

2012-13 NEW YORK STATE EXECUTIVE BUDGET

**MERGE STATE ENTITIES
ARTICLE VII LEGISLATION**

2012-13 NEW YORK STATE EXECUTIVE BUDGET

**MERGE STATE ENTITIES
ARTICLE VII LEGISLATION**

CONTENTS

PART	DESCRIPTION	STARTING PAGE NUMBER
A	Merge the Division of the Lottery and the Racing and Wagering Board into the new New York State Gaming Commission.	7
B	Merge the Department of Civil Service and the Office of Employee Relations into a new Department of Workforce Management.	38
C	Transfer the operation and management of the Belleayre Mountain ski center from the Department of Environmental Conservation to the Olympic Regional Development Authority to foster more efficient operations.	45
D	Elimination and/or merger of certain boards and commissions to foster more efficient government.	54

Legislative Bill Drafting Commission
12675-01-2

S. -----
Senate

IN SENATE--Introduced by Sen

--read twice and ordered printed,
and when printed to be committed
to the Committee on

----- A.
Assembly

IN ASSEMBLY--Introduced by M. of A.

with M. of A. as co-sponsors

--read once and referred to the
Committee on

BUDGBI

(Enacts into law major components of
legislation which are necessary to
implement the state fiscal plan for
the 2012-2013 state fiscal year)

Art VII; merger

AN ACT

to amend the racing, pari-mutuel
wagering and breeding law, in
relation to supervision and regu-
lation of the state gaming industry;
and to amend the racing, pari-mutuel
wagering and breeding law, the
general municipal law, the executive
law and the tax law, in relation to
the state gaming commission; and to
repeal article 1 of the racing,
pari-mutuel wagering and breeding
law and sections 1602 and 1603 of

IN SENATE

Senate introducer's signature

The senators whose names are circled below wish to join me in the sponsorship
of this proposal:

s20 Adams	s44 Farley	s58 Kennedy	s54 Nozzolio	s28 Serrano
s15 Addabbo	s02 Flanagan	s34 Klein	s53 O'Mara	s51 Seward
s55 Alesi	s08 Fuschillo	s26 Krueger	s37 Oppenheimer	s09 Skelos
s11 Avella	s59 Gallivan	s24 Lanza	s21 Parker	s14 Smith
s40 Ball	s12 Gianaris	s39 Larkin	s13 Peralta	s25 Squadron
s42 Bonacic	s22 Golden	s01 LaValle	s30 Perkins	s16 Stavisky
s46 Breslin	s47 Griffo	s52 Libous	s61 Ranzenhofer	s35 Stewart- Cousins
s38 Carlucci	s60 Grisanti	s45 Little	s48 Ritchie	s49 Valesky
s50 DeFrancisco	s06 Hannon	s05 Marcellino	s33 Rivera	s57 Young
s32 Diaz	s36 Hassell- Thompson	s07 Martins	s56 Robach	s03 Zeldin
s17 Dilan		s62 Maziarz	s41 Saland	s27
s29 Duane	s10 Huntley	s43 McDonald	s19 Sampson	
s31 Espaillat	s04 Johnson	s18 Montgomery	s23 Savino	

IN ASSEMBLY

Assembly introducer's signature

The Members of the Assembly whose names are circled below wish to join me in the
multi-sponsorship of this proposal:

a049 Abbate	a107 Crouch	a095 Jaffee	a052 Millman	a012 Saladino
a092 Abinanti	a014 Curran	a057 Jeffries	a015 Montesano	a113 Sayward
a105 Amedore	a063 Cusick	a135 Johns	a132 Morelle	a029 Scarborough
a084 Arroyo	a045 Cymbrowitz	a112 Jordan	a039 Moya	a016 Schimel
a035 Aubry	a034 DenDekker	a099 Katz	a003 Murray	a140 Schimminger
a124 Barclay	a081 Dinowitz	a074 Kavanagh	a037 Nolan	a064 Silver
a040 Barron	a114 Duprey	a065 Kellner	a128 Oaks	a027 Simanowitz
a082 Benedetto	a004 Englebright	a129 Kolb	a069 O'Donnell	a036 Simotas
a122 Blankenbush	a054 Espinal	a025 Lancman	a051 Ortiz	a146 Smardz
a055 Boyland	a071 Farrell	a091 Latimer	a136 Palmesano	a079 Stevenson
a008 Boyle	a123 Finch	a013 Lavine	a088 Paulin	a011 Sweeney
a026 Braunstein	a007 Fitzpatrick	a050 Lentol	a141 Peoples- Stokes	a110 Tedisco
a044 Brennan	a137 Friend	a125 Lifton	a058 Perry	a115 Tenney
a116 Brindisi	a143 Gabryszak	a072 Linares	a087 Pretlow	a002 Thiele
a131 Bronson	a090 Galef	a127 Lopez, P.	a073 Quart	a061 Titone
a046 Brook-Krasny	a133 Gantt	a053 Lopez, V.	a021 Ra	a031 Titus
a147 Burling	a077 Gibson	a001 Losquadro	a097 Rabbitt	a062 Tobacco
a117 Butler	a149 Giglio	a126 Lupardo	a009 Raia	a148 Walter
a101 Cahill	a066 Glick	a111 Magee	a006 Ramos	a041 Weinstein
a096 Calhoun	a023 Goldfeder	a120 Magnarelli	a134 Reilich	a020 Weisenberg
a043 Camara	a150 Goodell	a059 Maisel	a109 Reilly	a024 Weprin
a106 Canestrari	a075 Gottfried	a060 Malliotakis	a078 Rivera, J.	a070 Wright
a089 Castelli	a005 Graf	a030 Markey	a080 Rivera, N.	a094 Zebrowski
a086 Castro	a098 Gunther	a019 McDonough	a076 Rivera, P.	a093
a138 Ceretto	a130 Hanna	a104 McEneny	a119 Roberts	a100
a033 Clark	a139 Hawley	a017 McKevitt	a056 Robinson	a103
a047 Colton	a083 Heastie	a108 McLaughlin	a068 Rodriguez	a145
a010 Conte	a028 Hevesi	a022 Meng	a067 Rosenthal	
a032 Cook	a048 Hikind	a121 Miller, D.	a118 Russell	
a142 Corwin	a018 Hooper	a102 Miller, J.	a144 Ryan	
a085 Crespo	a042 Jacobs	a038 Miller, M.		

1) Single House Bill (introduced and printed separately in either or
both houses). Uni-Bill (introduced simultaneously in both houses and printed
as one bill. Senate and Assembly introducer sign the same copy of the bill).

2) Circle names of co-sponsors and return to introduction clerk with 2
signed copies of bill and 4 copies of memorandum in support (single house);
or 4 signed copies of bill and 8 copies of memorandum
in support (uni-bill).

the tax law relating thereto (Part A); to amend the civil service law, in relation to the formation of the department of workforce management; and transferring all powers, duties and obligations of the department of civil service and the office of employee relations to the department of workforce management; and to repeal certain provisions of the executive law relating to the office of employee relations (Part B); to amend the public authorities law, in relation to an agreement between the olympic regional development authority and the department of environmental conservation for the operation, maintenance and management of Belleayre mountain ski center (Part C); and to repeal section 285-a and subdivision 12 of section 283 of the agriculture and markets law, relating to direct marketing advisory councils for regional marketing areas; to repeal section 7 of chapter 654 of the laws of 1994, amending the transportation law and other laws relating to equipment requirements for registered farm vehicles, relating to the agricultural transportation review panel; to repeal section 285-b of the agriculture and markets law, relating to the Hudson valley agricultural advisory council; to repeal article 4 of the state technology law, relating to the statewide wireless network advisory council; to repeal section 372-a of the social services law, relating to the child welfare research advisory panel; to amend the public health law, in relation to provision of information about the abandoned infant protection act; to repeal sections 520 and 521 of the executive law, relating to the boards of visitors; to repeal article 28 of the executive law and paragraph (p) of subdivision 1 of section 17 of the public officers law, relating to the upstate and downstate New York tourism councils; to repeal section 92-y of the state finance law, relating to the upstate New York tourism council fund; to amend the highway law and the educa-

tion law, in relation to removing reference to the upstate and downstate New York tourism councils; to repeal section 120 of the economic development law, relating to the advisory board within the division of minority and women's business development; to repeal section 27-0702 of the environmental conservation law, relating to the solid waste management board; to amend the environmental conservation law and the state finance law, in relation to removing reference to the solid waste management board; to amend the public authorities law, in relation to doing away with a technical advisory committee and the hazardous waste disposal advisory committee and to repeal certain provisions of law relating thereto; to repeal section 216-b of the vehicle and traffic law, relating to the tow truck advisory board; to repeal section 191 of the executive law, relating to the temporary advisory committee on restoration and display of New York state's military battle flags; to repeal subdivision 9 of section 3.23 of the parks, recreation and historic preservation law, relating to the advisory council within the New York state conservation corps; to repeal section 89-mmm of the general business law, relating to the armored car carrier advisory board; to amend the executive law and the general business law, in relation to removing reference to the armored car carrier advisory board and to repeal certain provisions of the general business law relating thereto; to repeal section 923 of the executive law, relating to the Long Island Sound coastal advisory commission; to repeal subdivision 14 of section 601 and sections 611 and 612 of the executive law, relating to the manufactured housing advisory council; to amend the executive law, in relation to removing reference to the manufactured housing advisory council; to repeal section 433-a of the general business law, relating to the barbers board; to amend the

social services law, in relation to doing away with the advisory committee on legal advocacy; to repeal subdivisions 8 and 9 of section 350, subdivision 16 of section 353, and sections 365, 365-a, 365-b, 365-c, 365-d, 365-e, 365-f and 365-g of the executive law, relating to the veterans' hall of fame and the New York state veterans' hall of fame council; to repeal section 154 of the labor law, relating to the child performer advisory board to prevent eating disorders; to repeal title 11 of article 24 of the environmental conservation law, relating to appeal and review of matters affecting freshwater wetlands; to amend the environmental conservation law, in relation to appeal and reviews of matters affecting freshwater wetlands; to repeal subdivision 3 of section 1-0303, article 5, section 19-0917 and subdivision 4 of section 29-0103 of the environmental conservation law, relating to the state environmental board; to amend the environmental conservation law, in relation to removing reference to the state environmental board; to repeal sections 9-0705, 9-0707, 9-0709 and 9-0711 of the environmental conservation law, relating to the regional forest practice boards and the state forest practice board; to amend the environmental conservation law, in relation to removing reference to the regional forest practice boards; to repeal subdivision 1 of section 444-b of the real property law, relating to the state home inspection council; to amend the real property law, in relation to removing reference to the state home inspection council; to repeal subdivision 6 of section 69-n of the general business law, in relation to the advisory committee on the business of installing security or fire alarm systems; to repeal chapter 868 of the laws of 1976 relating to the organic food advisory committee, relating thereto; to repeal subdivisions 6, 7, 8, and 9 of section 73-b of the agriculture and markets law, relating to the New York state

veterinary diagnostic laboratory; to amend the agriculture and markets law, in relation to duties of the New York state veterinary diagnostic laboratory and in relation to the New York state animal health issues committee; to repeal section 13-0308 of the environmental conservation law, relating to the surf clam/ocean quahog management advisory board; to amend the environmental conservation law and the state finance law, in relation to removing reference to the surf clam/ocean quahog management advisory board; to amend the public health law, in relation to simplifying committee structure and increasing effectiveness of emergency medical services; to repeal sections 3002, 3002-a, 3003-a, 3009 and 3017 of the public health law, relating to the New York state emergency medical services council, the state emergency medical advisory committee, EMS program agencies, continuation of existing services and emergency medical services in Suffolk county; to amend the public health law, in relation to providing for the New York state emergency medical services board and regional boards; to repeal articles 30-B and 30-C of the public health law, relating to emergency medical, trauma and disaster care and emergency medical services for children; to amend the state finance law, in relation to the New York state emergency medical services training account; to amend the administrative code of the city of New York, the general municipal law, the workers' compensation law, the executive law and the education law, in relation to making conforming changes thereto; to repeal section 2407 and subdivision 5 of section 2409 of the public health law, relating to the breast and cervical cancer detection and education program advisory council and the ovarian cancer information advisory council; to amend the public health law, in relation to creating the breast, cervical and ovarian cancer detection and education program advisory council; and

to repeal section 844-a of the executive law, relating to the New York statewide law enforcement telecommunications committee (Part D)

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

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

12 PART A

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

15 ARTICLE 1

16 SUPERVISION AND REGULATION

17 Section 100. Legislative intent.

18 101. Definitions.

19 102. New York state gaming commission.

20 103. Organization and divisions.

21 104. Powers and duties of the commission.

22 105. Quorum.

23 106. Salary and expenses.

24 107. Conflicts prohibited.

25 108. Certain restrictions on wagering.

26 109. Supplementary regulatory powers of the commission.

- 1 110. Statement of stockholders to be filed.
- 2 111. Compulsive gambling assistance.
- 3 112. Pari-mutuel operations; filing of tax forms and other
4 statistics.
- 5 113. Filing of pari-mutuel tax returns or reports by electron-
6 ic means.
- 7 114. Practice and procedure.
- 8 115. Regulatory fees.
- 9 116. Penalties.
- 10 117. Transfer of functions.
- 11 118. Transfer of employees.
- 12 119. Transfer of records.
- 13 120. Continuity of authority.
- 14 121. Completion of unfinished business.
- 15 122. Continuation of rules and regulations.
- 16 123. Terms occurring in laws, contracts and other documents.
- 17 124. Existing rights and remedies preserved.
- 18 125. Pending actions or proceedings.
- 19 126. Transfer of appropriations heretofore made.
- 20 127. Transfer of assets and liabilities.
- 21 128. Promulgation of rules and regulations.
- 22 129. Construction of other laws of provisions.
- 23 § 100. Legislative intent. The legislature finds and determines that
24 the gaming industries constitute a vital sector of New York state's
25 overall economy. The legislature also finds and determines that respon-
26 sive, effective, innovative, state gaming regulation is necessary to
27 operate in a global, evolving and increasingly competitive market place.
28 The legislature additionally finds and determines that this legislation

1 is necessary to modernize and transform the present state gaming agen-
2 cies into a new integrated state gaming commission.

3 The continued growth of the gaming industry will contribute to econom-
4 ic development and job creation in this state. Therefore, it is essen-
5 tial to maintain the public confidence and trust in the credibility and
6 integrity of legalized gaming activities. To ensure such public confi-
7 dence and trust, this article provides that the regulation of such
8 gaming is to be conducted in the most efficient, transparent and effec-
9 tive manner possible. By consolidating various regulatory functions into
10 a single oversight body with broad powers, this article ensures strict
11 state regulation of all corporations, associations and persons engaged
12 in gaming activity. Further, by consolidating regulatory functions into
13 a single oversight body, this article will increase efficiency, reduce
14 costs and eliminate any unnecessary redundancies in regulation. The
15 improved regulatory structure established by this article will insure,
16 so far as practicable, the exclusion of unsuitable persons or entities
17 from participating in any legalized gaming activity within this state.
18 The goal of this article is that all gaming activity conducted in this
19 state will be of the highest integrity, credibility and quality and that
20 the best interests of the public, both gaming and non-gaming, will be
21 served. Finally, it is determined by the legislature that the public
22 interest is best served by those persons or entities engaged in gaming
23 activity paying the cost of regulating such activity through reasonable
24 regulatory fees.

25 § 101. Definitions. As used in this article, the following terms shall
26 have the following meanings:

27 1. "Public officer" shall mean every elected state and local officer
28 and every other state and local officer, as defined in section two of

1 the public officers law, whose duties relate to pari-mutuel racing
2 activities or the taxation thereof, who is required to devote all or
3 substantially all of his or her time to the duties of his or her office
4 for which he or she receives compensation or if employed on a part-time
5 or other basis receives compensation in excess of twelve thousand
6 dollars per annum, a member or officer of the state legislature, a
7 member, director or officer of the state racing commission, the state
8 harness racing commission, the quarter horse racing commission, the
9 state gaming commission, or any regional off-track betting corporation,
10 or a member of a local legislative body.

11 2. "Public employee" shall mean every person employed by the state or
12 any municipality or other political subdivision thereof or by a local
13 legislative body, other than a public officer defined in subdivision one
14 of this section, who is required to devote all or substantially all of
15 his or her time to the duties of his or her employment for which he or
16 she receives compensation, or if employed on a part-time basis receives
17 compensation in excess of twelve thousand dollars per annum, or an
18 employee of the state legislature or an employee of the state gaming
19 commission.

20 3. "Party officer" shall mean the following members or officers of any
21 political party:

22 (a) a member of a national committee;

23 (b) a chairman, vice-chairman, secretary, treasurer or counsel of a
24 state committee, or member of the executive committee of a state commit-
25 tee;

26 (c) a county leader, chairman, vice-chairman, counsel, secretary or
27 treasurer of a county committee.

1 4. "Local legislative body" shall mean the legislative body of a coun-
2 ty; the council, common council or board of aldermen and the board of
3 estimate, the board of estimate and apportionment or board of estimate
4 and contract, if there be one, of a city; the town board of a town and
5 the village board of a village.

6 5. "Gaming activity" shall mean the conduct of any form of legalized
7 gaming, including, but not limited to, Class III gaming under the Indian
8 Gaming Regulatory Act, 25 U.S.C. § 2701 et seq., pari-mutuel wagering,
9 both on-track and off-track, bingo and charitable games of chance and
10 the state lottery for education.

11 6. "Gaming service enterprise" shall mean a person or entity that
12 provides a gaming facility with goods or services regarding the realty,
13 construction, maintenance, or business of the gaming facility or related
14 facility including, without limitation, junket enterprises, security
15 businesses, gaming schools, manufacturers, distributors and servicers of
16 gaming devices or equipment, garbage haulers, maintenance companies,
17 food purveyors, and construction companies, or any other enterprise
18 which purchases goods or services from or which does any other business
19 with a gaming facility on a regular or continuing basis.

20 7. "Commission" or "state gaming commission" shall mean the New York
21 state gaming commission created pursuant to section one hundred two of
22 this article.

23 § 102. New York state gaming commission. 1. There is hereby created
24 within the executive department the New York state gaming commission
25 which shall consist of five members appointed by the governor upon the
26 advice and consent of the senate.

27 2. A member shall be designated as chair of the commission by the
28 governor to serve in such capacity at the pleasure of the governor or

1 until his or her term as a commission member expires, whichever first
2 occurs. The members shall serve on a full-time basis and be appointed
3 for terms of five years; provided, however, that initial appointments to
4 the commission shall be for terms as follows:

5 (a) one member for two years;

6 (b) one member for three years;

7 (c) one member for four years;

8 (d) one member for five years;

9 (e) one member for six years.

