

4171

2011-2012 Regular Sessions

I N S E N A T E

March 22, 2011

Introduced by Sen. BONACIC -- read twice and ordered printed, and when printed to be committed to the Committee on Investigations and Government Operations

AN ACT to amend the tax law, in relation to personal income tax; to amend the state finance law, in relation to establishing the real property tax circuit breaker account and the education financing account; and directing the commissioner of taxation and finance to adjust certain withholding tables and methods

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

1 Section 1. Section 606 of the tax law is amended by adding a new
2 subsection (ss) to read as follows:
3 (SS) MIDDLE CLASS CIRCUIT BREAKER CREDIT. (1) DEFINITIONS. FOR THE
4 PURPOSES OF THIS SUBSECTION:
5 (A) "QUALIFIED TAXPAYER" MEANS A RESIDENT INDIVIDUAL OF THE STATE WHO
6 OWNS OR RENTS THE RESIDENTIAL REAL PROPERTY IN WHICH HE OR SHE RESIDES,
7 AND HAS RESIDED IN SUCH RESIDENTIAL REAL PROPERTY FOR NOT LESS THAN FIVE
8 YEARS. THE DEPARTMENT MAY REQUIRE SUCH PROOF AS IT DEEMS NECESSARY TO
9 ESTABLISH CRITERIA SUFFICIENT TO DEMONSTRATE THAT A TAXPAYER MEETS AND
10 HAS MET THESE QUALIFICATIONS FOR A PERIOD OF AT LEAST FIVE YEARS.
11 EVIDENCE OF RESIDENCE SHALL REQUIRE THE TAXPAYER TO HAVE RESIDED ON THE
12 RESIDENTIAL PROPERTY AT LEAST ONE HUNDRED NINETY DAYS A YEAR AND, UNLESS
13 GOOD CAUSE IS SHOWN PURSUANT TO A DETERMINATION OF THE COMMISSIONER, TO
14 HAVE LIVED AT SUCH RESIDENCE AT LEAST ONE HUNDRED TWENTY DAYS PER YEAR
15 CONSECUTIVELY FOR EACH OF THOSE YEARS. EVIDENCE MAY ALSO INCLUDE, BUT IS
16 NOT LIMITED TO, DRIVER'S LICENSE, WORKPLACE LOCATION IN COMPARISON TO
17 OTHER PROPERTY WHERE SUCH TAXPAYER MAY RESIDE AT OR BE DOMICILED AT, AND
18 VOTER REGISTRATION STATUS.
19 (B) "HOUSEHOLD" OR "MEMBERS OF THE HOUSEHOLD" MEANS A QUALIFIED
20 TAXPAYER OR QUALIFIED TAXPAYERS AND ALL OTHER PERSONS, NOT NECESSARILY
21 RELATED, WHO ALL RESIDE IN THE RESIDENTIAL REAL PROPERTY OWNED BY THE

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

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1 TAXPAYER OR TAXPAYERS, AND SHARE ITS FURNISHINGS, FACILITIES AND ACCOM-
2 MODATIONS; PROVIDED THAT NO PERSON MAY BE A MEMBER OF MORE THAN ONE
3 HOUSEHOLD AT ONE TIME.

