

8702

2009-2010 Regular Sessions

I N A S S E M B L Y

June 4, 2009

Introduced by M. of A. ENGLEBRIGHT -- read once and referred to the  
Committee on Ways and Means

AN ACT to amend the tax law, in relation to creating the middle class  
circuit breaker tax credit and creating a tax reform study commission

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

1 Section 1. Section 606 of the tax law is amended by adding a new  
2 subsection (qq) to read as follows:

3 (QQ) 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.

9 (B) "HOUSEHOLD" OR "MEMBERS OF THE HOUSEHOLD" MEANS A QUALIFIED  
10 TAXPAYER OR QUALIFIED TAXPAYERS AND ALL OTHER PERSONS, NOT NECESSARILY  
11 RELATED, WHO ALL RESIDE IN THE RESIDENTIAL REAL PROPERTY OWNED BY THE  
12 TAXPAYER OR TAXPAYERS, AND SHARE ITS FURNISHINGS, FACILITIES AND ACCOM-  
13 MODATIONS; PROVIDED THAT NO PERSON MAY BE A MEMBER OF MORE THAN ONE  
14 HOUSEHOLD AT ONE TIME.

15 (C) "HOUSEHOLD GROSS INCOME" MEANS THE AGGREGATE ADJUSTED GROSS INCOME  
16 OF ALL MEMBERS OF THE HOUSEHOLD FOR THE TAXABLE YEAR AS REPORTED FOR  
17 FEDERAL INCOME TAX PURPOSES, OR WHICH WOULD BE REPORTED AS ADJUSTED  
18 GROSS INCOME IF A FEDERAL INCOME TAX RETURN WERE REQUIRED TO BE FILED,  
19 WITH THE MODIFICATIONS IN SUBSECTION (B) OF SECTION SIX HUNDRED TWELVE  
20 OF THIS ARTICLE BUT WITHOUT THE MODIFICATIONS IN SUBSECTION (C) OF SUCH  
21 SECTION, PLUS ANY PORTION OF THE GAIN FROM THE SALE OR EXCHANGE OF PROP-  
22 erty OTHERWISE EXCLUDED FROM SUCH AMOUNT; EARNED INCOME FROM SOURCES  
23 WITHOUT THE UNITED STATES EXCLUDABLE FROM FEDERAL GROSS INCOME BY  
24 SECTION NINE HUNDRED ELEVEN OF THE INTERNAL REVENUE CODE; SUPPORT MONEY  
25 NOT INCLUDED IN ADJUSTED GROSS INCOME; NONTAXABLE STRIKE BENEFITS;

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

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1 SUPPLEMENTAL SECURITY INCOME PAYMENTS; THE GROSS AMOUNT OF ANY PENSION  
2 OR ANNUITY BENEFITS TO THE EXTENT NOT INCLUDED IN SUCH ADJUSTED GROSS  
3 INCOME (INCLUDING, BUT NOT LIMITED TO, RAILROAD RETIREMENT BENEFITS AND  
4 ALL PAYMENTS RECEIVED UNDER THE FEDERAL SOCIAL SECURITY ACT AND VETER-  
5 ANS' DISABILITY PENSIONS); NONTAXABLE INTEREST RECEIVED FROM THE STATE  
6 OF NEW YORK, ITS AGENCIES, INSTRUMENTALITIES, PUBLIC CORPORATIONS, OR  
7 POLITICAL SUBDIVISIONS (INCLUDING A PUBLIC CORPORATION CREATED PURSUANT  
8 TO AGREEMENT OR COMPACT WITH ANOTHER STATE OR CANADA); WORKERS' COMPEN-  
9 SATION; THE GROSS AMOUNT OF "LOSS-OF-TIME" INSURANCE; AND THE AMOUNT OF  
10 CASH PUBLIC ASSISTANCE AND RELIEF, OTHER THAN MEDICAL ASSISTANCE FOR THE  
11 NEEDY, PAID TO OR FOR THE BENEFIT OF THE QUALIFIED TAXPAYER OR MEMBERS  
12 OF HIS OR HER HOUSEHOLD. HOUSEHOLD GROSS INCOME SHALL NOT INCLUDE  
13 SURPLUS FOODS OR OTHER RELIEF IN KIND OR PAYMENTS MADE TO INDIVIDUALS  
14 BECAUSE OF THEIR STATUS AS VICTIMS OF NAZI PERSECUTION AS DEFINED IN  
15 PUBLIC LAW 103-286 OR ANY DISABILITY COMPENSATION RECEIVED BY VETERANS  
16 ON ACCOUNT OF INJURY OR ILLNESS INCURRED OR AGGRAVATED DURING MILITARY  
17 SERVICE IN THE WARS IN AFGHANISTAN AND IRAQ SINCE SEPTEMBER ELEVENTH,  
18 TWO THOUSAND ONE. PROVIDED, FURTHER, HOUSEHOLD GROSS INCOME SHALL ONLY  
19 INCLUDE ALL SUCH INCOME RECEIVED BY ALL MEMBERS OF THE HOUSEHOLD WHILE  
20 MEMBERS OF SUCH HOUSEHOLD.

