any orders issued pursuant to the provisions of this
43 article, shall comprise a part of the statewide environmental plan as
44 provided for in section 3-0303 of this chapter. As soon as practicable
45 the commissioner shall file with the secretary of state a detailed
46 description of the technical methods and requirements to be utilized in
47 compiling the inventory, and he shall afford the public an opportunity
48 to submit comments thereon.

49 S 67-a. Any matters pending before the freshwater wetlands appeals
50 board shall be transferred and continued in the department of environ-
51 mental conservation in accordance with article 3 of the state adminis-
52 trative procedure act.

53 S 68. Section 24-0507 of the environmental conservation law, as
54 amended by chapter 654 of the laws of 1977, is amended to read as
55 follows:

56 S 24-0507. Reservation of local jurisdiction.

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

15 S 69. Subdivision 5 of section 24-0703 of the environmental conserva-
16 tion law, as amended by chapter 233 of the laws of 1979, is amended to
17 read as follows:

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

39 S 70. Subdivision 6 of section 24-0705 of the environmental conserva-
40 tion law, as amended by chapter 654 of the laws of 1977, is amended to
41 read as follows:

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

48 S 71. Subdivision 2 of section 24-0801 of the environmental conserva-
49 tion law, as added by chapter 654 of the laws of 1977, is amended to
50 read as follows:

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

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

16 S 72. Subdivision 7 of section 24-0903 of the environmental conserva-
17 tion law, as added by chapter 614 of the laws of 1975, is amended to
18 read as follows:

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

26 S 73. Section 349-cc of the highway law is REPEALED.

27 S 73-a. Section 349-bb of the highway law, as added by chapter 556 of
28 the laws of 1992, subdivision 3 as amended by section 5 of part Z of
29 chapter 383 of the laws of 2001, is amended to read as follows:

30 S 349-bb. New York state scenic byways program. 1. The commissioner
31 shall establish within the department a program to be known as the New
32 York state scenic byways program (hereinafter referred to as scenic
33 byways program or program) to encourage and coordinate state actions and
34 the activities of others which relate to the development, protection,
35 promotion and management of scenic byways. For the purposes of this
36 article, a "scenic byway" is a transportation route and adjacent area of
37 particular scenic, historic, recreational, cultural or archeological
38 characteristics which is managed to protect such characteristics and to
39 encourage economic development through tourism and recreation.

40 2. To carry out the purposes of the scenic byways program, the commis-
41 sioner is authorized:

42 (a) to plan, design, and develop the New York state scenic byways
43 system;

44 (b) to make safety improvements to a highway designated as a scenic
45 byway under this article to the extent such improvements are necessary
46 to accommodate increased traffic, and changes in the types of vehicles
47 using the highway due to such designation;

48 (c) to construct along the highway facilities for the use of pedestri-
49 ans and bicyclists, rest areas, turnouts, highway shoulder improvements,
50 passing lanes, overlooks, and interpretive facilities;

51 (d) to improve the highway to enhance access to an area for the
52 purpose of recreation, including water-related recreation;

53 (e) to protect historical and cultural resources in areas adjacent to
54 the highway; [and]

55 (f) to develop and provide tourist information to the public, includ-
56 ing interpretive information about the scenic byway; AND

(G) TO EVALUATE, ADVISE AND RECOMMEND TO THE GOVERNOR AND THE LEGISLATURE AMENDMENTS OF THE STATUTES AND REGULATIONS RELEVANT TO THE FURTHERANCE OF A COHESIVE AND COORDINATED SYSTEM OF SCENIC BYWAYS.

[2.] 3. The commissioner is hereby authorized to apply for funding from any appropriate sources to further the purposes of the scenic byways program.

[3.] 4. The commissioner is hereby authorized to enter into contracts with qualified, responsible not-for-profit organizations involved in scenic byways activities and the upstate New York tourism council for services relating to the development of the New York state scenic byways program or services relating to the operation, development or promotion of a specific scenic byway.

[4.] 5. The commissioner is authorized to promulgate such regulations as may be necessary or desirable to implement the New York state scenic byways program.

6. THE COMMISSIONER SHALL REPORT TO THE GOVERNOR AND THE LEGISLATURE BY JANUARY FIRST OF EACH YEAR ON THE IMPLEMENTATION OF THIS PROGRAM.

S 74. Section 13-0503 of the environmental conservation law is REPEALED.

S 75. Subdivisions 3 and 4 of section 95-c of the state finance law, as added by chapter 360 of the laws of 2002, are amended to read as follows:

3. Monies of the fund, following appropriation, may be expended only for conservation, research, and education projects relating to the marine and coastal district of New York, as described in section 13-0103 of the environmental conservation law ("district"), that are approved by the [marine and coastal district of New York conservation, education, and research board ("board") established pursuant to section 13-0503 of the environmental conservation law] DEPARTMENT OF ENVIRONMENTAL CONSERVATION.

4. Monies of the fund shall be payable from the fund on the audit and warrant of the comptroller on vouchers approved or certified by the [chairperson of the board] DEPARTMENT OF ENVIRONMENTAL CONSERVATION. No money from such fund may be withdrawn, transferred, or used by any person or entity for any purpose other than as permitted by this section.

S 76. Subdivision 2 of section 404-t of the vehicle and traffic law, as amended by chapter 577 of the laws of 2007, is amended to read as follows:

2. A distinctive plate issued pursuant to this section shall be issued in the same manner as other number plates upon the payment of the regular registration fee prescribed by section four hundred one of this article provided, however, that an additional annual service charge of twenty-five dollars shall be charged for such plate. All monies received for the annual service charge pursuant to this section shall be deposited to the credit of the marine and coastal district of New York conservation, education, and research fund established pursuant to section ninety-five-c of the state finance law and shall be used for conservation, education, and research projects approved by the [marine and coastal district of New York conservation, education, and research board established] DEPARTMENT OF ENVIRONMENTAL CONSERVATION pursuant to section [13-0503] 13-0501 of the environmental conservation law. Provided, however, that one year after the effective date of this section, funds in the amount of six thousand dollars, or so much thereof as may be available, shall be allocated from such fund to the department to offset costs associated with the production of such license plates.

1 S 77. Intentionally omitted.

2 S 78. Intentionally omitted.

3 S 79. Intentionally omitted.

4 S 80. Subdivision 1 of section 9-1703 of the environmental conserva-
5 tion law is REPEALED.

6 S 81. Section 9-1707 of the environmental conservation law is
7 REPEALED.

8 S 82. Section 23-0311 of the environmental conservation law is
9 REPEALED.

10 S 83. Section 17-1013 of the environmental conservation law is
11 REPEALED.

12 S 84. Subparagraph (ii) of paragraph d of subdivision 4 of section
13 17-1007 of the environmental conservation law, as added by chapter 334
14 of the laws of 2008, is amended to read as follows:

15 (ii) As promptly as possible thereafter, not to exceed fifteen days,
16 the commissioner shall provide the owner or operator an opportunity to
17 be heard and to present proof that such condition or activity does not
18 violate the provisions of this section or of the rules or regulations
19 adopted pursuant to this title. The commissioner shall adopt rules and
20 regulations describing the procedure to be followed in the prohibition
21 of petroleum deliveries. In adopting such rules and regulations the
22 department shall allow for the owner or operator at any time to submit
23 information to the department to demonstrate that the owner or operator
24 is in compliance with the requirements or has corrected the violation
25 that prompted the department to prohibit deliveries of petroleum and to
26 allow the tank or tanks to be, as promptly as possible, brought back
27 into operation, not to exceed two business days from the department's
28 determination that a tank is in compliance. The department shall use its
29 best efforts to timely determine compliance. [The commissioner shall
30 draft such rules and regulations and submit them to the state petroleum
31 bulk storage advisory council for comments within six months of the
32 effective date of this subparagraph.]

33 S 85. Subdivision 1 of section 17-1009 of the environmental conserva-
34 tion law, as added by chapter 613 of the laws of 1983, is amended to
35 read as follows:

36 1. The department shall [consult with the state petroleum bulk storage
37 advisory council to] compile a list of facilities within the state.
38 Within thirty days of the promulgation of rules and regulations in
39 accordance with section 17-1005, section 17-1007, and this section of
40 this title, the department shall make available, upon request, a copy of
41 such rules and regulations.

42 S 86. Subdivision 1 of section 17-1015 of the environmental conserva-
43 tion law, as amended by chapter 334 of the laws of 2008, is amended to
44 read as follows:

45 1. The department shall, pursuant to section 17-0303 of this article,
46 promulgate rules and regulations establishing standards for existing and
47 new petroleum bulk storage facilities which shall include, but not be
48 limited to, design, equipment requirements, construction, installation
49 and maintenance. In proposing, preparing and compiling such rules and
50 regulations, the department shall consult with the [state petroleum bulk
51 storage code advisory council. In addition, the department shall consult
52 with the] state fire prevention and building code council to assure that
53 such rules and regulations are consistent with the uniform fire
54 prevention and building code.

55 S 87. Section 9-0705 of the environmental conservation law is
56 REPEALED.

1 S 88. Section 9-0707 of the environmental conservation law is
2 REPEALED.

3 S 89. Section 9-0709 of the environmental conservation law is
4 REPEALED.

5 S 90. Section 9-0711 of the environmental conservation law is
6 REPEALED.

7 S 91. Section 9-0713 of the environmental conservation law, as amended
8 by chapter 386 of the laws of 1980, is amended to read as follows:

9 S 9-0713. State assistance.

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

21 S 92. Section 27-0702 of the environmental conservation law is
22 REPEALED.

23 S 93. The opening paragraph of subdivision 2 of section 27-0103 of the
24 environmental conservation law, as amended by chapter 55 of the laws of
25 1992, is amended to read as follows:

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

31 S 94. Paragraph g of subdivision 3 of section 165 of the state finance
32 law, as amended by chapter 95 of the laws of 2000, is amended to read as
33 follows:

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

43 S 95. Subdivision 3 of section 1-0303 of the environmental conserva-
44 tion law is REPEALED.

45 S 96. Paragraph a of subdivision 2 of section 3-0301 of the environ-
46 mental conservation law, as amended by chapter 469 of the laws of 1974,
47 is amended to read as follows:

48 a. [With the advice and approval of the board, adopt] ADOPT, amend or
49 repeal environmental standards, criteria and those rules and regulations
50 having the force and effect of standards and criteria to carry out the
51 purposes and provisions of this act. [Upon approval by the board of any]
52 ANY such environmental standard, criterion, rule or regulation or change
53 thereto[, it] shall become effective thirty days after being filed with
54 the Secretary of State for publication in the "Official Compilation of
55 Codes, Rules, and Regulations of the State of New York" published pursu-
56 ant to section 102 of the Executive Law. This provision shall not in any

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

14 S 97. Article 5 of the environmental conservation law is REPEALED.

15 S 98. Subdivision 2 of section 17-1411 of the environmental conserva-
16 tion law is REPEALED.

17 S 99. Section 19-0917 of the environmental conservation law is
18 REPEALED.

19 S 100. Subdivision 3 of section 27-0903 of the environmental conserva-
20 tion law, as amended by chapter 831 of the laws of 1990, is amended to
21 read as follows:

22 3. The regulations setting forth the criteria for identification and
23 listing, and the list of, hazardous wastes subject to this title may be
24 amended by the commissioner from time to time as appropriate, based upon
25 hazardous waste conditions of particular relevance to the state. The
26 commissioner may promulgate the appropriately amended regulations only
27 [after approval of the state environmental board based] upon a showing
28 of the circumstances constituting the hazardous waste conditions of
29 particular relevance to this state, and then in a manner consistent with
30 the state administrative procedure act.

31 S 101. Subdivision 1 of section 27-1315 of the environmental conserva-
32 tion law, as amended by section 7 of part E of chapter 1 of the laws of
33 2003, is amended to read as follows:

34 1. The commissioner shall have the power to promulgate rules and regu-
35 lations necessary and appropriate to carry out the purposes of this
36 title. Any [such] regulations shall include provisions which establish
37 the procedures for a hearing pursuant to subdivision four of section
38 27-1313 of this title[. Any such provisions] AND shall ensure a division
39 of functions between the commissioner, the staff who present the case,
40 and any hearing officers appointed. In addition, any [such] regulations
41 shall set forth findings to be based on a factual record, which must be
42 made before the commissioner determines that a significant threat to the
43 environment exists. [Rules and regulations promulgated pursuant to this
44 title shall be subject to the approval of a board, which shall be known
45 as the inactive hazardous waste disposal site regulation review board,
46 which shall have the same members, rules, and procedures as the state
47 environmental board.]

48 S 102. Subdivision 4 of section 29-0103 of the environmental conserva-
49 tion law is REPEALED.

50 S 103. Subdivision 4 of section 70-0117 of the environmental conserva-
51 tion law, as added by chapter 723 of the laws of 1977, is amended to
52 read as follows:

53 4. In conjunction with one or more applications for permits, the
54 department may, on request of an applicant undertake a conceptual review
55 of a proposed project evaluating the general approvability or nonapprov-
56 ability of a proposed project, including all proposed phases or segments

1 thereof, subject to the development and submission of more detailed
2 plans and information and such additional applications for permits in
3 the future as may be necessary. The department shall, in rules and regu-
4 lations [approved by the state environmental board], establish criteria
5 and guidelines for the conceptual review of proposed projects. The
6 department shall establish, in rules and regulations adopted pursuant to
7 section 70-0107 of this chapter, procedures governing the conceptual
8 review of proposed projects.

9 S 104. Section 13-0308 of the environmental conservation law is
10 REPEALED.

11 S 105. The opening paragraph of subdivision 15 of section 13-0309 of
12 the environmental conservation law, as added by chapter 512 of the laws
13 of 1994, is amended to read as follows:

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

21 S 106. Subparagraph (ii) of paragraph 2 and subparagraph (ii) of para-
22 graph 3 of subdivision (a) of section 83 of the state finance law,
23 subparagraph (ii) of paragraph 2 as amended by section 2 of part A of
24 chapter 82 of the laws of 2002 and subparagraph (ii) of paragraph 3 as
25 amended by section 6 of part A of chapter 58 of the laws of 1998, are
26 amended to read as follows:

27 (ii) Notwithstanding the provisions of subparagraph (i) of this para-
28 graph, moneys arising out of the application of subdivision fourteen of
29 section 13-0309 of the environmental conservation law, shall be deposit-
30 ed in a special account within the conservation fund, to be known as the
31 surf clam/ocean quahog account, and shall be available to the department
32 of environmental conservation, including contracts for such purposes
33 with a New York state institution of higher education currently involved
34 in local marine research, after appropriation, for the research and
35 stock assessment of surf clams and ocean quahogs. The department shall,
36 at a minimum, undertake two stock assessments and issue reports detail-
37 ing the findings of such assessments to the governor and legislature.
38 The first stock assessment shall be due no later than December thirty-
39 first, two thousand two. The second stock assessment shall be due no
40 later than December thirty-first, two thousand four[, and shall be
41 conducted in an area to be determined in consultation with the surf
42 clam/ocean quahog management advisory board].

43 (ii) Notwithstanding the provisions of subparagraph (i) of this para-
44 graph, moneys arising out of the application of subdivision fourteen of
45 section 13-0309 of the environmental conservation law, shall be deposit-
46 ed in a special account within the conservation fund, to be known as the
47 surf clam/ocean quahog account, and shall be available to the department
48 of environmental conservation, including contracts for such purposes
49 with a New York State institution of higher education currently involved
50 in local marine research, after appropriation, for the research and
51 stock assessment of surf clams and ocean quahogs [and the operations of
52 the surf clam/ocean quahog management advisory board].

53 S 107. Subdivisions 6, 7, 8 and 9 of section 73-b of the agriculture
54 and markets law are REPEALED and subdivision 10 is renumbered subdivi-
55 sion 6.

1 S 107-a. Paragraphs (c) and (d) of subdivision 5 of section 73-b of
2 the agriculture and markets law, as added by chapter 276 of the laws of
3 2001, are amended and a new paragraph (e) is added to read as follows:

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

6 (d) assess the feasibility of the consolidation, expansion and modern-
7 ization of the current physical facilities of the laboratory[.]; AND

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

11 S 108. Section 169-c of the agriculture and markets law is REPEALED.

12 S 109. Section 169-d of the agriculture and markets law is REPEALED.

13 S 110. Subdivision 5 of section 192-a of the agriculture and markets
14 law, as added by chapter 716 of the laws of 1989, is amended to read as
15 follows:

16 5. Concurrent enforcement by municipalities. The provisions of this
17 section and the regulations promulgated thereunder may be enforced
18 concurrently by the director of a municipal consumer affairs office
19 and/or a municipal director of weights and measures, except that nothing
20 in this section or in subdivision three, twelve or nineteen of section
21 one hundred seventy-nine of this article or in section one hundred nine-
22 ty-two-b or one hundred ninety-two-c [or one hundred ninety-two-d] of
23 this article shall be construed to prohibit a political subdivision of
24 the state from also continuing to implement and enforce any local law
25 and regulations that were in effect prior to the date this section took
26 effect, and any subsequent amendments thereto, provided such local law
27 and regulations or amendments thereto are not inconsistent with require-
28 ments imposed by the provisions of this section or by regulations
29 adopted pursuant to this section. Notwithstanding the provisions of
30 section forty-five of this chapter, all moneys collected hereunder at
31 the instance of a municipal enforcement officer shall be retained by the
32 municipality.

33 S 111. Subdivision 10 of section 192-b of the agriculture and markets
34 law, as added by chapter 716 of the laws of 1989, is amended to read as
35 follows:

36 10. The provisions of this section and the regulations promulgated
37 thereunder may be enforced concurrently by the director of a municipal
38 consumer affairs office and/or a municipal director of weights and meas-
39 ures, except that nothing in this section or in subdivision three,
40 twelve or nineteen of section one hundred seventy-nine of this article
41 or in section one hundred ninety-two-a or one hundred ninety-two-c [or
42 one hundred ninety-two-d] of this article shall be construed to prohibit
43 a political subdivision of the state from also continuing to implement
44 and enforce any local law and regulations that were in effect prior to
45 the date this section took effect, and any subsequent amendments there-
46 to, provided such local law and regulations or amendments thereto are
47 not inconsistent with requirements imposed by the provisions of this
48 section or by regulations adopted pursuant to this section. Notwith-
49 standing the provisions of section forty-five of this chapter, all
50 moneys collected hereunder at the instance of a municipal enforcement
51 officer shall be retained by the municipality.

52 S 112. Section 192-d of the agriculture and markets law is REPEALED.

53 S 113. Section 285 of the agriculture and markets law is REPEALED.

54 S 114. Section 285-b of the agriculture and markets law is REPEALED.

55 S 115. Chapter 868 of the laws of 1976 establishing the organic food
56 advisory committee is REPEALED.

1 S 116. Section 7 chapter 654 of the laws of 1994 creating the agricul-
2 tural transportation review panel is REPEALED.

