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

S. 6257 A. 9057

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

January 17, 2012

IN SENATE -- A BUDGET BILL, submitted by the Governor pursuant to article seven of the Constitution -- read twice and ordered printed, and when printed to be committed to the Committee on Finance

IN ASSEMBLY -- A BUDGET BILL, submitted by the Governor pursuant to article seven of the Constitution -- read once and referred to the Committee on Ways and Means

AN ACT in relation to school district eligibility for an increase in apportionment of school aid and implementation of new standards for conducting annual professional performance reviews to determine teacher and principal effectiveness; to amend the education law, in relation to contracts for excellence, apportionment of school aid, apportionment of school aid and of current year approved expenditures for debt service, calculation of the gap elimination restoration amount, apportionment for transportation, maximum class size; to amend chapter 756 of the laws of 1992 relating to funding a program for work force education conducted by the consortium for worker education in New York city, in relation to apportionment and reimbursement; and in relation to extending the expiration of certain provisions; to amend chapter 169 of the laws of 1994 relating to certain provisions related to the 1994-95 state operations, aid to localities, capital projects and debt service budgets, chapter 82 of the laws of 1995, amending the education law and certain other laws relating to state aid to school districts and the appropriation of funds for the support of government, chapter 698 of the laws of 1996 amending the education law relating to transportation contracts, chapter 147 of the laws of 2001 amending the education law relating to conditional appointment of school district, charter school or BOCES employees, chapter 425 of the laws of 2002 amending the education law relating to the provision of supplemental educational services, attendance at a safe public school and the suspension of pupils who bring a firearm to or possess a firearm at a school, chapter 101 of the laws of 2003 amending the education law relating to implementation of the No Child Left Behind Act of 2001, to amend chapter 57 of the laws of 2008 amending the education law relating to the universal pre-kindergarten program, in relation to extending the expiration of certain provisions of such chapters; in relation to school bus driver training; in relation to

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

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the support of public libraries; to provide special apportionment for salary expenses; to provide special apportionment for public pension expenses; in relation to suballocation of certain education department accruals; in relation to purchases by the city school district of Rochester; relating to submission of school construction final cost reports; and providing for the repeal of certain provisions upon expiration thereof (Part A); to amend the education law, in relation to tenured teacher disciplinary hearings (Part B); to amend the social services law, in relation to increasing the standards of monthly need for aged, blind and disabled persons living in the community (Part C); to amend the social services law, in relation to the standards of monthly need for persons in receipt of public assistance (Part D); to amend the social services law, in relation to authorizing the office of temporary and disability assistance to administer the program of supplemental security income additional state payments; and to repeal certain provisions of such law relating thereto (Part E); to amend chapter 83 of the laws of 2002 amending the executive law and other laws relating to funding for children and family services, in relation to the effectiveness thereof; and to amend the social services law, in relation to reauthorizing child welfare financing to continue current funding structure (Part F); to amend the social services law and the family court act, in relation to establishing a juvenile justice services close to home initiative and providing for the repeal of such provisions upon expiration thereof (Subpart A); and to amend the social services law and the family court act, in relation to juvenile delinquents (Subpart B) (Part G); to amend chapter 57 of the laws of 2005 amending the labor law and other laws implementing the state fiscal plan for the 2005-2006 state fiscal year, relating to the New York state higher education capital matching grant program for independent colleges, in relation to the effectiveness thereof (Part H); to amend the education law, in relation to provision of services, technical assistance and program activities to state agencies by Cornell university (Part I); and to amend the education law, in relation to special education programs for preschool children with a disability (Part J)

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

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

PART A

Section 1. Notwithstanding any inconsistent provision of law, no school district shall be eligible for an apportionment of general

support for public schools from the funds appropriated for the 2012-13 school year and thereafter in excess of the amount apportioned to such district for the same time period during the base year unless such school district has submitted documentation that has been approved by the commissioner of education by January 17, 2013 demonstrating that it has fully implemented new standards and procedures for conducting annual professional performance reviews of classroom teachers and building principals to determine teacher and principal effectiveness; provided however that if any such payments in excess of the amount apportioned to such district for the same time period during the base year were made, and the school district has not submitted documentation that it has fully implemented new standards and procedures as set forth above by January 17, 2013, the total amount of such payments shall be deducted by the commissioner from future payments to the school district; and provided further that, for the 2012-13 school year if such deduction is greater than the sum of the amounts available for such deductions, the remainder of the deduction shall be withheld from payments scheduled to be made to the school district pursuant to section 3609-a of the education law for the 2013-14 school year.

S 2. Paragraph e of subdivision 1 of section 211-d of the education law, as amended by section 1 of part A of chapter 58 of the laws of 2011, is amended to read as follows:

e. Notwithstanding paragraphs a and b of this subdivision, a school district that submitted a contract for excellence for the two thousand eight--two thousand nine school year shall submit a contract for excellence for the two thousand nine--two thousand ten school year in conformity with the requirements of subparagraph (vi) of paragraph a of subdivision two of this section unless all schools in the district are identified as in good standing and provided further that, a school district that submitted a contract for excellence for the two thousand nine--two thousand ten school year, unless all schools in the district are identified as in good standing, shall submit a contract for excellence for the two thousand eleven--two thousand twelve school year which shall, notwithstanding the requirements of subparagraph (vi) of paragraph a of subdivision two of this section, provide for the expenditure of an amount which shall be not less than the product of the amount approved by the commissioner in the contract for excellence for the two thousand nine--two thousand ten school year, multiplied by the district's gap elimination adjustment percentage AND PROVIDED FURTHER THAT, A SCHOOL DISTRICT THAT SUBMITTED A CONTRACT FOR EXCELLENCE FOR THE TWO THOUSAND ELEVEN--TWO THOUSAND TWELVE SCHOOL YEAR, UNLESS ALL SCHOOLS IN THE DISTRICT ARE IDENTIFIED AS IN GOOD STANDING, SHALL SUBMIT A CONTRACT FOR EXCELLENCE FOR THE TWO THOUSAND TWELVE--TWO THOUSAND THIRTEEN SCHOOL YEAR WHICH SHALL, NOTWITHSTANDING THE REQUIREMENTS OF SUBPARAGRAPH (VI) OF PARAGRAPH A OF SUBDIVISION TWO OF THIS SECTION, PROVIDE FOR THE EXPENDITURE OF AN AMOUNT WHICH SHALL BE NOT LESS THAN THE AMOUNT APPROVED BY THE COMMISSIONER IN THE CONTRACT FOR EXCELLENCE FOR THE TWO THOUSAND ELEVEN--TWO THOUSAND TWELVE SCHOOL YEAR. For purposes of this paragraph, the "gap elimination adjustment percentage" shall be calculated as the sum of one minus the quotient of the sum of the school district's net gap elimination adjustment for two thousand ten--two thousand eleven computed pursuant to chapter fifty-three of the laws of two thousand ten, making appropriations for the support of government, plus the school district's gap elimination adjustment for two thousand eleven--two thousand twelve as computed pursuant to [a] chapter FIFTY-THREE of the laws of two thousand eleven, making appropri-

ations for the support of the local assistance budget, including support for general support for public schools, divided by the total aid for adjustment computed pursuant to [a] chapter FIFTY-THREE of the laws of two thousand eleven, making appropriations for the local assistance budget, including support for general support for public schools. Provided, further, that such amount shall be expended to support and maintain allowable programs and activities approved in the two thousand nine--two thousand ten school year or to support new or expanded allowable programs and activities in the current year.

S 3. Subdivision 1 of section 1104 of the education law, as amended by chapter 53 of the laws of 1990, is amended to read as follows:

1. The commissioner [of education] in the annual apportionment of public moneys shall apportion therefrom to each county maintaining approved vocational education and extension work, a quota amounting to one-half of the salary paid each teacher, director, assistant, and supervisor, WHERE SUCH SALARY IS ATTRIBUTABLE TO A COURSE OF STUDY FIRST SUBMITTED TO THE COMMISSIONER FOR APPROVAL PURSUANT TO SECTION ELEVEN HUNDRED THREE OF THIS PART ON OR BEFORE JULY FIRST, TWO THOUSAND TEN, but not to exceed THE AMOUNT COMPUTED BY THE COMMISSIONER BASED UPON AN ASSUMED ANNUALIZED SALARY EQUAL TO ten thousand five hundred dollars PER SCHOOL YEAR on account of the employment of such teacher, director, assistant or supervisor.

S 4. Section 1104 of the education law is amended by adding a new subdivision 3 to read as follows:

3. FOR THE APPORTIONMENT PAYABLE PURSUANT TO THIS SECTION FOR SCHOOL YEARS COMMENCING PRIOR TO JULY FIRST, TWO THOUSAND NINE, THE COMMISSIONER SHALL CERTIFY NO PAYMENT TO A VOCATIONAL EDUCATION AND EXTENSION BOARD BASED ON A CLAIM SUBMITTED LATER THAN THREE YEARS AFTER THE CLOSE OF THE SCHOOL YEAR IN WHICH SUCH PAYMENT WAS FIRST TO BE MADE. FOR CLAIMS FOR WHICH PAYMENT IS FIRST TO BE MADE IN THE TWO THOUSAND NINE--TWO THOUSAND TEN SCHOOL YEAR AND THEREAFTER, THE COMMISSIONER SHALL CERTIFY NO PAYMENT TO A VOCATIONAL EDUCATION AND EXTENSION BOARD BASED ON A CLAIM SUBMITTED LATER THAN ONE YEAR AFTER THE CLOSE OF SUCH SCHOOL YEAR. PROVIDED, HOWEVER, NO PAYMENTS SHALL BE BARRED OR REDUCED WHERE SUCH PAYMENT IS REQUIRED AS A RESULT OF A FINAL AUDIT OF THE STATE.

S 5. Paragraphs dd and ee of subdivision 1 of section 3602 of the education law, as added by section 25 of part A of chapter 58 of the laws of 2011, are amended to read as follows:

dd. "Allowable growth amount" shall mean the product of the positive difference of the personal income growth index minus one, multiplied by the statewide total of the SUM OF (1) THE apportionments, including the gap elimination adjustment, due and owing during the base year, commencing with the base year computed for the two thousand twelve--two thousand thirteen school year, to school districts and boards of cooperative educational services from the general support for public schools as computed based on an electronic data file used to produce the school aid computer listing produced by the commissioner in support of the enacted budget for the base year PLUS (2) THE COMPETITIVE AWARDS AMOUNT FOR THE BASE YEAR.

ee. "Competitive awards amount" shall mean, for two thousand twelve--two thousand thirteen state fiscal year, fifty million dollars, and for two thousand thirteen--two thousand fourteen and thereafter, [the product of the personal income growth index multiplied by the base year competitive awards amount] ONE HUNDRED MILLION DOLLARS.

S 6. Paragraph c of subdivision 17 of section 3602 of the education law, as added by section 37 of part A of chapter 58 of the laws of 2011, is amended and a new paragraph d is added to read as follows:

c. The gap elimination adjustment for the two thousand twelve--two thousand thirteen school year and thereafter shall be equal to the gap elimination adjustment for the base year, plus, in any year in which the preliminary growth amount exceeds the allowable growth amount, the product of the gap elimination adjustment percentage for such district and the positive difference, if any, between the preliminary growth amount less the allowable growth amount, as computed pursuant to subdivision one of this section, and less the [product of the gap elimination adjustment percentage for such district and the] gap elimination adjustment restoration amount, if any, allocated pursuant to [subdivision eighteen of] this section.

D. (I) THE GAP ELIMINATION RESTORATION AMOUNT FOR THE TWO THOUSAND TWELVE--TWO THOUSAND THIRTEEN SCHOOL YEAR FOR A SCHOOL DISTRICT SHALL EQUAL THE GREATER OF:

(A) THE PRODUCT OF (1) THE PRODUCT OF THE EXTRAORDINARY NEEDS INDEX MULTIPLIED BY TWO HUNDRED FOURTEEN DOLLARS AND FIFTY CENTS, COMPUTED TO TWO DECIMAL PLACES WITHOUT ROUNDING, MULTIPLIED BY (2) THE STATE SHARING RATIO COMPUTED PURSUANT TO PARAGRAPH G OF SUBDIVISION THREE OF THIS SECTION MULTIPLIED BY (3) THE PUBLIC SCHOOL DISTRICT ENROLLMENT FOR THE BASE YEAR, CALCULATED PURSUANT TO SUBPARAGRAPH TWO OF PARAGRAPH N OF SUBDIVISION ONE OF THIS SECTION, WHERE THE EXTRAORDINARY NEEDS INDEX SHALL BE THE QUOTIENT OF THE EXTRAORDINARY NEEDS PERCENT FOR THE DISTRICT COMPUTED PURSUANT TO PARAGRAPH W OF SUBDIVISION ONE OF THIS SECTION DIVIDED BY THE STATEWIDE AVERAGE EXTRAORDINARY NEEDS PERCENT; OR

(B) FOR ANY DISTRICT WITH A GEA/TGFE RATIO GREATER THAN ONE, WHERE THE GEA/TGFE RATIO SHALL BE THE QUOTIENT OF (1) THE GAP ELIMINATION ADJUSTMENT FOR THE TWO THOUSAND ELEVEN--TWO THOUSAND TWELVE SCHOOL YEAR FOR THE DISTRICT DIVIDED BY THE TOTAL GENERAL FUND EXPENDITURES OF SUCH DISTRICT IN THE BASE YEAR, DIVIDED BY (2) THE STATEWIDE TOTAL GAP ELIMINATION ADJUSTMENT FOR THE TWO THOUSAND ELEVEN--TWO THOUSAND TWELVE SCHOOL YEAR DIVIDED BY TOTAL GENERAL FUND EXPENDITURES IN THE BASE YEAR, THE PRODUCT OF (A) THE PRODUCT OF THE GEA/TGFE RATIO MULTIPLIED BY NINETY DOLLARS, COMPUTED TO TWO DECIMAL PLACES WITHOUT ROUNDING, MULTIPLIED BY (B) THE STATE SHARING RATIO COMPUTED PURSUANT TO PARAGRAPH G OF SUBDIVISION THREE OF THIS SECTION MULTIPLIED BY (C) THE PUBLIC SCHOOL DISTRICT ENROLLMENT FOR THE BASE YEAR, CALCULATED PURSUANT TO SUBPARAGRAPH TWO OF PARAGRAPH N OF SUBDIVISION ONE OF THIS SECTION; OR

(C) ONE PERCENT OF THE GAP ELIMINATION ADJUSTMENT FOR THE TWO THOUSAND ELEVEN--TWO THOUSAND TWELVE SCHOOL YEAR,

BUT SHALL BE NO GREATER THAN THE PRODUCT OF TWENTY-FIVE PERCENT AND THE GAP ELIMINATION ADJUSTMENT FOR THE TWO THOUSAND ELEVEN--TWO THOUSAND TWELVE SCHOOL YEAR FOR THE DISTRICT.

(II) THE GAP ELIMINATION RESTORATION AMOUNT FOR THE TWO THOUSAND THIRTEEN--TWO THOUSAND FOURTEEN SCHOOL YEAR AND THEREAFTER SHALL EQUAL THE PRODUCT OF THE GAP ELIMINATION PERCENTAGE FOR SUCH DISTRICT AND THE GAP ELIMINATION ADJUSTMENT RESTORATION ALLOCATION ESTABLISHED PURSUANT TO SUBDIVISION EIGHTEEN OF THIS SECTION.

S 7. Paragraph c of subdivision 7 of section 3602 of the education law, as amended by section 1 of part A-4 of chapter 58 of the laws of 2006, is amended to read as follows:

c. For the purposes of computing this apportionment for the two thousand five--two thousand six school year and thereafter, approved transportation capital, debt service, and lease expense shall be the amount

computed based upon an assumed amortization determined pursuant to paragraph e of this subdivision for an expenditure incurred by a school district and approved by the commissioner for those items of transportation capital, debt service and lease expense allowable under subdivision two of section thirty-six hundred twenty-three-a of this article for: (i) the regular aidable transportation of pupils, as such terms are defined in sections thirty-six hundred twenty-one and thirty-six hundred twenty-two-a of this article, (ii) the transportation of children with disabilities pursuant to article eighty-nine of this chapter, and (iii) the transportation of homeless children pursuant to paragraph c of subdivision four of section thirty-two hundred nine of this chapter, provided that the total approved cost of such transportation shall not exceed the amount of the total cost of the most cost-effective mode of transportation. Approvable expenses for the purchase of school buses ON OR BEFORE JUNE THIRTIETH, TWO THOUSAND TWELVE shall be limited to the actual purchase price, or the expense as if the bus were purchased under state contract, whichever is less. If the commissioner determines that no comparable bus was available under state contract at the time of purchase, the approvable expenses shall be the actual purchase price or the state wide median price of such bus in the most recent base year in which such median price was established with an allowable year to year CPI increase as defined in subdivision fourteen of section three hundred five of this chapter; whichever is less. Such median shall be computed by the commissioner for the purposes of this subdivision. APPROVABLE EXPENSES FOR THE PURCHASE OF VEHICLES FOR TRANSPORTING STUDENTS AND FOR EQUIPMENT DEEMED A PROPER SCHOOL DISTRICT EXPENSE PURSUANT TO PARAGRAPH C OF SUBDIVISION TWO OF SECTION THIRTY-SIX HUNDRED TWENTY-THREE-A OF THIS ARTICLE, AFTER JUNE THIRTIETH, TWO THOUSAND TWELVE, SHALL BE LIMITED TO THE ACTUAL PURCHASE PRICE OF ANY VEHICLE FOR TRANSPORTING STUDENTS AND/OR EQUIPMENT PURCHASED UNDER SUCH CENTRALIZED STATE CONTRACT, PROVIDED, HOWEVER THAT IF THE COMMISSIONER DETERMINES THAT THE DISTRICT IS UNABLE TO PROVIDE APPROPRIATE TRANSPORTATION WITH THE VEHICLE FOR TRANSPORTING STUDENTS AND/OR EQUIPMENT AVAILABLE UNDER SUCH CENTRALIZED STATE CONTRACT, THE APPROVABLE EXPENSES SHALL BE THE ACTUAL PURCHASE PRICE OR THE STATEWIDE MEDIAN PRICE OF SUCH VEHICLE FOR TRANSPORTING STUDENTS IN THE MOST RECENT BASE YEAR IN WHICH SUCH MEDIAN PRICE WAS ESTABLISHED WITH AN ALLOWABLE YEAR TO YEAR CPI INCREASE AS DEFINED IN SUBDIVISION FOURTEEN OF SECTION THREE HUNDRED FIVE OF THIS CHAPTER; WHICHEVER IS LESS.

S 8. Paragraphs a and b of subdivision 5 of section 3604 of the education law, paragraph a as amended by chapter 161 of the laws of 2005 and paragraph b as amended by section 59 of part A of chapter 436 of the laws of 1997, are amended to read as follows:

a. State aid adjustments. All errors or omissions in the apportionment shall be corrected by the commissioner. Whenever a school district has been apportioned less money than that to which it is entitled, the commissioner may allot to such district the balance to which it is entitled. Whenever a school district has been apportioned more money than that to which it is entitled, the commissioner may, by an order, direct such moneys to be paid back to the state to be credited to the general fund local assistance account for state aid to the schools, or may deduct such amount from the next apportionment to be made to said district, provided, however, that, upon notification of excess payments of aid for which a recovery must be made by the state through deduction of future aid payments, a school district may request that such excess payments be recovered by deducting such excess payments from the

payments due to such school district and payable in the month of June in (i) the school year in which such notification was received and (ii) the two succeeding school years, provided further that there shall be no interest penalty assessed against such district or collected by the state. Such request shall be made to the commissioner in such form as the commissioner shall prescribe, and shall be based on documentation that the total amount to be recovered is in excess of one percent of the district's total general fund expenditures for the preceding school year. The amount to be deducted in the first year shall be the greater of (i) the sum of the amount of such excess payments that is recognized as a liability due to other governments by the district for the preceding school year and the positive remainder of the district's unreserved fund balance at the close of the preceding school year less the product of the district's total general fund expenditures for the preceding school year multiplied by five percent, or (ii) one-third of such excess payments. The amount to be recovered in the second year shall equal the lesser of the remaining amount of such excess payments to be recovered or one-third of such excess payments, and the remaining amount of such excess payments shall be recovered in the third year. Provided further that, notwithstanding any other provisions of this subdivision, any pending payment of moneys due to such district as a prior year adjustment payable pursuant to paragraph c of this subdivision for aid claims that had been previously paid as current year aid payments in excess of the amount to which the district is entitled and for which recovery of excess payments is to be made pursuant to this paragraph, shall be reduced at the time of actual payment by any remaining unrecovered balance of such excess payments, and the remaining scheduled deductions of such excess payments pursuant to this paragraph shall be reduced by the commissioner to reflect the amount so recovered. [The commissioner shall certify no payment to a school district based on a claim submitted later than three years after the close of the school year in which such payment was first to be made. For claims for which payment is first to be made in the nineteen hundred ninety-six--ninety-seven school year, the commissioner shall certify no payment to a school district based on a claim submitted later than two years after the close of such school year.] For claims for which payment is first to be made [in the nineteen hundred ninety-seven--ninety-eight] PRIOR TO THE TWO THOUSAND ELEVEN--TWO THOUSAND TWELVE school year [and thereafter], the commissioner shall certify no payment to a school district based on a claim submitted later than one year after the close of such school year. [Provided, however, no payments shall be barred or reduced where such payment is required as a result of a final audit of the state. It is further provided that, until June thirtieth, nineteen hundred ninety-six, the commissioner may grant a waiver from the provisions of this section for any school district if it is in the best educational interests of the district pursuant to guidelines developed by the commissioner and approved by the director of the budget.] FURTHER PROVIDED THAT FOR ANY APPORTIONMENTS PROVIDED PURSUANT TO SECTIONS SEVEN HUNDRED ONE, SEVEN HUNDRED ELEVEN, SEVEN HUNDRED FIFTY-ONE, SEVEN HUNDRED FIFTY-THREE, THIRTY-SIX HUNDRED TWO, THIRTY-SIX HUNDRED TWO-B, THIRTY-SIX HUNDRED TWO-C, THIRTY-SIX HUNDRED TWO-E, AND THIRTY-SIX HUNDRED TWELVE OF THIS CHAPTER FOR THE TWO THOUSAND TWELVE--TWO THOUSAND THIRTEEN AND PRIOR SCHOOL YEARS, THE COMMISSIONER SHALL CERTIFY NO PAYMENT TO A SCHOOL DISTRICT, OTHER THAN PAYMENTS PURSUANT TO SUBDIVISIONS SIX-A, ELEVEN, THIRTEEN AND FIFTEEN OF SECTION THIRTY-SIX HUNDRED TWO OF THIS PART, IN EXCESS OF THE PAYMENT COMPUTED BASED ON AN ELEC-

TRONIC DATA FILE USED TO PRODUCE THE SCHOOL AID COMPUTER LISTING PRODUCED BY THE COMMISSIONER IN SUPPORT OF THE EXECUTIVE BUDGET REQUEST SUBMITTED FOR THE TWO THOUSAND TWELVE--TWO THOUSAND THIRTEEN STATE FISCAL YEAR AND ENTITLED "BT121-3", AND FURTHER PROVIDED THAT FOR ANY APPORTIONMENTS PROVIDED PURSUANT TO SECTIONS SEVEN HUNDRED ONE, SEVEN HUNDRED ELEVEN, SEVEN HUNDRED FIFTY-ONE, SEVEN HUNDRED FIFTY-THREE, THIRTY-SIX HUNDRED TWO, THIRTY-SIX HUNDRED TWO-B, THIRTY-SIX HUNDRED TWO-C, THIRTY-SIX HUNDRED TWO-E, AND THIRTY-SIX HUNDRED TWELVE OF THIS CHAPTER FOR THE TWO THOUSAND THIRTEEN--TWO THOUSAND FOURTEEN SCHOOL YEAR AND THEREAFTER, THE COMMISSIONER SHALL CERTIFY NO PAYMENT TO A SCHOOL DISTRICT, OTHER THAN PAYMENTS PURSUANT TO SUBDIVISIONS SIX-A, ELEVEN, THIRTEEN AND FIFTEEN OF SECTION THIRTY-SIX HUNDRED TWO OF THIS PART, IN EXCESS OF THE PAYMENT COMPUTED BASED ON AN ELECTRONIC DATA FILE USED TO PRODUCE THE SCHOOL AID COMPUTER LISTING PRODUCED BY THE COMMISSIONER IN SUPPORT OF THE EXECUTIVE BUDGET REQUEST SUBMITTED FOR THE STATE FISCAL YEAR IN WHICH THE SCHOOL YEAR COMMENCES.

b. Claims resulting from court orders or judgments. [Any] FOR CLAIMS FOR WHICH PAYMENT IS FIRST TO BE MADE PRIOR TO THE TWO THOUSAND TWELVE--TWO THOUSAND THIRTEEN SCHOOL YEAR, ANY payment which would be due as the result of a court order or judgment shall not be barred, provided that, commencing January first, nineteen hundred ninety-six, such court order or judgment and any other data required shall be filed with the comptroller within one year from the date of the court order or judgment, and provided further that the commissioner shall certify no payment to a school district for a specific school year that is based on a claim that results from a court order or judgement so filed with the comptroller unless the total value of such claim, as determined by the commissioner, is greater than one percent of the school district's total revenues from state sources as previously recorded in the general fund and reported to the comptroller in the annual financial report of the school district for such school year.

S 9. The opening paragraph of section 3609-a of the education law, as amended by section 40 of part A of chapter 58 of the laws of 2011, is amended to read as follows:

For aid payable in the two thousand seven--two thousand eight school year [and thereafter] THROUGH THE TWO THOUSAND ELEVEN--TWO THOUSAND TWELVE SCHOOL YEAR, "moneys apportioned" shall mean the lesser of (i) the sum of one hundred percent of the respective amount set forth for each school district as payable pursuant to this section in the school aid computer listing for the current year produced by the commissioner in support of the budget which includes the appropriation for the general support for public schools for the prescribed payments and individualized payments due prior to April first for the current year plus the apportionment payable during the current school year pursuant to subdivision six-a and subdivision fifteen of section thirty-six hundred two of this part minus any reductions to current year aids pursuant to subdivision seven of section thirty-six hundred four of this part or any deduction from apportionment payable pursuant to this chapter for collection of a school district basic contribution as defined in subdivision eight of section forty-four hundred one of this chapter, less any grants provided pursuant to subparagraph two-a of paragraph b of subdivision four of section ninety-two-c of the state finance law, less any grants provided pursuant to subdivision twelve of section thirty-six hundred forty-one of this article, or (ii) the apportionment calculated by the commissioner based on data on file at the time the payment is processed; provided however, that for the purposes of any payments made

pursuant to this section prior to the first business day of June of the current year, moneys apportioned shall not include any aids payable pursuant to subdivisions six and fourteen, if applicable, of section thirty-six hundred two of this part as current year aid for debt service on bond anticipation notes and/or bonds first issued in the current year or any aids payable for full-day kindergarten for the current year pursuant to subdivision nine of section thirty-six hundred two of this part. The definitions of "base year" and "current year" as set forth in subdivision one of section thirty-six hundred two of this part shall apply to this section. For aid payable in the two thousand eleven--two thousand twelve school year, reference to such "school aid computer listing for the current year" shall mean the printouts entitled "SA111-2". FOR AID PAYABLE IN THE TWO THOUSAND TWELVE--TWO THOUSAND THIRTEEN SCHOOL YEAR AND THEREAFTER, "MONEYS APPORTIONED" SHALL MEAN THE LESSER OF: (I) THE SUM OF ONE HUNDRED PERCENT OF THE RESPECTIVE AMOUNT SET FORTH FOR EACH SCHOOL DISTRICT AS PAYABLE PURSUANT TO THIS SECTION IN THE SCHOOL AID COMPUTER LISTING FOR THE CURRENT YEAR PRODUCED BY THE COMMISSIONER IN SUPPORT OF THE EXECUTIVE BUDGET REQUEST WHICH INCLUDES THE APPROPRIATION FOR THE GENERAL SUPPORT FOR PUBLIC SCHOOLS FOR THE PRESCRIBED PAYMENTS AND INDIVIDUALIZED PAYMENTS DUE PRIOR TO APRIL FIRST FOR THE CURRENT YEAR PLUS THE APPORTIONMENT PAYABLE DURING THE CURRENT SCHOOL YEAR PURSUANT TO SUBDIVISIONS SIX-A AND FIFTEEN OF SECTION THIRTY-SIX HUNDRED TWO OF THIS PART MINUS ANY REDUCTIONS TO CURRENT YEAR AIDS PURSUANT TO SUBDIVISION SEVEN OF SECTION THIRTY-SIX HUNDRED FOUR OF THIS PART OR ANY DEDUCTION FROM THE APPORTIONMENT PAYABLE PURSUANT TO THIS CHAPTER FOR COLLECTION OF A SCHOOL DISTRICT BASIC CONTRIBUTION AS DEFINED IN SUBDIVISION EIGHT OF SECTION FORTY-FOUR HUNDRED ONE OF THIS CHAPTER, LESS ANY GRANTS PROVIDED PURSUANT TO SUBPARAGRAPH TWO-A OF PARAGRAPH B OF SUBDIVISION FOUR OF SECTION NINETY-TWO-C OF THE STATE FINANCE LAW, LESS ANY GRANTS PROVIDED PURSUANT TO SUBDIVISION TWELVE OF SECTION THIRTY-SIX HUNDRED FORTY-ONE OF THIS ARTICLE; OR (II) THE APPORTIONMENT CALCULATED BY THE COMMISSIONER BASED ON DATA ON FILE AT THE TIME THE PAYMENT IS PROCESSED; PROVIDED HOWEVER, THAT FOR THE PURPOSES OF ANY PAYMENTS MADE PURSUANT TO THIS SECTION PRIOR TO THE FIRST BUSINESS DAY OF JUNE OF THE CURRENT YEAR, MONEYS APPORTIONED SHALL NOT INCLUDE ANY AIDS PAYABLE PURSUANT TO SUBDIVISIONS SIX AND FOURTEEN, IF APPLICABLE, OF SECTION THIRTY-SIX HUNDRED TWO OF THIS PART AS CURRENT YEAR AID FOR DEBT SERVICE ON BOND ANTICIPATION NOTES AND/OR BONDS FIRST ISSUED IN THE CURRENT YEAR OR ANY AIDS PAYABLE FOR FULL-DAY KINDERGARTEN FOR THE CURRENT YEAR PURSUANT TO SUBDIVISION NINE OF SECTION THIRTY-SIX HUNDRED TWO OF THIS PART. THE DEFINITIONS OF "BASE YEAR" AND "CURRENT YEAR" AS SET FORTH IN SUBDIVISION ONE OF SECTION THIRTY-SIX HUNDRED TWO OF THIS PART SHALL APPLY TO THIS SECTION.

