

2012-13 NEW YORK STATE EXECUTIVE BUDGET

**EDUCATION, LABOR AND FAMILY ASSISTANCE
ARTICLE VII LEGISLATION**

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Legislative Bill Drafting Commission
12672-01-2

S. -----
Senate

IN SENATE--Introduced by Sen

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

----- A.
Assembly

IN ASSEMBLY--Introduced by M. of A.

with M. of A. as co-sponsors

--read once and referred to the
Committee on

BUDGBI

(Enacts into law major components of
legislation which are necessary to
implement the education, labor and
family assistance budget)

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 excel-
lence, apportionment of school aid,
apportionment of school aid and of
current year approved expenditures
for debt service, calculation of the

IN SENATE

Senate introducer's signature

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

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

IN ASSEMBLY

Assembly introducer's signature

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

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

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

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

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 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 educa-

tion 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:

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

12 PART A

13 Section 1. Notwithstanding any inconsistent provision of law, no
14 school district shall be eligible for an apportionment of general
15 support for public schools from the funds appropriated for the 2012-13
16 school year and thereafter in excess of the amount apportioned to such
17 district for the same time period during the base year unless such
18 school district has submitted documentation that has been approved by
19 the commissioner of education by January 17, 2013 demonstrating that it
20 has fully implemented new standards and procedures for conducting annual
21 professional performance reviews of classroom teachers and building
22 principals to determine teacher and principal effectiveness; provided
23 however that if any such payments in excess of the amount apportioned to
24 such district for the same time period during the base year were made,
25 and the school district has not submitted documentation that it has
26 fully implemented new standards and procedures as set forth above by

1 January 17, 2013, the total amount of such payments shall be deducted by
2 the commissioner from future payments to the school district; and
3 provided further that, for the 2012-13 school year if such deduction is
4 greater than the sum of the amounts available for such deductions, the
5 remainder of the deduction shall be withheld from payments scheduled to
6 be made to the school district pursuant to section 3609-a of the educa-
7 tion law for the 2013-14 school year.

8 § 2. Paragraph e of subdivision 1 of section 211-d of the education
9 law, as amended by section 1 of part A of chapter 58 of the laws of
10 2011, is amended to read as follows:

11 e. Notwithstanding paragraphs a and b of this subdivision, a school
12 district that submitted a contract for excellence for the two thousand
13 eight--two thousand nine school year shall submit a contract for excel-
14 lence for the two thousand nine--two thousand ten school year in
15 conformity with the requirements of subparagraph (vi) of paragraph a of
16 subdivision two of this section unless all schools in the district are
17 identified as in good standing and provided further that, a school
18 district that submitted a contract for excellence for the two thousand
19 nine--two thousand ten school year, unless all schools in the district
20 are identified as in good standing, shall submit a contract for excel-
21 lence for the two thousand eleven--two thousand twelve school year which
22 shall, notwithstanding the requirements of subparagraph (vi) of para-
23 graph a of subdivision two of this section, provide for the expenditure
24 of an amount which shall be not less than the product of the amount
25 approved by the commissioner in the contract for excellence for the two
26 thousand nine--two thousand ten school year, multiplied by the
27 district's gap elimination adjustment percentage and provided further
28 that, a school district that submitted a contract for excellence for the

1 two thousand eleven--two thousand twelve school year, unless all schools
2 in the district are identified as in good standing, shall submit a
3 contract for excellence for the two thousand twelve--two thousand thir-
4 teen school year which shall, notwithstanding the requirements of
5 subparagraph (vi) of paragraph a of subdivision two of this section,
6 provide for the expenditure of an amount which shall be not less than
7 the amount approved by the commissioner in the contract for excellence
8 for the two thousand eleven--two thousand twelve school year. For
9 purposes of this paragraph, the "gap elimination adjustment percentage"
10 shall be calculated as the sum of one minus the quotient of the sum of
11 the school district's net gap elimination adjustment for two thousand
12 ten--two thousand eleven computed pursuant to chapter fifty-three of the
13 laws of two thousand ten, making appropriations for the support of
14 government, plus the school district's gap elimination adjustment for
15 two thousand eleven--two thousand twelve as computed pursuant to [a]
16 chapter fifty-three of the laws of two thousand eleven, making appropri-
17 ations for the support of the local assistance budget, including support
18 for general support for public schools, divided by the total aid for
19 adjustment computed pursuant to [a] chapter fifty-three of the laws of
20 two thousand eleven, making appropriations for the local assistance
21 budget, including support for general support for public schools.
22 Provided, further, that such amount shall be expended to support and
23 maintain allowable programs and activities approved in the two thousand
24 nine--two thousand ten school year or to support new or expanded allow-
25 able programs and activities in the current year.

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

1 1. The commissioner [of education] in the annual apportionment of
2 public moneys shall apportion therefrom to each county maintaining
3 approved vocational education and extension work, a quota amounting to
4 one-half of the salary paid each teacher, director, assistant, and
5 supervisor, where such salary is attributable to a course of study first
6 submitted to the commissioner for approval pursuant to section eleven
7 hundred three of this part on or before July first, two thousand ten,
8 but not to exceed the amount computed by the commissioner based upon an
9 assumed annualized salary equal to ten thousand five hundred dollars per
10 school year on account of the employment of such teacher, director,
11 assistant or supervisor.

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

14 3. For the apportionment payable pursuant to this section for school
15 years commencing prior to July first, two thousand nine, the commission-
16 er shall certify no payment to a vocational education and extension
17 board based on a claim submitted later than three years after the close
18 of the school year in which such payment was first to be made. For
19 claims for which payment is first to be made in the two thousand nine--
20 two thousand ten school year and thereafter, the commissioner shall
21 certify no payment to a vocational education and extension board based
22 on a claim submitted later than one year after the close of such school
23 year. Provided, however, no payments shall be barred or reduced where
24 such payment is required as a result of a final audit of the state.

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

1 dd. "Allowable growth amount" shall mean the product of the positive
2 difference of the personal income growth index minus one, multiplied by
3 the statewide total of the sum of (1) the apportionments, including the
4 gap elimination adjustment, due and owing during the base year, commenc-
5 ing with the base year computed for the two thousand twelve--two thou-
6 sand thirteen school year, to school districts and boards of cooperative
7 educational services from the general support for public schools as
8 computed based on an electronic data file used to produce the school aid
9 computer listing produced by the commissioner in support of the enacted
10 budget for the base year plus (2) the competitive awards amount for the
11 base year.

12 ee. "Competitive awards amount" shall mean, for two thousand twelve--
13 two thousand thirteen state fiscal year, fifty million dollars, and for
14 two thousand thirteen--two thousand fourteen and thereafter, [the prod-
15 uct of the personal income growth index multiplied by the base year
16 competitive awards amount] one hundred million dollars.

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

20 c. The gap elimination adjustment for the two thousand twelve--two
21 thousand thirteen school year and thereafter shall be equal to the gap
22 elimination adjustment for the base year, plus, in any year in which the
23 preliminary growth amount exceeds the allowable growth amount, the prod-
24 uct of the gap elimination adjustment percentage for such district and
25 the positive difference, if any, between the preliminary growth amount
26 less the allowable growth amount, as computed pursuant to subdivision
27 one of this section, and less the [product of the gap elimination
28 adjustment percentage for such district and the] gap elimination adjust-

1 ment restoration amount, if any, allocated pursuant to [subdivision
2 eighteen of] this section.

3 d. (i) The gap elimination restoration amount for the two thousand
4 twelve--two thousand thirteen school year for a school district shall
5 equal the greater of:

6 (A) the product of (1) the product of the extraordinary needs index
7 multiplied by two hundred fourteen dollars and fifty cents, computed to
8 two decimal places without rounding, multiplied by (2) the state sharing
9 ratio computed pursuant to paragraph g of subdivision three of this
10 section multiplied by (3) the public school district enrollment for the
11 base year, calculated pursuant to subparagraph two of paragraph n of
12 subdivision one of this section, where the extraordinary needs index
13 shall be the quotient of the extraordinary needs percent for the
14 district computed pursuant to paragraph w of subdivision one of this
15 section divided by the statewide average extraordinary needs percent; or

16 (B) for any district with a GEA/TGFE ratio greater than one, where the
17 GEA/TGFE ratio shall be the quotient of (1) the gap elimination adjust-
18 ment for the two thousand eleven--two thousand twelve school year for
19 the district divided by the total general fund expenditures of such
20 district in the base year, divided by (2) the statewide total gap elimi-
21 nation adjustment for the two thousand eleven--two thousand twelve
22 school year divided by total general fund expenditures in the base year,
23 the product of (a) the product of the GEA/TGFE ratio multiplied by nine-
24 ty dollars, computed to two decimal places without rounding, multiplied
25 by (b) the state sharing ratio computed pursuant to paragraph g of
26 subdivision three of this section multiplied by (c) the public school
27 district enrollment for the base year, calculated pursuant to subpara-
28 graph two of paragraph n of subdivision one of this section; or

1 (C) one percent of the gap elimination adjustment for the two thousand
2 eleven--two thousand twelve school year,

3 But shall be no greater than the product of twenty-five percent and
4 the gap elimination adjustment for the two thousand eleven--two thousand
5 twelve school year for the district.

6 (ii) The gap elimination restoration amount for the two thousand thir-
7 teen--two thousand fourteen school year and thereafter shall equal the
8 product of the gap elimination percentage for such district and the gap
9 elimination adjustment restoration allocation established pursuant to
10 subdivision eighteen of this section.

11 § 7. Paragraph c of subdivision 7 of section 3602 of the education
12 law, as amended by section 1 of part A-4 of chapter 58 of the laws of
13 2006, is amended to read as follows:

14 c. For the purposes of computing this apportionment for the two thou-
15 sand five--two thousand six school year and thereafter, approved trans-
16 portation capital, debt service, and lease expense shall be the amount
17 computed based upon an assumed amortization determined pursuant to para-
18 graph e of this subdivision for an expenditure incurred by a school
19 district and approved by the commissioner for those items of transporta-
20 tion capital, debt service and lease expense allowable under subdivision
21 two of section thirty-six hundred twenty-three-a of this article for:

22 (i) the regular aidable transportation of pupils, as such terms are
23 defined in sections thirty-six hundred twenty-one and thirty-six hundred
24 twenty-two-a of this article, (ii) the transportation of children with
25 disabilities pursuant to article eighty-nine of this chapter, and (iii)
26 the transportation of homeless children pursuant to paragraph c of
27 subdivision four of section thirty-two hundred nine of this chapter,
28 provided that the total approved cost of such transportation shall not

1 exceed the amount of the total cost of the most cost-effective mode of
2 transportation. Approvable expenses for the purchase of school buses on
3 or before June thirtieth, two thousand twelve shall be limited to the
4 actual purchase price, or the expense as if the bus were purchased under
5 state contract, whichever is less. If the commissioner determines that
6 no comparable bus was available under state contract at the time of
7 purchase, the approvable expenses shall be the actual purchase price or
8 the state wide median price of such bus in the most recent base year in
9 which such median price was established with an allowable year to year
10 CPI increase as defined in subdivision fourteen of section three hundred
11 five of this chapter; whichever is less. Such median shall be computed
12 by the commissioner for the purposes of this subdivision. Approvable
13 expenses for the purchase of vehicles for transporting students and for
14 equipment deemed a proper school district expense pursuant to paragraph
15 c of subdivision two of section thirty-six hundred twenty-three-a of
16 this article, after June thirtieth, two thousand twelve, shall be limit-
17 ed to the actual purchase price of any vehicle for transporting students
18 and/or equipment purchased under such centralized state contract,
19 provided, however that if the commissioner determines that the district
20 is unable to provide appropriate transportation with the vehicle for
21 transporting students and/or equipment available under such centralized
22 state contract, the approvable expenses shall be the actual purchase
23 price or the statewide median price of such vehicle for transporting
24 students in the most recent base year in which such median price was
25 established with an allowable year to year CPI increase as defined in
26 subdivision fourteen of section three hundred five of this chapter;
27 whichever is less.

1 § 8. Paragraphs a and b of subdivision 5 of section 3604 of the educa-
2 tion law, paragraph a as amended by chapter 161 of the laws of 2005 and
3 paragraph b as amended by section 59 of part A of chapter 436 of the
4 laws of 1997, are amended to read as follows:

5 a. State aid adjustments. All errors or omissions in the apportionment
6 shall be corrected by the commissioner. Whenever a school district has
7 been apportioned less money than that to which it is entitled, the
8 commissioner may allot to such district the balance to which it is enti-
9 tled. Whenever a school district has been apportioned more money than
10 that to which it is entitled, the commissioner may, by an order, direct
11 such moneys to be paid back to the state to be credited to the general
12 fund local assistance account for state aid to the schools, or may
13 deduct such amount from the next apportionment to be made to said
14 district, provided, however, that, upon notification of excess payments
15 of aid for which a recovery must be made by the state through deduction
16 of future aid payments, a school district may request that such excess
17 payments be recovered by deducting such excess payments from the
18 payments due to such school district and payable in the month of June in
19 (i) the school year in which such notification was received and (ii) the
20 two succeeding school years, provided further that there shall be no
21 interest penalty assessed against such district or collected by the
22 state. Such request shall be made to the commissioner in such form as
23 the commissioner shall prescribe, and shall be based on documentation
24 that the total amount to be recovered is in excess of one percent of the
25 district's total general fund expenditures for the preceding school
26 year. The amount to be deducted in the first year shall be the greater
27 of (i) the sum of the amount of such excess payments that is recognized
28 as a liability due to other governments by the district for the preced-

1 ing school year and the positive remainder of the district's unreserved
2 fund balance at the close of the preceding school year less the product
3 of the district's total general fund expenditures for the preceding
4 school year multiplied by five percent, or (ii) one-third of such excess
5 payments. The amount to be recovered in the second year shall equal the
6 lesser of the remaining amount of such excess payments to be recovered
7 or one-third of such excess payments, and the remaining amount of such
8 excess payments shall be recovered in the third year. Provided further
9 that, notwithstanding any other provisions of this subdivision, any
10 pending payment of moneys due to such district as a prior year adjust-
11 ment payable pursuant to paragraph c of this subdivision for aid claims
12 that had been previously paid as current year aid payments in excess of
13 the amount to which the district is entitled and for which recovery of
14 excess payments is to be made pursuant to this paragraph, shall be
15 reduced at the time of actual payment by any remaining unrecovered
16 balance of such excess payments, and the remaining scheduled deductions
17 of such excess payments pursuant to this paragraph shall be reduced by
18 the commissioner to reflect the amount so recovered. [The commissioner
19 shall certify no payment to a school district based on a claim submitted
20 later than three years after the close of the school year in which such
21 payment was first to be made. For claims for which payment is first to
22 be made in the nineteen hundred ninety-six--ninety-seven school year,
23 the commissioner shall certify no payment to a school district based on
24 a claim submitted later than two years after the close of such school
25 year.] For claims for which payment is first to be made [in the nineteen
26 hundred ninety-seven--ninety-eight] prior to the two thousand eleven--
27 two thousand twelve school year [and thereafter], the commissioner shall
28 certify no payment to a school district based on a claim submitted later

1 than one year after the close of such school year. [Provided, however,
2 no payments shall be barred or reduced where such payment is required as
3 a result of a final audit of the state. It is further provided that,
4 until June thirtieth, nineteen hundred ninety-six, the commissioner may
5 grant a waiver from the provisions of this section for any school
6 district if it is in the best educational interests of the district
7 pursuant to guidelines developed by the commissioner and approved by the
8 director of the budget.] Further provided that for any apportionments
9 provided pursuant to sections seven hundred one, seven hundred eleven,
10 seven hundred fifty-one, seven hundred fifty-three, thirty-six hundred
11 two, thirty-six hundred two-b, thirty-six hundred two-c, thirty-six
12 hundred two-e, and thirty-six hundred twelve of this chapter for the two
13 thousand twelve--two thousand thirteen and prior school years, the
14 commissioner shall certify no payment to a school district, other than
15 payments pursuant to subdivisions six-a, eleven, thirteen and fifteen of
16 section thirty-six hundred two of this part, in excess of the payment
17 computed based on an electronic data file used to produce the school aid
18 computer listing produced by the commissioner in support of the execu-
19 tive budget request submitted for the two thousand twelve--two thousand
20 thirteen state fiscal year and entitled "BT121-3", and further provided
21 that for any apportionments provided pursuant to sections seven hundred
22 one, seven hundred eleven, seven hundred fifty-one, seven hundred
23 fifty-three, thirty-six hundred two, thirty-six hundred two-b, thirty-
24 six hundred two-c, thirty-six hundred two-e, and thirty-six hundred
25 twelve of this chapter for the two thousand thirteen--two thousand four-
26 teen school year and thereafter, the commissioner shall certify no
27 payment to a school district, other than payments pursuant to subdivi-
28 sions six-a, eleven, thirteen and fifteen of section thirty-six hundred

1 two of this part, in excess of the payment computed based on an elec-
2 tronic data file used to produce the school aid computer listing
3 produced by the commissioner in support of the executive budget request
4 submitted for the state fiscal year in which the school year commences.

5 b. Claims resulting from court orders or judgments. [Any] For claims
6 for which payment is first to be made prior to the two thousand twelve-
7 -two thousand thirteen school year, any payment which would be due as
8 the result of a court order or judgment shall not be barred, provided
9 that, commencing January first, nineteen hundred ninety-six, such court
10 order or judgment and any other data required shall be filed with the
11 comptroller within one year from the date of the court order or judg-
12 ment, and provided further that the commissioner shall certify no
13 payment to a school district for a specific school year that is based on
14 a claim that results from a court order or judgement so filed with the
15 comptroller unless the total value of such claim, as determined by the
16 commissioner, is greater than one percent of the school district's total
17 revenues from state sources as previously recorded in the general fund
18 and reported to the comptroller in the annual financial report of the
19 school district for such school year.