10 3. Each member of the commission shall be a citizen of the United
11 States and a resident of the state of New York. No member of the legis-
12 lature or person holding any elective or appointive office in the feder-
13 al, state or local government shall be eligible to serve as a member of
14 the commission.

15 4. The governor may remove any member of the commission at the gover-
16 nor's discretion.

17 § 103. Organization and divisions. 1. The commission shall establish a
18 plan of organization and may incur expenses within the limits of funds
19 available to it. An executive director shall be appointed by the gover-
20 nor and shall serve at his or her pleasure. The executive director shall
21 be responsible for the conduct of the administrative affairs of the
22 commission.

23 2. The commission shall establish and supervise five divisions to
24 respectively carry out responsibilities relating to the regulation and
25 enforcement of the following: lottery, charitable gaming, gaming, horse
26 racing and pari-mutuel wagering, and law enforcement. Each such division
27 shall be supervised by a division director, each to serve in such capac-
28 ity at the pleasure of the governor, provided, however, that the direc-

1 tor of the division of law enforcement shall serve at the pleasure of
2 the superintendent of state police.

3 (a) Division of lottery. The division of lottery shall be responsible
4 to operate and administer the state lottery for education, as prescribed
5 by article thirty-four of the tax law, excepting responsibilities for
6 video lottery gaming.

7 (b) Charitable gaming. The division of charitable gaming shall be
8 responsible for the supervision and administration of the games of
9 chance licensing law, bingo licensing law and bingo control law as
10 prescribed by articles nine-A and fourteen-H of the general municipal
11 law and nineteen-B of the executive law.

12 (c) Gaming. The division of gaming shall be responsible for the appro-
13 priate administration, regulation or oversight of Indian gaming as
14 defined by tribal-state compacts in effect pursuant to the Indian Gaming
15 Regulatory Act, 25 U.S.C. § 2701, et seq., and operation and adminis-
16 tration of video lottery gaming, as prescribed by article thirty-four of
17 the tax law.

18 (d) Horse racing and pari-mutuel wagering. The division of horse
19 racing and pari-mutuel wagering shall be responsible for the super-
20 vision, regulation and administration of all horse racing and pari-mutu-
21 el wagering activities, as prescribed by articles two through eleven of
22 this chapter.

23 (e) Law enforcement. The division of law enforcement shall consist of
24 state police investigators and personnel specializing in gaming investi-
25 gation and law enforcement. The division shall be permanently assigned
26 to the commission and maintain its principal office within the principal
27 office of the commission and may establish and maintain branch offices
28 at any branch office established and maintained by the commission.

1 Additionally, the division may establish and maintain offices at any
2 licensed gaming facility or Indian gaming facility consistent with the
3 terms of any tribal-state gaming compact in effect pursuant to the Indi-
4 an Gaming Regulatory Act, 25 U.S.C. § 2701, et seq. As agreed with and
5 on behalf of the commission, the division shall conduct fingerprinting
6 and background investigations on persons and entities engaged in gaming
7 activity or gaming services enterprises within the state. The division
8 shall, upon request, assist civil investigators of the commission and
9 evaluate all referrals made by same.

10 § 104. Powers and duties of the commission. The commission shall have
11 the authority and responsibility:

12 1. To have general jurisdiction over all gaming activities within the
13 state and over the corporations, associations and persons engaged there-
14 in.

15 2. To hear and decide promptly and in reasonable order all license,
16 registration, certificate and permit applications, and causes affecting
17 the granting, suspension, revocation or renewal thereof, of corpo-
18 rations, associations or persons engaged or seeking to engage in gaming
19 activity or gaming services enterprises.

20 3. To test or cause to have tested and approve surveillance systems,
21 games of chance, gaming devices and lottery games.

22 4. To monitor any corporation, association or person engaged in gaming
23 activity or a gaming service enterprise for compliance with this chap-
24 ter.

25 5. To, at any time, examine the books, papers, records and accounts of
26 any corporation, association or person engaged in gaming activity or a
27 gaming service enterprise pursuant to a license, registration, fran-
28 chise, certificate or permit issued by the commission.

1 6. To conduct investigations and hearings pertaining to violations of
2 this chapter. Each member of the commission and such officers, employees
3 or agents of the commission as may be designated by the commission for
4 such purpose shall have the power to administer oaths and examine
5 witnesses.

6 7. The commission may issue subpoenas to compel attendance of
7 witnesses, and the production of reports, books, papers, documents,
8 correspondence and other potential evidence. In the event that a holder
9 of license, registration, certificate or permit issued by the commission
10 fails to comply with such a subpoena, the commission may summarily
11 revoke such license, registration, certificate or permit.

12 8. To arbitrate disputes relating to any state license, registration,
13 certificate or permit. Additionally, the commission shall be authorized
14 to require arbitration of and to arbitrate disputes by or between any
15 holder of license, registration, certificate or permit issued by the
16 commission.

17 9. To collect all license and registration fees imposed by state law,
18 or rules or regulations promulgated thereunder, and any payments from an
19 Indian nation or tribe under the terms of a tribal-state compact that is
20 in effect pursuant to the federal Indian gaming regulatory act, 25
21 U.S.C. § 2701, et seq.

22 10. To levy and collect civil penalties and fines for any violation of
23 this chapter.

24 11. To be present through its employees and agents during the opera-
25 tion of any race track, casino, gaming facility, charitable gaming
26 organization, simulcasting facility or video lottery gaming facility for
27 the purpose of certifying the revenue thereof, receiving complaints from
28 the public relating to the conduct of gaming and simulcast wagering

1 activities, examining records of revenues and procedures, and conducting
2 periodic reviews of operations and facilities for purposes of evaluating
3 any current or suggested provision of law, rule or regulation.

4 12. To ensure compliance with tribal-state gaming compacts that are in
5 effect pursuant to the federal Indian gaming regulatory act, 25 U.S.C. §
6 2701, et seq.

7 13. To refer to the division of law enforcement or other law enforce-
8 ment agency of competent jurisdiction any evidence of a violation of
9 law.

10 14. To cause background investigations to be conducted by the division
11 of law enforcement on any applicant for a license, registration, certif-
12 icate, permit or approval. Notwithstanding any other provision of law,
13 the commission shall be granted access to the criminal history records
14 of the division of criminal justice services, pursuant to subdivision
15 eight-a of section eight hundred thirty-seven of the executive law, in
16 connection with executing the responsibilities of the commission relat-
17 ing to the regulation, oversight, licensing, permitting or certif-
18 ication, including fingerprinting, criminal history record checks and
19 background investigations, of persons applying to engage in gaming
20 activities and gaming service enterprises. At the request of the commis-
21 sion, the division of criminal justice services shall submit a finger-
22 print card, along with the subject's processing fee, to the federal
23 bureau of investigation for the purpose of conducting a criminal history
24 search and returning a report thereon. The commission shall also be
25 entitled to request and receive any information in the possession of the
26 state attorney general or department of taxation and finance relating to
27 the investigation of organized crime, gaming offenses, other revenue
28 crimes or tax evasion.

1 15. To keep a full and faithful record of its proceedings.

2 16. To operate, or immediately appoint or contract with an independent
3 third party to operate, any facility subject to licensure by the commis-
4 sion on an interim basis in the event that the licensed operator or
5 operators of such facility discontinues operations due to financial,
6 regulatory or any other circumstances, including, but not limited to,
7 license revocation, relinquishment or expiration, and the commission
8 determines that it would further the public interest to continue such
9 operations. Such operation shall be on a temporary basis, not to exceed
10 one hundred eighty days, until such time as a permanent operator is
11 licensed and authorized to operate such facility; provided, however, the
12 commission may operate a facility for additional one hundred eighty day
13 periods where necessary.

14 17. To enter into contracts with any person to carry out its func-
15 tions, powers and duties whenever it deems necessary or convenient.

16 18. To annually report to the governor its proceedings for the preced-
17 ing calendar year and any suggestions and recommendations as it shall
18 deem desirable.

19 19. To promulgate any rules and regulations that it deems necessary to
20 carry out its responsibilities.

21 § 105. Quorum. A majority of the duly appointed members of the commis-
22 sion shall constitute a quorum and not less than a majority of such
23 quorum may transact any business, perform any duty or exercise any power
24 of the commission.

25 § 106. Salary and expenses. 1. The chair and members of the commission
26 shall receive salaries in amounts equal to those established by para-
27 graphs (a) and (c) of subdivision one of section one hundred sixty-nine
28 of the executive law, respectively.

1 2. The commission shall fix the compensation for its officers and
2 employees within the amounts appropriated therefor.

3 3. The members, officers and employees of the commission shall be
4 reimbursed for all actual and necessary traveling and other expenses and
5 disbursements incurred or made by them in the discharge of their offi-
6 cial duties.

7 § 107. Conflicts prohibited. 1. No person shall be appointed to or
8 employed by the commission if, during the period commencing three years
9 prior to appointment or employment, said person held any direct or indi-
10 rect interest in, or employment by, any corporation, association or
11 person engaged in gaming activity or a gaming service enterprise within
12 the state. Prior to appointment or employment, each member, officer or
13 employee of the commission shall swear or affirm that he or she
14 possesses no interest in any corporation or association holding a fran-
15 chise, license, registration, certificate or permit issued by the
16 commission. During the term of appointment or employment, every member,
17 officer and employee of the commission shall be held to the highest
18 ethical standards and avoid any conflict of interest or appearance ther-
19 eof. Thereafter, no member or officer of the commission shall hold any
20 direct interest in or be employed by any applicant for or by any corpo-
21 ration, association or person holding a license, registration, fran-
22 chise, certificate or permit issued by the commission for a period of
23 four years commencing on the date his or her membership with the commis-
24 sion terminates. Further, no employee of the commission may acquire any
25 direct or indirect interest in, or accept employment with, any applicant
26 for or any person holding a license, registration, franchise, certif-
27 icate or permit issued by the commission for a period of two years
28 commencing at the termination of employment with the commission.

1 2. No member, officer, official or employee of the commission shall
2 participate as an owner of a horse or otherwise as a contestant in any
3 horse race at a race meeting which is under the jurisdiction or super-
4 vision of the commission, or have any pecuniary interest, direct or
5 indirect, in the purse, prize, premium or stake contested for at any
6 such horse race or in the operations of any licensee of the commission
7 or state racing franchisee. Participation as an owner of a horse or
8 otherwise as a contestant in any such horse race by a member, officer,
9 other official or employee of the commission in violation of this prohi-
10 bition shall terminate the term of his or her office as a member, or his
11 or her services as an officer or official or employee of the commission.

12 3. All members, officers and employees of the commission shall be
13 subject to the provisions of the public officers law and be required to
14 annually file a financial disclosure statement with the joint commission
15 on public ethics.

16 4. No member, officer or employee of the commission shall wager upon
17 gaming or horse racing activity conducted within the state.

18 5. No individual employed by an off-track betting corporation or race
19 track licensed pursuant to this chapter as a pari-mutuel clerk, cashier
20 or seller shall be permitted to wager upon gaming activity during any
21 period of a day on which such person is employed in such capacity.

22 6. No public officer or party officer shall hold any license from the
23 commission.

24 7. The following public employees are prohibited from holding any
25 license from the commission:

26 (a) an employee of the commission; any director or employee of a
27 regional off-track betting corporation employed in a management, confi-
28 dential or supervisory capacity, provided, however, that such director

1 or employee shall be required to apply for and obtain a license from the
2 commission for purposes of their position with off-track betting; or

3 (b) an employee of the state legislature; provided, however, that an
4 employee of the state legislature whose duties in such position do not
5 relate to gaming activities shall not be subject to the prohibitions of
6 this section if he or she held a license from the former state racing
7 and wagering board while employed by the state legislature prior to July
8 first, nineteen hundred eighty; or

9 (c) an employee of any local legislative body whose duties relate to
10 gaming activities; or

11 (d) an employee of any state or local board, agency, authority or
12 other state or local governmental body, the duties of which relate to
13 gaming activities or the taxation thereof.

14 8. No public officer, public employee or party officer shall:

15 (a) own or hold, directly or indirectly, any proprietary interest,
16 stock or obligation of any firm, association or corporation (i) which is
17 licensed by the commission to conduct gaming or horse racing activities
18 or gaming service enterprise, or (ii) which conducts its occupation,
19 trade, or business at a racetrack at which pari-mutuel race meets are
20 conducted or facility where gaming activity is conducted whether or not
21 a license is required, or (iii) which owns or leases to any enfranchised
22 or licensed association or corporation a racetrack at which pari-mutuel
23 racing is conducted or facility where gaming activity is conducted, or
24 (iv) which participates in the management of any franchise holder or
25 licensee conducting gaming or horse racing activities or gaming service
26 enterprise; or

1 (b) hold any office or employment with any firm, association or corpo-
2 ration specified in paragraph (a) of this subdivision, except as
3 provided in subdivision nine of this section; or

4 (c) sell, or be a member of a firm, or own ten per centum or more of
5 the stock of any corporation, which sells any goods or services to any
6 firm, association or corporation specified in paragraph (a) of this
7 subdivision.

8 9. The provisions of paragraph (b) of subdivision eight of this
9 section shall not apply to a public employee other than an employee of
10 the commission, a police officer or a peace officer employed by a sher-
11 iff's office, district attorney's office or other state or local law
12 enforcement agency, or those employees classified as management confi-
13 dential employees pursuant to section two hundred fourteen of the civil
14 service law who are employed by a state or local law enforcement agency
15 or regional off-track betting corporation; provided, however, that
16 employment of employees of a political subdivision may be prohibited by
17 ordinance, resolution or local law adopted by the local legislative body
18 or other governing board of such political subdivision.

19 10. The commission shall have the power to refuse to grant or to
20 revoke or suspend a license of any person, association or corporation
21 that aids or knowingly permits or conspires to permit any public offi-
22 cer, public employee or party officer to acquire or retain any interest
23 prohibited by this section and shall have the power to exclude from the
24 grounds of any racing association any such person, association or corpo-
25 ration.

26 11. Notwithstanding any other provision of law, and in addition to any
27 other cause of removal provided by law, an intentional violation of this
28 section shall be cause for removal from public office, public employment

1 or party office. In any such case, such public officer, public employee
2 or party officer violating this section shall be removed from office by
3 the appropriate authority having the power of removal or at the suit of
4 the attorney general. Further, such public officer, public employee or
5 party officer shall be liable for a civil penalty of not more than ten
6 thousand dollars.

7 § 108. Certain restrictions on wagering. 1. No corporation, associ-
8 ation or person which holds a license, registration, franchise, certif-
9 icate or permit issued by the commission shall directly extend credit
10 for any wager under this chapter.

11 2. No corporation, association or person that holds a license, regis-
12 tration, franchise, certificate or permit issued by the commission shall
13 permit any person who is actually or apparently under eighteen years of
14 age to bet on gaming activity, as defined in subdivision five of section
15 one hundred one of this article.

16 § 109. Supplementary regulatory powers of the commission. Notwith-
17 standing any inconsistent provision of law, the commission through its
18 rules and regulations or in allotting dates for racing, simulcasting or
19 in licensing race meetings at which pari-mutuel betting is permitted
20 shall be authorized to:

21 (a) permit racing at which pari-mutuel betting is conducted on any or
22 all dates from the first day of January through the thirty-first day of
23 December, inclusive of Sundays; and

24 (b) fix minimum and maximum charges for admission at any race meeting.

25 § 110. Statement of stockholders to be filed. Every corporation or
26 association authorized under this chapter to conduct pari-mutuel betting
27 at a race meeting or races run thereat shall file with the commission a
28 statement giving the names and addresses of all its stockholders and

1 shall likewise file revised statements giving such names and addresses
2 from time to time as changes occur.

3 § 111. Compulsive gambling assistance. 1. The commission shall cooper-
4 ate with the commissioner of mental health to ensure the posting of
5 signs and listing of information on the internet designed to assist
6 compulsive gamblers pursuant to the provisions of subdivision (g) of
7 section 7.09 of the mental hygiene law.

8 2. (a) The commission shall promulgate rules and regulations pursuant
9 to which people may voluntarily exclude themselves from entering the
10 premises of an association or corporation licensed or enfranchised by
11 the commission pursuant to this chapter.

12 (b) An association or corporation licensed or enfranchised pursuant to
13 this chapter shall not be liable to any self-excluded person or to any
14 other party in any judicial proceeding for any harm, monetary or other-
15 wise, which may arise as a result of a self-excluded person's engaging
16 in gaming activity while on the list of self-excluded persons.

17 (c) No voluntary order or request to exclude persons from entering the
18 premises of any such association, corporation, or facility may be
19 rescinded, canceled, or declared null and void until seven days after a
20 request has been received by such association, corporation, or facility
21 to cancel such order or request.

22 3. The commission shall promulgate rules and regulations under which a
23 person with an account authorized pursuant to section one thousand
24 twelve of this chapter may voluntarily place limits on the amounts of
25 his or her wagers or potential wagers on a daily or weekly basis. No
26 order from a person to remove any limit placed on account wagers shall
27 be effective until seven days after it has been received by the entity
28 conducting account wagering.

1 § 112. Pari-mutuel operations; filing of tax forms and other statis-
2 tics. The commission and the commissioner of taxation and finance shall
3 approve all systems used for data processing and communications in the
4 operation of pari-mutuel betting and, in its discretion, the commission
5 may establish, by regulation, uniform protocols to be employed for the
6 merging of wagers deposited with one pari-mutuel operator with the
7 wagers deposited with another pari-mutuel operator.

8 § 113. Filing of pari-mutuel tax returns or reports by electronic
9 means. Every corporation or association authorized by this chapter to
10 conduct pari-mutuel betting on horse races shall file in a timely manner
11 pari-mutuel tax returns or other reports relating to such activity in
12 such form and by such means, including electronic means, as may be
13 prescribed by the commission or the commissioner of taxation and
14 finance, as the case may be in accordance with the provisions of this
15 chapter.

16 § 114. Practice and procedure. The provisions of article twenty-seven
17 of the tax law, except sections one thousand eighty-five and one thou-
18 sand ninety-seven, shall apply to the provisions of this chapter in the
19 same manner and with the same force and effect as if the language of
20 such article had been incorporated in full into this chapter and had
21 expressly referred to the admission taxes, pari-mutuel revenue taxes,
22 the franchise fee on a non-profit racing association and unpaid money
23 due on account of pari-mutuel tickets not presented, administered by the
24 commissioner of taxation and finance, under this chapter, with such
25 modifications as may be necessary in order to adapt the language of such
26 provisions to such taxes, fee and unpaid money due, except to the extent
27 that any provision of such article is either inconsistent with a
28 provision of this chapter or is not relevant to this chapter.

