S T A T E O F N E W Y O R K

7173

2011-2012 Regular Sessions

I N A S S E M B L Y

April 14, 2011

Introduced by M. of A. GALEF -- read once and referred to the Committee on Education

AN ACT in relation to enacting the school district property tax relief act; to amend the education law, in relation to adopting a school income tax surcharge (Part A); and to amend the real property tax law and the tax law, in relation to providing for the restriction of the school district real property tax on residential property and to authorize the imposition by school districts of a surcharge on the state income tax of district residents to finance public education (Part B)

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

Section 1. This act shall be known and may be cited as "the school district property tax relief act".

S 2. This act enacts into law major components of legislation which are necessary to implement the school district property tax relief act. Each component is wholly contained within a Part identified as Parts A and B. The effective date for each particular provision contained within such Part is set forth in the last section of such Part. Any provision in any section contained within a Part, including the effective date of the Part, which makes reference to a section "of this act", when used in connection with that particular component, shall be deemed to mean and refer to the corresponding section of the Part in which it is found. Section four of this act sets forth the general effective date of this act.

PART A

Section 1. Legislative findings and declarations. The legislature finds that the property tax has long been relied upon by school districts as a principal method to finance public education. The proper-

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

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ty tax, however, is regressive and fails to account for a taxpayer's ability to pay, and falls hardest on those with reduced or fixed incomes. Therefore, to relieve the mounting burden on residential property taxpayers and to provide local school districts with greater flexibility to finance public education, while assuring the continued delivery of quality educational services, the legislature finds that school districts shall be authorized, at local option, to impose a school district income tax surcharge on the state personal income tax of district residents to replace a portion of the school district property tax.

S 2. The education law is amended by adding a new section 1501-d to read as follows:

S 1501-D. ADOPTION OF SCHOOL DISTRICT INCOME TAX SURCHARGE. 1. THE BOARD OF TRUSTEES OR BOARD OF EDUCATION OF ANY SCHOOL DISTRICT OTHER THAN A SCHOOL DISTRICT OF A CITY SUBJECT TO THE PROVISIONS OF ARTICLE FIFTY-TWO OF THIS CHAPTER MAY ADOPT, BY RESOLUTION, A SCHOOL DISTRICT INCOME TAX SURCHARGE IMPOSED PURSUANT TO THE AUTHORITY OF ARTICLE THIRTY-C OF THE TAX LAW, TO FINANCE PUBLIC EDUCATION, IN ACCORDANCE WITH A PROPOSITION SUBMITTED TO AND APPROVED BY ELECTORS OF THE SCHOOL DISTRICT AS AUTHORIZED PURSUANT TO THIS SECTION.

2. UPON A MAJORITY VOTE OF THE BOARD OF TRUSTEES OR BOARD OF EDUCATION OF A SCHOOL DISTRICT OR UPON THE FILING OF A PETITION WITH THE CHIEF EXECUTIVE OFFICER OF THE SCHOOL DISTRICT, A STUDY COMMISSION SHALL BE CREATED. A PETITION TO CREATE A STUDY COMMISSION WITHIN A SCHOOL DISTRICT SHALL BE SUFFICIENT IF IT IS SIGNED AND ACKNOWLEDGED BY QUALIFIED ELECTORS OF THE SCHOOL DISTRICT, IN NUMBER EQUAL TO FIVE PER CENTUM OF THE TOTAL NUMBER OF ELECTORS WITHIN THE SCHOOL DISTRICT QUALIFIED TO VOTE IN THE GENERAL ELECTION IMMEDIATELY PRECEDING FILING OF THE PETITION.

3.(A) THE STUDY COMMISSION FORMED PURSUANT TO THIS SECTION SHALL PRESENT A WRITTEN REPORT TO THE BOARD OF TRUSTEES OR THE BOARD OF EDUCATION SETTING FORTH EITHER A SCHOOL DISTRICT INCOME TAX SURCHARGE PLAN OR A WRITTEN RECOMMENDATION THAT NO PLAN BE ADOPTED. SUCH RECOMMENDATION SHALL INCLUDE THE REASONS FOR REJECTING A SURCHARGE PLAN. THE STUDY COMMISSION SHALL FILE THE REPORT WITH THE BOARD OF TRUSTEES OR THE BOARD OF EDUCATION ON OR BEFORE ONE YEAR FROM THE DATE OF PRESENTATION OF THE PETITION TO THE CHIEF EXECUTIVE OFFICER OF THE SCHOOL DISTRICT OR VOTE OF THE BOARD OF TRUSTEES OR THE BOARD OF EDUCATION DIRECTING THE FORMATION OF THE STUDY COMMISSION. IF THE COMMISSION FAILS TO MAKE A RECOMMENDATION WITHIN THE ALLOTTED TIME, THE BOARD SHALL EXTEND THE COMMISSION OR ASSUME ITS RESPONSIBILITIES.

(B) THE COMMISSION SHALL BE COMPOSED OF AT LEAST NINE MEMBERS APPOINTED BY THE BOARD OF TRUSTEES OR THE BOARD OF EDUCATION. MEMBERSHIP SHALL BE COMPRISED OF REPRESENTATIVES OF PROPERTY OWNERS RESIDING IN THE SCHOOL DISTRICT, COMMERCIAL PROPERTY OWNERS WHOSE PRINCIPAL PLACE OF BUSINESS IS LOCATED WITHIN THE SCHOOL DISTRICT, AND THE BOARD OF TRUSTEES OR BOARD OF EDUCATION, BUT SHALL NOT INCLUDE MORE THAN ONE TRUSTEE OF A BOARD OF EDUCATION OR MEMBER OF A BOARD OF EDUCATION.

(C) MEMBERS OF A STUDY COMMISSION ESTABLISHED PURSUANT TO THIS SECTION SHALL FILE OATHS OF OFFICE WITH THE APPOINTING AUTHORITY. THEIR TERMS SHALL EXTEND TO AND EXPIRE UPON SUBMISSION OF THE REPORT TO THE BOARD OF TRUSTEES OR THE BOARD OF EDUCATION AS PROVIDED IN THIS SECTION. MEMBERS SHALL RECEIVE NO COMPENSATION FOR MEMBERSHIP ON THE STUDY COMMISSION. COSTS AND EXPENSES OF THE STUDY COMMISSION IF APPROVED BY THE BOARD SHALL BE PAID BY THE SCHOOL DISTRICT. SUCH COMMISSION SHALL ORGANIZE AND FORM SUCH SUBCOMMITTEES, MAY ESTABLISH MEETINGS AND HOLD INFORMATIONAL

HEARINGS AS IT DEEMS DESIRABLE AND SHALL CONSULT WITH THE DESIGNEES OF THE DIRECTOR OF THE OFFICE OF REAL PROPERTY TAX SERVICES AND THE COMMISSIONER OF TAXATION AND FINANCE.

(D) A STUDY COMMISSION SHALL HOLD AT LEAST ONE PUBLIC HEARING IN THE SCHOOL DISTRICT AT LEAST SIXTY DAYS PRIOR TO SUBMISSION OF ITS REPORT TO THE BOARD OF TRUSTEES OR THE BOARD OF EDUCATION, AT WHICH THE PUBLIC SHALL HAVE AN OPPORTUNITY TO BE HEARD. THE STUDY COMMISSION SHALL PUBLISH NOTICE OF THE PUBLIC HEARING ON ANY OFFICIAL WEBSITE AND IN AT LEAST ONE NEWSPAPER OF GENERAL CIRCULATION WITHIN THE SCHOOL DISTRICT AT LEAST SEVEN AND NO GREATER THAN TEN DAYS PRIOR TO THE DATE OF SUCH PUBLIC HEARING. SUCH NOTICE SHALL SPECIFY THE DAY, HOUR AND PLACE SUCH HEARING SHALL BE HELD.