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

23 For aid payable in the two thousand seven--two thousand eight school
24 year [and thereafter] through the two thousand eleven--two thousand
25 twelve school year, "moneys apportioned" shall mean the lesser of (i)
26 the sum of one hundred percent of the respective amount set forth for
27 each school district as payable pursuant to this section in the school
28 aid computer listing for the current year produced by the commissioner

1 in support of the budget which includes the appropriation for the gener-
2 al support for public schools for the prescribed payments and individ-
3 ualized payments due prior to April first for the current year plus the
4 apportionment payable during the current school year pursuant to subdi-
5 vision six-a and subdivision fifteen of section thirty-six hundred two
6 of this part minus any reductions to current year aids pursuant to
7 subdivision seven of section thirty-six hundred four of this part or any
8 deduction from apportionment payable pursuant to this chapter for
9 collection of a school district basic contribution as defined in subdi-
10 vision eight of section forty-four hundred one of this chapter, less any
11 grants provided pursuant to subparagraph two-a of paragraph b of subdi-
12 vision four of section ninety-two-c of the state finance law, less any
13 grants provided pursuant to subdivision twelve of section thirty-six
14 hundred forty-one of this article, or (ii) the apportionment calculated
15 by the commissioner based on data on file at the time the payment is
16 processed; provided however, that for the purposes of any payments made
17 pursuant to this section prior to the first business day of June of the
18 current year, moneys apportioned shall not include any aids payable
19 pursuant to subdivisions six and fourteen, if applicable, of section
20 thirty-six hundred two of this part as current year aid for debt service
21 on bond anticipation notes and/or bonds first issued in the current year
22 or any aids payable for full-day kindergarten for the current year
23 pursuant to subdivision nine of section thirty-six hundred two of this
24 part. The definitions of "base year" and "current year" as set forth in
25 subdivision one of section thirty-six hundred two of this part shall
26 apply to this section. For aid payable in the two thousand eleven--two
27 thousand twelve school year, reference to such "school aid computer
28 listing for the current year" shall mean the printouts entitled

1 "SA111-2". For aid payable in the two thousand twelve--two thousand
2 thirteen school year and thereafter, "moneys apportioned" shall mean the
3 lesser of: (i) the sum of one hundred percent of the respective amount
4 set forth for each school district as payable pursuant to this section
5 in the school aid computer listing for the current year produced by the
6 commissioner in support of the executive budget request which includes
7 the appropriation for the general support for public schools for the
8 prescribed payments and individualized payments due prior to April first
9 for the current year plus the apportionment payable during the current
10 school year pursuant to subdivisions six-a and fifteen of section thir-
11 ty-six hundred two of this part minus any reductions to current year
12 aids pursuant to subdivision seven of section thirty-six hundred four of
13 this part or any deduction from the apportionment payable pursuant to
14 this chapter for collection of a school district basic contribution as
15 defined in subdivision eight of section forty-four hundred one of this
16 chapter, less any grants provided pursuant to subparagraph two-a of
17 paragraph b of subdivision four of section ninety-two-c of the state
18 finance law, less any grants provided pursuant to subdivision twelve of
19 section thirty-six hundred forty-one of this article; or (ii) the appor-
20 tionment calculated by the commissioner based on data on file at the
21 time the payment is processed; provided however, that for the purposes
22 of any payments made pursuant to this section prior to the first busi-
23 ness day of June of the current year, moneys apportioned shall not
24 include any aids payable pursuant to subdivisions six and fourteen, if
25 applicable, of section thirty-six hundred two of this part as current
26 year aid for debt service on bond anticipation notes and/or bonds first
27 issued in the current year or any aids payable for full-day kindergarten
28 for the current year pursuant to subdivision nine of section thirty-six

1 hundred two of this part. The definitions of "base year" and "current
2 year" as set forth in subdivision one of section thirty-six hundred two
3 of this part shall apply to this section.

4 § 10. Paragraph b of subdivision 2 of section 3612 of the education
5 law, as amended by section 46 of part A of chapter 58 of the laws of
6 2011, is amended to read as follows:

7 b. Such grants shall be awarded to school districts, within the limits
8 of funds appropriated therefor, through a competitive process that takes
9 into consideration the magnitude of any shortage of teachers in the
10 school district, the number of teachers employed in the school district
11 who hold temporary licenses to teach in the public schools of the state,
12 the number of provisionally certified teachers, the fiscal capacity and
13 geographic sparsity of the district, the number of new teachers the
14 school district intends to hire in the coming school year and the number
15 of summer in the city student internships proposed by an eligible school
16 district, if applicable. Grants provided pursuant to this section shall
17 be used only for the purposes enumerated in this section. Notwithstand-
18 ing any other provision of law to the contrary, a city school district
19 in a city having a population of one million or more inhabitants receiv-
20 ing a grant pursuant to this section may use no more than eighty percent
21 of such grant funds for any recruitment, retention and certification
22 costs associated with transitional certification of teacher candidates
23 for the school years two thousand one--two thousand two through [two
24 thousand eleven--two thousand twelve] two thousand twelve--two thousand
25 thirteen.

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

1 c. The purchase of equipment deemed a proper school district expense,
2 provided, however that such purchase shall be subject to the approval of
3 the commissioner after June thirtieth, two thousand twelve, including:
4 (i) the purchase of two-way radios to be used on old and new school
5 buses, (ii) the purchase of stop-arms, to be used on old and new school
6 buses, (iii) the purchase and installation of seat safety belts on
7 school buses in accordance with the provisions of section thirty-six
8 hundred thirty-five-a of this article, (iv) the purchase of school bus
9 back up beepers, (v) the purchase of school bus front crossing arms,
10 (vi) the purchase of school bus safety sensor devices, (vii) the
11 purchase and installation of exterior reflective marking on school
12 buses, (viii) the purchase of automatic engine fire extinguishing
13 systems for school buses used to transport students who use wheelchairs
14 or other assistive mobility devices, and (ix) the purchase of other
15 equipment as prescribed in the regulations of the commissioner; and

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

19 6. Notwithstanding any other law, rule or regulation to the contrary,
20 the board of education of a city school district with a population of
21 one hundred twenty-five thousand or more inhabitants shall be permitted
22 to establish maximum class sizes for special classes for certain
23 students with disabilities in accordance with the provisions of this
24 subdivision. For the purpose of obtaining relief from any adverse fiscal
25 impact from under-utilization of special education resources due to low
26 student attendance in special education classes at the middle and
27 secondary level as determined by the commissioner, such boards of educa-
28 tion shall, during the school years nineteen hundred ninety-five--nine-

1 ty-six through June thirtieth, two thousand [twelve] thirteen of the
2 [two thousand eleven--two thousand twelve] two thousand twelve--two
3 thousand thirteen school year, be authorized to increase class sizes in
4 special classes containing students with disabilities whose age ranges
5 are equivalent to those of students in middle and secondary schools as
6 defined by the commissioner for purposes of this section by up to but
7 not to exceed one and two tenths times the applicable maximum class size
8 specified in regulations of the commissioner rounded up to the nearest
9 whole number, provided that in a city school district having a popu-
10 lation of one million or more, classes that have a maximum class size of
11 fifteen may be increased by no more than one student and provided that
12 the projected average class size shall not exceed the maximum specified
13 in the applicable regulation, provided that such authorization shall
14 terminate on June thirtieth, two thousand. Such authorization shall be
15 granted upon filing of a notice by such a board of education with the
16 commissioner stating the board's intention to increase such class sizes
17 and a certification that the board will conduct a study of attendance
18 problems at the secondary level and will implement a corrective action
19 plan to increase the rate of attendance of students in such classes to
20 at least the rate for students attending regular education classes in
21 secondary schools of the district. Such corrective action plan shall be
22 submitted for approval by the commissioner by a date during the school
23 year in which such board increases class sizes as provided pursuant to
24 this subdivision to be prescribed by the commissioner. Upon at least
25 thirty days notice to the board of education, after conclusion of the
26 school year in which such board increases class sizes as provided pursu-
27 ant to this subdivision, the commissioner shall be authorized to termi-

1 nate such authorization upon a finding that the board has failed to
2 develop or implement an approved corrective action plan.

3 § 13. Subdivision b of section 2 of chapter 756 of the laws of 1992,
4 relating to funding a program for work force education conducted by the
5 consortium for worker education in New York city, as amended by section
6 65 of part A of chapter 58 of the laws of 2011, is amended to read as
7 follows:

8 b. Reimbursement for programs approved in accordance with subdivision
9 a of this section [for the 2008-09 school year shall not exceed 62.8
10 percent of the lesser of such approvable costs per contact hour or ten
11 dollars and sixty-five cents per contact hour, reimbursement] for the
12 2009-10 school year shall not exceed 64.1 percent of the lesser of such
13 approvable costs per contact hour or eleven dollars and fifty cents per
14 contact hour, reimbursement for the 2010--2011 school year shall not
15 exceed 62.6 percent of the lesser of such approvable costs per contact
16 hour or twelve dollars and five cents per contact hour [and], reimburse-
17 ment for the 2011--2012 school year shall not exceed 62.9 percent of the
18 lesser of such approvable costs per contact hour or twelve dollars and
19 fifteen cents per contact hour, and reimbursement for the 2012--2013
20 school year shall not exceed 63.2 percent of the lesser of such approva-
21 ble costs per contact hour or twelve dollars and forty cents per contact
22 hour, where a contact hour represents sixty minutes of instruction
23 services provided to an eligible adult. Notwithstanding any other
24 provision of law to the contrary, [for the 2008-09 school year such
25 contact hours shall not exceed one million nine hundred forty-six thou-
26 sand one hundred seven (1,946,107) hours; whereas] for the 2009-10
27 school year such contact hours shall not exceed one million seven
28 hundred sixty-three thousand nine hundred seven (1,763,907) hours; wher-

1 eas for the 2010--2011 school year such contact hours shall not exceed
2 one million five hundred twenty-five thousand one hundred ninety-eight
3 (1,525,198) hours; whereas for the 2011--2012 school year such contact
4 hours shall not exceed one million seven hundred one thousand five
5 hundred seventy (1,701,570) hours; whereas for the 2012--2013 school
6 year such contact hours shall not exceed one million four hundred
7 sixty-eight thousand seven hundred ten (1,468,710) hours. Notwithstand-
8 ing any other provision of law to the contrary, the apportionment calcu-
9 lated for the city school district of the city of New York pursuant to
10 subdivision 11 of section 3602 of the education law shall be computed as
11 if such contact hours provided by the consortium for worker education,
12 not to exceed the contact hours set forth herein, were eligible for aid
13 in accordance with the provisions of such subdivision 11 of section 3602
14 of the education law.

15 § 14. Section 4 of chapter 756 of the laws of 1992, relating to fund-
16 ing a program for work force education conducted by the consortium for
17 worker education in New York city, is amended by adding a new subdivi-
18 sion q to read as follows:

19 q. The provisions of this subdivision shall not apply after the
20 completion of payments for the 2012--2013 school year. Notwithstanding
21 any inconsistent provisions of law, the commissioner of education shall
22 withhold a portion of employment preparation education aid due to the
23 city school district of the city of New York to support a portion of the
24 costs of the work force education program. Such moneys shall be credited
25 to the elementary and secondary education fund-local assistance account
26 and shall not exceed eleven million five hundred thousand dollars
27 (\$11,500,000).

1 § 15. Section 6 of chapter 756 of the laws of 1992, relating to fund-
2 ing a program for work force education conducted by the consortium for
3 worker education in New York city, as amended by section 67 of part A of
4 chapter 58 of the laws of 2011, is amended to read as follows:

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

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

12 1. Sections one through seventy of this act shall be deemed to have
13 been in full force and effect as of April 1, 1994 provided, however,
14 that sections one, two, twenty-four, twenty-five and twenty-seven
15 through seventy of this act shall expire and be deemed repealed on March
16 31, 2000; provided, however, that section twenty of this act shall apply
17 only to hearings commenced prior to September 1, 1994, and provided
18 further that section twenty-six of this act shall expire and be deemed
19 repealed on March 31, 1997; and provided further that sections four
20 through fourteen, sixteen, and eighteen, nineteen and twenty-one through
21 twenty-one-a of this act shall expire and be deemed repealed on March
22 31, 1997; and provided further that sections three, fifteen, seventeen,
23 twenty, twenty-two and twenty-three of this act shall expire and be
24 deemed repealed on March 31, [2013] 2014.

25 § 17. Subdivision 6-a of section 140 of chapter 82 of the laws of
26 1995, amending the education law and certain other laws relating to
27 state aid to school districts and the appropriation of funds for the

1 support of government, as amended by section 51 of part B of chapter 57
2 of the laws of 2007, is amended to read as follows:

3 (6-a) Section seventy-three of this act shall take effect July 1, 1995
4 and shall be deemed repealed June 30, [2012] 2017;

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

10 (22) sections one hundred twelve, one hundred thirteen, one hundred
11 fourteen, one hundred fifteen and one hundred sixteen of this act shall
12 take effect on July 1, 1995; provided, however, that section one hundred
13 thirteen of this act shall remain in full force and effect until July 1,
14 [2012] 2013 at which time it shall be deemed repealed;

15 (24) sections one hundred eighteen through one hundred thirty of this
16 act shall be deemed to have been in full force and effect on and after
17 July 1, 1995; provided further, however, that the amendments made pursu-
18 ant to section one hundred nineteen of this act shall be deemed to be
19 repealed on and after July 1, [2012] 2013;

20 § 19. Section 4 of chapter 698 of the laws of 1996, amending the
21 education law relating to transportation contracts, as amended by chap-
22 ter 165 of the laws of 2007, is amended to read as follows:

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

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

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

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

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

12 § 22. Section 5 of chapter 101 of the laws of 2003, amending the
13 education law relating to implementation of the No Child Left Behind Act
14 of 2001, as amended by section 74 of part A of chapter 58 of the laws of
15 2011, is amended to read as follows:

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

19 § 23. Subdivision 4 of section 51 of part B of chapter 57 of the laws
20 of 2008, amending the education law relating to the universal pre-kin-
21 dergarten program, as amended by chapter 2 of the laws of 2011, is
22 amended to read as follows:

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

25 § 24. School bus driver training. In addition to apportionments other-
26 wise provided by section 3602 of the education law, for aid payable in
27 the 2012--13 school year, the commissioner of education shall allocate
28 school bus driver training grants to school districts and boards of

1 cooperative education services pursuant to sections 3650-a, 3650-b and
2 3650-c of the education law, or for contracts directly with not-for-pro-
3 fit educational organizations for the purposes of this section. Such
4 payments shall not exceed four hundred thousand dollars (\$400,000) per
5 school year.

6 § 25. Support of public libraries. The moneys appropriated for the
7 support of public libraries by the chapter of the laws of 2012 enacting
8 the aid to localities budget shall be apportioned for the 2012--13 state
9 fiscal year in accordance with the provisions of sections 271, 272, 273,
10 282, 284, and 285 of the education law as amended by the provisions of
11 this act, provided that library construction aid pursuant to section
12 273-a of the education law shall not be payable from the appropriations
13 for the support of public libraries and provided further that no
14 library, library system or program, as defined by the commissioner of
15 education, shall receive less total system or program aid than it
16 received for the year 2001--2002 except as a result of a reduction
17 adjustment necessary to conform to the appropriations for support of
18 public libraries.

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

1 § 26. Special apportionment for salary expenses. a. Notwithstanding
2 any other provision of law, upon application to the commissioner of
3 education, not sooner than the first day of the second full business
4 week of June, 2013 and not later than the last day of the third full
5 business week of June, 2013, a school district eligible for an appor-
6 tionment pursuant to section 3602 of the education law shall be eligible
7 to receive an apportionment pursuant to this section, for the school
8 year ending June 30, 2013, for salary expenses incurred between April 1
9 and June 30, 2013 and such apportionment shall not exceed the sum of (i)
10 the deficit reduction assessment of 1990--91 as determined by the
11 commissioner of education, pursuant to paragraph f of subdivision 1 of
12 section 3602 of the education law, as in effect through June 30, 1993,
13 plus (ii) 186 percent of such amount for a city school district in a
14 city with a population in excess of 1,000,000 inhabitants, plus (iii)
15 209 percent of such amount for a city school district in a city with a
16 population of more than 195,000 inhabitants and less than 219,000 inhab-
17 itants according to the latest federal census plus (iv) the net gap
18 elimination adjustment for 2010--2011, as determined by the commissioner
19 of education pursuant to chapter 53 of the laws of 2010, plus (v) the
20 gap elimination adjustment for 2011--12 as determined by the commission-
21 er of education pursuant to subdivision 17 of section 3602 of the educa-
22 tion law, and provided further that such apportionment shall not exceed
23 such salary expenses. Such application shall be made by a school
24 district, after the board of education or trustees have adopted a resol-
25 ution to do so and in the case of a city school district in a city with
26 a population in excess of 125,000 inhabitants, with the approval of the
27 mayor of such city.

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

17 c. Notwithstanding the provisions of section 3609-a of the education
18 law, an amount equal to the amount paid to a school district pursuant to
19 subdivisions a and b of this section shall first be deducted from the
20 following payments due the school district during the school year
21 following the year in which application was made pursuant to subpara-
22 graphs (1), (2), (3), (4) and (5) of paragraph a of subdivision 1 of
23 section 3609-a of the education law in the following order: the lottery
24 apportionment payable pursuant to subparagraph (2) of such paragraph
25 followed by the fixed fall payments payable pursuant to subparagraph (4)
26 of such paragraph and then followed by the district's payments to the
27 teachers' retirement system pursuant to subparagraph (1) of such para-
28 graph, and any remainder to be deducted from the individualized payments

1 due the district pursuant to paragraph b of such subdivision shall be
2 deducted on a chronological basis starting with the earliest payment due
3 the district.

4 § 27. Special apportionment for public pension accruals. a. Notwith-
5 standing any other provision of law, upon application to the commission-
6 er of education, not later than June 30, 2013, a school district eligi-
7 ble for an apportionment pursuant to section 3602 of the education law
8 shall be eligible to receive an apportionment pursuant to this section,
9 for the school year ending June 30, 2013 and such apportionment shall
10 not exceed the additional accruals required to be made by school
11 districts in the 2004--05 and 2005--06 school years associated with
12 changes for such public pension liabilities. The amount of such addi-
13 tional accrual shall be certified to the commissioner of education by
14 the president of the board of education or the trustees or, in the case
15 of a city school district in a city with a population in excess of
16 125,000 inhabitants, the mayor of such city. Such application shall be
17 made by a school district, after the board of education or trustees have
18 adopted a resolution to do so and in the case of a city school district
19 in a city with a population in excess of 125,000 inhabitants, with the
20 approval of the mayor of such city.

21 b. The claim for an apportionment to be paid to a school district
22 pursuant to subdivision a of this section shall be submitted to the
23 commissioner of education on a form prescribed for such purpose, and
24 shall be payable upon determination by such commissioner that the form
25 has been submitted as prescribed. Such approved amounts shall be payable
26 on the same day in September of the school year following the year in
27 which application was made as funds provided pursuant to subparagraph
28 (4) of paragraph b of subdivision 4 of section 92-c of the state finance

1 law, on the audit and warrant of the state comptroller on vouchers
2 certified or approved by the commissioner of education in the manner
3 prescribed by law from moneys in the state lottery fund and from the
4 general fund to the extent that the amount paid to a school district
5 pursuant to this section exceeds the amount, if any, due such school
6 district pursuant to subparagraph (2) of paragraph a of subdivision 1 of
7 section 3609-a of the education law in the school year following the
8 year in which application was made.

9 c. Notwithstanding the provisions of section 3609-a of the education
10 law, an amount equal to the amount paid to a school district pursuant to
11 subdivisions a and b of this section shall first be deducted from the
12 following payments due the school district during the school year
13 following the year in which application was made pursuant to subpara-
14 graphs (1), (2), (3), (4) and (5) of paragraph a of subdivision 1 of
15 section 3609-a of the education law in the following order: the lottery
16 apportionment payable pursuant to subparagraph (2) of such paragraph
17 followed by the fixed fall payments payable pursuant to subparagraph (4)
18 of such paragraph and then followed by the district's payments to the
19 teachers' retirement system pursuant to subparagraph (1) of such para-
20 graph, and any remainder to be deducted from the individualized payments
21 due the district pursuant to paragraph b of such subdivision shall be
22 deducted on a chronological basis starting with the earliest payment due
23 the district.

