

3370

2009-2010 Regular Sessions

I N S E N A T E

March 17, 2009

Introduced by Sen. LAVALLE -- read twice and ordered printed, and when printed to be committed to the Committee on Education

AN ACT to amend the education law, the real property tax law and the tax law, in relation to abolishing certain school taxes, providing for alternative taxes and state distribution to school districts, and repealing certain provisions of the real property tax law and the tax law relating to school taxes

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

1 Section 1. This act shall be known and may be cited as "the education
2 finance reform act".

3 S 1-a. Title 5 of the education law is amended by adding a new article
4 71 to read as follows:

5 ARTICLE 71

6 FINANCING OF SCHOOL DISTRICTS

7 SECTION 3501. LEGISLATIVE INTENT.
8 3502. BASIC QUALITY EDUCATION.
9 3503. MINIMUM APPORTIONMENT.
10 3504. LOCAL ENRICHMENT OPTIONS.
11 3505. COLLECTION AND DISTRIBUTION.
12 3506. CONSTRUCTION WITH OTHER LAWS.
13 3507. SEVERABILITY.

14 S 3501. LEGISLATIVE INTENT. IT IS THE INTENT OF THIS LEGISLATURE TO
15 FULFILL ITS OBLIGATIONS UNDER ARTICLE ELEVEN OF THE STATE CONSTITUTION
16 WITH RESPECT TO THE FINANCING OF PUBLIC SCHOOLS WITHIN THIS STATE AND,
17 AT THE SAME TIME, ELIMINATE THE INEQUITABLE AND REGRESSIVE REAL ESTATE
18 TAX AS THE SUPPORT OF SUCH SCHOOLS. THE LEGISLATURE HEREBY FURTHER
19 INTENDS TO GUARANTEE THE QUALITY AND EQUALITY OF EDUCATION FOR ALL OUR
20 CHILDREN, WHILE LEAVING WITH THE INDIVIDUAL SCHOOL DISTRICTS THE PRESENT
21 LEVEL OF LOCAL CONTROL INCLUDING THE AUTHORITY TO PERMIT OR PROHIBIT THE
22 TRANSFER OF STUDENTS INTO OR OUT OF SUCH DISTRICTS IN ACCORDANCE WITH
23 THE PROVISIONS OF THIS CHAPTER. PRIOR TO THE IMPLEMENTATION OF THIS
24 ARTICLE, IT IS IMPORTANT TO REVIEW ITS IMPACT ON MUNICIPALITIES AND
25 TAXPAYERS. IT IS NECESSARY TO DEVELOP A SYSTEM WHEREBY BOTH MUNICI-

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

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1 PALITIES AND TAXPAYERS CAN COMPARE THEIR REVENUE AND COSTS UNDER THE
2 CURRENT LAW TO SUCH REVENUES AND COSTS UNDER THIS ARTICLE.

3 S 3502. BASIC QUALITY EDUCATION. 1. THE STATE SHALL ASSUME ALL
4 COSTS OF BASIC QUALITY EDUCATION, IN ACCORDANCE WITH SECTION THIRTY-FIVE
5 HUNDRED FIVE OF THIS ARTICLE, INCLUDING ALL GENERAL AND SPECIAL EDUCA-
6 TIONAL SERVICES WHICH THE COMMISSIONER, UNDER GUIDELINES ESTABLISHED BY
7 THE LEGISLATURE, SHALL DEFINE AS NECESSARY. BASIC QUALITY EDUCATION, AS
8 DEFINED BY THE COMMISSIONER, SHALL ALLOW SUFFICIENT LATITUDE SO THAT
9 CHOICES MAY BE MADE BY LOCAL SCHOOL DISTRICTS WITH RESPECT TO THEIR
10 INDIVIDUAL NEEDS. AS USED IN THIS ARTICLE "BASIC" SHALL MEAN EQUAL
11 SERVICES TO ALL PUPILS REGARDLESS OF DIFFERENCES IN COST IN DIFFERENT
12 DISTRICTS FOR SUCH SERVICES.