4 (C) "HOUSEHOLD GROSS INCOME" MEANS THE AGGREGATE ADJUSTED GROSS INCOME
5 OF ALL MEMBERS OF THE HOUSEHOLD FOR THE TAXABLE YEAR AS REPORTED FOR
6 FEDERAL INCOME TAX PURPOSES, OR WHICH WOULD BE REPORTED AS ADJUSTED
7 GROSS INCOME IF A FEDERAL INCOME TAX RETURN WERE REQUIRED TO BE FILED,
8 WITH THE MODIFICATIONS IN SUBSECTION (B) OF SECTION SIX HUNDRED TWELVE
9 OF THIS ARTICLE BUT WITHOUT THE MODIFICATIONS IN SUBSECTION (C) OF SUCH
10 SECTION, PLUS ANY PORTION OF THE GAIN FROM THE SALE OR EXCHANGE OF PROP-
11 erty OTHERWISE EXCLUDED FROM SUCH AMOUNT; EARNED INCOME FROM SOURCES
12 WITHOUT THE UNITED STATES EXCLUDABLE FROM FEDERAL GROSS INCOME BY
13 SECTION NINE HUNDRED ELEVEN OF THE INTERNAL REVENUE CODE; SUPPORT MONEY
14 NOT INCLUDED IN ADJUSTED GROSS INCOME; NONTAXABLE STRIKE BENEFITS;
15 SUPPLEMENTAL SECURITY INCOME PAYMENTS; THE GROSS AMOUNT OF ANY PENSION
16 OR ANNUITY BENEFITS TO THE EXTENT NOT INCLUDED IN SUCH ADJUSTED GROSS
17 INCOME (INCLUDING, BUT NOT LIMITED TO, RAILROAD RETIREMENT BENEFITS AND
18 ALL PAYMENTS RECEIVED UNDER THE FEDERAL SOCIAL SECURITY ACT AND VETER-
19 ANS' DISABILITY PENSIONS); NONTAXABLE INTEREST RECEIVED FROM THE STATE
20 OF NEW YORK, ITS AGENCIES, INSTRUMENTALITIES, PUBLIC CORPORATIONS, OR
21 POLITICAL SUBDIVISIONS (INCLUDING A PUBLIC CORPORATION CREATED PURSUANT
22 TO AGREEMENT OR COMPACT WITH ANOTHER STATE OR CANADA); WORKERS' COMPEN-
23 SATION; THE GROSS AMOUNT OF "LOSS-OF-TIME" INSURANCE; AND THE AMOUNT OF
24 CASH PUBLIC ASSISTANCE AND RELIEF, OTHER THAN MEDICAL ASSISTANCE FOR THE
25 NEEDY, PAID TO OR FOR THE BENEFIT OF THE QUALIFIED TAXPAYER OR MEMBERS
26 OF HIS OR HER HOUSEHOLD. HOUSEHOLD GROSS INCOME SHALL NOT INCLUDE
27 SURPLUS FOODS OR OTHER RELIEF IN KIND OR PAYMENTS MADE TO INDIVIDUALS
28 BECAUSE OF THEIR STATUS AS VICTIMS OF NAZI PERSECUTION AS DEFINED IN
29 PUBLIC LAW 103-286 OR ANY DISABILITY COMPENSATION RECEIVED BY VETERANS
30 ON ACCOUNT OF INJURY OR ILLNESS INCURRED OR AGGRAVATED DURING MILITARY
31 SERVICE IN THE WARS IN AFGHANISTAN AND IRAQ SINCE SEPTEMBER ELEVENTH,
32 TWO THOUSAND ONE. PROVIDED, FURTHER, HOUSEHOLD GROSS INCOME SHALL ONLY
33 INCLUDE ALL SUCH INCOME RECEIVED BY ALL MEMBERS OF THE HOUSEHOLD WHILE
34 MEMBERS OF SUCH HOUSEHOLD.

35 (D) "ADJUSTED RENT" MEANS RENT PAID FOR THE RIGHT OF OCCUPANCY OF A
36 RESIDENCE.

37 (E) "REAL PROPERTY TAX EQUIVALENT" MEANS FOR TAXABLE YEARS BEGINNING
38 IN TWO THOUSAND TWELVE AND THEREAFTER, TWENTY PERCENT OF THE ADJUSTED
39 RENT ACTUALLY PAID IN THE TAXABLE YEAR BY A HOUSEHOLD SOLELY FOR THE
40 RIGHT OF OCCUPANCY OF ITS NEW YORK RESIDENCE FOR THE TAXABLE YEAR. IF
41 (1) A RESIDENCE IS RENTED TO TWO OR MORE INDIVIDUALS AS COTENANTS, OR
42 SUCH INDIVIDUALS SHARE IN THE PAYMENT OF A SINGLE RENT FOR THE RIGHT OF
43 OCCUPANCY OF SUCH RESIDENCE, AND (2) EACH OF SUCH INDIVIDUALS IS A
44 MEMBER OF A DIFFERENT HOUSEHOLD, ONE OR MORE OF WHICH INDIVIDUALS SHARES
45 SUCH RESIDENCE, REAL PROPERTY TAX EQUIVALENT IS THAT PORTION OF TWENTY
46 PERCENT OF THE ADJUSTED RENT PAID IN THE TAXABLE YEAR WHICH REFLECTS
47 THAT PORTION OF THE RENT ATTRIBUTABLE TO THE QUALIFIED TAXPAYER AND THE
48 MEMBERS OF HIS OR HER HOUSEHOLD.