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

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

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

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

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

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

26 a. for the purpose of the development, maintenance or expansion of
27 magnet schools or magnet school programs for the 2012--2013 school year.
28 To the city school district of the city of New York there shall be paid

1 forty-eight million one hundred seventy-five thousand dollars
2 (\$48,175,000) including five hundred thousand dollars (\$500,000) for the
3 Andrew Jackson High School; to the Buffalo city school district, twen-
4 ty-one million twenty-five thousand dollars (\$21,025,000); to the
5 Rochester city school district, fifteen million dollars (\$15,000,000);
6 to the Syracuse city school district, thirteen million dollars
7 (\$13,000,000); to the Yonkers city school district, forty-nine million
8 five hundred thousand dollars (\$49,500,000); to the Newburgh city school
9 district, four million six hundred forty-five thousand dollars
10 (\$4,645,000); to the Poughkeepsie city school district, two million four
11 hundred seventy-five thousand dollars (\$2,475,000); to the Mount Vernon
12 city school district, two million dollars (\$2,000,000); to the New
13 Rochelle city school district, one million four hundred ten thousand
14 dollars (\$1,410,000); to the Schenectady city school district, one
15 million eight hundred thousand dollars (\$1,800,000); to the Port Chester
16 city school district, one million one hundred fifty thousand dollars
17 (\$1,150,000); to the White Plains city school district, nine hundred
18 thousand dollars (\$900,000); to the Niagara Falls city school district,
19 six hundred thousand dollars (\$600,000); to the Albany city school
20 district, three million five hundred fifty thousand dollars
21 (\$3,550,000); to the Utica city school district, two million dollars
22 (\$2,000,000); to the Beacon city school district, five hundred sixty-six
23 thousand dollars (\$566,000); to the Middletown city school district,
24 four hundred thousand dollars (\$400,000); to the Freeport union free
25 school district, four hundred thousand dollars (\$400,000); to the Green-
26 burgh central school district, three hundred thousand dollars
27 (\$300,000); to the Amsterdam city school district, eight hundred thou-
28 sand dollars (\$800,000); to the Peekskill city school district, two

1 hundred thousand dollars (\$200,000); and to the Hudson city school
2 district, four hundred thousand dollars (\$400,000).

3 b. notwithstanding the provisions of subdivision a of this section, a
4 school district receiving a grant pursuant to this section may use such
5 grant funds for: (i) any instructional or instructional support costs
6 associated with the operation of a magnet school; or (ii) any instruc-
7 tional or instructional support costs associated with implementation of
8 an alternative approach to reduction of racial isolation and/or enhance-
9 ment of the instructional program and raising of standards in elementary
10 and secondary schools of school districts having substantial concen-
11 trations of minority students. The commissioner of education shall not
12 be authorized to withhold magnet grant funds from a school district that
13 used such funds in accordance with this paragraph, notwithstanding any
14 inconsistency with a request for proposals issued by such commissioner.

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

27 d. for the purpose of teacher support for the 2012--2013 school year:
28 to the city school district of the city of New York, sixty-two million

1 seven hundred seven thousand dollars (\$62,707,000); to the Buffalo city
2 school district, one million seven hundred forty-one thousand dollars
3 (\$1,741,000); to the Rochester city school district, one million seven-
4 ty-six thousand dollars (\$1,076,000); to the Yonkers city school
5 district, one million one hundred forty-seven thousand dollars
6 (\$1,147,000); and to the Syracuse city school district, eight hundred
7 nine thousand dollars (\$809,000). All funds made available to a school
8 district pursuant to this subdivision shall be distributed among teach-
9 ers including prekindergarten teachers and teachers of adult vocational
10 and academic subjects in accordance with this subdivision and shall be
11 in addition to salaries heretofore or hereafter negotiated or made
12 available; provided, however, that all funds distributed pursuant to
13 this section for the current year shall be deemed to incorporate all
14 funds distributed pursuant to former subdivision 27 of section 3602 of
15 the education law for prior years. In school districts where the teach-
16 ers are represented by certified or recognized employee organizations,
17 all salary increases funded pursuant to this section shall be determined
18 by separate collective negotiations conducted pursuant to the provisions
19 and procedures of article 14 of the civil service law, notwithstanding
20 the existence of a negotiated agreement between a school district and a
21 certified or recognized employee organization.

22 § 31. a. Notwithstanding any other provision of law to the contrary,
23 the actions or omissions of any school district which failed to submit a
24 final building project cost report by June 30 of the school year follow-
25 ing June 30 of the school year in which the certificate of substantial
26 completion of the project is issued by the architect or engineer, or six
27 months after issuance of such certificate, whichever is later, are here-
28 by ratified and validated for each school year after the final cost

1 report is filed, provided that such school district submits a final cost
2 report on or before December 31, 2012 and such report is approved by the
3 commissioner of education, provided further that any amount due and
4 payable for school years prior to the 2013-14 school year as a result of
5 this act shall be paid pursuant to the provisions of paragraph c of
6 subdivision 5 of section 3604 of the education law.

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

16 c. The education department is hereby directed to consider the
17 approved costs of the aforementioned projects as valid and proper obli-
18 gations of such school districts.

19 § 32. Severability. The provisions of this act shall be severable, and
20 if the application of any clause, sentence, paragraph, subdivision,
21 section or part of this act to any person or circumstance shall be
22 adjudged by any court of competent jurisdiction to be invalid, such
23 judgment shall not necessarily affect, impair or invalidate the applica-
24 tion of any such clause, sentence, paragraph, subdivision, section, part
25 of this act or remainder thereof, as the case may be, to any other
26 person or circumstance, but shall be confined in its operation to the
27 clause, sentence, paragraph, subdivision, section or part thereof

1 directly involved in the controversy in which such judgment shall have
2 been rendered.

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

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

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

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

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

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

20 PART B

21 Section 1. Section 3020-a of the education law, as amended by chapter
22 691 of the laws of 1994, paragraph (b) of subdivision 2 as separately
23 amended by chapters 296 and 325 of the laws of 2008, paragraph (c) of
24 subdivision 2 and paragraph a of subdivision 3 as amended and subpara-
25 graph (i-a) of paragraph c of subdivision 3 as added by chapter 103 of
26 the laws of 2010, is amended to read as follows:

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

16 2. [(a)] Disposition of charges. a. Upon receipt of the charges, the
17 clerk or secretary of the school district or employing board shall imme-
18 diately notify said board thereof. Within five days after receipt of
19 charges, the employing board, in executive session, shall determine, by
20 a vote of a majority of all the members of such board, whether probable
21 cause exists to bring a disciplinary proceeding against an employee
22 pursuant to this section. If such determination is affirmative, a writ-
23 ten statement specifying (i) the charges in detail, (ii) the maximum
24 penalty which will be imposed by the board if the employee does not
25 request a hearing or that will be sought by the board if the employee is
26 found guilty of the charges after a hearing, (iii) the responsibility of
27 the employee or the employee's collective bargaining unit, as applica-
28 ble, to pay a share of hearing costs under the circumstances set forth

1 in paragraphs b and c of subdivision three of this section, and [outlin-
2 ing] (iv) the employee's rights under this section, shall be immediately
3 forwarded to the accused employee by certified or registered mail,
4 return receipt requested or by personal delivery to the employee.

5 [(b)] b. The employee may be suspended pending a hearing on the charg-
6 es and the final determination thereof. The suspension shall be with
7 pay, except the employee may be suspended without pay if the employee
8 has entered a guilty plea to or has been convicted of a felony crime
9 concerning the criminal sale or possession of a controlled substance, a
10 precursor of a controlled substance, or drug paraphernalia as defined in
11 article two hundred twenty or two hundred twenty-one of the penal law;
12 or a felony crime involving the physical abuse of a minor or student.
13 The employee shall be terminated without a hearing, as provided for in
14 this section, upon conviction of a sex offense, as defined in subpara-
15 graph two of paragraph b of subdivision seven-a of section three hundred
16 five of this chapter. To the extent this section applies to an employee
17 acting as a school administrator or supervisor, as defined in subpara-
18 graph three of paragraph b of subdivision seven-b of section three
19 hundred five of this chapter, such employee shall be terminated without
20 a hearing, as provided for in this section, upon conviction of a felony
21 offense defined in subparagraph two of paragraph b of subdivision
22 seven-b of section three hundred five of this chapter.

23 [(c)] c. Within ten days of receipt of the statement of charges, the
24 employee shall notify the clerk or secretary of the employing board in
25 writing whether he or she desires a hearing on the charges and when the
26 charges concern pedagogical incompetence or issues involving pedagogical
27 judgment, his or her choice of either a single hearing officer or a
28 three member panel, provided that a three member panel shall not be

1 available where the charges concern pedagogical incompetence based sole-
2 ly upon a teacher's or principal's pattern of ineffective teaching or
3 performance as defined in section three thousand twelve-c of this arti-
4 cle. All other charges shall be heard by a single hearing officer.

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

16 3. Hearings. a. Notice of hearing. Upon receipt of a request for a
17 hearing in accordance with subdivision two of this section, the commis-
18 sioner shall forthwith notify the American Arbitration Association
19 (hereinafter "association") of the need for a hearing and shall request
20 the association to provide to the commissioner forthwith a list of names
21 of persons chosen by the association from the association's panel of
22 labor arbitrators to potentially serve as hearing officers together with
23 relevant biographical information on each arbitrator. Upon receipt of
24 said list and biographical information, the commissioner shall forthwith
25 send a copy of both simultaneously to the employing board and the
26 employee. The commissioner shall also simultaneously notify both the
27 employing board and the employee of each potential hearing officer's

1 record in the last five cases of commencing and completing hearings
2 within the time periods prescribed in this section.

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

13 (A) Notwithstanding any other provision of law, for hearings commenced
14 by the filing of charges prior to April first, two thousand twelve, the
15 hearing officer shall be compensated by the department with the custom-
16 ary fee paid for service as an arbitrator under the auspices of the
17 association for each day of actual service plus necessary travel and
18 other reasonable expenses incurred in the performance of his or her
19 duties. All other expenses of the disciplinary proceedings commenced by
20 the filing of charges prior to April first, two thousand twelve shall be
21 paid in accordance with rules promulgated by the commissioner [of educa-
22 tion]. Claims for such compensation for days of actual service and
23 reimbursement for necessary travel and other expenses for hearings
24 commenced by the filing of charges prior to April first, two thousand
25 twelve shall be paid from an appropriation for such purpose in the order
26 in which they have been approved by the commissioner for payment,
27 provided payment shall first be made for any other hearing costs payable
28 by the commissioner, including the costs of transcribing the record, and

1 provided further that no such claim shall be set aside for insufficiency
2 of funds to make a complete payment, but shall be eligible for a partial
3 payment in one year and shall retain its priority date status for appro-
4 priations designated for such purpose in future years.

5 (B) Notwithstanding any other provision of law, rule or regulation to
6 the contrary, for hearings commenced by the filing of charges on or
7 after April first, two thousand twelve, the hearing officer shall be
8 compensated for his or her actual hours of service rendered in the
9 performance of his or her duties as a hearing officer, plus any neces-
10 sary travel or other expenses incurred in the performance of such duties
11 in accordance with the provisions of this clause and clause (C) of this
12 subparagraph. The commissioner shall establish maximum rates for the
13 compensation of hearing officers and limitations on the number of study
14 hours that may be claimed.

15 (C) The costs of compensating hearing officers for actual hours of
16 service, plus any necessary travel and other expenses incurred in the
17 performance of such duties in accordance with clause (B) of this subpar-
18 agraph and the regulations of the commissioner shall be divided equally
19 between the employing board and the employee's bargaining agent or the
20 employee if not represented by a bargaining unit. Upon verification and
21 approval by the employing board and the employee or the employee's
22 bargaining agent following completion of the hearing, claims for payment
23 for such services shall be submitted to the responsible parties.

24 (ii) Not later than ten days after the date the commissioner mails to
25 the employing board and the employee the list of potential hearing offi-
26 cers and biographies provided to the commissioner by the association,
27 the employing board and the employee, individually or through their
28 agents or representatives, shall by mutual agreement select a hearing

1 officer from said list to conduct the hearing and shall notify the
2 commissioner of their selection.

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

8 (iv) In those cases in which the employee elects to have the charges
9 heard by a hearing panel, the hearing panel shall consist of the hearing
10 officer, selected in accordance with this subdivision, and two addi-
11 tional persons, one selected by the employee and one selected by the
12 employing board, from a list maintained for such purpose by the commis-
13 sioner [of education]. The list shall be composed of professional
14 personnel with administrative or supervisory responsibility, profes-
15 sional personnel without administrative or supervisory responsibility,
16 chief school administrators, members of employing boards and others
17 selected from lists of nominees submitted to the commissioner by state-
18 wide organizations representing teachers, school administrators and
19 supervisors and the employing boards. Hearing panel members other than
20 the hearing officer shall be compensated [by the department of educa-
21 tion] at the rate of one hundred dollars for each day of actual service
22 [plus] and shall be reimbursed for necessary travel and subsistence
23 expenses in accordance with the applicable provisions of clause (A) or
24 clause (C) of subparagraph (i) of this paragraph. The hearing officer
25 shall be compensated as set forth in this subdivision. The hearing offi-
26 cer shall be the [chairman] chairperson of the hearing panel.

27 c. Hearing procedures. (i) (A) The commissioner [of education] shall
28 have the power to establish necessary rules and procedures for the

1 conduct of hearings under this section which, for hearings other than
2 expedited hearings pursuant to subparagraph (i-a) of this paragraph,
3 shall include specific timeline requirements for conducting a hearing
4 and for rendering a final decision.

5 (B) The department shall be authorized to monitor and investigate a
6 hearing officer's compliance with such timelines, as set forth in the
7 regulations of the commissioner. The commissioner shall annually inform
8 all hearing officers who have heard cases pursuant to this section
9 during the preceding year that the time periods prescribed in the regu-
10 lations of the commissioner for conducting such hearings are to be
11 strictly followed. A record of continued failure to commence and
12 complete hearings within the time periods prescribed in the regulations
13 authorized by this subparagraph shall be considered grounds for the
14 commissioner to exclude such individual from the list of potential hear-
15 ing officers sent to the employing board and the employee for such hear-
16 ings.

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

1 [A] (D) For hearings commenced by the filing of charges prior to April
2 first, two thousand twelve, a competent stenographer, designated by the
3 commissioner [of education] and compensated by the [state education]
4 department, shall keep and transcribe a record of the proceedings at
5 each such hearing. A copy of the transcript of the hearings shall, upon
6 request, be furnished without charge to the employee and the board of
7 education involved.

8 (E) Hearings commenced by the filing of charges on or after April
9 first, two thousand twelve, shall not be recorded by a stenographer or
10 any other recording mechanism unless both parties agree prior to the
11 commencement of the disciplinary hearing. The party requesting a tran-
12 script or recording at a disciplinary hearing may provide for one at its
13 own expense and shall provide a copy to the arbitrator and the other
14 party unless both parties agree to share the cost of such transcript or
15 recording. The use of a transcript cannot delay the hearing and shall
16 not extend the date the hearing is closed.

17 (i-a) (A) Where charges of incompetence are brought based solely upon a
18 pattern of ineffective teaching or performance of a classroom teacher or
19 principal, as defined in section three thousand twelve-c of this arti-
20 cle, the hearing shall be conducted before and by a single hearing offi-
21 cer in an expedited hearing, which shall commence within seven days
22 after the pre-hearing conference and shall be completed within sixty
23 days after the pre-hearing conference. The hearing officer shall estab-
24 lish a hearing schedule at the pre-hearing conference to ensure that the
25 expedited hearing is completed within the required timeframes and to
26 ensure an equitable distribution of days between the employing board and
27 the charged employee. Notwithstanding any other law, rule or regulation
28 to the contrary, no adjournments may be granted that would extend the

1 hearing beyond such sixty days, except as authorized in this subpara-
2 graph. A hearing officer, upon request, may grant a limited and time
3 specific adjournment that would extend the hearing beyond such sixty
4 days if the hearing officer determines that the delay is attributable to
5 a circumstance or occurrence substantially beyond the control of the
6 requesting party and an injustice would result if the adjournment were
7 not granted.

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

21 (C) The commissioner shall annually inform all hearing officers who
22 have heard cases pursuant to this section during the preceding year that
23 the time periods prescribed in this subparagraph for conducting expe-
24 dited hearings are to be strictly followed. A record of continued fail-
25 ure to commence and complete expedited hearings within the time periods
26 prescribed in this subparagraph shall be considered grounds for the
27 commissioner to exclude such individual from the list of potential hear-

1 ing officers sent to the employing board and the employee for such expe-
2 dited hearings.

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

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

12 (A) issue subpoenas;

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

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

21 (iv) Any pre-hearing motion or application relative to the sufficiency
22 of the charges, application or amendment thereof, or any preliminary
23 matters shall be made upon written notice to the hearing officer and the
24 adverse party no less than five days prior to the date of the pre-hear-
25 ing conference. Any pre-hearing motions or applications not made as
26 provided for herein shall be deemed waived except for good cause as
27 determined by the hearing officer.

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

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

1 d. Limitation on claims. Notwithstanding any other provision of law,
2 rule or regulation to the contrary, no payments shall be made by the
3 department pursuant to this subdivision on or after April first, two
4 thousand twelve for: (i) compensation of a hearing officer or hearing
5 panel member, (ii) reimbursement of such hearing officers or panel
6 members for necessary travel or other expenses incurred by them, or
7 (iii) for other hearing expenses on a claim submitted later than one
8 year after the final disposition of the hearing by any means, including
9 settlement, or within ninety days after the effective date of this para-
10 graph, whichever is later; provided that no payment shall be barred or
11 reduced where such payment is required as a result of a court order or
12 judgment or a final audit.

13 4. Post hearing procedures. [(a)] a. The hearing officer shall render
14 a written decision within thirty days of the last day of the final hear-
15 ing, or in the case of an expedited hearing within ten days of such
16 expedited hearing, and shall [forthwith] forward a copy thereof to the
17 commissioner [of education] who shall immediately forward copies of the
18 decision to the employee and to the clerk or secretary of the employing
19 board. The written decision shall include the hearing officer's findings
20 of fact on each charge, his or her conclusions with regard to each
21 charge based on said findings and shall state what penalty or other
22 action, if any, shall be taken by the employing board. At the request of
23 the employee, in determining what, if any, penalty or other action shall
24 be imposed, the hearing officer shall consider the extent to which the
25 employing board made efforts towards correcting the behavior of the
26 employee which resulted in charges being brought under this section
27 through means including but not limited to: remediation, peer inter-
28 vention or an employee assistance plan. In those cases where a penalty

1 is imposed, such penalty may be a written reprimand, a fine, suspension
2 for a fixed time without pay, or dismissal. In addition to or in lieu of
3 the aforementioned penalties, the hearing officer, where he or she deems
4 appropriate, may impose upon the employee remedial action including but
5 not limited to leaves of absence with or without pay, continuing educa-
6 tion and/or study, a requirement that the employee seek counseling or
7 medical treatment or that the employee engage in any other remedial or
8 combination of remedial actions.