4. A STUDY COMMISSION RECOMMENDING A SCHOOL DISTRICT INCOME TAX SURCHARGE SHALL ADOPT A PLAN WHICH DESCRIBES THE RATE OF THE SURCHARGE TO BE IMPOSED, THE MANNER IN WHICH REAL PROPERTY TAXES FOR SCHOOL DISTRICT PURPOSES WILL BE RESTRICTED IN ACCORDANCE WITH SECTION THIRTEEN HUNDRED SEVEN OF THE REAL PROPERTY TAX LAW, AND ANY SUCH OTHER MATTERS AS MAY BE DESIRABLE OR NECESSARY TO DESCRIBE THE INCOME TAX SURCHARGE TO BE IMPOSED OR ITS ADMINISTRATION. SUCH COMMISSION PLAN SHALL DESCRIBE RESTRICTIONS, IF ANY, UPON THE AUTHORITY OF A SCHOOL DISTRICT, ACTING THROUGH ITS BOARD OF TRUSTEES OR BOARD OF EDUCATION, TO MODIFY THE FIRST YEAR RATE OF THE INCOME TAX SURCHARGE IN SUBSEQUENT YEARS. THE RESTRICTIONS MAY INCLUDE, BUT ARE NOT LIMITED TO, THE FOLLOWING:

(A) REQUIRING VOTER APPROVAL FOR ANY CHANGE IN THE SURCHARGE RATE;

(B) LIMITING THE AMOUNT OF A RATE CHANGE IN ONE YEAR OR OVER A NUMBER OF YEARS;

(C) REQUIRING THE COMMISSION TO BE RECONVENED TO STUDY AND ADOPT A RATE CHANGE;

(D) REQUIRING A SUPERMAJORITY OF THE BOARD OF TRUSTEES OR THE BOARD OF EDUCATION TO APPROVE A RATE CHANGE; OR

(E) SOME COMBINATION OF THE ABOVE.

5. (A) UPON THE STUDY COMMISSION'S PRESENTATION OF A PLAN, OR RECOMMENDATION NOT TO ADOPT A PLAN, THE BOARD OF TRUSTEES OR THE BOARD OF EDUCATION SHALL DECIDE WHETHER TO ACCEPT OR REJECT THE PLAN OR RECOMMENDATION OF THE STUDY COMMISSION. THE BOARD OF TRUSTEES OR THE BOARD OF EDUCATION SHALL TAKE SUCH ACTION ON THE STUDY COMMISSION'S RECOMMENDATION WITHIN ONE HUNDRED TWENTY DAYS OF ITS PRESENTMENT TO THE BOARD OF TRUSTEES OR THE BOARD OF EDUCATION. THE BOARD OF TRUSTEES OR THE BOARD OF EDUCATION SHALL HOLD AT LEAST ONE PUBLIC HEARING IN THE SCHOOL DISTRICT AT LEAST THIRTY DAYS PRIOR TO TAKING ACTION ON THE STUDY COMMISSION'S RECOMMENDATION, AT WHICH THE PUBLIC SHALL HAVE AN OPPORTUNITY TO BE HEARD. THE BOARD OF TRUSTEES OR THE BOARD OF EDUCATION SHALL PUBLISH NOTICE OF THE PUBLIC HEARING IN AT LEAST ONE NEWSPAPER OF GENERAL CIRCULATION WITHIN THE SCHOOL DISTRICT, AT LEAST SEVEN AND NO GREATER THAN TEN DAYS, PRIOR TO THE DATE OF SUCH PUBLIC HEARING. SUCH NOTICE SHALL SPECIFY THE DAY, HOUR AND PLACE SUCH HEARING SHALL BE HELD. IF THE PLAN IS ACCEPTED BY A MAJORITY OF THE BOARD OF TRUSTEES OR THE BOARD OF EDUCATION, A PROPOSITION SHALL BE PREPARED BY THE BOARD OF TRUSTEES OR THE BOARD OF EDUCATION AND SUBMITTED TO THE VOTERS AT THE NEXT REGULAR SCHOOL ELECTION.

(B) UPON ACCEPTANCE OF THE PLAN AND FORMULATION OF THE PROPOSITION THE BOARD OF TRUSTEES OR THE BOARD OF EDUCATION SHALL PUBLISH THE FULL TEXT OF THE PROPOSITION AND THE SCHOOL DISTRICT TAX SURCHARGE PLAN IN AT LEAST ONE NEWSPAPER OF GENERAL CIRCULATION WITHIN THE SCHOOL DISTRICT AT LEAST THIRTY DAYS PRIOR TO THE DATE OF ELECTION AT WHICH THE SCHOOL DISTRICT VOTERS SHALL VOTE ON THE PLAN AND PROPOSITION. COPIES OF THE

PLAN AND PROPOSITION SHALL BE MADE AVAILABLE TO THE PUBLIC AT THE OFFICES OF THE SCHOOL DISTRICT AT ANY TIME DURING REGULAR BUSINESS HOURS AND ON ANY OFFICIAL WEBSITE MAINTAINED BY THE SCHOOL DISTRICT.

6. (A) A PROPOSITION FOR THE IMPOSITION OF A SCHOOL DISTRICT INCOME TAX SURCHARGE SHALL STATE "SHALL THE (NAME OF SCHOOL DISTRICT) BE EMPOWERED TO ADOPT A SCHOOL DISTRICT INCOME TAX SURCHARGE PURSUANT TO THE SCHOOL DISTRICT INCOME TAX SURCHARGE PLAN?" THE PROPOSITION SHALL ALSO CONTAIN AN ABSTRACT OF SUCH PLAN WHICH SHALL (I) IDENTIFY IN FULL THE OPTION RESTRICTING THE SCHOOL DISTRICT LEVY OF REAL PROPERTY TAX CHOSEN PURSUANT TO SECTION THIRTEEN HUNDRED SEVEN OF THE REAL PROPERTY TAX LAW, AND (II) CONCISELY STATE IN PLAIN LANGUAGE THE PURPOSE AND EFFECT OF ADOPTING SUCH PLAN INCLUDING THE GENERAL EFFECT ON RESIDENTIAL REAL PROPERTY TAXPAYERS, THE INCOME TAX SURCHARGE RATE EXPECTED TO BE IMPOSED, AND RESTRICTIONS, IF ANY, APPLICABLE TO CHANGES IN SUCH RATE.

(B) UPON APPROVAL OF A MAJORITY OF THE QUALIFIED ELECTORS WITHIN A SCHOOL DISTRICT, THE PROPOSITION SHALL BE APPROVED. UPON SUCH APPROVAL A CERTIFICATE OF SUCH ELECTION SHALL BE FILED WITH THE CLERK OF THE SCHOOL DISTRICT NAMED IN THE PROPOSITION, THE COMMISSIONER AND THE COMMISSIONER OF TAXATION AND FINANCE.

7. THE LEVY OF REAL PROPERTY TAXES BY ANY SCHOOL DISTRICT TO FINANCE EDUCATION WHICH ADOPTS A SCHOOL DISTRICT INCOME TAX SURCHARGE SHALL BE SUBJECT TO THE PROVISIONS OF SECTION THIRTEEN HUNDRED SEVEN OF THE REAL PROPERTY TAX LAW.

8. IF ADOPTED BY THE BOARD OF TRUSTEES OR THE BOARD OF EDUCATION ON OR BEFORE MARCH THIRTY-FIRST IN ANY YEAR, WITH NOTICE TO THE COMMISSIONER OF TAXATION AND FINANCE, AS PROVIDED IN SECTION THIRTEEN HUNDRED SIXTY-ONE OF THE TAX LAW ON OR BEFORE SUCH DATE, SUCH SCHOOL DISTRICT INCOME TAX SURCHARGE PLAN SHALL BECOME EFFECTIVE FROM AND AFTER THE FIRST DAY OF JANUARY NEXT SUCCEEDING ITS ADOPTION. IF ADOPTED AFTER MARCH THIRTY-FIRST IN ANY YEAR, OR WITH NOTICE AFTER SUCH DATE, SUCH LOCAL INCOME TAX SURCHARGE PLAN SHALL BECOME EFFECTIVE FROM AND AFTER ONE YEAR FROM THE FIRST DAY OF JANUARY NEXT SUCCEEDING ITS ADOPTION.

S 3. This act shall take effect immediately.

PART B

Section 1. Section 1306 of the real property tax law is amended by adding a new subdivision 6 to read as follows:

6. THE LEVY OF TAXES BY ANY SCHOOL DISTRICT WHICH IMPOSES A PERSONAL INCOME TAX PURSUANT TO ARTICLE THIRTY-C OF THE TAX LAW SHALL BE SUBJECT TO THE RESTRICTIONS OF SECTION THIRTEEN HUNDRED SEVEN OF THIS ARTICLE.

S 2. The real property tax law is amended by adding a new section 1307 to read as follows:

S 1307. REDUCTION IN THE LEVY OF REAL PROPERTY TAXES. 1. WHERE A SCHOOL DISTRICT ELECTS TO IMPOSE A SCHOOL DISTRICT INCOME TAX SURCHARGE IN ACCORDANCE WITH ARTICLE THIRTY-C OF THE TAX LAW, THE AMOUNT TO BE RAISED BY LEVY AGAINST RESIDENTIAL REAL PROPERTY IN THE SCHOOL DISTRICT SHALL BE REDUCED BY THE DOLLAR AMOUNT RAISED PURSUANT TO SUCH SURCHARGE FOR THE CALENDAR YEAR IMMEDIATELY PRECEDING THE YEAR OF COMMENCEMENT OF THE SCHOOL FISCAL YEAR. FOR THE PURPOSES OF THIS SECTION THE TERM "RESIDENTIAL REAL PROPERTY" SHALL BE LIMITED TO PRIMARY RESIDENCES AS DEFINED IN SUBDIVISION THREE OF SECTION FOUR HUNDRED TWENTY-FIVE OF THIS CHAPTER.