3 S 117. Article 33 of the parks, recreation and historic preservation
4 law is REPEALED.

5 S 118. Section 191 of the executive law is REPEALED.

6 S 119. Subdivision 2 of section 236-b of the county law, as added by
7 chapter 339 of the laws of 2009, is amended to read as follows:

8 2. A local law enacted pursuant to this section establishing county
9 licensure of electrical inspectors shall supersede any provision requir-
10 ing electrical inspectors to also obtain a local license promulgated by
11 a city, town or village in the county pursuant to any general, special
12 or local law. Nothing in this section shall be deemed to supersede any
13 of the powers, functions and duties of the [fire fighting and code
14 enforcement personnel standards and education commission, as set forth
15 in article six-C] OFFICE OF FIRE PREVENTION AND CONTROL, AS SET FORTH IN
16 SECTION ONE HUNDRED FIFTY-EIGHT of the executive law, OR ANY SUCCESSOR
17 ENTITY.

18 S 120. Subdivision 1 of section 156-a of the executive law, as amended
19 by section 1 of part D of chapter 1 of the laws of 2004, is amended to
20 read as follows:

21 1. The state fire administrator shall[, in his or her discretion,
22 consult with the fire fighting and code enforcement personnel standards
23 and education commission established pursuant to section one hundred
24 fifty-nine-a of this article, to] establish a specialized hazardous
25 materials emergency response training program for individuals responsi-
26 ble for providing emergency response recovery following incidents
27 involving hazardous materials as defined in accordance with section
28 fourteen-f of the transportation law. The state fire administrator shall
29 inform all fire companies, municipal corporations and districts, includ-
30 ing agencies and departments thereof and all firefighters, both paid and
31 volunteer, and related officers and employees and police officers of the
32 implementation and availability of the hazardous materials emergency
33 response training program and shall, subject to the availability of an
34 appropriation, conduct such training with sufficient frequency to assure
35 adequate response to incidents involving hazardous materials and
36 protection of responders in all geographic areas of the state.

37 S 120-a. Section 158 of the executive law is REPEALED and a new
38 section 158 is added to read as follows:

39 S 158. FIREFIGHTING AND CODE ENFORCEMENT TRAINING. 1. FOR THE PURPOSE
40 OF THIS SECTION, THE TERM FIRE FIGHTER AND CODE ENFORCEMENT PERSONNEL
41 SHALL MEAN A MEMBER OF A FIRE DEPARTMENT WHOSE DUTIES INCLUDE FIRE
42 SERVICE AS DEFINED IN PARAGRAPH D OF SUBDIVISION ELEVEN OF SECTION THREE
43 HUNDRED TWO OF THE RETIREMENT AND SOCIAL SECURITY LAW OR A CODE ENFORCE-
44 MENT OFFICER CHARGED WITH ENFORCEMENT OF BUILDING OR FIRE CODES.

45 2. IN ADDITION TO THE FUNCTIONS, POWERS AND DUTIES OTHERWISE PROVIDED
46 BY THIS ARTICLE, THE STATE FIRE ADMINISTRATOR MAY PROMULGATE RULES AND
47 REGULATIONS WITH RESPECT TO:

48 (A) THE APPROVAL, OR REVOCATION THEREOF, OF FIRE AND CODE ENFORCEMENT
49 TRAINING PROGRAMS FOR FIRE FIGHTERS AND CODE ENFORCEMENT PERSONNEL;

50 (B) MINIMUM COURSES OF STUDY, ATTENDANCE REQUIREMENTS, AND EQUIPMENT
51 AND FACILITIES TO BE REQUIRED FOR APPROVED FIRE AND CODE ENFORCEMENT
52 TRAINING PROGRAMS FOR FIRE FIGHTERS AND CODE ENFORCEMENT PERSONNEL;

53 (C) MINIMUM QUALIFICATIONS FOR INSTRUCTORS FOR APPROVED FIRE AND CODE
54 ENFORCEMENT TRAINING PROGRAMS FOR FIRE FIGHTERS AND CODE ENFORCEMENT
55 PERSONNEL;

(D) THE REQUIREMENTS OF MINIMUM BASIC TRAINING WHICH FIRE FIGHTERS AND CODE ENFORCEMENT PERSONNEL APPOINTED TO PROBATIONARY TERMS SHALL COMPLETE BEFORE BEING ELIGIBLE FOR PERMANENT APPOINTMENT, AND THE TIME WITHIN WHICH SUCH BASIC TRAINING MUST BE COMPLETED FOLLOWING SUCH APPOINTMENT TO A PROBATIONARY TERM;

(E) THE REQUIREMENTS OF MINIMUM BASIC TRAINING WHICH FIRE FIGHTERS AND CODE ENFORCEMENT PERSONNEL NOT APPOINTED FOR PROBATIONARY TERMS BUT APPOINTED ON OTHER THAN A PERMANENT BASIS SHALL COMPLETE IN ORDER TO BE ELIGIBLE FOR CONTINUED EMPLOYMENT OR PERMANENT APPOINTMENT, AND THE TIME WITHIN WHICH SUCH BASIC TRAINING MUST BE COMPLETED FOLLOWING SUCH APPOINTMENT ON A NON-PERMANENT BASIS;

(F) THE REQUIREMENTS FOR IN-SERVICE TRAINING PROGRAMS DESIGNED TO ASSIST FIRE FIGHTERS AND CODE ENFORCEMENT PERSONNEL IN MAINTAINING SKILLS AND BEING INFORMED OF TECHNOLOGICAL ADVANCES;

(G) CATEGORIES OR CLASSIFICATIONS OF ADVANCED IN-SERVICE TRAINING PROGRAMS AND MINIMUM COURSES OF STUDY AND ATTENDANCE REQUIREMENTS WITH RESPECT TO SUCH CATEGORIES OR CLASSIFICATIONS;

(H) EXEMPTIONS FROM PARTICULAR PROVISIONS OF THIS ARTICLE IN THE CASE OF ANY COUNTY, CITY, TOWN, VILLAGE OR FIRE DISTRICT, IF IN THE OPINION OF THE STATE FIRE ADMINISTRATOR THE STANDARDS OF FIRE AND CODE ENFORCEMENT TRAINING ESTABLISHED AND MAINTAINED BY SUCH COUNTY, CITY, TOWN, VILLAGE OR FIRE DISTRICT ARE EQUAL TO OR HIGHER THAN THOSE ESTABLISHED PURSUANT TO THIS ARTICLE; OR REVOCATION IN WHOLE OR IN PART OF SUCH EXEMPTION, IF IN HIS OR HER OPINION THE STANDARDS OF FIRE AND CODE ENFORCEMENT TRAINING ESTABLISHED AND MAINTAINED BY SUCH COUNTY, CITY, TOWN, VILLAGE OR FIRE DISTRICT ARE LOWER THAN THOSE ESTABLISHED PURSUANT TO THIS ARTICLE; AND

(I) EDUCATION, HEALTH AND PHYSICAL FITNESS REQUIREMENTS FOR ELIGIBILITY OF PERSONS FOR PROVISIONAL OR PERMANENT APPOINTMENT IN THE COMPETITIVE CLASS OF THE CIVIL SERVICE AS FIRE FIGHTERS AND CODE ENFORCEMENT PERSONNEL AS IT DEEMS NECESSARY AND PROPER FOR THE EFFICIENT PERFORMANCE OF SUCH DUTIES;

3. IN FURTHERANCE OF HIS OR HER FUNCTIONS, POWERS AND DUTIES AS SET FORTH IN THIS SECTION, THE STATE FIRE ADMINISTRATOR MAY:

(A) RECOMMEND STUDIES, SURVEYS AND REPORTS TO BE MADE BY THE STATE FIRE ADMINISTRATOR REGARDING THE CARRYING OUT OF THE OBJECTIVES AND PURPOSES OF THIS SECTION;

(B) VISIT AND INSPECT ANY FIRE AND CODE ENFORCEMENT TRAINING PROGRAMS APPROVED BY THE STATE FIRE ADMINISTRATOR OR FOR WHICH APPLICATION FOR SUCH APPROVAL HAS BEEN MADE; AND

(C) RECOMMEND STANDARDS FOR PROMOTION TO SUPERVISORY POSITIONS.

4. IN ADDITION TO THE FUNCTIONS, POWERS AND DUTIES OTHERWISE PROVIDED BY THIS SECTION, THE STATE FIRE ADMINISTRATOR SHALL:

(A) APPROVE FIRE AND CODE ENFORCEMENT TRAINING PROGRAMS FOR FIRE FIGHTERS AND CODE ENFORCEMENT PERSONNEL AND ISSUE CERTIFICATES OF APPROVAL TO SUCH PROGRAMS, AND REVOKE SUCH APPROVAL OR CERTIFICATE;

(B) CERTIFY, AS QUALIFIED, INSTRUCTORS FOR APPROVED FIRE AND CODE ENFORCEMENT TRAINING PROGRAMS FOR FIRE FIGHTERS AND CODE ENFORCEMENT PERSONNEL AND ISSUE APPROPRIATE CERTIFICATES TO SUCH INSTRUCTORS;

(C) CERTIFY FIRE FIGHTERS AND CODE ENFORCEMENT PERSONNEL WHO HAVE SATISFACTORILY COMPLETED BASIC TRAINING PROGRAMS AND IN-SERVICE TRAINING PROGRAMS, AND ISSUE APPROPRIATE CERTIFICATES TO SUCH FIRE FIGHTERS AND CODE ENFORCEMENT PERSONNEL;

(D) CAUSE STUDIES AND SURVEYS TO BE MADE RELATING TO THE ESTABLISHMENT, OPERATION, EFFECTIVENESS AND APPROVAL OF FIRE AND CODE ENFORCEMENT TRAINING PROGRAMS;

(E) CAUSE STUDIES AND SURVEYS TO BE MADE RELATING TO THE COMPLETION OR PARTIAL COMPLETION OF TRAINING PROGRAMS BY VIDEO OR COMPUTER TO THE MAXIMUM EXTENT PRACTICABLE; AND

(F) CONSULT WITH AND COOPERATE WITH THE STATE UNIVERSITY OF NEW YORK AND PRIVATE UNIVERSITIES, COLLEGES AND INSTITUTES IN THE STATE FOR THE DEVELOPMENT OF SPECIALIZED COURSES OF STUDY FOR FIRE FIGHTERS AND CODE ENFORCEMENT PERSONNEL IN FIRE SCIENCE, FIRE ADMINISTRATION AND CODE ENFORCEMENT.

S 121. Section 159 of the executive law is REPEALED.

S 122. Section 159-a of the executive law is REPEALED.

S 123. Section 159-b of the executive law is REPEALED.

S 124. Section 159-c of the executive law is REPEALED.

S 125. Section 159-d of the executive law is REPEALED.

S 126. Section 580 of the executive law is REPEALED.

S 127. Subdivision 14 of section 601 of the executive law is REPEALED.

S 128. Subdivision 12 of section 604 of the executive law, as added by chapter 729 of the laws of 2005, is amended to read as follows:

12. To create and maintain a consumer awareness pamphlet[, in conjunction with the advisory council,] to include, but not be limited to, detailing the certification process, installer selection rights, the dispute resolution process, the differences between the types of housing, and other consumer protection issues. Such pamphlet shall be available to the public, and published on the department's website.

S 129. Section 604 of the executive law is amended by adding three new subdivisions 13, 14 and 15 to read as follows:

13. TO EXAMINE CONSUMER PROTECTION ISSUES, INCLUDING BUT NOT LIMITED TO, MANUFACTURED HOUSING FINANCING AND SALES PRACTICES.

14. TO EXAMINE THE DIFFERENCES OF MANUFACTURED AND MODULAR HOUSING REGULATIONS AND MAKE RECOMMENDATIONS TO THE LEGISLATURE ON AN ANNUAL BASIS.

15. TO SUBMIT ANNUAL REPORTS BY DECEMBER THIRTY-FIRST, TWO THOUSAND TEN AND EACH YEAR THEREAFTER, TO THE GOVERNOR, THE TEMPORARY PRESIDENT OF THE SENATE AND THE SPEAKER OF THE ASSEMBLY THAT DETAILS THE RECOMMENDATIONS OF THE DEPARTMENT REGARDING MANUFACTURED HOUSING IN NEW YORK STATE. THE DEPARTMENT SHALL, AS PART OF ITS REPORT, DETAIL THE NUMBER OF COMPLAINTS RECEIVED BY THE DEPARTMENT AND THE NUMBER OF DISPUTES RESOLVED THROUGH THE DEPARTMENT.

S 130. Sections 611 and 612 of the executive law are REPEALED.

S 131. Section 923 of the executive law is REPEALED.

S 132. Subdivision 6 of section 69-n of the general business law is REPEALED.

S 133. Subdivision 5 of section 89-bbb of the general business law is REPEALED and subdivisions 6, 7, 8, 9, 10, 11, 12 and 13 are renumbered subdivisions 5, 6, 7, 8, 9, 10, 11 and 12.

S 134. Section 89-lll of the general business law, as added by chapter 557 of the laws of 1997, is amended to read as follows:

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

S 135. Section 89-mmm of the general business law is REPEALED.

S 136. Subdivision 5 of section 89-ppp of the general business law is REPEALED and subdivisions 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16 and 17 are renumbered subdivisions 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15 and 16.

1 S 137. Subdivision 4 of section 89-sss of the general business law, as
2 added by chapter 557 of the laws of 1997, is amended to read as follows:

3 4. The commissioner[, upon the recommendation and with the general
4 advice of the board,] shall waive the training requirements specified in
5 subdivision one of this section, with respect to applicants employed by
6 armored car carriers, if the applicant provides appropriate documenta-
7 tion to demonstrate that he or she was or is subject to training
8 requirements which meet or exceed the requirements established pursuant
9 to such subdivision.

10 S 138. Section 89-yyy of the general business law, as added by chapter
11 557 of the laws of 1997, is amended to read as follows:

12 S 89-yyy. Regulations. The secretary and commissioner[, in consulta-
13 tion with the board,] are hereby authorized and empowered to promulgate
14 rules and regulations necessary for the proper conduct of the business
15 authorized under this article, and not inconsistent herewith.

16 S 139. Section 403 of the general business law is REPEALED.

17 S 140. Section 404 of the general business law, as amended by chapter
18 341 of the laws of 1998, is amended to read as follows:

19 S 404. Rules and regulations. The secretary shall promulgate rules and
20 regulations which establish standards for practice and operation by
21 licensees under this article in order to ensure the health, safety and
22 welfare of the public. Such rules and regulations shall include, but not
23 be limited to, the sanitary conditions and procedures required to be
24 maintained, a minimum standard of training appropriate to the duties of
25 nail specialists, waxers, natural hair stylists, estheticians, and
26 cosmetologists and the provision of service by nail specialists, waxers,
27 natural hair stylists, estheticians or cosmetologists at remote
28 locations other than the licensee's home provided that such practitioner
29 holds an appearance enhancement business license to operate at a fixed
30 location or is employed by the holder of an appearance enhancement busi-
31 ness license. Regulations setting forth the educational requirements for
32 nail specialists shall include education in the area of causes of
33 infection and bacteriology. In promulgating such rules and regulations
34 the secretary shall consult with the state education department, [the
35 advisory committee established pursuant to this article,] any other
36 state agencies and private industry representatives as may be appropri-
37 ate in determining minimum training requirements.

38 S 141. Section 433-a of the general business law is REPEALED.

39 S 142. Subdivision 3 of section 789 of the general business law is
40 REPEALED and subdivisions 4, 5, 6, 7, 8, 9, 10, 11 and 12 are renumbered
41 subdivisions 3, 4, 5, 6, 7, 8, 9, 10 and 11.

42 S 143. Subparagraph (ix) of paragraph (a) of subdivision 1 of section
43 790 of the general business law, as added by chapter 599 of the laws of
44 1998, is amended to read as follows:

45 (ix) on or after January first, two thousand three, the applicant
46 shall demonstrate the successful completion of post-secondary coursework
47 approved by the secretary [in conjunction with the advisory board]; or

48 S 144. Section 791 of the general business law is REPEALED.

49 S 145. Subdivision 1 of section 794 of the general business law, as
50 amended by chapter 301 of the laws of 2000, is amended to read as
51 follows:

52 1. Prior to the expiration of a certificate of registration and as a
53 condition of renewal, each hearing aid dispenser registered pursuant to
54 subdivision one of section seven hundred ninety of this article shall
55 submit documentation showing successful completion of twenty continuing
56 education credits through a course or courses approved by the secretary

1 [in consultation with the advisory board], or, in relation to audiolo-
2 gists licensed pursuant to article one hundred fifty-nine of the educa-
3 tion law, the office of the professions in the education department.
4 Such formal courses of learning shall include, but not be limited to,
5 collegiate level of credit in non-credit courses, professional develop-
6 ment programs and technical sessions offered by national, state and
7 local professional associations and other organizations acceptable to
8 the secretary and any other organized educational and technical programs
9 acceptable to the secretary. The secretary may, in his or her
10 discretion, and as needed to contribute to the health and welfare of the
11 public, require the completion of continuing education courses in
12 specific subjects to fulfill this mandatory continuing education
13 requirement. Courses shall be taken from a sponsor approved by the
14 secretary pursuant to regulations promulgated pursuant to this section.

15 S 146. Paragraph (a) of subdivision 3 of section 794 of the general
16 business law, as added by chapter 599 of the laws of 1998, is amended to
17 read as follows:

18 (a) Within one year of the effective date of this article, the secre-
19 tary shall promulgate rules and regulations establishing the method,
20 content and supervision requirements for the continuing education course
21 or courses provided for in this section. Properly prepared written mate-
22 rials of the subject matter of each course shall be distributed and each
23 course shall be taught by an instructor who meets requirements estab-
24 lished by the secretary [upon the recommendation of the board]. Any
25 person or organization offering a course shall apply to the secretary
26 for authorization to offer such course or courses pursuant to said rules
27 and regulations.

28 S 147. Subdivision 1 of section 796 of the general business law, as
29 added by chapter 599 of the laws of 1998, is amended to read as follows:

30 1. The secretary[, in consultation with the board,] shall establish a
31 full-time, twelve month training program for those persons wishing to
32 apply for registration as a hearing aid dispenser, except those hearing
33 aid dispensers otherwise licensed pursuant to article one hundred
34 fifty-nine of the education law. For the purposes of this section,
35 "full-time" shall mean seven hours per day for five days a week. Such
36 program shall be conducted by a registered hearing aid dispenser or
37 taught by appropriate faculty with credentials to verify substantial
38 educational knowledge in the topics outlined below. Any trainee entering
39 such a program shall operate under the direct supervision of a regis-
40 tered hearing aid dispenser for the first three months of such program.
41 In addition, during such period, the trainee shall satisfactorily
42 complete a course of instruction, which includes, but is not limited to,
43 the following topics:

- 44 (a) acoustics: general principles.
- 45 (b) acoustics: hearing and speech.
- 46 (c) the human ear.
- 47 (d) disorders of hearing.
- 48 (e) puretone audiometry.
- 49 (f) speech audiometry.
- 50 (g) hearing analysis.
- 51 (h) hearing aids and instruments.