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

19 [(c)] c. The hearing officer shall indicate in the decision whether
20 any of the charges brought by the employing board were frivolous as
21 defined in section [eight thousand three] eighty-three hundred three-a
22 of the civil practice law and rules. If the hearing [officers] officer
23 finds that all of the charges brought against the employee were frivo-
24 lous, the hearing officer shall order the employing board to reimburse
25 the [state education] department the reasonable costs said department
26 incurred as a result of the proceeding and to reimburse the employee the
27 reasonable costs, including but not limited to reasonable attorneys'
28 fees, the employee incurred in defending the charges. If the hearing

1 officer finds that some but not all of the charges brought against the
2 employee were frivolous, the hearing officer shall order the employing
3 board to reimburse the [state education] department a portion, in the
4 discretion of the hearing officer, of the reasonable costs said depart-
5 ment incurred as a result of the proceeding and to reimburse the employ-
6 ee a portion, in the discretion of the hearing officer, of the reason-
7 able costs, including but not limited to reasonable attorneys' fees, the
8 employee incurred in defending the charges.

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

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

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

23

PART C

24 Section 1. Paragraphs (a), (b), (c) and (d) of subdivision 1 of
25 section 131-o of the social services law, as amended by section 1 of

1 part S of chapter 58 of the laws of 2011, are amended to read as
2 follows:

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

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

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

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

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

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

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

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

1 (b) On and after January first, two thousand [eleven] twelve, for an
2 eligible individual living with others with or without in-kind income,
3 [\$697.00] \$721.00; and for an eligible couple living with others with or
4 without in-kind income, [\$1057.00] \$1094.00.

5 (c) On and after January first, two thousand [eleven] twelve, (i) for
6 an eligible individual receiving family care, [\$940.48] \$964.48 if he or
7 she is receiving such care in the city of New York or the county of
8 Nassau, Suffolk, Westchester or Rockland; and (ii) for an eligible
9 couple receiving family care in the city of New York or the county of
10 Nassau, Suffolk, Westchester or Rockland, two times the amount set forth
11 in subparagraph (i) of this paragraph; or (iii) for an eligible individ-
12 ual receiving such care in any other county in the state, [\$902.48]
13 \$926.48; and (iv) for an eligible couple receiving such care in any
14 other county in the state, two times the amount set forth in subpara-
15 graph (iii) of this paragraph.

16 (d) On and after January first, two thousand [eleven] twelve, (i) for
17 an eligible individual receiving residential care, [\$1109.00] \$1133.00
18 if he or she is receiving such care in the city of New York or the coun-
19 ty of Nassau, Suffolk, Westchester or Rockland; and (ii) for an eligible
20 couple receiving residential care in the city of New York or the county
21 of Nassau, Suffolk, Westchester or Rockland, two times the amount set
22 forth in subparagraph (i) of this paragraph; or (iii) for an eligible
23 individual receiving such care in any other county in the state,
24 [\$1079.00] \$1103.00; and (iv) for an eligible couple receiving such care
25 in any other county in the state, two times the amount set forth in
26 subparagraph (iii) of this paragraph.

27 (e) (i) On and after January first, two thousand [eleven] twelve, for
28 an eligible individual receiving enhanced residential care, [\$1368.00]

1 \$1392.00; and (ii) for an eligible couple receiving enhanced residential
 2 care, two times the amount set forth in subparagraph (i) of this para-
 3 graph.

4 (f) The amounts set forth in paragraphs (a) through (e) of this subdi-
 5 vision shall be increased to reflect any increases in federal supple-
 6 mental security income benefits for individuals or couples which become
 7 effective on or after January first, two thousand [twelve] thirteen but
 8 prior to June thirtieth, two thousand [twelve] thirteen.

9 § 3. This act shall take effect July 1, 2012.

10 PART D

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

15 (a-3) For the period beginning July first, two thousand twelve and
 16 [thereafter] ending June thirtieth, two thousand thirteen, the following
 17 schedule shall be the standard of monthly need for determining eligibil-
 18 ity for all categories of assistance in and by all social services
 19 districts:

Number of Persons in Household						
One	Two	Three	Four	Five	Six	
21 [158]	22 [252]	23 [335]	24 [432]	25 [533]	[616]	
<u>150</u>	<u>239</u>	<u>317</u>	<u>409</u>	<u>505</u>	<u>583</u>	

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

1 (a-4) For the period beginning July first, two thousand thirteen and
 2 thereafter, the following shall be the standard of monthly need for
 3 determining eligibility for all categories of assistance in and by all
 4 social services districts:

<u>Number of Persons in Household</u>					
<u>One</u>	<u>Two</u>	<u>Three</u>	<u>Four</u>	<u>Five</u>	<u>Six</u>
<u>\$158</u>	<u>\$252</u>	<u>\$336</u>	<u>\$433</u>	<u>\$534</u>	<u>\$617</u>

8 For each additional person in the household there shall be added an
 9 additional amount of eighty-five dollars monthly.

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

14 (a-3) For the period beginning July first, two thousand twelve and
 15 [thereafter] ending June thirtieth, two thousand thirteen, persons and
 16 families determined to be eligible by the application of the standard of
 17 need prescribed by the provisions of subdivision two of this section,
 18 less any available income or resources which are not required to be
 19 disregarded by other provisions of this chapter, shall receive maximum
 20 monthly grants and allowances in all social services districts, in
 21 accordance with the following schedule, for public assistance:

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

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

1 (a-4) For the period beginning July first, two thousand thirteen and
 2 thereafter, persons and families determined to be eligible by the appli-
 3 cation of the standard of need prescribed by the provisions of subdivi-
 4 sion two of this section, less any available income or resources which
 5 are not required to be disregarded by other provisions of this chapter,
 6 shall receive maximum monthly grants and allowances in all social
 7 services districts, in accordance with the following schedule, for
 8 public assistance:

	<u>Number of Persons in Household</u>					
	<u>One</u>	<u>Two</u>	<u>Three</u>	<u>Four</u>	<u>Five</u>	<u>Six</u>
10						
11	<u>\$158</u>	<u>\$252</u>	<u>\$336</u>	<u>\$433</u>	<u>\$534</u>	<u>\$617</u>

12 For each additional person in the household there shall be added an
 13 additional amount of eighty-five dollars monthly.

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

16 PART E

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

21 (f) Unless an agreement is in effect for federal administration of
 22 additional state payments pursuant to section two hundred eleven of this
 23 chapter, applicants for and recipients of additional state payments as
 24 defined in subdivision two of section two hundred eight of this chapter;
 25 and

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

3 2. "Additional state payments" shall mean payments made to aged, blind
4 and disabled persons who are receiving, or who would but for their
5 income be eligible to receive, federal supplemental security income
6 benefits, whether made by [social services districts] the office of
7 temporary and disability assistance in accordance with the provisions of
8 this title and with title sixteen of the federal social security act, or
9 by the [secretary] commissioner of the [federal department of health,
10 education and welfare] United States social security administration,
11 pursuant to and in accordance with the provisions of this title, title
12 sixteen of the federal social security act, and provisions of any agree-
13 ment entered into between the state and such [secretary] commissioner by
14 which the [secretary] commissioner agrees to administer such additional
15 state payments on behalf of the state. Such payments are equal to the
16 standard of need, less the greater of the federal benefit rate or count-
17 able income. For purposes of this title, the "federal benefit rate"
18 shall mean the maximum payment of supplemental security income payable
19 to a person or couple with no countable income.

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

22 12. The term "standard of need" shall refer solely to the maximum
23 level of income a person or couple may have and remain eligible for
24 additional state payments under this title. The term applies solely to
25 the program of additional state payments and has no application to any
26 other program or benefit.

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

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

3 (a) Notwithstanding any law to the contrary, no person shall be eligi-
4 ble for any payment pursuant to this title who is ineligible for supple-
5 mental security income for any reason other than having countable income
6 exceeding the federal benefit rate for such program. An individual shall
7 be eligible to receive additional state payments if he or she has
8 applied for supplemental security income benefits, has received a deter-
9 mination with respect to such application and:

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

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

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

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

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

23 1. If there is no agreement in effect for federal administration of
24 additional state payments pursuant to section two hundred eleven of this
25 title, the commissioner of the office of temporary and disability
26 assistance shall be responsible for providing such payments to eligible
27 residents of the state as required by this title and shall:

1 (a) accept and process applications for additional state payments to
2 be made pursuant to this title;

3 (b) determine eligibility for and the amount of additional state
4 payments in accordance with this title;

5 (c) redetermine eligibility periodically as the office may require;
6 provided, however, that any such redeterminations shall be no more
7 frequent than provided by the applicable regulations of the United
8 States social security administration; and

9 (d) take all other actions necessary to effectuate the provisions of
10 this title.

11 § 6. Subparagraph 2 of paragraph (a) of subdivision 1 of section 366
12 of the social services law, as added by chapter 1080 of the laws of
13 1974, is amended to read as follows:

14 (2) is receiving or is eligible to receive federal supplemental secu-
15 rity income payments and/or additional state payments[, so long as there
16 is in effect an agreement between the state and the secretary of health,
17 education and welfare, pursuant to section three hundred sixty-three-b
18 of this title, for the federal determination of eligibility of aged,
19 blind and disabled persons for medical assistance, and so long as such
20 secretary requires, as a condition of entering into such agreement, that
21 such person be eligible for medical assistance] pursuant to title six of
22 this article; any inconsistent provision of this chapter or other law
23 notwithstanding, the department may designate the office of temporary
24 and disability assistance as its agent to discharge its responsibility,
25 or so much of its responsibility as is permitted by federal law, for
26 determining eligibility for medical assistance with respect to persons
27 who are not eligible to receive federal supplemental security income
28 payments but who are receiving a state administered supplementary

1 payment or mandatory minimum supplement in accordance with the
2 provisions of subdivision one of section two hundred twelve of this
3 article; or

4 § 7. This act shall take effect immediately.

5 PART F

6 Section 1. Section 28 of part C of chapter 83 of the laws of 2002,
7 amending the executive law and other laws relating to funding for chil-
8 dren and family services, as amended by section 1 of part Q of chapter
9 57 of the laws of 2009, is amended to read as follows:

10 § 28. This act shall take effect immediately; provided that sections
11 nine through eighteen and twenty through twenty-seven of this act shall
12 be deemed to have been in full force and effect on and after April 1,
13 2002; provided, however, that section fifteen of this act shall apply to
14 claims that are otherwise reimbursable by the state on or after April 1,
15 2002 except as provided in subdivision 9 of section 153-k of the social
16 services law as added by section fifteen of this act; provided further
17 however, that nothing in this act shall authorize the office of children
18 and family services to deny state reimbursement to a social services
19 district for violations of the provisions of section 153-d of the social
20 services law for services provided from January 1, 1994 through March
21 31, 2002; provided that section nineteen of this act shall take effect
22 September 13, 2002 and shall expire and be deemed repealed June 30,
23 2012; and, provided further, however, that notwithstanding any law to
24 the contrary, the office of children and family services shall have the
25 authority to promulgate, on an emergency basis, any rules and regu-
26 lations necessary to implement the requirements established pursuant to

1 this act; provided further, however, that the regulations to be devel-
2 oped pursuant to section one of this act shall not be adopted by emer-
3 gency rule; and provided further that the provisions of sections nine
4 through eighteen and twenty through twenty-seven of this act shall
5 expire and be deemed repealed on June 30, [2012] 2017.

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

9 (a) Expenditures made by social services districts for child protec-
10 tive services, preventive services provided, as applicable, to eligible
11 children and families of children who are in and out of foster care
12 placement, independent living services, aftercare services, and adoption
13 administration and services other than adoption subsidies provided
14 pursuant to article six of this chapter and the regulations of the
15 department of family assistance shall, if approved by the office of
16 children and family services, be subject to [~~sixty-five~~] sixty-two
17 percent state reimbursement exclusive of any federal funds made avail-
18 able for such purposes, in accordance with the directives of the depart-
19 ment of family assistance and subject to the approval of the director of
20 the budget.

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

24 (a) Notwithstanding the provisions of this chapter or of any other law
25 to the contrary, eligible expenditures by a social services district for
26 foster care services and kinship guardianship assistance shall be
27 subject to reimbursement with state funds only to the extent of annual
28 appropriations to the state foster care block grant. Such foster care

1 services shall include expenditures for the provision and administration
2 of: care, maintenance, supervision and tuition; supervision of foster
3 children placed in federally funded job corps programs; and care, main-
4 tenance, supervision and tuition for adjudicated juvenile delinquents
5 and persons in need of supervision placed in residential programs oper-
6 ated by authorized agencies and in out-of-state residential programs.
7 Such kinship guardianship assistance shall include expenditures for the
8 provision and administration of kinship guardianship assistance payments
9 and non-recurring guardianship expenses made pursuant to title ten of
10 article six of this chapter. Social services districts must develop and
11 implement children and family services delivery systems that are
12 designed to reduce the need for and the length of foster care placements
13 and must document their efforts in the multi-year consolidated services
14 plan and the annual implementation reports submitted pursuant to section
15 thirty-four-a of this chapter.

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

19 1. Payments made by social services officials pursuant to the
20 provisions of this title shall, if approved by the department, be
21 subject to reimbursement by the state, in accordance with the regu-
22 lations of the department as follows: there shall be paid to each
23 social services district (a) the amount of federal funds, if any, prop-
24 erly received or to be received on account of such payments; and (b)
25 except as set forth below, [seventy-five] sixty-two per centum of such
26 payments after first deducting therefrom any federal funds properly
27 received or to be received on account thereof; provided, however, that
28 when payments under section four hundred fifty-three of this title are

1 made to a person or persons residing in a social services district whose
2 board rate exceeds that of the district making such payments, that
3 portion of the payments which exceeds the board rate of the district
4 making the payments shall be subject to reimbursement by the state in
5 the amount of one hundred per centum thereof, (c) one hundred per centum
6 of such payments after first deducting therefrom any federal funds prop-
7 erly to be received on account of such payments, for children placed out
8 for adoption by a voluntary authorized agency or for children being
9 adopted after being placed out for adoption by a voluntary authorized
10 agency in accordance with the provisions of this title, or (d) one
11 hundred per centum of such payments after first deducting therefrom any
12 federal funds properly to be received on account of such payments, for
13 children placed out for adoption or being adopted after being placed out
14 for adoption by an Indian tribe as referenced in subdivision seven of
15 section four hundred fifty-one of this title.

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

22

PART G

23 Section 1. This part enacts into law major components of legislation
24 which are necessary for establishing a juvenile justice services close
25 to home initiative. Each component is wholly contained within a subpart
26 identified as subparts A through B. The effective date for each partic-

1 ular provision contained within such subpart is set forth in the last
2 section of such subpart. Any provision in any section contained within a
3 subpart, including the effective date of the subpart, which makes refer-
4 ence to a section "of this act", when used in connection with that
5 particular component, shall be deemed to mean and refer to the corre-
6 sponding section of the subpart in which it is found. Section four of
7 this part sets forth the general effective date of this act.

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

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

23 b) provide accountability of the system and organizations within the
24 system, ensuring that both internal and external mechanisms for over-
25 sight of the system are maintained;

26 c) be data-driven, ensuring that objective instruments are employed at
27 all key decision making stages and that system actors readily and trans-

1 parently share information to inform ongoing changes in policy and prac-
2 tice;

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

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

9 f) provide effective reintegration services, ensuring that youth
10 remain connected to appropriate educational services and positive behav-
11 ioral supports and/or treatment modalities upon transitioning home from
12 placement.

13 SUBPART A

14 Section 1. The social services law is amended by adding a new section
15 404 to read as follows:

16 § 404. Juvenile justice services close to home initiative. 1. A
17 social services district in a city with a population in excess of one
18 million may implement a close to home initiative to provide juvenile
19 justice services to all adjudicated juvenile delinquents determined by a
20 family court in such district as needing placement other than in a
21 secure facility and to enter into contracts with any authorized agency,
22 as defined by section three hundred seventy-one of this chapter, to
23 operate and maintain non-secure and limited secure facilities.

24 2. A social services district shall obtain prior approval from the
25 office of children and family services and the state division of budget
26 of its plan for establishing and implementing such an initiative in

1 accordance with guidelines established and in the format, and including
2 the information required, by such office. Such district may submit sepa-
3 rate plans for how the district will implement initiatives for juvenile
4 delinquents placed in non-secure settings and in limited secure
5 settings. Any such plan shall specify, in detail, as applicable:

6 (a) how the district will provide a continuum of evidence informed,
7 high-quality community-based and residential programming that will
8 protect community safety and provide appropriate services to youth,
9 including the operation of non-secure and limited secure facilities, in
10 sufficient capacity and in a manner designed to meet the needs of juve-
11 nile delinquents cared for under the initiative. Such programming shall
12 be based on an analysis of recent placement trends of youth from within
13 such district, including the number of youth who have been placed in the
14 custody of the office of children and family services for placement in
15 other than a secure facility;

16 (b) the anticipated start-up and on-going services and administrative
17 costs of the initiative;

18 (c) the readiness of the district to establish the initiative and the
19 availability of all needed resources, including the location of services
20 and availability of the providers that will provide all necessary
21 services under the initiative including, but not limited to, residen-
22 tial, non-residential, educational, medical, substance abuse, mental
23 health and after care services and community supervision;

24 (d) the proposed effective date of the plan and documentation of the
25 district's readiness to begin accepting and appropriately serving juve-
26 nile delinquents under the plan;

27 (e) how the district will provide necessary and appropriate staffing
28 to implement the initiative;

1 (f) how the district will monitor the quality of services provided to
2 youth, including how the district will provide case management services;

3 (g) how, throughout the initiative, the district will seek and receive
4 on-going community and stakeholder input relating to the implementation
5 and effectiveness of the initiative;

6 (h) how the district will ensure that all staff working directly with
7 youth served under the initiative have received necessary and appropri-
8 ate training;

9 (i) how the district will monitor the use of restraints on youth,
10 including, but not limited to, the use of mechanical restraints;

11 (j) how the district will develop and implement programs and policies
12 to ensure program safety and that youth receive appropriate services
13 based on their needs, including, but not limited to, educational, behav-
14 ioral, mental health and substance abuse services in accordance with
15 individualized treatment plans developed for each youth;

16 (k) how the district will develop and implement gender specific
17 programming and policies to meet the specialized needs of lesbian, gay,
18 bisexual or transgender youth;

19 (l) how the district will develop and implement programming that is
20 culturally competent to meet the diverse needs of the youth;

21 (m) how the district will develop and implement local programs that
22 will seek to reduce the disproportionate placement of minority youth in
23 residential programs in the juvenile justice system;

24 (n) how the district will develop and implement a plan to reduce the
25 number of youth absent without leave from placement;

26 (o) how the district will develop and implement policies to serve
27 youth in the least restrictive setting consistent with the needs of

1 youth and public safety, and to avoid modifications of placements to the
2 office of children and family services;

3 (p) how the district will engage in permanency and discharge planning
4 for juvenile delinquents placed in its custody;

5 (q) how the district will develop and implement a comprehensive after
6 care program to provide services and supports for youth who have re-en-
7 tered the community following a juvenile justice placement with the
8 district;

9 (r) how the district will develop and implement policies focused on
10 reducing recidivism of youth who leave the program;

11 (s) how the local probation department will implement a comprehensive
12 predisposition investigation process that includes, at least, the use of
13 appropriate assessments to determine the cognitive,
14 educational/vocational, and substance abuse needs of the youth and the
15 use of a validated risk assessment instrument, approved by the office of
16 children and family services; and how the district will implement an
17 intake process for youth placed in residential care that includes the
18 use of appropriate assessments to determine the medical, dental, mental
19 and behavioral health needs of the youth; and

20 (t) how the district will provide for the restrictive setting and
21 programs necessary to serve youth who need placement in a limited secure
22 setting consistent with the necessity for the protection of the health
23 or safety of the juvenile delinquents in the facility or the surrounding
24 community.