2. THE AMOUNT OF REDUCTION FOR EACH PARCEL OF RESIDENTIAL REAL PROPERTY SHALL BE STATED ON THE SCHOOL TAX BILL. THE SCHOOL TAX BILL ALSO SHALL SHOW THE AMOUNT OF THE TOTAL LEVY, THE AMOUNT TO BE RAISED BY THE

RESIDENTIAL PROPERTY IN THE SCHOOL DISTRICT, THE AMOUNT OF SURCHARGE RAISED REDUCING SUCH PORTION OF THE LEVY AND THE AMOUNT TO BE RAISED BY THE NON-RESIDENTIAL PROPERTY IN THE DISTRICT. COMPARISON TO THE PRECEDING YEAR SHALL ALSO BE SHOWN IN ADDITION TO SUCH OTHER INFORMATION AS THE COMMISSIONER OF EDUCATION SHALL SPECIFY. PROPERTY OWNERS NOT SUBJECT TO THE INCOME TAX SURCHARGE IMPOSED BY ARTICLE THIRTY-C OF THE TAX LAW SHALL NOT RECEIVE A REDUCTION IN THE REAL PROPERTY TAXES PURSUANT TO THIS SECTION.

S 3. Subdivision 1 of section 202 of the real property tax law is amended by adding a new paragraph (q) to read as follows:

(Q) DIRECT THE EXECUTIVE DIRECTOR OF THE OFFICE OF REAL PROPERTY SERVICES TO DEVELOP GUIDELINES AND PROVIDE TECHNICAL ASSISTANCE TO A STUDY COMMISSION OF A SCHOOL DISTRICT FORMED PURSUANT TO SECTION FIFTEEN HUNDRED ONE-D OF THE EDUCATION LAW IN ORDER TO IMPLEMENT THE PROVISIONS OF ARTICLE THIRTY-C OF THE TAX LAW AND SECTION THIRTEEN HUNDRED SEVEN OF THIS CHAPTER.

S 4. Paragraph 1 of subdivision (b) of section 9 of the tax law, as amended by chapter 166 of the laws of 1991, is amended to read as follows:

(1) Subject to the requirements contained in subdivisions (c) and (d) of this section, the commissioner shall require by regulation that any payment of tax made by a taxpayer who is required, for either of the semi-annual periods ending June thirtieth or December thirty-first, to deduct and withhold an aggregate of thirty-five thousand dollars or more of withholding taxes pursuant to part V of article twenty-two of this chapter, or pursuant to an equivalent provision enacted under the authority of article thirty, thirty-A [or], thirty-B OR THIRTY-C of this chapter[, or article two-E of the general city law,] shall be made, on or before the date prescribed by law, by electronic funds transfer to a bank, banking house or trust company designated by the commissioner. The commissioner shall designate only such banks, banking houses or trust companies as are or shall be designated by the comptroller as depositories pursuant to section one hundred seventy-one-a of this chapter, as added by chapter sixty-nine of the laws of nineteen hundred seventy-eight. Notwithstanding any provision of law to the contrary, any such payment shall be deemed to be made on the date the payment is received by the designated depository of the department; provided, however, that at the election of a taxpayer subject to the provisions of this subdivision, mailing by the taxpayer of the applicable withholding tax return and a certified check for the amount of the tax liability on or before the second business day prior to the applicable due date otherwise prescribed by law shall fulfill the requirements of this section and shall be deemed to be timely payment of such tax liability and timely filing of such return.

S 5. Subdivisions eighteenth-b and eighteenth-c of section 171 of the tax law, as added by chapter 770 of the laws of 1992, are amended to read as follows:

Eighteenth-b. Where the filing requirement arises under article twenty-two of this chapter or under a law enacted pursuant to the authority of article thirty [or], thirty-A OR THIRTY-C of this chapter, have authority to require a husband and wife whose federal income tax liabilities are determined on a joint federal return and who have not filed a joint New York income tax return to file separate income tax returns, in which case their income tax liabilities shall be separate. Such authority shall be exercised only where one of such persons demonstrates, to the satisfaction of the commissioner, that (a) the address or where-

abouts of his or her spouse is unknown to him or her, (b) reasonable efforts have been made by him or her to locate such spouse, and (c) good cause existed for the failure to file a joint New York income tax return.

Eighteenth-c. Where the filing requirement arises under article twenty-two of this chapter or under a law enacted pursuant to the authority of article thirty [or], thirty-A OR THIRTY-C of this chapter, have authority to require a husband and wife whose federal income tax liabilities are determined on a joint federal return and who have not filed a joint New York income tax return to file separate income tax returns, in which case their income tax liabilities shall be separate. Such authority shall be exercised only where one of such persons demonstrates, to the satisfaction of the commissioner, that (a) his or her spouse has refused to sign a joint New York income tax return, (b) reasonable efforts have been made by him or her to have such spouse sign a joint New York income tax return, (c) there exists objective evidence of alienation of such person from his or her spouse such as a judicial order of protection, legal separation under a decree of divorce or separate maintenance, separation under a written separation agreement or judicial decree of separation, living apart at all times during the twelve months immediately preceding the application for exercise of authority under this provision, the commencement of an action for divorce, or the commencement of proceedings in family court which evidence such alienation, and (d) good cause existed for the failure to file a joint New York income tax return.

S 6. Subdivision 1 of section 171-a of the tax law, as amended by section 1 of part R of chapter 60 of the laws of 2004, is amended to read as follows:

1. All taxes, interest, penalties and fees collected or received by the commissioner or the commissioner's duly authorized agent under articles nine (except section one hundred eighty-two-a thereof and except as otherwise provided in section two hundred five thereof), nine-A, twelve-A (except as otherwise provided in section two hundred eighty-four-d thereof), thirteen, thirteen-A (except as otherwise provided in section three hundred twelve thereof), eighteen, nineteen, twenty (except as otherwise provided in section four hundred eighty-two thereof), twenty-one, twenty-two, twenty-six, twenty-six-B, twenty-eight (except as otherwise provided in section eleven hundred two or eleven hundred three thereof), twenty-eight-A, thirty-one (except as otherwise provided in section fourteen hundred twenty-one thereof), thirty-two, thirty-three and thirty-three-A of this chapter shall be deposited daily in one account with such responsible banks, banking houses or trust companies as may be designated by the comptroller, to the credit of the comptroller. Such an account may be established in one or more of such depositories. Such deposits shall be kept separate and apart from all other money in the possession of the comptroller. The comptroller shall require adequate security from all such depositories. Of the total revenue collected or received under such articles of this chapter, the comptroller shall retain in the comptroller's hands such amount as the commissioner may determine to be necessary for refunds or reimbursements under such articles of this chapter [and article ten thereof] out of which amount the comptroller shall pay any refunds or reimbursements to which taxpayers shall be entitled under the provisions of such articles of this chapter [and article ten thereof]. The commissioner and the comptroller shall maintain a system of accounts showing the amount of revenue collected or received from each of the taxes imposed by such