52 S 148. Subdivision 4 of section 798 of the general business law, as
53 added by chapter 599 of the laws of 1998, is amended to read as follows:

54 4. The secretary shall [in consultation with the hearing aid advisory
55 board] prescribe the minimum criteria, procedures and equipment which

1 shall be used in the dispensing of hearing aids, including but not
2 limited to:

- 3 (a) a relevant personal history questionnaire;
- 4 (b) a disclosure statement;
- 5 (c) requirements for a testing room, if applicable;
- 6 (d) requirements for the annual calibration and maintenance of audiom-
7 etric equipment;
- 8 (e) requirements for out of office dispensing of hearing aids; and
- 9 (f) if applicable, requirements otherwise provided under article one
10 hundred fifty-nine of the education law.

11 S 149. Subdivisions 2, 4, 5 and 7 of section 803 of the general busi-
12 ness law, as added by chapter 599 of the laws of 1998, are amended to
13 read as follows:

14 2. The secretary shall review implementation of the provisions of this
15 article [in consultation with the board] and shall vigorously and proac-
16 tively ensure the enforcement of its provisions through site visits,
17 regular examination of compliance with this article, public outreach and
18 education, promulgation of regulations, delivery of technical assist-
19 ance, and such other forms as would increase awareness of and adherence
20 to the protections and process prescribed in this article. The secretary
21 shall examine compliance with this article for each business registered
22 pursuant to subdivision one of section seven hundred ninety of this
23 article at least once every four years.

24 4. [In conjunction with the board, the] THE secretary shall:

- 25 (a) develop procedures for promptly investigating all complaints
26 regarding violations of this article;
- 27 (b) develop procedures for assisting consumers in resolving a dispute
28 with those persons registered pursuant to this article and mediating on
29 behalf of consumers when needed;
- 30 (c) establish a toll-free number at which consumers, including persons
31 who are hard of hearing or deaf, can register a complaint; and
- 32 (d) develop other procedures as necessary to increase public awareness
33 of how to properly purchase, fit, adjust and use a hearing aid, as well
34 as the rights of hearing aid consumers pursuant to this article, which
35 shall include the distribution of written information concerning this
36 subject matter and the toll-free number to those subject to this arti-
37 cle, the media, and the general public.

38 5. The secretary[, in conjunction with the board] shall cause to be
39 prepared and distributed printed educational information to registered
40 hearing aid dispensers and others about the general use of hearing aids
41 and assistive listening devices and on the advantages and disadvantages
42 of hearing aids as well as rights and remedies available to the consumer
43 pursuant to this article.

44 7. On or before January thirty-first of each year, the secretary shall
45 develop and distribute a report to the governor, the speaker of the
46 assembly, the temporary president of the senate, the minority leader of
47 the assembly, the minority leader of the senate, the chair of the assem-
48 bly ways and means committee, and the chair of the senate finance
49 committee, and make it available for public examination. Such report
50 shall entail specific efforts made by the secretary[, the board] and
51 hearing aid dispensers to comply with the provisions of this article, a
52 compilation of actions taken [in response to recommendations submitted
53 to the secretary from the board], a summary of the results of compliance
54 efforts and anticipated efforts to improve public education, compliance
55 and enforcement during the subsequent year, as well as recommendations,
56 if any, to amend this article.

1 S 150. Subparagraph 7 of paragraph (h) of section 1507 of the not-for-
2 profit corporation law, as amended by chapter 380 of the laws of 2000,
3 is amended to read as follows:

4 (7) The New York state cemetery board shall promulgate rules defining
5 standards of maintenance, as well as what type of vandalism or out of
6 repair or dilapidated monuments or other markers shall qualify for
7 payment of repair or removal by the fund and the method and amount of
8 payment of contributions described in subparagraph two of this paragraph
9 [upon the recommendation of the state cemetery board citizens advisory
10 council created by section fifteen hundred seven-a of this article
11 (State cemetery board citizens advisory council)].

12 S 151. Section 1507-a of the not-for-profit corporation law is
13 REPEALED.

14 S 152. Subdivision 1 of section 444-b of the real property law is
15 REPEALED and subdivisions 2, 3, 4, 5, 6, 7 and 8 are renumbered subdivi-
16 sions 1, 2, 3, 4, 5, 6 and 7.

17 S 153. Section 444-c of the real property law, as added by chapter 461
18 of the laws of 2004, subdivisions 1, 2 and 3 as amended by chapter 225
19 of the laws of 2005, is amended to read as follows:

20 S 444-c. [State home inspection council] CODE OF ETHICS AND STANDARDS
21 OF PRACTICE. 1. [There is hereby established a state home inspection
22 council within the department. The council shall consist of the secre-
23 tary or the secretary's designee and six additional members who are
24 residents of the state, of whom three shall be persons licensed and
25 actively engaged in the business of home inspection in the state of New
26 York for at least five years immediately preceding their appointment and
27 three of whom shall be consumers who are the owners and principal resi-
28 dents of a residential building in the state of New York. Appointments
29 shall reflect the geographical diversity of the state.

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

36 3. The governor shall appoint each member of the council for a term of
37 three years except that of the members first appointed, two shall serve
38 for terms of three years, two shall serve for terms of two years and two
39 shall serve for a term of one year. The governor shall appoint one home
40 inspector and one consumer solely in his or her discretion, one home
41 inspector and one consumer upon the recommendation of the temporary
42 president of the senate, and one home inspector and one consumer upon
43 the recommendation of the speaker of the assembly. Each member shall
44 hold office until his or her successor has been qualified. Any vacancy
45 in the membership of the council shall be filled for the unexpired term
46 in the manner provided for the original appointment. No member of the
47 council may serve more than two successive terms in addition to any
48 unexpired term to which he or she has been appointed.

49 4. Members of the council shall receive no compensation but shall be
50 reimbursed for their actual and necessary expenses and provided with
51 office and meeting facilities and personnel required for the proper
52 conduct of the council's business.

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

1 6. The role of the council shall be advisory.] The [council shall
2 advise the secretary in the administration and enforcement of the
3 provisions of this article and recommend to the] secretary SHALL PROMUL-
4 GATE regulations to implement the provisions of this article including
5 but not limited to:

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

8 (b) requirements and standards for continuing education of home
9 inspectors;

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

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

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

22 S 154. Section 444-e of the real property law, as added by chapter 461
23 of the laws of 2004, paragraphs (b) and (c) of subdivision 1 and subdi-
24 vision 3 as amended by chapter 225 of the laws of 2005, is amended to
25 read as follows:

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

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

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

37 (ii) have performed not less than one hundred home inspections in the
38 presence of and under the direct supervision of a home inspector
39 licensed by the state of New York or a professional engineer or archi-
40 tect regulated by the state of New York who oversees and takes full
41 responsibility for the inspection and any report provided to a client;
42 and

43 (c) have passed a written or electronic examination approved by the
44 secretary[, in consultation with the council,] and designed to test
45 competence in home inspection practice as determined by a recognized
46 role definition methodology and developed and administered to the extent
47 practicable in a manner consistent with the American Educational
48 Research Association's "Standards for Educational and Psychological
49 Testing." An applicant who has passed an existing nationally recognized
50 examination, as approved by the secretary, prior to the effective date
51 of this article shall be in compliance with this paragraph; and

52 (d) pay the applicable fees.

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

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

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

10 (a) meets the requirements of paragraphs (a) and (c) of subdivision
11 one of this section and has performed one hundred or more home
12 inspections for compensation within two years prior to the effective
13 date of this section; or

14 (b) meets the requirements of paragraph (a) of subdivision one of this
15 section and has been engaged in the practice of home inspection for
16 compensation for not less than three years prior to the effective date
17 of this section during which such person has performed two hundred fifty
18 home inspections for compensation within three years prior to the effec-
19 tive date of this section; or

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

23 S 155. Subdivision 1 of section 444-f of the real property law, as
24 amended by chapter 225 of the laws of 2005, is amended to read as
25 follows:

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

35 S 156. Subdivision 1 of section 444-k of the real property law, as
36 added by chapter 461 of the laws of 2004, is amended to read as follows:

37 1. Every licensed home inspector who is engaged in home inspection
38 shall secure, maintain, and file with the secretary proof of a certif-
39 icate of liability coverage, which terms and conditions shall be deter-
40 mined by the secretary [in consultation with the council].

41 S 157. Section 444-l of the real property law, as added by chapter 461
42 of the laws of 2004, is amended to read as follows:

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

46 S 158. Intentionally omitted.

47 S 159. Intentionally omitted.

48 S 160. Subdivisions 1 and 5 of section 846-k of the executive law, as
49 added by chapter 170 of the laws of 1994, are amended to read as
50 follows:

51 1. ["Board" means the New York motor vehicle theft and insurance fraud
52 prevention board] "COMMISSIONER" MEANS THE COMMISSIONER OF THE DIVISION
53 OF CRIMINAL JUSTICE SERVICES.

54 5. "Provider agency" means a locality, governmental agency, or not-
55 for-profit organization of any character that provides one or more motor

1 vehicle theft or insurance fraud prevention or driver safety activities
2 in accordance with a plan approved by the [board] COMMISSIONER.

3 S 161. Section 846-l of the executive law, as added by chapter 170 of
4 the laws of 1994, subdivision 2 as amended by section 3, paragraph (e)
5 of subdivision 3 as amended by section 4, and paragraph (h) of subdivi-
6 sion 3 as amended by section 5 of part T of chapter 57 of the laws of
7 2000, is amended to read as follows:

8 S 846-l. New York motor vehicle theft and insurance fraud prevention
9 [board] DEMONSTRATION PROGRAM. 1. There is hereby created in the divi-
10 sion of criminal justice services the New York motor vehicle theft and
11 insurance fraud prevention [board] (hereinafter "board"), which shall
12 consist of the following members:

13 (a) The commissioner of criminal justice services (hereinafter
14 "commissioner"), or his designee, who shall serve as the voting chair-
15 person of the board;

16 (b) Three voting members appointed by the governor on the recommenda-
17 tion of the speaker of the assembly provided, however, that no more than
18 two such appointments made pursuant to this paragraph shall be from the
19 same category of members as provided for in subdivision two of this
20 section.

21 (c) Three voting members appointed by the governor on the recommenda-
22 tion of the temporary president of the senate provided, however, that no
23 more than two such appointments made pursuant to this paragraph shall be
24 from the same category of members as provided for in subdivision two of
25 this section; and

26 (d) Five voting members appointed by the governor provided, however,
27 that no more than two such appointments made pursuant to this paragraph
28 shall be from the same category of members as provided for in subdivi-
29 sion two of this section.

30 2. The members of the board appointed on the recommendation of the
31 speaker of the assembly and the temporary president of the senate, and
32 the members of the board appointed by the governor pursuant to paragraph
33 (d) of subdivision one of this section, shall be representative of
34 consumers of motor vehicle insurance, motor vehicle insurance companies,
35 law enforcement agencies and the judicial system. The appointments shall
36 be made not later than one hundred eighty days after the date on which
37 this section shall have become law. Members of the board who are not
38 public officials shall serve for a term of four years. Members of the
39 board shall serve without compensation, except that members of the board
40 who are not public officials shall be entitled to receive reasonable
41 reimbursement for expenses incurred by them in performance of their
42 duties as members of the board. A majority of the members of the board
43 shall constitute a quorum for the transaction of business at a meeting.
44 Action may be taken by the board at a meeting upon a vote of the majori-
45 ty of its members present. Every member of the board shall be entitled
46 to designate a representative to attend, in his or her place, a meeting
47 of the board and to vote or otherwise act in his or her behalf,
48 provided, however, that a member may not designate such a representative
49 more than once each year. Written notice of such designation shall be
50 furnished to the board by the designating member prior to any meeting
51 attended by his or her representative. Any such representative shall
52 serve at the pleasure of the designating member. No such representative
53 shall be authorized to delegate any of his or her duties or functions to
54 any other person. The board shall meet at least four times each year,
55 and at other times at the call of the chairperson or upon the written
56 request of two-thirds of the members of the board.

1 3. The] DEMONSTRATION PROGRAM.

2 2. IN FURTHERANCE OF THE PROGRAM, THE commissioner shall[, pursuant to
3 the recommendation of the board,] have the power and duty to:

4 (a) Make, execute, and deliver contracts, conveyances, and other
5 instruments necessary to effect the purposes and objectives of the
6 program;

7 (b) Accept any grant, including federal grants, or any other contrib-
8 utions for the purposes of the program. Any moneys so received shall be
9 expended by the commissioner for the program's purposes, pursuant to
10 appropriation and subject to the applicable provisions of the state
11 finance law;

12 (c) Make grants pursuant to a request for proposals process;

13 (d) Appoint such employees and agents as the commissioner may deem
14 necessary, fix their compensation within the limitations provided by
15 law, and prescribe their duties;

16 (e) Request from the division of state police, from county or municipi-
17 pal police departments and agencies, from the department of insurance,
18 from the department of motor vehicles, from the office of court adminis-
19 tration, from any other state department or agency or public authority,
20 or from any insurer which offers motor vehicle insurance such assistance
21 and data as are useful for the purposes and objectives of the program;

22 (f) Cooperate with and assist political subdivisions of the state in
23 the development of local programs to prevent motor vehicle theft and
24 insurance fraud;

25 (g) Advise and assist the superintendent of insurance pursuant to
26 section two thousand three hundred forty-eight of the insurance law; and

27 (h) Submit, no later than February fifteenth of each year to the
28 governor and the chairperson of the senate finance committee and the
29 chairperson of the assembly ways and means committee, a written report
30 on the [board's] DIVISION'S activities, the activities of grant recipi-
31 ents, the results achieved by the grant recipients in improving the
32 detection, prevention or reduction of motor vehicle theft and insurance
33 fraud and the impact such efforts may have on motor vehicle insurance
34 rates.

35 S 162. Subdivision 1 of section 846-m of the executive law, as amended
36 by section 6 of part T of chapter 57 of the laws of 2000, is amended to
37 read as follows:

38 1. In accordance with the legislative intent of this article, the
39 [board] COMMISSIONER shall develop [and recommend to the commissioner] a
40 plan of operation which shall provide for a coordinated approach to
41 curtailing motor vehicle theft and motor vehicle insurance fraud
42 throughout the state. The plan shall provide an integrated means to
43 detect, prevent, deter and reduce motor vehicle theft and motor vehicle
44 insurance fraud by providing funds[, upon the recommendation of the
45 board and approved by the commissioner,] to meet these objectives. The
46 plan of operation shall include but not be limited to: an assessment of
47 the scope of the problem of motor vehicle theft and motor vehicle insur-
48 ance fraud, including a regional analysis of the incidence of motor
49 vehicle theft and motor vehicle insurance fraud and related activities;
50 an analysis of various methods of combating the problem; and the devel-
51 opment of a request for proposals process, consistent with the plan, for
52 applications from provider agencies to receive grants from the fund.

53 S 163. Paragraph (c) of subdivision 2 of section 846-m of the execu-
54 tive law, as amended by section 6 of part T of chapter 57 of the laws of
55 2000, is amended to read as follows:

(c) In allocating the moneys for the program, the commissioner[, upon recommendation of the board,] shall, to the greatest extent possible, take into account the geographic incidence of motor vehicle theft and insurance fraud, whereby localities with the greatest incidence of motor vehicle theft and insurance fraud shall be targeted for the purposes of this program.

S 164. Subdivision 4 of section 89-d of the state finance law, as amended by chapter 170 of the laws of 1994, is amended to read as follows:

4. The moneys received by such fund shall be expended pursuant to appropriation only to fund provider agencies which have been awarded grants [by] PURSUANT TO the motor vehicle theft and insurance fraud prevention [board] DEMONSTRATION PROGRAM established pursuant to section eight hundred forty-six-l of the executive law. All moneys expended pursuant to this subdivision shall be for the reimbursement of costs incurred by provider agencies.

S 165. Section 844-a of the executive law is REPEALED.

S 166. Section 160-a of the executive law, as amended by chapter 397 of the laws of 1991, and paragraph (c) of subdivision 6 as added by chapter 241 of the laws of 1999, is amended to read as follows:

S 160-a. Definitions. As used in this article the following terms shall mean:

1. "Analysis" is a study of real estate or real property other than estimating value.

2. "Appraisal" or "real estate appraisal" means an analysis, opinion or conclusion relating to the nature, quality, value or utility of specified interests in, or aspects of, identified real estate. An appraisal may be classified by subject matter into either a valuation or an analysis.

3. "Appraisal report" means any written communication of an appraisal.

4. ["Board" means the state board of real estate appraisal established pursuant to the provisions of section one hundred sixty-c of this article.

5.] (a) "Certified appraisal" or "certified appraisal report" means an appraisal or appraisal report given or signed and certified as such by a certified real estate appraiser. When identifying an appraisal or appraisal report as "certified", the state certified real estate appraiser must indicate which type of certification is held. A certified appraisal or appraisal report represents to the public that it meets the appraisal standards defined in this article.

(b) "Licensed appraisal" or "licensed appraisal report" means an appraisal or appraisal report given or signed and authenticated as such by a licensed real estate appraiser. A licensing appraisal or appraisal report represents to the public that it meets the appraisal standards as prescribed by the [board] DEPARTMENT.

[6.] 5. (a) "State certified real estate appraiser" means a person who develops and communicates real estate appraisal and who holds a current, valid certificate issued to him or her for either general or residential real estate under the provisions of this article.

(b) "State licensed real estate appraiser" means a person who develops and communicates real property appraisals and who holds a current valid license issued to him or her for residential real property under the provisions of this article.

(c) "State licensed real estate appraiser assistant" means a person who assists and is supervised by a state licensed real estate appraiser

1 or state certified real estate appraiser and who holds a current valid
2 license issued to him or her under the provisions of this article.

3 [7.] 6. "Department" shall mean the department of state.

4 [8.] 7. "Real estate" means an identified parcel or tract of land,
5 including improvements, if any.

6 [9.] 8. "Real property" means one or more defined interests, benefits
7 and rights inherent in the ownership of real estate.

8 [10.] 9. "Valuation" is an estimate of the value of real estate or
9 real property.