49 (F) "NET REAL PROPERTY TAX" MEANS THE REAL PROPERTY TAXES ASSESSED ON
50 THE RESIDENTIAL REAL PROPERTY OWNED AND OCCUPIED BY THE TAXPAYER OR
51 TAXPAYERS AFTER ANY EXEMPTION OR ABATEMENT RECEIVED PURSUANT TO THE REAL
52 PROPERTY TAX LAW.

53 (2) CREDIT. A QUALIFIED TAXPAYER FOR THE YEAR TWO THOUSAND TWELVE AND
54 THEREAFTER SHALL BE ALLOWED A CREDIT AGAINST THE TAXES IMPOSED BY THIS
55 ARTICLE EQUAL TO SEVENTY PERCENT, OF THE AMOUNT BY WHICH THE TAXPAYER'S
56 NET REAL PROPERTY TAX OR THE TAXPAYER'S REAL PROPERTY TAX EQUIVALENT

1 EXCEEDS THE TAXPAYER'S MAXIMUM REAL PROPERTY TAX, AS DETERMINED BY PARA-
 2 GRAPH THREE OF THIS SUBSECTION. IF SUCH CREDIT EXCEEDS THE TAX FOR SUCH
 3 TAXABLE YEAR, AS REDUCED BY THE OTHER CREDITS PERMITTED BY THIS ARTICLE,
 4 THE QUALIFIED TAXPAYER MAY RECEIVE, AND THE COMPTROLLER, SUBJECT TO A
 5 CERTIFICATE OF THE DEPARTMENT, SHALL PAY AS AN OVERPAYMENT, WITHOUT
 6 INTEREST, ANY EXCESS BETWEEN SUCH TAX AS SO REDUCED AND THE AMOUNT OF
 7 THE CREDIT. IF A QUALIFIED TAXPAYER IS NOT REQUIRED TO FILE A RETURN
 8 PURSUANT TO SECTION SIX HUNDRED FIFTY-ONE OF THIS ARTICLE, A QUALIFIED
 9 TAXPAYER MAY NEVERTHELESS RECEIVE AND THE COMPTROLLER, SUBJECT TO A
 10 CERTIFICATE OF THE DEPARTMENT, SHALL PAY AS AN OVERPAYMENT THE FULL
 11 AMOUNT OF THE CREDIT, WITHOUT INTEREST; PROVIDED, HOWEVER, THAT THERE
 12 SHALL BE NO OBLIGATION OF THE COMPTROLLER TO PAY SUCH OVERPAYMENT UNTIL
 13 THE REVENUE NECESSARY TO MAKE SUCH OVERPAYMENT IS IN THE ACCOUNT
 14 PROVIDED FOR IN SECTION NINETY-NINE-T OF THE STATE FINANCE LAW.

15 (3) MAXIMUM REAL PROPERTY TAX. (A) A QUALIFIED TAXPAYER'S MAXIMUM REAL
 16 PROPERTY TAX SHALL BE DETERMINED AS FOLLOWS:

17 FOR TAX YEARS BEGINNING IN TWO THOUSAND TWELVE AND THEREAFTER:
 18 HOUSEHOLD GROSS INCOME MAXIMUM REAL PROPERTY TAX
 19 ONE HUNDRED THOUSAND SIX PERCENT OF HOUSEHOLD GROSS
 20 DOLLARS OR LESS INCOME
 21 MORE THAN ONE HUNDRED THOUSAND SIX PERCENT OF ONE HUNDRED
 22 DOLLARS, BUT LESS THAN OR EQUAL TO THOUSAND DOLLARS PLUS SEVEN
 23 ONE HUNDRED FIFTY THOUSAND DOLLARS PERCENT OF HOUSEHOLD GROSS INCOME
 24 ABOVE ONE HUNDRED THOUSAND DOLLARS
 25 MORE THAN ONE HUNDRED FIFTY SIX PERCENT OF ONE HUNDRED THOUSAND
 26 THOUSAND DOLLARS, BUT LESS THAN DOLLARS PLUS SEVEN
 27 OR EQUAL TO TWO HUNDRED FIFTY PERCENT OF FIFTY THOUSAND DOLLARS
 28 THOUSAND DOLLARS PLUS EIGHT AND ONE-HALF PERCENT OF
 29 HOUSEHOLD GROSS INCOME ABOVE ONE
 30 HUNDRED FIFTY THOUSAND DOLLARS
 31 MORE THAN TWO HUNDRED FIFTY NO LIMITATION.
 32 THOUSAND DOLLARS

33 (B) THE THRESHOLDS OF HOUSEHOLD GROSS INCOME ESTABLISHED BY SUBPARA-
 34 GRAPH (A) OF THIS PARAGRAPH SHALL BE INDEXED FOR INFLATION FOR TAX YEARS
 35 BEGINNING IN TWO THOUSAND FOURTEEN AND THEREAFTER.

36 (4) EXCLUSIONS FROM ELIGIBILITY. NO CREDIT SHALL BE GRANTED UNDER THIS
 37 SUBSECTION IF THE QUALIFIED TAXPAYER CLAIMS THE REAL PROPERTY TAX
 38 CIRCUIT BREAKER CREDIT, PURSUANT TO SUBSECTION (E) OF THIS SECTION,
 39 DURING THE TAXABLE YEAR.

40 S 2. Paragraph 1 of subsection (a) of section 601 of the tax law is
 41 renumbered paragraph 1-a and a new paragraph 1 is added to read as
 42 follows:

43 (1) FOR TAXABLE YEARS BEGINNING IN TWO THOUSAND TWELVE AND BEFORE TWO
 44 THOUSAND FOURTEEN:

45 IF THE NEW YORK TAXABLE INCOME IS:	THE TAX IS:
46 NOT OVER \$16,000	4% OF THE NEW YORK TAXABLE INCOME
47 OVER \$16,000 BUT NOT OVER \$22,000	\$640 PLUS 4.5% OF EXCESS OVER
48	\$16,000
49 OVER \$22,000 BUT NOT OVER \$26,000	\$910 PLUS 5.25% OF EXCESS OVER
50	\$22,000
51 OVER \$26,000 BUT NOT OVER \$40,000	\$1,120 PLUS 5.9% OF EXCESS OVER
52	\$26,000
53 OVER \$40,000 BUT NOT OVER \$1,000,000	\$1,946 PLUS 6.85% OF EXCESS OVER
54	\$40,000
55 OVER \$1,000,000	\$67,706 PLUS 8.97% OF EXCESS OVER

\$1,000,000

S 3. Paragraph 1 of subsection (b) of section 601 of the tax law is renumbered paragraph 1-a and a new paragraph 1 is added to read as follows:

(1) FOR TAXABLE YEARS BEGINNING IN TWO THOUSAND TWELVE AND BEFORE TWO THOUSAND FOURTEEN:

IF THE NEW YORK TAXABLE INCOME IS:	THE TAX IS:
NOT OVER \$11,000	4% OF THE NEW YORK TAXABLE INCOME
OVER \$11,000 BUT NOT OVER \$15,000	\$440 PLUS 4.5% OF EXCESS OVER \$11,000
OVER \$15,000 BUT NOT OVER \$17,000	\$620 PLUS 5.25% OF EXCESS OVER \$15,000
OVER \$17,000 BUT NOT OVER \$30,000	\$725 PLUS 5.9% OF EXCESS OVER \$17,000
OVER \$30,000 BUT NOT OVER \$1,000,000	\$1,492 PLUS 6.85% OF EXCESS OVER \$30,000
OVER \$1,000,000	\$67,937 PLUS 8.97% OF EXCESS OVER \$1,000,000