S 10. Paragraph b of subdivision 2 of section 3612 of the education law, as amended by section 46 of part A of chapter 58 of the laws of 2011, is amended to read as follows:

b. Such grants shall be awarded to school districts, within the limits of funds appropriated therefor, through a competitive process that takes into consideration the magnitude of any shortage of teachers in the school district, the number of teachers employed in the school district who hold temporary licenses to teach in the public schools of the state, the number of provisionally certified teachers, the fiscal capacity and geographic sparsity of the district, the number of new teachers the school district intends to hire in the coming school year and the number of summer in the city student internships proposed by an eligible school district, if applicable. Grants provided pursuant to this section shall

be used only for the purposes enumerated in this section. Notwithstanding any other provision of law to the contrary, a city school district in a city having a population of one million or more inhabitants receiving a grant pursuant to this section may use no more than eighty percent of such grant funds for any recruitment, retention and certification costs associated with transitional certification of teacher candidates for the school years two thousand one--two thousand two through [two thousand eleven--two thousand twelve] TWO THOUSAND TWELVE--TWO THOUSAND THIRTEEN.

S 11. Paragraph c of subdivision 2 of section 3623-a of the education law, as amended by chapter 453 of the laws of 2005, is amended to read as follows:

c. The purchase of equipment deemed a proper school district expense, PROVIDED, HOWEVER THAT SUCH PURCHASE SHALL BE SUBJECT TO THE APPROVAL OF THE COMMISSIONER AFTER JUNE THIRTIETH, TWO THOUSAND TWELVE, including: (i) the purchase of two-way radios to be used on old and new school buses, (ii) the purchase of stop-arms, to be used on old and new school buses, (iii) the purchase and installation of seat safety belts on school buses in accordance with the provisions of section thirty-six hundred thirty-five-a of this article, (iv) the purchase of school bus back up beepers, (v) the purchase of school bus front crossing arms, (vi) the purchase of school bus safety sensor devices, (vii) the purchase and installation of exterior reflective marking on school buses, (viii) the purchase of automatic engine fire extinguishing systems for school buses used to transport students who use wheelchairs or other assistive mobility devices, and (ix) the purchase of other equipment as prescribed in the regulations of the commissioner; and

S 12. Subdivision 6 of section 4402 of the education law, as amended by section 58 of part A of chapter 58 of the laws of 2011, is amended to read as follows:

6. Notwithstanding any other law, rule or regulation to the contrary, the board of education of a city school district with a population of one hundred twenty-five thousand or more inhabitants shall be permitted to establish maximum class sizes for special classes for certain students with disabilities in accordance with the provisions of this subdivision. For the purpose of obtaining relief from any adverse fiscal impact from under-utilization of special education resources due to low student attendance in special education classes at the middle and secondary level as determined by the commissioner, such boards of education shall, during the school years nineteen hundred ninety-five--ninety-six through June thirtieth, two thousand [twelve] THIRTEEN of the [two thousand eleven--two thousand twelve] TWO THOUSAND TWELVE--TWO THOUSAND THIRTEEN school year, be authorized to increase class sizes in special classes containing students with disabilities whose age ranges are equivalent to those of students in middle and secondary schools as defined by the commissioner for purposes of this section by up to but not to exceed one and two tenths times the applicable maximum class size specified in regulations of the commissioner rounded up to the nearest whole number, provided that in a city school district having a population of one million or more, classes that have a maximum class size of fifteen may be increased by no more than one student and provided that the projected average class size shall not exceed the maximum specified in the applicable regulation, provided that such authorization shall terminate on June thirtieth, two thousand. Such authorization shall be granted upon filing of a notice by such a board of education with the commissioner stating the board's intention to increase such class sizes

and a certification that the board will conduct a study of attendance problems at the secondary level and will implement a corrective action plan to increase the rate of attendance of students in such classes to at least the rate for students attending regular education classes in secondary schools of the district. Such corrective action plan shall be submitted for approval by the commissioner by a date during the school year in which such board increases class sizes as provided pursuant to this subdivision to be prescribed by the commissioner. Upon at least thirty days notice to the board of education, after conclusion of the school year in which such board increases class sizes as provided pursuant to this subdivision, the commissioner shall be authorized to terminate such authorization upon a finding that the board has failed to develop or implement an approved corrective action plan.

S 13. Subdivision b of section 2 of chapter 756 of the laws of 1992, relating to funding a program for work force education conducted by the consortium for worker education in New York city, as amended by section 65 of part A of chapter 58 of the laws of 2011, is amended to read as follows:

b. Reimbursement for programs approved in accordance with subdivision a of this section [for the 2008-09 school year shall not exceed 62.8 percent of the lesser of such approvable costs per contact hour or ten dollars and sixty-five cents per contact hour, reimbursement] for the 2009-10 school year shall not exceed 64.1 percent of the lesser of such approvable costs per contact hour or eleven dollars and fifty cents per contact hour, reimbursement for the 2010--2011 school year shall not exceed 62.6 percent of the lesser of such approvable costs per contact hour or twelve dollars and five cents per contact hour [and], reimbursement for the 2011--2012 school year shall not exceed 62.9 percent of the lesser of such approvable costs per contact hour or twelve dollars and fifteen cents per contact hour, AND REIMBURSEMENT FOR THE 2012--2013 SCHOOL YEAR SHALL NOT EXCEED 63.2 PERCENT OF THE LESSER OF SUCH APPROVABLE COSTS PER CONTACT HOUR OR TWELVE DOLLARS AND FORTY CENTS PER CONTACT HOUR, where a contact hour represents sixty minutes of instruction services provided to an eligible adult. Notwithstanding any other provision of law to the contrary, [for the 2008-09 school year such contact hours shall not exceed one million nine hundred forty-six thousand one hundred seven (1,946,107) hours; whereas] for the 2009-10 school year such contact hours shall not exceed one million seven hundred sixty-three thousand nine hundred seven (1,763,907) hours; whereas for the 2010--2011 school year such contact hours shall not exceed one million five hundred twenty-five thousand one hundred ninety-eight (1,525,198) hours; whereas for the 2011--2012 school year such contact hours shall not exceed one million seven hundred one thousand five hundred seventy (1,701,570) hours; WHEREAS FOR THE 2012--2013 SCHOOL YEAR SUCH CONTACT HOURS SHALL NOT EXCEED ONE MILLION FOUR HUNDRED SIXTY-EIGHT THOUSAND SEVEN HUNDRED TEN (1,468,710) HOURS. Notwithstanding any other provision of law to the contrary, the apportionment calculated for the city school district of the city of New York pursuant to subdivision 11 of section 3602 of the education law shall be computed as if such contact hours provided by the consortium for worker education, not to exceed the contact hours set forth herein, were eligible for aid in accordance with the provisions of such subdivision 11 of section 3602 of the education law.

S 14. Section 4 of chapter 756 of the laws of 1992, relating to funding a program for work force education conducted by the consortium for

worker education in New York city, is amended by adding a new subdivision q to read as follows:

Q. THE PROVISIONS OF THIS SUBDIVISION SHALL NOT APPLY AFTER THE COMPLETION OF PAYMENTS FOR THE 2012--2013 SCHOOL YEAR. NOTWITHSTANDING ANY INCONSISTENT PROVISIONS OF LAW, THE COMMISSIONER OF EDUCATION SHALL WITHHOLD A PORTION OF EMPLOYMENT PREPARATION EDUCATION AID DUE TO THE CITY SCHOOL DISTRICT OF THE CITY OF NEW YORK TO SUPPORT A PORTION OF THE COSTS OF THE WORK FORCE EDUCATION PROGRAM. SUCH MONEYS SHALL BE CREDITED TO THE ELEMENTARY AND SECONDARY EDUCATION FUND-LOCAL ASSISTANCE ACCOUNT AND SHALL NOT EXCEED ELEVEN MILLION FIVE HUNDRED THOUSAND DOLLARS ($11,500,000).

S 15. Section 6 of chapter 756 of the laws of 1992, relating to funding a program for work force education conducted by the consortium for worker education in New York city, as amended by section 67 of part A of chapter 58 of the laws of 2011, is amended to read as follows:

S 6. This act shall take effect July 1, 1992, and shall be deemed repealed on June 30, [2012] 2013.

S 16. Subdivision 1 of section 167 of chapter 169 of the laws of 1994, relating to certain provisions related to the 1994-95 state operations, aid to localities, capital projects and debt service budgets, as amended by section 68 of part A of chapter 58 of the laws of 2011, is amended to read as follows:

1. Sections one through seventy of this act shall be deemed to have been in full force and effect as of April 1, 1994 provided, however, that sections one, two, twenty-four, twenty-five and twenty-seven through seventy of this act shall expire and be deemed repealed on March 31, 2000; provided, however, that section twenty of this act shall apply only to hearings commenced prior to September 1, 1994, and provided further that section twenty-six of this act shall expire and be deemed repealed on March 31, 1997; and provided further that sections four through fourteen, sixteen, and eighteen, nineteen and twenty-one through twenty-one-a of this act shall expire and be deemed repealed on March 31, 1997; and provided further that sections three, fifteen, seventeen, twenty, twenty-two and twenty-three of this act shall expire and be deemed repealed on March 31, [2013] 2014.

S 17. Subdivision 6-a of section 140 of chapter 82 of the laws of 1995, amending the education law and certain other laws relating to state aid to school districts and the appropriation of funds for the support of government, as amended by section 51 of part B of chapter 57 of the laws of 2007, is amended to read as follows:

(6-a) Section seventy-three of this act shall take effect July 1, 1995 and shall be deemed repealed June 30, [2012] 2017;

S 18. Subdivisions 22 and 24 of section 140 of chapter 82 of the laws of 1995, amending the education law and certain other laws relating to state aid to school districts and the appropriation of funds for the support of government, as amended by section 69 of part A of chapter 58 of the laws of 2011, are amended to read as follows:

(22) sections one hundred twelve, one hundred thirteen, one hundred fourteen, one hundred fifteen and one hundred sixteen of this act shall take effect on July 1, 1995; provided, however, that section one hundred thirteen of this act shall remain in full force and effect until July 1, [2012] 2013 at which time it shall be deemed repealed;

(24) sections one hundred eighteen through one hundred thirty of this act shall be deemed to have been in full force and effect on and after July 1, 1995; provided further, however, that the amendments made pursu-

ant to section one hundred nineteen of this act shall be deemed to be repealed on and after July 1, [2012] 2013;

S 19. Section 4 of chapter 698 of the laws of 1996, amending the education law relating to transportation contracts, as amended by chapter 165 of the laws of 2007, is amended to read as follows:

S 4. This act shall take effect immediately, and shall expire and be deemed repealed on and after June 30, [2012] 2017.

S 20. Section 12 of chapter 147 of the laws of 2001, amending the education law relating to conditional appointment of school district, charter school or BOCES employees, as amended by section 72 of part A of chapter 58 of the laws of 2011, is amended to read as follows:

S 12. This act shall take effect on the same date as chapter 180 of the laws of 2000 takes effect, and shall expire July 1, [2012] 2013 when upon such date the provisions of this act shall be deemed repealed.

S 21. Section 4 of chapter 425 of the laws of 2002, amending the education law relating to the provision of supplemental educational services, attendance at a safe public school and the suspension of pupils who bring a firearm to or possess a firearm at a school, as amended by section 73 of part A of chapter 58 of the laws of 2011, is amended to read as follows:

S 4. This act shall take effect July 1, 2002 and shall expire and be deemed repealed June 30, [2012] 2013.

S 22. Section 5 of chapter 101 of the laws of 2003, amending the education law relating to implementation of the No Child Left Behind Act of 2001, as amended by section 74 of part A of chapter 58 of the laws of 2011, is amended to read as follows:

S 5. This act shall take effect immediately; provided that sections one, two and three of this act shall expire and be deemed repealed on June 30, [2012] 2013.

S 23. Subdivision 4 of section 51 of part B of chapter 57 of the laws of 2008, amending the education law relating to the universal pre-kindergarten program, as amended by chapter 2 of the laws of 2011, is amended to read as follows:

4. section 23 of this act shall take effect July 1, 2008 and shall expire and be deemed repealed June 30, [2012] 2013;

S 24. School bus driver training. In addition to apportionments otherwise provided by section 3602 of the education law, for aid payable in the 2012--13 school year, the commissioner of education shall allocate school bus driver training grants to school districts and boards of cooperative education services pursuant to sections 3650-a, 3650-b and 3650-c of the education law, or for contracts directly with not-for-profit educational organizations for the purposes of this section. Such payments shall not exceed four hundred thousand dollars ($400,000) per school year.

S 25. Support of public libraries. The moneys appropriated for the support of public libraries by the chapter of the laws of 2012 enacting the aid to localities budget shall be apportioned for the 2012--13 state fiscal year in accordance with the provisions of sections 271, 272, 273, 282, 284, and 285 of the education law as amended by the provisions of this act, provided that library construction aid pursuant to section 273-a of the education law shall not be payable from the appropriations for the support of public libraries and provided further that no library, library system or program, as defined by the commissioner of education, shall receive less total system or program aid than it received for the year 2001--2002 except as a result of a reduction

adjustment necessary to conform to the appropriations for support of public libraries.

Notwithstanding any other provision of law to the contrary the moneys appropriated for the support of public libraries for the year 2012--2013 by a chapter of the laws of 2012 enacting the aid to localities budget shall fulfill the state's obligation to provide such aid and, pursuant to a plan developed by the commissioner of education and approved by the director of the budget, the aid payable to libraries and library systems pursuant to such appropriations shall be reduced proportionately to assure that the total amount of aid payable does not exceed the total appropriations for such purpose.

S 26. Special apportionment for salary expenses. a. Notwithstanding any other provision of law, upon application to the commissioner of education, not sooner than the first day of the second full business week of June, 2013 and not later than the last day of the third full business week of June, 2013, a school district eligible for an apportionment pursuant to section 3602 of the education law shall be eligible to receive an apportionment pursuant to this section, for the school year ending June 30, 2013, for salary expenses incurred between April 1 and June 30, 2013 and such apportionment shall not exceed the sum of (i) the deficit reduction assessment of 1990--91 as determined by the commissioner of education, pursuant to paragraph f of subdivision 1 of section 3602 of the education law, as in effect through June 30, 1993, plus (ii) 186 percent of such amount for a city school district in a city with a population in excess of 1,000,000 inhabitants, plus (iii) 209 percent of such amount for a city school district in a city with a population of more than 195,000 inhabitants and less than 219,000 inhabitants according to the latest federal census plus (iv) the net gap elimination adjustment for 2010--2011, as determined by the commissioner of education pursuant to chapter 53 of the laws of 2010, plus (v) the gap elimination adjustment for 2011--12 as determined by the commissioner of education pursuant to subdivision 17 of section 3602 of the education law, and provided further that such apportionment shall not exceed such salary expenses. Such application shall be made by a school district, after the board of education or trustees have adopted a resolution to do so and in the case of a city school district in a city with a population in excess of 125,000 inhabitants, with the approval of the mayor of such city.

b. The claim for an apportionment to be paid to a school district pursuant to subdivision a of this section shall be submitted to the commissioner of education on a form prescribed for such purpose, and shall be payable upon determination by such commissioner that the form has been submitted as prescribed. Such approved amounts shall be payable on the same day in September of the school year following the year in which application was made as funds provided pursuant to subparagraph (4) of paragraph b of subdivision 4 of section 92-c of the state finance law, on the audit and warrant of the state comptroller on vouchers certified or approved by the commissioner of education in the manner prescribed by law from moneys in the state lottery fund and from the general fund to the extent that the amount paid to a school district pursuant to this section exceeds the amount, if any, due such school district pursuant to subparagraph (2) of paragraph a of subdivision 1 of section 3609-a of the education law in the school year following the year in which application was made.

c. Notwithstanding the provisions of section 3609-a of the education law, an amount equal to the amount paid to a school district pursuant to

subdivisions a and b of this section shall first be deducted from the following payments due the school district during the school year following the year in which application was made pursuant to subparagraphs (1), (2), (3), (4) and (5) of paragraph a of subdivision 1 of section 3609-a of the education law in the following order: the lottery apportionment payable pursuant to subparagraph (2) of such paragraph followed by the fixed fall payments payable pursuant to subparagraph (4) of such paragraph and then followed by the district's payments to the teachers' retirement system pursuant to subparagraph (1) of such paragraph, and any remainder to be deducted from the individualized payments due the district pursuant to paragraph b of such subdivision shall be deducted on a chronological basis starting with the earliest payment due the district.

S 27. Special apportionment for public pension accruals. a. Notwithstanding any other provision of law, upon application to the commissioner of education, not later than June 30, 2013, a school district eligible for an apportionment pursuant to section 3602 of the education law shall be eligible to receive an apportionment pursuant to this section, for the school year ending June 30, 2013 and such apportionment shall not exceed the additional accruals required to be made by school districts in the 2004--05 and 2005--06 school years associated with changes for such public pension liabilities. The amount of such additional accrual shall be certified to the commissioner of education by the president of the board of education or the trustees or, in the case of a city school district in a city with a population in excess of 125,000 inhabitants, the mayor of such city. Such application shall be made by a school district, after the board of education or trustees have adopted a resolution to do so and in the case of a city school district in a city with a population in excess of 125,000 inhabitants, with the approval of the mayor of such city.

b. The claim for an apportionment to be paid to a school district pursuant to subdivision a of this section shall be submitted to the commissioner of education on a form prescribed for such purpose, and shall be payable upon determination by such commissioner that the form has been submitted as prescribed. Such approved amounts shall be payable on the same day in September of the school year following the year in which application was made as funds provided pursuant to subparagraph (4) of paragraph b of subdivision 4 of section 92-c of the state finance law, on the audit and warrant of the state comptroller on vouchers certified or approved by the commissioner of education in the manner prescribed by law from moneys in the state lottery fund and from the general fund to the extent that the amount paid to a school district pursuant to this section exceeds the amount, if any, due such school district pursuant to subparagraph (2) of paragraph a of subdivision 1 of section 3609-a of the education law in the school year following the year in which application was made.

c. Notwithstanding the provisions of section 3609-a of the education law, an amount equal to the amount paid to a school district pursuant to subdivisions a and b of this section shall first be deducted from the following payments due the school district during the school year following the year in which application was made pursuant to subparagraphs (1), (2), (3), (4) and (5) of paragraph a of subdivision 1 of section 3609-a of the education law in the following order: the lottery apportionment payable pursuant to subparagraph (2) of such paragraph followed by the fixed fall payments payable pursuant to subparagraph (4) of such paragraph and then followed by the district's payments to the

teachers' retirement system pursuant to subparagraph (1) of such paragraph, and any remainder to be deducted from the individualized payments due the district pursuant to paragraph b of such subdivision shall be deducted on a chronological basis starting with the earliest payment due the district.

S 28. a. Notwithstanding any other law, rule or regulation to the contrary, any moneys appropriated to the state education department may be suballocated to other state departments or agencies, as needed, to accomplish the intent of the specific appropriations contained therein.

b. Notwithstanding any other law, rule or regulation to the contrary, moneys appropriated to the state education department from the general fund/aid to localities, local assistance account-001, shall be for payment of financial assistance, as scheduled, net of disallowances, refunds, reimbursement and credits.

c. Notwithstanding any other law, rule or regulation to the contrary, all moneys appropriated to the state education department for aid to localities shall be available for payment of aid heretofore or hereafter to accrue and may be suballocated to other departments and agencies to accomplish the intent of the specific appropriations contained therein.

d. Notwithstanding any other law, rule or regulation to the contrary, moneys appropriated to the state education department for general support for public schools may be interchanged with any other item of appropriation for general support for public schools within the general fund local assistance account office of prekindergarten through grade twelve education programs.

S 29. Notwithstanding the provision of any law, rule, or regulation to the contrary, the city school district of the city of Rochester, upon the consent of the board of cooperative educational services of the supervisory district serving its geographic region may purchase from such board for the 2012--13 school year, as a non-component school district, services required by article 19 of the education law.

S 30. The amounts specified in this section shall be a setaside from the state funds which each such district is receiving from the total foundation aid:

a. for the purpose of the development, maintenance or expansion of magnet schools or magnet school programs for the 2012--2013 school year. To the city school district of the city of New York there shall be paid forty-eight million one hundred seventy-five thousand dollars ($48,175,000) including five hundred thousand dollars ($500,000) for the Andrew Jackson High School; to the Buffalo city school district, twenty-one million twenty-five thousand dollars ($21,025,000); to the Rochester city school district, fifteen million dollars ($15,000,000); to the Syracuse city school district, thirteen million dollars ($13,000,000); to the Yonkers city school district, forty-nine million five hundred thousand dollars ($49,500,000); to the Newburgh city school district, four million six hundred forty-five thousand dollars ($4,645,000); to the Poughkeepsie city school district, two million four hundred seventy-five thousand dollars ($2,475,000); to the Mount Vernon city school district, two million dollars ($2,000,000); to the New Rochelle city school district, one million four hundred ten thousand dollars ($1,410,000); to the Schenectady city school district, one million eight hundred thousand dollars ($1,800,000); to the Port Chester city school district, one million one hundred fifty thousand dollars ($1,150,000); to the White Plains city school district, nine hundred thousand dollars ($900,000); to the Niagara Falls city school district, six hundred thousand dollars ($600,000); to the Albany city school

district, three million five hundred fifty thousand dollars ($3,550,000); to the Utica city school district, two million dollars ($2,000,000); to the Beacon city school district, five hundred sixty-six thousand dollars ($566,000); to the Middletown city school district, four hundred thousand dollars ($400,000); to the Freeport union free school district, four hundred thousand dollars ($400,000); to the Greenburgh central school district, three hundred thousand dollars ($300,000); to the Amsterdam city school district, eight hundred thousand dollars ($800,000); to the Peekskill city school district, two hundred thousand dollars ($200,000); and to the Hudson city school district, four hundred thousand dollars ($400,000).

b. notwithstanding the provisions of subdivision a of this section, a school district receiving a grant pursuant to this section may use such grant funds for: (i) any instructional or instructional support costs associated with the operation of a magnet school; or (ii) any instructional or instructional support costs associated with implementation of an alternative approach to reduction of racial isolation and/or enhancement of the instructional program and raising of standards in elementary and secondary schools of school districts having substantial concentrations of minority students. The commissioner of education shall not be authorized to withhold magnet grant funds from a school district that used such funds in accordance with this paragraph, notwithstanding any inconsistency with a request for proposals issued by such commissioner.

c. for the purpose of attendance improvement and dropout prevention for the 2012--2013 school year, for any city school district in a city having a population of more than one million, the setaside for attendance improvement and dropout prevention shall equal the amount set aside in the year prior to the base year. For the 2012--2013 school year, it is further provided that any city school district in a city having a population of more than one million shall allocate at least one-third of any increase from base year levels in funds set aside pursuant to the requirements of this subdivision to community-based organizations. Any increase required pursuant to this subdivision to community-based organizations must be in addition to allocations provided to community-based organizations in the base year.

d. for the purpose of teacher support for the 2012--2013 school year: to the city school district of the city of New York, sixty-two million seven hundred seven thousand dollars ($62,707,000); to the Buffalo city school district, one million seven hundred forty-one thousand dollars ($1,741,000); to the Rochester city school district, one million seventy-six thousand dollars ($1,076,000); to the Yonkers city school district, one million one hundred forty-seven thousand dollars ($1,147,000); and to the Syracuse city school district, eight hundred nine thousand dollars ($809,000). All funds made available to a school district pursuant to this subdivision shall be distributed among teachers including prekindergarten teachers and teachers of adult vocational and academic subjects in accordance with this subdivision and shall be in addition to salaries heretofore or hereafter negotiated or made available; provided, however, that all funds distributed pursuant to this section for the current year shall be deemed to incorporate all funds distributed pursuant to former subdivision 27 of section 3602 of the education law for prior years. In school districts where the teachers are represented by certified or recognized employee organizations, all salary increases funded pursuant to this section shall be determined by separate collective negotiations conducted pursuant to the provisions and procedures of article 14 of the civil service law, notwithstanding

the existence of a negotiated agreement between a school district and a certified or recognized employee organization.

S 31. a. Notwithstanding any other provision of law to the contrary, the actions or omissions of any school district which failed to submit a final building project cost report by June 30 of the school year following June 30 of the school year in which the certificate of substantial completion of the project is issued by the architect or engineer, or six months after issuance of such certificate, whichever is later, are hereby ratified and validated for each school year after the final cost report is filed, provided that such school district submits a final cost report on or before December 31, 2012 and such report is approved by the commissioner of education, provided further that any amount due and payable for school years prior to the 2013-14 school year as a result of this act shall be paid pursuant to the provisions of paragraph c of subdivision 5 of section 3604 of the education law.

b. Notwithstanding any other provision of law to the contrary, any pending payment of moneys due to such district as a prior year adjustment payable pursuant to paragraph c of subdivision 5 of section 3604 of the education law for aid claims that had been previously paid in excess as current year aid payments and for which recovery of excess payments is to be made pursuant to this act, shall be reduced by any remaining unrecovered balance of such excess payments, and the remaining scheduled deductions of such excess payments pursuant to this act shall be reduced by the commissioner of education to reflect the amount so recovered.

c. The education department is hereby directed to consider the approved costs of the aforementioned projects as valid and proper obligations of such school districts.

S 32. Severability. The provisions of this act shall be severable, and if the application of any clause, sentence, paragraph, subdivision, section or part of this act to any person or circumstance shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not necessarily affect, impair or invalidate the application of any such clause, sentence, paragraph, subdivision, section, part of this act or remainder thereof, as the case may be, to any other person or circumstance, but shall be confined in its operation to the clause, sentence, paragraph, subdivision, section or part thereof directly involved in the controversy in which such judgment shall have been rendered.

S 33. This act shall take effect immediately, and shall be deemed to have been in full force and effect on and after April 1, 2012, provided, however, that:

1. Section three of this act shall be deemed to have been in full force and effect on and after July 1, 2006;

2. Sections six, nine, ten, twelve, thirteen, fourteen, twenty-four and thirty of this act shall take effect July 1, 2012;

3. The amendments to subdivision 6 of section 4402 of the education law made by section twelve of this act shall not affect the repeal of such subdivision and shall be deemed repealed therewith;

4. The amendments to chapter 756 of the laws of 1992, relating to funding a program for work force education conducted by a consortium for worker education in New York city, made by sections thirteen and fourteen of this act shall not affect the repeal of such chapter and shall be deemed repealed therewith; and

5. Section twenty-eight of this act shall expire and be deemed repealed June 30, 2013.

PART B

Section 1. Section 3020-a of the education law, as amended by chapter 691 of the laws of 1994, paragraph (b) of subdivision 2 as separately amended by chapters 296 and 325 of the laws of 2008, paragraph (c) of subdivision 2 and paragraph a of subdivision 3 as amended and subparagraph (i-a) of paragraph c of subdivision 3 as added by chapter 103 of the laws of 2010, is amended to read as follows:

S 3020-a. Disciplinary procedures and penalties. 1. Filing of charges. All charges against a person enjoying the benefits of tenure as provided in subdivision three of section [one thousand one] ELEVEN hundred two, and sections [two thousand five] TWENTY-FIVE hundred nine, [two thousand five] TWENTY-FIVE hundred seventy-three, twenty-five hundred ninety-j, three thousand twelve and three thousand fourteen of this chapter shall be in writing and filed with the clerk or secretary of the school district or employing board during the period between the actual opening and closing of the school year for which the employed is normally required to serve. Except as provided in subdivision eight of section [two thousand five] TWENTY-FIVE hundred seventy-three and subdivision seven of section twenty-five hundred ninety-j of this chapter, no charges under this section shall be brought more than three years after the occurrence of the alleged incompetency or misconduct, except when the charge is of misconduct constituting a crime when committed.

2. [(a)] Disposition of charges. A. Upon receipt of the charges, the clerk or secretary of the school district or employing board shall immediately notify said board thereof. Within five days after receipt of charges, the employing board, in executive session, shall determine, by a vote of a majority of all the members of such board, whether probable cause exists to bring a disciplinary proceeding against an employee pursuant to this section. If such determination is affirmative, a written statement specifying (I) the charges in detail, (II) the maximum penalty which will be imposed by the board if the employee does not request a hearing or that will be sought by the board if the employee is found guilty of the charges after a hearing, (III) THE RESPONSIBILITY OF THE EMPLOYEE OR THE EMPLOYEE'S COLLECTIVE BARGAINING UNIT, AS APPLICABLE, TO PAY A SHARE OF HEARING COSTS UNDER THE CIRCUMSTANCES SET FORTH IN PARAGRAPHS B AND C OF SUBDIVISION THREE OF THIS SECTION, and [outlining] (IV) the employee's rights under this section, shall be immediately forwarded to the accused employee by certified or registered mail, return receipt requested or by personal delivery to the employee.

[(b)] B. The employee may be suspended pending a hearing on the charges and the final determination thereof. The suspension shall be with pay, except the employee may be suspended without pay if the employee has entered a guilty plea to or has been convicted of a felony crime concerning the criminal sale or possession of a controlled substance, a precursor of a controlled substance, or drug paraphernalia as defined in article two hundred twenty or two hundred twenty-one of the penal law; or a felony crime involving the physical abuse of a minor or student. The employee shall be terminated without a hearing, as provided for in this section, upon conviction of a sex offense, as defined in subparagraph two of paragraph b of subdivision seven-a of section three hundred five of this chapter. To the extent this section applies to an employee acting as a school administrator or supervisor, as defined in subparagraph three of paragraph b of subdivision seven-b of section three hundred five of this chapter, such employee shall be terminated without a hearing, as provided for in this section, upon conviction of a felony

offense defined in subparagraph two of paragraph b of subdivision seven-b of section three hundred five of this chapter.

[(c)] C. Within ten days of receipt of the statement of charges, the employee shall notify the clerk or secretary of the employing board in writing whether he or she desires a hearing on the charges and when the charges concern pedagogical incompetence or issues involving pedagogical judgment, his or her choice of either a single hearing officer or a three member panel, provided that a three member panel shall not be available where the charges concern pedagogical incompetence based solely upon a teacher's or principal's pattern of ineffective teaching or performance as defined in section three thousand twelve-c of this article. All other charges shall be heard by a single hearing officer.