1 § 115. Regulatory fees. In addition to any other regulatory fees
2 imposed by this chapter, all persons and entities required to obtain a
3 license, permit or approval or subject to regulation by the commission
4 shall submit to the commission fees in amounts and under such terms and
5 conditions as are determined by the commission to be necessary to equit-
6 ably defray the costs of regulating gaming activity within the state;
7 provided, however, that nothing herein shall authorize the commission to
8 collect any assessment relating to an Indian gaming facility that is
9 operated pursuant to a tribal-state gaming compact that is in effect,
10 except as provided in such tribal-state gaming compact pursuant to 25
11 U.S.C. 2701(d) (3) (C) (iii).

12 § 116. Penalties. Notwithstanding any inconsistent provision of law,
13 any person or entity that violates any provision of this chapter, or any
14 rule, regulation or order promulgated thereto, or the terms and condi-
15 tions of any license, permit or approval issued thereunder, shall be
16 liable to a civil penalty of not more than fifty thousand dollars for
17 each violation, and an additional civil penalty of not more than fifty
18 thousand dollars for each day during which such violation continues. Any
19 civil penalty may be assessed by the commission following a hearing or
20 opportunity to be heard.

21 § 117. Transfer of functions. All of the functions and powers
22 possessed by and the obligations and duties of the former racing and
23 wagering board and its predecessors and the division of the lottery and
24 its predecessors are hereby transferred to the commission.

25 § 118. Transfer of employees. 1. Upon the transfer of functions,
26 powers, duties and obligations to the commission pursuant to this arti-
27 cle, provision should be made for the transfer to the commission of such
28 employees of the former division of the lottery and former racing and

1 wagering board who are engaged in carrying out such functions as the
2 chair of the commission may deem necessary for the exercise of the func-
3 tions herein transferred to the commission. Employees so transferred
4 shall be transferred without further examination or qualification and
5 shall retain their respective civil service classifications and status.
6 For the purpose of determining the employees holding permanent appoint-
7 ments in competitive class positions to be transferred, such employees
8 shall be selected within each class of positions in the order of their
9 original appointment, with due regard to the right of preference in
10 retention of disabled and non-disabled veterans. Any such employee who,
11 at the time of such transfer, has a temporary or provisional appointment
12 shall be transferred subject to the same right of removal, examination
13 or termination as though such transfer had not been made. Employees
14 holding permanent appointments in competitive class positions who are
15 not transferred pursuant to this section shall have their names entered
16 upon an appropriate preferred list for reinstatement pursuant to the
17 civil service law.

18 2. A transferred employee shall remain in the same collective bargain-
19 ing unit as was the case prior to his or her transfer; successor employ-
20 ees to the positions held by such transferred employees shall, consist-
21 ent with the provisions of article fourteen of the civil service law, be
22 included in the same unit as their predecessors. Employees other than
23 management or confidential persons as defined in article fourteen of the
24 civil service law serving positions in newly created titles shall be
25 assigned to the appropriate bargaining unit. Nothing contained herein
26 shall be construed to affect:

27 (a) the rights of employees pursuant to a collective bargaining agree-
28 ment;

1 (b) the representational relationships among employee organizations or
2 the bargaining relationships between the state and an employee organiza-
3 tion; or

4 (c) existing law with respect to an application to the public employ-
5 ment relations board, provided, however, that the merger of such negoti-
6 ating units of employees shall be effected only with the consent of the
7 recognized and certified representative of such units and of the depart-
8 ment of law.

9 § 119. Transfer of records. All books, papers, records and property of
10 the former division of the lottery and former racing and wagering board
11 with respect to the functions, powers, duties and obligations trans-
12 ferred by this article are to be delivered to the appropriate successor
13 offices within the commission, at such place and time, and in such
14 manner as the chair of the commission may require.

15 § 120. Continuity of authority. For the purpose of succession to all
16 functions, powers, duties and obligations of the former division of the
17 lottery and former racing and wagering board transferred to and assumed
18 by the commission, such commission shall be deemed to and held to
19 constitute the continuation of such functions, powers, duties and obli-
20 gations, and not a different agency or authority.

21 § 121. Completion of unfinished business. Any business or other matter
22 undertaken or commenced by the former division of the lottery and the
23 former racing and wagering board pertaining to or connected with the
24 functions, powers, duties and obligations transferred and assigned to
25 the state gaming commission and pending on the effective date of this
26 article shall be conducted and completed by the appropriate successor
27 offices within the commission in the same manner and under the same
28 terms and conditions and with the same effect as if conducted and

1 completed by the former division of the lottery and former racing and
2 wagering board.

3 § 122. Continuation of rules and regulations. All rules, regulations,
4 acts, orders, determinations, and decisions of the former division of
5 the lottery and former racing and wagering board in force at the time of
6 such transfer and assumption, shall continue in force and effect as
7 rules, regulations, acts, orders, determinations and decisions of the
8 commission until duly modified or abrogated by such commission.

9 § 123. Terms occurring in laws, contracts and other documents. Unless
10 the context shall otherwise require, whenever the "racing and wagering
11 board" or "board", "state racing commission", "state harness racing
12 commission", "state quarter horse racing commission", or "division of
13 the lottery" are referred to or designated in any law, contract or docu-
14 ment pertaining to the functions, powers, obligations and duties trans-
15 ferred and assigned to the commission, such reference or designation
16 shall be deemed to refer to the "state gaming commission".

17 § 124. Existing rights and remedies preserved. No existing right or
18 remedy of any character shall be lost, impaired or affected by reason of
19 the transfer or assignment of functions, powers, obligations and duties
20 from the former division of the lottery and former racing and wagering
21 board to the commission.

22 § 125. Pending actions or proceedings. No action or proceeding pending
23 at the time that this article shall take effect relating to the func-
24 tions, powers and duties of the former division of the lottery and
25 former racing and wagering board transferred pursuant to this article,
26 brought by or against the former division of the lottery or former
27 racing and wagering board, or the officers thereof, shall be affected by
28 the transfer or assignment of functions, powers, obligations and duties

1 from the former division of the lottery and former racing and wagering
2 board to the commission, but the same may be prosecuted or defended in
3 the name of the commission. In all such actions and proceedings, the
4 commission, upon application to the court, shall be substituted as a
5 party.

6 § 126. Transfer of appropriations heretofore made. Subject to the
7 approval of the director of the budget, any and all appropriations and
8 reappropriations heretofore made to the former division of the lottery,
9 state police, and former racing and wagering board for the functions and
10 purposes transferred by this article to the commission to the extent of
11 remaining unexpended or unencumbered balances thereof, whether allocated
12 or unallocated and whether obligated or unobligated, are hereby trans-
13 ferred to and made available for use and expenditure by the commission
14 for the same purposes for which originally appropriated or reappropri-
15 ated and shall be payable on vouchers certified or approved by the chair
16 of the commission or his or her designee on audit and warrant of the
17 comptroller. Payments for liabilities for expenses of personal services,
18 maintenance and operation heretofore incurred by and for liabilities
19 incurred and to be incurred in completing the affairs of the former
20 division of the lottery and former racing and wagering board with
21 respect to the powers, duties and functions transferred herein, shall
22 also be made on vouchers or certificates approved by the chair of the
23 commission or his or her designee on audit and warrant of the comp-
24 troller.

25 § 127. Transfer of assets and liabilities. All assets and liabilities
26 of the former division of the lottery and former racing and wagering
27 board are hereby transferred to and assumed by the commission.

1 § 128. Promulgation of rules and regulations. Notwithstanding any
2 inconsistent provision of the state administrative procedure act, the
3 commission shall be authorized to promulgate regulations on an emergency
4 basis to ensure the implementation of this article.

5 § 129. Construction of other laws or provisions. Unless the context
6 shall require otherwise, the terms "division of the lottery", "state
7 quarter horse racing commission", "state racing commission", "state
8 harness racing commission", "state racing and wagering board" or "board"
9 wherever occurring in any of the provisions of this chapter or of any
10 other law, or, in any official books, records, instruments, rules or
11 papers, shall hereafter mean and refer to the state gaming commission
12 created by section one hundred two of this article. The provisions of
13 article three of this chapter shall be inapplicable to article two of
14 this chapter; and the provisions of such article two shall be inapplica-
15 ble to such article three, except that section two hundred thirty-one of
16 such article two shall apply to such article three.

17 § 2. Subdivision 2 of section 186 of the general municipal law, as
18 amended by chapter 574 of the laws of 1978, is amended to read as
19 follows:

20 2. "Board" shall mean New York state [racing and wagering board]
21 gaming commission created pursuant to section one hundred two of the
22 racing, pari-mutuel wagering and breeding law.

23 § 3. Subdivision 2 of section 476 of the general municipal law, as
24 amended by chapter 46 of the laws of 1977, is amended to read as
25 follows:

26 2. "Control commission" or "commission" shall mean the New York state
27 [racing and wagering board] gaming commission created pursuant to

1 section one hundred two of the racing, pari-mutuel wagering and breeding
2 law.

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

5 1. "Control commission" or "commission" shall mean the New York state
6 [racing and wagering board] gaming commission created pursuant to
7 section one hundred two of the racing, pari-mutuel wagering and breeding
8 law.

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

11 ARTICLE 12

12 OFFICE OF RACING PROMOTION AND DEVELOPMENT

13 Section 1201. New York state office of racing promotion and development.

14 1202. Use of service employees.

15 § 1201. New York state office of racing promotion and development.

16 There is hereby created within the New York state gaming commission a
17 separate and independent office of racing promotion and development. The
18 office shall promote the breeding of horses and the conduct of equine
19 research in this state and shall administer the "state thoroughbred
20 breeding and development fund", "agriculture and New York state horse
21 breeding development fund" and "New York state quarter horse breeding
22 and development fund corporation."

23 § 1202. Use of service employees. The office shall utilize, pursuant
24 to a contract approved by the director of the budget, the service
25 employees of the state gaming commission.

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

28 § 1602. Definitions. As used in this article:

1 1. "Lottery" means the lottery operated by the state pursuant to this
2 article.

3 2. "Division": (a) means the division of the lottery, as established
4 within the New York state gaming commission; and (b) for the purposes of
5 section sixteen hundred seventeen-a of this article, the term "division
6 of the lottery" or "division" means the "division of gaming" as created
7 pursuant to section one hundred two of the racing, pari-mutuel wagering
8 and breeding law.

9 3. "Commissioner" means the commissioner of taxation and finance or
10 his or her duly appointed delegate.

11 4. "Commission" means the New York state gaming commission.

12 5. "Director" means the director of the division of the lottery.

13 § 1603. Division of the lottery. There is hereby created within the
14 commission the division of the lottery.

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

18 3. The board may delegate to one or more of the directors[,] or offi-
19 cers[, agents or employees] of the fund such powers and duties as it may
20 deem proper and [may] shall utilize, pursuant to a contract approved by
21 the director of the budget, the service employees of the state racing
22 and wagering board and the state office of racing promotion and develop-
23 ment.

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

27 § 330. Agriculture and New York state horse breeding development fund.

28 1. There is hereby created within the state [racing and wagering board]

1 gaming commission the "agriculture and New York state horse breeding
2 development fund". Such fund shall be a body corporate and politic
3 constituting a public benefit corporation. It shall be administered by
4 the commissioner of agriculture and markets, the [chairman] chair of the
5 New York state [racing and wagering board] gaming commission or his or
6 her designee, and [the chairman and] three members of the state [harness
7 racing] gaming commission as [reconstituted pursuant to article one of
8 this chapter] designated by the governor. Members shall continue to
9 hold office until their successors are appointed and qualified. The
10 [chairman] chair shall be designated by the members of the fund. The
11 members of the fund shall receive no compensation from the fund for
12 their services as such members but shall be reimbursed by the fund for
13 the expenses actually and necessarily incurred by them in the perform-
14 ance of their duties under sections two hundred twenty-two through seven
15 hundred five of this chapter. Such fund shall have perpetual existence
16 and shall exercise all powers authorized by this chapter and reasonably
17 necessary for accomplishing its purposes. Such powers shall be exer-
18 cised in the name of the fund.

19 2. The board may delegate to one or more of the members or officers of
20 the fund such powers and duties as it may deem proper and shall utilize,
21 pursuant to a contract approved by the director of the budget, the
22 service employees of the state racing and wagering board and the state
23 office of racing promotion and development.

24 3. The fund is created in order that it may promote the breeding of
25 horses and the conduct of equine research in this state on its own
26 responsibility and under its own business management. The policy, good
27 faith and interest of the state are concerned with the management and
28 development of the fund and are committed to promotion of horse breeding

1 and equine research in this state in active cooperation with the fund.
2 The promotion and encouragement of equine research shall be through a
3 fund of a land grant university within this state with a regents
4 approved veterinary college facility. Nothing herein, however, shall be
5 deemed in any way to obligate the state to any bondholder or other cred-
6 itor of the fund.

7 4. The fund is directed to report annually, on or before January thir-
8 ty-first, to the governor and the legislature, on the state of the stan-
9 dardbred breeding industry in this state. Such reports shall include,
10 but not be limited to, the impact of the fund's programs on the breeding
11 and racing aspects of the industry; economic factors affecting the
12 industry such as employment and employment growth, state and local bene-
13 fits of breeding farms, income and the production of income within this
14 state, economic comparisons with other states; and data relative to
15 mares and stallions standing in this state to include such information
16 as the number in this state, racing quality as measured by wins and
17 stakes won and placed and money won, the number of foals and foal racing
18 quality as measured by sales value and number of starts, races and money
19 won, the progeny quality, including earnings, and the success of New
20 York-breds nationally.

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

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

27 3. The board may delegate to one or more of the directors[,] or offi-
28 cers[, agents or employees] of the fund such powers and duties as it may

1 deem proper and [may] shall utilize, pursuant to a contract approved by
2 the director of the budget, the service employees of the state racing
3 and wagering board and the state office of racing promotion and develop-
4 ment.

5 § 10. Subdivision 1 of section 169 of the executive law, as added by
6 chapter 986 of the laws of 1984, paragraph (a) as amended by section 94
7 of subpart B of part C of chapter 62 of the laws of 2011, paragraphs (b)
8 and (e) as amended by section 14 of part A of chapter 62 of the laws of
9 2011, paragraph (c) as separately amended by section 66 of part A and
10 section 2 of part W of chapter 56 of the laws of 2010, paragraph (d) as
11 amended by chapter 220 of the laws of 2005, and paragraph (f) as sepa-
12 rately amended by section 1 of part E and section 1 of part H of chapter
13 57 of the laws of 2011, is amended to read as follows:

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

16 (a) commissioner of corrections and community supervision, commission-
17 er of education, commissioner of health, commissioner of mental health,
18 commissioner of developmental disabilities, commissioner of children and
19 family services, commissioner of temporary and disability assistance,
20 chancellor of the state university of New York, commissioner of trans-
21 portation, commissioner of environmental conservation, superintendent of
22 state police, commissioner of general services and commissioner of the
23 division of homeland security and emergency services;

24 (b) commissioner of labor, chairman of public service commission,
25 commissioner of taxation and finance, superintendent of financial
26 services, commissioner of criminal justice services, chair of the state
27 gaming commission and commissioner of parks, recreation and historic
28 preservation;

1 (c) commissioner of agriculture and markets, commissioner of alcohol-
2 ism and substance abuse services, adjutant general, commissioner and
3 president of state civil service commission, commissioner of economic
4 development, chair of the energy research and development authority,
5 president of higher education services corporation, commissioner of
6 motor vehicles, member-chair of board of parole, chair of public employ-
7 ment relations board, secretary of state, [chair of the state racing and
8 wagering board,] commissioner of alcoholism and substance abuse
9 services, executive director of the housing finance agency, commissioner
10 of housing and community renewal, executive director of state insurance
11 fund, commissioner-chair of state liquor authority, chair of the work-
12 ers' compensation board;

13 (d) director of office for the aging, commissioner of human rights,
14 commissioners of the department of public service, chairman of state
15 commission on quality of care for the mentally disabled, chairman of
16 commission on alcoholism and substance abuse prevention and education,
17 executive director of the council on the arts and executive director of
18 the board of social welfare;

19 (e) chairman of state athletic commission, director of the office of
20 victim services, chairman of human rights appeal board, chairman of the
21 industrial board of appeals, chairman of the state commission of
22 correction, members of the board of parole, members of the state [racing
23 and wagering board] gaming commission, member-chairman of unemployment
24 insurance appeal board, director of veterans' affairs, and vice-chairman
25 of the workers' compensation board;

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

1 § 11. Terms. (a) Wherever the term "racing and wagering board", "state
2 racing commission" or "state harness racing commission" appears in the
3 executive law, the general municipal law, article 34 of the tax law or
4 the racing, pari-mutuel wagering and breeding law or otherwise in the
5 consolidated or unconsolidated laws of this state, such term is hereby
6 changed to "state gaming commission".

7 (b) Wherever the terms "chairman of the racing and wagering board", or
8 "director of the division of the lottery" appear in article 34 of the
9 tax law, or otherwise in the consolidated or unconsolidated laws of this
10 state, such terms are hereby changed to "chair of the state gaming
11 commission".

12 (c) The legislative bill drafting commission is hereby directed to
13 effectuate this provision, and shall be guided by a memorandum of
14 instruction setting forth the specific provisions of law to be amended.
15 Such memorandum shall be transmitted to the legislative bill drafting
16 commission within sixty days of the effective date of this provision.
17 Such memorandum shall be issued jointly by the governor, the temporary
18 president of the senate and the speaker of the assembly, or by the dele-
19 gate of each.

20 § 12. Subdivision 1 of section 252 of the racing, pari-mutuel wagering
21 and breeding law, as amended by chapter 197 of the laws of 2007 and such
22 section as renumbered by chapter 18 of the laws of 2008, is amended to
23 read as follows:

24 1. A corporation to be known as the New York state thoroughbred breed-
25 ing and development fund corporation is hereby created. Such corporation
26 shall be a body corporate and politic constituting a public benefit
27 corporation. It shall be administered by a board of directors consisting
28 of the [chairman] chair of the state [racing and wagering board] gaming

1 commission or his or her designee, the commissioner of agriculture and
2 markets, [the] three members of the state [racing] gaming commission as
3 [defined in section one hundred three of this chapter,] designated by
4 the governor and six members appointed by the governor, all of whom are
5 experienced or have been actively engaged in the breeding of thorough-
6 bred horses in New York state, one, the president or the executive
7 director of the statewide thoroughbred breeders association representing
8 the majority of breeders of registered thoroughbreds in New York state,
9 one upon the recommendation of the majority leader of the senate, one
10 upon the recommendation of the speaker of the assembly, one upon the
11 recommendation of the minority leader of the senate, and one upon the
12 recommendation of the minority leader of the assembly. Two of the
13 appointed members shall initially serve for a two year term, two of the
14 appointed members shall initially serve for a three year term and two of
15 the appointed members shall initially serve for a four year term. All
16 successors appointed members shall serve for a four year term. All
17 members shall continue in office until their successors have been
18 appointed and qualified. The governor shall designate the chair from
19 among the sitting members who shall serve as such at the pleasure of the
20 governor.