25 3. Prior to submitting any plan pursuant to subdivision two of this
26 section, the social services district shall conduct at least one public
27 hearing on the proposed plan. Any such public hearings shall only be
28 held after thirty days notice has been provided in a newspaper of gener-

1 al circulation within the jurisdiction for which the social services
2 district is located. The notice shall specify the times of the public
3 hearing and provide information on how written comment on the plan may
4 be submitted to the district for consideration. Additionally, for a
5 period of at least thirty days prior to a hearing, the district shall
6 post on its website a notice of the hearing, a copy of the proposed
7 plan, and information on how written comments on the plan may be submit-
8 ted to the district for consideration.

9 4. The social services district shall submit, with such a plan, an
10 assessment of any written comments received, and any comments presented
11 at the public hearing. At a minimum, such assessment shall contain:

12 (a) a summary and analysis of the issues raised and significant alter-
13 natives suggested;

14 (b) a statement of the reasons why any significant alternatives were
15 not incorporated into the plan; and

16 (c) a description of any changes made to the plan as a result of such
17 comments.

18 5. The office of children and family services and the state division
19 of budget, in consultation with the office of mental health, shall be
20 authorized to request amendments to any plan prior to approval. For any
21 plan that only covers juvenile delinquents placed in non-secure
22 settings, the office and the division shall, within thirty days of
23 receiving the plan, either approve or disapprove the plan or request
24 amendments to the plan. If any amendments are requested to the plan, the
25 office and the division shall approve or disapprove the plan within
26 fifteen days of its resubmission with the requested amendments. For any
27 plan that covers juvenile delinquents placed in limited secure settings,
28 the office and the division shall, within sixty days of receiving the

1 plan, either approve or disapprove the plan or request amendments to the
2 plan. If any amendments are requested to the plan, the office and the
3 division shall approve or disapprove the plan within fifteen days of its
4 resubmission with the requested amendments.

5 6. (a) Notwithstanding any other provision of law to the contrary, if
6 the office of children and family services approves a social services
7 district's plan to implement a juvenile justice services close to home
8 initiative for juvenile delinquents placed in non-secure settings, such
9 office shall work with such district to identify those juvenile delin-
10 quents in the office's custody residing in non-secure placements and
11 those conditionally released from a facility who were placed by a family
12 court within the jurisdiction of said social services district. The
13 office shall evaluate the placement length and the needs of such juve-
14 nile delinquents and, where appropriate, file a petition pursuant to
15 section 355.1 of the family court act to transfer custody of such youth
16 to said social services district on the effective date of the plan, or
17 as soon as appropriate thereafter, but in no event later than ninety
18 days after such effective date; provided, however, if the office deter-
19 mines, on a case-by-case basis, for reasons documented in writing
20 submitted to the social services district, that a transfer within ninety
21 days of the effective date of the plan would be detrimental to the
22 emotional, mental or physical health of a youth, or would seriously
23 interfere with the youth's interstate transfer or imminent discharge,
24 the office shall provide an estimated time by which the office expects
25 to be able to petition for the transfer of such youth or to release such
26 youth from its care, and shall notify the district of any delay of that
27 expected date and the reasons for such a delay.

1 (b) Notwithstanding any other provision of law to the contrary, if the
2 office approves a social services district's plan to implement a juve-
3 nile justice services close to home initiative for juvenile delinquents
4 placed in limited-secure settings, such office shall work with such
5 district to identify juvenile delinquents in the office's custody resid-
6 ing in limited secure placements who were placed by a family court in
7 the social services district. The office of children and family services
8 shall evaluate the placement length and needs of such juvenile delin-
9 quents and, where appropriate, file a petition pursuant to section 355.1
10 of the family court act to transfer custody of such youth to said social
11 services district on the effective date of the plan or as soon as appro-
12 priate thereafter, but in no event later than ninety days after such
13 effective date; provided, however, if the office determines, on a case-
14 by-case basis, for reasons documented in writing submitted to the social
15 services district, that a transfer within ninety days of the effective
16 date of the plan would be detrimental to the emotional, mental or phys-
17 ical health of a youth, or would seriously interfere with the youth's
18 interstate transfer or imminent discharge, the office shall provide an
19 estimated time by which the office expects to be able to petition for
20 the transfer of such youth or to release such youth from its care, and
21 shall notify the district of any delay of that expected date and the
22 reasons for such a delay.

23 7. (a) Notwithstanding the provisions of paragraph (c) of subdivision
24 fifteen of section five hundred one of the executive law, or any other
25 law to the contrary, if the office of children and family services
26 approves a social services district's plan for a juvenile justice
27 services close to home initiative to implement services for juvenile
28 delinquents placed in non-secure or limited secure settings, such office

1 shall be authorized, for up to a year after the effective date of any
2 such plan: (1) to close any of its facilities in the corresponding
3 setting levels covered by the approved plan and to make significant
4 associated service reductions and public employee staffing reductions
5 and transfer operations for those setting levels to a private or not-
6 for-profit entity, as determined by the commissioner of the office of
7 children and family services to be necessary to reflect the decrease in
8 the number of juvenile delinquents placed with such office from such
9 social services district; (2) to reduce costs to the state and other
10 social services districts resulting from such decrease; and (3) to
11 adjust services to provide regionally-based care to juvenile delinquents
12 from other parts of the state needing services in those levels of resi-
13 dential services. At least sixty days prior to taking any such action,
14 the commissioner of the office shall provide notice of such action to
15 the speaker of the assembly and the temporary president of the senate
16 and shall post such notice upon its public website. Such notice may be
17 provided at any time on or after the date the office approves a plan
18 authorizing a social services district to implement programs for juve-
19 nile delinquents placed in the applicable setting level. Such commis-
20 sioner shall be authorized to conduct any and all preparatory actions
21 which may be required to effectuate such closures or significant service
22 or staffing reductions and transfer of operations during such sixty day
23 period.

24 (b) Any transfers of capacity or any resulting transfer of functions
25 shall be authorized to be made by the commissioner of the office of
26 children and family services and any transfer of personnel upon such
27 transfer of capacity or transfer of functions shall be accomplished in

1 accordance with the provisions of section seventy of the civil service
2 law.

3 8. (a) Notwithstanding any other provision of law to the contrary,
4 eligible expenditures during the applicable time periods made by a
5 social services district for an approved juvenile justice services close
6 to home initiative shall, if approved by the department of family
7 assistance, be subject to reimbursement with state funds only up to the
8 extent of an annual appropriation made specifically therefor, after
9 first deducting therefrom any federal funds properly received or to be
10 received on account thereof; provided, however, that when such funds
11 have been exhausted, a social services district may receive state
12 reimbursement from other available state appropriations for that state
13 fiscal year for eligible expenditures for services that otherwise would
14 be reimbursable under such funding streams. Any claims submitted by a
15 social services district for reimbursement for a particular state fiscal
16 year for which the social services district does not receive state
17 reimbursement from the annual appropriation for the approved close to
18 home initiative may not be claimed against that district's appropriation
19 for the initiative for the next or any subsequent state fiscal year.

20 (i) State funding for reimbursement shall be, subject to appropri-
21 ation, in the following amounts: for state fiscal year 2013-14,
22 \$35,200,000 adjusted by any changes in such amount required by subpara-
23 graphs (ii) and (iii) of this paragraph; for state fiscal year 2014-15,
24 \$41,400,000 adjusted to include the amount of any changes made to the
25 state fiscal year 2013-14 appropriation under subparagraphs (ii) and
26 (iii) of this paragraph plus any additional changes required by such
27 subparagraphs; and, such reimbursement shall be, subject to appropri-
28 ation, for all subsequent state fiscal years in the amount of the prior

1 year's actual appropriation adjusted by any changes required by subpara-
2 graphs (ii) and (iii) of this paragraph.

3 (ii) The reimbursement amounts set forth in subparagraph (i) of this
4 paragraph shall be increased or decreased by the percentage that the
5 average of the most recently approved maximum state aid rates for group
6 residential foster care programs is higher or lower than the average of
7 the approved maximum state aid rates for group residential foster care
8 programs in existence immediately prior to the most recently approved
9 rates.

10 (iii) The reimbursement amounts set forth in subparagraph (i) of this
11 paragraph shall be increased if either the population of alleged juve-
12 nile delinquents who receive a probation intake or the number of youth
13 with a disposition from the family court who are determined to be high
14 risk, as defined in clause (A) of this subparagraph, increases by at
15 least ten percent over the respective population in the annual baseline
16 year. The baseline year shall be the period from July first, two thou-
17 sand ten through June thirtieth, two thousand eleven or the most recent
18 twelve month period for which there is complete data, whichever is
19 later. In each successive year, the population of the previous July
20 first through June thirtieth period shall be compared to the baseline
21 year for determining any adjustments to a state fiscal year appropri-
22 ation. When either population increases by ten percent or more, the
23 reimbursement will be adjusted by a percentage equal to the larger of
24 the percentage increase in either the number of probation intakes for
25 alleged juvenile delinquents or the number of high risk youth.

26 (A) For the purposes of this subparagraph, high risk youth shall mean
27 youth who are categorized by the New York city department of probation
28 structured decision making grid (or any successor risk assessment tool

1 approved by the office of children and family services in consultation
2 with the division of criminal justice services) as either at high risk
3 for re-arrest in cases where the most serious current arrest charge is a
4 class I or II or at medium risk for re-arrest in cases where the most
5 serious current arrest charge is a class I.

6 (B) The social services district and/or the New York city department
7 of probation shall provide an annual report including the data required
8 to calculate the population adjustment to the New York city office of
9 management and budget, the division of criminal justice services and the
10 state division of the budget no later than the first day of September
11 following the close of the previous July first through June thirtieth
12 period.

13 (b) The department of family assistance is authorized, in its
14 discretion, to make advances to a social services district in antic-
15 ipation of the state reimbursement provided for in this section.

16 (c) A social services district shall conduct eligibility determi-
17 nations for federal and state funding and submit claims for reimburse-
18 ment in such form and manner and at such times and for such periods as
19 the department of family assistance shall determine.

20 (d) Notwithstanding any inconsistent provision of law or regulation of
21 the department of family assistance, state reimbursement shall not be
22 made for any expenditure made for the duplication of any grant or allow-
23 ance for any period.

24 (e) Claims submitted by a social services district for reimbursement
25 shall be paid after deducting any expenditures defrayed by fees, third
26 party reimbursement, and any non-tax levy funds including any donated
27 funds.

1 (f) The office of children and family services shall not reimburse any
2 claims for expenditures for residential services that are submitted more
3 than twenty-two months after the calendar quarter in which the expendi-
4 tures were made.

5 (g) Notwithstanding any other provision of law, the state shall not be
6 responsible for reimbursing a social services district and a district
7 shall not seek state reimbursement for any portion of any state disal-
8 lowance or sanction taken against the social services district, or any
9 federal disallowance attributable to final federal agency decisions or
10 to settlements made, when such disallowance or sanction results from the
11 failure of the social services district to comply with federal or state
12 requirements, including, but not limited to, failure to document eligi-
13 bility for the federal or state funds in the case record. To the extent
14 that the social services district has sufficient claims other than those
15 that are subject to disallowance or sanction to draw down the full annu-
16 al appropriation, such disallowance or sanction shall not result in a
17 reduction in payment of state funds to the district unless the district
18 requests that the department use a portion of the appropriation toward
19 meeting the district's responsibility to repay the federal government
20 for the disallowance or sanction and any related interest payments.

21 (h) Rates for residential services. (i) The office shall establish the
22 rates, in accordance with section three hundred ninety-eight-a of this
23 chapter, for any non-secure facilities established under an approved
24 juvenile justice services close to home initiative. For any such non-se-
25 cure facility that will be used primarily by the social services
26 district with an approved close to home initiative, final authority for
27 establishment of such rates and any adjustments thereto shall reside
28 with the office, but such rates and any adjustments thereto shall be

1 established only upon the request of, and in consultation with, such
2 social services district.

3 (ii) A social services district with an approved juvenile justice
4 services close to home initiative for juvenile delinquents placed in
5 limited secure settings shall have the authority to establish and
6 adjust, on an annual or regular basis, maintenance rates for limited
7 secure facilities providing residential services under such initiative.
8 Such rates shall not be subject to the provisions of section three
9 hundred ninety-eight-a of this chapter but shall be subject to maximum
10 cost limits established by the office of children and family services.

11 9. Upon approval of a social services district's plan, the office of
12 children and family services shall notify the supervising family court
13 judge responsible for the family courts serving such district of the
14 effective date and placement settings covered by the plan.

15 (a) Beginning on the effective date of a district's approved plan that
16 only covers juvenile delinquents placed in non-secure settings, a family
17 court judge serving in a county where such social services district is
18 located shall only be authorized to place an adjudicated juvenile delin-
19 quent in the custody of the commissioner of the office of children and
20 family services for placement in a secure or limited secure facility
21 pursuant to section 353.3 or 353.5 of the family court act.

22 (b) Beginning on the effective date of a district's approved plan to
23 implement programs for juvenile delinquents placed in limited secure
24 settings, a family court judge serving in a county where such social
25 services district is located shall only be authorized to place an adju-
26 dicated juvenile delinquent in the custody of the commissioner of the
27 office of children and family services for placement in a secure facili-
28 ty pursuant to section 353.3 or 353.5 of the family court act.

1 10. If the social services district receives the necessary approval to
2 implement a close to home initiative, the district shall implement the
3 initiative in accordance with all applicable federal and state laws and
4 regulations. If the social services district receives the necessary
5 approval of a plan for juvenile delinquents placed in limited secure
6 settings, the office shall promulgate regulations governing the opera-
7 tion of such limited secure facilities. If such regulations are not
8 adopted prior to the date that an authorized agency applies for a
9 license to operate such a facility, the facility shall be subject to the
10 existing regulations of the office that would apply to the operation of
11 a foster care facility of the same size; provided, however, that the
12 office shall be authorized to grant an exception to the authorized agen-
13 cy, until such limited secure regulations are adopted, to any such
14 existing regulation that the office determines would impede the ability
15 of the authorized agency to provide the restrictive setting and programs
16 necessary to serve youth who need placement in a limited secure setting
17 in accordance with the approved plan. Any limited secure facility that
18 is granted such a waiver shall comply with any alternate requirements
19 the office may consider necessary for the protection of the health or
20 safety of the juvenile delinquents in the facility or the surrounding
21 community.

22 (a) The initiative shall be subject to the office of children and
23 family services' ongoing oversight and monitoring including, but not
24 limited to: case record reviews; staff, family, and client interviews;
25 on-site inspections; review of data regarding provider performance,
26 youth and staff safety, and quality of care, which must be provided to
27 the office in the form and manner and at such times as required by the

1 office; and continued licensing and monitoring of the authorized agen-
2 cies providing services under the plan pursuant to this chapter.

3 (b) The social services district shall provide each juvenile delin-
4 quent with an appropriate level of services designed to meet his or her
5 individual needs and to enhance public safety and shall provide the
6 office of children and family services with specific information as
7 required by the office, in the format and at such times as required by
8 such office, on the youth participating in the initiative and the
9 programs serving such youth. Such information shall be provided to the
10 office of children and family services on a monthly basis for the first
11 twelve months immediately following the implementation of the programs
12 for each level of care and shall be provided to such office on a quar-
13 terly basis thereafter.

14 11. The social services district shall submit a report to the office
15 of children and family services annually, in the format required by such
16 office, detailing overall initiative performance.

17 12. If the office of children and family services determines that the
18 social services district is failing to adequately provide for the juve-
19 nile delinquents placed under an approved plan, such office may require
20 the social services district to submit a corrective action plan, for
21 such office's approval, demonstrating how it will rectify the inadequa-
22 cies. If the office determines that the social services district is
23 failing to make sufficient progress towards implementing the corrective
24 action plan in the time and manner approved by the office, the office
25 shall provide the district written notice of such determination and the
26 basis therefor, and mandate that the district take all necessary actions
27 to implement the plan. If a district has failed within a reasonable time
28 thereafter to make progress implementing any regulation, or any other

1 portion of such plan that is intended to prevent imminent danger to the
2 health, safety or welfare of the youth being served under the plan, the
3 office may withhold or set aside a portion of the funding due under
4 subdivision eight of this section until the district demonstrates that
5 sufficient progress is being made; or terminate the district's authority
6 to operate all or a portion of the juvenile justice services close to
7 home initiative, take all necessary steps to assume custody for, and
8 provide services to, the applicable juvenile delinquents being served
9 under the initiative, and discontinue funds provided to the district for
10 such services. The office shall not withhold, set aside or discontinue
11 state aid to a district until written notice is given to the commission-
12 er of the district, and in the event funding is withheld, set aside or
13 discontinued, the district may appeal to the office, which shall hold a
14 fair hearing thereon in accordance with the provisions of section twen-
15 ty-two of this chapter relating to fair hearings. The district may
16 institute a proceeding for a review of the determination of the office
17 following the fair hearing pursuant to article seventy-eight of the
18 civil practice law and rules. Any funds withheld, set aside or discon-
19 tinued pursuant to this provision shall be applied to address the prob-
20 lem which was the basis for such sanction. If the office terminates a
21 district's authority to operate any portion of a juvenile justice
22 services close to home initiative in accordance with this subdivision,
23 the office shall notify the supervising family court judge responsible
24 for the family courts serving such district of such termination and the
25 effective date of such termination.