13 2. SUCH COSTS SHALL BE FUNDED AS PROVIDED FOR BY THE LEGISLATURE, IN
14 CONJUNCTION WITH THE ELIMINATION OF REAL ESTATE TAXES FOR THE SUPPORT OF
15 EDUCATION. WITHIN THE CITIES OF NEW YORK, BUFFALO, ROCHESTER, SYRACUSE
16 AND YONKERS, THE TAX ON REAL PROPERTY SHALL BE REDUCED BY THE DOLLAR
17 AMOUNT OF SUCH CITY'S SHARE OF THE COST OF PUBLIC SCHOOL EDUCATION.
18 SUCH REDUCTION SHALL BE APPORTIONED TO ALL REAL PROPERTY TAXPAYERS ON A
19 PRO-RATA BASIS, AND TENANTS SHALL RECEIVE TAX CREDITS, TAX REBATES, OR
20 REDUCTIONS IN RENT AS PROVIDED IN SECTION FOUR HUNDRED SIXTY-SEVEN-G OF
21 THE REAL PROPERTY TAX LAW.

22 3. EACH SCHOOL DISTRICT SHALL SUBMIT A BASIC BUDGET TO THE DEPARTMENT
23 FOR APPROVAL BY THE COMMISSIONER AS PROVIDED BY LAW.

24 4. THE DEPARTMENT, UNDER DIRECTION OF THE BOARD OF REGENTS, SHALL
25 ESTABLISH A SCHEDULE OF MANDATORY BASIC SERVICES AND AUTHORIZED COSTS
26 THEREFOR RELATED TO DIFFERING COSTS THROUGHOUT THE STATE. SUCH BASIC
27 SCHEDULE SHALL REFLECT GUIDELINES ESTABLISHED FOR THIS PURPOSE BY THE
28 LEGISLATURE.

29 S 3503. MINIMUM APPORTIONMENT. IN ANY SCHOOL YEAR A DISTRICT MAY
30 ELECT TO RECEIVE AS ITS BASIC BUDGET THE HIGHEST OF:

31 1. THE DISTRICT BUDGET OF THE SCHOOL YEAR DURING WHICH THIS ARTICLE
32 SHALL TAKE EFFECT, EXCEPT THAT THIS APPORTIONMENT OPTION SHALL EXIST
33 ONLY FOR THE PERIOD NOT EXCEEDING THE FIVE SCHOOL YEARS IMMEDIATELY
34 AFTER THIS ARTICLE SHALL TAKE EFFECT.

35 2. THE PRODUCT OF (A) THE DISTRICT BUDGET OF THE SCHOOL YEAR DURING
36 WHICH THIS ARTICLE SHALL TAKE EFFECT DIVIDED BY THE ENROLLMENT AT THE
37 START OF SUCH YEAR AND (B) THE ENROLLMENT AT THE START OF THE SCHOOL
38 YEAR FOR WHICH THE BUDGET IS BEING DETERMINED. THIS APPORTIONMENT
39 OPTION SHALL EXIST ONLY FOR THE PERIOD NOT EXCEEDING THE FIVE SCHOOL
40 YEARS IMMEDIATELY AFTER THIS ARTICLE SHALL BECOME LAW.

41 3. THE BASIC BUDGET SUBMITTED IN ACCORDANCE WITH SUBDIVISION THREE OF
42 SECTION THIRTY-FIVE HUNDRED TWO OF THIS ARTICLE, EXCEPT THAT IN NO CASE
43 SHALL THE PER PUPIL APPORTIONMENT EXCEED THE PER PUPIL APPORTIONMENT OF
44 THE PREVIOUS YEAR BY MORE THAN THE AVERAGE STATEWIDE INCREASE OF PER
45 PUPIL BUDGETS PLUS TEN PER CENTUM OF THE PER PUPIL APPORTIONMENT OF THE
46 PREVIOUS YEAR.