articles. The comptroller, after reserving the amount to pay such refunds or reimbursements, shall, on or before the tenth day of each month, pay into the state treasury to the credit of the general fund all revenue deposited under this section during the preceding calendar month and remaining to the comptroller's credit on the last day of such preceding month, (i) except that the comptroller shall pay to the state department of [social services] FAMILY ASSISTANCE that amount of overpayments of tax imposed by article twenty-two of this chapter and the interest on such amount which is certified to the comptroller by the commissioner as the amount to be credited against past-due support pursuant to subdivision six of section one hundred seventy-one-c of this chapter, (ii) and except that the comptroller shall pay to the New York state higher education services corporation and the state university of New York or the city university of New York respectively that amount of overpayments of tax imposed by article twenty-two of this chapter and the interest on such amount which is certified to the comptroller by the commissioner as the amount to be credited against the amount of defaults in repayment of guaranteed student loans and state university loans or city university loans pursuant to subdivision five of section one hundred seventy-one-d and subdivision six of section one hundred seventy-one-e of this chapter, (iii) and except further that, notwithstanding any law, the comptroller shall credit to the revenue arrearage account, pursuant to section ninety-one-a of the state finance law, that amount of overpayment of tax imposed by article nine, nine-A, twenty-two, thirty, thirty-A, thirty-B, THIRTY-C, thirty-two or thirty-three of this chapter, and any interest thereon, which is certified to the comptroller by the commissioner as the amount to be credited against a past-due legally enforceable debt owed to a state agency pursuant to paragraph (a) of subdivision six of section one hundred seventy-one-f of this article, provided, however, [he] THE COMMISSIONER shall credit to the special offset fiduciary account, pursuant to section ninety-one-c of the state finance law, any such amount creditable as a liability as set forth in paragraph (b) of subdivision six of section one hundred seventy-one-f of this article, (iv) and except further that the comptroller shall pay to the city of New York that amount of overpayment of tax imposed by article nine, nine-A, twenty-two, thirty, thirty-A, thirty-B, THIRTY-C, thirty-two, or thirty-three of this chapter and any interest thereon that is certified to the comptroller by the commissioner as the amount to be credited against city of New York tax warrant judgment debt pursuant to section one hundred seventy-one-l of this article, (v) and except further that the comptroller shall pay to a non-obligated spouse that amount of overpayment of tax imposed by article twenty-two of this chapter and the interest on such amount which has been credited pursuant to section one hundred seventy-one-c, one hundred seventy-one-d, one hundred seventy-one-e, one hundred seventy-one-f or one hundred seventy-one-l of this article and which is certified to the comptroller by the commissioner as the amount due such non-obligated spouse pursuant to paragraph six of subsection (b) of section six hundred fifty-one of this chapter; and (vi) the comptroller shall deduct a like amount which the comptroller shall pay into the treasury to the credit of the general fund from amounts subsequently payable to the department of social services, the state university of New York, the city university of New York, or the higher education services corporation, or the revenue arrearage account or special offset fiduciary account pursuant to section ninety-one-a or ninety-one-c of the state finance law, as the case may be, whichever had been credited the amount originally withheld

from such overpayment, and (vii) with respect to amounts originally withheld from such overpayment pursuant to section one hundred seventy-one-l of this article and paid to the city of New York, the comptroller shall collect a like amount from the city of New York.

S 7. Subdivision 1 of section 171-c of the tax law, as amended by chapter 601 of the laws of 2007, is amended to read as follows:

(1) The commissioner, on behalf of the department, shall enter into a written agreement with the commissioner of the office of temporary and disability assistance, on behalf of the state office of temporary and disability assistance, which shall set forth the procedures for crediting any overpayment by an individual, estate or trust of income tax imposed by article twenty-two of this chapter, city personal income tax on residents imposed pursuant to the authority of article thirty of this chapter, city income tax surcharge on residents imposed pursuant to the authority of article thirty-A of this chapter and city earnings tax on nonresidents imposed pursuant to the authority of article thirty-B of this chapter AND SCHOOL DISTRICT INCOME TAX SURCHARGE IMPOSED PURSUANT TO THE AUTHORITY OF ARTICLE THIRTY-C OF THIS CHAPTER and the interest on such overpayments against past-due support owed by such individual, estate or trust of which the commissioner has been notified by the commissioner of the office of temporary and disability assistance pursuant to the provisions of such agreement.

S 8. Subdivision 1 of section 171-d of the tax law, as amended by section 2 of part M of chapter 57 of the laws of 2008, is amended to read as follows:

(1) The commissioner, on behalf of the [tax commission] DEPARTMENT, shall enter into a written agreement with the president of the New York state higher education services corporation, on behalf of such corporation, which shall set forth the procedures for crediting any overpayment by an individual, estate or trust of income tax imposed by article twenty-two of this chapter, city personal income tax on residents imposed pursuant to the authority of article thirty of this chapter, city income tax surcharge on residents imposed pursuant to the authority of article thirty-A of this chapter, [city earnings tax on nonresidents imposed pursuant to the authority of former article two-E of the general city law and] city earnings tax on nonresidents imposed pursuant to the authority of article thirty-B of this chapter, SCHOOL DISTRICT INCOME TAX SURCHARGE IMPOSED PURSUANT TO THE AUTHORITY OF ARTICLE THIRTY-C OF THIS CHAPTER and the interest on such overpayments against the amount of any default in repayment of any governmental education loan owed by such individual, estate or trust of which the commissioner has been notified by the president of the New York state higher education services corporation pursuant to the provisions of such agreement. For purposes of this section, "governmental education loan" shall mean any education loan debt, including judgments, owed to the federal or New York state government that is being collected by the New York state higher education services corporation.

S 9. Subdivision 2 of section 171-e of the tax law, as separately amended by chapters 222 and 638 of the laws of 1985, is amended to read as follows:

(2) The commissioner [of taxation and finance], on behalf of the [tax commission] DEPARTMENT, shall enter into a written agreement with the state university of New York or the city university of New York respectively which shall set forth the procedures for crediting any overpayment by an individual, estate or trust of income tax imposed by article twenty-two of this chapter, city personal income tax on residents

imposed pursuant to the authority of article thirty of this chapter, city income tax surcharge on residents imposed pursuant to the authority of article thirty-A of this chapter, [city earnings tax on nonresidents imposed pursuant to the authority of article two-E of the general city law and] city earnings tax on nonresidents imposed pursuant to the authority of article thirty-B of this chapter AND SCHOOL DISTRICT INCOME TAX SURCHARGE IMPOSED PURSUANT TO THE AUTHORITY OF ARTICLE THIRTY-C OF THIS CHAPTER and the interest on such overpayments against the amount of any default in repayment of a state university loan or city university loan owed by such individual, estate or trust of which the commissioner [of taxation and finance] has been notified by the state university of New York or the city university of New York respectively pursuant to the provisions of such agreement.

S 10. Subdivisions 1 and 2 of section 171-f of the tax law, subdivision 1 as amended by chapter 81 of the laws of 1995 and subdivision 2 as added by chapter 55 of the laws of 1992, are amended to read as follows:

(1) For the purposes of this section, (a) "state agency" shall mean any state department, board, bureau, division, commission, committee, public authority, public benefit corporation, council, office, or other governmental entity performing a governmental or proprietary function for the state, or, solely for purposes of this section, a local social services district; (b) "taxpayer" shall mean a corporation, association, company, partnership, estate, trust, liquidator, fiduciary or other entity or individual who or which is liable for any tax or other imposition imposed by or pursuant to article nine, nine-A, twenty-two, thirty, thirty-A, thirty-B, THIRTY-C, thirty-two, or thirty-three of this chapter [or article two-E of the general city law], which tax or other imposition is administered by the commissioner of taxation and finance, or who or which is under a duty to perform an act under or pursuant to such tax or imposition, excluding a state agency, a municipal corporation or a district corporation; and (c) "overpayment" shall mean an overpayment which has been requested or determined to be refunded, a refund or a reimbursement, of a tax or other imposition imposed by or pursuant to article nine, nine-A, twenty-two, thirty, thirty-A, thirty-B, THIRTY-C, thirty-two, or thirty-three of this chapter or FORMER article two-E of the general city law, which is administered by the commissioner [of taxation and finance].

(2) The commissioner [of taxation and finance], upon agreement with the state comptroller and acting as an agent for the state comptroller, shall set forth the procedures for crediting any overpayment by a taxpayer of any tax or other imposition imposed by or authorized to be imposed pursuant to article nine, nine-A, twenty-two, thirty, thirty-A, thirty-B, THIRTY-C, thirty-two, or thirty-three of this chapter [or article two-E of the general city law], which is administered by the commissioner [of taxation and finance], and the interest on any such overpayments, against the amount of a past-due legally enforceable debt owed by such taxpayer to a state agency. An implementation plan shall be developed by the division of the budget and the department of taxation and finance which shall provide, but not be limited to, guidance with respect to coordination of debt collection pursuant to this section and subdivision twenty-seventh of section one hundred seventy-one of this article. This section shall not be deemed to abrogate or limit in any way the powers and authority of the state comptroller to set off debts owed the state against payments from the state, under the constitution of the state or any other law.

S 11. Paragraph 1 of subsection (c) of section 615 of the tax law, as amended by section 1 of part CC of chapter 57 of the laws of 2010, is amended to read as follows:

(1) state and local general sales taxes as defined in subsection (b) of section one hundred sixty-four of the internal revenue code, to the extent included in federal itemized deductions or income taxes imposed by this state or any other taxing jurisdiction, except (A) city earnings taxes on nonresidents that are imposed upon and paid by taxpayers for taxable years beginning after December thirty-first, nineteen hundred seventy and before January first, two thousand, pursuant to the authority of former section twenty-five-m of the general city law, to the extent that the amount of such tax exceeds the tax computed as if the rates were one-fourth of one percent of wages subject to tax and three-eighths of one percent of net earnings from self-employment subject to tax, AND (B) ANY SCHOOL DISTRICT INCOME TAX SURCHARGE IMPOSED PURSUANT TO THE AUTHORITY OF ARTICLE THIRTY-ONE-C OF THIS CHAPTER;

S 12. The tax law is amended by adding a new article 30-C to read as follows:

ARTICLE 30-C

SCHOOL DISTRICT INCOME TAX SURCHARGE

SECTION 1360. SHORT TITLE.
1361. AUTHORITY TO IMPOSE SCHOOL DISTRICT INCOME TAX SURCHARGE.
1362. MODEL RESOLUTION.
1363. ADOPTION OF THE MODEL SCHOOL DISTRICT INCOME TAX SURCHARGE.
1364. DEPOSIT AND DISPOSITION OF REVENUES.