26 13. Once a plan becomes operative pursuant to this section, the social
27 services district shall carry out the following functions, powers and
28 duties with respect to placements of juvenile delinquents in accordance

1 with the provisions of such plan and all applicable federal and state
2 laws and regulations:

3 (a) to enter into contracts with authorized agencies, as defined in
4 section three hundred seventy-one of this chapter, to operate and main-
5 tain facilities authorized under such plan; such contracts may include
6 such program requirements as deemed necessary by the district;

7 (b) to determine the particular facility or program in which a juve-
8 nile delinquent placed with the district shall be cared for, based upon
9 an evaluation of such juvenile delinquent;

10 (c) to transfer a juvenile delinquent from one facility to any other
11 facility, when the interests of such juvenile delinquent requires such
12 action; provided that, if the district has an approved plan to implement
13 services for juvenile delinquents placed in limited secure settings, a
14 juvenile delinquent transferred to a non-secure facility from a limited
15 secure facility may be returned to a limited secure facility upon a
16 determination by the district that, for any reason, care and treatment
17 at the non-secure facility is no longer suitable;

18 (d) to issue a warrant for the apprehension and return of any runaway
19 or conditionally released juvenile delinquent placed with the district,
20 in accordance with the regulations of the office of children and family
21 services; provided further that:

22 (i) a social services official, pursuant to the regulations of the
23 office of children and family services, shall issue a warrant directed
24 generally to any peace officer, acting pursuant to such officer's
25 special duties, or police officer in the state for the apprehension and
26 return of any runaway or conditionally released juvenile delinquent
27 under the jurisdiction of the district and such warrant shall be
28 executed by any peace officer, acting pursuant to such officer's special

1 duties, or police officer to whom it may be delivered; the social
2 services district also shall provide relevant law enforcement agencies
3 within forty-eight hours with any photographs of any runaway or condi-
4 tionally released juvenile delinquent for whom a warrant is issued,
5 together with any pertinent information relative to such juvenile delin-
6 quent; such photographs shall remain the property of the social services
7 district and shall be kept confidential for use solely in the apprehen-
8 sion of such juvenile delinquent and shall be returned promptly to the
9 district upon apprehension of such juvenile delinquent, or upon the
10 demand of the district;

11 (ii) a social services official shall give immediate written notice to
12 the family court when any juvenile delinquent placed with the social
13 services district by order of said family court, is absent from such
14 placement without consent;

15 (iii) a magistrate may cause a runaway or a conditionally released
16 juvenile delinquent to be held in custody until returned to the social
17 services district;

18 (e) (i) to cause a juvenile delinquent under the jurisdiction of the
19 social services district who runs away from a facility, to be appre-
20 hended and returned to the social services district or authorized agen-
21 cy;

22 (ii) if a juvenile delinquent under the jurisdiction of the social
23 services district violates any condition of release therefrom, or if
24 there is a change of circumstances, and the social services district
25 determines that it would be consistent with the needs and best interests
26 of said juvenile delinquent and the need to protect the community, or
27 that there is a substantial likelihood said juvenile delinquent will
28 commit an act that would be a crime or constitute a crime if he or she

1 were an adult, to cause said juvenile delinquent to be apprehended and
2 returned to the district or authorized agency pursuant to the regu-
3 lations of the office of children and family services;

4 (iii) to authorize an employee designated by the social services
5 district, without a warrant, to apprehend a runaway or conditionally
6 released juvenile delinquent in any county in this state whose return
7 has been ordered by the social services district, and return said juve-
8 nile delinquent to any appropriate social services district, detention
9 facility, authorized agency or program;

10 (f) pursuant to the regulations of the office of children and family
11 services, to develop and operate programs for youth placed or referred
12 to the district or in conjunction with an order provided in accordance
13 with section 353.6 of the family court act;

14 (g) upon the placement of any juvenile delinquent eighteen years of
15 age or older, or upon the eighteenth birthday of any youth placed in the
16 custody of the social services district for an adjudication of juvenile
17 delinquency for having committed an act which if committed by an adult
18 would constitute a felony, and still in the custody of the social
19 services district, to notify the division of criminal justice services
20 of such placement or birthday. Provided, however, in the case of a
21 youth eleven or twelve years of age at the time the act or acts were
22 committed, the division of criminal justice services shall not be
23 provided with the youth's name, unless the acts committed by such youth
24 would constitute a class A or B felony. Upon the subsequent discharge it
25 shall be the duty of the social services district to notify the division
26 of criminal justice services of that fact and the date of discharge. For
27 the purposes of this paragraph, a youth's age shall be determined to be
28 the age stated in the placement order;

1 (h) to provide juvenile delinquents in residential placements with
2 reasonable and appropriate visitation by family members and consultation
3 with their legal representative in accordance with the regulations of
4 the office of children and family services; and

5 (i) to provide residential care in programs subject to the regulations
6 of the office of children and family services, for infants born to or
7 being nursed by female juvenile delinquents placed with the district;
8 residential care for such an infant may be provided for such period of
9 time as is deemed desirable for the welfare of the mother or infant.

10 14. The following persons shall be authorized to visit, at their plea-
11 sure, all programs operated by a social services district pursuant to,
12 or in accordance with this section: the governor; lieutenant governor;
13 comptroller; attorney general; members of the legislature; judges of the
14 court of appeals; judges from supreme court, family court and county
15 courts and district attorneys, county attorneys and attorneys employed
16 in the office of the corporation counsel having jurisdiction within the
17 applicable social services district or county where a program is
18 located; and any person or agency otherwise authorized by statute.

19 15. A juvenile delinquent in the care of the social services district
20 who attends public school while in residence at a facility shall be
21 deemed a resident of the school district where the youth's parent or
22 guardian resides at the commencement of each school year for the purpose
23 of determining which school district shall be responsible for the
24 youth's tuition.

25 16. The social services district shall be permitted to intervene
26 pursuant to paragraph one of subdivision (a) of section one thousand
27 twelve of the civil practice law and rules in any action involving an
28 appeal from a decision of any court of this state that relates to

1 programs, conditions or services provided by such district or any
2 authorized agency with which the district has placed a juvenile delin-
3 quent pursuant to this section. Written notice shall be given to the
4 corporation counsel of the city of New York or county attorney by the
5 party taking the appeal.

6 17. Notwithstanding any provision of law to the contrary, the social
7 services district may delay acceptance of a juvenile delinquent in
8 detention who is placed in the district's custody in accordance with the
9 regulations of the office of children and family services.

10 18. No order that places a juvenile delinquent in the custody of the
11 social services district that recites the facts upon which it is based
12 shall be deemed or held to be invalid by reason of any imperfection or
13 defect in form.

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

16 2-a. (a) In a social services district operating an approved juvenile
17 justice services close to home initiative pursuant to section four
18 hundred four of the social services law, the local probation department
19 shall develop and submit to the office of children and family services
20 for prior approval a validated pre-dispositional risk assessment instru-
21 ment and any risk assessment process. Such department shall period-
22 ically revalidate any approved pre-dispositional risk assessment instru-
23 ment. The department shall conspicuously post any approved
24 pre-dispositional risk assessment instrument and process on its website
25 and shall confer with appropriate stakeholders, including but not limit-
26 ed to, attorneys for children, presentment agencies and the family
27 court, prior to revising any validated pre-dispositional risk assessment
28 instrument or process. Any revised pre-dispositional risk assessment

1 instrument shall be subject to periodic empirical validation and to the
2 approval of the office of children and family services. The department
3 shall provide training on the approved instrument and any approved proc-
4 ess to the applicable family courts, presentment agency, and court
5 appointed attorneys for respondents.

6 (b) Once an initial validated risk assessment instrument and any risk
7 assessment process have been approved by the office of children and
8 family services in consultation with the division of criminal justice
9 services, the local probation department shall provide the applicable
10 supervising family court judge with a copy of the validated risk assess-
11 ment instrument and any such process along with the letter from the
12 office of children and family services approving the instrument and
13 process, if applicable, and indicating the date the instrument and any
14 such process shall be effective, provided that such effective date shall
15 be at least thirty days after such notification.

16 (c) Commencing on the effective date of a validated pre-dispositional
17 risk assessment instrument and any approved process and thereafter, each
18 probation investigation ordered under subdivision two of this section
19 shall include the results of the validated risk assessment of the
20 respondent and process, if any; and a respondent shall not be placed in
21 accordance with section 353.3 or 353.5 of this part unless the court has
22 received and given due consideration to the results of such validated
23 risk assessment and any approved process and made the findings required
24 pursuant to paragraph (f) of subdivision two of section 352.2 of this
25 part.

26 (d) Notwithstanding any other provision of law to the contrary, data
27 necessary for completion of a pre-dispositional risk assessment instru-
28 ment may be shared between law enforcement, probation, courts, detention

1 administrations, detention providers, presentment agencies, and the
2 attorney for the child upon retention or appointment solely for the
3 purpose of accurate completion of such risk assessment instrument. A
4 copy of the completed pre-dispositional risk assessment instrument shall
5 be made available to the applicable court.

6 (e) The local probation department shall provide the division of crim-
7 inal justice services with information regarding the use of the pre-dis-
8 positional risk assessment instrument and any risk assessment process in
9 the time and manner required by the division of criminal justice
10 services. The division may require that such data be submitted to the
11 division electronically. The division of criminal justice services shall
12 share such information with the office of children and family services.

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

15 (f)(1) In a social services district operating an approved juvenile
16 justice services close to home initiative pursuant to section four
17 hundred four of the social services law, once the supervising family
18 court judge receives notice that a risk assessment instrument and any
19 risk assessment process have been approved by the office of children and
20 family services pursuant to subdivision two-a of section 351.1 of this
21 part, the court shall give due consideration to the results of the vali-
22 dated risk assessment and any such process provided to the court pursu-
23 ant to such subdivision when determining the appropriate disposition for
24 the respondent.

25 (2) Any order of the court directing the placement of a respondent
26 into a residential program shall state:

27 (i) the level of risk the youth was assessed at pursuant to the vali-
28 dated risk assessment instrument; and

1 (ii) if a determination is made to place a youth in a higher level of
2 placement than appears warranted based on such risk assessment instru-
3 ment and any approved risk assessment process, the particular reasons
4 why such placement was determined to be necessary for the protection of
5 the community and to be consistent with the needs and best interests of
6 the respondent; and

7 (iii) that a less restrictive alternative that would be consistent
8 with the needs and best interests of the respondent and the need for
9 protection of the community is not available.

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

12 2-a. Notwithstanding any inconsistent provision of law to the contra-
13 ry, in a district operating an approved juvenile justice services close
14 to home initiative pursuant to section four hundred four of the social
15 services law:

16 (a) beginning on the effective date of the district's approved plan
17 that only covers juvenile delinquents placed in non-secure settings, the
18 court may only place the respondent:

19 (i) in the custody of the commissioner of the local social services
20 district for placement in a non-secure level of care; or

21 (ii) in the custody of the commissioner of the office of children and
22 family services for placement in a limited secure or secure level of
23 care; and

24 (b) beginning on the effective date of the district's approved plan to
25 implement programs for youth placed in limited secure settings, the
26 court may only place the respondent:

27 (i) in the custody of the commissioner of the local social services
28 district for placement in:

- 1 (A) a non-secure level of care;
2 (B) a limited secure level of care; or
3 (C) either a non-secure or limited secure level of care, as determined
4 by such commissioner; or
5 (ii) in the custody of the commissioner of the office of children and
6 family services for placement in a secure level of care.

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

10 9. If the court places a respondent with the office of children and
11 family services, or in a limited secure level of care in a social
12 services district with an approved plan to implement a juvenile justice
13 services close to home initiative under section four hundred four of the
14 social services law, pursuant to this section after finding that such
15 [child] respondent committed a felony, the court may, in its discretion,
16 further order that such respondent shall be confined in a residential
17 facility for a minimum period set by the order, not to exceed six
18 months.

19 § 6. Subdivisions 4 and 5 of section 353.5 of the family court act, as
20 added by chapter 920 of the laws of 1982, subparagraph (i) of paragraph
21 (a) of subdivision 4 and subparagraph (i) of paragraph (a) of subdivi-
22 sion 5 as amended by chapter 419 of the laws of 1987, subparagraph (iv)
23 of paragraph (a) of subdivision 4 and subparagraph (iv) of paragraph (a)
24 of subdivision 5 as amended by chapter 687 of the laws of 1993, para-
25 graphs (b) and (d) of subdivision 4 and paragraph (d) of subdivision 5
26 as amended by chapter 398 of the laws of 1983, are amended to read as
27 follows:

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

3 (a) the order shall provide that:

4 (i) the respondent shall be placed with the [division for youth]
5 office of children and family services for an initial period of five
6 years. If the respondent has been in detention pending disposition, the
7 initial period of placement ordered under this section shall be credited
8 with and diminished by the amount of time spent by the respondent in
9 detention prior to the commencement of the placement unless the court
10 finds that all or part of such credit would not serve the needs and best
11 interests of the respondent or the need for protection of the community.

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

17 (iii) after the period set under [clause] subparagraph (ii) of this
18 paragraph, the respondent shall be placed in a residential facility for
19 a period of twelve months; provided, however, that if the respondent has
20 been placed from a family court in a social services district operating
21 an approved juvenile justice services close to home initiative pursuant
22 to section four hundred four of the social services law, once the time
23 frames in subparagraph (ii) of this paragraph are met:

24 (A) beginning on the effective date of such a social services
25 district's plan that only covers juvenile delinquents placed in non-se-
26 cure settings, if the office of children and family services concludes,
27 based on the needs and best interests of the respondent and the need for
28 protection for the community, that a non-secure level of care is appro-

1 priate for the respondent, such office shall file a petition pursuant to
2 paragraph (b) or (c) of subdivision two of section 355.1 of this part to
3 have the respondent placed with the applicable local commissioner of
4 social services; and

5 (B) beginning on the effective date of such a social services
6 district's plan that covers juvenile delinquents placed in limited
7 secure settings, if the office of children and family services
8 concludes, based on the needs and best interests of the respondent and
9 the need for protection for the community, that a non-secure or limited
10 secure level of care is appropriate for the respondent, such office
11 shall file a petition pursuant to paragraph (b) or (c) of subdivision
12 two of section 355.1 of this part to have the respondent placed with the
13 applicable local commissioner of social services.

14 (C) If the respondent is placed with the local commissioner of social
15 services in accordance with clause (A) or (B) of this subparagraph, the
16 remainder of the provisions of this section shall continue to apply to
17 the respondent's placement.

18 (iv) the respondent may not be released from a secure facility or
19 transferred to a facility other than a secure facility during the period
20 provided in [clause] subparagraph (ii) of this paragraph, nor may the
21 respondent be released from a residential facility during the period
22 provided in [clause] subparagraph (iii) of this paragraph. No home
23 visits shall be permitted during the period of secure confinement set by
24 the court order or one year, whichever is less, except for emergency
25 visits for medical treatment or severe illness or death in the family.
26 All home visits must be accompanied home visits: (A) while a youth is
27 confined in a secure facility, whether such confinement is pursuant to a
28 court order or otherwise; (B) while a youth is confined in a residential

1 facility other than a secure facility within six months after confine-
2 ment in a secure facility; and (C) while a youth is confined in a resi-
3 dential facility other than a secure facility in excess of six months
4 after confinement in a secure facility unless two accompanied home
5 visits have already occurred. An "accompanied home visit" shall mean a
6 home visit during which the youth shall be accompanied at all times
7 while outside the secure or residential facility by appropriate person-
8 nel of the [division for youth designated pursuant to regulations of the
9 director of the division] office of children and family services or, if
10 applicable, a local social services district which operates an approved
11 juvenile justice services close to home initiative pursuant to section
12 four hundred four of the social services law.

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

19 (c) During the placement or any extension thereof:

20 (i) after the expiration of the period provided in [clause] subpara-
21 graph (iii) of paragraph (a) of this subdivision, the respondent shall
22 not be released from a residential facility without the written approval
23 of the [director of the division for youth or his designated deputy
24 director] office of children and family services or, if applicable, a
25 social services district operating an approved juvenile justice services
26 close to home initiative pursuant to section four hundred four of the
27 social services law.

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

3 (iii) the respondent shall not be discharged from the custody of the
4 [division for youth] office of children and family services or, if
5 applicable, a social services district operating an approved juvenile
6 justice services close to home initiative pursuant to section four
7 hundred four of the social services law, unless a motion therefor under
8 section 355.1 is granted by the court, which motion shall not be made
9 prior to the expiration of three years of the placement.

10 (iv) unless otherwise specified in the order, the [division] office of
11 children and family services or, if applicable, a social services
12 district operating an approved juvenile justice services close to home
13 initiative pursuant to section four hundred four of the social services
14 law shall report in writing to the court not less than once every six
15 months during the placement on the status, adjustment and progress of
16 the respondent.

17 (d) Upon the expiration of the initial period of placement, or any
18 extension thereof, the placement may be extended in accordance with
19 section 355.3 on a petition of any party or the [division for youth]
20 office of children and family services, or, if applicable, a social
21 services district operating an approved juvenile justice services close
22 to home initiative pursuant to section four hundred four of the social
23 services law, after a dispositional hearing, for an additional period
24 not to exceed twelve months, but no initial placement or extension of
25 placement under this section may continue beyond the respondent's twen-
26 ty-first birthday.

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

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

4 (a) the order shall provide that:

5 (i) the respondent shall be placed with the [division for youth]
6 office of children and family services for an initial period of three
7 years. If the respondent has been in detention pending disposition, the
8 initial period of placement ordered under this section shall be credited
9 with and diminished by the amount of time spent by the respondent in
10 detention prior to the commencement of the placement unless the court
11 finds that all or part of such credit would not serve the needs and best
12 interests of the respondent or the need for protection of the community.

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

16 (iii) after the period set under [clause] subparagraph (ii) of this
17 paragraph, the respondent shall be placed in a residential facility for
18 a period set by the order, to be not less than six nor more than twelve
19 months; provided, however, that if the respondent has been placed from a
20 family court in a social services district operating an approved juve-
21 nile justice services close to home initiative pursuant to section four
22 hundred four of the social services law, once the time frames in subpar-
23 agraph (ii) of this paragraph are met:

24 (A) beginning on the effective date of such a social services
25 district's plan that only covers juvenile delinquents placed in non-se-
26 cure settings, if the office of children and family services concludes,
27 based on the needs and best interests of the respondent and the need for
28 protection for the community, that a non-secure level of care is appro-

1 priate for the respondent, such office shall file a petition pursuant to
2 paragraph (b) or (c) of subdivision two of section 355.1 of this part to
3 have the respondent placed with the applicable local commissioner of
4 social services; and

5 (B) beginning on the effective date of such a social services
6 district's plan to implement programs for youth placed in limited secure
7 settings, if the office of children and family services concludes, based
8 on the needs and best interests of the respondent and the need for
9 protection for the community, that a non-secure or limited secure level
10 of care is appropriate for the respondent, such office shall file a
11 petition pursuant to paragraph (b) or (c) of subdivision two of section
12 355.1 of this part to have the respondent placed with the applicable
13 local commissioner of social services.

14 (C) If the respondent is placed with a local commissioner of social
15 services in accordance with clause (A) or (B) of this subparagraph, the
16 remainder of the provisions of this section shall continue to apply to
17 the respondent's placement.

18 (iv) the respondent may not be released from a secure facility or
19 transferred to a facility other than a secure facility during the period
20 provided by the court pursuant to [clause] subparagraph (ii) of this
21 paragraph, nor may the respondent be released from a residential facili-
22 ty during the period provided by the court pursuant to [clause] subpara-
23 graph (iii) of this paragraph. No home visits shall be permitted during
24 the period of secure confinement set by the court order or one year,
25 whichever is less, except for emergency visits for medical treatment or
26 severe illness or death in the family. All home visits must be accompa-
27 nied home visits: (A) while a youth is confined in a secure facility,
28 whether such confinement is pursuant to a court order or otherwise; (B)

1 while a youth is confined in a residential facility other than a secure
2 facility within six months after confinement in a secure facility; and
3 (C) while a youth is confined in a residential facility other than a
4 secure facility in excess of six months after confinement in a secure
5 facility unless two accompanied home visits have already occurred. An
6 "accompanied home visit" shall mean a home visit during which the youth
7 shall be accompanied at all times while outside the secure or residen-
8 tial facility by appropriate personnel of the [division for youth desig-
9 nated pursuant to regulations of the director of the division] office of
10 children and family services or, if applicable, a social services
11 district operating an approved juvenile justice close to home initiative
12 pursuant to section four hundred four of the social services law.

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

19 (c) During the placement or any extension thereof:

20 (i) after the expiration of the period provided in [clause] subpara-
21 graph (iii) of paragraph (a) of this subdivision, the respondent shall
22 not be released from a residential facility without the written approval
23 of the [director of the division for youth or his designated deputy
24 director] office of children and family services or, if applicable, a
25 social services district operating an approved juvenile justice services
26 close to home initiative pursuant to section four hundred four of the
27 social services law.