[(d)] D. The unexcused failure of the employee to notify the clerk or secretary of his or her desire for a hearing within ten days of the receipt of charges shall be deemed a waiver of the right to a hearing. Where an employee requests a hearing in the manner provided for by this section, the clerk or secretary of the board shall, within three working days of receipt of the employee's notice or request for a hearing, notify the commissioner [of education] of the need for a hearing. If the employee waives his or her right to a hearing the employing board shall proceed, within fifteen days, by a vote of a majority of all members of such board, to determine the case and fix the penalty, if any, to be imposed in accordance with subdivision four of this section.

3. Hearings. a. Notice of hearing. Upon receipt of a request for a hearing in accordance with subdivision two of this section, the commissioner shall forthwith notify the American Arbitration Association (hereinafter "association") of the need for a hearing and shall request the association to provide to the commissioner forthwith a list of names of persons chosen by the association from the association's panel of labor arbitrators to potentially serve as hearing officers together with relevant biographical information on each arbitrator. Upon receipt of said list and biographical information, the commissioner shall forthwith send a copy of both simultaneously to the employing board and the employee. The commissioner shall also simultaneously notify both the employing board and the employee of each potential hearing officer's record in the last five cases of commencing and completing hearings within the time periods prescribed in this section.

b. (i) Hearing officers. All hearings pursuant to this section shall be conducted before and by a single hearing officer selected as provided for in this section. A hearing officer shall not be eligible to serve [as such] IN SUCH POSITION if he or she is a resident of the school district, other than the city of New York, under the jurisdiction of the employing board, an employee, agent or representative of the employing board or of any labor organization representing employees of such employing board, has served as such agent or representative within two years of the date of the scheduled hearing, or if he or she is then serving as a mediator or fact finder in the same school district.

(A) Notwithstanding any other provision of law, FOR HEARINGS COMMENCED BY THE FILING OF CHARGES PRIOR TO APRIL FIRST, TWO THOUSAND TWELVE, the hearing officer shall be compensated by the department with the customary fee paid for service as an arbitrator under the auspices of the association for each day of actual service plus necessary travel and other reasonable expenses incurred in the performance of his or her duties. All other expenses of the disciplinary proceedings COMMENCED BY THE FILING OF CHARGES PRIOR TO APRIL FIRST, TWO THOUSAND TWELVE shall be paid in accordance with rules promulgated by the commissioner [of educa-

tion]. CLAIMS FOR SUCH COMPENSATION FOR DAYS OF ACTUAL SERVICE AND REIMBURSEMENT FOR NECESSARY TRAVEL AND OTHER EXPENSES FOR HEARINGS COMMENCED BY THE FILING OF CHARGES PRIOR TO APRIL FIRST, TWO THOUSAND TWELVE SHALL BE PAID FROM AN APPROPRIATION FOR SUCH PURPOSE IN THE ORDER IN WHICH THEY HAVE BEEN APPROVED BY THE COMMISSIONER FOR PAYMENT, PROVIDED PAYMENT SHALL FIRST BE MADE FOR ANY OTHER HEARING COSTS PAYABLE BY THE COMMISSIONER, INCLUDING THE COSTS OF TRANSCRIBING THE RECORD, AND PROVIDED FURTHER THAT NO SUCH CLAIM SHALL BE SET ASIDE FOR INSUFFICIENCY OF FUNDS TO MAKE A COMPLETE PAYMENT, BUT SHALL BE ELIGIBLE FOR A PARTIAL PAYMENT IN ONE YEAR AND SHALL RETAIN ITS PRIORITY DATE STATUS FOR APPROPRIATIONS DESIGNATED FOR SUCH PURPOSE IN FUTURE YEARS.

(B) NOTWITHSTANDING ANY OTHER PROVISION OF LAW, RULE OR REGULATION TO THE CONTRARY, FOR HEARINGS COMMENCED BY THE FILING OF CHARGES ON OR AFTER APRIL FIRST, TWO THOUSAND TWELVE, THE HEARING OFFICER SHALL BE COMPENSATED FOR HIS OR HER ACTUAL HOURS OF SERVICE RENDERED IN THE PERFORMANCE OF HIS OR HER DUTIES AS A HEARING OFFICER, PLUS ANY NECESSARY TRAVEL OR OTHER EXPENSES INCURRED IN THE PERFORMANCE OF SUCH DUTIES IN ACCORDANCE WITH THE PROVISIONS OF THIS CLAUSE AND CLAUSE (C) OF THIS SUBPARAGRAPH. THE COMMISSIONER SHALL ESTABLISH MAXIMUM RATES FOR THE COMPENSATION OF HEARING OFFICERS AND LIMITATIONS ON THE NUMBER OF STUDY HOURS THAT MAY BE CLAIMED.

(C) THE COSTS OF COMPENSATING HEARING OFFICERS FOR ACTUAL HOURS OF SERVICE, PLUS ANY NECESSARY TRAVEL AND OTHER EXPENSES INCURRED IN THE PERFORMANCE OF SUCH DUTIES IN ACCORDANCE WITH CLAUSE (B) OF THIS SUBPARAGRAPH AND THE REGULATIONS OF THE COMMISSIONER SHALL BE DIVIDED EQUALLY BETWEEN THE EMPLOYING BOARD AND THE EMPLOYEE'S BARGAINING AGENT OR THE EMPLOYEE IF NOT REPRESENTED BY A BARGAINING UNIT. UPON VERIFICATION AND APPROVAL BY THE EMPLOYING BOARD AND THE EMPLOYEE OR THE EMPLOYEE'S BARGAINING AGENT FOLLOWING COMPLETION OF THE HEARING, CLAIMS FOR PAYMENT FOR SUCH SERVICES SHALL BE SUBMITTED TO THE RESPONSIBLE PARTIES.

(ii) Not later than ten days after the date the commissioner mails to the employing board and the employee the list of potential hearing officers and biographies provided to the commissioner by the association, the employing board and the employee, individually or through their agents or representatives, shall by mutual agreement select a hearing officer from said list to conduct the hearing and shall notify the commissioner of their selection.

(iii) If the employing board and the employee fail to agree on an arbitrator to serve as a hearing officer from said list and so notify the commissioner within ten days after receiving the list from the commissioner, the commissioner shall request the association to appoint a hearing officer from said list.

(iv) In those cases in which the employee elects to have the charges heard by a hearing panel, the hearing panel shall consist of the hearing officer, selected in accordance with this subdivision, and two additional persons, one selected by the employee and one selected by the employing board, from a list maintained for such purpose by the commissioner [of education]. The list shall be composed of professional personnel with administrative or supervisory responsibility, professional personnel without administrative or supervisory responsibility, chief school administrators, members of employing boards and others selected from lists of nominees submitted to the commissioner by statewide organizations representing teachers, school administrators and supervisors and the employing boards. Hearing panel members other than the hearing officer shall be compensated [by the department of education] at the rate of one hundred dollars for each day of actual service

[plus] AND SHALL BE REIMBURSED FOR necessary travel and subsistence expenses IN ACCORDANCE WITH THE APPLICABLE PROVISIONS OF CLAUSE (A) OR CLAUSE (C) OF SUBPARAGRAPH (I) OF THIS PARAGRAPH. The hearing officer shall be compensated as set forth in this subdivision. The hearing officer shall be the [chairman] CHAIRPERSON of the hearing panel.

c. Hearing procedures. (i) (A) The commissioner [of education] shall have the power to establish necessary rules and procedures for the conduct of hearings under this section WHICH, FOR HEARINGS OTHER THAN EXPEDITED HEARINGS PURSUANT TO SUBPARAGRAPH (I-A) OF THIS PARAGRAPH, SHALL INCLUDE SPECIFIC TIMELINE REQUIREMENTS FOR CONDUCTING A HEARING AND FOR RENDERING A FINAL DECISION.

(B) THE DEPARTMENT SHALL BE AUTHORIZED TO MONITOR AND INVESTIGATE A HEARING OFFICER'S COMPLIANCE WITH SUCH TIMELINES, AS SET FORTH IN THE REGULATIONS OF THE COMMISSIONER. THE COMMISSIONER SHALL ANNUALLY INFORM ALL HEARING OFFICERS WHO HAVE HEARD CASES PURSUANT TO THIS SECTION DURING THE PRECEDING YEAR THAT THE TIME PERIODS PRESCRIBED IN THE REGULATIONS OF THE COMMISSIONER FOR CONDUCTING SUCH HEARINGS ARE TO BE STRICTLY FOLLOWED. A RECORD OF CONTINUED FAILURE TO COMMENCE AND COMPLETE HEARINGS WITHIN THE TIME PERIODS PRESCRIBED IN THE REGULATIONS AUTHORIZED BY THIS SUBPARAGRAPH SHALL BE CONSIDERED GROUNDS FOR THE COMMISSIONER TO EXCLUDE SUCH INDIVIDUAL FROM THE LIST OF POTENTIAL HEARING OFFICERS SENT TO THE EMPLOYING BOARD AND THE EMPLOYEE FOR SUCH HEARINGS.

(C) Such rules shall not require compliance with technical rules of evidence. Hearings shall be conducted by the hearing officer selected pursuant to paragraph b of this subdivision with full and fair disclosure of the nature of the case and evidence against the employee by the employing board and shall be public or private at the discretion of the employee. The employee shall have a reasonable opportunity to defend himself or herself and an opportunity to testify in his or her own behalf. The employee shall not be required to testify. Each party shall have the right to be represented by counsel, to subpoena witnesses, and to cross-examine witnesses. All testimony taken shall be under oath which the hearing officer is hereby authorized to administer.

[A] (D) FOR HEARINGS COMMENCED BY THE FILING OF CHARGES PRIOR TO APRIL FIRST, TWO THOUSAND TWELVE, A competent stenographer, designated by the commissioner [of education] and compensated by the [state education] department, shall keep and transcribe a record of the proceedings at each such hearing. A copy of the transcript of the hearings shall, upon request, be furnished without charge to the employee and the board of education involved.

(E) HEARINGS COMMENCED BY THE FILING OF CHARGES ON OR AFTER APRIL FIRST, TWO THOUSAND TWELVE, SHALL NOT BE RECORDED BY A STENOGRAPHER OR ANY OTHER RECORDING MECHANISM UNLESS BOTH PARTIES AGREE PRIOR TO THE COMMENCEMENT OF THE DISCIPLINARY HEARING. THE PARTY REQUESTING A TRANSCRIPT OR RECORDING AT A DISCIPLINARY HEARING MAY PROVIDE FOR ONE AT ITS OWN EXPENSE AND SHALL PROVIDE A COPY TO THE ARBITRATOR AND THE OTHER PARTY UNLESS BOTH PARTIES AGREE TO SHARE THE COST OF SUCH TRANSCRIPT OR RECORDING. THE USE OF A TRANSCRIPT CANNOT DELAY THE HEARING AND SHALL NOT EXTEND THE DATE THE HEARING IS CLOSED.

(i-a)(A) Where charges of incompetence are brought based solely upon a pattern of ineffective teaching or performance of a classroom teacher or principal, as defined in section three thousand twelve-c of this article, the hearing shall be conducted before and by a single hearing officer in an expedited hearing, which shall commence within seven days after the pre-hearing conference and shall be completed within sixty

days after the pre-hearing conference. The hearing officer shall establish a hearing schedule at the pre-hearing conference to ensure that the expedited hearing is completed within the required timeframes and to ensure an equitable distribution of days between the employing board and the charged employee. Notwithstanding any other law, rule or regulation to the contrary, no adjournments may be granted that would extend the hearing beyond such sixty days, except as authorized in this subparagraph. A hearing officer, upon request, may grant a limited and time specific adjournment that would extend the hearing beyond such sixty days if the hearing officer determines that the delay is attributable to a circumstance or occurrence substantially beyond the control of the requesting party and an injustice would result if the adjournment were not granted.

(B) Such charges shall allege that the employing board has developed and substantially implemented a teacher or principal improvement plan in accordance with subdivision four of section three thousand twelve-c of this article for the employee following the first evaluation in which the employee was rated ineffective, and the immediately preceding evaluation if the employee was rated developing. Notwithstanding any other provision of law to the contrary, a pattern of ineffective teaching or performance as defined in section three thousand twelve-c of this article shall constitute very significant evidence of incompetence for purposes of this section. Nothing in this subparagraph shall be construed to limit the defenses which the employee may place before the hearing officer in challenging the allegation of a pattern of ineffective teaching or performance.

(C) The commissioner shall annually inform all hearing officers who have heard cases pursuant to this section during the preceding year that the time periods prescribed in this subparagraph for conducting expedited hearings are to be strictly followed. A record of continued failure to commence and complete expedited hearings within the time periods prescribed in this subparagraph shall be considered grounds for the commissioner to exclude such individual from the list of potential hearing officers sent to the employing board and the employee for such expedited hearings.

(ii) The hearing officer selected to conduct a hearing under this section shall, within ten to fifteen days of agreeing to serve [as such] IN SUCH POSITION, hold a pre-hearing conference which shall be held in the school district or county seat of the county, or any county, wherein the employing school board is located. The pre-hearing conference shall be limited in length to one day except that the hearing officer, in his or her discretion, may allow one additional day for good cause shown.

(iii) At the pre-hearing conference the hearing officer shall have the power to:

(A) issue subpoenas;

(B) hear and decide all motions, including but not limited to motions to dismiss the charges;

(C) hear and decide all applications for bills of particular or requests for production of materials or information, including, but not limited to, any witness statement (or statements), investigatory statement (or statements) or note (notes), exculpatory evidence or any other evidence, including district or student records, relevant and material to the employee's defense.

(iv) Any pre-hearing motion or application relative to the sufficiency of the charges, application or amendment thereof, or any preliminary matters shall be made upon written notice to the hearing officer and the

adverse party no less than five days prior to the date of the pre-hearing conference. Any pre-hearing motions or applications not made as provided for herein shall be deemed waived except for good cause as determined by the hearing officer.

(v) In the event that at the pre-hearing conference the employing board presents evidence that the professional license of the employee has been revoked and all judicial and administrative remedies have been exhausted or foreclosed, the hearing officer shall schedule the date, time and place for an expedited hearing, which hearing shall commence not more than seven days after the pre-hearing conference and which shall be limited to one day. The expedited hearing shall be held in the local school district or county seat of the county or any county, wherein the said employing board is located. The expedited hearing shall not be postponed except upon the request of a party and then only for good cause as determined by the hearing officer. At such hearing, each party shall have equal time in which to present its case.

(vi) During the pre-hearing conference, the hearing officer shall determine the reasonable amount of time necessary for a final hearing on the charge or charges and shall schedule the location, time(s) and date(s) for the final hearing. The final hearing shall be held in the local school district or county seat of the county, or any county, wherein the said employing school board is located. In the event that the hearing officer determines that the nature of the case requires the final hearing to last more than one day, the days that are scheduled for the final hearing shall be consecutive. The day or days scheduled for the final hearing shall not be postponed except upon the request of a party and then only for good cause shown as determined by the hearing officer. In all cases, the final hearing shall be completed no later than sixty days after the pre-hearing conference unless the hearing officer determines that extraordinary circumstances warrant a limited extension.

D. LIMITATION ON CLAIMS. NOTWITHSTANDING ANY OTHER PROVISION OF LAW, RULE OR REGULATION TO THE CONTRARY, NO PAYMENTS SHALL BE MADE BY THE DEPARTMENT PURSUANT TO THIS SUBDIVISION ON OR AFTER APRIL FIRST, TWO THOUSAND TWELVE FOR: (I) COMPENSATION OF A HEARING OFFICER OR HEARING PANEL MEMBER, (II) REIMBURSEMENT OF SUCH HEARING OFFICERS OR PANEL MEMBERS FOR NECESSARY TRAVEL OR OTHER EXPENSES INCURRED BY THEM, OR (III) FOR OTHER HEARING EXPENSES ON A CLAIM SUBMITTED LATER THAN ONE YEAR AFTER THE FINAL DISPOSITION OF THE HEARING BY ANY MEANS, INCLUDING SETTLEMENT, OR WITHIN NINETY DAYS AFTER THE EFFECTIVE DATE OF THIS PARAGRAPH, WHICHEVER IS LATER; PROVIDED THAT NO PAYMENT SHALL BE BARRED OR REDUCED WHERE SUCH PAYMENT IS REQUIRED AS A RESULT OF A COURT ORDER OR JUDGMENT OR A FINAL AUDIT.

4. Post hearing procedures. [(a)] A. The hearing officer shall render a written decision within thirty days of the last day of the final hearing, or in the case of an expedited hearing within ten days of such expedited hearing, and shall [forthwith] forward a copy thereof to the commissioner [of education] who shall immediately forward copies of the decision to the employee and to the clerk or secretary of the employing board. The written decision shall include the hearing officer's findings of fact on each charge, his or her conclusions with regard to each charge based on said findings and shall state what penalty or other action, if any, shall be taken by the employing board. At the request of the employee, in determining what, if any, penalty or other action shall be imposed, the hearing officer shall consider the extent to which the employing board made efforts towards correcting the behavior of the

employee which resulted in charges being brought under this section through means including but not limited to: remediation, peer intervention or an employee assistance plan. In those cases where a penalty is imposed, such penalty may be a written reprimand, a fine, suspension for a fixed time without pay, or dismissal. In addition to or in lieu of the aforementioned penalties, the hearing officer, where he or she deems appropriate, may impose upon the employee remedial action including but not limited to leaves of absence with or without pay, continuing education and/or study, a requirement that the employee seek counseling or medical treatment or that the employee engage in any other remedial or combination of remedial actions.

[(b)] B. Within fifteen days of receipt of the hearing officer's decision the employing board shall implement the decision. If the employee is acquitted he or she shall be restored to his or her position with full pay for any period of suspension without pay and the charges expunged from the employment record. If an employee who was convicted of a felony crime specified in paragraph [(b)] B of subdivision two of this section, has said conviction reversed, the employee, upon application, shall be entitled to have his OR HER pay and other emoluments restored, for the period from the date of his OR HER suspension to the date of the decision.

[(c)] C. The hearing officer shall indicate in the decision whether any of the charges brought by the employing board were frivolous as defined in section [eight thousand three] EIGHTY-THREE hundred three-a of the civil practice law and rules. If the hearing [officers] OFFICER finds that all of the charges brought against the employee were frivolous, the hearing officer shall order the employing board to reimburse the [state education] department the reasonable costs said department incurred as a result of the proceeding and to reimburse the employee the reasonable costs, including but not limited to reasonable attorneys' fees, the employee incurred in defending the charges. If the hearing officer finds that some but not all of the charges brought against the employee were frivolous, the hearing officer shall order the employing board to reimburse the [state education] department a portion, in the discretion of the hearing officer, of the reasonable costs said department incurred as a result of the proceeding and to reimburse the employee a portion, in the discretion of the hearing officer, of the reasonable costs, including but not limited to reasonable attorneys' fees, the employee incurred in defending the charges.

5. Appeal. A. Not later than ten days after receipt of the hearing officer's decision, the employee or the employing board may make an application to the New York state supreme court to vacate or modify the decision of the hearing officer pursuant to section [seven thousand five] SEVENTY-FIVE hundred eleven of the civil practice law and rules. The court's review shall be limited to the grounds set forth in such section. The hearing panel's determination shall be deemed to be final for the purpose of such proceeding.

B. In no case shall the filing or the pendency of an appeal delay the implementation of the decision of the hearing officer.

S 2. This act shall take effect immediately, except that if this act shall have become a law on or after April 1, 2012 this act shall take effect immediately and shall be deemed to have been in full force and effect on and after April 1, 2012.

PART C

Section 1. Paragraphs (a), (b), (c) and (d) of subdivision 1 of section 131-o of the social services law, as amended by section 1 of part S of chapter 58 of the laws of 2011, are amended to read as follows:

(a) in the case of each individual receiving family care, an amount equal to at least [$130.00] $135.00 for each month beginning on or after January first, two thousand [eleven] TWELVE.

(b) in the case of each individual receiving residential care, an amount equal to at least [$150.00] $155.00 for each month beginning on or after January first, two thousand [eleven] TWELVE.

(c) in the case of each individual receiving enhanced residential care, an amount equal to at least [$178.00] $184.00 for each month beginning on or after January first, two thousand [eleven] TWELVE.

(d) for the period commencing January first, two thousand [twelve] THIRTEEN, the monthly personal needs allowance shall be an amount equal to the sum of the amounts set forth in subparagraphs one and two of this paragraph:

(1) the amounts specified in paragraphs (a), (b) and (c) of this subdivision; and

(2) the amount in subparagraph one of this paragraph, multiplied by the percentage of any federal supplemental security income cost of living adjustment which becomes effective on or after January first, two thousand [twelve] THIRTEEN, but prior to June thirtieth, two thousand [twelve] THIRTEEN, rounded to the nearest whole dollar.

S 2. Paragraphs (a), (b), (c), (d), (e) and (f) of subdivision 2 of section 209 of the social services law, as amended by section 2 of part S of chapter 58 of the laws of 2011, are amended to read as follows:

(a) On and after January first, two thousand [eleven] TWELVE, for an eligible individual living alone, [$761.00] $785.00; and for an eligible couple living alone, [$1115.00] $1152.00.

(b) On and after January first, two thousand [eleven] TWELVE, for an eligible individual living with others with or without in-kind income, [$697.00] $721.00; and for an eligible couple living with others with or without in-kind income, [$1057.00] $1094.00.

(c) On and after January first, two thousand [eleven] TWELVE, (i) for an eligible individual receiving family care, [$940.48] $964.48 if he or she is receiving such care in the city of New York or the county of Nassau, Suffolk, Westchester or Rockland; and (ii) for an eligible couple receiving family care in the city of New York or the county of Nassau, Suffolk, Westchester or Rockland, two times the amount set forth in subparagraph (i) of this paragraph; or (iii) for an eligible individual receiving such care in any other county in the state, [$902.48] $926.48; and (iv) for an eligible couple receiving such care in any other county in the state, two times the amount set forth in subparagraph (iii) of this paragraph.

(d) On and after January first, two thousand [eleven] TWELVE, (i) for an eligible individual receiving residential care, [$1109.00] $1133.00 if he or she is receiving such care in the city of New York or the county of Nassau, Suffolk, Westchester or Rockland; and (ii) for an eligible couple receiving residential care in the city of New York or the county of Nassau, Suffolk, Westchester or Rockland, two times the amount set forth in subparagraph (i) of this paragraph; or (iii) for an eligible individual receiving such care in any other county in the state, [$1079.00] $1103.00; and (iv) for an eligible couple receiving such care in any other county in the state, two times the amount set forth in subparagraph (iii) of this paragraph.

(e) (i) On and after January first, two thousand [eleven] TWELVE, for an eligible individual receiving enhanced residential care, [$1368.00] $1392.00; and (ii) for an eligible couple receiving enhanced residential care, two times the amount set forth in subparagraph (i) of this paragraph.

(f) The amounts set forth in paragraphs (a) through (e) of this subdivision shall be increased to reflect any increases in federal supplemental security income benefits for individuals or couples which become effective on or after January first, two thousand [twelve] THIRTEEN but prior to June thirtieth, two thousand [twelve] THIRTEEN.

S 3. This act shall take effect July 1, 2012.

PART D

Section 1. Paragraph (a-3) of subdivision 2 of section 131-a of the social services law, as amended by section 2 of part U of chapter 58 of the laws of 2011, is amended and a new paragraph (a-4) is added to read as follows:

(a-3) For the period beginning July first, two thousand twelve and [thereafter] ENDING JUNE THIRTIETH, TWO THOUSAND THIRTEEN, the following schedule shall be the standard of monthly need for determining eligibility for all categories of assistance in and by all social services districts:

Number of Persons in Household					
One	Two	Three	Four	Five	Six
[$158]	[$252]	[$335]	[$432]	[$533]	[$616]
$150	$239	$317	$409	$505	$583

For each additional person in the household there shall be added an additional amount of [eighty-four] EIGHTY dollars monthly.

(A-4) FOR THE PERIOD BEGINNING JULY FIRST, TWO THOUSAND THIRTEEN AND THEREAFTER, THE FOLLOWING SHALL BE THE STANDARD OF MONTHLY NEED FOR DETERMINING ELIGIBILITY FOR ALL CATEGORIES OF ASSISTANCE IN AND BY ALL SOCIAL SERVICES DISTRICTS:

NUMBER OF PERSONS IN HOUSEHOLD					
ONE	TWO	THREE	FOUR	FIVE	SIX
$158	$252	$336	$433	$534	$617

FOR EACH ADDITIONAL PERSON IN THE HOUSEHOLD THERE SHALL BE ADDED AN ADDITIONAL AMOUNT OF EIGHTY-FIVE DOLLARS MONTHLY.

S 2. Paragraph (a-3) of subdivision 3 of section 131-a of the social services law, as amended by section 4 of part U of chapter 58 of the laws of 2011, is amended and a new paragraph (a-4) is added to read as follows:

(a-3) For the period beginning July first, two thousand twelve and [thereafter] ENDING JUNE THIRTIETH, TWO THOUSAND THIRTEEN, persons and families determined to be eligible by the application of the standard of need prescribed by the provisions of subdivision two of this section, less any available income or resources which are not required to be disregarded by other provisions of this chapter, shall receive maximum monthly grants and allowances in all social services districts, in accordance with the following schedule, for public assistance:

Number of Persons in Household					
One	Two	Three	Four	Five	Six
[$158]	[$252]	[$335]	[$432]	[$533]	[$616]
$150	$239	$317	$409	$505	$583

For each additional person in the household there shall be added an additional amount of [eighty-four] EIGHTY dollars monthly.

(A-4) FOR THE PERIOD BEGINNING JULY FIRST, TWO THOUSAND THIRTEEN AND THEREAFTER, PERSONS AND FAMILIES DETERMINED TO BE ELIGIBLE BY THE APPLICATION OF THE STANDARD OF NEED PRESCRIBED BY THE PROVISIONS OF SUBDIVISION TWO OF THIS SECTION, LESS ANY AVAILABLE INCOME OR RESOURCES WHICH ARE NOT REQUIRED TO BE DISREGARDED BY OTHER PROVISIONS OF THIS CHAPTER, SHALL RECEIVE MAXIMUM MONTHLY GRANTS AND ALLOWANCES IN ALL SOCIAL SERVICES DISTRICTS, IN ACCORDANCE WITH THE FOLLOWING SCHEDULE, FOR PUBLIC ASSISTANCE:

NUMBER OF PERSONS IN HOUSEHOLD					
ONE	TWO	THREE	FOUR	FIVE	SIX
$158	$252	$336	$433	$534	$617

FOR EACH ADDITIONAL PERSON IN THE HOUSEHOLD THERE SHALL BE ADDED AN ADDITIONAL AMOUNT OF EIGHTY-FIVE DOLLARS MONTHLY.

S 3. This act shall take effect immediately and shall be deemed to have been in full force and effect on and after April 1, 2012.

PART E

Section 1. Paragraph (f) of subdivision 3 of section 22 of the social services law, as relettered by chapter 611 of the laws of 1979, is relettered paragraph (g) and a new paragraph (f) is added to read as follows:

(F) UNLESS AN AGREEMENT IS IN EFFECT FOR FEDERAL ADMINISTRATION OF ADDITIONAL STATE PAYMENTS PURSUANT TO SECTION TWO HUNDRED ELEVEN OF THIS CHAPTER, APPLICANTS FOR AND RECIPIENTS OF ADDITIONAL STATE PAYMENTS AS DEFINED IN SUBDIVISION TWO OF SECTION TWO HUNDRED EIGHT OF THIS CHAPTER; AND

S 2. Subdivision 2 of section 208 of the social services law, as added by chapter 1080 of the laws of 1974, is amended to read as follows:

2. "Additional state payments" shall mean payments made to aged, blind and disabled persons who are receiving, or who would but for their income be eligible to receive, federal supplemental security income benefits, whether made by [social services districts] THE OFFICE OF TEMPORARY AND DISABILITY ASSISTANCE in accordance with the provisions of this title and with title sixteen of the federal social security act, or by the [secretary] COMMISSIONER of the [federal department of health, education and welfare] UNITED STATES SOCIAL SECURITY ADMINISTRATION, pursuant to and in accordance with the provisions of this title, title sixteen of the federal social security act, and provisions of any agreement entered into between the state and such [secretary] COMMISSIONER by which the [secretary] COMMISSIONER agrees to administer such additional state payments on behalf of the state. SUCH PAYMENTS ARE EQUAL TO THE STANDARD OF NEED, LESS THE GREATER OF THE FEDERAL BENEFIT RATE OR COUNTABLE INCOME. FOR PURPOSES OF THIS TITLE, THE "FEDERAL BENEFIT RATE" SHALL MEAN THE MAXIMUM PAYMENT OF SUPPLEMENTAL SECURITY INCOME PAYABLE TO A PERSON OR COUPLE WITH NO COUNTABLE INCOME.

S 3. Section 208 of the social services law is amended by adding a new subdivision 12 to read as follows:

12. THE TERM "STANDARD OF NEED" SHALL REFER SOLELY TO THE MAXIMUM LEVEL OF INCOME A PERSON OR COUPLE MAY HAVE AND REMAIN ELIGIBLE FOR ADDITIONAL STATE PAYMENTS UNDER THIS TITLE. THE TERM APPLIES SOLELY TO THE PROGRAM OF ADDITIONAL STATE PAYMENTS AND HAS NO APPLICATION TO ANY OTHER PROGRAM OR BENEFIT.

S 4. Paragraph (a) of subdivision 1 of section 209 of the social services law, as added by chapter 1080 of the laws of 1974 and subpara-

graph (iv) as amended by chapter 214 of the laws of 1998, is amended to read as follows:

(a) NOTWITHSTANDING ANY LAW TO THE CONTRARY, NO PERSON SHALL BE ELIGIBLE FOR ANY PAYMENT PURSUANT TO THIS TITLE WHO IS INELIGIBLE FOR SUPPLEMENTAL SECURITY INCOME FOR ANY REASON OTHER THAN HAVING COUNTABLE INCOME EXCEEDING THE FEDERAL BENEFIT RATE FOR SUCH PROGRAM. An individual shall be eligible to receive additional state payments if he OR SHE HAS APPLIED FOR SUPPLEMENTAL SECURITY INCOME BENEFITS, HAS RECEIVED A DETERMINATION WITH RESPECT TO SUCH APPLICATION AND:

(i) is over sixty-five years of age, or is blind or disabled; and

(ii) does not have countable income in an amount equal to or greater than the standard of need established in subdivision two of this section; and

(iii) does not have countable resources in an amount equal to or greater than the amount of resources an individual or couple may have and remain eligible for supplemental security income benefits pursuant to federal law and regulations of the department; and

(iv) is a resident of the state and is either a citizen of the United States or is not an alien who is or would be ineligible for federal supplemental security income benefits solely by reason of alien status.