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

23 (E) "REAL PROPERTY TAX EQUIVALENT" MEANS (1) FOR TAXABLE YEARS BEGIN-  
24 NING IN TWO THOUSAND TEN, FIFTEEN PERCENT OF THE ADJUSTED RENT ACTUALLY  
25 PAID IN THE TAXABLE YEAR BY A HOUSEHOLD SOLELY FOR THE RIGHT OF OCCUPAN-  
26 CY OF ITS NEW YORK RESIDENCE FOR THE TAXABLE YEAR. IF (I) A RESIDENCE IS  
27 RENTED TO TWO OR MORE INDIVIDUALS AS COTENANTS, OR SUCH INDIVIDUALS  
28 SHARE IN THE PAYMENT OF A SINGLE RENT FOR THE RIGHT OF OCCUPANCY OF SUCH  
29 RESIDENCE, AND (II) EACH OF SUCH INDIVIDUALS IS A MEMBER OF A DIFFER-  
30 ENT HOUSEHOLD, ONE OR MORE OF WHICH INDIVIDUALS SHARES SUCH RESIDENCE,  
31 REAL PROPERTY TAX EQUIVALENT IS THAT PORTION OF FIFTEEN PERCENT OF THE  
32 ADJUSTED RENT PAID IN THE TAXABLE YEAR WHICH REFLECTS THAT PORTION OF  
33 THE RENT ATTRIBUTABLE TO THE QUALIFIED TAXPAYER AND THE MEMBERS OF HIS  
34 OR HER HOUSEHOLD; AND (2) FOR TAXABLE YEARS BEGINNING IN TWO THOUSAND  
35 ELEVEN AND THEREAFTER, TWENTY PERCENT OF THE ADJUSTED RENT ACTUALLY PAID  
36 IN THE TAXABLE YEAR BY A HOUSEHOLD SOLELY FOR THE RIGHT OF OCCUPANCY OF  
37 ITS NEW YORK RESIDENCE FOR THE TAXABLE YEAR. IF (I) A RESIDENCE IS RENT-  
38 ED TO TWO OR MORE INDIVIDUALS AS COTENANTS, OR SUCH INDIVIDUALS SHARE IN  
39 THE PAYMENT OF A SINGLE RENT FOR THE RIGHT OF OCCUPANCY OF SUCH RESI-  
40 DENCE, AND (II) EACH OF SUCH INDIVIDUALS IS A MEMBER OF A DIFFERENT  
41 HOUSEHOLD, ONE OR MORE OF WHICH INDIVIDUALS SHARES SUCH RESIDENCE, REAL  
42 PROPERTY TAX EQUIVALENT IS THAT PORTION OF TWENTY PERCENT OF THE  
43 ADJUSTED RENT PAID IN THE TAXABLE YEAR WHICH REFLECTS THAT PORTION OF  
44 THE RENT ATTRIBUTABLE TO THE QUALIFIED TAXPAYER AND THE MEMBERS OF HIS  
45 OR HER HOUSEHOLD.

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

50 (2) CREDIT. A QUALIFIED TAXPAYER SHALL BE ALLOWED A CREDIT AGAINST THE  
51 TAXES IMPOSED BY THIS ARTICLE, EQUAL TO SEVENTY PERCENT OF THE AMOUNT BY  
52 WHICH THE TAXPAYER'S NET REAL PROPERTY TAX OR THE TAXPAYER'S REAL PROP-  
53 erty TAX EQUIVALENT EXCEEDS THE TAXPAYER'S MAXIMUM REAL PROPERTY TAX, AS  
54 DETERMINED BY PARAGRAPH THREE OF THIS SUBSECTION. IF SUCH CREDIT EXCEEDS  
55 THE TAX FOR SUCH TAXABLE YEAR, AS REDUCED BY THE OTHER CREDITS PERMITTED  
56 BY THIS ARTICLE, THE QUALIFIED TAXPAYER MAY RECEIVE, AND THE COMP-

1 TROLLER, SUBJECT TO A CERTIFICATE OF THE DEPARTMENT, SHALL PAY AS AN  
 2 OVERPAYMENT, WITHOUT INTEREST, ANY EXCESS BETWEEN SUCH TAX AS SO REDUCED  
 3 AND THE AMOUNT OF THE CREDIT. IF A QUALIFIED TAXPAYER IS NOT REQUIRED TO  
 4 FILE A RETURN PURSUANT TO SECTION SIX HUNDRED FIFTY-ONE OF THIS ARTICLE,  
 5 A QUALIFIED TAXPAYER MAY NEVERTHELESS RECEIVE AND THE COMPTROLLER,  
 6 SUBJECT TO A CERTIFICATE OF THE DEPARTMENT, SHALL PAY AS AN OVERPAYMENT  
 7 THE FULL AMOUNT OF THE CREDIT, WITHOUT INTEREST.