21 § 13. This act shall take effect May 1, 2012.

22 PART B

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

1 Department of [civil service] workforce management; state civil
2 service commission.

3 1. The department. There shall [continue to] be in the state govern-
4 ment a department of [civil service] workforce management. The head of
5 the department shall be the president of the state civil service commis-
6 sion who shall be responsible for the discharge of the duties and func-
7 tions of the department.

8 § 2. Section 7 of the civil service law is amended by adding a new
9 subdivision 7 to read as follows:

10 7. The president of the commission shall promote harmonious and coop-
11 erative relationships between the state and its employees to protect the
12 public by assuring, at all times, the orderly and uninterrupted oper-
13 ations and functions of state government; assist the governor in
14 conducting collective negotiations; assure the proper implementation and
15 administration of agreements reached pursuant to such negotiations; and
16 assist the governor and direct and coordinate the state's efforts with
17 regard to the state's powers and duties under the public employees' fair
18 employment act.

19 § 3. Transfer of powers of the department of civil service and the
20 office of employee relations to the department of workforce management.
21 The functions and powers possessed by and all of the obligations and
22 duties of the department of civil service, as established pursuant to
23 chapter 7 of the consolidated laws, shall be transferred and assigned
24 to, and assumed by and devolved upon, the department of workforce
25 management. The functions and powers possessed by and all of the obli-
26 gations and duties of the office of employee relations, as established
27 pursuant to article 24 of the executive law shall be transferred and

1 assigned to, and assumed by and devolved upon, the department of work-
2 force management.

3 § 4. Transfer of employees. (i) All employees of the department of
4 civil service shall be transferred to the department of workforce
5 management. This transfer of employees shall be deemed to be a transfer
6 of function pursuant to subdivision 2 of section 70 of the civil service
7 law. Officers and employees of the state department of civil service
8 shall be transferred without further examination or qualification, and
9 shall retain their respective civil service classification, status and
10 bargaining unit representation.

11 (ii) All employees in the office of employee relations shall be trans-
12 ferred to the department of workforce management. This transfer of
13 employees shall be deemed to be a transfer of function pursuant to
14 subdivision 2 of section 70 of the civil service law. Officers and
15 employees of the office of employee relations shall be transferred with-
16 out further examination or qualification, and shall retain their respec-
17 tive civil service classification, status and bargaining unit represen-
18 tation.

19 § 5. Abolition of the department of civil service and the office of
20 employee relations. Upon the transfer pursuant to this act of the func-
21 tions and powers possessed by and all of the obligations and duties of
22 the department of civil service and the office of employee relations, as
23 established pursuant to the civil service law, the executive law, and
24 other laws, the department of civil service and the office of employee
25 relations shall be abolished.

26 § 6. Continuity of authority of the civil service department and
27 office of employee relations. Except as herein otherwise provided, upon
28 the transfer pursuant to this act of the functions and powers possessed

1 by, and all of the obligations and duties of, the civil service depart-
2 ment and the office of employee relations as established pursuant to the
3 civil service law, the executive law and other laws, to the department
4 of workforce management as prescribed by this act, for the purpose of
5 succession all functions, powers, duties and obligations of the depart-
6 ment of workforce management shall be deemed and be held to constitute
7 the continuation of such functions, powers, duties and obligations and
8 not those of a different agency.

9 § 7. Transfer of records of the civil service department and the
10 office of employee relations. Upon the transfer pursuant to this act of
11 the functions and powers possessed by and all of the obligations and
12 duties of the civil service department and the office of employee
13 relations as established pursuant to the civil service law, the execu-
14 tive law and other laws, to the department of workforce management as
15 prescribed by this act, all books, papers, records and property pertain-
16 ing to the civil service department and the office of employee relations
17 shall be transferred to and maintained by the department of workforce
18 management, as appropriate.

19 § 8. Completion of unfinished business of the civil service department
20 and the office of employee relations. Upon the transfer pursuant to this
21 act of the functions and powers possessed by and all of the obligations
22 and duties of the civil service department and the office of employee
23 relations as established pursuant to the civil service law, the execu-
24 tive law and other laws, to the department of workforce management as
25 prescribed by this act, any business or other matter undertaken or
26 commenced by the civil service department and the office of employee
27 relations pertaining to or connected with the functions, powers, obli-
28 gations and duties so transferred and assigned to the department of

1 workforce management may be conducted or completed by the department of
2 workforce management, as appropriate.

3 § 9. Terms occurring in laws, contracts or other documents of or
4 pertaining to the civil service department and the office of employee
5 relations. Upon the transfer pursuant to this act of the functions and
6 powers possessed by and all of the obligations and duties of the civil
7 service department and the office of employee relations as established
8 pursuant to the civil service law, the executive law and other laws, as
9 prescribed by this act, whenever the civil service department and the
10 president thereof or the office of employee relations and the director
11 thereof, the functions, powers, obligations and duties of which are
12 transferred to the department of workforce management, are referred to
13 or designated in any law, regulation, contract or document pertaining to
14 the functions, powers, obligations and duties transferred and assigned
15 pursuant to this act, such reference or designation shall be deemed to
16 refer to the department of workforce management and its president. In
17 the case of any boards or other organizations where the president of the
18 civil service department and the director of the office of employee
19 relations both sit, the references or designations shall be deemed to
20 refer solely to the president of the department of workforce management.

21 § 10. (a) Wherever the terms "civil service department" or "department
22 of civil service" appear in the civil service law, such terms are hereby
23 changed to "department of workforce management".

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

27 (c) Wherever the terms "civil service department", "department of
28 civil service", "office of employee relations" or "director of employee

1 relations" appears in the consolidated or unconsolidated laws of this
2 state other than the civil service law, such terms are hereby changed to
3 "department of workforce management".

4 (d) The legislative bill drafting commission is hereby directed to
5 effectuate this provision, and shall be guided by a memorandum of
6 instruction setting forth the specific provisions of law to be amended.
7 Such memorandum shall be transmitted to the legislative bill drafting
8 commission within sixty days of enactment of this provision. Such memo-
9 randum shall be issued jointly by the governor, the temporary president
10 of the senate and the speaker of the assembly, or by the delegate of
11 each.

12 § 11. Existing rights and remedies of or pertaining to the civil
13 service department and the office of employee relations preserved. Upon
14 the transfer pursuant to this act of the functions and powers possessed
15 by and all of the obligations and duties of the civil service department
16 and of the office of employee relations as established pursuant to the
17 civil service law, the executive law and other laws, to the department
18 of workforce management as prescribed by this act, no existing right or
19 remedy of the state, including the civil service department and office
20 of employee relations, shall be lost, impaired or affected by reason of
21 this act.

22 § 12. Pending actions and proceedings of or pertaining to the civil
23 service department or the office of employee relations. Upon the trans-
24 fer pursuant to this act of the functions and powers possessed by and
25 all of the obligations and duties of the civil service department and
26 the office of employee relations as established pursuant to the civil
27 service law, the executive law and other laws, to the department of
28 workforce management as prescribed by this act, no action or proceeding

1 pending on the effective date of this act, brought by or against the
2 civil service department or the commissioners thereof or the office of
3 employee relations and the director thereof shall be affected by any
4 provision of this act, but the same may be prosecuted or defended in the
5 name of the New York state department of workforce management. In all
6 such actions and proceedings, the New York state department of workforce
7 management, upon application to the court, shall be substituted as a
8 party.

9 § 13. Continuation of rules and regulations of or pertaining to the
10 civil service department and the office of employee relations. Upon the
11 transfer pursuant to this act of the functions and powers possessed by
12 and all the obligations and duties of the civil service department and
13 the office of employee relations as established pursuant to the civil
14 service law, the executive law and other laws, to the department of
15 workforce management as prescribed by this act, all rules, regulations,
16 acts, orders, determinations, decisions, of the civil service department
17 and the office of employee relations pertaining to the functions trans-
18 ferred and assigned by this act to the department of workforce manage-
19 ment in force at the time of such transfer, assignment, assumption or
20 devolution shall continue in force and effect as rules, regulations,
21 acts, determinations and decisions of the department of workforce
22 management until duly modified or repealed.

23 § 14. Transfer of appropriations heretofore made to the civil service
24 department and the office of employee relations. Upon the transfer
25 pursuant to this act of the functions and powers possessed by and all of
26 the obligations and duties of the civil service department and the
27 office of employee relations as established pursuant to the civil
28 service law, the executive law and other laws, to the department of

1 workforce management as prescribed by this act, all appropriations and
2 reappropriations which shall have been made available as of the date of
3 such transfer to the civil service department or the office of employee
4 relations or segregated pursuant to law, to the extent of remaining
5 unexpended or unencumbered balances thereof, whether allocated or unal-
6 located and whether obligated or unobligated, shall be transferred to
7 and made available for use and expenditure by the department of work-
8 force management. Payments of liabilities for expenses of personnel
9 services, maintenance and operation which shall have been incurred as of
10 the date of such transfer by the civil service department or the office
11 of employee relations, and for liabilities incurred and to be incurred
12 in completing its affairs shall also be made.

13 § 15. Sections 650, 651, 652, 653 and 654 of the executive law are
14 REPEALED.

15 § 16. Severability. If any clause, sentence, paragraph or part of this
16 act shall be adjudged by any court of competent jurisdiction to be
17 invalid, such judgment shall not affect, impair or invalidate the
18 remainder thereof, but shall be confined in its operation to the clause,
19 sentence, paragraph or part thereof directly involved in the controversy
20 in which such judgment shall have been rendered.

21 § 17. This act shall take effect July 1, 2012; provided, however, that
22 the memorandum provided for in section ten of this act may be prepared
23 before the effective date of this act, provided that it shall not be
24 implemented until such effective date.

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

22 § 2. Subdivision 1 of section 2608 of the public authorities law, as
23 amended by chapter 592 of the laws of 1984, is amended to read as
24 follows:

25 1. For the purposes of effectuating the policy declared in section
26 twenty-six hundred six of this title, there is hereby created the "New
27 York state olympic regional development authority", referred to in this
28 title as "the authority", which shall be a body corporate and politic

1 constituting a public benefit corporation. The authority shall consist
2 of [ten] eleven members who shall be the commissioner of environmental
3 conservation, the commissioner of [commerce] economic development, the
4 commissioner of parks, recreation and historic preservation and [seven]
5 eight persons to be appointed by the governor, by and with the advice
6 and consent of the senate. Of the [seven] eight persons appointed by the
7 governor, by and with the advice and consent of the senate, one each
8 shall be appointed upon the recommendation of the temporary president of
9 the senate and the speaker of the assembly. Three of the persons
10 appointed by the governor, by and with the advice and consent of the
11 senate, shall be appointed upon the recommendation of the town board of
12 the town of North Elba and shall be residents of the park district. One
13 of the persons appointed by the governor, by and with the advice and
14 consent of the senate, shall be a resident of Warren county. One of the
15 persons appointed by the governor, by and with the advice and consent of
16 the senate, shall be a resident of Ulster or Delaware county. The gover-
17 nor shall appoint a [chairman] chair and a vice [chairman] chair from
18 among any of the members of the authority and such [chairman] chair and
19 vice [chairman] chair shall serve at the pleasure of the governor,
20 provided, however, that the vice [chairman] chair shall be appointed on
21 the recommendation of the town board of North Elba. From among any
22 candidates recommended by the [chairman] chair, the members shall
23 appoint a president/chief executive officer of the authority.

24 The members first appointed by the governor shall be appointed within
25 thirty days of the effective date of this title. The members first
26 appointed by the governor upon the recommendation of the temporary pres-
27 ident of the senate and the speaker of the assembly shall serve terms of
28 three years respectively from January first next succeeding their

1 appointment. The remaining four members first appointed by the governor
2 shall serve terms of one, two, four and five years respectively from
3 January first next succeeding their appointment. The fifth member
4 appointed by the governor shall serve a term of two years from January
5 first, next succeeding his or her appointment. Each appointment of a
6 member following the expiration of the original terms of the appointment
7 shall be for a term of five years. Members shall continue to hold office
8 until their successors have been appointed and qualified. In the event
9 of a vacancy occurring during the term of a member's appointment, by
10 reason of death, resignation, disqualification or otherwise, such vacan-
11 cy shall be filled for the unexpired term in the same manner as the
12 original appointment.

13 § 3. Subdivision 4 of section 2614 of the public authorities law is
14 renumbered subdivision 5 and a new subdivision 4 is added to read as
15 follows:

16 4. The authority shall operate, maintain and manage the Belleayre
17 mountain ski center located in Ulster and Delaware counties, state of
18 New York. All of the powers of the authority provided by this title or
19 any other law, including those pertaining to participating olympic
20 facilities, shall apply in connection with the operation and management
21 of the Belleayre mountain ski center.

22 § 4. Subdivision 2 of section 2616 of the public authorities law, as
23 amended by chapter 99 of the laws of 1984, is amended to read as
24 follows:

25 2. On or before August fifteenth, nineteen hundred eighty-one, and on
26 each August fifteenth thereafter the [chairman] chair of the authority
27 shall make and deliver to the director of the budget for his approval
28 and for submission to the legislature a budget for the operation of the

1 authority for the forthcoming fiscal year of the state. The [chairman]
2 chair of the authority shall deliver a copy of such budget to the
3 [chairman] chair of the senate finance committee and the [chairman]
4 chair of the assembly ways and means committee at the same time that the
5 budget is delivered to the director of the budget. The budget shall
6 delineate the total amount needed for authority purposes, including the
7 funds required by the authority for operation of the olympic facilities
8 [and], the Gore Mountain ski center and the Belleayre Mountain ski
9 center pursuant to agreements made in accordance with sections twenty-
10 six hundred twelve and twenty-six hundred fourteen of this title, the
11 source of all funds that the authority expects to receive and such other
12 information as the director of the budget shall require. The director
13 of the budget shall approve the budget for the operation of the authori-
14 ty and the governor shall recommend in his or her annual budget appro-
15 priations to the authority if the director of the budget determines that
16 the budget demonstrates that the authority, without operating at a defi-
17 cit, can continue in the forthcoming fiscal year of the state, in the
18 exercise of its corporate purposes, powers, duties and functions with
19 the appropriations from the state and park district in the amounts
20 determined in accordance with sections twenty-six hundred twelve and
21 twenty-six hundred fourteen of this title and income received by the
22 authority from other sources. The director of the budget shall notify
23 the park district, the [chairman] chair of the senate finance committee
24 and the [chairman] chair of the assembly ways and means committee not
25 later than October first of each year whether or not he has approved the
26 budget.

27 § 5. Section 2619 of the public authorities law, as amended by chapter
28 99 of the laws of 1984, is amended to read as follows:

1 § 2619. Capital repair and improvement account. At the end of any
2 authority fiscal year the members of the authority shall deposit not
3 less than twenty-five percent of the profits, if any, of the preceding
4 year's operations into a sinking fund for capital improvements. At the
5 discretion of the members, the authority may undertake capital improve-
6 ments and major repairs to the participating olympic facilities [and],
7 to the Gore Mountain ski center and to the Belleayre Mountain ski
8 center; provided, however, that no such repairs may be undertaken with-
9 out specific written approval by the entity which contracted with the
10 authority for the operation of said facility. Any such repairs or
11 improvements to real property shall upon completion become the property
12 of and be vested in the owners of said real property. In the event of
13 termination of the authority, the state and the park district each shall
14 receive fifty percent of all moneys in the sinking fund. If an agreement
15 between the authority and the park district or the state shall be termi-
16 nated, the park district or the state, as the case may be, shall receive
17 that portion of the moneys in the sinking fund it would have received if
18 the authority were terminated as of the date of the termination of the
19 agreement.

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

22 4. Notwithstanding subdivision three of this section, exclusive juris-
23 diction is hereby conferred upon the court of claims to hear and deter-
24 mine any claim of any person brought hereafter against the authority to
25 recover damages for injuries to property or for personal injury arising
26 out of the operation by the authority of any participating olympic
27 facility owned by the state [or], out of the Gore mountain ski center or
28 out of the Belleayre Mountain ski center, in the same manner and to the

1 extent provided and subject to the provisions of the court of claims act
2 with respect to claims against the state, and to make awards and render
3 judgments therefor. The payment of awards and judgments for any such
4 claims brought in the supreme court pursuant to this title or in the
5 court of claims shall be made from appropriations for judgments against
6 the state pursuant to section twenty of the court of claims act.

7 § 7. Section 2629 of the public authorities law, as amended by chapter
8 99 of the laws of 1984, is amended to read as follows:

9 § 2629. Transfer of officers and employees. 1. Upon execution of the
10 agreements for operation of the olympic facilities and the Gore Mountain
11 ski center made pursuant to sections two thousand six hundred twelve and
12 two thousand six hundred fourteen of this title, those employees of the
13 state and the park district who are determined by the authority to be
14 essential to the operation of the olympic facilities and the Gore Moun-
15 tain ski center shall, with the approval of the employer and the employ-
16 ee, be transferred to the employment of the authority and shall be
17 eligible for such transfer and appointment without examination to compa-
18 rable offices, positions and employment under the authority. The salary
19 or compensation of any such officer or employee shall, after such trans-
20 fer, be paid by the authority. Notwithstanding the provisions of this
21 act, any such officers or employees so transferred to the authority,
22 pursuant to the provisions of this section, who are members of or bene-
23 ficiaries under any existing pension or retirement system, shall contin-
24 ue to have all rights, privileges, obligations and status with respect
25 to such fund system or systems as are prescribed by law, but during the
26 period of their employment by the authority, all contributions to any
27 pension or retirement fund or system to be paid by the employer on
28 account of such officers or employees, shall be paid by the authority;

1 and all such officers and employees who have been appointed to positions
2 under the rules and classifications of the state civil service commis-
3 sion shall have the same status with respect thereto after transfer to
4 the authority as they had under their original appointments.