S 1360. SHORT TITLE. THIS ARTICLE SHALL BE KNOWN AND MAY BE CITED AS THE "SCHOOL DISTRICT INCOME TAX SURCHARGE".

S 1361. AUTHORITY TO IMPOSE SCHOOL DISTRICT INCOME TAX SURCHARGE. (A) GENERAL. NOTWITHSTANDING ANY OTHER PROVISION OF LAW TO THE CONTRARY, BUT SUBJECT TO THE LIMITATIONS AND CONDITIONS SET FORTH IN THIS ARTICLE, ANY SCHOOL DISTRICT IN THIS STATE (OTHER THAN A SCHOOL DISTRICT OF A CITY SUBJECT TO THE PROVISIONS OF ARTICLE FIFTY-TWO OF THE EDUCATION LAW), ACTING THROUGH ITS BOARD OF TRUSTEES OR BOARD OF EDUCATION IN ACCORDANCE WITH SECTION FIFTEEN HUNDRED ONE-D OF THE EDUCATION LAW, IS HEREBY AUTHORIZED AND EMPOWERED TO ADOPT AND AMEND RESOLUTIONS IMPOSING IN ANY SUCH SCHOOL DISTRICT, FOR TAXABLE YEARS BEGINNING AFTER TWO THOUSAND TEN, A SCHOOL DISTRICT INCOME TAX SURCHARGE ON THE NET STATE TAX (AS DEFINED IN SECTION THREE OF THE MODEL SCHOOL DISTRICT INCOME TAX SURCHARGE SET FORTH IN SECTION THIRTEEN HUNDRED SIXTY-THREE OF THIS ARTICLE) OF RESIDENTS OF THE SCHOOL DISTRICT, AT A RATE PERMISSIBLE UNDER SUBSECTION (C) OF THIS SECTION. SUCH SCHOOL DISTRICT INCOME TAX SURCHARGE SHALL BE ADMINISTERED, COLLECTED AND DISTRIBUTED BY THE COMMISSIONER AS PROVIDED FOR IN THIS ARTICLE.

(B) FORM OF ADOPTION OF RESOLUTION. ADOPTION OF AN INCOME TAX SURCHARGE PURSUANT TO THE AUTHORITY OF THIS SECTION SHALL BE BY ADOPTION OF A RESOLUTION, SUBSTANTIALLY SIMILAR IN TERMS TO THE MODEL RESOLUTION SET FORTH IN SECTION THIRTEEN HUNDRED SIXTY-TWO OF THIS ARTICLE, SETTING FORTH ONE OF THE RATES OF INCOME TAX SURCHARGE PROVIDED IN SUBSECTION (C) OF THIS SECTION AND SPECIFYING THE TAXABLE YEARS FOR WHICH THE RATE IS TO BE EFFECTIVE. SUCH RESOLUTION SHALL BE DEEMED TO INCORPORATE THEREIN ALL OF THE PROVISIONS OF THE MODEL SCHOOL DISTRICT INCOME TAX SURCHARGE SET FORTH IN SECTION THIRTEEN HUNDRED SIXTY-THREE OF THIS ARTICLE, AS AMENDED FROM TIME TO TIME.

(C) RATE OF SURCHARGE. THE PERMISSIBLE RATES OF INCOME TAX SURCHARGE AUTHORIZED BY THIS SECTION SHALL BE WHOLE NUMBER MULTIPLES OF ONE

PERCENT AND SHALL NOT EXCEED TWENTY-FIVE PERCENT. DIFFERENT PERMISSIBLE RATES MAY BE IMPOSED WITH RESPECT TO DIFFERENT CALENDAR YEARS, BUT ONLY ONE SUCH RATE MAY BE IMPOSED WITH RESPECT TO A SINGLE CALENDAR YEAR, AND ANY SUCH RATE SHALL REMAIN IN EFFECT FOR THE ENTIRE YEAR AND SHALL APPLY TO ALL TAXABLE YEARS BEGINNING IN SUCH CALENDAR YEAR.

(D) EFFECTIVENESS OF RESOLUTION AND FILING WITH COMMISSIONER. (1) INITIAL ADOPTION. A RESOLUTION IMPOSING AN INCOME TAX SURCHARGE PURSUANT TO THE AUTHORITY OF THIS SECTION WHICH IS ADOPTED ON OR BEFORE MARCH THIRTY-FIRST OF ANY CALENDAR YEAR WITH NOTICE TO THE COMMISSIONER ON OR BEFORE SUCH DATE SHALL GO INTO EFFECT ON THE FIRST DAY OF JANUARY OF THE FIRST SUCCEEDING CALENDAR YEAR, AND ANY SUCH LOCAL LAW ENACTED AFTER, OR WITH NOTICE AFTER, SUCH MARCH THIRTY-FIRST SHALL GO INTO EFFECT ON THE FIRST DAY OF JANUARY OF THE SECOND SUCCEEDING CALENDAR YEAR, AND IN EITHER CASE SHALL APPLY TO TAXABLE YEARS BEGINNING ON AND AFTER SUCH FIRST DAY OF JANUARY.

(2) AMENDMENT. A RESOLUTION AMENDING SUCH AN INCOME TAX SURCHARGE, WHICH RESOLUTION IS ADOPTED ON OR BEFORE JUNE THIRTIETH OF ANY CALENDAR YEAR WITH NOTICE TO THE COMMISSIONER ON OR BEFORE SUCH DATE SHALL GO INTO EFFECT ON THE FIRST DAY OF JANUARY OF THE FIRST SUCCEEDING CALENDAR YEAR, AND ANY SUCH RESOLUTION ADOPTED AFTER, OR WITH NOTICE AFTER, SUCH JUNE THIRTIETH SHALL GO INTO EFFECT ON THE FIRST DAY OF JANUARY OF THE SECOND SUCCEEDING CALENDAR YEAR, AND IN EITHER CASE SHALL APPLY TO TAXABLE YEARS BEGINNING ON AND AFTER SUCH FIRST DAY OF JANUARY.

(3) NOTICE. NOTICE TO THE COMMISSIONER OF ADOPTION OF ANY RESOLUTION PURSUANT TO THE AUTHORITY OF THIS SECTION SHALL BE BY MAILING BY REGISTERED MAIL A CERTIFIED COPY OF SUCH RESOLUTION TO THE COMMISSIONER AT THE COMMISSIONER'S OFFICE IN ALBANY.

(E) FILING OF RESOLUTION WITH OTHERS. CERTIFIED COPIES OF ANY SUCH RESOLUTION SHALL ALSO BE FILED, WITHIN THIRTY DAYS OF THE DATE OF ENACTMENT, WITH THE CLERK OF THE SCHOOL DISTRICT WHEREIN THE SURCHARGE IS IMPOSED.

(F) COOPERATION. (1) EVERY SCHOOL DISTRICT IMPOSING A SCHOOL DISTRICT INCOME TAX SURCHARGE UNDER THE AUTHORITY OF THIS SECTION SHALL FURNISH THE COMMISSIONER SUCH INFORMATION AS HE OR SHE MAY REQUIRE IN THE ADMINISTRATION OF SUCH SURCHARGE, ANY OTHER LAW TO THE CONTRARY NOTWITHSTANDING.

(2) THE COMMISSIONER SHALL ADVISE AND COOPERATE WITH SCHOOL DISTRICT OFFICIALS FOR THE PURPOSE OF UNIFORM ADMINISTRATION, COLLECTION AND DISTRIBUTION OF THE TAX AUTHORIZED BY THIS SECTION.

(3) ANY AMENDMENT TO THE PROVISIONS OF ARTICLE TWENTY-TWO OF THIS CHAPTER, TO THE EXTENT THAT SUCH AMENDMENT IS APPLICABLE TO THE MODEL SCHOOL DISTRICT INCOME TAX SURCHARGE, SHALL BE DEEMED TO HAVE BEEN INCORPORATED IN THE ANALOGOUS PROVISION OR PROVISIONS OF SUCH MODEL SURCHARGE.