10 S 167. Section 160-c of the executive law is REPEALED.

11 S 168. Section 160-d of the executive law, as amended by chapter 397
12 of the laws of 1991, subdivision 1 as amended by chapter 241 of the laws
13 of 1999, is amended to read as follows:

14 S 160-d. Powers of the [board] DEPARTMENT. 1. The [board] DEPARTMENT
15 shall adopt rules and regulations in aid or furtherance of this article
16 and shall have the following powers and duties:

17 a. To define, with respect to each category of state certified real
18 estate appraisers, state licensed real estate appraisers, and state
19 licensed real estate appraiser assistants, the type of educational expe-
20 rience, appraisal experience and equivalent experience that will meet
21 the statutory requirements of this article, provided, however, that in
22 no event shall the experience, education and examination requirements
23 adopted by the [board] DEPARTMENT be less than the minimum criteria
24 established by the Appraisal Subcommittee of the Federal Financial
25 Institutions Examination Council or by the Appraiser Qualification Board
26 of the Appraisal Foundation as referred to in title XI of the Financial
27 Institutions Reform, Recovery and Enforcement Act of 1989;

28 b. To establish examination specifications consistent with the stand-
29 ards of the Appraisal Qualifications Board of the Appraisal Foundation
30 for state licensed real estate appraiser assistants, state licensed real
31 estate appraisers and each category of state certified real estate
32 appraisers, to provide or procure appropriate examination questions and
33 answers and to establish procedures for grading examinations;

34 c. To define, with respect to state licensed real estate appraiser
35 assistants, state licensed real estate appraisers and each category of
36 state certified real estate appraisers, the continuing education
37 requirements for the renewal of a license or a certification that will
38 meet the statutory requirements provided in this article;

39 d. To review the standards for the development and communication of
40 real estate appraisals provided in this article and to adopt regulations
41 explaining and interpreting such standards, provided, however, that such
42 standards must, at a minimum, conform to the uniform standards of
43 professional appraisal as promulgated by the Appraisal Standards Board
44 of the Appraisal Foundation; and

45 e. To prescribe the scope of practice for state licensed real estate
46 appraiser assistants, state licensed real estate appraisers and each
47 category of state certified real estate appraisers, provided, however,
48 that in no event shall the scope of practice prescribed by the [board]
49 DEPARTMENT be less than the scope of practice established by the
50 Appraisal Subcommittee of the Federal Financial Institutions Examination
51 Council or by the Appraiser Qualification Board of the Appraisal Founda-
52 tion as referred to in title XI of the Financial Institutions Reform,
53 Recovery and Enforcement Act of 1989;

54 f. To perform such other functions and duties as may be necessary in
55 carrying out the provisions of this article.

1 2. The [board] DEPARTMENT shall promulgate rules and regulations
2 prescribing the form and content of each appraisal report. Such rules
3 and regulations shall include but are not limited to the following
4 requirements:

5 a. Each appraisal report shall clearly and accurately disclose any
6 extraordinary assumption or limited condition that directly affects an
7 appraisal.

8 b. Each written appraisal report shall comply with the following
9 specific reporting guidelines:

10 (1) Identify and describe the real estate being appraised;

11 (2) Identify the real property being appraised;

12 (3) Define the opinion that is the purpose of the appraisal and
13 describe the scope of the appraisal;

14 (4) Set forth the effective date of the opinion and the date of the
15 appraisal report;

16 (5) Set forth the appraiser's opinion of the highest and best use of
17 the real estate being appraised when such an opinion is necessary and
18 appropriate;

19 (6) Set forth the appraisal procedure followed, the data considered
20 and the reasoning that supports the analyses, opinions and conclusions;

21 (7) Set forth all assumptions and limiting conditions that affect the
22 analyses, opinions and conclusions in the appraisal report; and

23 (8) Set forth any additional information that may be appropriate to
24 show compliance with, and identify permitted departures from, the
25 requirements for the development of appraisals as provided in this arti-
26 cle or as established by the [board] DEPARTMENT.

27 3. The [board] DEPARTMENT shall establish standards of developing an
28 appraisal. Such standards shall, among other things, state the follow-
29 ing guidelines:

30 a. All state certified or licensed real estate appraisers conducting
31 certified or licensed appraisals, performing appraisal service or issu-
32 ing an appraisal shall:

33 (1) Be aware of, understand and correctly employ those recognized
34 appraisal methods and techniques that are necessary to produce a credi-
35 ble analysis, opinion or conclusion;

36 (2) Not commit a substantial error or omission of commission which
37 results from a significant departure from the recognized appraisal meth-
38 ods and techniques;

39 (3) Not commit a substantial error or omission of commission that
40 significantly affects an analysis, opinion or conclusion;

41 (4) Identify the real estate and real property under consideration,
42 define the opinion that is the purpose of the appraisal, consider the
43 scope of the appraisal service and identify the effective date of the
44 opinion;

45 (5) Identify and consider the appropriate procedures and market data
46 required to perform the appraisal service, where appropriate;

47 (6) Consider the effect on use and value of the following factors:
48 existing land use regulations, reasonably probable modifications of land
49 use regulations, economic demand, the physical adaptability of the prop-
50 erty, neighborhood trends and the highest and best use of the property;

51 (7) Consider the effect on the property being appraised of anticipated
52 public or private improvements, located on or off the site, to the
53 extent that market actions reflect the anticipated improvements as of
54 the effective appraisal date;

1 (8) Recognize that land may be appraised as though vacant and avail-
2 able for development and that the appraisal of improvements is based on
3 their actual contributions to the site;

4 (9) Appraise proposed improvements only after examining and having
5 available for future examination plans, specifications or other documen-
6 tation sufficient to identify the scope and character of the proposed
7 improvements, evidence indicating the probable time of completion of the
8 proposed improvements, and reasonably clear and appropriate evidence
9 supporting development costs, anticipated earnings, occupancy projec-
10 tions and the anticipated competition at the time of completion; and

11 (10) Base estimates of anticipated future rent and expenses for the
12 real estate and real property being appraised on reasonably clear and
13 appropriate evidence.

14 b. In addition to the foregoing, an appraiser shall define the value
15 being considered. If the value estimate is a statement or estimate of
16 market value, he or she shall clearly indicate whether the statement or
17 estimate is the most probable price in terms of cash or financial
18 arrangements equivalent to cash or other terms as may be precisely
19 defined. If an estimate of value is based on submarket financing or
20 financing with unusual conditions or incentives, the terms of such a
21 typical financing shall be clearly set forth, their contributions to, or
22 negative influence on value shall be described and estimated, and the
23 market data supporting the valuation estimate shall be described and
24 explained.

25 c. For each real property appraisal analysis, opinion or conclusion
26 that contains an estimate of value, a state certified or licensed real
27 estate appraiser shall observe all of the following specific real prop-
28 erty appraisal guidelines:

29 (1) Consider whether an appraised fractional interest, physical
30 segment or partial holding contributes pro rata to the value of the
31 whole;

32 (2) Identify any personal property or other items that are not real
33 estate but are included with or considered in connection with real
34 estate being appraised and contribute to the total value estimate or
35 conclusion;

36 (3) Consider and analyze any current agreement of sale, option or
37 listing of the real estate and real property being appraised, if the
38 information is available to the person in the normal course of business;

39 (4) Consider and analyze any prior sales of the property being
40 appraised that occurred within one year;

41 (5) When estimating the value of a leased fee estate or a leasehold
42 estate, analyze and consider the effect on value, if any, of the terms
43 and conditions of the lease; and

44 (6) Give careful consideration to the effect on value, if any, of the
45 assemblage of the various estates or component parts of an estate and
46 refrain from estimating the value of the whole solely by adding together
47 the individual values of its various estates or component parts.

48 d. In developing a review appraisal, a state certified or licensed
49 real estate appraiser shall observe all of the following specific
50 appraisal guidelines:

51 (1) Identify the appraisal report being reviewed, the real estate
52 being appraised, the real property being appraised, the effective date
53 of the opinion in the original report, the date of the original report
54 and the date of the review;

1 (2) Identify the scope of the review process to be conducted, includ-
2 ing a determination of whether or not it is appropriate or essential to
3 inspect the appraised property and the data presented;

4 (3) Form an opinion as to the adequacy and relevance of the data used
5 and the propriety of any adjustment made;

6 (4) Form an opinion as to whether or not the appraisal methods and
7 techniques used were appropriate and, if not, the reasons for the
8 person's disagreement with the original appraisal; and

9 (5) Form an opinion as to whether or not the analyses, opinions or
10 conclusions in the report being reviewed are correct or appropriate and,
11 if not, state his or her analyses, opinions or conclusions and his or
12 her reasons for disagreement with the original appraisal.

13 e. In developing an appraisal for an employer or a client, a state
14 certified or licensed real estate appraiser shall carefully consider and
15 determine whether the appraisal service to be performed is intended to
16 result in an analysis, opinion or conclusion of a disinterested third
17 party and therefore would be classified as an appraisal assignment as
18 defined in subdivision two of section one hundred sixty-x of this arti-
19 cle. If the appraisal service to be performed is not intended to result
20 in an analysis, opinion or conclusion of a disinterested third party,
21 the person shall then carefully consider whether or not he or she would
22 be perceived by third parties or the public as acting as a disinterested
23 third party.

24 f. Prior to entering into an agreement to perform a real property
25 appraisal service, a state certified or licensed real estate appraiser
26 shall carefully consider the knowledge and experience that will be
27 required to complete the appraisal service competently and either:

28 (1) Have the knowledge and experience necessary to complete the
29 appraisal service competently; or

30 (2) Immediately disclose the lack of knowledge or experience to the
31 client and take all steps necessary to complete the appraisal service
32 competently.

33 g. A state certified or licensed real estate appraiser may enter into
34 an agreement to perform a real property appraisal service that calls for
35 something less than, or different from, the work that would otherwise be
36 required by the specific appraisal guidelines, provided that prior to
37 entering into the agreement, he or she has done all of the following:

38 (1) The state certified or licensed real estate appraiser has deter-
39 mined that the appraisal service to be performed is not so limited in
40 scope that the resulting analysis, opinion or conclusion concerning real
41 estate or real property would tend to mislead or confuse the client, the
42 users of the appraisal report or the public; and

43 (2) The state certified or licensed real estate appraiser has advised
44 the client that the appraisal service calls for something less than, or
45 different from, the work required by the specific appraisal guidelines,
46 and therefore the appraisal report will include a qualification that
47 reflects the limited or differing scope of the appraisal service.

48 S 169. Section 160-e of the executive law, as amended by chapter 397
49 of the laws of 1991, is amended to read as follows:

50 S 160-e. [Powers] ADDITIONAL POWERS of the department. The department
51 shall have the following ADDITIONAL powers and duties:

52 1. To receive applications for certification and licensing;

53 2. To establish the administrative procedures for processing applica-
54 tions for certification and licensing;

55 3. To approve or disapprove applications for certification or license
56 and issue certificates or licenses;

1 4. To maintain a registry of the names and addresses of people certi-
2 fied or licensed under this article;

3 5. To retain records and all application materials submitted to it;

4 6. To approve courses and seminars for original certification or
5 licensing and continuing education to ensure that the same are consist-
6 ent with the standards established by the [board] DEPARTMENT, or equiv-
7 alent to those required by such standards;

8 7. [To assist the board in such other manner as the board may request;

9 8. To establish administrative procedures for disciplinary proceedings
10 conducted pursuant to the provisions of this article; and

11 9.] To suspend and revoke certificates or licenses pursuant to the
12 disciplinary proceedings provided for in this article.

13 S 170. Subdivision 1 of section 160-g of the executive law, as amended
14 by chapter 397 of the laws of 1991, is amended to read as follows:

15 1. Applications for original certification and recertification,
16 original license and renewal of license, and examinations shall be made
17 in writing to the department on forms approved by the [board]
18 DEPARTMENT.

19 S 171. Subdivision 1 of section 160-h of the executive law, as amended
20 by chapter 241 of the laws of 1999, is amended to read as follows:

21 1. There shall be one class of license for state licensed real estate
22 appraiser assistants, one class of license for state licensed real
23 estate appraisers and two classes of certification for state certified
24 real estate appraisers. The classes of certification shall be state
25 certified residential real estate appraiser and state certified general
26 real estate appraiser. The [board] DEPARTMENT shall prescribe the scope
27 of practice for each license and both classes of certification,
28 provided, however, that in no event shall the scope of practice
29 prescribed by the [board] DEPARTMENT be less than the minimum criteria
30 established by the Appraisal Subcommittee of the Federal Financial
31 Institutions Examination Council or by the Appraiser Qualification Board
32 of the Appraisal Foundation as referred to in title XI of the Financial
33 Institutions Reform, Recovery and Enforcement Act of 1989.

34 S 172. Section 160-j of the executive law, as amended by chapter 248
35 of the laws of 2007, is amended to read as follows:

36 S 160-j. Examination prerequisites. 1. Certified general classifica-
37 tion. As a prerequisite to taking the examination for certification as
38 a state certified general real estate appraiser, an applicant shall
39 present evidence satisfactory to the [board] DEPARTMENT that he or she
40 has fulfilled the minimum education and experience requirements for such
41 certification examination as established by the [board] DEPARTMENT,
42 which shall not be less than the minimum criteria established by the
43 Appraiser Qualification Board pursuant to Title XI of the Financial
44 Institution Reform, Recovery and Enforcement Act of 1989.

45 2. Certified residential classification. As a prerequisite to taking
46 the examination for certification as a state certified residential real
47 estate appraiser, an applicant shall present evidence satisfactory to
48 the [board] DEPARTMENT that he or she has fulfilled the minimum educa-
49 tion and experience requirements for such certification examination as
50 established by the [board] DEPARTMENT, which shall not be less than the
51 minimum criteria established by the Appraiser Qualification Board pursu-
52 ant to Title XI of the Financial Institution Reform, Recovery and
53 Enforcement Act of 1989.

54 3. Licensed classification. As a prerequisite to taking the examina-
55 tion for licensing as a state licensed real estate appraiser, an appli-
56 cant shall present evidence satisfactory to the [board] DEPARTMENT that

1 he or she has fulfilled the minimum education and experience require-
2 ments for such certification examination as established by the [board]
3 DEPARTMENT, which shall not be less than the minimum criteria estab-
4 lished by the Appraiser Qualification Board pursuant to Title XI of the
5 Financial Institution Reform, Recovery and Enforcement Act of 1989.

6 S 173. Subdivision 1 of section 160-k of the executive law, as amended
7 by chapter 397 of the laws of 1991, is amended to read as follows:

8 1. An original certification of a state certified real estate
9 appraiser, or an original license of a state licensed real estate
10 appraiser, shall not be issued to any person who does not possess the
11 equivalent of two years of appraisal experience in real property
12 appraisal as defined by the [board] DEPARTMENT supported by adequate
13 written reports. Such experience may include fee and staff appraisal, ad
14 valorem tax appraisal, review appraisal, appraisal analysis, highest and
15 best use analysis, feasibility analysis or study, and teaching of
16 appraisal courses at a university, college, or junior college when such
17 courses have a duration of not less than ten weeks.

18 S 174. Subdivision 2 of section 160-m of the executive law, as amended
19 by chapter 397 of the laws of 1991, is amended to read as follows:

20 2. When a nonresident of this state, certified or licensed under the
21 laws of his resident state, the certification and licensing process of
22 which has not been disapproved by the appraisal subcommittee of the
23 federal financial institutions examination council, does not maintain an
24 office for providing appraisal services to clients in this state, and
25 has complied with subdivision one of this section, such nonresident may,
26 upon recommendation of the [board] DEPARTMENT, pursuant to such tempo-
27 rary licensing rules or regulations as the [board] DEPARTMENT may
28 promulgate, provide certified or licensed appraisals. No temporary
29 certificate or license shall be valid for a duration greater than one
30 year after the date of issue. Any person performing, or seeking to
31 perform, federally related appraisals shall be liable for, and pay, all
32 fees, rated proportionately, which would apply to such person were he or
33 she a resident of this state.

34 S 175. Subdivision 4 of section 160-m of the executive law, as added
35 by chapter 397 of the laws of 1991, is amended to read as follows:

36 4. The [board] DEPARTMENT shall recognize on a temporary basis the
37 certification or license of an appraiser issued by another state pursu-
38 ant to section 1122 of Title XI of the Financial Institutions Reform,
39 Recovery, and Enforcement Act of 1989, Pub. Law. No. 101-73, 103 Stat.
40 183 (1989) (codified at 12 U.S.C. 331 et seq.).

41 S 176. Section 160-n of the executive law, as amended by chapter 397
42 of the laws of 1991, is amended to read as follows:

43 S 160-n. Nonresident certification and licensing by reciprocity. If,
44 in the determination of the [board] DEPARTMENT, the certification or
45 licensing process has not been disapproved by the appraisal subcommittee
46 of the federal financial institutions examination council, an applicant
47 who is certified under the laws of such other state may obtain a certif-
48 icate as a state certified real estate appraiser or a license as a state
49 licensed real estate appraiser in this state upon such terms and condi-
50 tions as may be determined by the department.

51 S 177. Subdivision 1 of section 160-r of the executive law, as amended
52 by chapter 397 of the laws of 1991, is amended to read as follows:

53 1. A certificate or license issued under authority of this article
54 shall bear the signature of the [executive secretary of the board]
55 SECRETARY OF STATE and a certificate or license number assigned by the
56 department.

1 S 178. Subdivision 4 of section 160-t of the executive law, as amended
2 by chapter 397 of the laws of 1991, is amended to read as follows:

3 4. The secretary of state or her duly appointed designee shall adopt
4 regulations [upon recommendation by the board] for implementations of
5 the provisions of this article to assure that persons renewing their
6 certifications as state certified real estate appraisers or licenses as
7 state licensed real estate appraisers have current knowledge of real
8 property appraisal theories, practices and techniques which will provide
9 a high degree of service and protection to those members of the public
10 with whom they deal in a professional relationship under authority of
11 the certification or license. The regulations shall prescribe the
12 following:

13 a. Policies and procedures for obtaining departmental approval of
14 courses of instruction pursuant to subdivision two of this section;

15 b. Standards, policies and procedures to be applied by the department
16 in evaluating applicant's claims of equivalency in accordance with
17 subdivision three of this section;

18 c. Standards, monitoring methods and systems for recording attendance
19 to be employed by course sponsors as a prerequisite to department
20 approval of courses for credit.

21 S 179. Subdivision 5 of section 160-t of the executive law, as amended
22 by chapter 397 of the laws of 1991, is amended to read as follows:

23 5. In adopting regulations pursuant to paragraph a of subdivision four
24 of this section, the [board] DEPARTMENT shall give favorable consider-
25 ation to courses of instruction, seminars and other real property
26 appraisal educational courses or programs previously or hereafter devel-
27 oped by or under the auspices of professional appraisal organizations
28 and utilized by those associations for purposes of designation or indi-
29 cating compliance with the continuing education requirements of such
30 organizations.