S 5. Subdivision 1 of section 212 of the social services law is REPEALED and a new subdivision 1 is added to read as follows:

1. IF THERE IS NO AGREEMENT IN EFFECT FOR FEDERAL ADMINISTRATION OF ADDITIONAL STATE PAYMENTS PURSUANT TO SECTION TWO HUNDRED ELEVEN OF THIS TITLE, THE COMMISSIONER OF THE OFFICE OF TEMPORARY AND DISABILITY ASSISTANCE SHALL BE RESPONSIBLE FOR PROVIDING SUCH PAYMENTS TO ELIGIBLE RESIDENTS OF THE STATE AS REQUIRED BY THIS TITLE AND SHALL:

(A) ACCEPT AND PROCESS APPLICATIONS FOR ADDITIONAL STATE PAYMENTS TO BE MADE PURSUANT TO THIS TITLE;

(B) DETERMINE ELIGIBILITY FOR AND THE AMOUNT OF ADDITIONAL STATE PAYMENTS IN ACCORDANCE WITH THIS TITLE;

(C) REDETERMINE ELIGIBILITY PERIODICALLY AS THE OFFICE MAY REQUIRE; PROVIDED, HOWEVER, THAT ANY SUCH REDETERMINATIONS SHALL BE NO MORE FREQUENT THAN PROVIDED BY THE APPLICABLE REGULATIONS OF THE UNITED STATES SOCIAL SECURITY ADMINISTRATION; AND

(D) TAKE ALL OTHER ACTIONS NECESSARY TO EFFECTUATE THE PROVISIONS OF THIS TITLE.

S 6. Subparagraph 2 of paragraph (a) of subdivision 1 of section 366 of the social services law, as added by chapter 1080 of the laws of 1974, is amended to read as follows:

(2) is receiving or is eligible to receive federal supplemental security income payments and/or additional state payments[, so long as there is in effect an agreement between the state and the secretary of health, education and welfare, pursuant to section three hundred sixty-three-b of this title, for the federal determination of eligibility of aged, blind and disabled persons for medical assistance, and so long as such secretary requires, as a condition of entering into such agreement, that such person be eligible for medical assistance] PURSUANT TO TITLE SIX OF THIS ARTICLE; ANY INCONSISTENT PROVISION OF THIS CHAPTER OR OTHER LAW NOTWITHSTANDING, THE DEPARTMENT MAY DESIGNATE THE OFFICE OF TEMPORARY AND DISABILITY ASSISTANCE AS ITS AGENT TO DISCHARGE ITS RESPONSIBILITY, OR SO MUCH OF ITS RESPONSIBILITY AS IS PERMITTED BY FEDERAL LAW, FOR DETERMINING ELIGIBILITY FOR MEDICAL ASSISTANCE WITH RESPECT TO PERSONS WHO ARE NOT ELIGIBLE TO RECEIVE FEDERAL SUPPLEMENTAL SECURITY INCOME PAYMENTS BUT WHO ARE RECEIVING A STATE ADMINISTERED SUPPLEMENTARY PAYMENT OR MANDATORY MINIMUM SUPPLEMENT IN ACCORDANCE WITH THE

PROVISIONS OF SUBDIVISION ONE OF SECTION TWO HUNDRED TWELVE OF THIS ARTICLE; or

S 7. This act shall take effect immediately.

PART F

Section 1. Section 28 of part C of chapter 83 of the laws of 2002, amending the executive law and other laws relating to funding for children and family services, as amended by section 1 of part Q of chapter 57 of the laws of 2009, is amended to read as follows:

S 28. This act shall take effect immediately; provided that sections nine through eighteen and twenty through twenty-seven of this act shall be deemed to have been in full force and effect on and after April 1, 2002; provided, however, that section fifteen of this act shall apply to claims that are otherwise reimbursable by the state on or after April 1, 2002 except as provided in subdivision 9 of section 153-k of the social services law as added by section fifteen of this act; provided further however, that nothing in this act shall authorize the office of children and family services to deny state reimbursement to a social services district for violations of the provisions of section 153-d of the social services law for services provided from January 1, 1994 through March 31, 2002; provided that section nineteen of this act shall take effect September 13, 2002 AND SHALL EXPIRE AND BE DEEMED REPEALED JUNE 30, 2012; and, provided further, however, that notwithstanding any law to the contrary, the office of children and family services shall have the authority to promulgate, on an emergency basis, any rules and regulations necessary to implement the requirements established pursuant to this act; provided further, however, that the regulations to be developed pursuant to section one of this act shall not be adopted by emergency rule; and provided further that the provisions of sections nine THROUGH EIGHTEEN AND TWENTY through twenty-seven of this act shall expire and be deemed repealed on June 30, [2012] 2017.

S 2. Paragraph (a) of subdivision 1 of section 153-k of the social services law, as added by section 15 of part C of chapter 83 of the laws of 2002, is amended to read as follows:

(a) Expenditures made by social services districts for child protective services, preventive services provided, as applicable, to eligible children and families of children who are in and out of foster care placement, independent living services, aftercare services, and adoption administration and services other than adoption subsidies provided pursuant to article six of this chapter and the regulations of the department of family assistance shall, if approved by the office of children and family services, be subject to [sixty-five] SIXTY-TWO percent state reimbursement exclusive of any federal funds made available for such purposes, in accordance with the directives of the department of family assistance and subject to the approval of the director of the budget.

S 3. Paragraph (a) of subdivision 2 of section 153-k of the social services law, as added by section 15 of part C of chapter 83 of the laws of 2002, is amended to read as follows:

(a) Notwithstanding the provisions of this chapter or of any other law to the contrary, eligible expenditures by a social services district for foster care services AND KINSHIP GUARDIANSHIP ASSISTANCE shall be subject to reimbursement with state funds only to the extent of annual appropriations to the state foster care block grant. Such foster care services shall include expenditures for the provision and administration

of: care, maintenance, supervision and tuition; supervision of foster children placed in federally funded job corps programs; and care, maintenance, supervision and tuition for adjudicated juvenile delinquents and persons in need of supervision placed in residential programs operated by authorized agencies and in out-of-state residential programs. SUCH KINSHIP GUARDIANSHIP ASSISTANCE SHALL INCLUDE EXPENDITURES FOR THE PROVISION AND ADMINISTRATION OF KINSHIP GUARDIANSHIP ASSISTANCE PAYMENTS AND NON-RECURRING GUARDIANSHIP EXPENSES MADE PURSUANT TO TITLE TEN OF ARTICLE SIX OF THIS CHAPTER. Social services districts must develop and implement children and family services delivery systems that are designed to reduce the need for and the length of foster care placements and must document their efforts in the multi-year consolidated services plan and the annual implementation reports submitted pursuant to section thirty-four-a of this chapter.

S 4. Subdivision 1 of section 456 of the social services law, as amended by chapter 601 of the laws of 1994, is amended to read as follows:

1. Payments made by social services officials pursuant to the provisions of this title shall, if approved by the department, be subject to reimbursement by the state, in accordance with the regulations of the department as follows: there shall be paid to each social services district (a) the amount of federal funds, if any, properly received or to be received on account of such payments; and (b) except as set forth below, [seventy-five] SIXTY-TWO per centum of such payments after first deducting therefrom any federal funds properly received or to be received on account thereof; provided, however, that when payments under section four hundred fifty-three of this title are made to a person or persons residing in a social services district whose board rate exceeds that of the district making such payments, that portion of the payments which exceeds the board rate of the district making the payments shall be subject to reimbursement by the state in the amount of one hundred per centum thereof, (c) one hundred per centum of such payments after first deducting therefrom any federal funds properly to be received on account of such payments, for children placed out for adoption by a voluntary authorized agency or for children being adopted after being placed out for adoption by a voluntary authorized agency in accordance with the provisions of this title, or (d) one hundred per centum of such payments after first deducting therefrom any federal funds properly to be received on account of such payments, for children placed out for adoption or being adopted after being placed out for adoption by an Indian tribe as referenced in subdivision seven of section four hundred fifty-one of this title.

S 5. This act shall take effect immediately and shall be deemed to have been in full force and effect on and after April 1, 2012; provided, however, that the amendments to paragraph (a) of subdivision 1 and paragraph (a) of subdivision 2 of section 153-k of the social services law made by sections two and three of this act shall not affect the repeal of such section and shall be deemed repealed therewith.

PART G

Section 1. This part enacts into law major components of legislation which are necessary for establishing a juvenile justice services close to home initiative. Each component is wholly contained within a subpart identified as subparts A through B. The effective date for each particular provision contained within such subpart is set forth in the last

section of such subpart. Any provision in any section contained within a subpart, including the effective date of the subpart, which makes reference to a section "of this act", when used in connection with that particular component, shall be deemed to mean and refer to the corresponding section of the subpart in which it is found. Section four of this part sets forth the general effective date of this act.

S 2. Legislative intent. In order to provide a juvenile justice system that ensures public safety and improves short and long term outcomes for youth and their families, it is the intent of this legislation to authorize the city of New York to provide juvenile justice services to all adjudicated juvenile delinquents who reside in the city, and are determined by the family court to need placement other than in a secure facility. This legislation aims to transform the juvenile justice system by authorizing the city to develop a system for its youth that strives to:

a) provide an effective continuum of diversion, supervision, treatment and confinement, ensuring that the least restrictive, most appropriate level of care is provided for all youth, consistent with public safety, keeping youth close to home, minimizing the dislocation of youth from their families and building on positive connections between young people and their communities;

b) provide accountability of the system and organizations within the system, ensuring that both internal and external mechanisms for oversight of the system are maintained;

c) be data-driven, ensuring that objective instruments are employed at all key decision making stages and that system actors readily and transparently share information to inform ongoing changes in policy and practice;

d) promote family and community involvement, ensuring that positive family and community supports are actively engaged;

e) be based on evidence-informed practices, ensuring that programs and services provided are shown to have worked in improving outcomes for youth, maintaining public safety and reducing unnecessary confinement and recidivism and unwarranted racial/ethnic disparities; and

f) provide effective reintegration services, ensuring that youth remain connected to appropriate educational services and positive behavioral supports and/or treatment modalities upon transitioning home from placement.

SUBPART A

Section 1. The social services law is amended by adding a new section 404 to read as follows:

S 404. JUVENILE JUSTICE SERVICES CLOSE TO HOME INITIATIVE. 1. A SOCIAL SERVICES DISTRICT IN A CITY WITH A POPULATION IN EXCESS OF ONE MILLION MAY IMPLEMENT A CLOSE TO HOME INITIATIVE TO PROVIDE JUVENILE JUSTICE SERVICES TO ALL ADJUDICATED JUVENILE DELINQUENTS DETERMINED BY A FAMILY COURT IN SUCH DISTRICT AS NEEDING PLACEMENT OTHER THAN IN A SECURE FACILITY AND TO ENTER INTO CONTRACTS WITH ANY AUTHORIZED AGENCY, AS DEFINED BY SECTION THREE HUNDRED SEVENTY-ONE OF THIS CHAPTER, TO OPERATE AND MAINTAIN NON-SECURE AND LIMITED SECURE FACILITIES.

2. A SOCIAL SERVICES DISTRICT SHALL OBTAIN PRIOR APPROVAL FROM THE OFFICE OF CHILDREN AND FAMILY SERVICES AND THE STATE DIVISION OF BUDGET OF ITS PLAN FOR ESTABLISHING AND IMPLEMENTING SUCH AN INITIATIVE IN ACCORDANCE WITH GUIDELINES ESTABLISHED AND IN THE FORMAT, AND INCLUDING THE INFORMATION REQUIRED, BY SUCH OFFICE. SUCH DISTRICT MAY SUBMIT SEPA-

RATE PLANS FOR HOW THE DISTRICT WILL IMPLEMENT INITIATIVES FOR JUVENILE DELINQUENTS PLACED IN NON-SECURE SETTINGS AND IN LIMITED SECURE SETTINGS. ANY SUCH PLAN SHALL SPECIFY, IN DETAIL, AS APPLICABLE:

(A) HOW THE DISTRICT WILL PROVIDE A CONTINUUM OF EVIDENCE INFORMED, HIGH-QUALITY COMMUNITY-BASED AND RESIDENTIAL PROGRAMMING THAT WILL PROTECT COMMUNITY SAFETY AND PROVIDE APPROPRIATE SERVICES TO YOUTH, INCLUDING THE OPERATION OF NON-SECURE AND LIMITED SECURE FACILITIES, IN SUFFICIENT CAPACITY AND IN A MANNER DESIGNED TO MEET THE NEEDS OF JUVENILE DELINQUENTS CARED FOR UNDER THE INITIATIVE. SUCH PROGRAMMING SHALL BE BASED ON AN ANALYSIS OF RECENT PLACEMENT TRENDS OF YOUTH FROM WITHIN SUCH DISTRICT, INCLUDING THE NUMBER OF YOUTH WHO HAVE BEEN PLACED IN THE CUSTODY OF THE OFFICE OF CHILDREN AND FAMILY SERVICES FOR PLACEMENT IN OTHER THAN A SECURE FACILITY;

(B) THE ANTICIPATED START-UP AND ON-GOING SERVICES AND ADMINISTRATIVE COSTS OF THE INITIATIVE;

(C) THE READINESS OF THE DISTRICT TO ESTABLISH THE INITIATIVE AND THE AVAILABILITY OF ALL NEEDED RESOURCES, INCLUDING THE LOCATION OF SERVICES AND AVAILABILITY OF THE PROVIDERS THAT WILL PROVIDE ALL NECESSARY SERVICES UNDER THE INITIATIVE INCLUDING, BUT NOT LIMITED TO, RESIDENTIAL, NON-RESIDENTIAL, EDUCATIONAL, MEDICAL, SUBSTANCE ABUSE, MENTAL HEALTH AND AFTER CARE SERVICES AND COMMUNITY SUPERVISION;

(D) THE PROPOSED EFFECTIVE DATE OF THE PLAN AND DOCUMENTATION OF THE DISTRICT'S READINESS TO BEGIN ACCEPTING AND APPROPRIATELY SERVING JUVENILE DELINQUENTS UNDER THE PLAN;

(E) HOW THE DISTRICT WILL PROVIDE NECESSARY AND APPROPRIATE STAFFING TO IMPLEMENT THE INITIATIVE;

(F) HOW THE DISTRICT WILL MONITOR THE QUALITY OF SERVICES PROVIDED TO YOUTH, INCLUDING HOW THE DISTRICT WILL PROVIDE CASE MANAGEMENT SERVICES;

(G) HOW, THROUGHOUT THE INITIATIVE, THE DISTRICT WILL SEEK AND RECEIVE ON-GOING COMMUNITY AND STAKEHOLDER INPUT RELATING TO THE IMPLEMENTATION AND EFFECTIVENESS OF THE INITIATIVE;

(H) HOW THE DISTRICT WILL ENSURE THAT ALL STAFF WORKING DIRECTLY WITH YOUTH SERVED UNDER THE INITIATIVE HAVE RECEIVED NECESSARY AND APPROPRIATE TRAINING;

(I) HOW THE DISTRICT WILL MONITOR THE USE OF RESTRAINTS ON YOUTH, INCLUDING, BUT NOT LIMITED TO, THE USE OF MECHANICAL RESTRAINTS;

(J) HOW THE DISTRICT WILL DEVELOP AND IMPLEMENT PROGRAMS AND POLICIES TO ENSURE PROGRAM SAFETY AND THAT YOUTH RECEIVE APPROPRIATE SERVICES BASED ON THEIR NEEDS, INCLUDING, BUT NOT LIMITED TO, EDUCATIONAL, BEHAVIORAL, MENTAL HEALTH AND SUBSTANCE ABUSE SERVICES IN ACCORDANCE WITH INDIVIDUALIZED TREATMENT PLANS DEVELOPED FOR EACH YOUTH;

(K) HOW THE DISTRICT WILL DEVELOP AND IMPLEMENT GENDER SPECIFIC PROGRAMMING AND POLICIES TO MEET THE SPECIALIZED NEEDS OF LESBIAN, GAY, BISEXUAL OR TRANSGENDER YOUTH;

(L) HOW THE DISTRICT WILL DEVELOP AND IMPLEMENT PROGRAMMING THAT IS CULTURALLY COMPETENT TO MEET THE DIVERSE NEEDS OF THE YOUTH;

(M) HOW THE DISTRICT WILL DEVELOP AND IMPLEMENT LOCAL PROGRAMS THAT WILL SEEK TO REDUCE THE DISPROPORTIONATE PLACEMENT OF MINORITY YOUTH IN RESIDENTIAL PROGRAMS IN THE JUVENILE JUSTICE SYSTEM;

(N) HOW THE DISTRICT WILL DEVELOP AND IMPLEMENT A PLAN TO REDUCE THE NUMBER OF YOUTH ABSENT WITHOUT LEAVE FROM PLACEMENT;

(O) HOW THE DISTRICT WILL DEVELOP AND IMPLEMENT POLICIES TO SERVE YOUTH IN THE LEAST RESTRICTIVE SETTING CONSISTENT WITH THE NEEDS OF YOUTH AND PUBLIC SAFETY, AND TO AVOID MODIFICATIONS OF PLACEMENTS TO THE OFFICE OF CHILDREN AND FAMILY SERVICES;

(P) HOW THE DISTRICT WILL ENGAGE IN PERMANENCY AND DISCHARGE PLANNING FOR JUVENILE DELINQUENTS PLACED IN ITS CUSTODY;

(Q) HOW THE DISTRICT WILL DEVELOP AND IMPLEMENT A COMPREHENSIVE AFTER CARE PROGRAM TO PROVIDE SERVICES AND SUPPORTS FOR YOUTH WHO HAVE RE-ENTERED THE COMMUNITY FOLLOWING A JUVENILE JUSTICE PLACEMENT WITH THE DISTRICT;

(R) HOW THE DISTRICT WILL DEVELOP AND IMPLEMENT POLICIES FOCUSED ON REDUCING RECIDIVISM OF YOUTH WHO LEAVE THE PROGRAM;

(S) HOW THE LOCAL PROBATION DEPARTMENT WILL IMPLEMENT A COMPREHENSIVE PREDISPOSITION INVESTIGATION PROCESS THAT INCLUDES, AT LEAST, THE USE OF APPROPRIATE ASSESSMENTS TO DETERMINE THE COGNITIVE, EDUCATIONAL/VOCATIONAL, AND SUBSTANCE ABUSE NEEDS OF THE YOUTH AND THE USE OF A VALIDATED RISK ASSESSMENT INSTRUMENT, APPROVED BY THE OFFICE OF CHILDREN AND FAMILY SERVICES; AND HOW THE DISTRICT WILL IMPLEMENT AN INTAKE PROCESS FOR YOUTH PLACED IN RESIDENTIAL CARE THAT INCLUDES THE USE OF APPROPRIATE ASSESSMENTS TO DETERMINE THE MEDICAL, DENTAL, MENTAL AND BEHAVIORAL HEALTH NEEDS OF THE YOUTH; AND

(T) HOW THE DISTRICT WILL PROVIDE FOR THE RESTRICTIVE SETTING AND PROGRAMS NECESSARY TO SERVE YOUTH WHO NEED PLACEMENT IN A LIMITED SECURE SETTING CONSISTENT WITH THE NECESSITY FOR THE PROTECTION OF THE HEALTH OR SAFETY OF THE JUVENILE DELINQUENTS IN THE FACILITY OR THE SURROUNDING COMMUNITY.

3. PRIOR TO SUBMITTING ANY PLAN PURSUANT TO SUBDIVISION TWO OF THIS SECTION, THE SOCIAL SERVICES DISTRICT SHALL CONDUCT AT LEAST ONE PUBLIC HEARING ON THE PROPOSED PLAN. ANY SUCH PUBLIC HEARINGS SHALL ONLY BE HELD AFTER THIRTY DAYS NOTICE HAS BEEN PROVIDED IN A NEWSPAPER OF GENERAL CIRCULATION WITHIN THE JURISDICTION FOR WHICH THE SOCIAL SERVICES DISTRICT IS LOCATED. THE NOTICE SHALL SPECIFY THE TIMES OF THE PUBLIC HEARING AND PROVIDE INFORMATION ON HOW WRITTEN COMMENT ON THE PLAN MAY BE SUBMITTED TO THE DISTRICT FOR CONSIDERATION. ADDITIONALLY, FOR A PERIOD OF AT LEAST THIRTY DAYS PRIOR TO A HEARING, THE DISTRICT SHALL POST ON ITS WEBSITE A NOTICE OF THE HEARING, A COPY OF THE PROPOSED PLAN, AND INFORMATION ON HOW WRITTEN COMMENTS ON THE PLAN MAY BE SUBMITTED TO THE DISTRICT FOR CONSIDERATION.

4. THE SOCIAL SERVICES DISTRICT SHALL SUBMIT, WITH SUCH A PLAN, AN ASSESSMENT OF ANY WRITTEN COMMENTS RECEIVED, AND ANY COMMENTS PRESENTED AT THE PUBLIC HEARING. AT A MINIMUM, SUCH ASSESSMENT SHALL CONTAIN:

(A) A SUMMARY AND ANALYSIS OF THE ISSUES RAISED AND SIGNIFICANT ALTERNATIVES SUGGESTED;

(B) A STATEMENT OF THE REASONS WHY ANY SIGNIFICANT ALTERNATIVES WERE NOT INCORPORATED INTO THE PLAN; AND

(C) A DESCRIPTION OF ANY CHANGES MADE TO THE PLAN AS A RESULT OF SUCH COMMENTS.

5. THE OFFICE OF CHILDREN AND FAMILY SERVICES AND THE STATE DIVISION OF BUDGET, IN CONSULTATION WITH THE OFFICE OF MENTAL HEALTH, SHALL BE AUTHORIZED TO REQUEST AMENDMENTS TO ANY PLAN PRIOR TO APPROVAL. FOR ANY PLAN THAT ONLY COVERS JUVENILE DELINQUENTS PLACED IN NON-SECURE SETTINGS, THE OFFICE AND THE DIVISION SHALL, WITHIN THIRTY DAYS OF RECEIVING THE PLAN, EITHER APPROVE OR DISAPPROVE THE PLAN OR REQUEST AMENDMENTS TO THE PLAN. IF ANY AMENDMENTS ARE REQUESTED TO THE PLAN, THE OFFICE AND THE DIVISION SHALL APPROVE OR DISAPPROVE THE PLAN WITHIN FIFTEEN DAYS OF ITS RESUBMISSION WITH THE REQUESTED AMENDMENTS. FOR ANY PLAN THAT COVERS JUVENILE DELINQUENTS PLACED IN LIMITED SECURE SETTINGS, THE OFFICE AND THE DIVISION SHALL, WITHIN SIXTY DAYS OF RECEIVING THE PLAN, EITHER APPROVE OR DISAPPROVE THE PLAN OR REQUEST AMENDMENTS TO THE PLAN. IF ANY AMENDMENTS ARE REQUESTED TO THE PLAN, THE OFFICE AND THE

DIVISION SHALL APPROVE OR DISAPPROVE THE PLAN WITHIN FIFTEEN DAYS OF ITS RESUBMISSION WITH THE REQUESTED AMENDMENTS.

6. (A) NOTWITHSTANDING ANY OTHER PROVISION OF LAW TO THE CONTRARY, IF THE OFFICE OF CHILDREN AND FAMILY SERVICES APPROVES A SOCIAL SERVICES DISTRICT'S PLAN TO IMPLEMENT A JUVENILE JUSTICE SERVICES CLOSE TO HOME INITIATIVE FOR JUVENILE DELINQUENTS PLACED IN NON-SECURE SETTINGS, SUCH OFFICE SHALL WORK WITH SUCH DISTRICT TO IDENTIFY THOSE JUVENILE DELINQUENTS IN THE OFFICE'S CUSTODY RESIDING IN NON-SECURE PLACEMENTS AND THOSE CONDITIONALLY RELEASED FROM A FACILITY WHO WERE PLACED BY A FAMILY COURT WITHIN THE JURISDICTION OF SAID SOCIAL SERVICES DISTRICT. THE OFFICE SHALL EVALUATE THE PLACEMENT LENGTH AND THE NEEDS OF SUCH JUVENILE DELINQUENTS AND, WHERE APPROPRIATE, FILE A PETITION PURSUANT TO SECTION 355.1 OF THE FAMILY COURT ACT TO TRANSFER CUSTODY OF SUCH YOUTH TO SAID SOCIAL SERVICES DISTRICT ON THE EFFECTIVE DATE OF THE PLAN, OR AS SOON AS APPROPRIATE THEREAFTER, BUT IN NO EVENT LATER THAN NINETY DAYS AFTER SUCH EFFECTIVE DATE; PROVIDED, HOWEVER, IF THE OFFICE DETERMINES, ON A CASE-BY-CASE BASIS, FOR REASONS DOCUMENTED IN WRITING SUBMITTED TO THE SOCIAL SERVICES DISTRICT, THAT A TRANSFER WITHIN NINETY DAYS OF THE EFFECTIVE DATE OF THE PLAN WOULD BE DETRIMENTAL TO THE EMOTIONAL, MENTAL OR PHYSICAL HEALTH OF A YOUTH, OR WOULD SERIOUSLY INTERFERE WITH THE YOUTH'S INTERSTATE TRANSFER OR IMMINENT DISCHARGE, THE OFFICE SHALL PROVIDE AN ESTIMATED TIME BY WHICH THE OFFICE EXPECTS TO BE ABLE TO PETITION FOR THE TRANSFER OF SUCH YOUTH OR TO RELEASE SUCH YOUTH FROM ITS CARE, AND SHALL NOTIFY THE DISTRICT OF ANY DELAY OF THAT EXPECTED DATE AND THE REASONS FOR SUCH A DELAY.

(B) NOTWITHSTANDING ANY OTHER PROVISION OF LAW TO THE CONTRARY, IF THE OFFICE APPROVES A SOCIAL SERVICES DISTRICT'S PLAN TO IMPLEMENT A JUVENILE JUSTICE SERVICES CLOSE TO HOME INITIATIVE FOR JUVENILE DELINQUENTS PLACED IN LIMITED-SECURE SETTINGS, SUCH OFFICE SHALL WORK WITH SUCH DISTRICT TO IDENTIFY JUVENILE DELINQUENTS IN THE OFFICE'S CUSTODY RESIDING IN LIMITED SECURE PLACEMENTS WHO WERE PLACED BY A FAMILY COURT IN THE SOCIAL SERVICES DISTRICT. THE OFFICE OF CHILDREN AND FAMILY SERVICES SHALL EVALUATE THE PLACEMENT LENGTH AND NEEDS OF SUCH JUVENILE DELINQUENTS AND, WHERE APPROPRIATE, FILE A PETITION PURSUANT TO SECTION 355.1 OF THE FAMILY COURT ACT TO TRANSFER CUSTODY OF SUCH YOUTH TO SAID SOCIAL SERVICES DISTRICT ON THE EFFECTIVE DATE OF THE PLAN OR AS SOON AS APPROPRIATE THEREAFTER, BUT IN NO EVENT LATER THAN NINETY DAYS AFTER SUCH EFFECTIVE DATE; PROVIDED, HOWEVER, IF THE OFFICE DETERMINES, ON A CASE-BY-CASE BASIS, FOR REASONS DOCUMENTED IN WRITING SUBMITTED TO THE SOCIAL SERVICES DISTRICT, THAT A TRANSFER WITHIN NINETY DAYS OF THE EFFECTIVE DATE OF THE PLAN WOULD BE DETRIMENTAL TO THE EMOTIONAL, MENTAL OR PHYSICAL HEALTH OF A YOUTH, OR WOULD SERIOUSLY INTERFERE WITH THE YOUTH'S INTERSTATE TRANSFER OR IMMINENT DISCHARGE, THE OFFICE SHALL PROVIDE AN ESTIMATED TIME BY WHICH THE OFFICE EXPECTS TO BE ABLE TO PETITION FOR THE TRANSFER OF SUCH YOUTH OR TO RELEASE SUCH YOUTH FROM ITS CARE, AND SHALL NOTIFY THE DISTRICT OF ANY DELAY OF THAT EXPECTED DATE AND THE REASONS FOR SUCH A DELAY.

7. (A) NOTWITHSTANDING THE PROVISIONS OF PARAGRAPH (C) OF SUBDIVISION FIFTEEN OF SECTION FIVE HUNDRED ONE OF THE EXECUTIVE LAW, OR ANY OTHER LAW TO THE CONTRARY, IF THE OFFICE OF CHILDREN AND FAMILY SERVICES APPROVES A SOCIAL SERVICES DISTRICT'S PLAN FOR A JUVENILE JUSTICE SERVICES CLOSE TO HOME INITIATIVE TO IMPLEMENT SERVICES FOR JUVENILE DELINQUENTS PLACED IN NON-SECURE OR LIMITED SECURE SETTINGS, SUCH OFFICE SHALL BE AUTHORIZED, FOR UP TO A YEAR AFTER THE EFFECTIVE DATE OF ANY SUCH PLAN: (1) TO CLOSE ANY OF ITS FACILITIES IN THE CORRESPONDING SETTING LEVELS COVERED BY THE APPROVED PLAN AND TO MAKE SIGNIFICANT

ASSOCIATED SERVICE REDUCTIONS AND PUBLIC EMPLOYEE STAFFING REDUCTIONS AND TRANSFER OPERATIONS FOR THOSE SETTING LEVELS TO A PRIVATE OR NOT-FOR-PROFIT ENTITY, AS DETERMINED BY THE COMMISSIONER OF THE OFFICE OF CHILDREN AND FAMILY SERVICES TO BE NECESSARY TO REFLECT THE DECREASE IN THE NUMBER OF JUVENILE DELINQUENTS PLACED WITH SUCH OFFICE FROM SUCH SOCIAL SERVICES DISTRICT; (2) TO REDUCE COSTS TO THE STATE AND OTHER SOCIAL SERVICES DISTRICTS RESULTING FROM SUCH DECREASE; AND (3) TO ADJUST SERVICES TO PROVIDE REGIONALLY-BASED CARE TO JUVENILE DELINQUENTS FROM OTHER PARTS OF THE STATE NEEDING SERVICES IN THOSE LEVELS OF RESIDENTIAL SERVICES. AT LEAST SIXTY DAYS PRIOR TO TAKING ANY SUCH ACTION, THE COMMISSIONER OF THE OFFICE SHALL PROVIDE NOTICE OF SUCH ACTION TO THE SPEAKER OF THE ASSEMBLY AND THE TEMPORARY PRESIDENT OF THE SENATE AND SHALL POST SUCH NOTICE UPON ITS PUBLIC WEBSITE. SUCH NOTICE MAY BE PROVIDED AT ANY TIME ON OR AFTER THE DATE THE OFFICE APPROVES A PLAN AUTHORIZING A SOCIAL SERVICES DISTRICT TO IMPLEMENT PROGRAMS FOR JUVENILE DELINQUENTS PLACED IN THE APPLICABLE SETTING LEVEL. SUCH COMMISSIONER SHALL BE AUTHORIZED TO CONDUCT ANY AND ALL PREPARATORY ACTIONS WHICH MAY BE REQUIRED TO EFFECTUATE SUCH CLOSURES OR SIGNIFICANT SERVICE OR STAFFING REDUCTIONS AND TRANSFER OF OPERATIONS DURING SUCH SIXTY DAY PERIOD.