S 1362. MODEL RESOLUTION. THE RESOLUTION DESCRIBED IN SUBSECTION (B) OF SECTION THIRTEEN HUNDRED SIXTY-ONE OF THIS ARTICLE SHALL BE IN SUBSTANTIALLY THE FOLLOWING FORM:

IMPOSITION OF SCHOOL DISTRICT INCOME TAX SURCHARGE.

THE SCHOOL DISTRICT HEREBY ADOPTS THE MODEL SCHOOL DISTRICT INCOME TAX SURCHARGE, FOR TAXABLE YEARS BEGINNING ON AND AFTER JANUARY 1, 20 , AT THE RATE OF PERCENT.

S 1363. ADOPTION OF THE MODEL SCHOOL DISTRICT INCOME TAX SURCHARGE. ADOPTION BY A SCHOOL DISTRICT OF THE RESOLUTION SET FORTH IN SECTION THIRTEEN HUNDRED SIXTY-TWO OF THIS ARTICLE SHALL BE DEEMED TO BE ADOPTION OF THE MODEL SCHOOL DISTRICT INCOME TAX SURCHARGE SET FORTH BELOW.

MODEL SCHOOL DISTRICT INCOME TAX SURCHARGE

SECTION 1. PERSONS SUBJECT TO THE SCHOOL DISTRICT INCOME TAX SURCHARGE.
2. RENTER'S CREDIT.
3. NET STATE TAX.
4. SCHOOL DISTRICT RESIDENT DEFINED.
5. RETURNS AND LIABILITIES.
6. REQUIREMENT OF WITHHOLDING TAX FROM WAGES.
7. CREDIT FOR TAX WITHHELD.
8. ENFORCEMENT WITH OTHER TAXES.
9. ADMINISTRATION, COLLECTION AND REVIEW.

SECTION 1. PERSONS SUBJECT TO THE SCHOOL DISTRICT INCOME TAX SURCHARGE. (A) GENERAL. THE SCHOOL DISTRICT INCOME TAX SURCHARGE AT THE RATE ADOPTED SHALL BE IMPOSED FOR EACH TAXABLE YEAR ON EVERY SCHOOL DISTRICT RESIDENT INDIVIDUAL, ESTATE AND TRUST. A TAXPAYER'S TAXABLE YEAR FOR PURPOSES OF THE SCHOOL DISTRICT INCOME TAX SURCHARGE SHALL BE THE SAME AS THE TAXPAYER'S TAXABLE YEAR UNDER ARTICLE TWENTY-TWO OF THIS CHAPTER.

(B) PARTNERS AND PARTNERSHIPS. A PARTNERSHIP AS SUCH SHALL NOT BE SUBJECT TO THE SCHOOL DISTRICT INCOME TAX SURCHARGE. PERSONS CARRYING ON BUSINESS AS PARTNERS SHALL BE LIABLE FOR SUCH SCHOOL DISTRICT INCOME TAX SURCHARGE ONLY IN THEIR SEPARATE OR INDIVIDUAL CAPACITIES.

(C) ASSOCIATIONS TAXABLE AS CORPORATIONS. AN ASSOCIATION, TRUST OR OTHER UNINCORPORATED ORGANIZATION WHICH IS TAXABLE AS A CORPORATION FOR FEDERAL INCOME TAX PURPOSES SHALL NOT BE SUBJECT TO THE SCHOOL DISTRICT INCOME TAX SURCHARGE.

(D) EXEMPT TRUSTS AND ORGANIZATIONS. A TRUST OR OTHER UNINCORPORATED ORGANIZATION WHICH BY REASON OF ITS PURPOSES OR ACTIVITIES IS EXEMPT FROM FEDERAL INCOME TAX SHALL BE EXEMPT FROM THE SCHOOL DISTRICT INCOME TAX SURCHARGE (REGARDLESS OF WHETHER SUBJECT TO FEDERAL INCOME TAX ON UNRELATED BUSINESS TAXABLE INCOME).

S 2. RENTER'S CREDIT. (A) GENERAL. A TAXPAYER WHO IS A QUALIFIED LESSEE SHALL BE ALLOWED A CREDIT AGAINST THE TAX IMPOSED BY THIS MODEL SURCHARGE EQUAL TO ONE AND ONE-QUARTER PERCENT OF HIS OR HER ADJUSTED RENT.

(B) QUALIFIED LESSEE. A QUALIFIED LESSEE IS AN INDIVIDUAL WHOSE RESIDENCE WITHIN THE SCHOOL DISTRICT IS LEASED REAL PROPERTY WHICH IS NOT RESIDENTIAL REAL PROPERTY.

(C) ADJUSTED RENT. THE TERM ADJUSTED RENT SHALL HAVE THE SAME MEANING AS IN SUBPARAGRAPH (G) OF PARAGRAPH ONE OF SUBSECTION (E) OF SECTION SIX HUNDRED SIX OF THIS CHAPTER, WITH RESPECT TO THE RENTAL PAID BY THE QUALIFIED LESSEE DURING THE TAXABLE YEAR FOR THE RESIDENCE REFERRED TO IN SUBSECTION (B) OF THIS SECTION.

S 3. NET STATE TAX. (A) GENERAL. THE NET STATE TAX OF A SCHOOL DISTRICT RESIDENT INDIVIDUAL, ESTATE OR TRUST SHALL MEAN THE SUM OF ALL OF THE TAXES IMPOSED ON SUCH INDIVIDUAL, ESTATE OR TRUST UNDER ARTICLE TWENTY-TWO OF THIS CHAPTER FOR THE TAXABLE YEAR LESS THE APPLICABLE CREDITS (OTHER THAN THE CREDIT FOR TAX WITHHELD) ALLOWED TO SUCH INDIVIDUAL, ESTATE OR TRUST UNDER SUCH ARTICLE FOR THE TAXABLE YEAR.

(B) CHANGE OF RESIDENCE. WHEN AN INDIVIDUAL OR TRUST CHANGES SCHOOL DISTRICT RESIDENT STATUS DURING THE TAXABLE YEAR, THE NET STATE TAX SHALL BE THE NET STATE TAX DETERMINED UNDER SUBSECTION (A) OF THIS SECTION MULTIPLIED BY A FRACTION, THE NUMERATOR OF WHICH IS THE NUMBER OF MONTHS OF RESIDENCE IN THE SCHOOL DISTRICT IN THE TAXABLE YEAR AND THE DENOMINATOR OF WHICH IS THE NUMBER OF MONTHS IN THE TAXABLE YEAR. FOR PURPOSES OF THIS SUBSECTION, A MONTH SHALL CONSTITUTE A MONTH OF

RESIDENCE IF THE INDIVIDUAL OR TRUST IS A RESIDENT FOR MORE THAN FIFTEEN DAYS OF THAT MONTH.

S 4. SCHOOL DISTRICT RESIDENT DEFINED. (A) SCHOOL DISTRICT RESIDENT INDIVIDUAL. A SCHOOL DISTRICT RESIDENT INDIVIDUAL MEANS AN INDIVIDUAL WHO IS DOMICILED IN THE SCHOOL DISTRICT WHEREIN THE SCHOOL DISTRICT INCOME TAX SURCHARGE IS IMPOSED, UNLESS

(1) SUCH INDIVIDUAL MAINTAINS NO PERMANENT PLACE OF ABODE IN SUCH SCHOOL DISTRICT, MAINTAINS A PERMANENT PLACE OF ABODE ELSEWHERE, AND SPENDS IN THE AGGREGATE NOT MORE THAN THIRTY DAYS OF THE TAXABLE YEAR IN SUCH SCHOOL DISTRICT, OR

(2)(A) WITHIN ANY PERIOD OF FIVE HUNDRED FORTY-EIGHT CONSECUTIVE DAYS SUCH INDIVIDUAL IS PRESENT IN A FOREIGN COUNTRY OR COUNTRIES FOR AT LEAST FOUR HUNDRED FIFTY DAYS, AND (B) DURING SUCH PERIOD OF FIVE HUNDRED FORTY-EIGHT CONSECUTIVE DAYS HE OR SHE IS NOT PRESENT IN SUCH SCHOOL DISTRICT FOR MORE THAN NINETY DAYS AND DOES NOT MAINTAIN A PERMANENT PLACE OF ABODE IN SUCH SCHOOL DISTRICT AT WHICH HIS OR HER SPOUSE (UNLESS SUCH SPOUSE IS LEGALLY SEPARATED) OR MINOR CHILDREN ARE PRESENT FOR MORE THAN NINETY DAYS, AND (C) DURING THE NONRESIDENT PORTION OF THE TAXABLE YEAR WITH OR WITHIN WHICH SUCH PERIOD OF FIVE HUNDRED FORTY-EIGHT CONSECUTIVE DAYS BEGINS AND THE NONRESIDENT PORTION OF THE TAXABLE YEAR WITH OR WITHIN WHICH SUCH PERIOD ENDS, HE OR SHE IS PRESENT IN SUCH SCHOOL DISTRICT FOR A NUMBER OF DAYS WHICH DOES NOT EXCEED AN AMOUNT WHICH BEARS THE SAME RATIO TO NINETY AS THE NUMBER OF DAYS CONTAINED IN SUCH PORTION OF THE TAXABLE YEAR BEARS TO FIVE HUNDRED FORTY-EIGHT.