47 S 3504. LOCAL ENRICHMENT OPTIONS. 1. ANY SCHOOL DISTRICT, INCLUDING
48 THE CITY SCHOOL DISTRICTS OF THE CITIES OF NEW YORK, BUFFALO, ROCHESTER,
49 SYRACUSE AND YONKERS, MAY ELECT A LOCAL ENRICHMENT OPTION FOR SERVICES
50 NOT COVERED BY THE BASIC STATE SUPPORT. SUCH LOCAL ENRICHMENT OPTION
51 BUDGET SHALL BE APPROVED BY THE VOTERS OF THE DISTRICT.

52 2. THE LOCAL ENRICHMENT OPTION BUDGET SHALL BE FUNDED AS PROVIDED FOR
53 BY THE LEGISLATURE AS A SUPPLEMENTARY EDUCATION TAX ON INDIVIDUALS,
54 ESTATES, TRUSTS, UNINCORPORATED BUSINESSES AND CORPORATIONS HAVING A
55 RESIDENCE OR SITUS WITHIN EACH SCHOOL DISTRICT ELECTING SUCH OPTION.

1 3. THE LOCAL ENRICHMENT OPTION BUDGET SHALL NOT EXCEED TWENTY PER
2 CENTUM OF THE BASIC BUDGET FOR EACH DISTRICT ELECTING SUCH OPTION.

3 S 3505. COLLECTION AND DISTRIBUTION. NOTWITHSTANDING THE PROVISIONS
4 OF ANY OTHER LAW, CODE, RULE OR REGULATION, THE STATE SHALL, WITHIN FIVE
5 YEARS FROM THE EFFECTIVE DATE OF THIS ARTICLE, COLLECT AND DISTRIBUTE TO
6 SCHOOL DISTRICTS ALL MONEYS RELATING TO THE FINANCING OF PUBLIC EDUCA-
7 TION, EXCLUSIVE OF HIGHER EDUCATION, WITHIN THIS STATE, AS PROVIDED BY
8 THE LEGISLATURE. THIS ASSUMPTION BY THE STATE OF ALL COSTS OF BASIC
9 QUALITY EDUCATION SHALL BE ACCOMPLISHED IN APPROXIMATELY EQUAL INCRE-
10 MENTS OVER A FIVE YEAR PERIOD FROM THE EFFECTIVE DATE OF THIS ARTICLE.
11 DURING THIS PERIOD, THE AMOUNT OF MONEY DERIVED BY EACH SCHOOL DISTRICT
12 FROM REAL PROPERTY TAXES SHALL BE REDUCED ACCORDINGLY. AFTER FIVE YEARS
13 FROM THE EFFECTIVE DATE OF THIS ARTICLE, MONEYS DISTRIBUTED TO ANY
14 SCHOOL DISTRICT SHALL BE REDUCED BY THE AMOUNT OF ANY REVENUES RECEIVED
15 BY SUCH SCHOOL DISTRICT FROM TAXES IMPOSED ON REAL PROPERTY BY OR ON
16 BEHALF OF SUCH SCHOOL DISTRICT.

17 S 3506. CONSTRUCTION WITH OTHER LAWS. THE PROVISIONS OF THIS ARTICLE
18 SHALL BE CONTROLLING, NOTWITHSTANDING THE PROVISIONS OF ANY OTHER LAW,
19 CODE, RULE OR REGULATION TO THE CONTRARY. HOWEVER, NO EXISTING RIGHT OR
20 REMEDY OF ANY CHARACTER SHALL BE LOST, IMPAIRED OR AFFECTED BY REASON OF
21 THIS ARTICLE, NOR SHALL THE VALIDITY OF ANY ACTION TAKEN BY ANY PUBLIC
22 OFFICIAL UNDER THE LAW IN FORCE IMMEDIATELY PRIOR TO THE TIME THIS ARTI-
23 CLE SHALL TAKE EFFECT BE AFFECTED BY THE ENACTMENT OF THIS ARTICLE.
24 COLLECTION OF ALL OUTSTANDING TAX LIENS SHALL BE PURSUANT TO THE
25 PROVISIONS OF THE REAL PROPERTY TAX LAW.