31 S 180. Subdivision 8 of section 160-t of the executive law, as added
32 by chapter 241 of the laws of 1999, is amended to read as follows:

33 8. The [board] DEPARTMENT shall prescribe the continuing education
34 requirements for licensed real estate appraiser assistants; provided,
35 however, that in no event shall such requirements be less than the mini-
36 mum criteria established by the Appraisal Subcommittee of the Federal
37 Financial Institutions Examination Council or by the Appraiser Quali-
38 fication Board of the Appraisal Foundation as referred to in title XI of
39 the Financial Institutions Reform, Recovery and Enforcement Act of 1989.

40 S 181. Paragraph i of subdivision 1 of section 160-u of the executive
41 law, as amended by chapter 397 of the laws of 1991, is amended to read
42 as follows:

43 i. Willfully disregarding or violating any of the provisions of this
44 article or the regulations of the [board] DEPARTMENT for the adminis-
45 tration and enforcement of the provisions of this article;

46 S 182. Subdivision 3 of section 160-z of the executive law, as amended
47 by chapter 397 of the laws of 1991, is amended to read as follows:

48 3. All records required to be maintained under the provisions of this
49 article shall be made available by the state certified or licensed real
50 estate appraiser for inspection and copying by the [board] DEPARTMENT on
51 reasonable notice to such appraiser. All such records copied by the
52 [board] DEPARTMENT shall be kept confidential, except where disclosure
53 of same is required by law or mandate of a court.

54 S 183. Section 160-aa of the executive law, as added by chapter 397 of
55 the laws of 1991, is amended to read as follows:

1 S 160-aa. Transitional licensing. Consistent with the intent and
2 purpose of this article, and without the disapproval of the appraisal
3 subcommittee of the federal financial institutions examination council,
4 the [board] DEPARTMENT may prescribe requirements for transitional
5 licenses which shall expire no later than January first, nineteen
6 hundred ninety-three.

7 S 184. Subdivision 6 of section 870-e of the labor law, as added by
8 chapter 368 of the laws of 2006, is amended as follows:

9 6. The commissioner shall[, in consultation with the carnival, fair
10 and amusement park safety advisory board as established under section
11 eight hundred seventy-n of this article, as added by a chapter of the
12 laws of two thousand six,] establish rules and regulations providing
13 standards for the design, manufacture, testing, inspection, quality
14 assurance and terminology of amusement devices. The rules and regu-
15 lations established pursuant to this subdivision shall be consistent
16 with the national standards for amusement devices, as established by the
17 American Society of Testing and Materials.

18 S 185. Section 870-n of the labor law is REPEALED.

19 S 186. Section 870-o of the labor law, as added by chapter 367 of the
20 laws of 2006, is amended as follows:

21 S 870-o. Amusement device and attraction awareness. The department
22 shall develop, establish and implement[, in cooperation with the carni-
23 val, fair and amusement park safety advisory board established in
24 section eight hundred seventy-n of this article,] a program to educate
25 and provide awareness to the public on the risks of amusement devices
26 and attractions to both adults and children, and how adults can take
27 steps to assure their own safety and the safety of children in their
28 care. The program established pursuant to this section shall provide and
29 disseminate guidelines for safety while riding or using amusement
30 devices or attractions by adults, adolescents and children. Such program
31 shall utilize written information provided to the public and the posting
32 of conspicuous signs at carnivals, fairs and amusement parks, as
33 required by law or regulation.

34 S 187. Section 2004-a of the public health law is REPEALED.

35 S 188. Section 216 of the elder law is REPEALED.

36 S 189. Article III of the elder law is REPEALED.

37 S 190. Intentionally omitted.

38 S 191. Intentionally omitted.

39 S 192. Intentionally omitted.

40 S 193. Intentionally omitted.

41 S 194. Section 120 of the economic development law is REPEALED.

42 S 195. Article 28 of the executive law is REPEALED.

43 S 196. Section 26 of chapter 115 of the laws of 2008 creating a task
44 force on the future of off-track betting in New York state is REPEALED.

45 S 197. Section 216-b of the vehicle and traffic law is REPEALED.

46 S 198. Section 209 of the elder law, subdivision 5-a as added and the
47 opening paragraph of subdivision 8 as amended by section 2 of part E of
48 chapter 58 of the laws of 2005, subdivision 6 as added and subdivisions
49 7 and 8 as renumbered by chapter 82 of the laws of 2008, is amended to
50 read as follows:

51 S 209. Naturally occurring retirement community supportive service
52 program. 1. As used in this section:

53 (a) "Advisory committee" or "committee" shall mean the advisory
54 committee convened [by] TO ASSIST the director [pursuant to subdivision
55 three of] FOR THE PURPOSES SPECIFIED IN this section. Such committee

1 shall be broadly representative of housing and senior citizen groups,
2 and all geographic areas of the state.

3 (b) ["Elderly" or "elderly persons"] "OLDER ADULTS" shall mean persons
4 who are sixty years of age or older and who are heads of households.

5 (c) "Eligible applicant" shall mean a not-for-profit agency specializ-
6 ing in housing, health or other human services which serves or would
7 serve the community within which a naturally occurring retirement commu-
8 nity is located.

9 (d) "Eligible services" shall mean services including, but not limited
10 to: case management, care coordination, counseling, health assessment
11 and monitoring, transportation, socialization activities, home care
12 facilitation and monitoring, and other services designed to address the
13 needs of residents of naturally occurring retirement communities by
14 helping them extend their independence, improve their quality of life,
15 and avoid unnecessary hospital and nursing home stays.

16 (e) "Government assistance" shall mean and be broadly interpreted to
17 mean any monetary assistance provided by the federal, the state or a
18 local government, or any agency thereof, or any authority or public
19 benefit corporation, in any form, including loans or loan subsidies, for
20 the construction of an apartment building or housing complex for low and
21 moderate income persons, as such term is defined by the United States
22 Department of Housing and Urban Development.

23 (f) "Naturally occurring retirement community" shall mean an apartment
24 building or housing complex which:

25 (1) was constructed with government assistance;

26 (2) was not originally built for [elderly persons] OLDER ADULTS;

27 (3) does not restrict admissions solely to [the elderly] OLDER ADULTS;

28 (4) AT LEAST fifty percent of the units have an occupant who is
29 [elderly] AN OLDER ADULT or in which AT LEAST twenty-five hundred of the
30 residents are [elderly] OLDER ADULTS; and

31 (5) a majority of the [elderly] OLDER ADULTS to be served are low or
32 moderate income, as defined by the United States Department of Housing
33 and Urban Development.

34 2. A naturally occurring retirement community supportive service
35 program is established as a demonstration program to be administered by
36 the director.

37 3. The director shall [convene] BE ASSISTED BY an advisory committee
38 [to aid in developing] IN THE DEVELOPMENT OF appropriate criteria for
39 the selection of grantees of funds provided pursuant to this section AND
40 PROGRAMMATIC ISSUES AS DEEMED APPROPRIATE BY THE DIRECTOR. [The func-
41 tions otherwise required to be performed by the advisory committee shall
42 be performed by the director until such committee is convened; provided,
43 however, that the director shall under no circumstances perform such
44 functions after the expiration of six months after the effective date of
45 this section.]

46 4. The criteria recommended by the committee and adopted by the direc-
47 tor for the award of grants shall be consistent with the provisions of
48 this section and shall include, at a minimum:

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

55 (b) the appropriate number and concentration of [elderly] OLDER ADULT
56 residents to be served by an individual project; provided, that such

1 criteria need not specify, in the case of a project which includes
2 several buildings, the number of [elderly] OLDER ADULTS to be served in
3 any individual building;

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

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

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

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

22 (g) the nature and extent of requirements proposed to be established
23 for active, meaningful participation for residents proposed to be served
24 in project design, implementation, monitoring, evaluation and gover-
25 nance;

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

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

36 (j) a requirement that each eligible agency document the need for the
37 project and financial commitments to it from such sources as the commit-
38 tee and the director shall deem appropriate given the character and
39 nature of the proposed project, and written evidence of support from the
40 appropriate housing development governing body or other owners or manag-
41 ers of the apartment buildings and housing complexes. The purpose of
42 such documentation shall be to demonstrate the need for the project,
43 support for it in the areas to be served, and the financial and manage-
44 rial ability to sustain the project;

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

51 (l) the circumstances under which the director may waive all or part
52 of the requirement for provision of an equal amount of funding from
53 other sources required pursuant to paragraph (k) of this subdivision,
54 provided that such criteria shall include provision for waiver at the
55 discretion of the director upon a finding by the director that the
56 program will serve a low income or hardship community, and that such

1 waiver is required to assure that such community receive a fair share of
2 the funding available. The committee shall develop appropriate criteria
3 for determining whether a community is a low income or hardship communi-
4 ty.

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

11 5-a. The director may, in addition recognize neighborhood naturally
12 occurring retirement communities, or Neighborhood NORCs, and provide
13 program support within amounts specifically available by appropriation
14 therefor, which shall be subject to the requirements, rules and regu-
15 lations of this section, provided however that:

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

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

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

39 (1) the number, size, type and location of residential dwellings or
40 group of residential dwellings selected as candidates for neighborhood
41 NORCs funding. The director shall make reasonable efforts to assure that
42 geographic balance in the distribution of such grants is maintained,
43 consistent with the needs to be addressed, funding available, applica-
44 tions from eligible applicants, ability to coordinate services and other
45 requirements of this section;

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

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

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

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

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

11 (7) a requirement that the applicant demonstrate experience and finan-
12 cial stability;

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

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

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

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

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

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

37 (14) the circumstances under which the director may waive all or part
38 of the requirement for provision of an equal amount of funding from
39 other sources required pursuant to this subdivision, provided that such
40 criteria shall include provision for waiver at the discretion of the
41 director upon a finding by the director that the Neighborhood NORC will
42 serve a low income or hardship community, and that such waiver is
43 required to assure that such community receive a fair share of the fund-
44 ing available. For purposes of this paragraph, a hardship community may
45 be one that has developed a successful model but which needs additional
46 time to raise matching funds required herein. An applicant applying for
47 a hardship exception shall submit a written plan in a form and manner
48 determined by the director detailing its plans to meet the matching
49 funds requirement in the succeeding year;

50 (15) a requirement that any proposed Neighborhood NORC in a geograph-
51 ically defined neighborhood of a municipality containing more than two
52 thousand [seniors] OLDER ADULTS shall require the review and recommenda-
53 tion by the advisory committee before being approved by the director;

54 (d) on or before March first, two thousand eight, the director shall
55 report to the governor and the fiscal and aging committees of the senate
56 and the assembly concerning the effectiveness of Neighborhood NORCs in

1 achieving the objectives set forth by this subdivision. Such report
2 shall address each of the items required for Neighborhood NORCs in
3 achieving the objectives set forth in this section and such other items
4 of information as the director shall deem appropriate, including recom-
5 mendations concerning continuation or modification of the program, and
6 any recommendations from the advisory committee.

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

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

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

28 8. On or before March first, two thousand five, the director shall
29 report to the governor and the finance committee of the senate and the
30 ways and means committee of the assembly concerning the effectiveness of
31 the naturally occurring retirement community supportive services
32 program, other than Neighborhood NORCs, as defined in subdivision five-a
33 of this section, in achieving the objectives set forth by this section,
34 which include helping to address the needs of residents in such
35 naturally occurring retirement communities, assuring access to a contin-
36 uum of necessary services, increasing private, philanthropic and other
37 public funding for programs, and preventing unnecessary hospital and
38 nursing home stays. The report shall also include recommendations
39 concerning continuation or modification of the program from the director
40 and the committee, and shall note any divergence between the recommenda-
41 tions of the director and the committee. The director shall provide the
42 required information and any other information deemed appropriate to the
43 report in such form and detail as will be helpful to the legislature and
44 the governor in determining to extend, eliminate or modify the program
45 including, but not limited to, the following:

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

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

51 (c) the age, sex, religion and other appropriate demographic informa-
52 tion concerning the residents served;

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

55 (e) a listing of the services provided by eligible applicants, includ-
56 ing the number, kind and intensity of such services; and

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

5 S 198-a. Subdivision 1 of section 210 of the elder law is amended to
6 read as follows:

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

18 S 199. Section 2 of the public health law is amended by adding a new
19 subdivision 3 to read as follows:

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

24 S 200. Subdivision 3 of section 201 of the public health law is
25 amended to read as follows:

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

30 S 201. Section 206 of the public health law is amended by adding a new
31 subdivision 27 to read as follows:

32 27. NOTWITHSTANDING ANY PROVISION OF LAW TO THE CONTRARY, THE COMMIS-
33 SIONER IS AUTHORIZED TO EXERCISE THE AUTHORITY OF THE STATE HOSPITAL
34 REVIEW AND PLANNING COUNCIL TO ADOPT, AMEND, OR REPEAL RULES AND REGU-
35 LATIONS AS SET FORTH IN THIS CHAPTER.

36 S 202. Section 220 of the public health law, as amended by chapter 301
37 of the laws of 1989, is amended to read as follows:

38 S 220. Public health AND HEALTH PLANNING council; appointment of
39 members. There shall continue to be in the department a public health
40 AND HEALTH PLANNING council to consist of the commissioner and fourteen
41 members to be appointed by the governor with the advice and consent of
42 the senate; PROVIDED THAT EFFECTIVE DECEMBER FIRST, TWO THOUSAND TEN,
43 THE MEMBERSHIP OF THE COUNCIL SHALL CONSIST OF THE COMMISSIONER AND
44 TWENTY-TWO MEMBERS TO BE APPOINTED BY THE GOVERNOR. Membership on the
45 council shall be reflective of the diversity of the state's population
46 including, but not limited to, the various geographic areas and popu-
47 lation densities throughout the state. THE MEMBERS SHALL INCLUDE REPRE-
48 SENTATIVES OF THE PUBLIC HEALTH SYSTEM, HEALTH CARE PROVIDERS THAT
49 COMPRISE THE STATE'S HEALTH CARE DELIVERY SYSTEM, INDIVIDUALS WITH
50 EXPERTISE IN THE CLINICAL AND ADMINISTRATIVE ASPECTS OF HEALTH CARE
51 DELIVERY, ISSUES AFFECTING HEALTH CARE CONSUMERS, HEALTH PLANNING,
52 HEALTH CARE FINANCING AND REIMBURSEMENT, HEALTH CARE REGULATION AND
53 COMPLIANCE, AND PUBLIC HEALTH PRACTICE, AND AT LEAST ONE MEMBER WHO IS
54 ALSO A MEMBER OF THE MENTAL HEALTH SERVICES COUNCIL.

55 S 203. Section 221 of the public health law, as amended by chapter 301
56 of the laws of 1989, is amended to read as follows:

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

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

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

17 4. NOTWITHSTANDING SUBDIVISION ONE OF THIS SECTION, OF THE EIGHT
18 MEMBERS APPOINTED OR REAPPOINTED TO THE COUNCIL ON OR AFTER DECEMBER
19 FIRST, TWO THOUSAND TEN, TWO SHALL SERVE A TERM OF THREE YEARS, TWO
20 SHALL SERVE A TERM OF FOUR YEARS, TWO SHALL SERVE A TERM OF FIVE YEARS,
21 AND TWO SHALL SERVE A TERM OF SIX YEARS. THEREAFTER, MEMBERS APPOINTED
22 OR REAPPOINTED UPON EXPIRATION OF A TERM OF OFFICE SHALL BE APPOINTED
23 FOR A TERM OF SIX YEARS AND SHALL CONTINUE IN OFFICE UNTIL THEIR SUCCE-
24 SORS ARE APPOINTED.

25 S 204. Section 222 of the public health law is amended to read as
26 follows:

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

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

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

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

39 S 205. Section 223 of the public health law, as amended by chapter 55
40 of the laws of 1992, is amended to read as follows:

41 S 223. Public health AND HEALTH PLANNING council; compensation and
42 expenses. The members of the public health AND HEALTH PLANNING council
43 other than the commissioner of health shall [each] receive [two hundred
44 twenty-five dollars for each day devoted to council work not to exceed
45 two thousand seven hundred dollars in any one year plus necessary
46 expenses] NO COMPENSATION FOR THEIR SERVICES, BUT SHALL BE REIMBURSED
47 FOR EXPENSES ACTUALLY AND NECESSARILY INCURRED IN THE PERFORMANCE OF
48 THEIR DUTIES.

49 S 206. Intentionally omitted.

50 S 207. Section 224 of the public health law is amended to read as
51 follows:

52 S 224. Public health AND HEALTH PLANNING council; secretary, employ-
53 ees. The commissioner upon request of the public health AND HEALTH
54 PLANNING council, shall designate an officer or employee of the depart-
55 ment to act as secretary of the public health AND HEALTH PLANNING coun-

1 cil, and shall assign from time to time such other employees as the
2 public health AND HEALTH PLANNING council may require.

3 S 208. Intentionally omitted.

4 S 209. The public health law is amended by adding a new section 224-b
5 to read as follows:

6 S 224-B. PUBLIC HEALTH AND HEALTH PLANNING COUNCIL; POWERS AND DUTIES;
7 HEALTH CARE FACILITIES, HOME CARE AGENCIES AND HOSPICES. THE PUBLIC
8 HEALTH AND HEALTH PLANNING COUNCIL SHALL HAVE SUCH POWERS AND DUTIES AS
9 ARE SET FORTH IN THIS CHAPTER, INCLUDING THE CONSIDERATION OF APPLICA-
10 TIONS FOR THE ESTABLISHMENT AND CONSTRUCTION OF HEALTH CARE FACILITIES,
11 HOME CARE AGENCIES AND HOSPICES LICENSED UNDER ARTICLES TWENTY-EIGHT,
12 THIRTY-SIX OR FORTY OF THIS CHAPTER. IN CARRYING OUT ITS POWERS AND
13 DUTIES, THE COUNCIL SHALL TAKE INTO ACCOUNT THE IMPACT OF ITS ACTIONS
14 AND RECOMMENDATIONS ON THE QUALITY, ACCESSIBILITY, EFFICIENCY AND COST-
15 EFFECTIVENESS OF HEALTH CARE THROUGHOUT THE STATE.

16 S 210. The section heading and subdivisions 1, 2, 3, 4 and paragraphs
17 (a) and (m) of subdivision 5 of section 225 of the public health law,
18 subdivision 2 as added and subdivisions 3, 4 and paragraph (a) of subdi-
19 vision 5 as renumbered by chapter 626 of the laws of 1971, subdivision 3
20 as amended by chapter 617 of the laws of 1970 and paragraph (m) of
21 subdivision 5 as amended by chapter 894 of the laws of 1958, are amended
22 to read as follows:

23 Public health AND HEALTH PLANNING council; powers and duties; sanitary
24 code. 1. The public health AND HEALTH PLANNING council shall, at the
25 request of the commissioner, consider any matter relating to the preser-
26 vation and improvement of public health, and may advise the commissioner
27 thereon; and it may, from time to time, submit to the commissioner, any
28 recommendations relating to the preservation and improvement of public
29 health.