(B) SCHOOL DISTRICT RESIDENT ESTATE OR TRUST. A SCHOOL DISTRICT RESIDENT ESTATE OR TRUST MEANS: (1) THE ESTATE OF A DECEDENT WHO AT HIS OR HER DEATH WAS DOMICILED IN SUCH SCHOOL DISTRICT,

(2) A TRUST, OR A PORTION OF A TRUST, CONSISTING OF PROPERTY TRANSFERRED BY WILL OF A DECEDENT WHO AT HIS OR HER DEATH WAS DOMICILED IN SUCH SCHOOL DISTRICT, OR

(3) A TRUST, OR A PORTION OF A TRUST, CONSISTING OF THE PROPERTY OF:

(A) A PERSON DOMICILED IN SUCH SCHOOL DISTRICT AT THE TIME SUCH PROPERTY WAS TRANSFERRED TO THE TRUST, IF SUCH TRUST OR PORTION OF A TRUST WAS THEN IRREVOCABLE, OR IF IT WAS THEN REVOCABLE AND HAS NOT SUBSEQUENTLY BECOME IRREVOCABLE; OR

(B) A PERSON DOMICILED IN SUCH SCHOOL DISTRICT AT THE TIME SUCH TRUST OR PORTION OF A TRUST BECAME IRREVOCABLE, IF IT WAS REVOCABLE WHEN SUCH PROPERTY WAS TRANSFERRED TO THE TRUST BUT HAS SUBSEQUENTLY BECOME IRREVOCABLE.

FOR THE PURPOSES OF THE FOREGOING, A TRUST OR A PORTION OF A TRUST IS REVOCABLE IF IT IS SUBJECT TO A POWER, EXERCISABLE IMMEDIATELY OR AT ANY FUTURE TIME, TO REVEST TITLE IN THE PERSON WHOSE PROPERTY CONSTITUTES SUCH TRUST OR PORTION OF A TRUST AND A TRUST OR PORTION OF A TRUST BECOMES IRREVOCABLE WHEN THE POSSIBILITY THAT SUCH POWER MAY BE EXERCISED HAS BEEN TERMINATED.

S 5. RETURNS AND LIABILITIES. (A) GENERAL. ON OR BEFORE THE FIFTEENTH DAY OF THE FOURTH MONTH FOLLOWING THE CLOSE OF A TAXABLE YEAR, A SCHOOL DISTRICT INCOME TAX SURCHARGE RETURN SHALL BE MADE AND FILED BY OR FOR EVERY SCHOOL DISTRICT RESIDENT INDIVIDUAL, ESTATE OR TRUST REQUIRED TO FILE A NEW YORK STATE PERSONAL INCOME TAX RETURN FOR THE TAXABLE YEAR.

(B) HUSBAND AND WIFE. (1) IF THE NEW YORK STATE PERSONAL INCOME TAX LIABILITIES OF HUSBAND AND WIFE ARE DETERMINED ON SEPARATE RETURNS, THEIR SCHOOL DISTRICT INCOME TAX SURCHARGE LIABILITIES AND RETURNS SHALL BE SEPARATE.

(2) IF THE NEW YORK STATE PERSONAL INCOME TAX LIABILITIES OF HUSBAND AND WIFE (OTHER THAN A HUSBAND AND WIFE DESCRIBED IN PARAGRAPH THREE OF THIS SUBSECTION) ARE DETERMINED ON A JOINT RETURN, THEY SHALL FILE A JOINT SCHOOL DISTRICT INCOME TAX SURCHARGE RETURN, AND THEIR SCHOOL DISTRICT INCOME TAX SURCHARGE LIABILITIES SHALL BE JOINT AND SEVERAL EXCEPT AS PROVIDED IN PARAGRAPHS FOUR AND FIVE OF THIS SUBSECTION AND IN SUBSECTION (E) OF SECTION SIX HUNDRED EIGHTY-FIVE OF THIS CHAPTER.

(3) IF EITHER HUSBAND OR WIFE IS A SCHOOL DISTRICT RESIDENT AND THE OTHER IS A SCHOOL DISTRICT NONRESIDENT, AND THEIR NEW YORK STATE PERSONAL INCOME TAX LIABILITIES ARE DETERMINED ON A JOINT RETURN:

(A) THE RESIDENT SPOUSE MAY ELECT TO FILE A SEPARATE SCHOOL DISTRICT INCOME TAX SURCHARGE RETURN, IN WHICH CASE THE SURCHARGE SHALL BE APPLIED TO A SEPARATE NET STATE TAX, SUCH SEPARATE NET STATE TAX TO BE THAT PORTION OF THE TOTAL NET STATE TAX DETERMINED FROM THE JOINT STATE RETURN WHICH BEARS THE SAME RELATION TO SUCH TOTAL NET STATE TAX AS THE NEW YORK ADJUSTED GROSS INCOME (AS DEFINED IN SECTION SIX HUNDRED TWELVE OF THIS CHAPTER) OF THE RESIDENT SPOUSE BEARS TO THE JOINT NEW YORK ADJUSTED GROSS INCOME, OR

(B) THEY MAY ELECT TO FILE A JOINT SCHOOL DISTRICT INCOME TAX SURCHARGE RETURN, IN WHICH CASE THEIR SCHOOL DISTRICT INCOME TAX SURCHARGE LIABILITIES SHALL BE JOINT AND SEVERAL EXCEPT AS PROVIDED IN PARAGRAPHS FOUR AND FIVE OF THIS SUBSECTION AND IN SUBSECTION (E) OF SECTION SIX HUNDRED EIGHTY-FIVE OF THIS CHAPTER, PROVIDED THAT (I) IF THE SCHOOL DISTRICT OF RESIDENCE OF EACH SPOUSE IMPOSES A SURCHARGE, BUT AT DIFFERENT RATES, THEY SHALL FILE THE JOINT SCHOOL DISTRICT INCOME TAX SURCHARGE RETURN WITH THE SCHOOL DISTRICT IMPOSING THE HIGHER RATE OF SURCHARGE, AND THERE SHALL BE NO SURCHARGE LIABILITY TO THE OTHER SCHOOL DISTRICT, OR

(II) IF THE SCHOOL DISTRICT OF RESIDENCE OF EACH SPOUSE IMPOSES A SURCHARGE AND THE RATES ARE THE SAME, THEY SHALL FILE A JOINT SCHOOL DISTRICT INCOME TAX SURCHARGE RETURN WITH EACH SCHOOL DISTRICT, BUT THE SURCHARGE ON EACH SUCH RETURN SHALL BE APPLIED TO ONE-HALF OF THE NET STATE TAX.

(4) UNDER REGULATIONS PRESCRIBED BY THE COMMISSIONER, IF

(A) A JOINT NEW YORK STATE PERSONAL INCOME TAX RETURN HAS BEEN MADE UNDER SUBSECTION (B) OF SECTION SIX HUNDRED FIFTY-ONE OF THIS CHAPTER FOR A TAXABLE YEAR, (B) ON SUCH RETURN THERE IS A SUBSTANTIAL UNDERSTATEMENT OF TAX ATTRIBUTABLE TO GROSSLY ERRONEOUS ITEMS OF ONE SPOUSE, (C) THE OTHER SPOUSE IS RELIEVED OF LIABILITY FOR NEW YORK STATE PERSONAL INCOME TAX (INCLUDING INTEREST, PENALTIES AND OTHER AMOUNTS) FOR SUCH TAXABLE YEAR TO THE EXTENT THAT SUCH LIABILITY IS ATTRIBUTABLE TO SUCH SUBSTANTIAL UNDERSTATEMENT PURSUANT TO THE PROVISIONS OF PARAGRAPH FIVE OF SUBSECTION (B) OF SECTION SIX HUNDRED FIFTY-ONE OF THIS CHAPTER, AND (D) A JOINT SCHOOL DISTRICT PERSONAL INCOME TAX SURCHARGE RETURN HAS BEEN MADE PURSUANT TO THIS SUBSECTION FOR THE TAXABLE YEAR, THEN SUCH OTHER SPOUSE SHALL BE RELIEVED OF LIABILITY FOR SCHOOL DISTRICT INCOME TAX SURCHARGE (INCLUDING INTEREST, PENALTIES AND OTHER AMOUNTS) FOR SUCH TAXABLE YEAR UNDER THE SCHOOL DISTRICT INCOME TAX SURCHARGE, TO THE EXTENT THAT SUCH LIABILITY IS ATTRIBUTABLE TO SUCH SUBSTANTIAL UNDERSTATEMENT.