5 2. No later than thirty days after the effective date of the chapter
6 of the laws of 2012 enacting this subdivision, provision shall be made
7 for the transfer to the olympic regional development authority such
8 employees of the department of environmental conservation engaged in
9 carrying out such functions with respect to the operation, maintenance
10 and management of the Belleayre Mountain ski center as the olympic
11 regional development authority deems necessary for the exercise of the
12 functions transferred to the olympic regional development authority.
13 Employees so transferred shall be transferred without further examina-
14 tion or qualifications and shall retain their respective civil service
15 classifications and status. The salary or compensation of any such
16 employees, after such transfer, shall be paid by the authority.
17 Notwithstanding the provisions of this section, any such officers or
18 employees so transferred to the authority, pursuant to the provisions of
19 this section, who are members of or beneficiaries under any existing
20 pension or retirement system, shall continue to have all rights, privi-
21 leges, obligations and status with respect to such fund system or
22 systems as are prescribed by law, but during the period of their employ-
23 ment by the authority, all contributions to any pension or retirement
24 fund or system to be paid by the employer on account of such officers or
25 employees, shall be paid by the authority. For the purpose of determin-
26 ing the employees holding permanent appointments in competitive class
27 positions to be transferred, such employees shall be selected within
28 each title in the order of their original appointment, with due regard

1 for the right of preference in retention of disabled and non-disabled
2 veterans. Any such employee who, at the time of such transfer, has an
3 hourly, temporary or provisional appointment shall be transferred
4 subject to the same right of removal, examination or termination as
5 though such transfer has not been made. Employees holding permanent
6 appointments in competitive class positions who are not transferred
7 pursuant to this section shall have their names entered upon an appro-
8 priate preferred list for reinstatement pursuant to the civil service
9 law.

10 § 8. Transfer of appropriations. Upon the execution of an agreement as
11 set forth in section three of this act and notwithstanding any
12 provisions of the state finance law to the contrary, all appropriations
13 or reappropriations for the functions transferred pursuant to this act
14 heretofore made to the department of environmental conservation or
15 segregated pursuant to law, to the extent that unexpended or unencum-
16 bered balances remain, whether allocated or unallocated and whether
17 obligated or unobligated, are hereby transferred to and made available
18 for use and expenditure by the olympic regional development authority,
19 for the same purposes for which originally appropriated or reappropri-
20 ated and shall be payable on vouchers certified or approved by the chair
21 of the olympic regional development authority on audit and warrant of
22 the comptroller. Payments for liabilities for expenses of personal
23 service, maintenance and operation heretofore incurred by the department
24 of environmental conservation in connection with the functions trans-
25 ferred pursuant to this act, and for liabilities incurred and to be
26 incurred in completing its affairs in relation to such functions, shall
27 also be made on vouchers or certificates approved by the commissioner of

1 the department of environmental conservation on audit or warrant of the
2 comptroller.

3 § 9. This act shall take effect immediately.

4 PART D

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

7 § 2. Subdivision 12 of section 283 of the agriculture and markets law
8 is REPEALED and subdivisions 13 and 14 are renumbered subdivisions 12
9 and 13.

10 § 3. Section 7 of chapter 654 of the laws of 1994, amending the trans-
11 portation law and other laws relating to equipment requirements for
12 registered farm vehicles, is REPEALED.

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

14 § 5. Article 4 of the state technology law is REPEALED.

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

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

18 1. All hospitals and clinics shall notify their prenatal care and
19 obstetric patients of the provisions of the abandoned infant protection
20 act[, using materials provided by the office of children and family
21 services, pursuant to section three hundred seventy-two-a of the social
22 services law]. The department shall develop agreements with societies
23 and organizations of medical practitioners under which the department or
24 the office of children and family services shall provide materials to
25 such societies to provide appropriate education and outreach concerning
26 the abandoned infant protection act to their members and the public.

1 Criminal penalties for violation pursuant to subdivisions one and two of
2 section twelve-b of this chapter shall not apply to this section.

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

4 § 9. Article 28 of the executive law is REPEALED.

5 § 10. Paragraph (p) of subdivision 1 of section 17 of the public offi-
6 cers law is REPEALED.

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

8 § 12. Paragraph (b) of subdivision 1 of section 88-a of the highway
9 law, as amended by section 4 of part Z of chapter 383 of the laws of
10 2001, is amended to read as follows:

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

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

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

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

26 1. An advisory board of state agencies with responsibilities related
27 to the designation and management of scenic byways and not-for-profit
28 organizations related to the promotion and development of scenic byways

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

1 in the Niagara River Greenway as defined in article thirty-nine of the
2 parks, recreation and historic preservation law. [The advisory board
3 shall consult with the upstate New York tourism council regarding scenic
4 byways in the upstate New York region, and with the downstate New York
5 tourism council regarding scenic byways in the downstate New York
6 region.]

7 § 15. Paragraph a of subdivision 1 of section 233-b of the education
8 law, as amended by section 3 of part Z of chapter 383 of the laws of
9 2001, is amended to read as follows:

10 a. There is hereby established within the department the New York
11 state freedom trail commission. The commission shall consist of twelve
12 members, to be appointed as follows: three members to be appointed by
13 the governor, three members to be appointed by the board of regents, two
14 members to be appointed by the temporary president of the senate, one
15 member to be appointed by the minority leader of the senate, two members
16 to be appointed by the speaker of the assembly, and one member to be
17 appointed by the minority leader of the assembly. Such members shall be
18 representative of academic or public historians, corporations, founda-
19 tions, historical societies, civic organizations, and religious denomi-
20 nations. In addition, the following state officers, or their designees,
21 shall serve as members of the commission: the commissioner of education,
22 the head of the state museum, the head of the state archives, the head
23 of the office of state history, the commissioner of economic develop-
24 ment, the head of the state tourism advisory council[, the chairperson
25 of the upstate New York tourism council, the chairperson of the down-
26 state New York tourism council,] and the commissioner of parks, recre-
27 ation and historic preservation.

28 § 16. Section 120 of the economic development law is REPEALED.

1 § 17. Section 27-0702 of the environmental conservation law is
2 REPEALED.

3 § 18. The opening paragraph of subdivision 2 of section 27-0103 of the
4 environmental conservation law, as amended by chapter 55 of the laws of
5 1992, is amended to read as follows:

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

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

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

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

27 3. [To advise the corporation on technical matters, a technical advi-
28 sory committee shall be constituted to be composed of the commissioners

1 of transportation, commerce, health and environmental conservation, the
2 secretary of state, and five persons representative of affected indus-
3 tries to be appointed by the governor with the advice and consent of the
4 senate. Upon dissolution of the hazardous waste disposal advisory
5 committee pursuant to subdivision three of section twelve hundred eight-
6 y-five-f of this article, two members of that committee designated by
7 the governor shall become members of the committee established by this
8 subdivision which committee shall be expanded by two members.]

9 In [~~exercising~~] exercising its responsibilities, the corporation
10 shall also cooperate and act in conjunction with industrial, commercial,
11 medical, scientific, public interest and educational organizations with-
12 in the state, and with agencies of the federal government, of the state
13 and its political subdivisions, of other states, and joint agencies
14 thereof.

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

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

18 § 23. Section 191 of the executive law is REPEALED.

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

21 § 25. Section 89-mmm of the general business law is REPEALED.

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

24 2. The secretary of state shall maintain all records collected for
25 applicants pursuant to the armored car guard act for a period of five
26 years after the applicant's termination as an armored car guard, retire-
27 ment, resignation, death, failure to be rehired, or non-renewal of the
28 applicant's registration card. Every armored car carrier shall file with

1 the secretary, on a monthly basis, a report, stating all armored car
2 guards in their employ who have retired, resigned, died, been termi-
3 nated, have [hot] not been rehired, or have otherwise been removed from
4 active duty, in such form and on such media as approved for such purpose
5 by the secretary[, upon recommendation of the armored car carrier advi-
6 sory board established pursuant to the provisions of section eighty-
7 nine-~~mm~~ of the general business law].

8 § 27. Subdivision 5 of section 89-bbb of the general business law is
9 REPEALED.

10 § 28. Section 89-111 of the general business law, as added by chapter
11 557 of the laws of 1997, is amended to read as follows:

12 § 89-111. Regulations. The secretary[, in consultation with the
13 board,] is hereby authorized and empowered to promulgate rules and regu-
14 lations necessary for the proper conduct of the business authorized
15 under this article, and not inconsistent herewith.

16 § 29. Subdivision 5 of section 89-ppp of the general business law is
17 REPEALED.

18 § 30. Section 923 of the executive law is REPEALED.

19 § 31. Subdivision 14 of section 601 and sections 611 and 612 of the
20 executive law are REPEALED.

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

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

1 § 33. Section 433-a of the general business law is REPEALED.

2 § 34. The section heading of section 35 of the social services law, as
3 amended by chapter 300 of the laws of 1992, is amended to read as
4 follows:

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

7 § 35. Subdivision 1 of section 35 of the social services law, as
8 amended by chapter 300 of the laws of 1992, is amended to read as
9 follows:

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

23 b.] The [advisory committee] commissioner shall [make recommendations
24 regarding] establish criteria for selection of grant applications,
25 review applications awarded pursuant to the provisions of this section,
26 [make recommendations thereon to the commissioner] and exercise and
27 perform such other [advisory] functions as are related to the purposes

1 of this section[; provided however that the committee shall meet at
2 least once every six months].

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

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

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

26 § 37. Subdivisions 8 and 9 of section 350 of the executive law are
27 REPEALED.

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

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

3 § 40. Section 154 of the labor law is REPEALED.

4 § 41. Title 11 of article 24 of the environmental conservation law is
5 REPEALED.

6 § 42. Subdivision 1 of section 24-0301 of the environmental conserva-
7 tion law, as amended by chapter 654 of the laws of 1977, is amended to
8 read as follows:

9 1. The commissioner shall, as soon as practicable, conduct a study to
10 identify and map those individual freshwater wetlands in the state of
11 New York which shall have an area of at least twelve and four-tenths
12 acres or more, or if less than twelve and four-tenths acres, (a) have,
13 in the discretion of the commissioner[, and subject to review of his
14 action by the board created pursuant to title eleven of this article,]
15 unusual local importance for one or more of the specific benefits set
16 forth in subdivision seven of section 24-0105 of this article or (b) are
17 located within the Adirondack park and meet the definition of wetlands
18 contained in subdivision sixty-eight of section eight hundred two [of
19 article twenty-seven] of the executive law, and shall determine their
20 characteristics. This study shall, in addition to such other data as the
21 commissioner may determine to be included, consist of the freshwater
22 wetlands inventory of the department of environmental conservation,
23 currently being made, together with other available data on freshwater
24 wetlands, whether assisted by the state of New York under the tidal
25 wetlands act or otherwise, or assembled by federal or local governmental
26 or private agencies, all of which information shall be assembled and
27 integrated, as applicable, into a map of freshwater wetlands of the
28 state of New York. Such study may, in the discretion of the commission-

1 er, be carried out on a sectional or regional basis, as indicated by
2 need, subject to overall completion in an expeditious fashion subject to
3 the terms of this chapter. This map, and any orders issued pursuant to
4 the provisions of this article, shall comprise a part of the statewide
5 environmental plan as provided for in section 3-0303 of this chapter. As
6 soon as practicable the commissioner shall file with the secretary of
7 state a detailed description of the technical methods and requirements
8 to be utilized in compiling the inventory, and he shall afford the
9 public an opportunity to submit comments thereon.

10 § 43. Subdivision 5 of section 24-0703 of the environmental conserva-
11 tion law, as amended by chapter 233 of the laws of 1979, is amended to
12 read as follows:

13 5. Prior to the promulgation of the final freshwater wetlands map in a
14 particular area and the implementation of a freshwater wetlands
15 protection law or ordinance, no person shall conduct, or cause to be
16 conducted, any activity for which a permit is required under section
17 24-0701 of this [article] title on any freshwater wetland unless he has
18 obtained a permit from the commissioner under this section. Any person
19 may inquire of the department as to whether or not a given parcel of
20 land will be designated a freshwater wetland subject to regulation. The
21 department shall give a definite answer in writing within thirty days of
22 such request as to whether such parcel will or will not be so desig-
23 nated. Provided that, in the event that weather or ground conditions
24 prevent the department from making a determination within thirty days,
25 it may extend such period until a determination can be made. Such answer
26 in the affirmative shall be reviewable [pursuant to title eleven of this
27 article]; such an answer in the negative shall be a complete defense to
28 the enforcement of this article as to such parcel of land. The commis-

1 sioner may by regulation adopted after public hearing exempt categories
2 or classes of wetlands or individual wetlands which he determines not to
3 be critical to the furtherance of the policies and purposes of this
4 article.

5 § 44. Subdivision 6 of section 24-0705 of the environmental conserva-
6 tion law, as amended by chapter 654 of the laws of 1977, is amended to
7 read as follows:

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

14 § 45. Subdivision 2 of section 24-0801 of the environmental conserva-
15 tion law, as added by chapter 654 of the laws of 1977, is amended to
16 read as follows:

17 2. Where the activities otherwise subject to regulation under this
18 article involve freshwater wetlands located within the boundaries of the
19 Adirondack park, the inquiries referred to and the applications provided
20 for in section 24-0703 of this article shall be made to and filed with
21 the Adirondack park agency at its headquarters office, under such regu-
22 lations and procedures as the Adirondack park agency may promulgate. The
23 Adirondack park agency shall review the application in place of the
24 commissioner or local government as provided in section 24-0705 of this
25 article, having due regard for the declaration of policy and statement
26 of findings set forth in this article and for the considerations set
27 forth in subdivision one of section 24-0705 of this article. The agency
28 shall in addition determine prior to the granting of any permit that the

1 proposed activity will be consistent with the Adirondack park land use
2 and development plan and would not have an undue adverse impact upon the
3 natural, scenic, aesthetic, ecological, wildlife, historic, recreational
4 or open space resources of the park, taking into account the economic
5 and social or other benefits to be derived from the activity. Any person
6 may seek review of a ruling made solely pursuant to the provisions of
7 this article by the Adirondack park agency pursuant to the provisions of
8 [title eleven of this article or] article seventy-eight of the civil
9 practice law and rules.

10 § 46. Subdivision 7 of section 24-0903 of the environmental conserva-
11 tion law, as added by chapter 614 of the laws of 1975, is amended to
12 read as follows:

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

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

23 § 24-0507. Reservation of local jurisdiction.

24 Except as provided in this article, jurisdiction over all areas which
25 would qualify as freshwater wetlands except that they are not designated
26 as such on the freshwater wetlands map pursuant to section 24-0301 of
27 this article because they are less than twelve and four-tenths acres in
28 size and are not of unusual local importance is reserved to the city,

1 town or village in which they are wholly or partially located, and the
2 implementation of this article with respect thereto is the responsibil-
3 ity of said city, town or village, in accordance with section 24-0501
4 and title twenty-three of article seventy-one of this chapter, except
5 that a city, town or village in the exercise of its powers under this
6 section, shall not be subject to the provisions of subdivision four of
7 section 24-0501, subdivisions two and three of section 24-0503, or
8 section 24-0505[, but shall be subject to judicial review under subdivi-
9 sion two of section 24-1105] of this article.

10 § 48. Subdivision 3 of section 1-0303 of the environmental conserva-
11 tion law is REPEALED.

12 § 49. Paragraph a of subdivision 2 of section 3-0301 of the environ-
13 mental conservation law, as amended by chapter 469 of the laws of 1974,
14 is amended to read as follows:

15 a. [With the advice and approval of the board, adopt] Adopt, amend or
16 repeal environmental standards, criteria and those rules and regulations
17 having the force and effect of standards and criteria to carry out the
18 purposes and provisions of this act. [Upon approval by the board of any]
19 Any such environmental standard, criterion, rule or regulation or change
20 thereto[, it] shall become effective thirty days after being filed with
21 the Secretary of State for publication in the "Official Compilation of
22 Codes, Rules, and Regulations of the State of New York" published pursu-
23 ant to section 102 of the Executive Law. This provision shall not in any
24 way restrict the commissioner in the exercise of any function, power or
25 duty transferred to him or her and heretofore authorized to be exercised
26 by any other department acting through its commissioner to promulgate,
27 adopt, amend or repeal any standards, rules and regulations. No such
28 environmental standards, criterion, rule or regulation or change thereto

1 shall be proposed for approval unless a public hearing relating to the
2 subject of such standard shall be held by the commissioner prior thereto
3 not less than 30 days after date of notice therefor, any provision of
4 law to the contrary notwithstanding. Notice shall be given by public
5 advertisement of the date, time, place and purpose of such hearing.
6 [Members of the board shall be entitled to participate in such hearing
7 and opportunity to be heard by the commissioner with respect to the
8 subject thereof shall be given to the public.]

9 § 50. Article 5 of the environmental conservation law is REPEALED.

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

12 § 17-1411. Regulations.

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

18 [2. Regulations promulgated pursuant to subdivision one of this
19 section shall not require the approval of the state environmental board
20 pursuant to paragraph a of subdivision two of section 3-0301 or subdivision
21 two of section 5-0107 of this chapter.]

22 § 52. Subdivision 4 of section 19-0303 of the environmental conservation
23 law, as added by chapter 608 of the laws of 1993, is amended to
24 read as follows:

25 4. In adopting any code, rule or regulation which contains a requirement
26 that is more stringent than the Act or regulations issued pursuant
27 to the Act by the United States environmental protection agency, the
28 commissioner shall, in addition to the provisions of section two hundred

1 two-a of the state administrative procedure act, include in the regula-
2 tory impact statement:

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

5 (i) satisfying any requirement of the Act as it relates to New York
6 state, including any requirement for demonstrating attainment or mainte-
7 nance of ambient air quality standards or meeting reasonable further
8 progress pursuant to Title I of the Act;

9 (ii) preventing an assessment or imposition of sanctions, or the impo-
10 sition of a federal implementation plan, pursuant to the Act;

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

12 (iv) protecting public health or the environment;

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

16 (c) a review of the reasonably available alternative measures consid-
17 ered by the commissioner and an explanation of the reasons for rejecting
18 such alternatives.

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

22 § 53. Section 19-0917 of the environmental conservation law is
23 REPEALED.

24 § 54. Subdivision 3 of section 27-0903 of the environmental conserva-
25 tion law, as amended by chapter 831 of the laws of 1990, is amended to
26 read as follows:

27 3. The regulations setting forth the criteria for identification and
28 listing, and the list of, hazardous wastes subject to this title may be

1 amended by the commissioner from time to time as appropriate, based upon
2 hazardous waste conditions of particular relevance to the state. The
3 commissioner may promulgate the appropriately amended regulations only
4 [after approval of the state environmental board based] upon a showing
5 of the circumstances constituting the hazardous waste conditions of
6 particular relevance to this state, and then in a manner consistent with
7 the state administrative procedure act.