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

36 3. The public health AND HEALTH PLANNING council shall have no execu-
37 tive, administrative or appointive duties except as otherwise provided
38 by law.

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

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

48 (m) require that application be made for a permit to operate a farm or
49 food processing labor camp as defined in the sanitary code; authorize
50 appropriate officers or agencies to issue such a permit when the appli-
51 cant is in compliance with the established regulations; prescribe stand-
52 ards for living quarters at farm and food processing labor camps,
53 including provisions for sanitary conditions; light, air, and safety;
54 protection from fire hazards; maintenance; and such other matters as may
55 be appropriate for security of life or health, provided however, that
56 the provisions of the sanitary code established pursuant to the

1 provisions hereof shall apply to all farm and food processing labor
2 camps intended to house migrant workers and which are occupied by five
3 or more persons. In the preparation of such regulations, the public
4 health AND HEALTH PLANNING COUNCIL may request and shall receive techni-
5 cal assistance from the board of standards and appeals of the state
6 department of labor and the state building code commission. Such regu-
7 lation shall be enforced in the same manner as are other provisions of
8 the sanitary code;

9 S 211. Section 226 of the public health law is amended to read as
10 follows:

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

17 2. A copy of every regulation adopted by the public health AND HEALTH
18 PLANNING council shall be sent by the commissioner to each health offi-
19 cer within the state, and shall be published in such manner as the
20 public health AND HEALTH PLANNING council may from time to time deter-
21 mine.

22 S 212. Subdivisions 1 and 2 of section 228 of the public health law,
23 as amended by chapter 626 of the laws of 1971, are amended to read as
24 follows:

25 1. The provisions of the sanitary code, unless otherwise stated by the
26 public health AND HEALTH PLANNING council, shall apply to and be effec-
27 tive in all portions of the state and shall supersede all local ordi-
28 nances heretofore or hereafter enacted inconsistent therewith.

29 2. Each county, city, town or village, in the manner hereinafter
30 prescribed, may enact sanitary regulations not inconsistent with the
31 sanitary code established by the public health AND HEALTH PLANNING coun-
32 cil.

33 S 213. Section 238 of the public health law is amended by adding a new
34 subdivision 17 to read as follows:

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

37 S 214. Subdivision 3 of section 243 of the public health law, as added
38 by chapter 757 of the laws of 1992, and such section as renumbered by
39 chapter 443 of the laws of 1993, is amended to read as follows:

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

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

44 S 215. Section 2801 of the public health law is amended by adding a
45 new subdivision 11 to read as follows:

46 11. "PUBLIC HEALTH COUNCIL" SHALL MEAN THE PUBLIC HEALTH AND HEALTH
47 PLANNING COUNCIL.

48 S 216. Section 2801-a of the public health law, as amended by chapter
49 667 of the laws of 1997, subdivision 2-a as added by chapter 588 of the
50 laws of 1998, paragraph (c) of subdivision 4 as amended by chapter 538
51 of the laws of 1998, subdivision 15 as added by chapter 315 of the laws
52 of 2007, and subdivision 16 as added by section 86 of part C of chapter
53 58 of the laws of 2009, is amended to read as follows:

54 S 2801-a. Establishment or incorporation of hospitals. 1. No hospi-
55 tal, as defined in this article, shall be established except with the
56 written approval of the public health AND HEALTH PLANNING council. No

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

14 2. With respect to the incorporation or establishment of any hospital,
15 as defined in this article, the public health AND HEALTH PLANNING coun-
16 cil shall give written approval after all of the following requirements
17 have been met. An application for approval of the proposed certificate
18 of incorporation, articles of organization or establishment shall be
19 filed with the public health AND HEALTH PLANNING council together with
20 such other forms and information as shall be prescribed by, or accepta-
21 ble to, the public health AND HEALTH PLANNING council. Thereafter, the
22 public health AND HEALTH PLANNING council shall forward a copy of the
23 proposed certificate or application for establishment, and accompanying
24 documents, to [the state hospital review and planning council and] the
25 health systems agency, IF ANY, having geographical jurisdiction of the
26 area where the proposed institution is to be located. The public health
27 AND HEALTH PLANNING council shall act upon such application after [the
28 state council and] the health systems agency [have] HAS had a reasonable
29 time to submit their recommendations. At the time members of the public
30 health AND HEALTH PLANNING council are notified that an application is
31 scheduled for consideration, the applicant and the health systems agency
32 shall be so notified in writing. The public health AND HEALTH PLANNING
33 council shall afford the applicant an opportunity to present information
34 in person concerning the application to a committee designated by the
35 council. The public health AND HEALTH PLANNING council shall not take
36 any action contrary to the advice of [either the state council or] the
37 health systems agency until it affords to [either] THE HEALTH SYSTEM'S
38 AGENCY an opportunity to request a public hearing and, if so requested,
39 a public hearing shall be held. If the public health AND HEALTH PLANNING
40 council proposes to disapprove the application it shall afford the
41 applicant an opportunity to request a public hearing. The public health
42 AND HEALTH PLANNING council may hold a public hearing on the application
43 on its own motion. Any public hearing held pursuant to this subdivision
44 may be conducted by the public health AND HEALTH PLANNING council, or by
45 any individual designated by the public health AND HEALTH PLANNING coun-
46 cil. Beginning on January first, nineteen hundred ninety-four, and each
47 year thereafter, a complete application received between January first
48 and June thirtieth of each year shall be reviewed by the appropriate
49 health systems agency and the department and presented to the [state
50 hospital review and] PUBLIC HEALTH AND HEALTH planning council for its
51 consideration prior to June thirtieth of the following year and a
52 complete application received between July first and December thirty-
53 first of each year shall be reviewed by the appropriate health systems
54 agency and the department presented to the state hospital review and
55 planning council for consideration prior to December thirty-first of the
56 following year.

1 2-a. (a) Notwithstanding any provision of law to the contrary, the
2 commissioner is authorized to approve a certificate of incorporation or
3 articles of organization for establishment of a hospital, provided that:
4 (i) the certificate of incorporation or articles of organization
5 reflects solely a change in the form of the business organization of an
6 existing entity which had been approved by the public health AND HEALTH
7 PLANNING council OR ITS PREDECESSOR; and (ii) every incorporator, stock-
8 holder, member, director and sponsor of the new entity shall have been
9 an owner, partner, incorporator, stockholder, member, director or spon-
10 sor of the existing entity; and (iii) the distribution of ownership,
11 interests and voting rights in the new entity shall be the same as in
12 the existing entity; and (iv) there shall be no change in the operator
13 of a hospital other than the form of its business organization, as a
14 result of the approval of such certificate of incorporation or articles
15 of organization. Any approval by the public health AND HEALTH PLANNING
16 council of a person as an owner, incorporator, stockholder, member,
17 director or sponsor in the existing entity shall be deemed to be
18 approval for the same degree of participation in the new entity. If the
19 proposal is acceptable to the commissioner an amended operating certif-
20 icate shall be issued. In the event the commissioner determines that the
21 proposed transfer is not approvable the application shall be referred to
22 the public health AND HEALTH PLANNING council for its review and action.
23 If the public health AND HEALTH PLANNING council proposes to disapprove
24 the application, it shall afford the applicant an opportunity to request
25 a public hearing and, if so requested, a public hearing shall be held.
26 Any public hearing held pursuant to this subdivision may be conducted by
27 the public health AND HEALTH PLANNING council, or by any individual
28 designated by the public health AND HEALTH PLANNING council.

29 3. The public health AND HEALTH PLANNING council shall not approve a
30 certificate of incorporation, articles of organization or application
31 for establishment unless it is satisfied, insofar as applicable, as to
32 (a) the public need for the existence of the institution at the time and
33 place and under the circumstances proposed, provided, however, that in
34 the case of an institution proposed to be established or operated by an
35 organization defined in subdivision one of section one hundred seventy-
36 two-a of the executive law, the needs of the members of the religious
37 denomination concerned, for care or treatment in accordance with their
38 religious or ethical convictions, shall be deemed to be public need; (b)
39 the character, competence, and standing in the community, of the
40 proposed incorporators, directors, sponsors, stockholders, members or
41 operators; with respect to any proposed incorporator, director, sponsor,
42 stockholder, member or operator who is already or within the past ten
43 years has been an incorporator, director, sponsor, member, principal
44 stockholder, principal member, or operator of any hospital, private
45 proprietary home for adults, residence for adults, or non-profit home
46 for the aged or blind which has been issued an operating certificate by
47 the state department of social services, or a halfway house, hostel or
48 other residential facility or institution for the care, custody or
49 treatment of the mentally disabled which is subject to approval by the
50 department of mental hygiene, no approval shall be granted unless the
51 public health AND HEALTH PLANNING council, having afforded an adequate
52 opportunity to members of health systems agencies having geographical
53 jurisdiction of the area where the institution is to be located to be
54 heard, shall affirmatively find by substantial evidence as to each such
55 incorporator, director, sponsor, principal stockholder or operator that
56 a substantially consistent high level of care is being or was being

1 rendered in each such hospital, home, residence, halfway house, hostel,
2 or other residential facility or institution with which such person is
3 or was affiliated; for the purposes of this paragraph, the public health
4 AND HEALTH PLANNING council shall adopt rules and regulations, subject
5 to the approval of the commissioner, to establish the criteria to be
6 used to determine whether a substantially consistent high level of care
7 has been rendered, provided, however, that there shall not be a finding
8 that a substantially consistent high level of care has been rendered
9 where there have been violations of the state hospital code, or other
10 applicable rules and regulations, that (i) threatened to directly affect
11 the health, safety or welfare of any patient or resident, and (ii) were
12 recurrent or were not promptly corrected; (c) the financial resources of
13 the proposed institution and its sources of future revenues; and (d)
14 such other matters as it shall deem pertinent.

15 3-a. Notwithstanding any other provisions of this chapter, the public
16 health council is hereby empowered to approve the establishment, for
17 demonstration purposes, of not more than one existing hospital within
18 the geographical jurisdiction of each health systems agency established
19 under the provisions of subdivision (c) of section twenty-nine hundred
20 four of this chapter. The purposes of such hospitals shall be to offer
21 and provide nursing home services, board and lodging to persons requir-
22 ing such services within one hospital. The public health council may
23 approve the establishment of such hospitals without regard to the
24 requirement of public need as set forth in subdivision three of this
25 section.

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

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

46 (ii) With respect to a transfer, assignment or disposition involving
47 less than ten percent of an interest or voting rights in such partner-
48 ship or limited liability company to a new partner or member, no prior
49 approval of the public health AND HEALTH PLANNING council shall be
50 required. However, no such transaction shall be effective unless at
51 least ninety days prior to the intended effective date thereof, the
52 partnership or limited liability company fully completes and files with
53 the public health AND HEALTH PLANNING council notice on a form, to be
54 developed by the public health AND HEALTH PLANNING council, which shall
55 disclose such information as may reasonably be necessary for the public
56 health AND HEALTH PLANNING council to determine whether it should bar

1 the transaction for any of the reasons set forth in item (A), (B), (C)
2 or (D) below. Within ninety days from the date of receipt of such
3 notice, the public health AND HEALTH PLANNING council may bar any trans-
4 action under this subparagraph: (A) if the equity position of the part-
5 nership or limited liability company, determined in accordance with
6 generally accepted accounting principles, would be reduced as a result
7 of the transfer, assignment or disposition; (B) if the transaction would
8 result in the ownership of a partnership or membership interest by any
9 persons who have been convicted of a felony described in subdivision
10 five of section twenty-eight hundred six of this article; (C) if there
11 are reasonable grounds to believe that the proposed transaction does not
12 satisfy the character and competence criteria set forth in subdivision
13 three of this section; or (D) if the transaction, together with all
14 transactions under this subparagraph for the partnership, or successor,
15 during any five year period would, in the aggregate, involve twenty-five
16 percent or more of the interest in the partnership. The public health
17 AND HEALTH PLANNING council shall state specific reasons for barring any
18 transaction under this subparagraph and shall so notify each party to
19 the proposed transaction.

20 (iii) With respect to a transfer, assignment or disposition of an
21 interest or voting rights in such partnership or limited liability
22 company to any remaining partner or member, which transaction involves
23 the withdrawal of the transferor from the partnership or limited liabil-
24 ity company, no prior approval of the public health AND HEALTH PLANNING
25 council shall be required. However, no such transaction shall be effec-
26 tive unless at least ninety days prior to the intended effective date
27 thereof, the partnership or limited liability company fully completes
28 and files with the public health AND HEALTH PLANNING council notice on a
29 form, to be developed by the public health AND HEALTH PLANNING council,
30 which shall disclose such information as may reasonably be necessary for
31 the public health AND HEALTH PLANNING council to determine whether it
32 should bar the transaction for the reason set forth below. Within nine-
33 ty days from the date of receipt of such notice, the public health AND
34 HEALTH PLANNING council may bar any transaction under this subparagraph
35 if the equity position of the partnership or limited liability company,
36 determined in accordance with generally accepted accounting principles,
37 would be reduced as a result of the transfer, assignment or disposition.
38 The public health AND HEALTH PLANNING council shall state specific
39 reasons for barring any transaction under this subparagraph and shall so
40 notify each party to the proposed transaction.

41 (c) Any transfer, assignment or other disposition of ten percent or
42 more of the stock or voting rights thereunder of a corporation which is
43 the operator of a hospital or which is a member of a limited liability
44 company which is the operator of a hospital to a new stockholder, or any
45 transfer, assignment or other disposition of the stock or voting rights
46 thereunder of such a corporation which results in the ownership or
47 control of more than ten percent of the stock or voting rights there-
48 under of such corporation by any person not previously approved by the
49 public health AND HEALTH PLANNING council, OR ITS PREDECESSOR, for that
50 corporation shall be subject to approval by the public health AND HEALTH
51 PLANNING council, in accordance with the provisions of subdivisions two
52 and three of this section and rules and regulations pursuant thereto;
53 except that: any such transaction shall be subject to the approval by
54 the public health AND HEALTH PLANNING council in accordance with para-
55 graph (b) of subdivision three of this section only with respect to a
56 new stockholder or a new principal stockholder; and shall not be subject

1 to paragraph (a) of subdivision three of this section. In the absence of
2 such approval, the operating certificate of such hospital shall be
3 subject to revocation or suspension. No prior approval of the public
4 health AND HEALTH PLANNING council shall be required with respect to a
5 transfer, assignment or disposition of ten percent or more of the stock
6 or voting rights thereunder of a corporation which is the operator of a
7 hospital or which is a member of a limited liability company which is
8 the owner of a hospital to any person previously approved by the public
9 health AND HEALTH PLANNING council, OR ITS PREDECESSOR, for that corpo-
10 ration. However, no such transaction shall be effective unless at least
11 ninety days prior to the intended effective date thereof, the stockhold-
12 er completes and files with the public health AND HEALTH PLANNING coun-
13 cil notice on forms to be developed by the public health AND HEALTH
14 PLANNING council, which shall disclose such information as may reason-
15 ably be necessary for the public health AND HEALTH PLANNING council to
16 determine whether it should bar the transaction. Such transaction will
17 be final as of the intended effective date unless, prior thereto, the
18 public health AND HEALTH PLANNING council shall state specific reasons
19 for barring such transactions under this paragraph and shall notify each
20 party to the proposed transaction. Nothing in this paragraph shall be
21 construed as permitting a person not previously approved by the public
22 health AND HEALTH PLANNING council for that corporation to become the
23 owner of ten percent or more of the stock of a corporation which is the
24 operator of a hospital or which is a member of a limited liability
25 company which is the owner of a hospital without first obtaining the
26 approval of the public health AND HEALTH PLANNING council.

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

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

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

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

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

4 (ii) the ability of the trustee under the terms of the trust instru-
5 ment to operate or participate in the operation of the hospital in a
6 manner consistent with this chapter and regulations promulgated pursuant
7 thereto.

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

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

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

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

36 6. No corporation having power to solicit contributions for charitable
37 purposes shall be deemed to have authority to solicit contributions for
38 any purpose for which the approval of the public health AND HEALTH PLAN-
39 NING council is required, unless the certificate of incorporation
40 specifically makes provision therefor, and the written approval of the
41 public health AND HEALTH PLANNING council is endorsed on or annexed to
42 such certificate.

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

47 (a) any such corporation, or

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

51 8. No corporation heretofore formed, having among its powers the power
52 to solicit contributions for charitable purposes, may solicit or contin-
53 ue to solicit contributions for a purpose for which the approval of the
54 public health AND HEALTH PLANNING council is required without the writ-
55 ten approval of the public health AND HEALTH PLANNING council, except:

56 (A) a corporation which, prior to June first, nineteen hundred seventy,

1 had received the approval of the state board of social welfare of a
2 certificate of incorporation containing such power; OR (B) A CORPO-
3 RATION, WHICH PRIOR TO DECEMBER FIRST, TWO THOUSAND TEN, HAD RECEIVED
4 THE APPROVAL OF THE PUBLIC HEALTH AND HEALTH PLANNING COUNCIL OF A
5 CERTIFICATE OF INCORPORATION CONTAINING SUCH POWER. If such approval is
6 not obtained and the corporation continues to solicit or to receive
7 contributions for such purpose or advertises that it has obtained such
8 approval, the public health AND HEALTH PLANNING council may institute
9 and maintain an action in the supreme court through the attorney general
10 to procure a judgment dissolving and vacating or annulling the certif-
11 icate of incorporation of any such corporation.

12 9. Only a natural person, a partnership or limited liability company
13 may hereafter undertake to engage in the business of operating or
14 conducting a hospital, as defined in this article, for profit, except
15 that: (a) a person, partnership or corporation which owned and was oper-
16 ating a hospital on April fourth, nineteen hundred fifty-six, may
17 continue to own and operate such hospital; (b) a business corporation
18 may, with the approval of the public health council, and in accordance
19 with the provisions of subdivisions two and three of this section,
20 undertake to engage in the business of operating or conducting a hospi-
21 tal, as defined in this article for profit, provided that such corpo-
22 ration shall not discriminate because of race, color, creed, national
23 origin or sponsor in admission or retention of patients; (c) a business
24 corporation owning and operating a nursing home on May twenty-second,
25 nineteen hundred sixty-nine, in accordance with applicable provisions of
26 law, may continue to own and operate such nursing home; (d) a person
27 who, or a partnership which, is operating a private proprietary nursing
28 home in accordance with applicable provisions of law may, with the
29 approval of the public health AND HEALTH PLANNING council, and in
30 accordance with the provisions of subdivision three of this section and
31 any rules and regulations thereunder form a business corporation to
32 engage in the business of operating or conducting such nursing home,
33 provided, however, that such corporation shall not discriminate because
34 of race, color, creed, national origin or sponsor in admission or
35 retention of patients; (e) a business corporation operating a nursing
36 home, which corporation was formed with the approval of the state board
37 of social welfare, may continue to own and operate such nursing home.