26 S 3507. SEVERABILITY. IF ANY CLAUSE, SENTENCE, PARAGRAPH, SECTION OR
27 PART OF THIS ARTICLE SHALL BE ADJUDGED BY ANY COURT OF COMPETENT JURIS-
28 DICTION TO BE INVALID, SUCH JUDGMENT SHALL NOT AFFECT, IMPAIR OR INVALI-
29 DATE THE REMAINDER THEREOF, BUT SHALL BE CONFINED IN ITS OPERATION TO
30 THE CLAUSE, SENTENCE, PARAGRAPH, SECTION OR PART THEREOF DIRECTLY
31 INVOLVED IN THE CONTROVERSY IN WHICH SUCH JUDGMENT SHALL HAVE BEEN
32 RENDERED.

33 S 2. Article 13 of the real property tax law is REPEALED.

34 S 3. The real property tax law is amended by adding a new section
35 467-g to read as follows:

36 S 467-G. PROVISIONS FOR TENANTS. IN EVERY CASE WHERE TAXES ON REAL
37 PROPERTY ARE REDUCED DUE TO THE REDUCTION OF SCHOOL TAXES ON SUCH PROP-
38 erty, THE AMOUNT OF SUCH REDUCTION SHALL BE PRO-RATED AMONG THE TENANTS,
39 IF ANY, OF SUCH REAL PROPERTY, AND THE TOTAL RENTS REDUCED IN AN AMOUNT
40 EQUAL TO SUCH REAL PROPERTY TAX REDUCTION. WHERE SUCH RENT REDUCTION IS
41 PRECLUDED BY A LEASE OR OTHER AGREEMENT, SUCH REAL PROPERTY TAX
42 REDUCTION SHALL ENTITLE SUCH TENANTS TO A TAX CREDIT IN THAT AMOUNT
43 AGAINST INCOME TAXES DUE, OR TO A REBATE FOR ANY AMOUNT IN EXCESS OF
44 INCOME TAXES DUE, UNTIL THE EXPIRATION OF SUCH LEASE OR AGREEMENT, AT
45 WHICH TIME THE RENT SHALL BE REDUCED ACCORDINGLY.

46 S 4. The tax law is amended by adding two new sections 601-A and
47 601-B to read as follows:

48 S 601-A. ADDITIONAL TAXES FOR EDUCATION. 1. IN ADDITION TO THE
49 TAXES ON INCOME IMPOSED BY THIS CHAPTER FOR TAXABLE YEARS OR PERIODS
50 ENDING ON OR AFTER DECEMBER THIRTY-FIRST, TWO THOUSAND NINE, THERE SHALL
51 BE IMPOSED A TAX EQUAL TO A PERCENT OF THE TAXES IMPOSED BY SUCH
52 SECTIONS AND ARTICLES AS IS NECESSARY TO FULFILL THE REQUIREMENTS OF
53 SECTION THIRTY-FIVE HUNDRED TWO OF THE EDUCATION LAW. SUCH A TAX MAY BE
54 LEVIED EITHER AS A SURTAX, OR BY READJUSTMENT OF THE APPROPRIATE TAX
55 SCHEDULES.

1 2. THE COMMISSIONER SHALL ESTABLISH A SEPARATE ACCOUNT OR ACCOUNTS TO
2 RECEIVE THE ADDITIONAL TAX IMPOSED BY SUBSECTION ONE OF THIS SECTION AND
3 SHALL PAY INTO SUCH ACCOUNT OR ACCOUNTS THE TOTAL OF ALL SUCH TAXES WHEN
4 RECEIVED AND RETAIN THE SAME SUBJECT TO DISBURSEMENT IN ACCORDANCE WITH
5 THE PROVISIONS OF THE EDUCATION LAW.