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

10 (I) FOR TAX YEARS BEGINNING IN TWO THOUSAND NINE:  
 11 HOUSEHOLD GROSS INCOME MAXIMUM REAL PROPERTY TAX  
 12 ONE HUNDRED THOUSAND NINE PERCENT OF THE  
 13 DOLLARS OR LESS HOUSEHOLD GROSS INCOME  
 14 MORE THAN ONE HUNDRED NO LIMITATION.  
 15 THOUSAND DOLLARS

16 (II) FOR TAX YEARS BEGINNING IN TWO THOUSAND TEN:  
 17 HOUSEHOLD GROSS INCOME MAXIMUM REAL PROPERTY TAX  
 18 ONE HUNDRED THOUSAND EIGHT AND ONE-HALF PERCENT OF THE  
 19 DOLLARS OR LESS HOUSEHOLD GROSS INCOME  
 20 MORE THAN ONE HUNDRED NO LIMITATION.  
 21 THOUSAND DOLLARS

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

33 (IV) FOR TAX YEARS BEGINNING IN TWO THOUSAND TWELVE AND THEREAFTER:  
 34 HOUSEHOLD GROSS INCOME MAXIMUM REAL PROPERTY TAX  
 35 ONE HUNDRED THOUSAND SIX PERCENT OF HOUSEHOLD GROSS  
 36 DOLLARS OR LESS INCOME  
 37 MORE THAN ONE HUNDRED THOUSAND SIX PERCENT OF ONE HUNDRED  
 38 DOLLARS, BUT LESS THAN OR EQUAL TO THOUSAND DOLLARS PLUS SEVEN  
 39 ONE HUNDRED FIFTY THOUSAND DOLLARS PERCENT OF HOUSEHOLD GROSS INCOME  
 40 ABOVE ONE HUNDRED THOUSAND DOLLARS  
 41 MORE THAN ONE HUNDRED FIFTY SIX PERCENT OF ONE HUNDRED THOUSAND  
 42 THOUSAND DOLLARS, BUT LESS THAN DOLLARS PLUS SEVEN  
 43 OR EQUAL TO TWO HUNDRED FIFTY PERCENT OF FIFTY THOUSAND DOLLARS  
 44 THOUSAND DOLLARS PLUS EIGHT AND ONE-HALF PERCENT OF  
 45 HOUSEHOLD GROSS INCOME ABOVE ONE  
 46 HUNDRED FIFTY THOUSAND DOLLARS  
 47 MORE THAN TWO HUNDRED FIFTY NO LIMITATION.  
 48 THOUSAND DOLLARS

49 (B) THE THRESHOLDS OF HOUSEHOLD GROSS INCOME ESTABLISHED BY CLAUSE  
 50 (IV) OF SUBPARAGRAPH (A) OF THIS PARAGRAPH SHALL BE INDEXED FOR  
 51 INFLATION FOR TAX YEARS BEGINNING IN TWO THOUSAND THIRTEEN AND THEREAFT-  
 52 ER.

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

5 S 2. There is hereby established a tax reform study commission to  
6 provide the governor and the legislature with a long run plan for  
7 reforming the state and local tax systems. The tax reform study commis-  
8 sion shall consist of five members appointed by the governor, four  
9 members each appointed by the speaker of the assembly and the temporary  
10 president of the senate, and one member each appointed by the minority  
11 leader of the senate and the minority leader of the assembly. In addi-  
12 tion, on or before the first day of January, two thousand eleven, the  
13 tax reform study commission shall provide the governor and the legisla-  
14 ture with recommendations on any changes that should be made in the  
15 definitions of income used in the various property tax relief programs  
16 authorized by the laws of the state of New York. Such recommendations  
17 shall be based on an examination of such laws and of such laws in other  
18 states. In preparing such recommendations, the tax reform study commis-  
19 sion shall review the distributional impact of the items of income  
20 included in the definition of household income for purposes of the  
21 circuit breaker and other property tax relief programs established by  
22 state law and make recommendations to the governor and the legislature  
23 for any changes in any of these definitions that the tax reform study  
24 commission deems appropriate. The commissioner of taxation and finance  
25 and the director of the office of real property services shall provide  
26 the tax reform study commission with such data and analysis as it may  
27 require.

28 S 3. This act shall take effect immediately.