S 4. Paragraph 1 of subsection (c) of section 601 of the tax law is renumbered paragraph 1-a and a new paragraph 1 is added to read as follows:

(1) FOR TAXABLE YEARS BEGINNING IN TWO THOUSAND TWELVE AND BEFORE TWO THOUSAND FOURTEEN:

IF THE NEW YORK TAXABLE INCOME IS:	THE TAX IS:
NOT OVER \$8,000	4% OF THE NEW YORK TAXABLE INCOME
OVER \$8,000 BUT NOT OVER \$11,000	\$320 PLUS 4.5% OF EXCESS OVER \$8,000
OVER \$11,000 BUT NOT OVER \$13,000	\$455 PLUS 5.25% OF EXCESS OVER \$11,000
OVER \$13,000 BUT NOT OVER \$20,000	\$560 PLUS 5.9% OF EXCESS OVER \$13,000
OVER \$20,000 BUT NOT OVER \$1,000,000	\$973 PLUS 6.85% OF EXCESS OVER \$20,000
OVER \$1,000,000	\$68,103 PLUS 8.97% OF EXCESS OVER \$1,000,000

S 5. Subparagraphs (B) and (C) of paragraph 2 of subsection (d) of section 601 of the tax law, as amended by section 2 of part Z1 of chapter 57 of the laws of 2009, are amended to read as follows:

(B) For taxable years beginning after two thousand two and before two thousand six, the fraction is computed as follows: the numerator is the lesser of fifty thousand dollars or the excess of New York adjusted gross income for the taxable year over one hundred fifty thousand dollars and the denominator is fifty thousand dollars. For taxable years beginning after two thousand eight and before two thousand twelve, the fraction is computed as follows: the numerator is the lesser of fifty thousand dollars or the excess of New York adjusted gross income for the taxable year over three hundred thousand dollars and the denominator is fifty thousand dollars. FOR TAXABLE YEARS BEGINNING AFTER TWO THOUSAND ELEVEN AND BEFORE TWO THOUSAND FOURTEEN, THE FRACTION IS COMPUTED AS FOLLOWS: THE NUMERATOR IS THE LESSER OF FIFTY THOUSAND DOLLARS OR THE EXCESS OF NEW YORK ADJUSTED GROSS INCOME FOR THE TAXABLE YEAR OVER ONE MILLION DOLLARS AND THE DENOMINATOR IS FIFTY THOUSAND DOLLARS.

(C) This paragraph shall only apply to taxable years beginning after two thousand two and before two thousand six and after two thousand eight and before two thousand [twelve] FOURTEEN.

S 6. Subparagraphs (B) and (C) of paragraph 3 of subsection (d) of section 601 of the tax law, as amended by section 3 of part Z1 of chapter 57 of the laws of 2009, are amended to read as follows:

(B) For such taxpayers with adjusted gross income over five hundred thousand dollars, for taxable years beginning after two thousand eight and before two thousand twelve, the fraction is computed as follows: the numerator is the lesser of fifty thousand dollars or the excess of New York adjusted gross income for the taxable year over five hundred thousand dollars and the denominator is fifty thousand dollars. FOR SUCH TAXPAYERS WITH ADJUSTED GROSS INCOME OVER ONE MILLION DOLLARS, FOR TAXABLE YEARS BEGINNING AFTER TWO THOUSAND ELEVEN AND BEFORE TWO THOUSAND FOURTEEN, THE FRACTION IS COMPUTED AS FOLLOWS: THE NUMERATOR IS THE LESSER OF FIFTY THOUSAND DOLLARS OR THE EXCESS OF NEW YORK ADJUSTED GROSS INCOME FOR THE TAXABLE YEAR OVER ONE MILLION DOLLARS AND THE DENOMINATOR IS FIFTY THOUSAND DOLLARS. Provided, however, that the total tax prior to the application of any tax credits shall not exceed the highest rate of tax set forth in the tax table in subsection (a) of this section multiplied by the taxpayer's taxable income.