(B) ANY TRANSFERS OF CAPACITY OR ANY RESULTING TRANSFER OF FUNCTIONS SHALL BE AUTHORIZED TO BE MADE BY THE COMMISSIONER OF THE OFFICE OF CHILDREN AND FAMILY SERVICES AND ANY TRANSFER OF PERSONNEL UPON SUCH TRANSFER OF CAPACITY OR TRANSFER OF FUNCTIONS SHALL BE ACCOMPLISHED IN ACCORDANCE WITH THE PROVISIONS OF SECTION SEVENTY OF THE CIVIL SERVICE LAW.

8. (A) NOTWITHSTANDING ANY OTHER PROVISION OF LAW TO THE CONTRARY, ELIGIBLE EXPENDITURES DURING THE APPLICABLE TIME PERIODS MADE BY A SOCIAL SERVICES DISTRICT FOR AN APPROVED JUVENILE JUSTICE SERVICES CLOSE TO HOME INITIATIVE SHALL, IF APPROVED BY THE DEPARTMENT OF FAMILY ASSISTANCE, BE SUBJECT TO REIMBURSEMENT WITH STATE FUNDS ONLY UP TO THE EXTENT OF AN ANNUAL APPROPRIATION MADE SPECIFICALLY THEREFOR, AFTER FIRST DEDUCTING THEREFROM ANY FEDERAL FUNDS PROPERLY RECEIVED OR TO BE RECEIVED ON ACCOUNT THEREOF; PROVIDED, HOWEVER, THAT WHEN SUCH FUNDS HAVE BEEN EXHAUSTED, A SOCIAL SERVICES DISTRICT MAY RECEIVE STATE REIMBURSEMENT FROM OTHER AVAILABLE STATE APPROPRIATIONS FOR THAT STATE FISCAL YEAR FOR ELIGIBLE EXPENDITURES FOR SERVICES THAT OTHERWISE WOULD BE REIMBURSABLE UNDER SUCH FUNDING STREAMS. ANY CLAIMS SUBMITTED BY A SOCIAL SERVICES DISTRICT FOR REIMBURSEMENT FOR A PARTICULAR STATE FISCAL YEAR FOR WHICH THE SOCIAL SERVICES DISTRICT DOES NOT RECEIVE STATE REIMBURSEMENT FROM THE ANNUAL APPROPRIATION FOR THE APPROVED CLOSE TO HOME INITIATIVE MAY NOT BE CLAIMED AGAINST THAT DISTRICT'S APPROPRIATION FOR THE INITIATIVE FOR THE NEXT OR ANY SUBSEQUENT STATE FISCAL YEAR.

(I) STATE FUNDING FOR REIMBURSEMENT SHALL BE, SUBJECT TO APPROPRIATION, IN THE FOLLOWING AMOUNTS: FOR STATE FISCAL YEAR 2013-14, $35,200,000 ADJUSTED BY ANY CHANGES IN SUCH AMOUNT REQUIRED BY SUBPARAGRAPHS (II) AND (III) OF THIS PARAGRAPH; FOR STATE FISCAL YEAR 2014-15, $41,400,000 ADJUSTED TO INCLUDE THE AMOUNT OF ANY CHANGES MADE TO THE STATE FISCAL YEAR 2013-14 APPROPRIATION UNDER SUBPARAGRAPHS (II) AND (III) OF THIS PARAGRAPH PLUS ANY ADDITIONAL CHANGES REQUIRED BY SUCH SUBPARAGRAPHS; AND, SUCH REIMBURSEMENT SHALL BE, SUBJECT TO APPROPRIATION, FOR ALL SUBSEQUENT STATE FISCAL YEARS IN THE AMOUNT OF THE PRIOR YEAR'S ACTUAL APPROPRIATION ADJUSTED BY ANY CHANGES REQUIRED BY SUBPARAGRAPHS (II) AND (III) OF THIS PARAGRAPH.

(II) THE REIMBURSEMENT AMOUNTS SET FORTH IN SUBPARAGRAPH (I) OF THIS PARAGRAPH SHALL BE INCREASED OR DECREASED BY THE PERCENTAGE THAT THE

AVERAGE OF THE MOST RECENTLY APPROVED MAXIMUM STATE AID RATES FOR GROUP RESIDENTIAL FOSTER CARE PROGRAMS IS HIGHER OR LOWER THAN THE AVERAGE OF THE APPROVED MAXIMUM STATE AID RATES FOR GROUP RESIDENTIAL FOSTER CARE PROGRAMS IN EXISTENCE IMMEDIATELY PRIOR TO THE MOST RECENTLY APPROVED RATES.

(III) THE REIMBURSEMENT AMOUNTS SET FORTH IN SUBPARAGRAPH (I) OF THIS PARAGRAPH SHALL BE INCREASED IF EITHER THE POPULATION OF ALLEGED JUVENILE DELINQUENTS WHO RECEIVE A PROBATION INTAKE OR THE NUMBER OF YOUTH WITH A DISPOSITION FROM THE FAMILY COURT WHO ARE DETERMINED TO BE HIGH RISK, AS DEFINED IN CLAUSE (A) OF THIS SUBPARAGRAPH, INCREASES BY AT LEAST TEN PERCENT OVER THE RESPECTIVE POPULATION IN THE ANNUAL BASELINE YEAR. THE BASELINE YEAR SHALL BE THE PERIOD FROM JULY FIRST, TWO THOUSAND TEN THROUGH JUNE THIRTIETH, TWO THOUSAND ELEVEN OR THE MOST RECENT TWELVE MONTH PERIOD FOR WHICH THERE IS COMPLETE DATA, WHICHEVER IS LATER. IN EACH SUCCESSIVE YEAR, THE POPULATION OF THE PREVIOUS JULY FIRST THROUGH JUNE THIRTIETH PERIOD SHALL BE COMPARED TO THE BASELINE YEAR FOR DETERMINING ANY ADJUSTMENTS TO A STATE FISCAL YEAR APPROPRIATION. WHEN EITHER POPULATION INCREASES BY TEN PERCENT OR MORE, THE REIMBURSEMENT WILL BE ADJUSTED BY A PERCENTAGE EQUAL TO THE LARGER OF THE PERCENTAGE INCREASE IN EITHER THE NUMBER OF PROBATION INTAKES FOR ALLEGED JUVENILE DELINQUENTS OR THE NUMBER OF HIGH RISK YOUTH.

(A) FOR THE PURPOSES OF THIS SUBPARAGRAPH, HIGH RISK YOUTH SHALL MEAN YOUTH WHO ARE CATEGORIZED BY THE NEW YORK CITY DEPARTMENT OF PROBATION STRUCTURED DECISION MAKING GRID (OR ANY SUCCESSOR RISK ASSESSMENT TOOL APPROVED BY THE OFFICE OF CHILDREN AND FAMILY SERVICES IN CONSULTATION WITH THE DIVISION OF CRIMINAL JUSTICE SERVICES) AS EITHER AT HIGH RISK FOR RE-ARREST IN CASES WHERE THE MOST SERIOUS CURRENT ARREST CHARGE IS A CLASS I OR II OR AT MEDIUM RISK FOR RE-ARREST IN CASES WHERE THE MOST SERIOUS CURRENT ARREST CHARGE IS A CLASS I.

(B) THE SOCIAL SERVICES DISTRICT AND/OR THE NEW YORK CITY DEPARTMENT OF PROBATION SHALL PROVIDE AN ANNUAL REPORT INCLUDING THE DATA REQUIRED TO CALCULATE THE POPULATION ADJUSTMENT TO THE NEW YORK CITY OFFICE OF MANAGEMENT AND BUDGET, THE DIVISION OF CRIMINAL JUSTICE SERVICES AND THE STATE DIVISION OF THE BUDGET NO LATER THAN THE FIRST DAY OF SEPTEMBER FOLLOWING THE CLOSE OF THE PREVIOUS JULY FIRST THROUGH JUNE THIRTIETH PERIOD.

(B) THE DEPARTMENT OF FAMILY ASSISTANCE IS AUTHORIZED, IN ITS DISCRETION, TO MAKE ADVANCES TO A SOCIAL SERVICES DISTRICT IN ANTICIPATION OF THE STATE REIMBURSEMENT PROVIDED FOR IN THIS SECTION.

(C) A SOCIAL SERVICES DISTRICT SHALL CONDUCT ELIGIBILITY DETERMINATIONS FOR FEDERAL AND STATE FUNDING AND SUBMIT CLAIMS FOR REIMBURSEMENT IN SUCH FORM AND MANNER AND AT SUCH TIMES AND FOR SUCH PERIODS AS THE DEPARTMENT OF FAMILY ASSISTANCE SHALL DETERMINE.

(D) NOTWITHSTANDING ANY INCONSISTENT PROVISION OF LAW OR REGULATION OF THE DEPARTMENT OF FAMILY ASSISTANCE, STATE REIMBURSEMENT SHALL NOT BE MADE FOR ANY EXPENDITURE MADE FOR THE DUPLICATION OF ANY GRANT OR ALLOWANCE FOR ANY PERIOD.

(E) CLAIMS SUBMITTED BY A SOCIAL SERVICES DISTRICT FOR REIMBURSEMENT SHALL BE PAID AFTER DEDUCTING ANY EXPENDITURES DEFRAYED BY FEES, THIRD PARTY REIMBURSEMENT, AND ANY NON-TAX LEVY FUNDS INCLUDING ANY DONATED FUNDS.

(F) THE OFFICE OF CHILDREN AND FAMILY SERVICES SHALL NOT REIMBURSE ANY CLAIMS FOR EXPENDITURES FOR RESIDENTIAL SERVICES THAT ARE SUBMITTED MORE THAN TWENTY-TWO MONTHS AFTER THE CALENDAR QUARTER IN WHICH THE EXPENDITURES WERE MADE.

(G) NOTWITHSTANDING ANY OTHER PROVISION OF LAW, THE STATE SHALL NOT BE RESPONSIBLE FOR REIMBURSING A SOCIAL SERVICES DISTRICT AND A DISTRICT SHALL NOT SEEK STATE REIMBURSEMENT FOR ANY PORTION OF ANY STATE DISALLOWANCE OR SANCTION TAKEN AGAINST THE SOCIAL SERVICES DISTRICT, OR ANY FEDERAL DISALLOWANCE ATTRIBUTABLE TO FINAL FEDERAL AGENCY DECISIONS OR TO SETTLEMENTS MADE, WHEN SUCH DISALLOWANCE OR SANCTION RESULTS FROM THE FAILURE OF THE SOCIAL SERVICES DISTRICT TO COMPLY WITH FEDERAL OR STATE REQUIREMENTS, INCLUDING, BUT NOT LIMITED TO, FAILURE TO DOCUMENT ELIGIBILITY FOR THE FEDERAL OR STATE FUNDS IN THE CASE RECORD. TO THE EXTENT THAT THE SOCIAL SERVICES DISTRICT HAS SUFFICIENT CLAIMS OTHER THAN THOSE THAT ARE SUBJECT TO DISALLOWANCE OR SANCTION TO DRAW DOWN THE FULL ANNUAL APPROPRIATION, SUCH DISALLOWANCE OR SANCTION SHALL NOT RESULT IN A REDUCTION IN PAYMENT OF STATE FUNDS TO THE DISTRICT UNLESS THE DISTRICT REQUESTS THAT THE DEPARTMENT USE A PORTION OF THE APPROPRIATION TOWARD MEETING THE DISTRICT'S RESPONSIBILITY TO REPAY THE FEDERAL GOVERNMENT FOR THE DISALLOWANCE OR SANCTION AND ANY RELATED INTEREST PAYMENTS.

(H) RATES FOR RESIDENTIAL SERVICES. (I) THE OFFICE SHALL ESTABLISH THE RATES, IN ACCORDANCE WITH SECTION THREE HUNDRED NINETY-EIGHT-A OF THIS CHAPTER, FOR ANY NON-SECURE FACILITIES ESTABLISHED UNDER AN APPROVED JUVENILE JUSTICE SERVICES CLOSE TO HOME INITIATIVE. FOR ANY SUCH NON-SECURE FACILITY THAT WILL BE USED PRIMARILY BY THE SOCIAL SERVICES DISTRICT WITH AN APPROVED CLOSE TO HOME INITIATIVE, FINAL AUTHORITY FOR ESTABLISHMENT OF SUCH RATES AND ANY ADJUSTMENTS THERETO SHALL RESIDE WITH THE OFFICE, BUT SUCH RATES AND ANY ADJUSTMENTS THERETO SHALL BE ESTABLISHED ONLY UPON THE REQUEST OF, AND IN CONSULTATION WITH, SUCH SOCIAL SERVICES DISTRICT.

(II) A SOCIAL SERVICES DISTRICT WITH AN APPROVED JUVENILE JUSTICE SERVICES CLOSE TO HOME INITIATIVE FOR JUVENILE DELINQUENTS PLACED IN LIMITED SECURE SETTINGS SHALL HAVE THE AUTHORITY TO ESTABLISH AND ADJUST, ON AN ANNUAL OR REGULAR BASIS, MAINTENANCE RATES FOR LIMITED SECURE FACILITIES PROVIDING RESIDENTIAL SERVICES UNDER SUCH INITIATIVE. SUCH RATES SHALL NOT BE SUBJECT TO THE PROVISIONS OF SECTION THREE HUNDRED NINETY-EIGHT-A OF THIS CHAPTER BUT SHALL BE SUBJECT TO MAXIMUM COST LIMITS ESTABLISHED BY THE OFFICE OF CHILDREN AND FAMILY SERVICES.

9. UPON APPROVAL OF A SOCIAL SERVICES DISTRICT'S PLAN, THE OFFICE OF CHILDREN AND FAMILY SERVICES SHALL NOTIFY THE SUPERVISING FAMILY COURT JUDGE RESPONSIBLE FOR THE FAMILY COURTS SERVING SUCH DISTRICT OF THE EFFECTIVE DATE AND PLACEMENT SETTINGS COVERED BY THE PLAN.

(A) BEGINNING ON THE EFFECTIVE DATE OF A DISTRICT'S APPROVED PLAN THAT ONLY COVERS JUVENILE DELINQUENTS PLACED IN NON-SECURE SETTINGS, A FAMILY COURT JUDGE SERVING IN A COUNTY WHERE SUCH SOCIAL SERVICES DISTRICT IS LOCATED SHALL ONLY BE AUTHORIZED TO PLACE AN ADJUDICATED JUVENILE DELINQUENT IN THE CUSTODY OF THE COMMISSIONER OF THE OFFICE OF CHILDREN AND FAMILY SERVICES FOR PLACEMENT IN A SECURE OR LIMITED SECURE FACILITY PURSUANT TO SECTION 353.3 OR 353.5 OF THE FAMILY COURT ACT.

(B) BEGINNING ON THE EFFECTIVE DATE OF A DISTRICT'S APPROVED PLAN TO IMPLEMENT PROGRAMS FOR JUVENILE DELINQUENTS PLACED IN LIMITED SECURE SETTINGS, A FAMILY COURT JUDGE SERVING IN A COUNTY WHERE SUCH SOCIAL SERVICES DISTRICT IS LOCATED SHALL ONLY BE AUTHORIZED TO PLACE AN ADJUDICATED JUVENILE DELINQUENT IN THE CUSTODY OF THE COMMISSIONER OF THE OFFICE OF CHILDREN AND FAMILY SERVICES FOR PLACEMENT IN A SECURE FACILITY PURSUANT TO SECTION 353.3 OR 353.5 OF THE FAMILY COURT ACT.

10. IF THE SOCIAL SERVICES DISTRICT RECEIVES THE NECESSARY APPROVAL TO IMPLEMENT A CLOSE TO HOME INITIATIVE, THE DISTRICT SHALL IMPLEMENT THE INITIATIVE IN ACCORDANCE WITH ALL APPLICABLE FEDERAL AND STATE LAWS AND REGULATIONS. IF THE SOCIAL SERVICES DISTRICT RECEIVES THE NECESSARY

APPROVAL OF A PLAN FOR JUVENILE DELINQUENTS PLACED IN LIMITED SECURE SETTINGS, THE OFFICE SHALL PROMULGATE REGULATIONS GOVERNING THE OPERATION OF SUCH LIMITED SECURE FACILITIES. IF SUCH REGULATIONS ARE NOT ADOPTED PRIOR TO THE DATE THAT AN AUTHORIZED AGENCY APPLIES FOR A LICENSE TO OPERATE SUCH A FACILITY, THE FACILITY SHALL BE SUBJECT TO THE EXISTING REGULATIONS OF THE OFFICE THAT WOULD APPLY TO THE OPERATION OF A FOSTER CARE FACILITY OF THE SAME SIZE; PROVIDED, HOWEVER, THAT THE OFFICE SHALL BE AUTHORIZED TO GRANT AN EXCEPTION TO THE AUTHORIZED AGENCY, UNTIL SUCH LIMITED SECURE REGULATIONS ARE ADOPTED, TO ANY SUCH EXISTING REGULATION THAT THE OFFICE DETERMINES WOULD IMPEDE THE ABILITY OF THE AUTHORIZED AGENCY TO PROVIDE THE RESTRICTIVE SETTING AND PROGRAMS NECESSARY TO SERVE YOUTH WHO NEED PLACEMENT IN A LIMITED SECURE SETTING IN ACCORDANCE WITH THE APPROVED PLAN. ANY LIMITED SECURE FACILITY THAT IS GRANTED SUCH A WAIVER SHALL COMPLY WITH ANY ALTERNATE REQUIREMENTS THE OFFICE MAY CONSIDER NECESSARY FOR THE PROTECTION OF THE HEALTH OR SAFETY OF THE JUVENILE DELINQUENTS IN THE FACILITY OR THE SURROUNDING COMMUNITY.

(A) THE INITIATIVE SHALL BE SUBJECT TO THE OFFICE OF CHILDREN AND FAMILY SERVICES' ONGOING OVERSIGHT AND MONITORING INCLUDING, BUT NOT LIMITED TO: CASE RECORD REVIEWS; STAFF, FAMILY, AND CLIENT INTERVIEWS; ON-SITE INSPECTIONS; REVIEW OF DATA REGARDING PROVIDER PERFORMANCE, YOUTH AND STAFF SAFETY, AND QUALITY OF CARE, WHICH MUST BE PROVIDED TO THE OFFICE IN THE FORM AND MANNER AND AT SUCH TIMES AS REQUIRED BY THE OFFICE; AND CONTINUED LICENSING AND MONITORING OF THE AUTHORIZED AGENCIES PROVIDING SERVICES UNDER THE PLAN PURSUANT TO THIS CHAPTER.

(B) THE SOCIAL SERVICES DISTRICT SHALL PROVIDE EACH JUVENILE DELINQUENT WITH AN APPROPRIATE LEVEL OF SERVICES DESIGNED TO MEET HIS OR HER INDIVIDUAL NEEDS AND TO ENHANCE PUBLIC SAFETY AND SHALL PROVIDE THE OFFICE OF CHILDREN AND FAMILY SERVICES WITH SPECIFIC INFORMATION AS REQUIRED BY THE OFFICE, IN THE FORMAT AND AT SUCH TIMES AS REQUIRED BY SUCH OFFICE, ON THE YOUTH PARTICIPATING IN THE INITIATIVE AND THE PROGRAMS SERVING SUCH YOUTH. SUCH INFORMATION SHALL BE PROVIDED TO THE OFFICE OF CHILDREN AND FAMILY SERVICES ON A MONTHLY BASIS FOR THE FIRST TWELVE MONTHS IMMEDIATELY FOLLOWING THE IMPLEMENTATION OF THE PROGRAMS FOR EACH LEVEL OF CARE AND SHALL BE PROVIDED TO SUCH OFFICE ON A QUARTERLY BASIS THEREAFTER.

11. THE SOCIAL SERVICES DISTRICT SHALL SUBMIT A REPORT TO THE OFFICE OF CHILDREN AND FAMILY SERVICES ANNUALLY, IN THE FORMAT REQUIRED BY SUCH OFFICE, DETAILING OVERALL INITIATIVE PERFORMANCE.

12. IF THE OFFICE OF CHILDREN AND FAMILY SERVICES DETERMINES THAT THE SOCIAL SERVICES DISTRICT IS FAILING TO ADEQUATELY PROVIDE FOR THE JUVENILE DELINQUENTS PLACED UNDER AN APPROVED PLAN, SUCH OFFICE MAY REQUIRE THE SOCIAL SERVICES DISTRICT TO SUBMIT A CORRECTIVE ACTION PLAN, FOR SUCH OFFICE'S APPROVAL, DEMONSTRATING HOW IT WILL RECTIFY THE INADEQUACIES. IF THE OFFICE DETERMINES THAT THE SOCIAL SERVICES DISTRICT IS FAILING TO MAKE SUFFICIENT PROGRESS TOWARDS IMPLEMENTING THE CORRECTIVE ACTION PLAN IN THE TIME AND MANNER APPROVED BY THE OFFICE, THE OFFICE SHALL PROVIDE THE DISTRICT WRITTEN NOTICE OF SUCH DETERMINATION AND THE BASIS THEREFOR, AND MANDATE THAT THE DISTRICT TAKE ALL NECESSARY ACTIONS TO IMPLEMENT THE PLAN. IF A DISTRICT HAS FAILED WITHIN A REASONABLE TIME THEREAFTER TO MAKE PROGRESS IMPLEMENTING ANY REGULATION, OR ANY OTHER PORTION OF SUCH PLAN THAT IS INTENDED TO PREVENT IMMINENT DANGER TO THE HEALTH, SAFETY OR WELFARE OF THE YOUTH BEING SERVED UNDER THE PLAN, THE OFFICE MAY WITHHOLD OR SET ASIDE A PORTION OF THE FUNDING DUE UNDER SUBDIVISION EIGHT OF THIS SECTION UNTIL THE DISTRICT DEMONSTRATES THAT SUFFICIENT PROGRESS IS BEING MADE; OR TERMINATE THE DISTRICT'S AUTHORITY

TO OPERATE ALL OR A PORTION OF THE JUVENILE JUSTICE SERVICES CLOSE TO HOME INITIATIVE, TAKE ALL NECESSARY STEPS TO ASSUME CUSTODY FOR, AND PROVIDE SERVICES TO, THE APPLICABLE JUVENILE DELINQUENTS BEING SERVED UNDER THE INITIATIVE, AND DISCONTINUE FUNDS PROVIDED TO THE DISTRICT FOR SUCH SERVICES. THE OFFICE SHALL NOT WITHHOLD, SET ASIDE OR DISCONTINUE STATE AID TO A DISTRICT UNTIL WRITTEN NOTICE IS GIVEN TO THE COMMISSIONER OF THE DISTRICT, AND IN THE EVENT FUNDING IS WITHHELD, SET ASIDE OR DISCONTINUED, THE DISTRICT MAY APPEAL TO THE OFFICE, WHICH SHALL HOLD A FAIR HEARING THEREON IN ACCORDANCE WITH THE PROVISIONS OF SECTION TWENTY-TWO OF THIS CHAPTER RELATING TO FAIR HEARINGS. THE DISTRICT MAY INSTITUTE A PROCEEDING FOR A REVIEW OF THE DETERMINATION OF THE OFFICE FOLLOWING THE FAIR HEARING PURSUANT TO ARTICLE SEVENTY-EIGHT OF THE CIVIL PRACTICE LAW AND RULES. ANY FUNDS WITHHELD, SET ASIDE OR DISCONTINUED PURSUANT TO THIS PROVISION SHALL BE APPLIED TO ADDRESS THE PROBLEM WHICH WAS THE BASIS FOR SUCH SANCTION. IF THE OFFICE TERMINATES A DISTRICT'S AUTHORITY TO OPERATE ANY PORTION OF A JUVENILE JUSTICE SERVICES CLOSE TO HOME INITIATIVE IN ACCORDANCE WITH THIS SUBDIVISION, THE OFFICE SHALL NOTIFY THE SUPERVISING FAMILY COURT JUDGE RESPONSIBLE FOR THE FAMILY COURTS SERVING SUCH DISTRICT OF SUCH TERMINATION AND THE EFFECTIVE DATE OF SUCH TERMINATION.

13. ONCE A PLAN BECOMES OPERATIVE PURSUANT TO THIS SECTION, THE SOCIAL SERVICES DISTRICT SHALL CARRY OUT THE FOLLOWING FUNCTIONS, POWERS AND DUTIES WITH RESPECT TO PLACEMENTS OF JUVENILE DELINQUENTS IN ACCORDANCE WITH THE PROVISIONS OF SUCH PLAN AND ALL APPLICABLE FEDERAL AND STATE LAWS AND REGULATIONS:

(A) TO ENTER INTO CONTRACTS WITH AUTHORIZED AGENCIES, AS DEFINED IN SECTION THREE HUNDRED SEVENTY-ONE OF THIS CHAPTER, TO OPERATE AND MAINTAIN FACILITIES AUTHORIZED UNDER SUCH PLAN; SUCH CONTRACTS MAY INCLUDE SUCH PROGRAM REQUIREMENTS AS DEEMED NECESSARY BY THE DISTRICT;

(B) TO DETERMINE THE PARTICULAR FACILITY OR PROGRAM IN WHICH A JUVENILE DELINQUENT PLACED WITH THE DISTRICT SHALL BE CARED FOR, BASED UPON AN EVALUATION OF SUCH JUVENILE DELINQUENT;

(C) TO TRANSFER A JUVENILE DELINQUENT FROM ONE FACILITY TO ANY OTHER FACILITY, WHEN THE INTERESTS OF SUCH JUVENILE DELINQUENT REQUIRES SUCH ACTION; PROVIDED THAT, IF THE DISTRICT HAS AN APPROVED PLAN TO IMPLEMENT SERVICES FOR JUVENILE DELINQUENTS PLACED IN LIMITED SECURE SETTINGS, A JUVENILE DELINQUENT TRANSFERRED TO A NON-SECURE FACILITY FROM A LIMITED SECURE FACILITY MAY BE RETURNED TO A LIMITED SECURE FACILITY UPON A DETERMINATION BY THE DISTRICT THAT, FOR ANY REASON, CARE AND TREATMENT AT THE NON-SECURE FACILITY IS NO LONGER SUITABLE;

(D) TO ISSUE A WARRANT FOR THE APPREHENSION AND RETURN OF ANY RUNAWAY OR CONDITIONALLY RELEASED JUVENILE DELINQUENT PLACED WITH THE DISTRICT, IN ACCORDANCE WITH THE REGULATIONS OF THE OFFICE OF CHILDREN AND FAMILY SERVICES; PROVIDED FURTHER THAT:

(I) A SOCIAL SERVICES OFFICIAL, PURSUANT TO THE REGULATIONS OF THE OFFICE OF CHILDREN AND FAMILY SERVICES, SHALL ISSUE A WARRANT DIRECTED GENERALLY TO ANY PEACE OFFICER, ACTING PURSUANT TO SUCH OFFICER'S SPECIAL DUTIES, OR POLICE OFFICER IN THE STATE FOR THE APPREHENSION AND RETURN OF ANY RUNAWAY OR CONDITIONALLY RELEASED JUVENILE DELINQUENT UNDER THE JURISDICTION OF THE DISTRICT AND SUCH WARRANT SHALL BE EXECUTED BY ANY PEACE OFFICER, ACTING PURSUANT TO SUCH OFFICER'S SPECIAL DUTIES, OR POLICE OFFICER TO WHOM IT MAY BE DELIVERED; THE SOCIAL SERVICES DISTRICT ALSO SHALL PROVIDE RELEVANT LAW ENFORCEMENT AGENCIES WITHIN FORTY-EIGHT HOURS WITH ANY PHOTOGRAPHS OF ANY RUNAWAY OR CONDITIONALLY RELEASED JUVENILE DELINQUENT FOR WHOM A WARRANT IS ISSUED, TOGETHER WITH ANY PERTINENT INFORMATION RELATIVE TO SUCH JUVENILE DELIN-

QUENT; SUCH PHOTOGRAPHS SHALL REMAIN THE PROPERTY OF THE SOCIAL SERVICES DISTRICT AND SHALL BE KEPT CONFIDENTIAL FOR USE SOLELY IN THE APPREHENSION OF SUCH JUVENILE DELINQUENT AND SHALL BE RETURNED PROMPTLY TO THE DISTRICT UPON APPREHENSION OF SUCH JUVENILE DELINQUENT, OR UPON THE DEMAND OF THE DISTRICT;

(II) A SOCIAL SERVICES OFFICIAL SHALL GIVE IMMEDIATE WRITTEN NOTICE TO THE FAMILY COURT WHEN ANY JUVENILE DELINQUENT PLACED WITH THE SOCIAL SERVICES DISTRICT BY ORDER OF SAID FAMILY COURT, IS ABSENT FROM SUCH PLACEMENT WITHOUT CONSENT;

(III) A MAGISTRATE MAY CAUSE A RUNAWAY OR A CONDITIONALLY RELEASED JUVENILE DELINQUENT TO BE HELD IN CUSTODY UNTIL RETURNED TO THE SOCIAL SERVICES DISTRICT;

(E) (I) TO CAUSE A JUVENILE DELINQUENT UNDER THE JURISDICTION OF THE SOCIAL SERVICES DISTRICT WHO RUNS AWAY FROM A FACILITY, TO BE APPREHENDED AND RETURNED TO THE SOCIAL SERVICES DISTRICT OR AUTHORIZED AGENCY;

(II) IF A JUVENILE DELINQUENT UNDER THE JURISDICTION OF THE SOCIAL SERVICES DISTRICT VIOLATES ANY CONDITION OF RELEASE THEREFROM, OR IF THERE IS A CHANGE OF CIRCUMSTANCES, AND THE SOCIAL SERVICES DISTRICT DETERMINES THAT IT WOULD BE CONSISTENT WITH THE NEEDS AND BEST INTERESTS OF SAID JUVENILE DELINQUENT AND THE NEED TO PROTECT THE COMMUNITY, OR THAT THERE IS A SUBSTANTIAL LIKELIHOOD SAID JUVENILE DELINQUENT WILL COMMIT AN ACT THAT WOULD BE A CRIME OR CONSTITUTE A CRIME IF HE OR SHE WERE AN ADULT, TO CAUSE SAID JUVENILE DELINQUENT TO BE APPREHENDED AND RETURNED TO THE DISTRICT OR AUTHORIZED AGENCY PURSUANT TO THE REGULATIONS OF THE OFFICE OF CHILDREN AND FAMILY SERVICES;

(III) TO AUTHORIZE AN EMPLOYEE DESIGNATED BY THE SOCIAL SERVICES DISTRICT, WITHOUT A WARRANT, TO APPREHEND A RUNAWAY OR CONDITIONALLY RELEASED JUVENILE DELINQUENT IN ANY COUNTY IN THIS STATE WHOSE RETURN HAS BEEN ORDERED BY THE SOCIAL SERVICES DISTRICT, AND RETURN SAID JUVENILE DELINQUENT TO ANY APPROPRIATE SOCIAL SERVICES DISTRICT, DETENTION FACILITY, AUTHORIZED AGENCY OR PROGRAM;

(F) PURSUANT TO THE REGULATIONS OF THE OFFICE OF CHILDREN AND FAMILY SERVICES, TO DEVELOP AND OPERATE PROGRAMS FOR YOUTH PLACED OR REFERRED TO THE DISTRICT OR IN CONJUNCTION WITH AN ORDER PROVIDED IN ACCORDANCE WITH SECTION 353.6 OF THE FAMILY COURT ACT;

(G) UPON THE PLACEMENT OF ANY JUVENILE DELINQUENT EIGHTEEN YEARS OF AGE OR OLDER, OR UPON THE EIGHTEENTH BIRTHDAY OF ANY YOUTH PLACED IN THE CUSTODY OF THE SOCIAL SERVICES DISTRICT FOR AN ADJUDICATION OF JUVENILE DELINQUENCY FOR HAVING COMMITTED AN ACT WHICH IF COMMITTED BY AN ADULT WOULD CONSTITUTE A FELONY, AND STILL IN THE CUSTODY OF THE SOCIAL SERVICES DISTRICT, TO NOTIFY THE DIVISION OF CRIMINAL JUSTICE SERVICES OF SUCH PLACEMENT OR BIRTHDAY. PROVIDED, HOWEVER, IN THE CASE OF A YOUTH ELEVEN OR TWELVE YEARS OF AGE AT THE TIME THE ACT OR ACTS WERE COMMITTED, THE DIVISION OF CRIMINAL JUSTICE SERVICES SHALL NOT BE PROVIDED WITH THE YOUTH'S NAME, UNLESS THE ACTS COMMITTED BY SUCH YOUTH WOULD CONSTITUTE A CLASS A OR B FELONY. UPON THE SUBSEQUENT DISCHARGE IT SHALL BE THE DUTY OF THE SOCIAL SERVICES DISTRICT TO NOTIFY THE DIVISION OF CRIMINAL JUSTICE SERVICES OF THAT FACT AND THE DATE OF DISCHARGE. FOR THE PURPOSES OF THIS PARAGRAPH, A YOUTH'S AGE SHALL BE DETERMINED TO BE THE AGE STATED IN THE PLACEMENT ORDER;

(H) TO PROVIDE JUVENILE DELINQUENTS IN RESIDENTIAL PLACEMENTS WITH REASONABLE AND APPROPRIATE VISITATION BY FAMILY MEMBERS AND CONSULTATION WITH THEIR LEGAL REPRESENTATIVE IN ACCORDANCE WITH THE REGULATIONS OF THE OFFICE OF CHILDREN AND FAMILY SERVICES; AND

(I) TO PROVIDE RESIDENTIAL CARE IN PROGRAMS SUBJECT TO THE REGULATIONS OF THE OFFICE OF CHILDREN AND FAMILY SERVICES, FOR INFANTS BORN TO OR BEING NURSED BY FEMALE JUVENILE DELINQUENTS PLACED WITH THE DISTRICT; RESIDENTIAL CARE FOR SUCH AN INFANT MAY BE PROVIDED FOR SUCH PERIOD OF TIME AS IS DEEMED DESIRABLE FOR THE WELFARE OF THE MOTHER OR INFANT.