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

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

1 11. Any person filing a proposed certificate of incorporation, arti-
2 cles of organization or an application for establishment of a residen-
3 tial health care facility for approval of the public health AND HEALTH
4 PLANNING council shall file with the commissioner such information on
5 the ownership of the property interests in such facility as shall be
6 prescribed by regulation, including the following:

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

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

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

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

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

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

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

30 (d) If any corporation named in response to paragraph (a) of this
31 subdivision is a corporation whose shares are traded on a national secu-
32 rities exchange or are regularly quoted in an over-the-counter market or
33 which is a commercial bank, savings bank or savings and loan associ-
34 ation, then the name and address of the principal executive officers and
35 each director and, if known, each principal stockholder of such corpo-
36 ration.

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

38 (a) "Controlling person" of any corporation, partnership, limited
39 liability company or other entity means any person who by reason of a
40 direct or indirect ownership interest (whether of record or beneficial)
41 has the ability, acting either alone or in concert with others with
42 ownership or membership interests, to direct or cause the direction of
43 the management or policies of said corporation, partnership, limited
44 liability company or other entity. Neither the commissioner nor any
45 employee of the department nor any member of a local legislative body of
46 a county or municipality, nor any county or municipal official except
47 when acting as the administrator of a residential health care facility,
48 shall, by reason of his or her official position, be deemed a control-
49 ling person of any corporation, partnership, limited liability company
50 or other entity, nor shall any person who serves as an officer, adminis-
51 trator or other employee of any corporation, partnership, limited
52 liability company or other entity or as a member of a board of directors
53 or trustees of any corporation be deemed to be a controlling person of
54 such corporation, partnership, limited liability company or other entity
55 as a result of such position or his or her official actions in such
56 position.

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

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

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

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

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

25 15. (a) Diagnostic or treatment centers established exclusively to
26 provide end stage renal disease services may be operated by corporations
27 formed under the laws of New York whose stockholders or members, as
28 applicable, are not natural persons if such corporations and their prin-
29 cipal stockholders and members, as applicable, and controlling persons
30 comply with all applicable requirements of this section and demonstrate,
31 to the satisfaction of the public health AND HEALTH PLANNING council,
32 sufficient experience and expertise in delivering high quality end stage
33 renal disease care. For purposes of this subdivision, the public health
34 AND HEALTH PLANNING council shall adopt and amend rules and regulations,
35 notwithstanding any inconsistent provision of this section, to address
36 any matter it deems pertinent to the establishment and operation of
37 diagnostic or treatment centers pursuant to this subdivision; provided
38 that such rules and regulations shall include, but not be limited to
39 provisions governing or relating to: (i) any direct or indirect changes
40 or transfers of ownership interests or voting rights in such corpo-
41 rations or their stockholders or members, as applicable, and provide for
42 public health council approval of any change in controlling interests,
43 principal stockholders, controlling persons, parent company or sponsors;
44 (ii) oversight of the operator and its stockholders or members, as
45 applicable, including local governance of the diagnostic or treatment
46 centers; and (iii) relating to the character and competence and quali-
47 fications of, and changes relating to, the directors and officers of the
48 operator and its principal stockholders, controlling persons, parent
49 company or sponsors.

50 (b) The following provisions of this section shall not apply to diag-
51 nostic or treatment centers operated pursuant to this subdivision: (i)
52 paragraph (b) of subdivision three of this section, relating to stock-
53 holders and members; (ii) paragraph (c) of subdivision four of this
54 section, relating to the disposition of stock or voting rights; and
55 (iii) paragraph (e) of subdivision four of this section, relating to the
56 ownership of stock or membership.

1 16. (a) The commissioner shall charge to applicants for the establish-
2 ment of hospitals the following application fee:

3 (i) For general hospitals: \$3,000

4 (ii) For nursing homes: \$3,000

5 (iii) For safety net diagnostic and treatment centers
6 as defined in paragraph (c) of this subdivision: \$1,000

7 (iv) For all other diagnostic and treatment centers: \$2,000

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

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

20 (d) The fees and charges paid by an applicant pursuant to this subdi-
21 vision for any application for establishment of a hospital approved in
22 accordance with this section shall be deemed allowable capital costs in
23 the determination of reimbursement rates established pursuant to this
24 article. The cost of such fees and charges shall not be subject to
25 reimbursement ceiling or other penalties used by the commissioner for
26 the purpose of establishing reimbursement rates pursuant to this arti-
27 cle. All fees pursuant to this section shall be payable to the depart-
28 ment of health for deposit into the special revenue funds - other,
29 miscellaneous special revenue fund - 339, certificate of need account.

30 S 217. Subdivisions 1, 2, 2-b, 3-a and 3-c of section 2802 of the
31 public health law, subdivision 1 as amended by chapter 470 of the laws
32 of 1976, subdivision 2 as amended by chapter 609 of the laws of 1982,
33 subdivision 2-b as added by chapter 731 of the laws of 1993, subdivision
34 3-a as added by chapter 376 of the laws of 1992, and subdivision 3-c as
35 added by chapter 97 of the laws of 1993, are amended to read as follows:

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

43 2. The commissioner shall not act upon an application for construction
44 of a hospital until the [state hospital review and] PUBLIC HEALTH AND
45 HEALTH planning council and the health systems agency have had a reason-
46 able time to submit their recommendations, and unless (a) the applicant
47 has obtained all approvals and consents required by law for its incorpo-
48 ration or establishment (including the approval of the public health AND
49 HEALTH PLANNING council pursuant to the provisions of this article)
50 provided, however, that the commissioner may act upon an application for
51 construction by an applicant possessing a valid operating certificate
52 when the application qualifies for review without the recommendation of
53 the council pursuant to regulations adopted by the council and approved
54 by the commissioner; and (b) the commissioner is satisfied as to the
55 public need for the construction, at the time and place and under the
56 circumstances proposed, provided however that, in the case of an appli-

1 cation by a hospital established or operated by an organization defined
2 in subdivision one of section [four hundred eighty-two-a] FOUR HUNDRED
3 EIGHTY-TWO-B of the social services law, the needs of the members of the
4 religious denomination concerned, for care or treatment in accordance
5 with their religious or ethical convictions, shall be deemed to be
6 public need.

7 2-b. Beginning on January first, nineteen hundred ninety-four, and
8 each year thereafter, a complete application received between January
9 first and June thirtieth of each year shall be reviewed by the appropri-
10 ate health systems agency and the department and presented to the [state
11 hospital review and] PUBLIC HEALTH AND HEALTH planning council for its
12 consideration prior to June thirtieth of the following year and a
13 complete application received between July first and December thirty-
14 first of each year shall be reviewed by the appropriate health systems
15 agency and the department and presented to the [state hospital review
16 and] PUBLIC HEALTH AND HEALTH planning council for consideration prior
17 to December thirty-first of the following year.

18 3-a. Review of applications from hospitals in epidemic areas and
19 hospitals serving state correctional facilities to renovate or provide
20 for capital improvement for the purpose of controlling the spread of
21 tuberculosis infection may be approved by the commissioner, who to the
22 extent practicable may, but shall not be required to, consider the
23 recommendations of the health systems agency and the [state hospital
24 review and] PUBLIC HEALTH AND HEALTH planning council for applications
25 for which he grants approval. In such cases the commissioner shall take
26 further measures necessary to expedite departmental reviews for such
27 approval.

28 3-c. An application shall state the proposed site or location of the
29 proposed construction. Where the applicant changes the site or location
30 after approval of the application, the commissioner may, subject to
31 regulations under this article, approve the change upon a finding that
32 the change is in the best interest of the service area. In making such
33 determination, the commissioner may seek a review of the proposed change
34 by the [state hospital review and] PUBLIC HEALTH AND HEALTH planning
35 council and the health systems agency having geographical jurisdiction.

36 S 218. Paragraph (a) of subdivision 2 of section 2802-a of the public
37 health law, as added by section 87 of part B of chapter 58 of the laws
38 of 2005, is amended to read as follows:

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

54 S 219. Subdivisions (a), (b), (e), (f) and (k) of section 2904 of the
55 public health law are REPEALED and subdivisions (g) and (h), as amended
56 by chapter 470 of the laws of 1976, are amended to read as follows:

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

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

10 S 220. Section 3602 of the public health law is amended by adding a
11 new subdivision 16 to read as follows:

12 16. "PUBLIC HEALTH COUNCIL" SHALL MEAN THE PUBLIC HEALTH AND HEALTH
13 PLANNING COUNCIL.

14 S 221. Subdivisions 2, 3 and 4 of section 3605 of the public health
15 law as added by chapter 959 of the laws of 1984, are amended to read as
16 follows:

17 2. The commissioner shall not issue a license to any home care
18 services agency except with the written approval of the public health
19 AND HEALTH PLANNING council issued pursuant to the provisions of this
20 section.

21 3. An application for licensure as a home care services agency shall
22 be filed with the public health AND HEALTH PLANNING council together
23 with such other forms and information as shall be prescribed by, or
24 acceptable to, the public health AND HEALTH PLANNING council. Thereaft-
25 er, the public health AND HEALTH PLANNING council shall forward for
26 comment, if any, a copy of the application for licensure and accompan-
27 ing documents to the [state hospital review and planning council and
28 the] health systems agency, IF ANY, having geographical jurisdiction of
29 the area where the services of the proposed agency are to be offered.
30 The public health AND HEALTH PLANNING council shall act upon such appli-
31 cation, after the [state hospital review and planning council and the]
32 health systems agency [have] HAS had reasonable time to submit [their]
33 ITS comments, based solely upon criteria provided for in subdivision
34 four of this section. If the public health AND HEALTH PLANNING council
35 proposes to disapprove the application, it shall notify the applicant,
36 provide reasons for disapproval and afford the applicant a hearing on
37 the application, if requested, or on its own motion. Any hearing held
38 pursuant to this subdivision may be conducted by the public health AND
39 HEALTH PLANNING council or by any individual designated by the public
40 health AND HEALTH PLANNING council.

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

45 S 222. Subdivisions 1 and 2 of section 3606 of the public health law,
46 as amended by chapter 959 of the laws of 1984, are amended to read as
47 follows:

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

1 2. An application for approval of the proposed certified home health
2 agency shall be filed with the public health AND HEALTH PLANNING council
3 together with such other forms and information as shall be prescribed
4 by, or acceptable to, the public health AND HEALTH PLANNING council.
5 Thereafter, the public health AND HEALTH PLANNING council shall forward
6 a copy of the proposed application for establishment and accompanying
7 documents to the [state hospital review and planning council and the]
8 health systems agency, IF ANY, having geographical jurisdiction of the
9 area where the services of the proposed certified home health agency are
10 to be offered. The public health AND HEALTH PLANNING council shall act
11 upon such application after the [state hospital review and planning
12 council and the] health systems agency [have] HAS had a reasonable time
13 to submit [their] ITS recommendations. At the time members of the public
14 health AND HEALTH PLANNING council are notified that an application is
15 scheduled for consideration, the applicant and the health systems agency
16 shall be so notified in writing. The public health AND HEALTH PLANNING
17 council shall not take any action contrary to the advice of [either the
18 state hospital review and planning council or] the health systems agency
19 until it affords to [either] THE HEALTH SYSTEMS AGENCY an opportunity to
20 request a public hearing and, if so requested, a public hearing shall be
21 held. If the public health AND HEALTH PLANNING council proposes to
22 disapprove the application it shall afford the applicant an opportunity
23 to request a public hearing. The public health AND HEALTH PLANNING coun-
24 cil may hold a public hearing on the application on its own motion. Any
25 public hearing held pursuant to this subdivision may be conducted by the
26 public health AND HEALTH PLANNING council or by any individual desig-
27 nated by the public health AND HEALTH PLANNING council.

28 The public health AND HEALTH PLANNING council shall not approve an
29 application for establishment unless it is satisfied, insofar as appli-
30 cable, as to (a) the public need for the existence of the certified home
31 health agency at the time and place and under the circumstances
32 proposed; (b) the character, competence, and standing in the community,
33 of the proposed incorporators, directors and sponsors; (c) the financial
34 resources of the proposed certified home health agency and its sources
35 of future revenues; and (d) such other matters as it shall deem perti-
36 nent.

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

39 S 223. Subdivisions 2 and 3 of section 3606-a of the public health
40 law, as added by chapter 576 of the laws of 1981, are amended to read as
41 follows:

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

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

1 public need for the construction, at the time and place and under the
2 circumstances proposed.

3 S 224. Subdivision 2 of section 3610 of the public health law, as
4 amended by chapter 433 of the laws of 1980, is amended to read as
5 follows:

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

- 17 (a) an outline of the institution's or agency's plans for the program;
- 18 (b) the need for the proposed program;
- 19 (c) the number and types of personnel to be employed;
- 20 (d) the ability of the agency, hospital, or facility to provide the
21 program;
- 22 (e) the estimated number of visits to be provided;
- 23 (f) the geographic area in which the proposed programs will be
24 provided;
- 25 (g) any special or unusual services, programs, or equipment to be
26 provided;
- 27 (h) a demonstration that the proposed program is feasible and adequate
28 in terms of both short range and long range goals;
- 29 (i) such other information as the commissioner may require.

30 The health systems agency and the [state hospital review and planning
31 council] PUBLIC HEALTH AND HEALTH PLANNING COUNCIL shall review the
32 application and submit their recommendations to the commissioner. At the
33 time members of the [state hospital review and planning council] PUBLIC
34 HEALTH AND HEALTH PLANNING COUNCIL are notified that an application is
35 scheduled for consideration, the applicant and the health systems agency
36 shall be so notified in writing. The health systems agency or the
37 [state hospital review and planning council] PUBLIC HEALTH AND HEALTH
38 PLANNING COUNCIL shall not recommend approval of the application unless
39 it is satisfied as to:

- 40 (a) the public need for the program at the time and place and under
41 the circumstances proposed;
- 42 (b) the financial resources of the provider of the proposed program
43 and its sources of future revenues;
- 44 (c) the ability of the proposed program to meet those standards estab-
45 lished for participation as a home health agency under title XVIII of
46 the federal Social Security Act; and
- 47 (d) such other matters as it shall deem pertinent.

48 After receiving and considering the recommendations of the [state
49 hospital review and planning council] PUBLIC HEALTH AND HEALTH PLANNING
50 COUNCIL and the health systems agency, the commissioner shall make his
51 OR HER determination. The commissioner shall act upon an application
52 after the [state hospital review and planning council] PUBLIC HEALTH AND
53 HEALTH PLANNING COUNCIL and the health systems agency have had a reason-
54 able time to submit their recommendations. The commissioner shall not
55 take any action contrary to the advice of either until he OR SHE affords
56 to either an opportunity to request a public hearing and, if so

1 requested, a public hearing shall be held. The commissioner shall not
2 approve the application unless he OR SHE is satisfied as to the detailed
3 description of the proposed program and

4 (a) the public need for the existence of the program at the time and
5 place and under the circumstances proposed;

6 (b) the financial resources of the provider of the proposed program
7 and its sources of future revenues;

8 (c) the ability of the proposed program to meet those standards estab-
9 lished for participation as a home health agency under title XVIII of
10 the federal Social Security Act; and

11 (d) such other matters as he OR SHE shall deem pertinent.

12 If the application is approved, the applicant shall be so notified in
13 writing. The commissioner's written approval of the application shall
14 constitute authorization to provide a long term home health care
15 program. In making his OR HER authorization, the commissioner shall
16 stipulate the maximum number of persons which a provider of a long term
17 home health care program may serve. If the commissioner proposes to
18 disapprove the application, he OR SHE shall notify the applicant in
19 writing, stating his OR HER reasons for disapproval, and afford the
20 applicant an opportunity for a public hearing.

21 S 225. Subdivision 2 of section 3611 of the public health law, as
22 added by chapter 959 of the laws of 1984, is amended to read as follows:

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

34 S 226. Subdivisions 1 and 2 of section 3611-a of the public health
35 law, as amended by section 92 of part C of chapter 58 of the laws of
36 2009, are amended to read as follows:

37 1. Any change in the person who, or any transfer, assignment, or other
38 disposition of an interest or voting rights of ten percent or more, or
39 any transfer, assignment or other disposition which results in the
40 ownership or control of an interest or voting rights of ten percent or
41 more, in a limited liability company or a partnership which is the oper-
42 ator of a licensed home care services agency or a certified home health
43 agency shall be approved by the public health AND HEALTH PLANNING coun-
44 cil, in accordance with the provisions of subdivision four of section
45 thirty-six hundred five of this article relative to licensure or subdivi-
46 sion two of section thirty-six hundred six of this article relative to
47 certificate of approval, except that:

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

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

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

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

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

16 2. Any transfer, assignment or other disposition of ten percent or
17 more of the stock or voting rights thereunder of a corporation which is
18 the operator of a licensed home care services agency or a certified home
19 health agency, or any transfer, assignment or other disposition of the
20 stock or voting rights thereunder of such a corporation which results in
21 the ownership or control of more than ten percent of the stock or voting
22 rights thereunder of such corporation by any person shall be subject to
23 approval by the public health AND HEALTH PLANNING council in accordance
24 with the provisions of subdivision four of section thirty-six hundred
25 five of this article relative to licensure or subdivision two of section
26 thirty-six hundred six of this article relative to certificate of
27 approval, except that:

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

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

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

51 S 227. Section 4002 of the public health law is amended by adding a
52 new subdivision 4 to read as follows:

53 4. "PUBLIC HEALTH COUNCIL" SHALL MEAN THE PUBLIC HEALTH AND HEALTH
54 PLANNING COUNCIL.