8 § 55. Subdivision 1 of section 27-1315 of the environmental conserva-
9 tion law, as amended by section 7 of part E of chapter 1 of the laws of
10 2003, is amended to read as follows:

11 1. The commissioner shall have the power to promulgate rules and regu-
12 lations necessary and appropriate to carry out the purposes of this
13 title. Any [such] regulations shall include provisions which establish
14 the procedures for a hearing pursuant to subdivision four of section
15 27-1313 of this title[. Any such provisions] and shall ensure a division
16 of functions between the commissioner, the staff who present the case,
17 and any hearing officers appointed. In addition, any [such] regulations
18 shall set forth findings to be based on a factual record, which must be
19 made before the commissioner determines that a significant threat to the
20 environment exists. [Rules and regulations promulgated pursuant to this
21 title shall be subject to the approval of a board, which shall be known
22 as the inactive hazardous waste disposal site regulation review board,
23 which shall have the same members, rules, and procedures as the state
24 environmental board.]

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

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

6 § 57. Subdivision 4 of section 29-0103 of the environmental conserva-
7 tion law is REPEALED.

8 § 58. Subdivision 4 of section 70-0117 of the environmental conserva-
9 tion law, as added by chapter 723 of the laws of 1977, is amended to
10 read as follows:

11 4. In conjunction with one or more applications for permits, the
12 department may, on request of an applicant undertake a conceptual review
13 of a proposed project evaluating the general approvability or nonapprov-
14 ability of a proposed project, including all proposed phases or segments
15 thereof, subject to the development and submission of more detailed
16 plans and information and such additional applications for permits in
17 the future as may be necessary. The department shall, in rules and regu-
18 lations [approved by the state environmental board], establish criteria
19 and guidelines for the conceptual review of proposed projects. The
20 department shall establish, in rules and regulations adopted pursuant to
21 section 70-0107 of this chapter, procedures governing the conceptual
22 review of proposed projects.

23 § 59. Sections 9-0705, 9-0707, 9-0709 and 9-0711 of the environmental
24 conservation law are REPEALED.

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

27 § 9-0713. State assistance.

1 [Upon the establishment of regional forest practice boards, and upon
2 the adoption and promulgation of] The commissioner shall adopt forest
3 practice standards[, the regional forest practice boards]. The depart-
4 ment shall notify [all the] owners of forest land [in their regions]
5 that the commissioner is prepared to assist cooperating owners in
6 connection with the application of [approved] forest practice standards.
7 The commissioner shall provide to cooperating forest and farm woodland
8 owners technical services in connection with all phases of forest
9 management including but not limited to, plantation establishment and
10 care, the marking of timber, marketing assistance and silvicultural
11 treatment of immature stands.

12 § 61. Subdivision 1 of section 444-b of the real property law is
13 REPEALED and subdivisions 2, 3, 4, 5, 6, 7 and 8 are renumbered subdivi-
14 sions 1, 2, 3, 4, 5, 6 and 7.

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

18 4. "Home inspection" means the process by which a home inspector
19 observes and provides a written report of the systems and components of
20 a residential building including but not limited to heating system,
21 cooling system, plumbing system, electrical system, structural compo-
22 nents, foundation, roof, masonry structure, exterior and interior compo-
23 nents or any other related residential building component as recommended
24 [by the home inspection council and implemented] or required by the
25 department through regulation to provide a client with objective infor-
26 mation about the condition of the residential building. The home inspec-
27 tor shall clearly identify in the written report which systems and

1 components of the residential building were observed. A home inspection
2 shall not include an inspection for radon or pests.

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

6 § 444-c. [State home inspection council] Code of ethics and standards
7 of practice. 1. [There is hereby established a state home inspection
8 council within the department. The council shall consist of the secre-
9 tary or the secretary's designee and six additional members who are
10 residents of the state, of whom three shall be persons licensed and
11 actively engaged in the business of home inspection in the state of New
12 York for at least five years immediately preceding their appointment and
13 three of whom shall be consumers who are the owners and principal resi-
14 dents of a residential building in the state of New York. Appointments
15 shall reflect the geographical diversity of the state.

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

22 3. The governor shall appoint each member of the council for a term of
23 three years except that of the members first appointed, two shall serve
24 for terms of three years, two shall serve for terms of two years and two
25 shall serve for a term of one year. The governor shall appoint one home
26 inspector and one consumer solely in his or her discretion, one home
27 inspector and one consumer upon the recommendation of the temporary
28 president of the senate, and one home inspector and one consumer upon

1 the recommendation of the speaker of the assembly. Each member shall
2 hold office until his or her successor has been qualified. Any vacancy
3 in the membership of the council shall be filled for the unexpired term
4 in the manner provided for the original appointment. No member of the
5 council may serve more than two successive terms in addition to any
6 unexpired term to which he or she has been appointed.

7 4. Members of the council shall receive no compensation but shall be
8 reimbursed for their actual and necessary expenses and provided with
9 office and meeting facilities and personnel required for the proper
10 conduct of the council's business.

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

15 6. The role of the council shall be advisory.] The [council shall
16 advise the secretary in the administration and enforcement of the
17 provisions of this article and recommend to the] secretary shall promul-
18 gate regulations to implement the provisions of this article including
19 but not limited to:

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

22 (b) requirements and standards for continuing education of home
23 inspectors;

24 (c) a code of ethics and standards of practice for licensed home
25 inspectors consistent with the provisions of this article and sound
26 ethical practices which code and standards shall be subject to public
27 notice and comment prior to [a council recommendation to the secretary]
28 adoption of the regulations. The standards of practice shall not require

1 a reporting format or limit information which licensees are authorized
2 to provide a client pursuant to this article; and

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

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

8 § 64. Section 444-e of the real property law, as added by chapter 461
9 of the laws of 2004, paragraphs (b) and (c) of subdivision 1 and subdivi-
10 sion 3 as amended by chapter 225 of the laws of 2005, is amended to
11 read as follows:

12 § 444-e. Qualifications for licensure. 1. An applicant for a license
13 as a home inspector shall:

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

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

23 (ii) have performed not less than one hundred home inspections in the
24 presence of and under the direct supervision of a home inspector
25 licensed by the state of New York or a professional engineer or archi-
26 tect regulated by the state of New York who oversees and takes full
27 responsibility for the inspection and any report provided to a client;
28 and

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

10 (d) pay the applicable fees.

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

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

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

24 (a) meets the requirements of paragraphs (a) and (c) of subdivision
25 one of this section and has performed one hundred or more home
26 inspections for compensation within two years prior to the effective
27 date of this section; or

1 (b) meets the requirements of paragraph (a) of subdivision one of this
2 section and has been engaged in the practice of home inspection for
3 compensation for not less than three years prior to the effective date
4 of this section during which such person has performed two hundred fifty
5 home inspections for compensation within three years prior to the effec-
6 tive date of this section; or

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

10 § 65. Subdivision 1 of section 444-f of the real property law, as
11 amended by chapter 225 of the laws of 2005, is amended to read as
12 follows:

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

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

24 1. Every licensed home inspector who is engaged in home inspection
25 shall secure, maintain, and file with the secretary proof of a certifi-
26 cate of liability coverage, which terms and conditions shall be deter-
27 mined by the secretary [in consultation with the council].

1 § 67. Section 444-1 of the real property law, as added by chapter 461
2 of the laws of 2004, is amended to read as follows:

3 § 444-1. Duties of the secretary. The secretary shall[, in consulta-
4 tion with the council,] establish such rules and regulations as shall be
5 necessary to implement the provisions of this article.

6 § 68. Subdivision 6 of section 69-n of the general business law is
7 REPEALED.

8 § 69. Chapter 868 of the laws of 1976, relating to the organic food
9 advisory committee, is REPEALED.

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

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

16 5. The advisory board, which shall be chaired by the commissioner,
17 shall:

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

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

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

25 (d) assess the feasibility of the consolidation, expansion and modern-
26 ization of the current physical facilities of the laboratory; and

1 (e) provide advice and recommendations to the director of the diagnos-
2 tic laboratory regarding industry needs and the effectiveness of veteri-
3 nary diagnostic laboratory services.

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

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

10 § 73. Section 13-0308 of the environmental conservation law is
11 REPEALED.

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

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

22 § 75. Subparagraph (ii) of paragraph 3 of subdivision (a) of section
23 83 of the state finance law, as amended by section 6 of part A of chap-
24 ter 58 of the laws of 1998, is amended to read as follows:

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

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

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

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

15 It is the purpose of this article to promote the public health, safety
16 and welfare by providing for certification of all advanced life support
17 first response services and ambulance services; the creation of regional
18 emergency medical services [councils] advisory boards; and a New York
19 state emergency medical services [council] advisory board to [develop]
20 advise the department and the commissioner in the development of minimum
21 training standards for certified first responders, emergency medical
22 technicians and advanced emergency medical technicians and minimum
23 equipment and communication standards for advanced life support first
24 response services and ambulance services.

25 § 77. Subdivision 2 and paragraphs (a), (c) and (e) of subdivision 3
26 of section 3000-b of the public health law, subdivision 2 as amended by
27 chapter 583 of the laws of 1999, paragraph (a) of subdivision 3 as
28 amended by chapter 243 of the laws of 2010 and paragraphs (c) and (e) of

1 subdivision 3 as added by chapter 552 of the laws of 1998, are amended
2 to read as follows:

3 2. Collaborative agreement. A person, firm, organization or other
4 entity may purchase, acquire, possess and operate an automated external
5 defibrillator pursuant to a collaborative agreement with an emergency
6 health care provider. The collaborative agreement shall include a writ-
7 ten agreement and written practice protocols, and policies and proce-
8 dures that shall assure compliance with this section. The public access
9 defibrillation provider shall file a copy of the collaborative agreement
10 with the department and with the appropriate regional [council] board
11 prior to operating the automated external defibrillator.

12 (a) No person may operate an automated external defibrillator unless
13 the person has successfully completed a training course in the operation
14 of an automated external defibrillator approved by a nationally-recog-
15 nized organization or the [state emergency medical services council]
16 commissioner and the completion of the course was recent enough to still
17 be effective under the standards of the approving organization. Howev-
18 er, this section shall not prohibit operation of an automated external
19 defibrillator, (i) by a health care practitioner licensed or certified
20 under title VIII of the education law or a person certified under this
21 article acting within his or her lawful scope of practice; (ii) by a
22 person acting pursuant to a lawful prescription; or (iii) by a person
23 who operates the automated external defibrillator other than as part of
24 or incidental to his or her employment or regular duties, who is acting
25 in good faith, with reasonable care, and without expectation of monetary
26 compensation, to provide first aid that includes operation of an auto-
27 mated external defibrillator; nor shall this section limit any good

1 samaritan protections provided in section three thousand-a of this arti-
2 cle.

3 (c) The public access defibrillation provider shall notify the appro-
4 priate regional [council] board of the existence, location and type of
5 any automated external defibrillator it possesses.

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

9 § 78. Subdivision 2 and paragraph (a) of subdivision 3 of section
10 3000-c of the public health law, as added by chapter 578 of the laws of
11 1999, are amended to read as follows:

12 2. Collaborative agreement. Any eligible person, firm, organization or
13 other entity may purchase, acquire, possess and use epinephrine auto-in-
14 jector devices pursuant to a collaborative agreement with an emergency
15 health care provider. The collaborative agreement shall include a writ-
16 ten agreement that incorporates written practice protocols, and policies
17 and procedures that shall ensure compliance with the provisions of this
18 section. The person, firm, organization or entity shall file a copy of
19 the collaborative agreement with the department and with the appropriate
20 regional [council] board prior to using any epinephrine auto-injector
21 device.

22 (a) No person shall use an epinephrine auto-injector device unless
23 such person shall have successfully completed a training course in the
24 use of epinephrine auto-injector devices approved by the commissioner
25 [pursuant to the rules of the department]. This section does not prohib-
26 it the use of an epinephrine auto-injector device (i) by a health care
27 practitioner licensed or certified under title eight of the education

1 law acting within the scope of his or her practice, or (ii) by a person
2 acting pursuant to a lawful prescription.

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

6 § 3001. Definitions. As used in this article, unless the context
7 otherwise requires:

8 1. "Emergency medical service" means initial emergency medical assist-
9 ance including, but not limited to, the treatment of trauma, burns,
10 respiratory, circulatory and obstetrical emergencies.

11 1-a. "Pediatric care" means medical care provided to neonates,
12 infants, toddler, preschoolers, school agers and adolescents.

13 1-b. "Trauma care" means health care provided to patients at high risk
14 of death or disability from multiple and severe injuries.

15 1-c. "Disaster care" means care provided to patients who are the
16 victims of natural or man-made disasters, including but not limited to
17 biologic, nuclear, incendiary, chemical and explosive disasters.

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

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

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

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

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

17 7. "Advanced emergency medical technician" means an emergency medical
18 technician who [has satisfactorily completed an advanced course of
19 training approved by the state council under regulations pursuant to
20 section three thousand two of this article] meets the minimum training,
21 education and certification requirements established by the commissioner
22 and who is responsible for administration or supervision of advanced
23 emergency medical care and transportation of sick or injured persons.

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

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

1 10. "Enrolled member" means any member of a voluntary ambulance
2 service or voluntary advanced life support first response service who
3 provides emergency medical care or transportation of sick or injured
4 persons without expectation of monetary compensation.

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

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

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

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

18 15. "Medical control" means: (a) advice and direction provided by a
19 physician or under the direction of a physician to certified first
20 responders, emergency medical technicians or advanced emergency medical
21 technicians who are providing medical care at the scene of an emergency
22 or en route to a health care facility; and (b) indirect medical control
23 including the written policies, procedures, and protocols for prehospi-
24 tal emergency medical care and transportation developed by [the state
25 emergency medical advisory committee, approved by the state emergency
26 medical services council and] the commissioner, and implemented by
27 regional emergency medical advisory committees.

1 16. "Regional emergency medical advisory committee" means a group of
2 five or more physicians, and one or more non-voting individuals repre-
3 sentative of each of the following: hospitals, basic life support
4 providers, advanced life support providers and emergency medical
5 services training sponsor medical directors approved by the affected
6 regional [emergency medical services councils] boards.

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

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

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

20 19. "Mutual aid" means the pre-planned and organized response of emer-
21 gency medical services, and other emergency personnel and equipment, to
22 a request for assistance in an emergency when local resources have been
23 expended. The response is predicated on formal agreements among partic-
24 ipating agencies or jurisdictions.

25 20. "Mutual aid agreement" means a written agreement, entered into by
26 two or more ambulance services or advanced life support first response
27 services possessing valid [ambulance service or advanced life support
28 first response service certificates or statements of registration] oper-

1 ating authority, fire services as defined by section two hundred nine-b
2 of the general municipal law, or the governing body of any city, town or
3 village, for the organized, supervised, coordinated, and cooperative
4 reciprocal mobilization of personnel, equipment, services, or facilities
5 for [back-up or support upon request as required pursuant to a written
6 mutual aid plan] outside service upon request. An ambulance service and
7 advanced life support first response service may participate in one or
8 more mutual aid agreements.

9 21. "Primary territory" means the geographic area or subdivisions
10 listed on an ambulance service certificate [or statement of registration
11 within which the ambulance service may receive patients for transport].

12 22. "Statewide EMS mobilization plan" means an established plan for
13 the formal and uniform notification and activation of ambulance or
14 advanced life support first response services.

15 23. "County mutual aid plan" means a written mutual aid agreement,
16 entered into by two or more ambulance services or advanced life support
17 first response services possessing valid operating authority, fire
18 services as defined by section two hundred nine-b of the general munici-
19 pal law, or the governing body of any city, town or village, facilitated
20 or coordinated by the county for the organized, supervised, coordinated,
21 and cooperative reciprocal mobilization of personnel, equipment,
22 services, or facilities for outside service upon request for the
23 purposes of providing emergency medical treatment and/or transportation.

24 § 80. Section 3002 of the public health law is REPEALED and a new
25 section 3002 is added to read as follows:

26 § 3002. New York state emergency medical services advisory board. 1.
27 There is hereby created within the department of health the New York
28 state emergency medical services advisory board. The board shall consist

1 of twenty-three members, appointed by the commissioner, who shall be
2 representative of the diversity of the emergency medical and trauma
3 system in the state, particularly regarding diversity in geography,
4 industry and patient care. Members shall serve at the pleasure of the
5 commissioner for three year terms, except that the term of eleven of the
6 initial advisory members shall be for two years; provided that a member
7 shall continue to serve in full capacity until such time as the member
8 resigns, is removed or replaced. No person may serve as a member for
9 more than two consecutive terms total. The commissioner shall appoint a
10 chair and a vice-chair. Members of the state board shall receive no
11 compensation for their services as members.

12 2. No civil action shall be brought in any court against any member,
13 officer or employee of the state board for any act done, failure to act,
14 or statement or opinion made, while discharging his or her duties as a
15 member, officer or employee of the state board, without leave from a
16 justice of the supreme court, first had and obtained. In no event shall
17 such member, officer or employee be liable for damages in any such
18 action if he or she shall have acted in good faith, with reasonable care
19 and upon probable cause.

20 3. The state board shall advise the department on issues related to
21 emergency medical services, pediatric care, trauma care and disaster
22 care, and assist in the coordination of such, including but not limited
23 to the development, periodic revision, and application of rules and
24 regulations, appropriateness review standards, and quality improvement
25 guidelines, as the commissioner and the department may request. The
26 state board shall have the same authority granted to regional boards by
27 the article in any region of the state in which a regional board has not

1 been established. The state board may meet as frequently as requested by
2 the department.

3 4. Upon appeal from any concerned party, the state board may recommend
4 amendment, modification and reversal of determinations of the regional
5 boards and regional emergency medical advisory committees made pursuant
6 to any section of this article. The commissioner shall review all deter-
7 minations of the state board and may approve, disapprove or modify such
8 determinations. All determinations approved, disapproved or modified by
9 the commissioner shall be subject to review as provided in article
10 seventy-eight of the civil practice law and rules. Application for such
11 review must be made within sixty days after service in person or by
12 registered or certified mail.

13 5. The commissioner may appoint a technical advisory group to compile
14 and review data, draft documents, or perform other tasks related to the
15 discovery or production of information needed in order for the state
16 board to properly consider a matter. Technical advisory groups shall be
17 appointed only for a limited and defined period of time in the perform-
18 ance of a specific task in relation to a specific matter. Information
19 obtained or produced by the technical advisory group shall be provided
20 to and examined by the state advisory board.

21 § 81. Section 3002-a of the public health law is REPEALED.