14. THE FOLLOWING PERSONS SHALL BE AUTHORIZED TO VISIT, AT THEIR PLEASURE, ALL PROGRAMS OPERATED BY A SOCIAL SERVICES DISTRICT PURSUANT TO, OR IN ACCORDANCE WITH THIS SECTION: THE GOVERNOR; LIEUTENANT GOVERNOR; COMPTROLLER; ATTORNEY GENERAL; MEMBERS OF THE LEGISLATURE; JUDGES OF THE COURT OF APPEALS; JUDGES FROM SUPREME COURT, FAMILY COURT AND COUNTY COURTS AND DISTRICT ATTORNEYS, COUNTY ATTORNEYS AND ATTORNEYS EMPLOYED IN THE OFFICE OF THE CORPORATION COUNSEL HAVING JURISDICTION WITHIN THE APPLICABLE SOCIAL SERVICES DISTRICT OR COUNTY WHERE A PROGRAM IS LOCATED; AND ANY PERSON OR AGENCY OTHERWISE AUTHORIZED BY STATUTE.

15. A JUVENILE DELINQUENT IN THE CARE OF THE SOCIAL SERVICES DISTRICT WHO ATTENDS PUBLIC SCHOOL WHILE IN RESIDENCE AT A FACILITY SHALL BE DEEMED A RESIDENT OF THE SCHOOL DISTRICT WHERE THE YOUTH'S PARENT OR GUARDIAN RESIDES AT THE COMMENCEMENT OF EACH SCHOOL YEAR FOR THE PURPOSE OF DETERMINING WHICH SCHOOL DISTRICT SHALL BE RESPONSIBLE FOR THE YOUTH'S TUITION.

16. THE SOCIAL SERVICES DISTRICT SHALL BE PERMITTED TO INTERVENE PURSUANT TO PARAGRAPH ONE OF SUBDIVISION (A) OF SECTION ONE THOUSAND TWELVE OF THE CIVIL PRACTICE LAW AND RULES IN ANY ACTION INVOLVING AN APPEAL FROM A DECISION OF ANY COURT OF THIS STATE THAT RELATES TO PROGRAMS, CONDITIONS OR SERVICES PROVIDED BY SUCH DISTRICT OR ANY AUTHORIZED AGENCY WITH WHICH THE DISTRICT HAS PLACED A JUVENILE DELINQUENT PURSUANT TO THIS SECTION. WRITTEN NOTICE SHALL BE GIVEN TO THE CORPORATION COUNSEL OF THE CITY OF NEW YORK OR COUNTY ATTORNEY BY THE PARTY TAKING THE APPEAL.

17. NOTWITHSTANDING ANY PROVISION OF LAW TO THE CONTRARY, THE SOCIAL SERVICES DISTRICT MAY DELAY ACCEPTANCE OF A JUVENILE DELINQUENT IN DETENTION WHO IS PLACED IN THE DISTRICT'S CUSTODY IN ACCORDANCE WITH THE REGULATIONS OF THE OFFICE OF CHILDREN AND FAMILY SERVICES.

18. NO ORDER THAT PLACES A JUVENILE DELINQUENT IN THE CUSTODY OF THE SOCIAL SERVICES DISTRICT THAT RECITES THE FACTS UPON WHICH IT IS BASED SHALL BE DEEMED OR HELD TO BE INVALID BY REASON OF ANY IMPERFECTION OR DEFECT IN FORM.

S 2. Section 351.1 of the family court act is amended by adding a new subdivision 2-a to read as follows:

2-A. (A) IN A SOCIAL SERVICES DISTRICT OPERATING AN APPROVED JUVENILE JUSTICE SERVICES CLOSE TO HOME INITIATIVE PURSUANT TO SECTION FOUR HUNDRED FOUR OF THE SOCIAL SERVICES LAW, THE LOCAL PROBATION DEPARTMENT SHALL DEVELOP AND SUBMIT TO THE OFFICE OF CHILDREN AND FAMILY SERVICES FOR PRIOR APPROVAL A VALIDATED PRE-DISPOSITIONAL RISK ASSESSMENT INSTRUMENT AND ANY RISK ASSESSMENT PROCESS. SUCH DEPARTMENT SHALL PERIODICALLY REVALIDATE ANY APPROVED PRE-DISPOSITIONAL RISK ASSESSMENT INSTRUMENT. THE DEPARTMENT SHALL CONSPICUOUSLY POST ANY APPROVED PRE-DISPOSITIONAL RISK ASSESSMENT INSTRUMENT AND PROCESS ON ITS WEBSITE AND SHALL CONFER WITH APPROPRIATE STAKEHOLDERS, INCLUDING BUT NOT LIMITED TO, ATTORNEYS FOR CHILDREN, PRESENTMENT AGENCIES AND THE FAMILY COURT, PRIOR TO REVISING ANY VALIDATED PRE-DISPOSITIONAL RISK ASSESSMENT INSTRUMENT OR PROCESS. ANY REVISED PRE-DISPOSITIONAL RISK ASSESSMENT INSTRUMENT SHALL BE SUBJECT TO PERIODIC EMPIRICAL VALIDATION AND TO THE APPROVAL OF THE OFFICE OF CHILDREN AND FAMILY SERVICES. THE DEPARTMENT SHALL PROVIDE TRAINING ON THE APPROVED INSTRUMENT AND ANY APPROVED PROC-

ESS TO THE APPLICABLE FAMILY COURTS, PRESENTMENT AGENCY, AND COURT APPOINTED ATTORNEYS FOR RESPONDENTS.

(B) ONCE AN INITIAL VALIDATED RISK ASSESSMENT INSTRUMENT AND ANY RISK ASSESSMENT PROCESS HAVE BEEN APPROVED BY THE OFFICE OF CHILDREN AND FAMILY SERVICES IN CONSULTATION WITH THE DIVISION OF CRIMINAL JUSTICE SERVICES, THE LOCAL PROBATION DEPARTMENT SHALL PROVIDE THE APPLICABLE SUPERVISING FAMILY COURT JUDGE WITH A COPY OF THE VALIDATED RISK ASSESSMENT INSTRUMENT AND ANY SUCH PROCESS ALONG WITH THE LETTER FROM THE OFFICE OF CHILDREN AND FAMILY SERVICES APPROVING THE INSTRUMENT AND PROCESS, IF APPLICABLE, AND INDICATING THE DATE THE INSTRUMENT AND ANY SUCH PROCESS SHALL BE EFFECTIVE, PROVIDED THAT SUCH EFFECTIVE DATE SHALL BE AT LEAST THIRTY DAYS AFTER SUCH NOTIFICATION.

(C) COMMENCING ON THE EFFECTIVE DATE OF A VALIDATED PRE-DISPOSITIONAL RISK ASSESSMENT INSTRUMENT AND ANY APPROVED PROCESS AND THEREAFTER, EACH PROBATION INVESTIGATION ORDERED UNDER SUBDIVISION TWO OF THIS SECTION SHALL INCLUDE THE RESULTS OF THE VALIDATED RISK ASSESSMENT OF THE RESPONDENT AND PROCESS, IF ANY; AND A RESPONDENT SHALL NOT BE PLACED IN ACCORDANCE WITH SECTION 353.3 OR 353.5 OF THIS PART UNLESS THE COURT HAS RECEIVED AND GIVEN DUE CONSIDERATION TO THE RESULTS OF SUCH VALIDATED RISK ASSESSMENT AND ANY APPROVED PROCESS AND MADE THE FINDINGS REQUIRED PURSUANT TO PARAGRAPH (F) OF SUBDIVISION TWO OF SECTION 352.2 OF THIS PART.

(D) NOTWITHSTANDING ANY OTHER PROVISION OF LAW TO THE CONTRARY, DATA NECESSARY FOR COMPLETION OF A PRE-DISPOSITIONAL RISK ASSESSMENT INSTRUMENT MAY BE SHARED BETWEEN LAW ENFORCEMENT, PROBATION, COURTS, DETENTION ADMINISTRATIONS, DETENTION PROVIDERS, PRESENTMENT AGENCIES, AND THE ATTORNEY FOR THE CHILD UPON RETENTION OR APPOINTMENT SOLELY FOR THE PURPOSE OF ACCURATE COMPLETION OF SUCH RISK ASSESSMENT INSTRUMENT. A COPY OF THE COMPLETED PRE-DISPOSITIONAL RISK ASSESSMENT INSTRUMENT SHALL BE MADE AVAILABLE TO THE APPLICABLE COURT.

(E) THE LOCAL PROBATION DEPARTMENT SHALL PROVIDE THE DIVISION OF CRIMINAL JUSTICE SERVICES WITH INFORMATION REGARDING THE USE OF THE PRE-DISPOSITIONAL RISK ASSESSMENT INSTRUMENT AND ANY RISK ASSESSMENT PROCESS IN THE TIME AND MANNER REQUIRED BY THE DIVISION OF CRIMINAL JUSTICE SERVICES. THE DIVISION MAY REQUIRE THAT SUCH DATA BE SUBMITTED TO THE DIVISION ELECTRONICALLY. THE DIVISION OF CRIMINAL JUSTICE SERVICES SHALL SHARE SUCH INFORMATION WITH THE OFFICE OF CHILDREN AND FAMILY SERVICES.

S 3. Subdivision 2 of section 352.2 of the family court act is amended by adding a new paragraph (f) to read as follows:

(F)(1) IN A SOCIAL SERVICES DISTRICT OPERATING AN APPROVED JUVENILE JUSTICE SERVICES CLOSE TO HOME INITIATIVE PURSUANT TO SECTION FOUR HUNDRED FOUR OF THE SOCIAL SERVICES LAW, ONCE THE SUPERVISING FAMILY COURT JUDGE RECEIVES NOTICE THAT A RISK ASSESSMENT INSTRUMENT AND ANY RISK ASSESSMENT PROCESS HAVE BEEN APPROVED BY THE OFFICE OF CHILDREN AND FAMILY SERVICES PURSUANT TO SUBDIVISION TWO-A OF SECTION 351.1 OF THIS PART, THE COURT SHALL GIVE DUE CONSIDERATION TO THE RESULTS OF THE VALIDATED RISK ASSESSMENT AND ANY SUCH PROCESS PROVIDED TO THE COURT PURSUANT TO SUCH SUBDIVISION WHEN DETERMINING THE APPROPRIATE DISPOSITION FOR THE RESPONDENT.

(2) ANY ORDER OF THE COURT DIRECTING THE PLACEMENT OF A RESPONDENT INTO A RESIDENTIAL PROGRAM SHALL STATE:

(I) THE LEVEL OF RISK THE YOUTH WAS ASSESSED AT PURSUANT TO THE VALIDATED RISK ASSESSMENT INSTRUMENT; AND

(II) IF A DETERMINATION IS MADE TO PLACE A YOUTH IN A HIGHER LEVEL OF PLACEMENT THAN APPEARS WARRANTED BASED ON SUCH RISK ASSESSMENT INSTRUMENT AND ANY APPROVED RISK ASSESSMENT PROCESS, THE PARTICULAR REASONS

WHY SUCH PLACEMENT WAS DETERMINED TO BE NECESSARY FOR THE PROTECTION OF THE COMMUNITY AND TO BE CONSISTENT WITH THE NEEDS AND BEST INTERESTS OF THE RESPONDENT; AND

(III) THAT A LESS RESTRICTIVE ALTERNATIVE THAT WOULD BE CONSISTENT WITH THE NEEDS AND BEST INTERESTS OF THE RESPONDENT AND THE NEED FOR PROTECTION OF THE COMMUNITY IS NOT AVAILABLE.

S 4. Section 353.3 of the family court act is amended by adding a new subdivision 2-a to read as follows:

2-A. NOTWITHSTANDING ANY INCONSISTENT PROVISION OF LAW TO THE CONTRARY, IN A DISTRICT OPERATING AN APPROVED JUVENILE JUSTICE SERVICES CLOSE TO HOME INITIATIVE PURSUANT TO SECTION FOUR HUNDRED FOUR OF THE SOCIAL SERVICES LAW:

(A) BEGINNING ON THE EFFECTIVE DATE OF THE DISTRICT'S APPROVED PLAN THAT ONLY COVERS JUVENILE DELINQUENTS PLACED IN NON-SECURE SETTINGS, THE COURT MAY ONLY PLACE THE RESPONDENT:

(I) IN THE CUSTODY OF THE COMMISSIONER OF THE LOCAL SOCIAL SERVICES DISTRICT FOR PLACEMENT IN A NON-SECURE LEVEL OF CARE; OR

(II) IN THE CUSTODY OF THE COMMISSIONER OF THE OFFICE OF CHILDREN AND FAMILY SERVICES FOR PLACEMENT IN A LIMITED SECURE OR SECURE LEVEL OF CARE; AND

(B) BEGINNING ON THE EFFECTIVE DATE OF THE DISTRICT'S APPROVED PLAN TO IMPLEMENT PROGRAMS FOR YOUTH PLACED IN LIMITED SECURE SETTINGS, THE COURT MAY ONLY PLACE THE RESPONDENT:

(I) IN THE CUSTODY OF THE COMMISSIONER OF THE LOCAL SOCIAL SERVICES DISTRICT FOR PLACEMENT IN:

(A) A NON-SECURE LEVEL OF CARE;

(B) A LIMITED SECURE LEVEL OF CARE; OR

(C) EITHER A NON-SECURE OR LIMITED SECURE LEVEL OF CARE, AS DETERMINED BY SUCH COMMISSIONER; OR

(II) IN THE CUSTODY OF THE COMMISSIONER OF THE OFFICE OF CHILDREN AND FAMILY SERVICES FOR PLACEMENT IN A SECURE LEVEL OF CARE.

S 5. Subdivision 9 of section 353.3 of the family court act, as amended by section 6 of part G of chapter 58 of the laws of 2010, is amended to read as follows:

9. If the court places a respondent with the office of children and family services, OR IN A LIMITED SECURE LEVEL OF CARE IN A SOCIAL SERVICES DISTRICT WITH AN APPROVED PLAN TO IMPLEMENT A JUVENILE JUSTICE SERVICES CLOSE TO HOME INITIATIVE UNDER SECTION FOUR HUNDRED FOUR OF THE SOCIAL SERVICES LAW, pursuant to this section after finding that such [child] RESPONDENT committed a felony, the court may, in its discretion, further order that such respondent shall be confined in a residential facility for a minimum period set by the order, not to exceed six months.

S 6. Subdivisions 4 and 5 of section 353.5 of the family court act, as added by chapter 920 of the laws of 1982, subparagraph (i) of paragraph (a) of subdivision 4 and subparagraph (i) of paragraph (a) of subdivision 5 as amended by chapter 419 of the laws of 1987, subparagraph (iv) of paragraph (a) of subdivision 4 and subparagraph (iv) of paragraph (a) of subdivision 5 as amended by chapter 687 of the laws of 1993, paragraphs (b) and (d) of subdivision 4 and paragraph (d) of subdivision 5 as amended by chapter 398 of the laws of 1983, are amended to read as follows:

4. When the order is for a restrictive placement in the case of a youth found to have committed a designated class A felony act,

(a) the order shall provide that:

(i) the respondent shall be placed with the [division for youth] OFFICE OF CHILDREN AND FAMILY SERVICES for an initial period of five years. If the respondent has been in detention pending disposition, the initial period of placement ordered under this section shall be credited with and diminished by the amount of time spent by the respondent in detention prior to the commencement of the placement unless the court finds that all or part of such credit would not serve the needs and best interests of the respondent or the need for protection of the community.

(ii) the respondent shall initially be confined in a secure facility for a period set by the order, to be not less than twelve nor more than eighteen months provided, however, where the order of the court is made in compliance with subdivision five OF THIS SECTION, the respondent shall initially be confined in a secure facility for eighteen months.

(iii) after the period set under [clause] SUBPARAGRAPH (ii) OF THIS PARAGRAPH, the respondent shall be placed in a residential facility for a period of twelve months; PROVIDED, HOWEVER, THAT IF THE RESPONDENT HAS BEEN PLACED FROM A FAMILY COURT IN A SOCIAL SERVICES DISTRICT OPERATING AN APPROVED JUVENILE JUSTICE SERVICES CLOSE TO HOME INITIATIVE PURSUANT TO SECTION FOUR HUNDRED FOUR OF THE SOCIAL SERVICES LAW, ONCE THE TIME FRAMES IN SUBPARAGRAPH (II) OF THIS PARAGRAPH ARE MET:

(A) BEGINNING ON THE EFFECTIVE DATE OF SUCH A SOCIAL SERVICES DISTRICT'S PLAN THAT ONLY COVERS JUVENILE DELINQUENTS PLACED IN NON-SECURE SETTINGS, IF THE OFFICE OF CHILDREN AND FAMILY SERVICES CONCLUDES, BASED ON THE NEEDS AND BEST INTERESTS OF THE RESPONDENT AND THE NEED FOR PROTECTION FOR THE COMMUNITY, THAT A NON-SECURE LEVEL OF CARE IS APPROPRIATE FOR THE RESPONDENT, SUCH OFFICE SHALL FILE A PETITION PURSUANT TO PARAGRAPH (B) OR (C) OF SUBDIVISION TWO OF SECTION 355.1 OF THIS PART TO HAVE THE RESPONDENT PLACED WITH THE APPLICABLE LOCAL COMMISSIONER OF SOCIAL SERVICES; AND

(B) BEGINNING ON THE EFFECTIVE DATE OF SUCH A SOCIAL SERVICES DISTRICT'S PLAN THAT COVERS JUVENILE DELINQUENTS PLACED IN LIMITED SECURE SETTINGS, IF THE OFFICE OF CHILDREN AND FAMILY SERVICES CONCLUDES, BASED ON THE NEEDS AND BEST INTERESTS OF THE RESPONDENT AND THE NEED FOR PROTECTION FOR THE COMMUNITY, THAT A NON-SECURE OR LIMITED SECURE LEVEL OF CARE IS APPROPRIATE FOR THE RESPONDENT, SUCH OFFICE SHALL FILE A PETITION PURSUANT TO PARAGRAPH (B) OR (C) OF SUBDIVISION TWO OF SECTION 355.1 OF THIS PART TO HAVE THE RESPONDENT PLACED WITH THE APPLICABLE LOCAL COMMISSIONER OF SOCIAL SERVICES.

(C) IF THE RESPONDENT IS PLACED WITH THE LOCAL COMMISSIONER OF SOCIAL SERVICES IN ACCORDANCE WITH CLAUSE (A) OR (B) OF THIS SUBPARAGRAPH, THE REMAINDER OF THE PROVISIONS OF THIS SECTION SHALL CONTINUE TO APPLY TO THE RESPONDENT'S PLACEMENT.

(iv) the respondent may not be released from a secure facility or transferred to a facility other than a secure facility during the period provided in [clause] SUBPARAGRAPH (ii) of this paragraph, nor may the respondent be released from a residential facility during the period provided in [clause] SUBPARAGRAPH (iii) OF THIS PARAGRAPH. No home visits shall be permitted during the period of secure confinement set by the court order or one year, whichever is less, except for emergency visits for medical treatment or severe illness or death in the family. All home visits must be accompanied home visits: (A) while a youth is confined in a secure facility, whether such confinement is pursuant to a court order or otherwise; (B) while a youth is confined in a residential facility other than a secure facility within six months after confinement in a secure facility; and (C) while a youth is confined in a residential facility other than a secure facility in excess of six months

after confinement in a secure facility unless two accompanied home visits have already occurred. An "accompanied home visit" shall mean a home visit during which the youth shall be accompanied at all times while outside the secure or residential facility by appropriate personnel of the [division for youth designated pursuant to regulations of the director of the division] OFFICE OF CHILDREN AND FAMILY SERVICES OR, IF APPLICABLE, A LOCAL SOCIAL SERVICES DISTRICT WHICH OPERATES AN APPROVED JUVENILE JUSTICE SERVICES CLOSE TO HOME INITIATIVE PURSUANT TO SECTION FOUR HUNDRED FOUR OF THE SOCIAL SERVICES LAW.

(b) Notwithstanding any other provision of law, during the first twelve months of the respondent's placement, no motion, hearing or order may be made, held or granted pursuant to section 355.1; provided, however, that during such period a motion to vacate the order may be made pursuant to [355.1] SUCH SECTION, but only upon grounds set forth in section 440.10 of the criminal procedure law.

(c) During the placement or any extension thereof:

(i) after the expiration of the period provided in [clause] SUBPARAGRAPH (iii) of paragraph (a) OF THIS SUBDIVISION, the respondent shall not be released from a residential facility without the written approval of the [director of the division for youth or his designated deputy director] OFFICE OF CHILDREN AND FAMILY SERVICES OR, IF APPLICABLE, A SOCIAL SERVICES DISTRICT OPERATING AN APPROVED JUVENILE JUSTICE SERVICES CLOSE TO HOME INITIATIVE PURSUANT TO SECTION FOUR HUNDRED FOUR OF THE SOCIAL SERVICES LAW.

(ii) the respondent shall be subject to intensive supervision whenever not in a secure or residential facility.

(iii) the respondent shall not be discharged from the custody of the [division for youth] OFFICE OF CHILDREN AND FAMILY SERVICES OR, IF APPLICABLE, A SOCIAL SERVICES DISTRICT OPERATING AN APPROVED JUVENILE JUSTICE SERVICES CLOSE TO HOME INITIATIVE PURSUANT TO SECTION FOUR HUNDRED FOUR OF THE SOCIAL SERVICES LAW, unless a motion therefor under section 355.1 is granted by the court, which motion shall not be made prior to the expiration of three years of the placement.

(iv) unless otherwise specified in the order, the [division] OFFICE OF CHILDREN AND FAMILY SERVICES OR, IF APPLICABLE, A SOCIAL SERVICES DISTRICT OPERATING AN APPROVED JUVENILE JUSTICE SERVICES CLOSE TO HOME INITIATIVE PURSUANT TO SECTION FOUR HUNDRED FOUR OF THE SOCIAL SERVICES LAW shall report in writing to the court not less than once every six months during the placement on the status, adjustment and progress of the respondent.

(d) Upon the expiration of the initial period of placement, or any extension thereof, the placement may be extended in accordance with section 355.3 on a petition of any party or the [division for youth] OFFICE OF CHILDREN AND FAMILY SERVICES, OR, IF APPLICABLE, A SOCIAL SERVICES DISTRICT OPERATING AN APPROVED JUVENILE JUSTICE SERVICES CLOSE TO HOME INITIATIVE PURSUANT TO SECTION FOUR HUNDRED FOUR OF THE SOCIAL SERVICES LAW, after a dispositional hearing, for an additional period not to exceed twelve months, but no initial placement or extension of placement under this section may continue beyond the respondent's twenty-first birthday.

(e) The court may also make an order pursuant to subdivision two of section 353.4.

5. When the order is for a restrictive placement in the case of a youth found to have committed a designated felony act, other than a designated class A felony act,

(a) the order shall provide that:

(i) the respondent shall be placed with the [division for youth] OFFICE OF CHILDREN AND FAMILY SERVICES for an initial period of three years. If the respondent has been in detention pending disposition, the initial period of placement ordered under this section shall be credited with and diminished by the amount of time spent by the respondent in detention prior to the commencement of the placement unless the court finds that all or part of such credit would not serve the needs and best interests of the respondent or the need for protection of the community.

(ii) the respondent shall initially be confined in a secure facility for a period set by the order, to be not less than six nor more than twelve months.

(iii) after the period set under [clause] SUBPARAGRAPH (ii) OF THIS PARAGRAPH, the respondent shall be placed in a residential facility for a period set by the order, to be not less than six nor more than twelve months; PROVIDED, HOWEVER, THAT IF THE RESPONDENT HAS BEEN PLACED FROM A FAMILY COURT IN A SOCIAL SERVICES DISTRICT OPERATING AN APPROVED JUVENILE JUSTICE SERVICES CLOSE TO HOME INITIATIVE PURSUANT TO SECTION FOUR HUNDRED FOUR OF THE SOCIAL SERVICES LAW, ONCE THE TIME FRAMES IN SUBPARAGRAPH (II) OF THIS PARAGRAPH ARE MET:

(A) BEGINNING ON THE EFFECTIVE DATE OF SUCH A SOCIAL SERVICES DISTRICT'S PLAN THAT ONLY COVERS JUVENILE DELINQUENTS PLACED IN NON-SECURE SETTINGS, IF THE OFFICE OF CHILDREN AND FAMILY SERVICES CONCLUDES, BASED ON THE NEEDS AND BEST INTERESTS OF THE RESPONDENT AND THE NEED FOR PROTECTION FOR THE COMMUNITY, THAT A NON-SECURE LEVEL OF CARE IS APPROPRIATE FOR THE RESPONDENT, SUCH OFFICE SHALL FILE A PETITION PURSUANT TO PARAGRAPH (B) OR (C) OF SUBDIVISION TWO OF SECTION 355.1 OF THIS PART TO HAVE THE RESPONDENT PLACED WITH THE APPLICABLE LOCAL COMMISSIONER OF SOCIAL SERVICES; AND

(B) BEGINNING ON THE EFFECTIVE DATE OF SUCH A SOCIAL SERVICES DISTRICT'S PLAN TO IMPLEMENT PROGRAMS FOR YOUTH PLACED IN LIMITED SECURE SETTINGS, IF THE OFFICE OF CHILDREN AND FAMILY SERVICES CONCLUDES, BASED ON THE NEEDS AND BEST INTERESTS OF THE RESPONDENT AND THE NEED FOR PROTECTION FOR THE COMMUNITY, THAT A NON-SECURE OR LIMITED SECURE LEVEL OF CARE IS APPROPRIATE FOR THE RESPONDENT, SUCH OFFICE SHALL FILE A PETITION PURSUANT TO PARAGRAPH (B) OR (C) OF SUBDIVISION TWO OF SECTION 355.1 OF THIS PART TO HAVE THE RESPONDENT PLACED WITH THE APPLICABLE LOCAL COMMISSIONER OF SOCIAL SERVICES.

(C) IF THE RESPONDENT IS PLACED WITH A LOCAL COMMISSIONER OF SOCIAL SERVICES IN ACCORDANCE WITH CLAUSE (A) OR (B) OF THIS SUBPARAGRAPH, THE REMAINDER OF THE PROVISIONS OF THIS SECTION SHALL CONTINUE TO APPLY TO THE RESPONDENT'S PLACEMENT.

