§ 4405. Computing financial responsibility for special educational services for certain children with disabilities. 1. Maintenance for children with disabilities in residential schools under the provisions of this article or state schools under the provisions of articles eighty-seven and eighty-eight of this chapter.

a. Maintenance for a student with a disability placed in a residential school under the provisions of this article shall be a charge upon the social services district wherein such child resides at the time of the commencement of the school year for which aid is to be paid. Financial responsibility for the maintenance of a student with a disability placed in a state school under the provisions of articles eighty-seven and eighty-eight of this chapter shall be in accordance with the provisions of such articles.

c. Expenditures made by a social services district for the maintenance of a child with a disability placed in a residential school under the provisions of this article, including a child with a disability placed by a school district committee on special education pursuant to this article in a special act school district, or a state school subject to the provisions of articles eighty-seven and eighty-eight of this chapter, shall be subject to reimbursement by the child's school district of residence pursuant to the provisions of subdivision ten of section one hundred fifty-three of the social services law. The amount of such reimbursement shall be a charge upon such school district of residence.

2. Transportation expense. The transportation expense of each child with a disability shall be aidable in accordance with subdivision seven of section thirty-six hundred two of this chapter; provided, however, that for the school year commencing July first, nineteen hundred seventy-six, school districts shall be apportioned ninety per centum of the estimated amount of its approved costs of such year for the transportation of children with disabilities whose transportation was formerly provided under a family court order and is now a charge upon the school district, subject to the adjustment of any errors after the actual costs are ascertained.

3. Computing state financial responsibility for operating expenses for certain children with disabilities.

a. In addition to any other apportionments under the provisions of this chapter, there shall be apportioned to each applicable school district for each child with a disability in attendance in a state school under the provisions of paragraph d of subdivision two of section forty-four hundred one of this article or an approved program under the provisions of paragraphs e, f, g, h, i and l of such subdivision two, the product of such attendance, computed in accordance with regulations of the commissioner, and the excess cost aid: an amount computed by multiplying the excess cost, as defined in subdivision six of section forty-four hundred one of this article by the excess cost aid ratio defined in subdivision seven of this section.

b. In addition to the apportionment provided to a school district pursuant to paragraph a of this subdivision for the attendance of a child with a disability in a state school under the provisions of paragraph d of subdivision two of section forty-four hundred one of this article, for each such child in attendance in such school prior to July first, nineteen hundred ninety, there shall be apportioned an additional amount. Such amount shall equal the product of the taper aidable cost multiplied by the taper aid ratio. The taper aidable cost shall equal the positive remainder resulting when (i) the apportionment attributable to such child pursuant to paragraph a of this subdivision is subtracted from (ii) the product of such child's attendance and the tuition for the state school such child attends. The taper aid ratio shall equal the quotient, computed to three decimals without rounding, resulting when the positive remainder of one minus the combined wealth ratio, as defined in subdivision three of section thirty-six hundred two of this chapter is divided by seventy-five one-hundredths. Such aid ratio shall not be less than zero nor more than one.

c. The apportionments to each school district pursuant to this subdivision shall be based on excess cost paid and attendance during the base year.

d. Notwithstanding sections thirty-six hundred seven and thirty-six hundred nine-a of this chapter, apportionments pursuant to this subdivision shall be paid to school districts upon submission of reports of attendance and approved tuition expenditures filed in a format prescribed by the commissioner and shall be paid from the annual apportionment of public moneys for the support of public schools in accordance with section thirty-six hundred nine-b of this chapter.

4. a. The commissioner of education and the commissioner of social services shall develop reimbursement methodologies for the tuition and maintenance components of approved private schools and special act school districts. The commissioner of education, in consultation with the appropriate state agencies and departments, shall have responsibility for developing a reimbursement methodology for tuition which shall be based upon appropriate educational standards promulgated pursuant to regulations of the commissioner of education. The commissioner of social services, in consultation with appropriate state agencies and departments, shall have responsibility for developing a reimbursement methodology for maintenance, pursuant to section three hundred ninety-eight-a of the social services law and the regulations promulgated thereunder.

b. The commissioner of education shall develop reimbursement methodologies for the tuition components and, in consultation with the commissioner of social services, the maintenance components of the New York state school for the blind and the New York state school for the deaf based upon appropriate standards promulgated pursuant to regulations of the commissioner of education.

c. The director of the budget, in consultation with the commissioner of education, the commissioner of social services, and any other state agency or other source the director may deem appropriate, shall approve reimbursement methodologies for tuition and for maintenance. Any modification in the approved reimbursement methodologies shall be subject to the approval of the director of the budget. Notwithstanding any other provision of law, rule or regulation to the contrary, tuition

rates established for the nineteen hundred ninety-five--ninety-six school year shall exclude the two percent cost of living adjustment authorized in rates established for the nineteen hundred ninety-four--ninety-five school year.

d. Effective upon final approval by the director of the budget of the reimbursement methodologies for both tuition and maintenance, the commissioner of education shall annually determine a tuition rate in conformance with this paragraph for each private school and special act school district.

e. Effective upon final approval by the director of the budget of the reimbursement methodologies for both tuition and maintenance, the commissioner of social services shall annually determine a maintenance rate and a medical services rate, in accordance with this paragraph, for each private school and special act school district where applicable.

f. Effective upon final approval by the director of the budget of the reimbursement methodologies for both tuition and maintenance, the commissioner of education shall annually determine a tuition rate and, in consultation with the commissioner of social services, a maintenance rate and a medical services rate, if applicable, in conformance with this subdivision for the New York state school for the blind and the New York state school for the deaf.