(C) This paragraph shall only apply to taxable years beginning after two thousand two and before two thousand six and after two thousand eight and before two thousand [twelve] FOURTEEN.

S 7. Notwithstanding any provision of law to the contrary, the method of determining the amount to be deducted and withheld from wages on account of taxes imposed by or pursuant to the authority of article 22 of the tax law in connection with the implementation of the provisions of this act shall be prescribed by regulations of the commissioner of taxation and finance with due consideration to the effect such withholding tables and methods would have on the receipt and amount of revenue. The commissioner of taxation and finance shall adjust such withholding tables and methods in regard to taxable years beginning in 2011 and after in such manner as to result, so far as practicable, in withholding from an employee's wages an amount substantially equivalent to the tax reasonably estimated to be due for such taxable years as a result of the provisions of this act. Provided, however, for tax year 2011 the withholding tables shall reflect as accurately as practicable the full amount of tax year 2011 liability so that such amount is withheld by December 31, 2011. Any such regulations to implement a change in withholding tables and methods for tax year 2011 shall be adopted and effective as soon as practicable and the commissioner of taxation and finance may adopt such regulations on an emergency basis notwithstanding anything to the contrary in section 202 of the state administrative procedure act. In carrying out his or her duties and responsibilities under this section, the commissioner of taxation and finance may accompany such a rule making procedure with a similar procedure with respect to the taxes required to be deducted and withheld by local laws imposing taxes pursuant to the authority of articles 30, 30-A and 30-B of the tax law, the provisions of any other law in relation to such a procedure to the contrary notwithstanding.

S 8. 1. Notwithstanding any provision of law to the contrary, no addition to tax required shall be imposed for failure to pay the estimated tax in subsection (c) of section 685 of the tax law with respect to any underpayment of a required installment due prior to, or within thirty days of, the effective date of this act to the extent that such under-

1 payment was created or increased by the amendments made by this act
2 provided, however, that the taxpayer remits the amount of the underpay-
3 ment with his or her next quarterly estimated tax payment.

4 2. The commissioner of taxation and finance shall take steps to publi-
5 cize the necessary adjustments to estimated tax and, to the extent
6 reasonably possible, to inform the taxpayer of the tax liability changes
7 made by this act.

8 S 9. The state finance law is amended by adding two new sections 99-t
9 and 99-u to read as follows:

10 S 99-T. REAL PROPERTY TAX CIRCUIT BREAKER ACCOUNT. 1. THERE IS HEREBY
11 ESTABLISHED IN THE JOINT CUSTODY OF THE STATE COMPTROLLER AND THE
12 COMMISSIONER OF TAXATION AND FINANCE AN ACCOUNT OF THE MISCELLANEOUS
13 SPECIAL REVENUE FUND TO BE KNOWN AS THE REAL PROPERTY TAX CIRCUIT BREAK-
14 ER ACCOUNT.