(iv) the respondent may not be released from a secure facility or transferred to a facility other than a secure facility during the period provided by the court pursuant to [clause] SUBPARAGRAPH (ii) OF THIS PARAGRAPH, nor may the respondent be released from a residential facility during the period provided by the court pursuant to [clause] SUBPARAGRAPH (iii) OF THIS PARAGRAPH. No home visits shall be permitted during the period of secure confinement set by the court order or one year, whichever is less, except for emergency visits for medical treatment or severe illness or death in the family. All home visits must be accompanied home visits: (A) while a youth is confined in a secure facility, whether such confinement is pursuant to a court order or otherwise; (B) while a youth is confined in a residential facility other than a secure facility within six months after confinement in a secure facility; and (C) while a youth is confined in a residential facility other than a secure facility in excess of six months after confinement in a secure

facility unless two accompanied home visits have already occurred. An "accompanied home visit" shall mean a home visit during which the youth shall be accompanied at all times while outside the secure or residential facility by appropriate personnel of the [division for youth designated pursuant to regulations of the director of the division] OFFICE OF CHILDREN AND FAMILY SERVICES OR, IF APPLICABLE, A SOCIAL SERVICES DISTRICT OPERATING AN APPROVED JUVENILE JUSTICE CLOSE TO HOME INITIATIVE PURSUANT TO SECTION FOUR HUNDRED FOUR OF THE SOCIAL SERVICES LAW.

(b) Notwithstanding any other provision of law, during the first six months of the respondent's placement, no motion, hearing or order may be made, held or granted pursuant to section 355.1; provided, however, that during such period a motion to vacate the order may be made pursuant to such section, but only upon grounds set forth in section 440.10 of the criminal procedure law.

(c) During the placement or any extension thereof:

(i) after the expiration of the period provided in [clause] SUBPARAGRAPH (iii) of paragraph (a) OF THIS SUBDIVISION, the respondent shall not be released from a residential facility without the written approval of the [director of the division for youth or his designated deputy director] OFFICE OF CHILDREN AND FAMILY SERVICES OR, IF APPLICABLE, A SOCIAL SERVICES DISTRICT OPERATING AN APPROVED JUVENILE JUSTICE SERVICES CLOSE TO HOME INITIATIVE PURSUANT TO SECTION FOUR HUNDRED FOUR OF THE SOCIAL SERVICES LAW.

(ii) the respondent shall be subject to intensive supervision whenever not in a secure or residential facility.

(iii) the respondent shall not be discharged from the custody of the [division for youth] OFFICE OF CHILDREN AND FAMILY SERVICES, OR, IF APPLICABLE, A SOCIAL SERVICES DISTRICT OPERATING AN APPROVED JUVENILE JUSTICE SERVICES CLOSE TO HOME INITIATIVE PURSUANT TO SECTION FOUR HUNDRED FOUR OF THE SOCIAL SERVICES LAW.

(iv) unless otherwise specified in the order, the [division] OFFICE OF CHILDREN AND FAMILY SERVICES OR, IF APPLICABLE, A SOCIAL SERVICES DISTRICT OPERATING AN APPROVED JUVENILE JUSTICE SERVICES CLOSE TO HOME INITIATIVE PURSUANT TO SECTION FOUR HUNDRED FOUR OF THE SOCIAL SERVICES LAW, shall report in writing to the court not less than once every six months during the placement on the status, adjustment and progress of the respondent.

(d) Upon the expiration of the initial period of placement or any extension thereof, the placement may be extended in accordance with section 355.3 upon petition of any party or the [division for youth] OFFICE OF CHILDREN AND FAMILY SERVICES OR, IF APPLICABLE, A SOCIAL SERVICES DISTRICT OPERATING AN APPROVED JUVENILE JUSTICE SERVICES CLOSE TO HOME INITIATIVE PURSUANT TO SECTION FOUR HUNDRED FOUR OF THE SOCIAL SERVICES LAW, after a dispositional hearing, for an additional period not to exceed twelve months, but no initial placement or extension of placement under this section may continue beyond the respondent's twenty-first birthday.

(e) The court may also make an order pursuant to subdivision two of section 353.4.

S 7. Subdivision 8 of section 353.5 of the family court act, as added by chapter 920 of the laws of 1982, is amended to read as follows:

8. The [division for youth] OFFICE OF CHILDREN AND FAMILY SERVICES OR, IF APPLICABLE, THE SOCIAL SERVICES DISTRICT OPERATING AN APPROVED CLOSE TO HOME INITIATIVE PURSUANT TO SECTION FOUR HUNDRED FOUR OF THE SOCIAL SERVICES LAW, shall retain the power to continue the confinement of the

youth in a secure or other residential facility, AS APPLICABLE, beyond the periods specified by the court, within the term of the placement.

S 8. Subdivision 2 of section 355.1 of the family court act, as added by chapter 920 of the laws of 1982, is amended to read as follows:

2. An order issued under section 353.3, may, upon a showing of a substantial change of circumstances, be set aside, modified, vacated or terminated upon motion of the commissioner of social services or the [division for youth] OFFICE OF CHILDREN AND FAMILY SERVICES with whom the respondent has been placed.

(A)(I) FOR A SOCIAL SERVICES DISTRICT THAT ONLY HAS AN APPROVED PLAN TO IMPLEMENT PROGRAMS FOR JUVENILE DELINQUENTS PLACED IN NON-SECURE SETTINGS AS PART OF AN APPROVED JUVENILE JUSTICE SERVICES CLOSE TO HOME INITIATIVE PURSUANT TO SECTION FOUR HUNDRED FOUR OF THE SOCIAL SERVICES LAW, BEGINNING ON THE EFFECTIVE DATE OF THAT PLAN, IF THE DISTRICT DETERMINES THAT A HIGHER LEVEL OF PLACEMENT IS APPROPRIATE AND CONSISTENT WITH THE NEED FOR PROTECTION OF THE COMMUNITY AND THE NEEDS AND BEST INTERESTS OF THE RESPONDENT PLACED INTO ITS CARE, THE SOCIAL SERVICES DISTRICT SHALL FILE A PETITION TO TRANSFER THE CUSTODY OF THE RESPONDENT TO THE OFFICE OF CHILDREN AND FAMILY SERVICES, AND SHALL PROVIDE A COPY OF SUCH PETITION TO SUCH OFFICE. THE COURT SHALL RENDER A DECISION WHETHER THE JUVENILE DELINQUENT SHOULD BE TRANSFERRED TO THE OFFICE WITHIN SEVENTY-TWO HOURS, EXCLUDING WEEKENDS AND PUBLIC HOLIDAYS. THE FAMILY COURT SHALL, AFTER ALLOWING THE OFFICE OF CHILDREN AND FAMILY SERVICES AN OPPORTUNITY TO BE HEARD, GRANT SUCH A PETITION ONLY IF THE COURT DETERMINES, AND STATES IN ITS WRITTEN ORDER, THE REASONS WHY A LIMITED SECURE OR SECURE LEVEL OF PLACEMENT IS NECESSARY AND CONSISTENT WITH THE NEEDS AND BEST INTERESTS OF THE RESPONDENT AND THE NEED FOR PROTECTION OF THE COMMUNITY.

(II) FOR A SOCIAL SERVICES DISTRICT WITH AN APPROVED PLAN OR APPROVED PLANS THAT COVER JUVENILE DELINQUENTS PLACED IN NON-SECURE AND IN LIMITED SECURE SETTINGS AS PART OF AN APPROVED JUVENILE JUSTICE SERVICES CLOSE TO HOME INITIATIVE PURSUANT TO SECTION FOUR HUNDRED FOUR OF THE SOCIAL SERVICES LAW, BEGINNING ON THE EFFECTIVE DATE OF THE PLAN THAT COVERS JUVENILE DELINQUENTS PLACED IN LIMITED SECURE SETTINGS, IF THE DISTRICT DETERMINES THAT A SECURE LEVEL OF PLACEMENT IS APPROPRIATE AND CONSISTENT WITH THE NEED FOR PROTECTION OF THE COMMUNITY AND THE NEEDS AND BEST INTERESTS OF THE RESPONDENT PLACED INTO ITS CARE, THE SOCIAL SERVICES DISTRICT SHALL FILE A PETITION TO TRANSFER THE CUSTODY OF THE RESPONDENT TO THE OFFICE OF CHILDREN AND FAMILY SERVICES, AND SHALL PROVIDE A COPY OF SUCH PETITION TO SUCH OFFICE. THE COURT SHALL RENDER A DECISION WHETHER THE YOUTH SHOULD BE TRANSFERRED WITHIN SEVENTY-TWO HOURS, EXCLUDING WEEKENDS AND PUBLIC HOLIDAYS. THE FAMILY COURT SHALL, AFTER ALLOWING THE OFFICE OF CHILDREN AND FAMILY SERVICES AN OPPORTUNITY TO BE HEARD, GRANT SUCH A PETITION ONLY IF THE COURT DETERMINES, AND STATES IN ITS WRITTEN ORDER, THAT THE YOUTH NEEDS A SECURE LEVEL OF PLACEMENT BECAUSE:

(A) THE RESPONDENT HAS BEEN SHOWN TO BE EXCEPTIONALLY DANGEROUS TO HIMSELF OR HERSELF OR TO OTHER PERSONS. EXCEPTIONALLY DANGEROUS BEHAVIOR MAY INCLUDE, BUT IS NOT LIMITED TO, ONE OR MORE SERIOUS INTENTIONAL ASSAULTS, SEXUAL ASSAULTS OR SETTING FIRES; OR,

(B) THE RESPONDENT HAS DEMONSTRATED BY A PATTERN OF BEHAVIOR THAT HE OR SHE NEEDS A MORE STRUCTURED SETTING AND THE SOCIAL SERVICES DISTRICT HAS CONSIDERED THE APPROPRIATENESS AND AVAILABILITY OF A TRANSFER TO AN ALTERNATIVE NON-SECURE OR LIMITED SECURE FACILITY. SUCH BEHAVIOR MAY INCLUDE, BUT IS NOT LIMITED TO: DISRUPTIONS IN FACILITY PROGRAMS;

CONTINUOUSLY AND MALICIOUSLY DESTROYING PROPERTY; OR, REPEATEDLY COMMITTING OR INCITING OTHER YOUTH TO COMMIT ASSAULTIVE OR DESTRUCTIVE ACTS.

(III) THE COURT MAY ORDER THAT THE RESPONDENT BE HOUSED IN A LOCAL SECURE DETENTION FACILITY ON AN INTERIM BASIS PENDING ITS FINAL RULING ON THE PETITION FILED PURSUANT TO THIS PARAGRAPH.

(B) THE FOLLOWING PROVISIONS SHALL APPLY IF THE OFFICE OF CHILDREN AND FAMILY SERVICES FILES A PETITION WITH A FAMILY COURT IN A SOCIAL SERVICES DISTRICT WITH AN APPROVED JUVENILE JUSTICE SERVICES CLOSE TO HOME INITIATIVE PURSUANT TO SECTION FOUR HUNDRED FOUR OF THE SOCIAL SERVICES LAW TO TRANSFER, WITHIN THE FIRST NINETY DAYS THAT SUCH PLAN IS EFFECTIVE, TO SUCH DISTRICT A RESPONDENT PLACED IN THE OFFICE'S CARE PURSUANT TO EITHER SECTION 353.3 OR 353. 5 OF THIS PART:

(I) IF THE DISTRICT ONLY HAS AN APPROVED PLAN THAT COVERS JUVENILE DELINQUENTS PLACED IN NON-SECURE SETTINGS, THE FAMILY COURT SHALL GRANT SUCH A PETITION, WITHOUT A HEARING, UNLESS THE ATTORNEY FOR THE RESPONDENT OBJECTS TO THE TRANSFER ON THE BASIS THAT THE RESPONDENT NEEDS TO BE PLACED IN A LIMITED SECURE OR SECURE SETTING OR THE FAMILY COURT DETERMINES THAT THERE IS INSUFFICIENT INFORMATION IN THE PETITION TO GRANT THE TRANSFER WITHOUT A HEARING. THE FAMILY COURT SHALL GRANT THE PETITION UNLESS THE COURT DETERMINES, AND STATES IN ITS WRITTEN ORDER, THE REASONS WHY A SECURE OR LIMITED SECURE PLACEMENT IS NECESSARY AND CONSISTENT WITH THE NEEDS AND BEST INTERESTS OF THE RESPONDENT AND THE NEED FOR PROTECTION OF THE COMMUNITY.

(II) IF THE DISTRICT HAS AN APPROVED PLAN OR APPROVED PLANS THAT COVER JUVENILE DELINQUENTS PLACED IN NON-SECURE AND IN LIMITED SECURE SETTINGS, FOR THE FIRST NINETY DAYS THAT THE PLAN THAT COVERS JUVENILE DELINQUENTS IN LIMITED SECURE SETTINGS IS EFFECTIVE, THE FAMILY COURT SHALL GRANT SUCH A PETITION, WITHOUT A HEARING, UNLESS THE ATTORNEY FOR THE RESPONDENT OBJECTS TO THE TRANSFER ON THE BASIS THAT THE RESPONDENT NEEDS TO BE PLACED IN A SECURE SETTING OR THE FAMILY COURT DETERMINES THAT THERE IS INSUFFICIENT INFORMATION IN THE PETITION TO GRANT THE TRANSFER WITHOUT A HEARING. THE FAMILY COURT SHALL GRANT THE PETITION UNLESS THE COURT DETERMINES, AND STATES IN ITS WRITTEN ORDER, THE REASONS WHY A SECURE PLACEMENT IS NECESSARY AND CONSISTENT WITH THE NEEDS AND BEST INTERESTS OF THE RESPONDENT AND THE NEED FOR PROTECTION OF THE COMMUNITY.

(III) BEGINNING NINETY-ONE DAYS AFTER THE EFFECTIVE DATE A SOCIAL SERVICES DISTRICT'S PLAN TO IMPLEMENT PROGRAMS FOR JUVENILE JUSTICE SERVICES CLOSE TO HOME INITIATIVE PURSUANT TO SECTION FOUR HUNDRED FOUR OF THE SOCIAL SERVICES LAW, IF THE OFFICE OF CHILDREN AND FAMILY SERVICES FILES A PETITION TO TRANSFER TO SUCH DISTRICT A RESPONDENT PLACED IN THE OFFICE'S CARE PURSUANT TO EITHER SECTION 353.3 OR 353.5 OF THIS PART FROM A FAMILY COURT IN SUCH A SOCIAL SERVICES DISTRICT, THE OFFICE SHALL PROVIDE A COPY OF THE PETITION TO THE SOCIAL SERVICES DISTRICT AND THE PRESENTMENT AGENCY.

(A) IF THE DISTRICT ONLY HAS AN APPROVED PLAN THAT COVERS JUVENILE DELINQUENTS PLACED IN NON-SECURE SETTINGS, THE FAMILY COURT SHALL, AFTER ALLOWING THE SOCIAL SERVICES DISTRICT AND THE PRESENTMENT AGENCY AN OPPORTUNITY TO BE HEARD, GRANT A PETITION FILED PURSUANT TO THIS SUBPARAGRAPH UNLESS THE COURT DETERMINES, AND STATES IN ITS WRITTEN ORDER, THE REASONS WHY A SECURE OR LIMITED SECURE PLACEMENT IS NECESSARY AND CONSISTENT WITH THE NEEDS AND BEST INTERESTS OF THE RESPONDENT AND THE NEED FOR PROTECTION OF THE COMMUNITY.

(B) IF THE DISTRICT HAS AN APPROVED PLAN OR APPROVED PLANS THAT COVER JUVENILE DELINQUENTS PLACED IN NON-SECURE AND LIMITED SECURE SETTINGS, BEGINNING NINETY-ONE DAYS AFTER THE EFFECTIVE DATE OF THE PLAN THAT

COVERS JUVENILE DELINQUENTS PLACED IN LIMITED SECURE SETTINGS, THE FAMILY COURT, AFTER ALLOWING THE SOCIAL SERVICES DISTRICT AND THE PRESENTMENT AGENCY AN OPPORTUNITY TO BE HEARD, SHALL GRANT A PETITION FILED PURSUANT TO THIS SUBPARAGRAPH, UNLESS THE COURT DETERMINES, AND STATES IN ITS WRITTEN ORDER, THE REASONS WHY A SECURE PLACEMENT IS NECESSARY AND CONSISTENT WITH THE NEEDS AND BEST INTERESTS OF THE RESPONDENT AND THE NEED FOR PROTECTION OF THE COMMUNITY.

S 9. Subdivision 1 of section 355.5 of the family court act, as added by chapter 7 of the laws of 1999, is amended to read as follows:

1. For the purposes of this section the term "non-secure facility" means a facility operated by an authorized agency in accordance with an operating certificate issued pursuant to the social services law or a facility[, not including a secure or limited secure facility,] with a capacity of twenty-five beds or less operated by the office of children and family services in accordance with section five hundred four of the executive law. THE TERM SHALL NOT INCLUDE A LIMITED SECURE OR A SECURE FACILITY OPERATED BY THE OFFICE OF CHILDREN AND FAMILY SERVICES OR A LIMITED SECURE FACILITY WITHIN A SOCIAL SERVICES DISTRICT OPERATING AN APPROVED JUVENILE JUSTICE SERVICES CLOSE TO HOME INITIATIVE PURSUANT TO SECTION FOUR HUNDRED FOUR OF THE SOCIAL SERVICES LAW.

S 10. Notwithstanding any other provision of law to the contrary, the state shall be authorized to lease to the city of New York, for a dollar a year, any real property utilized for the care, maintenance and supervision of adjudicated juvenile delinquents for use by a social services district pursuant to an approved plan for a juvenile justice services close to home initiative for the purpose of carrying out any powers, functions or duties described in section four hundred four of the social services law, or any other provision of this act. The city of New York shall be responsible for the all costs associated with operating and maintaining such real property other than any debt services costs for such property that were in existence when the lease was executed. Applicable state officials shall be authorized to make announced and unannounced inspections of the property to determine whether it is being maintained in an appropriate manner. The city of New York shall be responsible for making any repairs to such leased property necessary to maintain the property in at least as good as condition as it was when the property was first leased to the city, allowing for normal wear and tear, and shall return the property to the state, when the lease ends or is terminated, in the same or better condition than the property was in at the time the lease was first executed, aside from normal wear and tear. The city of New York shall obtain prior approval from the state for any major renovations to any such leased property. The leasing to the social services district or the subleasing, design, construction, reconstruction, improvement, rehabilitation, maintaining, furnishing, repairing, equipping or use of any such facility by the social services district for the care, maintenance and supervision of adjudicated juvenile delinquents shall not be subject to the provisions of any general, special or local law, city charter, administrative code, ordinance or resolution governing uniform land use review procedures, any other land use planning review and approvals, historic preservation procedures, architectural reviews, franchise approvals and other state or local review and approval procedures governing the use of land and the improvements thereon within the city.

S 11. This act shall take effect April 1, 2012 and shall expire on March 31, 2018 when upon such date the provisions of this act shall be deemed repealed; provided, however, that effective immediately, the

addition, amendment and/or repeal of any rule or regulation necessary for the implementation of this act on its effective date are authorized and directed to be made and completed on or before such effective date; provided, however, upon the repeal of this act, a social services district that has custody of a juvenile delinquent pursuant to an approved juvenile justice services close to home initiative shall retain custody of such juvenile delinquent until custody may be legally transferred in an orderly fashion to the office of children and family services.

SUBPART B

Section 1. Section 398 of the social services law is amended by adding a new subdivision 3-a to read as follows:

3-A. AS TO DELINQUENT CHILDREN:

(A)(1) CONDITIONALLY RELEASE ANY JUVENILE DELINQUENT PLACED WITH THE DISTRICT TO AFTERCARE WHENEVER THE DISTRICT DETERMINES CONDITIONAL RELEASE TO BE CONSISTENT WITH THE NEEDS AND BEST INTERESTS OF SUCH JUVENILE DELINQUENT, THAT SUITABLE CARE AND SUPERVISION CAN BE PROVIDED, AND THAT THERE IS A REASONABLE PROBABILITY THAT SUCH JUVENILE DELINQUENT CAN BE CONDITIONALLY RELEASED WITHOUT ENDANGERING PUBLIC SAFETY; PROVIDED, HOWEVER, THAT SUCH CONDITIONAL RELEASE SHALL BE MADE IN ACCORDANCE WITH THE REGULATIONS OF THE OFFICE OF CHILDREN AND FAMILY SERVICES, AND PROVIDED FURTHER THAT NO JUVENILE DELINQUENT WHILE ABSENT FROM A FACILITY OR PROGRAM WITHOUT THE CONSENT OF THE DIRECTOR OF SUCH FACILITY OR PROGRAM SHALL BE CONDITIONALLY RELEASED BY THE DISTRICT SOLELY BY REASON OF THE ABSENCE.

(2) IT SHALL BE A CONDITION OF SUCH RELEASE THAT A JUVENILE DELINQUENT SO RELEASED SHALL CONTINUE TO BE THE RESPONSIBILITY OF THE SOCIAL SERVICES DISTRICT FOR THE PERIOD PROVIDED IN THE ORDER OF PLACEMENT.

(3) THE SOCIAL SERVICES DISTRICT MAY PROVIDE CLOTHING, SERVICES AND OTHER NECESSITIES FOR ANY CONDITIONALLY RELEASED JUVENILE DELINQUENT, AS MAY BE REQUIRED, INCLUDING MEDICAL CARE AND SERVICES NOT PROVIDED TO SUCH JUVENILE DELINQUENT AS MEDICAL ASSISTANCE FOR NEEDY PERSONS PURSUANT TO TITLE ELEVEN OF ARTICLE FIVE OF THIS CHAPTER.

(4) THE SOCIAL SERVICES DISTRICT, PURSUANT TO THE REGULATIONS OF THE OFFICE OF CHILDREN AND FAMILY SERVICES, MAY CAUSE A JUVENILE DELINQUENT TO BE RETURNED TO A FACILITY OPERATED AND MAINTAINED BY THE DISTRICT, OR AN AUTHORIZED AGENCY UNDER CONTRACT WITH THE DISTRICT, AT ANY TIME WITHIN THE PERIOD OF PLACEMENT, WHERE THERE IS A VIOLATION OF THE CONDITIONS OF RELEASE OR A CHANGE OF CIRCUMSTANCES.

(5) JUVENILE DELINQUENTS CONDITIONALLY RELEASED BY A SOCIAL SERVICES DISTRICT MAY BE PROVIDED FOR AS FOLLOWS:

(I) IF, IN THE OPINION OF THE SOCIAL SERVICES DISTRICT, THERE IS NO SUITABLE PARENT, RELATIVE OR GUARDIAN TO WHOM A JUVENILE DELINQUENT CAN BE CONDITIONALLY RELEASED, AND SUITABLE CARE CANNOT OTHERWISE BE SECURED, THE DISTRICT MAY CONDITIONALLY RELEASE SUCH JUVENILE DELINQUENT TO THE CARE OF ANY OTHER SUITABLE PERSON.

(II) IF A CONDITIONALLY RELEASED JUVENILE DELINQUENT IS SUBJECT TO ARTICLE SIXTY-FIVE OF THE EDUCATION LAW OR ELECTS TO PARTICIPATE IN AN EDUCATIONAL PROGRAM LEADING TO A HIGH SCHOOL DIPLOMA, HE OR SHE SHALL BE ENROLLED IN A SCHOOL OR EDUCATIONAL PROGRAM LEADING TO A HIGH SCHOOL DIPLOMA FOLLOWING RELEASE, OR, IF SUCH RELEASE OCCURS DURING THE SUMMER RECESS, UPON THE COMMENCEMENT OF THE NEXT SCHOOL TERM. IF A CONDITIONALLY RELEASED JUVENILE DELINQUENT IS NOT SUBJECT TO ARTICLE SIXTY-FIVE OF THE EDUCATION LAW, AND DOES NOT ELECT TO PARTICIPATE IN AN

EDUCATIONAL PROGRAM LEADING TO A HIGH SCHOOL DIPLOMA, STEPS SHALL BE TAKEN, TO THE EXTENT POSSIBLE, TO FACILITATE HIS OR HER GAINFUL EMPLOYMENT OR ENROLLMENT IN A VOCATIONAL PROGRAM FOLLOWING RELEASE.

(B) WHEN A JUVENILE DELINQUENT PLACED WITH THE SOCIAL SERVICES DISTRICT IS ABSENT FROM PLACEMENT WITHOUT CONSENT, SUCH ABSENCE SHALL INTERRUPT THE CALCULATION OF TIME FOR HIS OR HER PLACEMENT. SUCH INTERRUPTION SHALL CONTINUE UNTIL SUCH JUVENILE DELINQUENT RETURNS TO THE FACILITY OR AUTHORIZED AGENCY IN WHICH HE OR SHE WAS PLACED. PROVIDED, HOWEVER, THAT ANY TIME SPENT BY A JUVENILE DELINQUENT IN CUSTODY FROM THE DATE OF ABSENCE TO THE DATE PLACEMENT RESUMES SHALL BE CREDITED AGAINST THE TIME OF SUCH PLACEMENT PROVIDED THAT SUCH CUSTODY:

(1) WAS DUE TO AN ARREST OR SURRENDER BASED UPON THE ABSENCE; OR

(2) AROSE FROM AN ARREST OR SURRENDER ON ANOTHER CHARGE WHICH DID NOT CULMINATE IN A CONVICTION, ADJUDICATION OR ADJUSTMENT.

(C) IN ADDITION TO THE OTHER REQUIREMENTS OF THIS SECTION, NO JUVENILE DELINQUENT PLACED WITH A SOCIAL SERVICES DISTRICT OPERATING AN APPROVED JUVENILE JUSTICE SERVICES CLOSE TO HOME INITIATIVE PURSUANT TO SECTION FOUR HUNDRED FOUR OF THIS CHAPTER PURSUANT TO A RESTRICTIVE PLACEMENT UNDER THE FAMILY COURT ACT SHALL BE RELEASED EXCEPT PURSUANT TO SECTION 353.5 OF THE FAMILY COURT ACT.

S 2. Section 351.1 of the family court act is amended by adding a new subdivision 2-b to read as follows:

2-B. THE DIVISION OF CRIMINAL JUSTICE SERVICES SHALL DEVELOP A VALIDATED PRE-DISPOSITIONAL RISK ASSESSMENT INSTRUMENT AND ANY RISK ASSESSMENT PROCESS FOR JUVENILE DELINQUENTS. THE DIVISION SHALL PERIODICALLY REVALIDATE ANY APPROVED PRE-DISPOSITIONAL RISK ASSESSMENT INSTRUMENT. THE DIVISION OF CRIMINAL JUSTICE SERVICES SHALL CONSPICUOUSLY POST ANY APPROVED PRE-DISPOSITIONAL RISK ASSESSMENT INSTRUMENT AND ANY RISK ASSESSMENT PROCESS ON ITS WEBSITE AND SHALL CONFER WITH APPROPRIATE STAKEHOLDERS, INCLUDING BUT NOT LIMITED TO, ATTORNEYS FOR CHILDREN, PRESENTMENT AGENCIES, PROBATION AND THE FAMILY COURT, PRIOR TO REVISING ANY VALIDATED PRE-DISPOSITIONAL RISK ASSESSMENT INSTRUMENT OR PROCESS. ANY SUCH REVISED PRE-DISPOSITIONAL RISK ASSESSMENT INSTRUMENT SHALL BE SUBJECT TO PERIODIC EMPIRICAL VALIDATION. THE DIVISION OF CRIMINAL JUSTICE SERVICES SHALL PROVIDE TRAINING ON THE INSTRUMENT AND ANY PROCESS TO THE FAMILY COURTS, LOCAL PROBATION DEPARTMENTS, PRESENTMENT AGENCIES AND COURT APPOINTED ATTORNEYS FOR RESPONDENTS. THE DIVISION MAY DETERMINE THAT A PRE-DISPOSITIONAL RISK ASSESSMENT INSTRUMENT AND ANY PROCESS IN USE PURSUANT TO SUBDIVISION TWO-A OF SECTION 351.1 OF THIS PART MAY CONTINUE TO BE USED PURSUANT TO SUCH SUBDIVISION INSTEAD OF REQUIRING THE USE OF ANY INSTRUMENT OR PROCESS DEVELOPED PURSUANT TO THIS SUBDIVISION.

(A) ONCE AN INITIAL VALIDATED RISK ASSESSMENT INSTRUMENT AND RISK ASSESSMENT PROCESS HAVE BEEN DEVELOPED, THE DIVISION OF CRIMINAL JUSTICE SERVICES SHALL PROVIDE THE SUPERVISING FAMILY COURT JUDGES AND LOCAL PROBATION DEPARTMENTS WITH COPIES OF THE VALIDATED RISK ASSESSMENT INSTRUMENT AND PROCESS AND NOTIFY THEM OF THE EFFECTIVE DATE OF THE INSTRUMENT AND PROCESS, WHICH SHALL BE AT LEAST SIX MONTHS AFTER SUCH NOTIFICATION.

(B) COMMENCING ON THE EFFECTIVE DATE OF A VALIDATED RISK ASSESSMENT INSTRUMENT AND ANY RISK ASSESSMENT PROCESS AND THEREAFTER, EACH PROBATION INVESTIGATION ORDERED UNDER SUBDIVISION TWO OF THIS SECTION SHALL INCLUDE THE RESULTS OF THE VALIDATED RISK ASSESSMENT OF THE RESPONDENT AND PROCESS, IF ANY; AND A RESPONDENT SHALL NOT BE PLACED IN ACCORDANCE WITH SECTION 353.3 OR 353.5 OF THIS PART UNLESS THE COURT HAS RECEIVED AND GIVEN DUE CONSIDERATION TO THE RESULTS OF SUCH VALIDATED

RISK ASSESSMENT AND ANY PROCESS AND MADE THE FINDINGS REQUIRED PURSUANT TO PARAGRAPH (G) OF SUBDIVISION TWO OF SECTION 352.2 OF THIS PART.

(C) NOTWITHSTANDING ANY OTHER PROVISION OF LAW TO THE CONTRARY, DATA NECESSARY FOR COMPLETION OF A PRE-DISPOSITIONAL RISK ASSESSMENT INSTRUMENT MAY BE SHARED BETWEEN LAW ENFORCEMENT, PROBATION, COURTS, DETENTION ADMINISTRATIONS, DETENTION PROVIDERS, PRESENTMENT AGENCIES AND THE ATTORNEY FOR THE CHILD UPON RETENTION OR APPOINTMENT SOLELY FOR THE PURPOSE OF ACCURATE COMPLETION OF SUCH RISK ASSESSMENT INSTRUMENT, AND A COPY OF THE COMPLETED PRE-DISPOSITIONAL RISK ASSESSMENT INSTRUMENT SHALL BE MADE AVAILABLE TO THE APPLICABLE COURT.