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

3 (iii) the respondent shall not be discharged from the custody of the
4 [division for youth] office of children and family services, or, if
5 applicable, a social services district operating an approved juvenile
6 justice services close to home initiative pursuant to section four
7 hundred four of the social services law.

8 (iv) unless otherwise specified in the order, the [division] office of
9 children and family services or, if applicable, a social services
10 district operating an approved juvenile justice services close to home
11 initiative pursuant to section four hundred four of the social services
12 law, shall report in writing to the court not less than once every six
13 months during the placement on the status, adjustment and progress of
14 the respondent.

15 (d) Upon the expiration of the initial period of placement or any
16 extension thereof, the placement may be extended in accordance with
17 section 355.3 upon petition of any party or the [division for youth]
18 office of children and family services or, if applicable, a social
19 services district operating an approved juvenile justice services close
20 to home initiative pursuant to section four hundred four of the social
21 services law, after a dispositional hearing, for an additional period
22 not to exceed twelve months, but no initial placement or extension of
23 placement under this section may continue beyond the respondent's twen-
24 ty-first birthday.

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

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

1 8. The [division for youth] office of children and family services or,
2 if applicable, the social services district operating an approved close
3 to home initiative pursuant to section four hundred four of the social
4 services law, shall retain the power to continue the confinement of the
5 youth in a secure or other residential facility, as applicable, beyond
6 the periods specified by the court, within the term of the placement.

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

9 2. An order issued under section 353.3, may, upon a showing of a
10 substantial change of circumstances, be set aside, modified, vacated or
11 terminated upon motion of the commissioner of social services or the
12 [division for youth] office of children and family services with whom
13 the respondent has been placed.

14 (a)(i) For a social services district that only has an approved plan
15 to implement programs for juvenile delinquents placed in non-secure
16 settings as part of an approved juvenile justice services close to home
17 initiative pursuant to section four hundred four of the social services
18 law, beginning on the effective date of that plan, if the district
19 determines that a higher level of placement is appropriate and consist-
20 ent with the need for protection of the community and the needs and best
21 interests of the respondent placed into its care, the social services
22 district shall file a petition to transfer the custody of the respondent
23 to the office of children and family services, and shall provide a copy
24 of such petition to such office. The court shall render a decision
25 whether the juvenile delinquent should be transferred to the office
26 within seventy-two hours, excluding weekends and public holidays. The
27 family court shall, after allowing the office of children and family
28 services an opportunity to be heard, grant such a petition only if the

1 court determines, and states in its written order, the reasons why a
2 limited secure or secure level of placement is necessary and consistent
3 with the needs and best interests of the respondent and the need for
4 protection of the community.

5 (ii) For a social services district with an approved plan or approved
6 plans that cover juvenile delinquents placed in non-secure and in limit-
7 ed secure settings as part of an approved juvenile justice services
8 close to home initiative pursuant to section four hundred four of the
9 social services law, beginning on the effective date of the plan that
10 covers juvenile delinquents placed in limited secure settings, if the
11 district determines that a secure level of placement is appropriate and
12 consistent with the need for protection of the community and the needs
13 and best interests of the respondent placed into its care, the social
14 services district shall file a petition to transfer the custody of the
15 respondent to the office of children and family services, and shall
16 provide a copy of such petition to such office. The court shall render a
17 decision whether the youth should be transferred within seventy-two
18 hours, excluding weekends and public holidays. The family court shall,
19 after allowing the office of children and family services an opportunity
20 to be heard, grant such a petition only if the court determines, and
21 states in its written order, that the youth needs a secure level of
22 placement because:

23 (A) the respondent has been shown to be exceptionally dangerous to
24 himself or herself or to other persons. Exceptionally dangerous behavior
25 may include, but is not limited to, one or more serious intentional
26 assaults, sexual assaults or setting fires; or,

27 (B) the respondent has demonstrated by a pattern of behavior that he
28 or she needs a more structured setting and the social services district

1 has considered the appropriateness and availability of a transfer to an
2 alternative non-secure or limited secure facility. Such behavior may
3 include, but is not limited to: disruptions in facility programs;
4 continuously and maliciously destroying property; or, repeatedly commit-
5 ting or inciting other youth to commit assaultive or destructive acts.

6 (iii) The court may order that the respondent be housed in a local
7 secure detention facility on an interim basis pending its final ruling
8 on the petition filed pursuant to this paragraph.

9 (b) The following provisions shall apply if the office of children and
10 family services files a petition with a family court in a social
11 services district with an approved juvenile justice services close to
12 home initiative pursuant to section four hundred four of the social
13 services law to transfer, within the first ninety days that such plan is
14 effective, to such district a respondent placed in the office's care
15 pursuant to either section 353.3 or 353.5 of this part:

16 (i) If the district only has an approved plan that covers juvenile
17 delinquents placed in non-secure settings, the family court shall grant
18 such a petition, without a hearing, unless the attorney for the respond-
19 ent objects to the transfer on the basis that the respondent needs to be
20 placed in a limited secure or secure setting or the family court deter-
21 mines that there is insufficient information in the petition to grant
22 the transfer without a hearing. The family court shall grant the peti-
23 tion unless the court determines, and states in its written order, the
24 reasons why a secure or limited secure placement is necessary and
25 consistent with the needs and best interests of the respondent and the
26 need for protection of the community.

27 (ii) If the district has an approved plan or approved plans that cover
28 juvenile delinquents placed in non-secure and in limited secure

1 settings, for the first ninety days that the plan that covers juvenile
2 delinquents in limited secure settings is effective, the family court
3 shall grant such a petition, without a hearing, unless the attorney for
4 the respondent objects to the transfer on the basis that the respondent
5 needs to be placed in a secure setting or the family court determines
6 that there is insufficient information in the petition to grant the
7 transfer without a hearing. The family court shall grant the petition
8 unless the court determines, and states in its written order, the
9 reasons why a secure placement is necessary and consistent with the
10 needs and best interests of the respondent and the need for protection
11 of the community.

12 (iii) Beginning ninety-one days after the effective date a social
13 services district's plan to implement programs for juvenile justice
14 services close to home initiative pursuant to section four hundred four
15 of the social services law, if the office of children and family
16 services files a petition to transfer to such district a respondent
17 placed in the office's care pursuant to either section 353.3 or 353.5 of
18 this part from a family court in such a social services district, the
19 office shall provide a copy of the petition to the social services
20 district and the presentment agency.

21 (A) If the district only has an approved plan that covers juvenile
22 delinquents placed in non-secure settings, the family court shall, after
23 allowing the social services district and the presentment agency an
24 opportunity to be heard, grant a petition filed pursuant to this subpar-
25 agraph unless the court determines, and states in its written order, the
26 reasons why a secure or limited secure placement is necessary and
27 consistent with the needs and best interests of the respondent and the
28 need for protection of the community.

1 (B) If the district has an approved plan or approved plans that cover
2 juvenile delinquents placed in non-secure and limited secure settings,
3 beginning ninety-one days after the effective date of the plan that
4 covers juvenile delinquents placed in limited secure settings, the fami-
5 ly court, after allowing the social services district and the present-
6 ment agency an opportunity to be heard, shall grant a petition filed
7 pursuant to this subparagraph, unless the court determines, and states
8 in its written order, the reasons why a secure placement is necessary
9 and consistent with the needs and best interests of the respondent and
10 the need for protection of the community.

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

13 1. For the purposes of this section the term "non-secure facility"
14 means a facility operated by an authorized agency in accordance with an
15 operating certificate issued pursuant to the social services law or a
16 facility[, not including a secure or limited secure facility,] with a
17 capacity of twenty-five beds or less operated by the office of children
18 and family services in accordance with section five hundred four of the
19 executive law. The term shall not include a limited secure or a secure
20 facility operated by the office of children and family services or a
21 limited secure facility within a social services district operating an
22 approved juvenile justice services close to home initiative pursuant to
23 section four hundred four of the social services law.

24 § 10. Notwithstanding any other provision of law to the contrary, the
25 state shall be authorized to lease to the city of New York, for a dollar
26 a year, any real property utilized for the care, maintenance and super-
27 vision of adjudicated juvenile delinquents for use by a social services
28 district pursuant to an approved plan for a juvenile justice services

1 close to home initiative for the purpose of carrying out any powers,
2 functions or duties described in section four hundred four of the social
3 services law, or any other provision of this act. The city of New York
4 shall be responsible for the all costs associated with operating and
5 maintaining such real property other than any debt services costs for
6 such property that were in existence when the lease was executed. Appli-
7 cable state officials shall be authorized to make announced and unan-
8 nounced inspections of the property to determine whether it is being
9 maintained in an appropriate manner. The city of New York shall be
10 responsible for making any repairs to such leased property necessary to
11 maintain the property in at least as good as condition as it was when
12 the property was first leased to the city, allowing for normal wear and
13 tear, and shall return the property to the state, when the lease ends or
14 is terminated, in the same or better condition than the property was in
15 at the time the lease was first executed, aside from normal wear and
16 tear. The city of New York shall obtain prior approval from the state
17 for any major renovations to any such leased property. The leasing to
18 the social services district or the subleasing, design, construction,
19 reconstruction, improvement, rehabilitation, maintaining, furnishing,
20 repairing, equipping or use of any such facility by the social services
21 district for the care, maintenance and supervision of adjudicated juve-
22 nile delinquents shall not be subject to the provisions of any general,
23 special or local law, city charter, administrative code, ordinance or
24 resolution governing uniform land use review procedures, any other land
25 use planning review and approvals, historic preservation procedures,
26 architectural reviews, franchise approvals and other state or local
27 review and approval procedures governing the use of land and the
28 improvements thereon within the city.

1 § 11. This act shall take effect April 1, 2012 and shall expire on
2 March 31, 2018 when upon such date the provisions of this act shall be
3 deemed repealed; provided, however, that effective immediately, the
4 addition, amendment and/or repeal of any rule or regulation necessary
5 for the implementation of this act on its effective date are authorized
6 and directed to be made and completed on or before such effective date;
7 provided, however, upon the repeal of this act, a social services
8 district that has custody of a juvenile delinquent pursuant to an
9 approved juvenile justice services close to home initiative shall retain
10 custody of such juvenile delinquent until custody may be legally trans-
11 ferred in an orderly fashion to the office of children and family
12 services.

13 SUBPART B

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

16 3-a. As to delinquent children:

17 (a)(1) Conditionally release any juvenile delinquent placed with the
18 district to aftercare whenever the district determines conditional
19 release to be consistent with the needs and best interests of such juve-
20 nile delinquent, that suitable care and supervision can be provided, and
21 that there is a reasonable probability that such juvenile delinquent can
22 be conditionally released without endangering public safety; provided,
23 however, that such conditional release shall be made in accordance with
24 the regulations of the office of children and family services, and
25 provided further that no juvenile delinquent while absent from a facili-
26 ty or program without the consent of the director of such facility or

1 program shall be conditionally released by the district solely by reason
2 of the absence.

3 (2) It shall be a condition of such release that a juvenile delinquent
4 so released shall continue to be the responsibility of the social
5 services district for the period provided in the order of placement.

6 (3) The social services district may provide clothing, services and
7 other necessities for any conditionally released juvenile delinquent, as
8 may be required, including medical care and services not provided to
9 such juvenile delinquent as medical assistance for needy persons pursu-
10 ant to title eleven of article five of this chapter.

11 (4) The social services district, pursuant to the regulations of the
12 office of children and family services, may cause a juvenile delinquent
13 to be returned to a facility operated and maintained by the district, or
14 an authorized agency under contract with the district, at any time with-
15 in the period of placement, where there is a violation of the conditions
16 of release or a change of circumstances.

17 (5) Juvenile delinquents conditionally released by a social services
18 district may be provided for as follows:

19 (i) If, in the opinion of the social services district, there is no
20 suitable parent, relative or guardian to whom a juvenile delinquent can
21 be conditionally released, and suitable care cannot otherwise be
22 secured, the district may conditionally release such juvenile delinquent
23 to the care of any other suitable person.

24 (ii) If a conditionally released juvenile delinquent is subject to
25 article sixty-five of the education law or elects to participate in an
26 educational program leading to a high school diploma, he or she shall be
27 enrolled in a school or educational program leading to a high school
28 diploma following release, or, if such release occurs during the summer

1 recess, upon the commencement of the next school term. If a condi-
2 tionally released juvenile delinquent is not subject to article sixty-
3 five of the education law, and does not elect to participate in an
4 educational program leading to a high school diploma, steps shall be
5 taken, to the extent possible, to facilitate his or her gainful employ-
6 ment or enrollment in a vocational program following release.

7 (b) When a juvenile delinquent placed with the social services
8 district is absent from placement without consent, such absence shall
9 interrupt the calculation of time for his or her placement. Such inter-
10 ruption shall continue until such juvenile delinquent returns to the
11 facility or authorized agency in which he or she was placed. Provided,
12 however, that any time spent by a juvenile delinquent in custody from
13 the date of absence to the date placement resumes shall be credited
14 against the time of such placement provided that such custody:

15 (1) was due to an arrest or surrender based upon the absence; or

16 (2) arose from an arrest or surrender on another charge which did not
17 culminate in a conviction, adjudication or adjustment.

18 (c) In addition to the other requirements of this section, no juvenile
19 delinquent placed with a social services district operating an approved
20 juvenile justice services close to home initiative pursuant to section
21 four hundred four of this chapter pursuant to a restrictive placement
22 under the family court act shall be released except pursuant to section
23 353.5 of the family court act.

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

26 2-b. The division of criminal justice services shall develop a vali-
27 dated pre-dispositional risk assessment instrument and any risk assess-
28 ment process for juvenile delinquents. The division shall periodically

1 revalidate any approved pre-dispositional risk assessment instrument.
2 The division of criminal justice services shall conspicuously post any
3 approved pre-dispositional risk assessment instrument and any risk
4 assessment process on its website and shall confer with appropriate
5 stakeholders, including but not limited to, attorneys for children,
6 presentment agencies, probation and the family court, prior to revising
7 any validated pre-dispositional risk assessment instrument or process.
8 Any such revised pre-dispositional risk assessment instrument shall be
9 subject to periodic empirical validation. The division of criminal
10 justice services shall provide training on the instrument and any proc-
11 ess to the family courts, local probation departments, presentment agen-
12 cies and court appointed attorneys for respondents. The division may
13 determine that a pre-dispositional risk assessment instrument and any
14 process in use pursuant to subdivision two-a of section 351.1 of this
15 part may continue to be used pursuant to such subdivision instead of
16 requiring the use of any instrument or process developed pursuant to
17 this subdivision.

18 (a) Once an initial validated risk assessment instrument and risk
19 assessment process have been developed, the division of criminal justice
20 services shall provide the supervising family court judges and local
21 probation departments with copies of the validated risk assessment
22 instrument and process and notify them of the effective date of the
23 instrument and process, which shall be at least six months after such
24 notification.

25 (b) Commencing on the effective date of a validated risk assessment
26 instrument and any risk assessment process and thereafter, each
27 probation investigation ordered under subdivision two of this section
28 shall include the results of the validated risk assessment of the

1 respondent and process, if any; and a respondent shall not be placed in
2 accordance with section 353.3 or 353.5 of this part unless the court has
3 received and given due consideration to the results of such validated
4 risk assessment and any process and made the findings required pursuant
5 to paragraph (g) of subdivision two of section 352.2 of this part.

6 (c) Notwithstanding any other provision of law to the contrary, data
7 necessary for completion of a pre-dispositional risk assessment instru-
8 ment may be shared between law enforcement, probation, courts, detention
9 administrations, detention providers, presentment agencies and the
10 attorney for the child upon retention or appointment solely for the
11 purpose of accurate completion of such risk assessment instrument, and a
12 copy of the completed pre-dispositional risk assessment instrument shall
13 be made available to the applicable court.

14 (d) Local probation departments shall provide the division of criminal
15 justice services with information regarding use of the pre-dispositional
16 risk assessment instrument and any risk assessment process in the time
17 and manner required by the division. The division may require that such
18 data be submitted to the division electronically. The division shall
19 share such information with the office of children and family services.

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

22 (g)(i) Once a validated risk assessment instrument and any risk
23 assessment process is a required part of each probation investigation
24 ordered under subdivision two of section 351.1 of this part and provided
25 to the court in accordance with subdivision two-b of such section, the
26 court shall give due consideration to the results of such validated risk
27 assessment and any such process when determining the appropriate dispo-
28 sition for the respondent.

1 (ii) Any order of the court directing the placement of a respondent
2 into a residential program shall state:

3 (A) the level of risk the youth was assessed pursuant to the validated
4 risk assessment instrument; and

5 (B) if a determination is made to place a youth in a higher level of
6 placement than appears warranted based on such risk assessment instru-
7 ment and any risk assessment process, the particular reasons why such
8 placement was determined to be necessary for the protection of the
9 community and to be consistent with the needs and best interests of the
10 respondent; and

11 (C) that a less restrictive alternative that would be consistent with
12 the needs and best interests of the respondent and the need for
13 protection of the community is not available.

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

17 Where the respondent is placed with the commissioner of the local
18 social services district[, the court may direct the commissioner to
19 place him or her with an authorized agency or class of authorized agen-
20 cies, including, if] and the court finds that the respondent is a sexu-
21 ally exploited child as defined in subdivision one of section four
22 hundred forty-seven-a of the social services law[,] and places such
23 respondent in an available long-term safe house. Unless the disposi-
24 tional order provides otherwise, the court so directing shall include
25 one of the following alternatives to apply in the event that the commis-
26 sioner is unable to so place the respondent:

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

4 Where the respondent is placed with the office of children and family
5 services, the court shall, unless [it directs the office to place him or
6 her with an authorized agency or class of authorized agencies, including
7 if] the court finds that the respondent is a sexually exploited child as
8 defined in subdivision one of section four hundred forty-seven-a of the
9 social services law[,] and places such respondent in an available long-
10 term safe house pursuant to subdivision four of this section, authorize
11 the office to do one of the following:

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

15 4. Where the respondent is placed with the office of children and
16 family services, and if the court finds that the respondent is a sexual-
17 ly exploited child as defined in subdivision one of section four hundred
18 forty-seven-a of the social services law, the court may direct the
19 office to place the respondent [with an authorized agency or class of
20 authorized agencies, including, if the court finds that the respondent
21 is a sexually exploited child as defined in subdivision one of section
22 four hundred forty-seven-a of the social services law,] in an available
23 long-term safe house, and in the event the office is unable to so place
24 the respondent [or, discontinues the placement with the authorized agen-
25 cy], the respondent shall be deemed to have been placed with the office
26 pursuant to paragraph (b) or (c) of subdivision three of this section.
27 [In such cases, the office shall notify the court, presentment agency,
28 respondent's attorney and parent or other person responsible for the

1 respondent's care, of the reason for discontinuing the placement with
2 the authorized agency and the level and location of the youth's place-
3 ment.]

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

7 1. At the conclusion of the dispositional hearing pursuant to this
8 article, where the respondent is to be placed with the [division for
9 youth] office of children and family services or a social services
10 district, the court shall inquire as to whether the parents or legal
11 guardian of the youth, if present, will consent for the [division]
12 office or the district to provide routine medical, dental and mental
13 health services and treatment.