1 S 227-a. Subdivisions 1 and 2 of section 4004 of the public health
2 law, as added by chapter 416 of the laws of 1983, is amended to read as
3 follows:

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

9 2. An application for approval of the proposed hospice shall be filed
10 with the public health AND HEALTH PLANNING council together with such
11 other forms and information as shall be prescribed by, or acceptable to,
12 the public health AND HEALTH PLANNING council. Thereafter, the public
13 health AND HEALTH PLANNING council shall forward a copy of the proposed
14 application for establishment and accompanying documents to the [state
15 hospital review and planning council and the] health systems agency, IF
16 ANY, having geographical jurisdiction of the area where the services of
17 the proposed hospice are to be offered. The public health AND HEALTH
18 PLANNING council shall act upon such application after the [state hospi-
19 tal review and planning council and the] health systems agency [have]
20 HAS had a reasonable time to submit [their] ITS recommendations. At the
21 time members of the public health AND HEALTH PLANNING council are noti-
22 fied that an application is scheduled for consideration, the applicant
23 and the health systems agency shall be so notified in writing. The
24 public health AND HEALTH PLANNING council shall not take any action
25 contrary to the advice of [either the state hospital review and planning
26 council or] the health systems agency until it affords to [either] THE
27 HEALTH SYSTEM AGENCY an opportunity to request a public hearing and, if
28 so requested, a public hearing shall be held. If the public health AND
29 HEALTH PLANNING council proposes to disapprove the application, it shall
30 afford the applicant an opportunity to request a public hearing. The
31 public health AND HEALTH PLANNING council may hold a public hearing on
32 the application on its own motion. Any public hearing held pursuant to
33 this subdivision may be conducted by the public health AND HEALTH PLAN-
34 NING council or by any individual designated by the public health AND
35 HEALTH PLANNING council. The public health AND HEALTH PLANNING council
36 shall not approve an application for establishment unless it is satis-
37 fied, insofar as applicable, as to (a) the public need for the existence
38 of the hospice at the time and place and under the circumstances
39 proposed; (b) the character, competence, and standing in the community,
40 of the proposed incorporators, directors, sponsors, stockholders or
41 operators; (c) the financial resources of the proposed hospice and its
42 sources of future revenues; and (d) such other matters as it shall deem
43 pertinent.

44 S 228. Subdivisions 2 and 3 of section 4006 of the public health law,
45 as added by chapter 416 of the laws of 1983, are amended to read as
46 follows:

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

54 3. The commissioner shall not act upon an application for construction
55 unless (a) the applicant has obtained all approvals and consents
56 required by law for its incorporation or establishment (including the

1 approval of the public health AND HEALTH PLANNING council pursuant to
2 the provisions of this article) and until the [state hospital review
3 and] PUBLIC HEALTH AND HEALTH planning council and the health systems
4 agency concerned have had a reasonable time to submit their recommenda-
5 tions, and (b) the commissioner is satisfied as to the public need for
6 the construction, at the time and place and under the circumstances
7 proposed.

8 S 229. Paragraph (e) of section 201 of the business corporation law,
9 as added by chapter 669 of the laws of 1977, is amended to read as
10 follows:

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

17 S 230. Section 205-a of the county law, as added by chapter 873 of the
18 laws of 1976, is amended to read as follows:

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

29 S 231. Subdivision 1-a of section 250 of the county law, as added by
30 chapter 622 of the laws of 1984, is amended to read as follows:

31 1-a. For the purpose of (a) procuring by purchase, lease or other
32 means and installing water quality treatment units or devices, if
33 required; providing periodic testing and monitoring of raw and finished
34 water from private wells in the district; monitoring, modifying, repair-
35 ing, replacing, operation and maintenance, regenerating water quality
36 treatment units and devices and the administering of the treatment and
37 disposal of residuals generated in the operation of the district pursu-
38 ant to rules and regulations adopted by the public health AND HEALTH
39 PLANNING council under section two hundred twenty-five of the public
40 health law; (b) assisting local, state and federal agencies and offi-
41 cials in efforts to establish causes of, and implement remedial measures
42 to reduce water contamination and protect future water resources within
43 the district; (c) conduct public meetings and issue an annual public
44 report to members of the district on the operation, financial position
45 and water quality condition of said district; provided, however, that
46 with respect to any town in the county the board of supervisors shall
47 first determine that such district or service will not be established or
48 provided by such town.

49 S 232. Subdivision 1 of section 253 of the county law, as amended by
50 chapter 622 of the laws of 1984, is amended to read as follows:

51 1. A petition may be presented to the board of supervisors requesting
52 that a certain area or areas of the county be established as a county
53 district. Such petition shall be executed and acknowledged on behalf of
54 a municipality or district, any part of which is included within such
55 area or areas, by the chief executive officer of such municipality, or
56 of such district furnishing a similar service as the district to be

1 established hereunder. In lieu of execution of the petition by the chief
2 executive officer of such municipality or district, the petition may be
3 executed and acknowledged by at least twenty-five owners of taxable real
4 property of record situated within such municipality or district, or in
5 Suffolk county, if all of the taxable real property of record situate
6 within such municipality which is to be included within a certain area
7 or areas of the county to be established as a county district is owned
8 by one or more but less than twenty-five owners, then the petition may
9 be executed and acknowledged by one or more of said owners within the
10 area or areas to be established as a county district. Upon presentation
11 of such a petition or on its own motion, the board of supervisors may
12 direct the agency to cause maps and plans to be prepared for a project
13 as requested in the petition or for the establishment of a certain area
14 or areas of the county as a county district, provided, however, that if
15 the petitioning municipality, district or owners of taxable property
16 undertake to furnish or pay the cost of such maps and plans at its or
17 their cost and expense, the board of supervisors shall direct the agency
18 to accept or prepare the same. In the case of a petition to create or
19 extend a water quality treatment district, the petition may be executed
20 and acknowledged by one or more of the owners of taxable real property
21 of record situated within such municipality whose private well water is
22 contaminated. At the time the petition is executed and acknowledged,
23 notice and copy of such petition shall be submitted to the state depart-
24 ment of health. Such maps or plans shall show (1) the boundaries of the
25 area or areas which the agency in its judgment considers will be bene-
26 fited by the particular project, (2) a description of the area or areas
27 sufficient to permit definite and conclusive identification of all
28 parcels of property included therein, (3) the proposed location of all
29 facilities such as (a) reservoirs, stand pipes, wells, pumping stations,
30 water purification or treatment works, mains and hydrants, the source of
31 water supply, a description of the lands, streams, water or water rights
32 to be acquired and the mode of constructing the proposed water works,
33 (b) benefited parcels of properties with water quality treatment units
34 or devices installed prior to the formation of the district and/or those
35 properties requiring installation of water quality treatment units or
36 devices and the mode and frequency of testing, monitoring, modifying if
37 required, operation and maintenance, regenerating of such water quality
38 treatment units or devices and the administering of the treatment and
39 disposal of residuals and any other requirements pursuant to rules and
40 regulations adopted by the public health AND HEALTH PLANNING council
41 under section two hundred twenty-five of the public health law. Any
42 water quality treatment unit or device which has been installed prior to
43 the formation of the district must be approved pursuant to rules and
44 regulations adopted by the public health AND HEALTH PLANNING council
45 under section two hundred twenty-five of the public health law, prior to
46 acceptance of such unit or device and its benefited property within the
47 district, (c) trunk, interceptor and outfall sewers, pumping stations,
48 sewage treatment and disposal works, (d) properties requiring
49 construction or replacement of private on-site wastewater disposal
50 systems and the mode and frequency of conveying, treating and disposing
51 of wastewater and residual wastewater, (e) drains, ditches, channels,
52 pumping stations, dams, dikes, bulkheads and retaining walls, or (f)
53 refuse disposal and incinerator plants and all necessary appliances
54 appurtenant thereto, (4) estimates of the cost of construction, or
55 procurement and installation of the facilities, and/or in the case of
56 water quality treatment districts, estimates of the costs of monitoring,

1 testing, modifying, if required, operation and maintenance, regenerating
2 of such water quality treatment units or devices and the treatment and
3 disposal of residuals, as shown on the maps and plans and the method of
4 financing the same and (5) an evaluation of rehabilitation needs based
5 upon water quality, public use and private development, special wild-
6 life, scenic or other values, sedimentation, shoreland zoning, potential
7 for adequate pollution and erosion controls within the drainage basin,
8 and potential for future successful management. Such maps and plans
9 pertaining to sewer districts shall be consistent with, so far as possi-
10 ble, any comprehensive plan for sewers developed pursuant to section
11 17-1901 of the environmental conservation law. Such maps and plans
12 pertaining to water districts shall be consistent with, so far as possi-
13 ble, any comprehensive plan for public water supply systems developed
14 pursuant to title thirteen of article fifteen of the environmental
15 conservation law.

16 S 233. Paragraph b of subdivision 1 of section 483 of the general
17 business law, as added by section 3 of part B of chapter 58 of the laws
18 of 2006, is amended to read as follows:

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

26 S 234. The second undesignated paragraph of section 135-b of the
27 general municipal law, as added by chapter 161 of the laws of 1922, is
28 amended to read as follows:

29 The chief medical officer of such public general hospital, tuberculo-
30 sis hospital or sanatorium shall have authority to employ one or more
31 occupational therapists to carry on the work of such department under
32 his supervision. The qualifications of occupational therapists so
33 employed shall be defined by the public health AND HEALTH PLANNING coun-
34 cil.

35 S 235. Paragraph 7 of subdivision (a) and subdivision (b) of section
36 7.05 of the mental hygiene law, paragraph 7 of subdivision (a) as
37 amended by chapter 725 of the laws of 1982 and as renumbered by chapter
38 410 of the laws of 2008 and subdivision (b) as added by chapter 724 of
39 the laws of 1982, are amended to read as follows:

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

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

47 S 236. Subparagraph 1 of paragraph (a) of section 301 of the not-for-
48 profit corporation law, as amended by chapter 669 of the laws of 1977,
49 is amended to read as follows:

50 (1) Shall, unless the corporation is formed for charitable or reli-
51 gious purposes, or for purposes for which the approval of the commis-
52 sioner of social services or the public health AND HEALTH PLANNING coun-
53 cil is required, or is a bar association, contain the word
54 "corporation", "incorporated" or "limited" or an abbreviation of one of
55 such words; or, in the case of a foreign corporation, it shall, for use

1 in this state, add at the end of its name one of such words or an abbrevi-
2 vation thereof.

3 S 237. Paragraphs (o), (p) and (t) of section 404 of the not-for-pro-
4 fit corporation law, as amended by chapter 139 of the laws of 1993 and
5 as relettered by chapter 431 of the laws of 1993, are amended to read as
6 follows:

7 (o) Every certificate of incorporation which includes among its corpo-
8 rate purposes or powers the establishment or maintenance of any hospi-
9 tal, as defined in article twenty-eight of the public health law, or the
10 solicitation of contributions for any such purpose, or purposes, shall
11 have endorsed thereon or annexed thereto the approval of the public
12 health AND HEALTH PLANNING council.

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

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

25 S 238. Subdivision 4 of section 364 of the social services law, as
26 amended by chapter 474 of the laws of 1996, is amended to read as
27 follows:

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

31 S 239. Subdivision 2 of section 365-b of the social services law, as
32 amended by chapter 770 of the laws of 1977, is amended to read as
33 follows:

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

46 S 240. Paragraphs (b), (c), (e) and (f) of subdivision 3 of section
47 461-l of the social services law, as added by chapter 165 of the laws of
48 1991, are amended to read as follows:

49 (b) If the application for the proposed program includes an applica-
50 tion for licensure as a home care service agency, the department of
51 health shall forward the application for the proposed program and accom-
52 panying documents to the public health AND HEALTH PLANNING council for
53 its written approval in accordance with the provisions of section thir-
54 ty-six hundred five of the public health law.

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

1 (i) the character, competence and standing in the community of the
2 operator of the adult care facility;
3 (ii) the financial responsibility of the operator of the adult care
4 facility;
5 (iii) that the buildings, equipment, staff, standards of care and
6 records of the adult care facility to be employed in the operation
7 comply with applicable law, rule and regulation;
8 (iv) the commissioner of health is satisfied that the licensed home
9 care agency has received the written approval of the public health AND
10 HEALTH PLANNING council as required by paragraph (b) of this subdivision
11 and the equipment, personnel, rules, standards of care, and home care
12 services provided by [a] THE licensed home care agency and certified
13 home health agency or long term home health care program are fit and
14 adequate and will be provided in the manner required by article thirty-
15 six of the public health law and the rules and regulations thereunder;
16 and
17 (v) the commissioner and the commissioner of health are satisfied as
18 to the public need for the assisted living program.

19 (e) The commissioner of health shall provide written notice of
20 approval or disapproval of portions of the proposed application concern-
21 ing a licensed home care agency, certified home health agency or long
22 term home health care program, and, where applicable, of the approval or
23 disapproval of the public health AND HEALTH PLANNING council to the
24 commissioner. If an application receives all the necessary approvals,
25 the commissioner shall notify the applicant in writing. The commission-
26 er's written approval shall constitute authorization to operate an
27 assisted living program.

28 (f) No assisted living program may be operated without the written
29 approval of the department, the department of health and, where applica-
30 ble, the public health AND HEALTH PLANNING council.

31 S 241. Subdivision 21 of section 130 of the town law, as amended by
32 chapter 465 of the laws of 1955, is amended to read as follows:

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

49 S 242. Subdivisions 1 and 2 of section 190-g of the town law, as added
50 by chapter 622 of the laws of 1984, is amended to read as follows:

51 1. The town board of any town is hereby authorized to establish or
52 extend a water quality treatment district, or more than one such
53 district, for the purposes of (a) procuring by purchase, lease or other
54 means, and installing water quality treatment units or devices, if
55 required; providing periodic testing and monitoring of raw and finished
56 water from private wells in the district; monitoring, modifying, repair-

1 ing, replacing, operation and maintenance, regenerating water quality
2 treatment units and devices and the administering of the treatment and
3 disposal of residuals generated in the operation of the district pursu-
4 ant to rules and regulations adopted by the public health AND HEALTH
5 PLANNING council under section two hundred twenty-five of the public
6 health law; (b) assisting local, state and federal agencies and offi-
7 cials in efforts to establish causes of, and implement remedial measures
8 to reduce, water contamination and protect future water resources within
9 the district; (c) conduct public meetings and issue an annual public
10 report to members of the district on the operation, financial position
11 and water quality condition of said district.

12 2. A water quality treatment district established hereunder may
13 consist of noncontiguous or contiguous benefited parcels of property and
14 shall be created by a resolution of the town board, upon petition after
15 a public hearing. The petition may be executed and acknowledged by one
16 or more of the owners of taxable real property of record situated within
17 the town whose private well water is contaminated and at the time the
18 petition is executed and acknowledged, notice and copy of such petition
19 shall be submitted to the state department of health. Upon a petition
20 signed and acknowledged the town board may, or on its own motion, after
21 a public hearing, assemble data relating to the number and location of
22 private wells within the town, the contaminants present in the water
23 supply in such town's private wells, (for the purposes of this section,
24 "contaminants" shall mean those substances found in amounts or concen-
25 trations which violate federal, state or local laws, guidelines or rules
26 and regulations relating to drinking water or which may pose a risk to
27 public health), the extent of contamination of the water supply in the
28 town's private wells, and the availability of appropriate treatment
29 technologies for the contaminants found to be present, or which are
30 reasonably expected to be found, currently or in the future, in the
31 water supply in the town's private wells. Upon presentation of the peti-
32 tion or on its own motion, the town board may direct or cause maps and
33 plans to be prepared, provided however, that if the owner or owners of
34 taxable real property undertake to furnish or pay the cost of such maps
35 and plans at his or their cost and expense, the town board shall accept
36 or prepare the same or the town board may adopt a resolution, subject to
37 a permissive referendum, appropriating a specific amount to pay the cost
38 of preparing a general map and plan for providing water quality treat-
39 ment units or devices and related services. The town board may determine
40 that such maps and plans shall be prepared by or under the supervision
41 of town officers and employees to be designated by the town board, or by
42 persons to be employed for that purpose, or the town board may contract
43 for the preparation thereof, within the limitations of the amount appro-
44 priated. Except as otherwise provided herein, the expense incurred for
45 the preparation of such maps and plans shall be a town charge, and shall
46 be assessed, levied and collected in the same manner as other town
47 charges. If the town board shall thereafter establish or extend a water
48 quality treatment district, the expense incurred by the town for the
49 preparation of the maps and plans therefor shall be deemed to be part of
50 the cost of such improvement, and the town shall be reimbursed the
51 amount paid therefor, or such portion of that amount which the town
52 board, at the public hearing held pursuant to section one hundred nine-
53 ty-four of this chapter, shall allocate against such district. Nothing
54 in this section contained, or in any other section of this act, shall be
55 construed to prevent the financing, in whole or in part, of expenditures
56 by private sources, grants or by other means. All such maps and plans

1 shall be filed with the town clerk. Such maps and plans shall show (1)
2 the location of all benefited parcels of properties with water quality
3 treatment units or devices installed prior to the formation of the
4 district and/or those properties requiring installation of water quality
5 treatment units or devices and the mode and frequency of testing, moni-
6 toring, modifying if required, operation and maintenance, regenerating
7 of such water quality treatment units or devices and the administering
8 of the treatment and disposal of residuals and any other requirements
9 pursuant to rules and regulations adopted by the public health AND
10 HEALTH PLANNING council under section two hundred twenty-five of the
11 public health law, and (2) estimates of the costs of procurement,
12 installation, monitoring, testing, modifying, if required, operation and
13 maintenance, regenerating of such water quality treatment units or
14 devices and the treatment and disposal of residuals, and the method of
15 financing the same. Any water quality treatment unit or device which has
16 been installed prior to the formation of the district must be approved
17 pursuant to rules and regulations adopted by the public health AND
18 HEALTH PLANNING council under section two hundred twenty-five of the
19 public health law, prior to acceptance of such unit or device and its
20 benefited property within the district.

21 S 243. Subdivision 3 of section 13-b of the workers' compensation law,
22 as amended by chapter 1068 of the laws of 1960, is amended to read as
23 follows:

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

36 S 243-a. Section 154 of the labor law is REPEALED.

37 S 244. This act shall take effect immediately, provided that:

38 a. section twenty-two of this act shall be deemed to have been in full
39 force and effect on the same date as chapter 299 of the laws of 2008
40 took effect; and provided further that the amendments to section 554 of
41 the executive law made by section twenty-two of this act shall not
42 affect the expiration of such section and shall expire therewith;

43 b. sections thirty-three and thirty-four of this act shall take effect
44 April 1, 2013;

45 c. the amendments to subdivision 10 of section 3615 of the public
46 health law made by section fifty-three of this act shall not affect the
47 expiration of such section and shall expire therewith;

48 d. the amendments to subdivision 1 of section 210 of the elder law
49 made by section one hundred ninety-eight-a of this act shall take effect
50 on the first of September next succeeding the date on which it shall
51 have become a law;

52 e. the amendments to paragraph (a) of subdivision 2 of section 2802-a
53 of the public health law made by section two hundred eighteen of this
54 act shall not affect the repeal of such section and shall be deemed
55 repealed therewith; and

1 f. sections one hundred ninety-nine through two hundred forty-three of
2 this act shall take effect December 1, 2010, provided however, that the
3 public health and health planning council shall be authorized to
4 complete action on any application, regulation, complaint or other
5 matter under consideration by the public health council or state hospi-
6 tal review and planning council on such effective date; and provided
7 further that any final approval granted or regulation adopted by the
8 public health council or state hospital review and planning council
9 shall remain in effect according to its terms after the effective date
10 of this act, unless otherwise lawfully annulled, revoked, modified,
11 amended, limited or suspended.