6 S 601-B. ENRICHMENT OPTION TAX. IN ADDITION TO THE TAX IMPOSED BY
7 SECTION SIX HUNDRED ONE-A OF THIS ARTICLE FOR TAXABLE YEARS OR PERIODS
8 ENDING ON OR AFTER DECEMBER THIRTY-FIRST, TWO THOUSAND NINE, THERE SHALL
9 BE IMPOSED ON INDIVIDUALS, ESTATES, TRUSTS, UNINCORPORATED BUSINESSES
10 AND CORPORATIONS, HAVING A RESIDENCE OR SITUS WITHIN EACH SCHOOL
11 DISTRICT ELECTING A LOCAL ENRICHMENT OPTION PURSUANT TO THE EDUCATION
12 LAW, A TAX EQUAL TO A PERCENT OF THE TAX IMPOSED BY SECTION SIX HUNDRED
13 ONE-A OF THIS ARTICLE AS IS NECESSARY TO FULFILL THE REQUIREMENTS OF
14 SECTION THIRTY-FIVE HUNDRED FOUR OF THE EDUCATION LAW. THIS TAX SHALL
15 NOT EXCEED THIRTY PERCENT OF THE TAX IMPOSED BY SECTION SIX HUNDRED
16 ONE-A OF THIS ARTICLE. IN ANY DISTRICT WHERE SUCH TAX IS INSUFFICIENT
17 TO SATISFY BUDGET REQUIREMENTS AS PROVIDED IN SECTION THIRTY-FIVE
18 HUNDRED FOUR OF THE EDUCATION LAW, SUCH DEFICIENCY SHALL BE PAID BY THE
19 STATE IN ACCORDANCE WITH THE EDUCATION LAW.

20 S 5. Sections 1204, 1211 and 1212 of the tax law are REPEALED.

21 S 6. The tax law is amended by adding a new section 1200 to read as
22 follows:

23 S 1200. CERTAIN TAXES REDUCED. NOTWITHSTANDING THE PROVISIONS OF ANY
24 OTHER SECTION OF THIS ARTICLE, ON AND AFTER THE EFFECTIVE DATE OF THIS
25 SECTION, THE PROVISIONS OF THIS ARTICLE RELATING TO TAXES FOR THE BENE-
26 FIT OF SCHOOL DISTRICTS OR SCHOOL PURPOSES SHALL BE DEEMED REDUCED IN
27 ACCORDANCE WITH SECTION THIRTY-FIVE HUNDRED FIVE OF THE EDUCATION LAW.

28 S 7. Section 1213 of the tax law, as amended by chapter 651 of the
29 laws of 1999, is amended to read as follows:

30 S 1213. Deliveries outside the jurisdiction where sale is made. Where
31 a sale of tangible personal property or services, including prepaid
32 telephone calling services, but not including other services described
33 in subdivision (b) of section eleven hundred five, including an agree-
34 ment therefor, is made in any city[,] OR county [or school district],
35 but the property sold, the property upon which the services were
36 performed or prepaid telephone calling or other service is or will be
37 delivered to the purchaser elsewhere, such sale shall not be subject to
38 tax by such city[,] OR county [or school district]. However, if delivery
39 occurs or will occur in a city[,] OR county [or school district] impos-
40 ing a tax on the sale or use of such property, prepaid telephone calling
41 or other services, the vendor shall be required to collect from the
42 purchaser, as provided in section twelve hundred fifty-four, the aggre-
43 gate sales or compensating use taxes imposed by the city, if any, AND
44 county [and school district] in which delivery occurs or will occur, for
45 distribution by the commissioner to such taxing jurisdiction or juris-
46 dictions. For the purposes of this section delivery shall be deemed to
47 include transfer of possession to the purchaser and the receiving of the
48 property or of the service, including prepaid telephone calling service,
49 by the purchaser.