g. All reimbursement rates determined pursuant to this subdivision shall be effective for the period July first through June thirtieth. Rates for the following year shall be submitted no later than April fifteenth to the director of the budget. The director shall act upon such rates within forty-five days of submission. Such rates shall not become effective until approved by the director of the budget. In the event that the rates are approved after July first, then such rates shall be deemed to apply retroactively to such date.

h. All reimbursements shall be subject to adjustment and final determination upon field audit conducted by the education department, the department of social services, the state comptroller or any agent

thereof.

i. The commissioner of education, the commissioner of social services and the director of the budget, in consultation with other appropriate state agencies and departments, shall enter into an interagency agreement to assure effective implementation of the provisions of this paragraph. The agreement shall provide for, but not be limited to, the development of common accounting practices and audit procedures, common information and budget forms, coordinated financial and other reporting requirements for private schools and special act school districts, mechanisms for resolving appeals of rates established pursuant to this section, and mechanisms to evaluate and recommend modification to reimbursement methodologies.

j. (i) If the board of education of a special act school district listed in chapter five hundred sixty-six of the laws of nineteen hundred sixty-seven, as amended, seeks to close a special act school district, the board of education of the special act school district shall provide written notice to the commissioner with a plan for closure of the school at least ninety days prior to the closing date. Such plan shall include provision for the safe and orderly transfer of each student with a disability who was publicly placed in the program and a detailed and itemized list of estimated expenses necessary to close down the school and a detailed and itemized list of any estimated revenues to be received.

(ii) During the close-down period and until all necessary financial obligations of the school district have been met pursuant to this paragraph, the commissioner shall require the board of education of the school district to periodically submit, as required by the commissioner, financial reports and financial statements, detailing any tuition, and/or close-down costs and any revenues generated. In applying the reimbursement methodology to any remaining tuition costs and any other reasonable and appropriate expenses needed to close-down the special act school district, the commissioner shall reject any close-down costs that are unnecessary or unreasonable to close-down the school, whether or not the board of education submits a close-down plan.

k. (i) The tuition methodology established pursuant to this subdivision for the two thousand twenty-one--two thousand twenty-two school year shall authorize approved private residential or non-residential schools for the education of students with disabilities that are located within the state, and special act school districts to retain funds in excess of their allowable and reimbursable costs incurred for services and programs provided to school-age students. The amount of funds that may be annually retained shall not exceed one percent of the school's or school district's total allowable and reimbursable costs for services and programs provided to school-age students for the school year from which the funds are to be retained; provided that the total accumulated balance that may be retained shall not exceed four percent of such total costs for such school year; and provided further that such funds shall not be recoverable on reconciliation of tuition rates, and shall be separate from and in addition to any other authorization to retain surplus funds on reconciliation.

(ii) The tuition methodology established pursuant to this subdivision for the two thousand twenty-two--two thousand twenty-three school year and annually thereafter shall authorize approved providers to retain funds in excess of their allowable and reimbursable costs incurred for services and programs provided to school-age and preschool students. The amount of funds that may be annually retained shall not exceed the allowable surplus percentage of the approved provider's total allowable and reimbursable costs for services and programs provided to school-age and preschool students for the school year from which the funds are to be retained, as defined in subparagraph (iii) of this paragraph; provided that such funds shall not be recoverable on reconciliation of tuition rates and provided further that any interest earned or investments realized on such funds shall supplement and not supplant any funds provided by the tuition methodology once retained. For purposes of this subparagraph, "approved providers" shall mean private residential or non-residential schools for the education of students with disabilities that are located within the state, special act school districts, and programs approved pursuant to section forty-four hundred ten of this article that are subject to tuition rate reconciliation.

(iii) The approved surplus percentage shall be as follows: eleven

percent for the two thousand twenty-two--two thousand twenty-three through two thousand twenty-four--two thousand twenty-five school years, eight percent for the two thousand twenty-five--two thousand twenty-six school year, five percent for the two thousand twenty-six--two thousand twenty-seven school year, and two percent for the two thousand twenty-seven--two thousand twenty-eight school year and annually thereafter.

(iv) Funds authorized to be retained under this paragraph may be expended only pursuant to an authorization of the governing board of the school, school district or program approved pursuant to section forty-four hundred ten of this article, for a purpose expressly authorized as part of the approved tuition methodology for the year in which the funds are to be expended, provided that funds may be expended to pay prior year outstanding debts. Any school, school district, or program approved pursuant to section forty-four hundred ten of this article that retains funds pursuant to this paragraph shall be required to annually report a statement of the total balance of any such retained funds, the amount, if any, retained in the prior school year, the amount, if any, dispersed in the prior school year, and any additional information requested by the department as part of the financial reports that are required to be annually submitted to the department.

5. The commissioner shall annually determine the tuition rate and the commissioner of social services shall annually determine the maintenance rate for special services or programs provided during the months of July and August for children with disabilities entitled to attend public schools without the payment of tuition pursuant to section thirty-two hundred two of this chapter. The commissioner of education shall annually determine the tuition rate, maintenance rate and the medical services rate, if applicable, for such children attending the New York state school for the blind or the New York state school for the deaf during the months of July and August. Such rates shall be determined in conformance with the reimbursement methodologies established pursuant to subdivision four of this section and shall be subject to the approval of the division of the budget. Rates shall be determined for all special services or programs as defined in section forty-four hundred one of this chapter and offered during July and August.

6. Tuition and maintenance rates established pursuant to this section, once certified by the director of the budget, shall be used in all contracts for the provision of programs and services for which such rates were established, provided, however, that the commissioner shall prorate the amount to be paid for an individual pupil enrolled for a period of time which is less than the full period of time approved for such program or services.