22 § 82. Section 3003 of the public health law, as added by chapter 1053
23 of the laws of 1974, subdivision 1 as amended by chapter 1054 of the
24 laws of 1974, subdivisions 2 and 5 as amended by chapter 445 of the laws
25 of 1993, subdivisions 3 and 5-a as added and paragraph (a) of subdivi-
26 sion 10 as amended by chapter 804 of the laws of 1992, subdivision 4 as
27 amended by chapter 580 of the laws of 2007 and subdivision 10 as added
28 by chapter 1016 of the laws of 1981, is amended to read as follows:

1 § 3003. Regional emergency medical services [councils] advisory
2 boards. 1. The commissioner[, with the approval of the state council,]
3 shall designate regional emergency medical services [councils on or
4 before January first, nineteen hundred seventy-eight] boards but in no
5 event shall the number of regional [councils] boards exceed [eighteen]
6 six. Such a regional [councils] board shall be established on the basis
7 of application for designation as a regional [councils] board submitted
8 by local organizations, the members of which are knowledgeable in vari-
9 ous aspects of emergency medical services. Such application shall
10 describe the geographic area to be served and contain a list of nominees
11 for appointment to membership on such regional [councils] board and a
12 statement as to the proposed method of operation in such detail as the
13 commissioner[, with the approval of the state council,] shall prescribe.
14 2. Each regional [council] board shall be comprised of at least
15 fifteen but not more than thirty members to be initially appointed by
16 the commissioner, [with the approval of the state council] in consulta-
17 tion with the state board, from nominations submitted by local organiza-
18 tions applying for establishment as the regional [council] board. Such
19 members shall be representative of the diversity of emergency medical
20 services in the region; particularly with respect to diversity in
21 geography, industry and patient care. Not less than one-third of the
22 membership of the regional [councils] boards shall be representatives of
23 ambulance services and the remaining membership of the regional [coun-
24 cils] boards shall consist of, but not be limited to, representatives of
25 existing local emergency medical care committees, physicians, nurses,
26 hospitals, health planning agencies, fire department emergency and
27 rescue squads, public health officers and the general public. The county
28 EMS coordinator, established pursuant to section two hundred twenty-

1 three-b of the county law, of any county within the region shall serve
2 as an ex officio member of the regional [council] board; provided,
3 however, nothing in this subdivision shall prevent a county EMS coordi-
4 nator from serving as a voting member of a regional [council] board.
5 Members of each regional [council] board shall be residents living with-
6 in the geographic area to be served by the regional [council] board. The
7 presence of a majority of members shall constitute a quorum.

8 3. Each regional [council] board shall assist the regional emergency
9 medical advisory committees, other regional boards, state board, depart-
10 ment and commissioner, as required by this article and requested by the
11 department and commissioner, in carrying out the provisions of this
12 article, and shall have the power to:

13 (a) [have a seal and alter the same at pleasure;

14 (b) acquire, lease, hold, and dispose of real and personal property or
15 any interest therein for its purposes;

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

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

27 (e) enter into contracts, leases, and subleases and to execute all
28 instruments necessary or convenient for the conduct of its business,

1 including contracts with the commissioner and any state agency or munic-
2 ipal entity; and contracts with hospitals and physicians for the
3 purposes of carrying out its powers under this article;

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

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

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

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

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

26 (k) procure insurance against any loss or liability in connection with
27 the use, management, maintenance, and operation of its equipment and

1 facilities, in such amounts and from such insurers as it reasonably
2 deems necessary;

3 (l) approve] (e) recommend to the commissioner individuals for
4 appointment to its regional medical advisory committee [nominees;

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

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

12 4. Each regional [council] board shall have the responsibility to
13 coordinate emergency medical services programs within its region,
14 including but not limited to, the establishment of emergency medical
15 technician courses and the issuance of uniform emergency medical techni-
16 cian insignia and certificates. Such training courses shall be made
17 available by video or computer to the maximum extent possible.

18 5. [The] Each regional [council] board shall have the responsibility
19 to make determinations of public need for the establishment of addi-
20 tional emergency medical services and ambulance services within its
21 geographic area and to make the determinations of public need as
22 provided in section three thousand eight of this article. The regional
23 [council] board shall make such determination by an affirmative vote of
24 a majority of all of those members consisting of voting members.

25 [5-a. The regional emergency medical services council is authorized to
26 grant an exemption from the staffing standards set forth in section
27 three thousand five-a of this article to a voluntary ambulance service
28 operating solely with enrolled members or paid emergency medical techni-

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

1 6. The term of office of members of [the] each regional [council]
2 board shall be four years, except that of those members first appointed,
3 at least one-half but not more than two-thirds shall be for [terms] a
4 term not to exceed two years.

5 7. Each regional [council] board shall meet as frequently as its busi-
6 ness may require.

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

11 9.] No civil action shall be brought in any court against any member,
12 officer or employee of any designated regional [council] board for any
13 act done, failure to act, or statement or opinion made, while discharg-
14 ing his duties as a member, officer or employee of the regional [coun-
15 cil] board, without leave from a justice of the supreme court, first had
16 and obtained. In any event such member, officer or employee shall not be
17 liable for damages in any such action if he shall have acted in good
18 faith, with reasonable care and upon probable cause.

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

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

1 9. All determinations of the regional boards may be appealed to the
2 state board pursuant to subdivision three of section three thousand two
3 of this article.

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

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

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

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

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

9 [4.] 3. Any decision of a regional emergency medical advisory commit-
10 tee regarding provision of a level of care, including staffing require-
11 ments, may be appealed to the state [emergency medical advisory commit-
12 tee] board by any regional [EMS council] board, ambulance service,
13 advanced life support service, certified first responder, emergency
14 medical technician, or advanced emergency medical technician adversely
15 affected. No action shall be taken to implement a decision regarding
16 existing levels of care or staffing while an appeal of such decision is
17 pending. [Any decision of the state emergency medical advisory committee
18 may be appealed pursuant to subdivision two-a of section three thousand
19 two-a of this article.]

20 § 85. Section 3005 of the public health law, as amended by chapter 804
21 of the laws of 1992, subdivision 5 as amended and subdivision 8 as added
22 by chapter 445 of the laws of 1993, is amended to read as follows:

23 § 3005. Ambulance service certificates. 1. No ambulance service [oper-
24 ating for profit, hospital ambulance service or municipal ambulance
25 service of a city of over one million population shall operate on or
26 after September first, nineteen hundred seventy-five unless it possesses
27 a valid ambulance service certificate issued pursuant to this article.
28 Effective January first, nineteen hundred ninety-seven, no ambulance

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

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

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

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

25 4.] A certificate issued by the department to an ambulance service or
26 advanced life support first response service shall be valid for two
27 years. The initial certification fee shall be [one] three hundred
28 dollars. Thereafter the biennial fee shall be in accordance with the

1 schedule of fees established by the commissioner pursuant to this arti-
2 cle. However, there shall be no initial or renewal certification fee
3 required of a voluntary ambulance service or voluntary advanced life
4 support first response service.

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

12 [6.] 4. No ambulance service or advanced life support first response
13 service shall begin operation without prior approval of the appropriate
14 regional [council] board, or if there is no appropriate regional [coun-
15 cil] board established such ambulance service or advanced life support
16 first response service shall apply for approval from the state [council]
17 board as to the public need for the establishment of additional ambu-
18 lance service or advanced life support first response service, pursuant
19 to section three thousand eight of this article.

20 [7.] 5. Applications for a certificate shall be made by the owner of
21 an ambulance service or advanced life support first response service
22 operating for profit or the responsible official of a voluntary ambu-
23 lance service or advanced life support first response service upon forms
24 provided by the department. The application shall state the name and
25 address of the owner and provide such other information as the depart-
26 ment may require pursuant to rules and regulations.

27 [8.] 6. For purposes of this article, competent means that any
28 proposed operator of any ambulance service or advanced life support

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

1 fraud, embezzlement, drug abuse, or sale of drugs and (b) is not or was
2 not subject to a state or federal administrative order relating to fraud
3 or embezzlement, unless the commissioner finds that such conviction or
4 such order does not demonstrate a present risk or danger to patients or
5 the public.

6 § 86. Section 3005-a of the public health law, as added by chapter 804
7 of the laws of 1992, subdivision 1 as amended by chapter 445 of the laws
8 of 1993, is amended to read as follows:

9 § 3005-a. Staffing standards; ambulance services and advanced life
10 support first response services. [1.] The following staffing standards
11 shall be in effect unless otherwise provided by this section:

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

15 (b) effective January first, two thousand, the] 1. The minimum staff-
16 ing standard for [a voluntary] each ambulance service shall be an emer-
17 gency medical technician with the patient;

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

20 (d)] 2. the minimum staffing standard for an advanced life support
21 first response service shall be an advanced emergency medical technician
22 with the patient. Circumstances permitting other than advanced life
23 support care by an advanced life support first response service may be
24 established by rule promulgated by [the state council, subject to the
25 approval of] the commissioner, in consultation with the state board.

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

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

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

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

24 2. The program shall be limited to persons who are employed by the New
25 York city fire department [or who are in practice in the following coun-
26 ties: Delaware, Fulton, Hamilton, Montgomery, Nassau, Otsego, Schoharie
27 or Suffolk]. The commissioner may limit the number of participants in

1 the program, except that such limit shall be no less than four thousand
2 participants.

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

8 4. The commissioner, in consultation with the state emergency medical
9 services council, shall make regulations necessary to implement this
10 section.]

11 § 88. Section 3006 of the public health law, as added by chapter 804
12 of the laws of 1992, subdivision 1 as amended and subdivision 4 as added
13 by chapter 445 of the laws of 1993, is amended to read as follows:

14 § 3006. Quality improvement program. 1. [By January first, nineteen
15 hundred ninety-seven, every] Every ambulance service and advanced life
16 support first response service shall establish or participate in a qual-
17 ity improvement program, which shall be an ongoing system to monitor and
18 evaluate the quality and appropriateness of the medical care provided by
19 the ambulance service or advanced life support first response service,
20 and which shall pursue opportunities to improve patient care and to
21 resolve identified problems. The quality improvement program may be
22 conducted independently or in collaboration with other services, with
23 the appropriate regional [council, with an EMS program agency] board,
24 with a hospital, or with another appropriate organization approved by
25 the department. Such program shall include a committee of at least five
26 members, at least three of whom do not participate in the provision of
27 care by the service. At least one member shall be a physician, and the
28 others shall be nurses, or emergency medical technicians, or advanced

1 emergency medical technicians, or other appropriately qualified allied
2 health personnel. The quality improvement committee shall have the
3 following responsibilities:

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

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

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

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

24 1-a. The department shall develop and maintain statewide and regional
25 quality improvement programs for trauma and disaster care, which shall
26 be integrated with the quality improvement program for emergency medical
27 services, and incorporate quality improvement programs from all compo-

1 nents of the trauma system, including, but not limited to, fully inte-
2 grated statewide and regional trauma registries.

3 2. The information required to be collected and maintained, including
4 [information from the prehospital care reporting system which identifies
5 an individual] patient identifying information and protected health
6 information, shall be kept confidential and shall not be released except
7 to the department or pursuant to section three thousand [four-a] four of
8 this article.

9 3. Notwithstanding any other provisions of law, none of the medical
10 records, documentation, or [committee] actions or records required of
11 any quality improvement committee pursuant to this section shall be
12 subject to disclosure under article six of the public officers law or
13 article thirty-one of the civil practice law and rules, except as here-
14 inafter provided or as provided in any other provision of law. No person
15 in attendance at a meeting of any [such] quality improvement committee
16 shall be required to testify as to what transpired thereat. The prohi-
17 bition related to disclosure of testimony shall not apply to the state-
18 ments made by any person in attendance at such a meeting who is a party
19 to an action or proceeding the subject of which was reviewed at the
20 meeting. The prohibition of disclosure of information from the prehos-
21 pital care reporting system shall not apply to information which does
22 not identify a particular ambulance service or individual.

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

1 § 89. Section 3008 of the public health law, as added by chapter 1053
2 of the laws of 1974, subdivisions 1 and 2 as amended by chapter 804 of
3 the laws of 1992, subdivision 3 as amended by chapter 252 of the laws of
4 1981, subdivision 6 as added by chapter 850 of the laws of 1992 and
5 subdivision 7 as added by chapter 510 of the laws of 1997, is amended to
6 read as follows:

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

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

20 3. Notice pursuant to this section shall be deemed filed with the
21 ambulance service and municipality upon being mailed by the appropriate
22 regional board or state [council] board by registered or certified mail.

23 4. The appropriate regional [council] board or the state [council]
24 board shall make its determination of public need within sixty days
25 after receipt of the application.

26 5. The applicant or any concerned party may appeal the determination
27 of the appropriate regional [council] board to the state council within
28 thirty days after the regional [council] board makes its determination.

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

6 7. (a) Notwithstanding any other provision of law and subject to the
7 provisions of this article, any municipality within this state, or fire
8 district acting on behalf of any such municipality, and acting through
9 its local legislative body, is hereby authorized and empowered to adopt
10 and amend local laws, ordinances or resolutions to establish and operate
11 advanced life support first responder services or municipal ambulance
12 services within the municipality, upon meeting or exceeding all stand-
13 ards set by the department for appropriate training, staffing and equip-
14 ment, and upon filing with the [New York state emergency medical
15 services council] department, a written request for such authorization.
16 Upon such filing, such municipal advanced life support first responder
17 service or municipal ambulance service shall be deemed to have satisfied
18 any and all requirements for determination of public need for the estab-
19 lishment of additional emergency medical services pursuant to this arti-
20 cle for a period of two years following the date of such filing. Nothing
21 in this article shall be deemed to exclude the municipal advanced life
22 support first responder service or municipal ambulance service author-
23 ized to be established and operated pursuant to this article from
24 complying with any other requirement or provision of this article or any
25 other applicable provision of law.

26 (b) In the case of an application for certification pursuant to this
27 subdivision, for a municipal advanced life support or municipal ambu-
28 lance service, to serve the area within the municipality, where the

1 proposed service meets or exceeds the appropriate training, staffing and
2 equipment standards, there shall be a strong presumption in favor of
3 approving the application.

4 § 90. Section 3009 of the public health law is REPEALED.

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

9 § 3010. Area of operation; transfers. 1. Every ambulance service
10 certificate [or statement of registration] issued under this article
11 shall specify the primary territory within which the ambulance service
12 shall be permitted to operate. An ambulance service shall receive
13 patients only within the primary territory specified on its ambulance
14 service certificate [or statement of registration], except: (a) when
15 receiving a patient which it initially transported to a facility or
16 location outside its primary territory; (b) as required for the fulfill-
17 ment of a mutual aid agreement authorized by the regional [council]
18 board, department and commissioner; (c) upon express approval of the
19 department and the appropriate regional [emergency medical services
20 council] board for a maximum of sixty days if necessary to meet an emer-
21 gency need; provided that in order to continue such operation beyond the
22 sixty day maximum period necessary to meet an emergency need, the ambu-
23 lance service must satisfy the requirements of this article, regarding
24 determination of public need and specification of the primary territory
25 on the ambulance service certificate or statement of registration; or
26 (d) an ambulance service or advanced life support first response service
27 organization formed to serve the need for the provision of emergency
28 medical services in accordance with the religious convictions of a reli-

1 gious denomination may serve such needs in an area adjacent to such
2 primary territory and, while responding to a call for such service, the
3 needs of other residents of such area at the emergency scene. Any ambu-
4 lance service seeking to operate in more than one region shall make
5 application to each appropriate regional [council] board. Whenever an
6 application is made simultaneously to more than one regional [council]
7 board, the applications submitted to the regional [councils] boards
8 shall be identical, or copies of each application shall be submitted to
9 all the regional [councils] boards involved.

10 2. No ambulance service certificate shall be transferable unless the
11 regional [council] board and the department [reviews] review and
12 [approves] approve the transfer as follows:

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

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

21 c. Any transfer, assignment or other disposition of ten percent or
22 more of the stock or voting rights thereunder of a corporation which is
23 the owner of an ambulance service, or any transfer, assignment or other
24 disposition of the stock or voting rights thereunder of such a corpo-
25 ration which results in the ownership or control of ten percent or more
26 of the stock or voting rights thereunder by any person, shall be
27 approved based upon a determination that the new stockholder or stock-
28 holder proposing to obtain ten percent or more of the stock or voting

1 rights thereunder of such corporation is competent and fit to operate
2 the service. The remaining stockholders shall not be subject to a char-
3 acter and fitness review.

4 d. Any transfer of all or substantially all of the assets of a corpo-
5 ration which owns or operates a certified ambulance service shall be
6 approved based upon a determination that the individual, partnership, or
7 corporation proposing to obtain all or substantially all of the assets
8 of the corporation is competent and fit to operate the service.

9 e. Any transfer affected in the absence of the review and approval
10 required by this section shall be null and void and the certificate of
11 such ambulance service shall be subject to revocation or suspension.

12 3. Nothing contained in this section shall be construed to prohibit
13 any voluntary ambulance service authorized by its governing authority to
14 do so from transporting any sick or injured resident of its primary
15 territory from any general hospital or other health care facility
16 licensed by the department, whether or not such general hospital or
17 health care facility is within the service's primary territory, to any
18 other general hospital or health care facility licensed by the depart-
19 ment for further care, or to such resident's home. Nothing contained in
20 this section shall be construed to prohibit any proprietary ambulance
21 service authorized by its governing body to do so from transporting any
22 sick or injured patient from any general hospital or other health care
23 facility licensed by the department whether or not such general hospital
24 or health care facility is within the service's primary territory, to
25 any other general hospital or health care facility licensed by the
26 department within the service's primary territory for further care, or
27 to such patient's home, if such patient's home is within its primary
28 territory. Any ambulance service owned by or under contract to a general

1 hospital licensed by the department may transport any specialty patient
2 from any other general hospital or health care facility licensed by the
3 department to the hospital owning such ambulance service, or with which
4 it has a contract. Categories of specialty patients shall be defined by
5 rule promulgated by [the state emergency medical services council,
6 subject to the approval of] the commissioner.

7 4. No ambulance service certificate of an ambulance service which has
8 discontinued operations for a continuous period in excess of thirty days
9 shall be transferable without the approval of the appropriate regional
10 [council] board and the department.

11 § 92. Section 3011 of the public health law, as amended by chapter 804
12 of the laws of 1992, subdivision 3 as amended and subdivision 3-a as
13 added by chapter 501 of the laws of 2000, subdivision 10 as amended by
14 chapter 206 of the laws of 2008 and subdivision 11 as added by chapter
15 542 of the laws of 1995, is amended to read as follows:

16 § 3011. Powers and duties of the department and the commissioner. 1.
17 The commissioner shall issue certification for certified first respon-
18 der, emergency medical technician or advanced emergency medical techni-
19 cian to an individual who meets the minimum requirements established by
20 regulations.

21 2. The commissioner shall issue certification for ambulance and
22 advanced life support first response services who have received a deter-
23 mination of need by the appropriate regional advisory board and meet the
24 minimum requirements established by regulations.

25 3. The department may inquire into the operation of ambulance services
26 and advanced life support first response services and conduct periodic
27 inspections of facilities, communication services, vehicles, methods,
28 procedures, materials, [staff and] staffing, records, equipment and

1 quality assurance activities and documentation. It may also evaluate
2 data received from ambulance services and advanced life support first
3 response services.