14 2. Notwithstanding subdivision one of this section, where the court
15 places a youth with the [division] office of children and family
16 services or a social services district pursuant to this article and no
17 medical consent has been obtained prior to an order of disposition, the
18 placement order shall be deemed to grant consent for the [division for
19 youth] office or the district to provide for routine medical, dental and
20 mental health services and treatment to such youth so placed.

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

26 § 3. Severability clause. If any clause, sentence, paragraph, subdivi-
27 sion, section or part of this act shall be adjudged by any court of
28 competent jurisdiction to be invalid, such judgment shall not affect,

1 impair, or invalidate the remainder thereof, but shall be confined in
2 its operation to the clause, sentence, paragraph, subdivision, section
3 or part thereof directly involved in the controversy in which such judg-
4 ment shall have been rendered. It is hereby declared to be the intent of
5 the legislature that this act would have been enacted even if such
6 invalid provisions had not been included herein.

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

10

PART H

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

17 (a) The New York state higher education capital matching grant board
18 is hereby created to have and exercise the powers, duties and preroga-
19 tives provided by the provisions of this section and any other provision
20 of law. The board shall remain in existence during the period of the New
21 York state higher education capital matching grant program from the
22 effective date of this section through March 31, [2012] 2013, or the
23 date on which the last of the funds available for grants under this
24 section shall have been disbursed, whichever is earlier; provided,
25 however, that the termination of the existence of the board shall not
26 affect the power and authority of the dormitory authority to perform its

1 obligations with respect to any bonds, notes, or other indebtedness
2 issued or incurred pursuant to authority granted in this section.

3 § 2. Paragraph (h) of subdivision 4 of section 1 of part U of chapter
4 57 of the laws of 2005 amending the labor law and other laws implement-
5 ing the state fiscal plan for the 2005-2006 state fiscal year, relating
6 to the New York state higher education matching grant program for inde-
7 pendent colleges, as amended by section 2 of part M of chapter 59 of the
8 laws of 2010, is amended to read as follows:

9 (h) If a college did not apply for a potential grant by March 31,
10 2009, funds associated with such potential grant shall be awarded, on a
11 competitive basis, to other colleges, according to the priorities set
12 forth below. Colleges shall be eligible to apply for unutilized grants.
13 In such cases, the following priorities shall apply: first, priority
14 shall be given to otherwise eligible colleges that either were, or would
15 have been, deemed ineligible for the program prior to March 31, 2009,
16 due to missed deadlines, insufficient matching funds, lack of accredi-
17 tation or other disqualifying reasons; and second, after the board has
18 acted upon all such first-priority applications for unused funds, if any
19 such funds remain, those funds shall be available for distribution to
20 eligible colleges that are located within the same Regents of the State
21 of New York region for which such funds were originally allocated. The
22 dormitory authority shall develop a request for proposals and applica-
23 tion process, in consultation with the board, for such grants and shall
24 develop criteria, subject to review by the board, for the awarding of
25 such grants. Such criteria shall incorporate the matching criteria
26 contained in paragraph (c) of this subdivision, and the application
27 criteria set forth in paragraph (e) of this subdivision. The dormitory
28 authority shall require all applications in response to the request for

1 proposals to be submitted by September 1, [2010] 2012, and the board
2 shall act on each application for such matching grants by November 1,
3 [2010] 2012.

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

11 (A) Notwithstanding the provision of any general or special law to the
12 contrary, and subject to the provisions of chapter 59 of the laws of
13 2000 and to the making of annual appropriations therefor by the legisla-
14 ture, in order to assist the dormitory authority in providing such high-
15 er education capital matching grants, the director of the budget is
16 authorized in any state fiscal year commencing April 1, 2005 or any
17 state fiscal year thereafter for a period ending on March 31, [2012]
18 2014, to enter into one or more service contracts, none of which shall
19 exceed 30 years in duration, with the dormitory authority, upon such
20 terms as the director of the budget and the dormitory authority agree.

21 § 4. Paragraph (b) of subdivision 7 of section 1 of part U of chapter
22 57 of the laws of 2005 amending the labor law and other laws implement-
23 ing the state fiscal plan for the 2005-2006 state fiscal year, relating
24 to the New York state higher education matching grant program for inde-
25 pendent colleges, as amended by section 3 of part I of chapter 60 of the
26 laws of 2011, is amended to read as follows:

27 (b) Any eligible institution receiving a grant pursuant to this arti-
28 cle shall report to the dormitory authority no later than June 1, [2012]

1 2013, on the use of funding received and its programmatic and economic
2 impact. The dormitory authority shall submit a report no later than
3 November 1, [2012] 2013 to the board, the governor, the director of the
4 budget, the temporary president of the senate, and the speaker of the
5 assembly on the aggregate impact of the higher education capital match-
6 ing grant program. Such report shall provide information on the progress
7 and economic impact of such project.

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

10

PART I

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

13 § 5704. Trustees shall make reports; university subject to visitation
14 of regents; services for state agencies. 1. The trustees of said
15 university shall make all the reports and perform such other acts as may
16 be necessary to conform to the act of congress, entitled "An act donat-
17 ing public lands to the several states and territories which may provide
18 colleges for the benefit of agriculture and the mechanic arts," approved
19 July second, eighteen hundred sixty-two. The said university shall be
20 subject to visitation of the regents of the university.

21 2. Notwithstanding any other provision of law to the contrary, and
22 subject to the review of the state comptroller, the state may enter into
23 an agreement with the university prescribing the general terms and
24 conditions for providing services or technical assistance pursuant to
25 article eleven of the state finance law or program activities pursuant
26 to article eleven-B of the state finance law. Subject to such terms and

1 conditions, state agencies may enter into agreements with said universi-
2 ty for the provision of such services, assistance or activities related
3 to the university's land grant mission, which agreements shall not be
4 subject to the requirements of the state finance law.

5 § 2. This act shall take effect immediately.

6 PART J

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

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

18 b. Each board shall, within time limits established by the commission-
19 er, be responsible for providing the parent of a preschool child
20 suspected of having a [handicapping condition] disability with a list of
21 approved evaluators in the geographic area. The parent may select the
22 evaluator from such list. Provided however that, for the two thousand
23 twelve -- two thousand thirteen school year and thereafter, a less-than-
24 arm's-length relationship shall not exist between the evaluator selected
25 by the parent from such list and the provider recommended by the board
26 to deliver services to the preschool child with a disability, unless

1 approval of the commissioner is obtained or for the two thousand twelve
2 -- two thousand thirteen school year the preschool child was enrolled in
3 such program in the prior year. Provided further that, unless author-
4 ized by the commissioner upon a finding that the board has demonstrated
5 that the program offered by the provider is the only appropriate program
6 available to provide the programs and services recommended in the
7 child's individualized education program, the evaluator selected by the
8 parent from such list and the provider recommended by the board to
9 deliver services to such preschool child with a disability shall not be
10 the same entity. Each board shall provide for dissemination of the list
11 and other information to parents at appropriate sites including but not
12 limited to pre-kindergarten, day care, head start programs and early
13 childhood direction centers, pursuant to regulations of the commission-
14 er.

15 c. The documentation of the evaluation shall include all assessment
16 reports and a summary report of the findings of the evaluation on a form
17 prescribed by the commissioner including a detailed statement of the
18 preschool child's individual needs. The summary report shall not make
19 reference to any specific provider of special services or programs. In
20 addition, with the consent of the parents, approved evaluators that
21 conduct an evaluation pursuant to this subdivision and committees shall
22 be provided with the most recent evaluation report for a child in tran-
23 sition from programs and services provided pursuant to title [two-a]
24 two-A of article twenty-five of the public health law. Nothing shall
25 prohibit an approved evaluator that conducts an evaluation pursuant to
26 this subdivision or the committee from reviewing other assessments or
27 evaluations to determine if such assessments or evaluations fulfill the
28 requirements of the regulations of the commissioner. Notwithstanding any

1 inconsistent provisions of this section, the committee, in its
2 discretion, may obtain an evaluation of the child from another approved
3 evaluator prior to making any recommendation that would place a child in
4 the approved program that conducted the initial evaluation of the child.

5 d. The approved evaluator shall, following completion of the evalu-
6 ation, transmit the documentation of the evaluation to all members of
7 the committee and to a person designated by the municipality in which
8 the preschool child resides. Each municipality shall notify the
9 [approved evaluators in the geographic area] committee of the person so
10 designated. The summary report of the evaluation shall be transmitted in
11 English and when necessary, also in the dominant language or other mode
12 of communication of the parent; the documentation of the evaluation
13 shall be transmitted in English and, upon the request of the parent,
14 also in the dominant language or other mode of communication of the
15 parent, unless not clearly feasible to do so pursuant to regulations
16 promulgated by the commissioner. Costs of translating the summary report
17 and documentation of the evaluation shall be separately reimbursed. If,
18 based on the evaluation, the committee finds that a child has a [handi-
19 capping condition] disability, the committee shall use the documentation
20 of the evaluation to develop an individualized education program for the
21 preschool child. Nothing herein shall prohibit an approved evaluator
22 from at any time providing the parent with a copy of the documentation
23 of the evaluation provided to the committee.

24 e. Prior to the committee meeting at which eligibility will be deter-
25 mined, the committee shall provide the parent with a copy of the summary
26 report of the findings of the evaluation, and shall provide the parent
27 with written notice of the opportunity to address the committee in
28 person or in writing. Upon timely request of the parent, the committee

1 shall, prior to meeting, provide a copy of all written documentation to
2 be considered by the committee; provided, however, that such material
3 shall be provided to the parent at any time upon request.

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

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

10 (i) If the committee determines that the child has a disability, the
11 committee shall recommend approved appropriate services or special
12 programs and the frequency, duration and intensity of such services,
13 including but not limited to the appropriateness of single services or
14 half-day programs based on the individual needs of the preschool child.
15 The committee shall first consider the appropriateness of providing: (i)
16 related services only; (ii) special education itinerant services only;
17 (iii) related services in combination with special education itinerant
18 services; (iv) a half-day program, as defined in the regulations of the
19 commissioner; (v) a full day program; in meeting the child's needs. If
20 the committee determines that the child demonstrates the need for a
21 single related service, such service shall be provided as a related
22 service only or, where appropriate, as a special education itinerant
23 service. Prior to recommending the provision of special education
24 services in a setting which includes only preschool children with disa-
25 bilities, the committee shall first consider providing special education
26 services in a setting which includes age-appropriate peers without disa-
27 bilities. Provision of special education services in a setting with no
28 regular contact with such age-appropriate peers shall be considered only

1 when the nature or severity of the child's disability is such that
2 education in a less restrictive environment with the use of supplementa-
3 ry aids and services cannot be achieved satisfactorily. In addition,
4 prior to recommending placement of a preschool child in an approved
5 program, the committee shall determine whether such placement is as
6 close as possible to the child's home and, in making such determination,
7 shall consider whether another appropriate approved program located
8 closer to the child's home is available. The committee's recommendation
9 shall include a statement of the reasons why less restrictive placements
10 were not recommended, including, where the committee recommends place-
11 ment in an approved program that is more distant from the child's home
12 than another approved program offering comparable services appropriate
13 to the needs of the preschool child, an explanation of why the more
14 distant program was recommended. The committee may recommend placement
15 in a program that uses psychotropic drugs only if the program has a
16 written policy pertaining to such use and the parent is given a copy of
17 such written policy at the time such recommendation is made.

18 § 3. Paragraph b of subdivision 11 of section 4410 of the education
19 law, as amended by chapter 170 of the laws of 1994, subparagraph (ii) as
20 amended by section 54 of part C of chapter 57 of the laws of 2004,
21 subparagraph (iii) as amended by chapter 205 of the laws of 2009, clause
22 (b) of subparagraph (iii) as amended by section 63 of part A of chapter
23 58 of the laws of 2011, subparagraphs (iv) and (v) as added by chapter
24 474 of the laws of 1996 and subparagraph (vi) as added by section 1 of
25 part Q1 of chapter 109 of the laws of 2006, is amended to read as
26 follows:

27 b. (i) Commencing with the reimbursement of municipalities for
28 services provided pursuant to this section on or after July first, nine-

1 teen hundred ninety-three, and except as otherwise provided in this
2 subparagraph, the state shall reimburse fifty-nine and [one half] one-
3 half percent of the approved costs paid by a municipality for the
4 purposes of this section. Commencing with the reimbursement of munici-
5 palities [for services provided pursuant to this section on or after
6 July first, nineteen hundred ninety-four, the state shall reimburse
7 sixty-nine and one-half percent of the approved costs paid by a munici-
8 pality for the purposes of this section. The state shall reimburse fifty
9 percent of the approved costs paid by a municipality for the purposes of
10 this section for services provided prior to July first, nineteen hundred
11 ninety-three] other than the city of New York for services provided
12 pursuant to this section on or after July first, two thousand twelve,
13 the state shall reimburse fifty-nine and one-half percent of the
14 approved costs paid by a municipality other than the city of New York
15 for the purposes of this section, up to the local share ceiling amount
16 established pursuant to subparagraph (ii) of this paragraph and sixty-
17 six and six tenths percent of such approved costs for services provided
18 on or after July first, two thousand twelve in excess of such local
19 share ceiling amount. Such state reimbursement to the municipality
20 shall be net of any deductions pursuant to subparagraph (iv) of this
21 paragraph and shall not be paid prior to April first of the school year
22 in which such approved costs are paid by the municipality.

23 (ii) Notwithstanding any other provision of law to the contrary, the
24 commissioner, subject to the approval of the director of the budget,
25 shall compute and establish a local share ceiling amount for claims by
26 municipalities other than the city of New York of the approved costs
27 subject to state reimbursement for services provided pursuant to this
28 section in each school year starting with the two thousand twelve--two

1 thousand thirteen school year. For purposes of this paragraph, the
2 "local share ceiling amount" means the sum of the school district share
3 base for each school district of residence of preschool children who
4 reside within the municipality, and for a preschool child who is home-
5 less or a foster care child in each school district of location as
6 defined in section forty-four hundred ten-a of this article. The "school
7 district share base" means the product of: (A) forty and one-half
8 percent and (B) the approved costs incurred pursuant to this section in
9 the two thousand eleven--two thousand twelve school year attributable to
10 such school district of residence or school district of current
11 location, as applicable. Thirty-three and one third percent of approved
12 costs attributable to a specific school district in excess of the school
13 district share base shall be a charge upon the school district. The
14 commissioner shall deduct an amount equal to such unpaid obligation from
15 any general aid for public schools payments which become due to such
16 school district pursuant to section thirty-six hundred nine-a of this
17 chapter, excluding payments pursuant to clause (iii) of subparagraph
18 three of paragraph b of subdivision one of such section thirty-six
19 hundred nine-a. Where such school district is not eligible for payments
20 pursuant to such section thirty-six hundred nine-a, or the amount of
21 such unpaid obligations exceeds the amount due to such school district
22 pursuant to such section thirty-six hundred nine-a in the current school
23 year, the commissioner shall bill and recover from such school district
24 any excess unpaid obligation and the amount recovered from such school
25 district shall be credited to the appropriation for purposes of this
26 section in the local assistance account of the department. Provided
27 however, that no such deduction or recovery shall be made prior to July
28 first, two thousand thirteen and the amount so deducted from payments

1 pursuant to such section thirty-six hundred nine-a shall be transferred
2 to the appropriation made for purposes of this section from general
3 support from public schools appropriation.

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

19 ~~[(iii)]~~ (iv) (a) Notwithstanding the provisions of this paragraph, any
20 monies due municipalities pursuant to this paragraph for services
21 provided during the two thousand eight--two thousand nine and prior
22 school years shall be reduced by an amount equal to the product of the
23 percentage of the approved costs reimbursed by the state pursuant to
24 subparagraph (i) of this paragraph and any federal participation, pursu-
25 ant to title XIX of the social security act, in special education
26 programs provided pursuant to this section. The commissioner shall
27 deduct such amount, as certified by the commissioner of health as the
28 authorized fiscal agent of the state education department. Such

1 deductions shall be made in accordance with a plan developed by the
2 commissioner and approved by the director of the budget. To the extent
3 that such deductions exceed moneys owed to the municipality pursuant to
4 this paragraph, such excess shall be deducted from any other payments
5 due the municipality.

6 (b) Any moneys due municipalities pursuant to this paragraph for
7 services provided during the two thousand nine--two thousand ten school
8 year and thereafter, or for services provided in a prior school year
9 that were not reimbursed by the state on or before April first, two
10 thousand eleven, shall, in the first instance, be designated as the
11 state share of moneys due a municipality pursuant to title XIX of the
12 social security act, on account of school supportive health services
13 provided to preschool students with disabilities pursuant to this
14 section. Such state share shall be assigned on behalf of municipalities
15 to the department of health, as provided herein; the amount designated
16 as such nonfederal share shall be transferred by the commissioner to the
17 department of health based on the monthly report of the commissioner of
18 health to the commissioner; and any remaining moneys to be apportioned
19 to a municipality pursuant to this section shall be paid in accordance
20 with this section. The amount to be assigned to the department of
21 health, as determined by the commissioner of health, for any munici-
22 pality shall not exceed the federal share of any moneys due such munici-
23 pality pursuant to title XIX of the social security act. Moneys desig-
24 nated as state share moneys shall be paid to such municipality by the
25 department of health based on the submission and approval of claims
26 related to such school supportive health services, in the manner
27 provided by law.

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

17 [(v)] (vi) Notwithstanding any other provision of law to the contrary,
18 no payments shall be made by the commissioner pursuant to this section
19 on or after July first, nineteen hundred ninety-six based on a claim for
20 services provided in the nineteen hundred ninety-five--ninety-six school
21 year or thereafter which is submitted later than three years after the
22 end of the school year in which services were rendered, provided, howev-
23 er, that no payment shall be barred or reduced where such payment is
24 required as a result of a court order or judgment or a final audit, and
25 provided further that the commissioner may grant a waiver to a munici-
26 pality excusing the late filing of such a claim upon a finding that the
27 delay was caused by a party other than the municipality or a board to

1 which the municipality delegates authority pursuant to paragraph f of
2 subdivision five or subdivision eight of this section.

3 [(vi)] (vii) Notwithstanding any other provision of law to the contra-
4 ry, beginning with state reimbursement otherwise payable in the two
5 thousand six--two thousand seven state fiscal year and in each year
6 thereafter, payments pursuant to this section, subject to county agree-
7 ment and in the amounts specified in such agreement, shall be paid no
8 later than June thirtieth of the state fiscal year next following the
9 state fiscal year in which such reimbursement was otherwise eligible for
10 payment and in which the liability to the county for such state
11 reimbursement accrued, provided that such payments in a subsequent state
12 fiscal year shall be recognized by the state and the applicable county
13 as satisfying the state reimbursement obligation for the prior state
14 fiscal year. Any unspent amount associated with such county agreements
15 shall not be available for payments to other counties or municipalities.

16 § 4. This act shall take effect July 1, 2012.

17 § 2. Severability clause. If any clause, sentence, paragraph, subdivi-
18 sion, section or part of this act shall be adjudged by any court of
19 competent jurisdiction to be invalid, such judgment shall not affect,
20 impair, or invalidate the remainder thereof, but shall be confined in
21 its operation to the clause, sentence, paragraph, subdivision, section
22 or part thereof directly involved in the controversy in which such judg-
23 ment shall have been rendered. It is hereby declared to be the intent of
24 the legislature that this act would have been enacted even if such
25 invalid provisions had not been included herein.

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