(D) LOCAL PROBATION DEPARTMENTS SHALL PROVIDE THE DIVISION OF CRIMINAL JUSTICE SERVICES WITH INFORMATION REGARDING USE OF THE PRE-DISPOSITIONAL RISK ASSESSMENT INSTRUMENT AND ANY RISK ASSESSMENT PROCESS IN THE TIME AND MANNER REQUIRED BY THE DIVISION. THE DIVISION MAY REQUIRE THAT SUCH DATA BE SUBMITTED TO THE DIVISION ELECTRONICALLY. THE DIVISION SHALL SHARE SUCH INFORMATION WITH THE OFFICE OF CHILDREN AND FAMILY SERVICES.

S 3. Subdivision 2 of section 352.2 of the family court act is amended by adding a new paragraph (g) to read as follows:

(G)(I) ONCE A VALIDATED RISK ASSESSMENT INSTRUMENT AND ANY RISK ASSESSMENT PROCESS IS A REQUIRED PART OF EACH PROBATION INVESTIGATION ORDERED UNDER SUBDIVISION TWO OF SECTION 351.1 OF THIS PART AND PROVIDED TO THE COURT IN ACCORDANCE WITH SUBDIVISION TWO-B OF SUCH SECTION, THE COURT SHALL GIVE DUE CONSIDERATION TO THE RESULTS OF SUCH VALIDATED RISK ASSESSMENT AND ANY SUCH PROCESS WHEN DETERMINING THE APPROPRIATE DISPOSITION FOR THE RESPONDENT.

(II) ANY ORDER OF THE COURT DIRECTING THE PLACEMENT OF A RESPONDENT INTO A RESIDENTIAL PROGRAM SHALL STATE:

(A) THE LEVEL OF RISK THE YOUTH WAS ASSESSED PURSUANT TO THE VALIDATED RISK ASSESSMENT INSTRUMENT; AND

(B) IF A DETERMINATION IS MADE TO PLACE A YOUTH IN A HIGHER LEVEL OF PLACEMENT THAN APPEARS WARRANTED BASED ON SUCH RISK ASSESSMENT INSTRUMENT AND ANY RISK ASSESSMENT PROCESS, THE PARTICULAR REASONS WHY SUCH PLACEMENT WAS DETERMINED TO BE NECESSARY FOR THE PROTECTION OF THE COMMUNITY AND TO BE CONSISTENT WITH THE NEEDS AND BEST INTERESTS OF THE RESPONDENT; AND

(C) THAT A LESS RESTRICTIVE ALTERNATIVE THAT WOULD BE CONSISTENT WITH THE NEEDS AND BEST INTERESTS OF THE RESPONDENT AND THE NEED FOR PROTECTION OF THE COMMUNITY IS NOT AVAILABLE.

S 4. The opening paragraph of subdivision 2 of section 353.3 of the family court act, as amended by section 6 of part G of chapter 58 of the laws of 2010, is amended to read as follows:

Where the respondent is placed with the commissioner of the local social services district[, the court may direct the commissioner to place him or her with an authorized agency or class of authorized agencies, including, if] AND the court finds that the respondent is a sexually exploited child as defined in subdivision one of section four hundred forty-seven-a of the social services law[,] AND PLACES SUCH RESPONDENT IN an available long-term safe house. Unless the dispositional order provides otherwise, the court so directing shall include one of the following alternatives to apply in the event that the commissioner is unable to so place the respondent:

S 5. The opening paragraph of subdivision 3 of section 353.3 of the family court act, as amended by section 6 of part G of chapter 58 of the laws of 2010, is amended to read as follows:

Where the respondent is placed with the office of children and family services, the court shall, unless [it directs the office to place him or

her with an authorized agency or class of authorized agencies, including if] the court finds that the respondent is a sexually exploited child as defined in subdivision one of section four hundred forty-seven-a of the social services law[,] AND PLACES SUCH RESPONDENT IN an available long-term safe house pursuant to subdivision four of this section, authorize the office to do one of the following:

S 6. Subdivision 4 of section 353.3 of the family court act, as amended by section 6 of part G of chapter 58 of the laws of 2010, is amended to read as follows:

4. Where the respondent is placed with the office of children and family services, AND IF THE COURT FINDS THAT THE RESPONDENT IS A SEXUALLY EXPLOITED CHILD AS DEFINED IN SUBDIVISION ONE OF SECTION FOUR HUNDRED FORTY-SEVEN-A OF THE SOCIAL SERVICES LAW, the court may direct the office to place the respondent [with an authorized agency or class of authorized agencies, including, if the court finds that the respondent is a sexually exploited child as defined in subdivision one of section four hundred forty-seven-a of the social services law,] IN an available long-term safe house, and in the event the office is unable to so place the respondent [or, discontinues the placement with the authorized agency], the respondent shall be deemed to have been placed with the office pursuant to paragraph (b) or (c) of subdivision three of this section. [In such cases, the office shall notify the court, presentment agency, respondent's attorney and parent or other person responsible for the respondent's care, of the reason for discontinuing the placement with the authorized agency and the level and location of the youth's placement.]

S 7. Subdivisions 1 and 2 of section 355.4 of the family court act, as added by chapter 479 of the laws of 1992, are amended to read as follows:

1. At the conclusion of the dispositional hearing pursuant to this article, where the respondent is to be placed with the [division for youth] OFFICE OF CHILDREN AND FAMILY SERVICES OR A SOCIAL SERVICES DISTRICT, the court shall inquire as to whether the parents or legal guardian of the youth, if present, will consent for the [division] OFFICE OR THE DISTRICT to provide routine medical, dental and mental health services and treatment.

2. Notwithstanding subdivision one of this section, where the court places a youth with the [division] OFFICE OF CHILDREN AND FAMILY SERVICES OR A SOCIAL SERVICES DISTRICT pursuant to this article and no medical consent has been obtained prior to an order of disposition, the placement order shall be deemed to grant consent for the [division for youth] OFFICE OR THE DISTRICT to provide for routine medical, dental and mental health services and treatment to such youth so placed.

S 8. This act shall take effect April 1, 2012; provided, however, that effective immediately, the addition, amendment and/or repeal of any rule or regulation necessary for the implementation of this act on its effective date are authorized and directed to be made and completed on or before such effective date.

S 3. Severability clause. If any clause, sentence, paragraph, subdivision, section or part of this act shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair, or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, subdivision, section or part thereof directly involved in the controversy in which such judgment shall have been rendered. It is hereby declared to be the intent of

the legislature that this act would have been enacted even if such invalid provisions had not been included herein.

S 4. This act shall take effect immediately; provided, however, that the applicable effective date of subparts A and B of this act shall be as specifically set forth in the last section of such subparts.

PART H

Section 1. Paragraph (a) of subdivision 1 of section 1 of part U of chapter 57 of the laws of 2005 amending the labor law and other laws implementing the state fiscal plan for the 2005-2006 state fiscal year, relating to the New York state higher education capital matching grant program for independent colleges, as amended by section 1 of part I of chapter 60 of the laws of 2011, is amended to read as follows:

(a) The New York state higher education capital matching grant board is hereby created to have and exercise the powers, duties and prerogatives provided by the provisions of this section and any other provision of law. The board shall remain in existence during the period of the New York state higher education capital matching grant program from the effective date of this section through March 31, [2012] 2013, or the date on which the last of the funds available for grants under this section shall have been disbursed, whichever is earlier; provided, however, that the termination of the existence of the board shall not affect the power and authority of the dormitory authority to perform its obligations with respect to any bonds, notes, or other indebtedness issued or incurred pursuant to authority granted in this section.

S 2. Paragraph (h) of subdivision 4 of section 1 of part U of chapter 57 of the laws of 2005 amending the labor law and other laws implementing the state fiscal plan for the 2005-2006 state fiscal year, relating to the New York state higher education matching grant program for independent colleges, as amended by section 2 of part M of chapter 59 of the laws of 2010, is amended to read as follows:

(h) If a college did not apply for a potential grant by March 31, 2009, funds associated with such potential grant shall be awarded, on a competitive basis, to other colleges, according to the priorities set forth below. Colleges shall be eligible to apply for unutilized grants. In such cases, the following priorities shall apply: first, priority shall be given to otherwise eligible colleges that either were, or would have been, deemed ineligible for the program prior to March 31, 2009, due to missed deadlines, insufficient matching funds, lack of accreditation or other disqualifying reasons; and second, after the board has acted upon all such first-priority applications for unused funds, if any such funds remain, those funds shall be available for distribution to eligible colleges that are located within the same Regents of the State of New York region for which such funds were originally allocated. The dormitory authority shall develop a request for proposals and application process, in consultation with the board, for such grants and shall develop criteria, subject to review by the board, for the awarding of such grants. Such criteria shall incorporate the matching criteria contained in paragraph (c) of this subdivision, and the application criteria set forth in paragraph (e) of this subdivision. The dormitory authority shall require all applications in response to the request for proposals to be submitted by September 1, [2010] 2012, and the board shall act on each application for such matching grants by November 1, [2010] 2012.

S 3. Subclause (A) of clause (ii) of paragraph (j) of subdivision 4 of section 1 of part U of chapter 57 of the laws of 2005 amending the labor law and other laws implementing the state fiscal plan for the 2005-2006 state fiscal year, relating to the New York state higher education matching grant program for independent colleges, as amended by section 2 of part I of chapter 60 of the laws of 2011, is amended to read as follows:

(A) Notwithstanding the provision of any general or special law to the contrary, and subject to the provisions of chapter 59 of the laws of 2000 and to the making of annual appropriations therefor by the legislature, in order to assist the dormitory authority in providing such higher education capital matching grants, the director of the budget is authorized in any state fiscal year commencing April 1, 2005 or any state fiscal year thereafter for a period ending on March 31, [2012] 2014, to enter into one or more service contracts, none of which shall exceed 30 years in duration, with the dormitory authority, upon such terms as the director of the budget and the dormitory authority agree.

S 4. Paragraph (b) of subdivision 7 of section 1 of part U of chapter 57 of the laws of 2005 amending the labor law and other laws implementing the state fiscal plan for the 2005-2006 state fiscal year, relating to the New York state higher education matching grant program for independent colleges, as amended by section 3 of part I of chapter 60 of the laws of 2011, is amended to read as follows:

(b) Any eligible institution receiving a grant pursuant to this article shall report to the dormitory authority no later than June 1, [2012] 2013, on the use of funding received and its programmatic and economic impact. The dormitory authority shall submit a report no later than November 1, [2012] 2013 to the board, the governor, the director of the budget, the temporary president of the senate, and the speaker of the assembly on the aggregate impact of the higher education capital matching grant program. Such report shall provide information on the progress and economic impact of such project.

S 5. This act shall take effect immediately and shall be deemed to have been in full force and effect on and after April 1, 2012.

PART I

Section 1. Section 5704 of the education law is amended to read as follows:

S 5704. Trustees shall make reports; university subject to visitation of regents; SERVICES FOR STATE AGENCIES. 1. The trustees of said university shall make all the reports and perform such other acts as may be necessary to conform to the act of congress, entitled "An act donating public lands to the several states and territories which may provide colleges for the benefit of agriculture and the mechanic arts," approved July second, eighteen hundred sixty-two. The said university shall be subject to visitation of the regents of the university.

2. NOTWITHSTANDING ANY OTHER PROVISION OF LAW TO THE CONTRARY, AND SUBJECT TO THE REVIEW OF THE STATE COMPTROLLER, THE STATE MAY ENTER INTO AN AGREEMENT WITH THE UNIVERSITY PRESCRIBING THE GENERAL TERMS AND CONDITIONS FOR PROVIDING SERVICES OR TECHNICAL ASSISTANCE PURSUANT TO ARTICLE ELEVEN OF THE STATE FINANCE LAW OR PROGRAM ACTIVITIES PURSUANT TO ARTICLE ELEVEN-B OF THE STATE FINANCE LAW. SUBJECT TO SUCH TERMS AND CONDITIONS, STATE AGENCIES MAY ENTER INTO AGREEMENTS WITH SAID UNIVERSITY FOR THE PROVISION OF SUCH SERVICES, ASSISTANCE OR ACTIVITIES RELATED

TO THE UNIVERSITY'S LAND GRANT MISSION, WHICH AGREEMENTS SHALL NOT BE SUBJECT TO THE REQUIREMENTS OF THE STATE FINANCE LAW.

S 2. This act shall take effect immediately.

PART J

Section 1. Subdivision 4 of section 4410 of the education law, as added by chapter 243 of the laws of 1989, paragraph a as amended by chapter 705 of the laws of 1992, paragraph c as amended by chapter 474 of the laws of 1996 and paragraphs d and e as amended by chapter 520 of the laws of 1993, is amended to read as follows:

4. Evaluations. a. The board shall identify each preschool child suspected of having a [handicapping condition] DISABILITY who resides within the district and, upon referral to the committee shall, with the consent of the parent, provide for an evaluation related to the suspected disability of the child. The board shall make such identification in accordance with regulations of the commissioner.

b. Each board shall, within time limits established by the commissioner, be responsible for providing the parent of a preschool child suspected of having a [handicapping condition] DISABILITY with a list of approved evaluators in the geographic area. The parent may select the evaluator from such list. PROVIDED HOWEVER THAT, FOR THE TWO THOUSAND TWELVE -- TWO THOUSAND THIRTEEN SCHOOL YEAR AND THEREAFTER, A LESS-THAN-ARM'S-LENGTH RELATIONSHIP SHALL NOT EXIST BETWEEN THE EVALUATOR SELECTED BY THE PARENT FROM SUCH LIST AND THE PROVIDER RECOMMENDED BY THE BOARD TO DELIVER SERVICES TO THE PRESCHOOL CHILD WITH A DISABILITY, UNLESS APPROVAL OF THE COMMISSIONER IS OBTAINED OR FOR THE TWO THOUSAND TWELVE -- TWO THOUSAND THIRTEEN SCHOOL YEAR THE PRESCHOOL CHILD WAS ENROLLED IN SUCH PROGRAM IN THE PRIOR YEAR. PROVIDED FURTHER THAT, UNLESS AUTHORIZED BY THE COMMISSIONER UPON A FINDING THAT THE BOARD HAS DEMONSTRATED THAT THE PROGRAM OFFERED BY THE PROVIDER IS THE ONLY APPROPRIATE PROGRAM AVAILABLE TO PROVIDE THE PROGRAMS AND SERVICES RECOMMENDED IN THE CHILD'S INDIVIDUALIZED EDUCATION PROGRAM, THE EVALUATOR SELECTED BY THE PARENT FROM SUCH LIST AND THE PROVIDER RECOMMENDED BY THE BOARD TO DELIVER SERVICES TO SUCH PRESCHOOL CHILD WITH A DISABILITY SHALL NOT BE THE SAME ENTITY. Each board shall provide for dissemination of the list and other information to parents at appropriate sites including but not limited to pre-kindergarten, day care, head start programs and early childhood direction centers, pursuant to regulations of the commissioner.

c. The documentation of the evaluation shall include all assessment reports and a summary report of the findings of the evaluation on a form prescribed by the commissioner including a detailed statement of the preschool child's individual needs. The summary report shall not make reference to any specific provider of special services or programs. In addition, with the consent of the parents, approved evaluators THAT CONDUCT AN EVALUATION PURSUANT TO THIS SUBDIVISION and committees shall be provided with the most recent evaluation report for a child in transition from programs and services provided pursuant to title [two-a] TWO-A of article twenty-five of the public health law. Nothing shall prohibit an approved evaluator THAT CONDUCTS AN EVALUATION PURSUANT TO THIS SUBDIVISION or the committee from reviewing other assessments or evaluations to determine if such assessments or evaluations fulfill the requirements of the regulations of the commissioner. Notwithstanding any inconsistent provisions of this section, the committee, in its discretion, may obtain an evaluation of the child from another approved

evaluator prior to making any recommendation that would place a child in the approved program that conducted the initial evaluation of the child.

d. The approved evaluator shall, following completion of the evaluation, transmit the documentation of the evaluation to all members of the committee and to a person designated by the municipality in which the preschool child resides. Each municipality shall notify the [approved evaluators in the geographic area] COMMITTEE of the person so designated. The summary report of the evaluation shall be transmitted in English and when necessary, also in the dominant language or other mode of communication of the parent; the documentation of the evaluation shall be transmitted in English and, upon the request of the parent, also in the dominant language or other mode of communication of the parent, unless not clearly feasible to do so pursuant to regulations promulgated by the commissioner. Costs of translating the summary report and documentation of the evaluation shall be separately reimbursed. If, based on the evaluation, the committee finds that a child has a [handicapping condition] DISABILITY, the committee shall use the documentation of the evaluation to develop an individualized education program for the preschool child. Nothing herein shall prohibit an approved evaluator from at any time providing the parent with a copy of the documentation of the evaluation provided to the committee.

e. Prior to the committee meeting at which eligibility will be determined, the committee shall provide the parent with a copy of the summary report of the findings of the evaluation, and shall provide the parent with written notice of the opportunity to address the committee in person or in writing. Upon timely request of the parent, the committee shall, prior to meeting, provide a copy of all written documentation to be considered by the committee; provided, however, that such material shall be provided to the parent at any time upon request.

f. If the parent disagrees with the evaluation, the parent may obtain an additional evaluation at public expense to the extent authorized by federal law or regulation.

S 2. Subparagraph (i) of paragraph b of subdivision 5 of section 4410 of the education law, as amended by chapter 474 of the laws of 1996, is amended to read as follows:

(i) If the committee determines that the child has a disability, the committee shall recommend approved appropriate services or special programs and the frequency, duration and intensity of such services, including but not limited to the appropriateness of single services or half-day programs based on the individual needs of the preschool child. The committee shall first consider the appropriateness of providing: (i) related services only; (ii) special education itinerant services only; (iii) related services in combination with special education itinerant services; (iv) a half-day program, as defined in the regulations of the commissioner; (v) a full day program; in meeting the child's needs. If the committee determines that the child demonstrates the need for a single related service, such service shall be provided as a related service only or, where appropriate, as a special education itinerant service. Prior to recommending the provision of special education services in a setting which includes only preschool children with disabilities, the committee shall first consider providing special education services in a setting which includes age-appropriate peers without disabilities. Provision of special education services in a setting with no regular contact with such age-appropriate peers shall be considered only when the nature or severity of the child's disability is such that education in a less restrictive environment with the use of supplementa-

ry aids and services cannot be achieved satisfactorily. IN ADDITION, PRIOR TO RECOMMENDING PLACEMENT OF A PRESCHOOL CHILD IN AN APPROVED PROGRAM, THE COMMITTEE SHALL DETERMINE WHETHER SUCH PLACEMENT IS AS CLOSE AS POSSIBLE TO THE CHILD'S HOME AND, IN MAKING SUCH DETERMINATION, SHALL CONSIDER WHETHER ANOTHER APPROPRIATE APPROVED PROGRAM LOCATED CLOSER TO THE CHILD'S HOME IS AVAILABLE. The committee's recommendation shall include a statement of the reasons why less restrictive placements were not recommended, INCLUDING, WHERE THE COMMITTEE RECOMMENDS PLACEMENT IN AN APPROVED PROGRAM THAT IS MORE DISTANT FROM THE CHILD'S HOME THAN ANOTHER APPROVED PROGRAM OFFERING COMPARABLE SERVICES APPROPRIATE TO THE NEEDS OF THE PRESCHOOL CHILD, AN EXPLANATION OF WHY THE MORE DISTANT PROGRAM WAS RECOMMENDED. The committee may recommend placement in a program that uses psychotropic drugs only if the program has a written policy pertaining to such use and the parent is given a copy of such written policy at the time such recommendation is made.

S 3. Paragraph b of subdivision 11 of section 4410 of the education law, as amended by chapter 170 of the laws of 1994, subparagraph (ii) as amended by section 54 of part C of chapter 57 of the laws of 2004, subparagraph (iii) as amended by chapter 205 of the laws of 2009, clause (b) of subparagraph (iii) as amended by section 63 of part A of chapter 58 of the laws of 2011, subparagraphs (iv) and (v) as added by chapter 474 of the laws of 1996 and subparagraph (vi) as added by section 1 of part Q1 of chapter 109 of the laws of 2006, is amended to read as follows:

b. (i) Commencing with the reimbursement of municipalities for services provided pursuant to this section on or after July first, nineteen hundred ninety-three, AND EXCEPT AS OTHERWISE PROVIDED IN THIS SUBPARAGRAPH, the state shall reimburse fifty-nine and [one half] ONE-HALF percent of the approved costs paid by a municipality for the purposes of this section. Commencing with the reimbursement of municipalities [for services provided pursuant to this section on or after July first, nineteen hundred ninety-four, the state shall reimburse sixty-nine and one-half percent of the approved costs paid by a municipality for the purposes of this section. The state shall reimburse fifty percent of the approved costs paid by a municipality for the purposes of this section for services provided prior to July first, nineteen hundred ninety-three] OTHER THAN THE CITY OF NEW YORK FOR SERVICES PROVIDED PURSUANT TO THIS SECTION ON OR AFTER JULY FIRST, TWO THOUSAND TWELVE, THE STATE SHALL REIMBURSE FIFTY-NINE AND ONE-HALF PERCENT OF THE APPROVED COSTS PAID BY A MUNICIPALITY OTHER THAN THE CITY OF NEW YORK FOR THE PURPOSES OF THIS SECTION, UP TO THE LOCAL SHARE CEILING AMOUNT ESTABLISHED PURSUANT TO SUBPARAGRAPH (II) OF THIS PARAGRAPH AND SIXTY-SIX AND SIX TENTHS PERCENT OF SUCH APPROVED COSTS FOR SERVICES PROVIDED ON OR AFTER JULY FIRST, TWO THOUSAND TWELVE IN EXCESS OF SUCH LOCAL SHARE CEILING AMOUNT. Such state reimbursement to the municipality shall BE NET OF ANY DEDUCTIONS PURSUANT TO SUBPARAGRAPH (IV) OF THIS PARAGRAPH AND SHALL not be paid prior to April first of the school year in which such approved costs are paid by the municipality.

(ii) NOTWITHSTANDING ANY OTHER PROVISION OF LAW TO THE CONTRARY, THE COMMISSIONER, SUBJECT TO THE APPROVAL OF THE DIRECTOR OF THE BUDGET, SHALL COMPUTE AND ESTABLISH A LOCAL SHARE CEILING AMOUNT FOR CLAIMS BY MUNICIPALITIES OTHER THAN THE CITY OF NEW YORK OF THE APPROVED COSTS SUBJECT TO STATE REIMBURSEMENT FOR SERVICES PROVIDED PURSUANT TO THIS SECTION IN EACH SCHOOL YEAR STARTING WITH THE TWO THOUSAND TWELVE--TWO THOUSAND THIRTEEN SCHOOL YEAR. FOR PURPOSES OF THIS PARAGRAPH, THE "LOCAL SHARE CEILING AMOUNT" MEANS THE SUM OF THE SCHOOL DISTRICT SHARE

BASE FOR EACH SCHOOL DISTRICT OF RESIDENCE OF PRESCHOOL CHILDREN WHO RESIDE WITHIN THE MUNICIPALITY, AND FOR A PRESCHOOL CHILD WHO IS HOMELESS OR A FOSTER CARE CHILD IN EACH SCHOOL DISTRICT OF LOCATION AS DEFINED IN SECTION FORTY-FOUR HUNDRED TEN-A OF THIS ARTICLE. THE "SCHOOL DISTRICT SHARE BASE" MEANS THE PRODUCT OF: (A) FORTY AND ONE-HALF PERCENT AND (B) THE APPROVED COSTS INCURRED PURSUANT TO THIS SECTION IN THE TWO THOUSAND ELEVEN--TWO THOUSAND TWELVE SCHOOL YEAR ATTRIBUTABLE TO SUCH SCHOOL DISTRICT OF RESIDENCE OR SCHOOL DISTRICT OF CURRENT LOCATION, AS APPLICABLE. THIRTY-THREE AND ONE THIRD PERCENT OF APPROVED COSTS ATTRIBUTABLE TO A SPECIFIC SCHOOL DISTRICT IN EXCESS OF THE SCHOOL DISTRICT SHARE BASE SHALL BE A CHARGE UPON THE SCHOOL DISTRICT. THE COMMISSIONER SHALL DEDUCT AN AMOUNT EQUAL TO SUCH UNPAID OBLIGATION FROM ANY GENERAL AID FOR PUBLIC SCHOOLS PAYMENTS WHICH BECOME DUE TO SUCH SCHOOL DISTRICT PURSUANT TO SECTION THIRTY-SIX HUNDRED NINE-A OF THIS CHAPTER, EXCLUDING PAYMENTS PURSUANT TO CLAUSE (III) OF SUBPARAGRAPH THREE OF PARAGRAPH B OF SUBDIVISION ONE OF SUCH SECTION THIRTY-SIX HUNDRED NINE-A. WHERE SUCH SCHOOL DISTRICT IS NOT ELIGIBLE FOR PAYMENTS PURSUANT TO SUCH SECTION THIRTY-SIX HUNDRED NINE-A, OR THE AMOUNT OF SUCH UNPAID OBLIGATIONS EXCEEDS THE AMOUNT DUE TO SUCH SCHOOL DISTRICT PURSUANT TO SUCH SECTION THIRTY-SIX HUNDRED NINE-A IN THE CURRENT SCHOOL YEAR, THE COMMISSIONER SHALL BILL AND RECOVER FROM SUCH SCHOOL DISTRICT ANY EXCESS UNPAID OBLIGATION AND THE AMOUNT RECOVERED FROM SUCH SCHOOL DISTRICT SHALL BE CREDITED TO THE APPROPRIATION FOR PURPOSES OF THIS SECTION IN THE LOCAL ASSISTANCE ACCOUNT OF THE DEPARTMENT. PROVIDED HOWEVER, THAT NO SUCH DEDUCTION OR RECOVERY SHALL BE MADE PRIOR TO JULY FIRST, TWO THOUSAND THIRTEEN AND THE AMOUNT SO DEDUCTED FROM PAYMENTS PURSUANT TO SUCH SECTION THIRTY-SIX HUNDRED NINE-A SHALL BE TRANSFERRED TO THE APPROPRIATION MADE FOR PURPOSES OF THIS SECTION FROM GENERAL SUPPORT FROM PUBLIC SCHOOLS APPROPRIATION.

(III) In accordance with a schedule adopted by the commissioner, each municipality which has been notified by a board of its obligation to contract for the provision of approved special services or programs for a preschool child shall be provided with a listing of all such children by the commissioner. Such list shall include approved services and costs as prescribed by the commissioner for each such child for whom the municipality shall certify, on such list, the amount expended for such purposes and the date of expenditure. Upon the receipt of such certified statement, the commissioner shall examine the same, and if such expenditures were made as required by this section, the commissioner shall approve it and transmit it to the comptroller for audit. The comptroller shall thereupon issue his warrant, in the amount specified in such approved statement for the payment thereof out of moneys appropriated therefor, to the municipal treasurer or chief fiscal officer as the case may be.

[(iii)] (IV) (a) Notwithstanding the provisions of this paragraph, any monies due municipalities pursuant to this paragraph for services provided during the two thousand eight--two thousand nine and prior school years shall be reduced by an amount equal to the product of the percentage of the approved costs reimbursed by the state pursuant to subparagraph (i) of this paragraph and any federal participation, pursuant to title XIX of the social security act, in special education programs provided pursuant to this section. The commissioner shall deduct such amount, as certified by the commissioner of health as the authorized fiscal agent of the state education department. Such deductions shall be made in accordance with a plan developed by the commissioner and approved by the director of the budget. To the extent

that such deductions exceed moneys owed to the municipality pursuant to this paragraph, such excess shall be deducted from any other payments due the municipality.

(b) Any moneys due municipalities pursuant to this paragraph for services provided during the two thousand nine--two thousand ten school year and thereafter, or for services provided in a prior school year that were not reimbursed by the state on or before April first, two thousand eleven, shall, in the first instance, be designated as the state share of moneys due a municipality pursuant to title XIX of the social security act, on account of school supportive health services provided to preschool students with disabilities pursuant to this section. Such state share shall be assigned on behalf of municipalities to the department of health, as provided herein; the amount designated as such nonfederal share shall be transferred by the commissioner to the department of health based on the monthly report of the commissioner of health to the commissioner; and any remaining moneys to be apportioned to a municipality pursuant to this section shall be paid in accordance with this section. The amount to be assigned to the department of health, as determined by the commissioner of health, for any municipality shall not exceed the federal share of any moneys due such municipality pursuant to title XIX of the social security act. Moneys designated as state share moneys shall be paid to such municipality by the department of health based on the submission and approval of claims related to such school supportive health services, in the manner provided by law.

[(iv)] (V) Notwithstanding any other provision of law to the contrary, no payments shall be made by the commissioner pursuant to this section on or after July first, nineteen hundred ninety-six based on a claim for services provided during school years nineteen hundred eighty-nine--ninety, nineteen hundred ninety--ninety-one, nineteen hundred ninety-one-ninety-two, nineteen hundred ninety-two--ninety-three, nineteen hundred ninety-three--ninety-four, and nineteen hundred ninety-four--ninety-five which is submitted later than two years after the end of the nineteen hundred ninety-five--ninety-six school year; provided, however, that no payment shall be barred or reduced where such payment is required as a result of a court order or judgment or a final audit, and provided further that the commissioner may grant a waiver to a municipality excusing the late filing of such a claim upon a finding that the delay was caused by a party other than the municipality or a board to which the municipality delegated authority pursuant to paragraph f of subdivision five or subdivision eight of this section.

[(v)] (VI) Notwithstanding any other provision of law to the contrary, no payments shall be made by the commissioner pursuant to this section on or after July first, nineteen hundred ninety-six based on a claim for services provided in the nineteen hundred ninety-five--ninety-six school year or thereafter which is submitted later than three years after the end of the school year in which services were rendered, provided, however, that no payment shall be barred or reduced where such payment is required as a result of a court order or judgment or a final audit, and provided further that the commissioner may grant a waiver to a municipality excusing the late filing of such a claim upon a finding that the delay was caused by a party other than the municipality or a board to which the municipality delegates authority pursuant to paragraph f of subdivision five or subdivision eight of this section.

[(vi)] (VII) Notwithstanding any other provision of law to the contrary, beginning with state reimbursement otherwise payable in the two

thousand six--two thousand seven state fiscal year and in each year thereafter, payments pursuant to this section, subject to county agreement and in the amounts specified in such agreement, shall be paid no later than June thirtieth of the state fiscal year next following the state fiscal year in which such reimbursement was otherwise eligible for payment and in which the liability to the county for such state reimbursement accrued, provided that such payments in a subsequent state fiscal year shall be recognized by the state and the applicable county as satisfying the state reimbursement obligation for the prior state fiscal year. Any unspent amount associated with such county agreements shall not be available for payments to other counties or municipalities.

S 4. This act shall take effect July 1, 2012.

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

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