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

8 [3.] 5. The commissioner, in consultation with the state board, shall
9 develop statewide minimum standards for: (a) medical control; (b) scope
10 of prehospital care practice; (c) treatment, transportation and triage
11 protocols, including protocols for invasive procedures and infection
12 control; and (d) the use of regulated medical devices and drugs by emer-
13 gency medical services personnel certified pursuant to this article.
14 The commissioner may issue advisory guidelines in any of these areas.
15 The department shall review protocols developed by regional emergency
16 medical advisory committees for consistency with statewide standards.

17 6. The commissioner, [with the advice and consent of the state coun-
18 cil] in consultation with the state board, shall designate not more than
19 [eighteen] six geographic areas within the state wherein a regional
20 [emergency medical services council] board shall be established. In
21 making the determination of a geographic area, the commissioner shall
22 take into consideration the presence of ambulance services, hospital
23 facilities, existing emergency medical services committees, trained
24 health personnel, health planning agencies and communication and trans-
25 portation facilities[; and shall establish separate regional emergency
26 medical services councils for the counties of Nassau and Westchester].
27 The commissioner shall [promote and encourage the establishment of]

1 establish a regional [emergency medical services council] board in each
2 of said designated areas.

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

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

9 b. Subject to the provisions of paragraph c of this subdivision, fund-
10 ing for regional councils and emergency medical services program agen-
11 cies existing on or after January first, two thousand shall be increased
12 in proportion to any funding appropriated therefor by the department and
13 in such proportion as determined by the department;

14 c. Funding for any regional council or emergency medical services
15 program agency created on or after January first, two thousand shall be
16 in addition to any funds appropriated on the effective date of this
17 subdivision for regional councils or emergency medical services program
18 agencies existing on January first, two thousand. Funding for any
19 regional council or emergency medical services program agency created
20 after January first, two thousand shall be in an amount at least equal
21 to the minimum funding level appropriated to regional councils or emer-
22 gency medical services program agencies existing on such date, or in an
23 amount equal to the proportion that such new regional council or emer-
24 gency medical services program agency represented on the basis of popu-
25 lation in its former regional council or emergency medical services
26 program agency, whichever is larger.

27 4. The commissioner may propose rules and regulations and amendments
28 thereto for consideration by the state council.] 7. The commissioner

1 shall establish a schedule of certification fees for ambulance services
2 and advanced life support first response services other than voluntary
3 ambulance services and voluntary advanced life support first response
4 services.

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

13 [6.] 9. The commissioner is hereby authorized, for the purposes of
14 effectuating the provisions of this article in the development of a
15 statewide emergency medical service system, to contract with any ambu-
16 lance service or with the fire commissioners of fire districts operating
17 certified voluntary ambulance services for the use of necessary equip-
18 ment upon such terms and conditions as the commissioner shall deem
19 appropriate.

20 [7.] 10. The department and commissioner shall prepare, and period-
21 ically update as necessary, a statewide emergency medical services mobi-
22 lization plan, which provides for the identification and deployment of
23 emergency medical services personnel and resources throughout the state
24 in response to a local or regional request. Upon notification to the
25 state board, the regional boards, and the regional emergency medical
26 advisory committees, the plan shall become the statewide emergency
27 medical services mobilization plan.

1 11. The commissioner [may recommend to the state council minimum qual-
2 ifications] shall, in consultation with the state board, establish a
3 minimum scope of practice, education, training, certification and
4 credentialing qualifications for certified first responders [(which
5 shall not exceed fifty-one hours)], emergency medical technicians and
6 advanced emergency medical technicians in all phases of emergency
7 medical technology including but not limited to, communications, first
8 aid, equipment, maintenance, emergency techniques and procedures,
9 patient management and knowledge of procedures and equipment for emer-
10 gency medical care.

11 [8. The commissioner shall provide every certified ambulance service
12 and advanced life support first response service with an official insign-
13 nia which may be attached to every vehicle owned or operated by a certi-
14 fied ambulance service or advanced life support first response service.

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

19 10.] 12. The department shall require every certified ambulance
20 service and advanced life support first response service to display an
21 official insignia which must be attached to every vehicle owned or oper-
22 ated by a certified ambulance service or advanced life support first
23 response service.

24 13. The commissioner is hereby authorized and empowered to extend the
25 certification for emergency medical technicians, advanced emergency
26 medical technicians or certified first responders who have been ordered
27 to active military duty, other than for training, [on or after the elev-
28 enth day of September, two thousand one] and whose certification will

1 expire during their military duty [or within the six months immediately
2 following separation from military service]. The extended certification
3 shall be for the period of military duty and for twelve months after
4 they have been released from active military duty.

5 [11.] 14. The commissioner, [with the advice and consent of the state
6 council] in consultation with the state board, shall promulgate rules
7 and regulations necessary to ensure compliance with the provisions of
8 subdivision two of section sixty-seven hundred thirteen of the education
9 law; and may facilitate development and periodic revision of appropri-
10 ateness review standards for emergency medical services and emergency
11 departments, pediatric services and pediatric centers, trauma services
12 and trauma centers, burn services and burn centers, and disaster care
13 under article twenty-eight of this chapter, for adoption by the commis-
14 sioner or state public health and health planning council, as appropri-
15 ate.

16 15. The department and commissioner, in consultation with the state
17 board, shall continue the categorization of general hospitals and other
18 health care facilities for emergency medical care and trauma care under
19 article twenty-eight of this chapter, and the designation of emergency
20 facilities in general hospitals and other health care facilities, as
21 emergency departments or emergency services appropriate for emergency
22 medical care and general hospitals and other health care facilities as
23 trauma centers or trauma stations appropriate for trauma care, based
24 upon such categorization.

25 16. The department and commissioner, in consultation with the state
26 board, shall develop and maintain a statewide system for recognition of
27 facilities able to provide sustentative or definitive specialty pedia-
28 tric emergency medical and trauma care for sudden childhood illness and

1 injury and for preferential transport of suddenly ill or injured chil-
2 dren to such facilities, and shall promote the use of such facilities in
3 accordance with written protocols or transfer agreements as appropriate.

4 17. Upon appeal of any interested party, the commissioner may amend,
5 modify, and reverse decisions of the state board, any regional board, or
6 any regional emergency medical advisory committee; provided that in
7 consideration of a regional board or regional emergency medical advisory
8 committee decision, the commissioner shall consult the state advisory
9 board.

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

15 § 3012. Enforcement. 1. Any ambulance service or advanced life
16 support first response service certificate issued pursuant to section
17 three thousand five of this article may be revoked, suspended, limited
18 or annulled by the department upon proof that the operator or certif-
19 icate holder or one or more enrolled members or one or more persons in
20 his or her employ:

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

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

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

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

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

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

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

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

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

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

1 2. Proceedings under this section may be initiated by any person,
2 corporation, association, or public officer, or by the department by the
3 filing of written charges with the department. Whenever the department
4 seeks revocation or suspension of a certificate of an ambulance service
5 or an advanced life support first response service, a copy of the charg-
6 es shall be referred to the appropriate regional [council] board for
7 review and recommendation to the department prior to a hearing. [Such
8 recommendation shall include a determination as to whether the public
9 need would be served by a revocation, suspension, annulment or limita-
10 tion. If there is no appropriate regional council established, the state
11 council shall make such determination and present to the department its
12 recommendations.]

13 3. No certificate shall be revoked, [suspended,] limited or annulled
14 without a hearing. However, a certificate may be [temporarily] suspended
15 without a hearing and without the [approval] review of the appropriate
16 regional [council] board or state [council] board for a period not in
17 excess of [thirty] ninety days upon notice to the certificate holder
18 following a finding by the department that the public health, safety or
19 welfare is in imminent danger.

20 4. The [commissioner] department shall fix a time and place for the
21 hearing. A copy of the charges and the recommendations of the appropri-
22 ate regional [council] board or state [council] board together with the
23 notice of the time and place of the hearing, shall be mailed to the
24 certificate holder by registered or certified mail, at the address spec-
25 ified on the certificate, at least fifteen days before the date fixed
26 for the hearing. The appropriate regional [council] board may be a party
27 to such hearing. The certificate holder may file with the department,

1 not less than five days prior to the hearing, a written answer to the
2 charges.

3 § 94. Section 3016 of the public health law, as amended by chapter 252
4 of the laws of 1981, is amended to read as follows:

5 § 3016. Continuance of rules and regulations. All rules and regu-
6 lations heretofore adopted by the commissioner pertaining to all ambu-
7 lance services shall continue in full force and effect as rules and
8 regulations until duly modified or superseded by rules and regulations
9 hereafter adopted and enacted by the [state council pursuant to section
10 three thousand two of this article] commissioner.

11 § 95. Section 3017 of the public health law is REPEALED.

12 § 96. Section 3030 of the public health law, as added by chapter 439
13 of the laws of 1979, is amended to read as follows:

14 § 3030. Advanced life support services. Advanced life support
15 services provided by an advanced emergency medical technician, shall be
16 (1) provided under the direction of qualified medical and health person-
17 nel utilizing patient information and data transmitted by voice or
18 telemetry, (2) limited to the category or categories in which the
19 advanced emergency medical technician is certified pursuant to this
20 article, [and] (3) recorded for each patient, on an individual treat-
21 ment-management record, and (4) limited to participation in an advance
22 life support system.

23 § 97. Section 3031 of the public health law, as added by chapter 439
24 of the laws of 1979, is amended to read as follows:

25 § 3031. Advanced life support system. Advanced life support system
26 must (1) be under the overall supervision and direction of a qualified
27 physician [with respect to the advanced life support services provided],
28 (2) utilize advanced life support protocols developed by the regional

1 emergency medical advisory committee and approved by the commissioner,
2 (3) be staffed by qualified medical and health personnel, [(3)] (4)
3 utilize advanced emergency medical technicians whose certification is
4 appropriate to the advanced life support services provided, [(4)] (5)
5 utilize advanced support mobile units appropriate to the advanced life
6 support services provided, [(5)] (6) maintain a treatment-management
7 record for each patient receiving advanced life support services, and
8 [(6)] (7) be integrated with a hospital emergency, intensive care, coro-
9 nary care or other appropriate service.

10 § 98. Section 3032 of the public health law, as amended by chapter 445
11 of the laws of 1993, is amended to read as follows:

12 § 3032. Rules and regulations. The [state council, with the approval
13 of the] commissioner, in consultation with the state board, shall
14 promulgate rules and regulations to effectuate the purposes of sections
15 three thousand thirty and three thousand thirty-one of this article.

16 § 99. Section 3052 of the public health law, as added by chapter 727
17 of the laws of 1986, is amended to read as follows:

18 § 3052. Establishment of a training program for emergency medical
19 services personnel. 1. There is hereby established a training program
20 for emergency medical services personnel including, but not limited to,
21 first responders, emergency medical technicians, advanced emergency
22 medical technicians and emergency vehicle operators.

23 1-a. Such training program may use any combination of coursework,
24 testing, continuing education and continuous practice to provide the
25 means by which such personnel, including instructor level personnel, may
26 be trained and certified. The program may include means that allow for
27 certification of emergency medical technicians and advanced emergency

1 medical technicians without the requirement of practical skills or writ-
2 ten examination.

3 1-b. The commissioner, in consultation with the state board, shall
4 develop such training program, promulgating rules and regulations as may
5 be necessary for administration and compliance.

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

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

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

1 3. Upon request, the [commissioner] department shall provide manage-
2 ment advice and technical assistance to regional [emergency medical
3 services councils] boards, county emergency medical services coordina-
4 tors, and course sponsors and instructors to stimulate the improvement
5 of training courses and the provision of courses in a manner which
6 encourages participation. Such advice and technical assistance may
7 relate to, but need not be limited to the location, scheduling and
8 structure of courses.

9 4. The department is authorized, either directly or through contractu-
10 al arrangement, to develop and distribute training materials for use by
11 course instructors and sponsors, to recruit additional instructors and
12 sponsors and to provide training courses for instructors.

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

16 § 100. Section 3053 of the public health law, as amended by chapter
17 445 of the laws of 1993, is amended to read as follows:

18 § 3053. Reporting. Advanced life support first response services and
19 ambulance services [registered or] certified pursuant to article thirty
20 of this chapter shall submit detailed individual call reports on a form
21 to be [provided] determined by the department, or may submit data elec-
22 tronically in a format approved by the department. The [state emergency
23 medical services council, with the approval of the] commissioner, in
24 consultation with the state board, may adopt rules and regulations
25 permitting or requiring ambulance and advanced life support first
26 response services whose volume exceeds [twenty thousand calls per year]
27 a specified annual threshold to submit call report data electronically.
28 Such rules shall define the data elements to be submitted, and may

1 include requirements that assure availability of data to the regional
2 boards and regional emergency medical advisory [committee] committees.

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

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

7 3. Moneys of the account, when allocated, shall be available to the
8 department of health for the purpose of funding the training of emergen-
9 cy medical services personnel, and funding as shall be provided by
10 appropriation for the [state] operation of the state's emergency medical
11 services [council, regional emergency medical services councils, emer-
12 gency medical services program agencies or other emergency medical
13 services training programs] system, in order to carry out the purposes
14 of articles thirty and thirty-A of the public health law.

15 4. [Not less than fifty percent of the] The monies of the account
16 shall be expended for the direct costs of providing emergency medical
17 services training at the local level. [The legislature shall annually
18 appropriate from the remaining available monies, funding for the state
19 emergency medical services council, the regional emergency medical
20 services councils, the emergency medical services program agencies and]
21 Annual appropriations shall be used to enable the department of health
22 [in order to carry out] to achieve the purposes of articles thirty and
23 thirty-A of the public health law. At the end of any fiscal year, any
24 funds not encumbered for these purposes shall be reallocated for the
25 costs of training advanced life support personnel.

26 § 103. Paragraph 4 of subdivision a of section 19-162.2 of the admin-
27 istrative code of the city of New York, as added by local law number 40

1 of the city of New York for the year 1997, is amended to read as
2 follows:

3 4. "certified first responder" shall mean an individual who meets the
4 minimum requirements established by [regulations pursuant to section
5 three thousand two] the commissioner of health pursuant to article thir-
6 ty of the public health law and who is responsible for administration of
7 initial life saving care of sick and injured persons.

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

11 1-a. As used in this section:

12 (a) "Emergency medical technician" means an individual who meets the
13 minimum requirements established by [regulations pursuant to section
14 three thousand two] the commissioner of health pursuant to article thir-
15 ty of the public health law and who is responsible for administration or
16 supervision of initial emergency medical assistance and handling and
17 transportation of sick, disabled or injured persons.

18 (b) "Advanced emergency medical technician" means an emergency medical
19 technician who has satisfactorily completed an advanced course of train-
20 ing approved by the [state council under regulations pursuant to section
21 three thousand two] commissioner of health pursuant to article thirty of
22 the public health law.

23 § 105. Subparagraph (iii) of paragraph (e) of subdivision 3 of section
24 219-e of the general municipal law, as added by chapter 514 of the laws
25 of 1998, is amended to read as follows:

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

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

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

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

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

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

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

27 1. Creation; members. There is hereby created in the department of
28 state an emergency services council, the members of which shall be the

1 directors of the office of fire prevention and control, the bureau of
2 emergency medical services and the state emergency management office,
3 the superintendent of state police, the commissioner of health, the
4 secretary of state and the director of state operations who shall be the
5 chairperson unless otherwise appointed by the governor. There shall also
6 be two representatives appointed by the state emergency medical services
7 [council] advisory board, one of whom shall be a representative of
8 volunteer ambulance service and one of whom shall be a representative of
9 proprietary ambulance service; two representatives appointed by the fire
10 advisory board, one of which shall be representative of volunteer fire
11 service and one of which shall be representative of paid fire service;
12 one representative shall be appointed by the disaster preparedness
13 commission; one physician shall be appointed by the [state emergency
14 medical advisory committee] commissioner of health; one appointment
15 shall be made by the governor; one appointment shall be made by the
16 temporary president of the senate; and one appointment shall be made by
17 the speaker of the assembly.

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

20 § 804-d. Automated external defibrillator instruction. Instructions
21 regarding the correct use of an automated external defibrillator shall
22 be included as a part of the health education curriculum in all senior
23 high schools when cardiopulmonary resuscitation instruction is being
24 provided as authorized by section eight hundred four-c of this article.
25 In addition to the requirement that all teachers of health education
26 shall be certified to teach health, persons instructing pupils in the
27 correct use of automated external defibrillators shall possess valid
28 certification by a nationally recognized organization or the [state

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

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

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

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

9 § 2409-a. Advisory council. 1. There is hereby established in the
10 department the breast, cervical and ovarian cancer detection and educa-
11 tion program advisory council, for the purpose of advising the commis-
12 sioner with regards to providing information to consumers, patients, and
13 health care providers relating, but not limited to, breast, cervical and
14 ovarian cancer, including signs and symptoms, risk factors, the benefits
15 of prevention and early detection, guideline concordant cancer screening
16 and disease management, options for diagnostic testing and treatment,
17 new technologies, and survivorship.

18 2. The advisory council shall make recommendations to the department
19 regarding the promotion and implementation of programs under sections
20 twenty-four hundred six and twenty-four hundred nine of this title.

21 3. The commissioner shall appoint twenty-one voting members, which
22 shall include representation of health care professionals, consumers,
23 patients and other appropriate interest reflective of the diversity of
24 the state, with expertise in breast, cervical and/or ovarian cancer. The
25 commissioner shall appoint one member as a chairperson. The members of
26 the council shall receive no compensation for their services, but shall
27 be allowed their actual and necessary expenses incurred in performance
28 of their duties.

1 4. A majority of the appointed voting membership of the board shall
2 constitute quorum.

3 5. The advisory council shall meet at least twice a year, at the
4 request of the department.

5 § 113. Section 844-a of the executive law is REPEALED.

6 § 114. This act shall take effect immediately; provided that:

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

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

15 (c) sections forty-one, forty-two, forty-three, forty-four, forty-
16 five, forty-six and forty-seven of this act shall take effect upon the
17 resolution of all appeals pending before the freshwater appeals board;
18 provided, however, that such board, created by title 11 of article 24 of
19 the environmental conservation law, as repealed by section forty-one of
20 this act, shall not accept any new cases as of the effective date of
21 this act; and

22 (d) the commissioner of the department of environmental conservation
23 shall notify the legislative bill drafting commission upon the resol-
24 ution of all appeals pending before the freshwater appeals board in
25 order that the commission may maintain an accurate and timely effective
26 date data base of the official text of the laws of the state of New York
27 in furtherance of effectuating the provisions of section 44 of the
28 legislative law and section 70-b of the public officers law.

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

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