50 S 8. Section 1220 of the tax law, as amended by section 39 of part Y
51 of chapter 63 of the laws of 2000, is amended to read as follows:

52 S 1220. Territorial limitations. Any tax imposed under the authority
53 of this article shall apply only within the territorial limits of the
54 city[,] OR county [or school district] imposing the tax, except that
55 where the taxes described in subdivision (b) of section eleven hundred
56 five and clauses (E), (G) and (H) of subdivision (a) of section eleven

1 hundred ten or the tax described in subdivision (e) of section eleven
2 hundred five is imposed by a city, as provided in section twelve hundred
3 ten [or twelve hundred eleven] of this chapter, any establishment
4 located partially within such city and partially within a town or towns
5 and receiving or using any services or utilities provided by the city
6 shall be deemed to be wholly within such city for the purposes of such
7 taxes.

8 S 9. Section 1222 of the tax law, as added by chapter 93 of the laws
9 of 1965, is amended to read as follows:

10 S 1222. Taxes to be in addition to others. Except as expressly
11 otherwise provided in this article, any tax imposed under the authority
12 of this article shall be in addition to any and all other taxes author-
13 ized or imposed under any other provision of law. This article shall
14 not be construed as limiting the power of any city[,] OR county [or
15 school district] to impose any other tax which it is authorized to
16 impose under any other provision of law.

17 S 10. Section 1256 of the tax law, as amended by chapter 575 of the
18 laws of 1965, is amended to read as follows:

19 S 1256. Cooperation by localities. Every city[,] AND county [and
20 school district] shall cooperate with the [state tax commission] COMMIS-
21 SIONER to enable [it] HIM OR HER to carry out [its] HIS OR HER duties
22 under articles twenty-eight and twenty-nine of this chapter. Every such
23 locality shall furnish to such [commission] COMMISSIONER those returns,
24 reports and other information which the [tax commission] COMMISSIONER
25 deems necessary to carry out such duties, except that cities having a
26 population of one million or more, may, in their discretion, furnish
27 instead copies of such returns, reports and other information. Such
28 copies shall be furnished at the [tax commission's] COMMISSIONER'S
29 expense, such expenses to be charged to the cost of administration.
30 Notwithstanding any other law to the contrary, the duty to furnish
31 returns, reports and other information or copies thereof shall apply to
32 those returns and reports filed under taxes authorized under FORMER
33 chapter eight hundred seventy-three of the laws of nineteen hundred
34 thirty-four, as amended, FORMER chapter three hundred forty-one of the
35 laws of nineteen hundred forty-six, as amended[, article two-B of the
36 general city law] and FORMER chapter two hundred seventy-eight of the
37 laws of nineteen hundred forty-seven, as amended, and to such other
38 information which is relevant to the duties of the [tax commission]
39 COMMISSIONER under such articles twenty-eight and twenty-nine OF THIS
40 CHAPTER.

41 S 11. In order to provide for continuity of funding to school
42 districts, fifty percent of the school taxes due on July first in the
43 second year preceding the effective date of this act shall be paid as
44 heretofore required by law.

45 S 12. The commissioners of education and taxation and finance and the
46 chairman of the state board of real property services shall present to
47 the legislature a report stating the methodology for implementing the
48 provisions of this act. The report shall include a system for demon-
49 strating the impact of the act on municipalities and taxpayers for a one
50 year period preceding the implementation of the act. Such report shall
51 be due 90 days after this act becomes law.

52 S 13. This act shall take effect on the first of January next
53 succeeding the date on which it shall have become a law, provided,
54 however, that sections two, five, seven, eight, nine and ten of this act
55 shall take effect 4 years after such effective date.