15 2. NOTWITHSTANDING ANY OTHER LAW, RULE OR REGULATION TO THE CONTRARY,
16 THE STATE COMPTROLLER IS HEREBY AUTHORIZED AND DIRECTED TO RECEIVE, ON
17 AND AFTER JANUARY FIRST, TWO THOUSAND TWELVE, FOR DEPOSIT TO THE CREDIT
18 OF THE REAL PROPERTY TAX CIRCUIT BREAKER ACCOUNT IN THE DEPARTMENT OF
19 TAXATION AND FINANCE, TO BE UTILIZED TO PAY ALL COSTS ASSOCIATED WITH
20 THE CREDIT ESTABLISHED BY SUBSECTION (SS) OF SECTION SIX HUNDRED SIX OF
21 THE TAX LAW, THAT PORTION OF PERSONAL INCOME TAX RECEIPTS WHICH RESULT
22 FROM THE TEMPORARY SURCHARGE ON TAXPAYERS WITH A NEW YORK STATE TAXABLE
23 INCOME IN EXCESS OF ONE MILLION DOLLARS WHICH ARE RECEIVED AFTER THE
24 COMMENCEMENT OF THE TWO THOUSAND TWELVE--TWO THOUSAND THIRTEEN STATE
25 FISCAL YEAR. SUCH SURCHARGE SHALL BE DEFINED AS THE DIFFERENCE WHICH
26 WOULD BE GENERATED BY TAXABLE INCOME OVER ONE MILLION DOLLARS WHEN THE
27 TAX RATE IS 8.97% AS COMPARED TO THE AMOUNT SUCH TAXABLE REVENUE WOULD
28 OTHERWISE GENERATE, AT THE RATE PROVIDED FOR BY LAW, EFFECTIVE JANUARY
29 FIRST, TWO THOUSAND FOURTEEN. SUCH FUNDS SHALL BE EXPENDED FOR THE
30 PURPOSE OF FUNDING A REAL PROPERTY TAX CIRCUIT BREAKER CREDIT, TO
31 PROVIDE A STATE FINANCED OFFSET TO SUCH RESIDENTIAL PROPERTY TAXES. IF
32 THE DIRECTOR OF THE DIVISION OF THE BUDGET CERTIFIES THAT THE RECEIPTS
33 WHICH RESULT FROM THE TEMPORARY SURCHARGE AS SET FORTH IN THIS SECTION
34 SHALL EXCEED THE AMOUNT NECESSARY FOR THE STATE TO MEET THE OBLIGATIONS
35 PROVIDED FOR UNDER SUBSECTION (SS) OF SECTION SIX HUNDRED SIX OF THE TAX
36 LAW, SUCH EXCESS AMOUNT AS DETERMINED BY THE DIRECTOR OF THE BUDGET, AND
37 AS OTHERWISE CERTIFIED TO BE AVAILABLE BY THE STATE COMPTROLLER, SHALL
38 BE ALLOCATED TO THE PUBLIC SCHOOLS OF THE STATE IN THE FORMULA UTILIZED
39 BY THE LEGISLATURE TO ESTABLISH THE TOTAL FOUNDATION BASE AID, AS
40 DEFINED BY SECTION THIRTY-SIX HUNDRED TWO OF THE EDUCATION LAW.

41 S 99-U. EDUCATION FINANCING ACCOUNT. 1. THERE IS HEREBY ESTABLISHED IN
42 THE JOINT CUSTODY OF THE STATE COMPTROLLER AND THE COMMISSIONER OF TAXA-
43 TION AND FINANCE AN ACCOUNT OF THE MISCELLANEOUS SPECIAL REVENUE FUND TO
44 BE KNOWN AS THE EDUCATION FINANCING ACCOUNT.

45 2. NOTWITHSTANDING ANY OTHER LAW, RULE OR REGULATION TO THE CONTRARY,
46 THE STATE COMPTROLLER IS HEREBY AUTHORIZED AND DIRECTED TO RECEIVE, ON
47 AND AFTER JANUARY FIRST, TWO THOUSAND TWELVE, FOR DEPOSIT TO THE CREDIT
48 OF THE EDUCATION FINANCING ACCOUNT IN THE STATE EDUCATION DEPARTMENT ANY
49 AMOUNT OF TAX RECEIPTS FROM THE REAL PROPERTY TAX CIRCUIT BREAKER
50 ACCOUNT UNDER SECTION NINETY-NINE-T OF THIS ARTICLE WHICH ARE DETERMINED
51 BY THE DIRECTOR OF THE BUDGET TO BE IN EXCESS OF THE AMOUNTS NECESSARY
52 FOR THE STATE TO MEET THE OBLIGATIONS PROVIDED FOR UNDER SUBSECTION (SS)
53 OF SECTION SIX HUNDRED SIX OF THE TAX LAW, AS SET FORTH IN SUBDIVISION
54 TWO OF SECTION NINETY-NINE-T OF THIS ARTICLE.

55 S 10. This act shall take effect immediately.