(5) IF A JOINT RETURN HAS BEEN MADE PURSUANT TO THIS SUBSECTION FOR A TAXABLE YEAR AND ONLY ONE SPOUSE IS LIABLE FOR PAST-DUE SUPPORT, OR A PAST-DUE LEGALLY ENFORCEABLE DEBT, OR AN AMOUNT OF A DEFAULT IN REPAYMENT OF A GUARANTEED STUDENT, STATE UNIVERSITY OR CITY UNIVERSITY LOAN OF WHICH THE COMMISSIONER HAS BEEN NOTIFIED PURSUANT TO SECTION ONE HUNDRED SEVENTY-ONE-C, ONE HUNDRED SEVENTY-ONE-D, ONE HUNDRED

SEVENTY-ONE-E OR ONE HUNDRED SEVENTY-ONE-F OF THIS CHAPTER, AS THE CASE MAY BE, THEN AN OVERPAYMENT AND INTEREST THEREON SHALL BE CREDITED AGAINST SUCH PAST-DUE SUPPORT, OR A PAST-DUE LEGALLY ENFORCEABLE DEBT, OR SUCH AMOUNT OF A DEFAULT IN REPAYMENT OF A GUARANTEED STUDENT, STATE UNIVERSITY OR CITY UNIVERSITY LOAN, UNLESS THE SPOUSE NOT LIABLE FOR SUCH PAST-DUE SUPPORT, OR A PAST-DUE LEGALLY ENFORCEABLE DEBT, OR SUCH AMOUNT OF A DEFAULT IN REPAYMENT OF A GUARANTEED STUDENT, STATE UNIVERSITY OR CITY UNIVERSITY LOAN DEMANDS, ON A DECLARATION MADE IN ACCORDANCE WITH REGULATIONS OR INSTRUCTIONS PRESCRIBED BY THE COMMISSIONER, THAT THE PORTION OF THE OVERPAYMENT AND INTEREST ATTRIBUTABLE TO SUCH SPOUSE NOT BE CREDITED AGAINST THE PAST-DUE SUPPORT, OR A PAST-DUE LEGALLY ENFORCEABLE DEBT, OR AMOUNT OF A DEFAULT IN REPAYMENT OF A GUARANTEED STUDENT, STATE UNIVERSITY OR CITY UNIVERSITY LOAN OWED BY THE OTHER SPOUSE. UPON SUCH DEMAND THE COMMISSIONER SHALL DETERMINE THE AMOUNT OF THE OVERPAYMENT ATTRIBUTABLE TO EACH SPOUSE IN ACCORDANCE WITH REGULATIONS PRESCRIBED BY THE COMMISSIONER AND CREDIT ONLY THAT PORTION OF THE OVERPAYMENT AND INTEREST THEREON ATTRIBUTABLE TO THE SPOUSE LIABLE FOR PAST-DUE SUPPORT, OR A PAST-DUE LEGALLY ENFORCEABLE DEBT, OR AMOUNT OF A DEFAULT IN REPAYMENT OF A GUARANTEED STUDENT, STATE UNIVERSITY OR CITY UNIVERSITY LOAN AGAINST SUCH PAST-DUE SUPPORT, OR A PAST-DUE LEGALLY ENFORCEABLE DEBT, OR SUCH AMOUNT OF A DEFAULT IN REPAYMENT OF A GUARANTEED STUDENT, STATE UNIVERSITY OR CITY UNIVERSITY LOAN.

(C) DECEDENTS. THE RETURN FOR ANY DECEASED INDIVIDUAL SHALL BE MADE AND FILED BY HIS OR HER EXECUTOR, ADMINISTRATOR, OR OTHER PERSON CHARGED WITH HIS OR HER PROPERTY. IF A FINAL RETURN OF A DECEDENT IS FOR A FRACTIONAL PART OF A YEAR, THE DUE DATE OF SUCH RETURN SHALL BE THE FIFTEENTH DAY OF THE FOURTH MONTH FOLLOWING THE CLOSE OF THE TWELVE-MONTH PERIOD WHICH BEGAN WITH THE FIRST DAY OF SUCH FRACTIONAL PART OF THE YEAR.

(D) INDIVIDUALS UNDER A DISABILITY. THE RETURN FOR AN INDIVIDUAL WHO IS UNABLE TO MAKE A RETURN BY REASON OF MINORITY OR OTHER DISABILITY SHALL BE MADE AND FILED BY HIS OR HER GUARDIAN, COMMITTEE, FIDUCIARY OR OTHER PERSON OR HER CHARGED WITH THE CARE OF HIS OR HER PERSON OR PROPERTY (OTHER THAN A RECEIVER IN POSSESSION OF ONLY A PART OF HIS OR HER PROPERTY), OR BY HIS OR HER DULY AUTHORIZED AGENT.

(E) ESTATES AND TRUSTS. THE RETURN FOR AN ESTATE OR TRUST SHALL BE MADE AND FILED BY THE FIDUCIARY.

(F) JOINT FIDUCIARIES. IF TWO OR MORE FIDUCIARIES ARE ACTING JOINTLY, THE RETURN MAY BE MADE BY ANY ONE OF THEM.

S 6. REQUIREMENT OF WITHHOLDING TAX FROM WAGES. THE SCHOOL DISTRICT INCOME TAX SURCHARGE SHALL BE WITHHELD FROM THE WAGES OF SCHOOL DISTRICT RESIDENTS IN THE SAME MANNER AND SUBJECT TO THE SAME REQUIREMENTS, TO THE GREATEST EXTENT POSSIBLE, AS PROVIDED IN SECTIONS SIX HUNDRED SEVENTY-ONE THROUGH SIX HUNDRED SEVENTY-EIGHT OF THIS CHAPTER EXCEPT THAT THE TERM "AGGREGATE AMOUNT" CONTAINED IN PARAGRAPHS ONE, TWO AND THREE OF SUBSECTION (A) OF SECTION SIX HUNDRED SEVENTY-FOUR OF THIS CHAPTER SHALL MEAN THE AGGREGATE OF THE AMOUNTS REQUIRED TO BE DEDUCTED AND WITHHELD OF THE NEW YORK STATE PERSONAL INCOME TAX, THE CITY INCOME AND EARNINGS TAXES AUTHORIZED PURSUANT TO ARTICLES THIRTY, THIRTY-A AND THIRTY-B OF THIS CHAPTER, AND THE SCHOOL DISTRICT INCOME TAX SURCHARGE.

S 7. CREDIT FOR TAX WITHHELD. THE SCHOOL DISTRICT INCOME TAX SURCHARGE WITHHELD SHALL NOT REDUCE NET STATE TAX FOR PURPOSES OF COMPUTING THE SCHOOL DISTRICT INCOME TAX SURCHARGE, BUT ANY AMOUNT OF TAX ACTUALLY DEDUCTED AND WITHHELD UNDER THIS MODEL SURCHARGE IN ANY CALENDAR YEAR SHALL BE DEEMED TO HAVE BEEN PAID TO THE DEPARTMENT OF TAXATION AND FINANCE ON BEHALF OF THE PERSON FROM WHOM WITHHELD, AND SUCH PERSON

SHALL BE CREDITED WITH HAVING PAID THE AMOUNT OF TAX FOR THE TAXABLE YEAR BEGINNING IN SUCH CALENDAR YEAR. FOR A TAXABLE YEAR OF LESS THAN TWELVE MONTHS, THE CREDIT SHALL BE MADE UNDER REGULATIONS OF THE COMMISSIONER.

S 8. ENFORCEMENT WITH OTHER TAXES. (A) JOINT ASSESSMENT. IF THERE IS ASSESSED A TAX UNDER THE SCHOOL DISTRICT INCOME TAX SURCHARGE AND THERE IS ALSO ASSESSED A TAX AGAINST THE SAME TAXPAYER PURSUANT TO ARTICLE TWENTY-TWO OF THIS CHAPTER OR UNDER A LOCAL LAW ENACTED PURSUANT TO THE AUTHORITY OF ARTICLE THIRTY, THIRTY-A OR THIRTY-B OF THIS CHAPTER AND PAYMENT OF A SINGLE AMOUNT IS REQUIRED UNDER THE PROVISIONS OF THIS MODEL SURCHARGE, PAYMENT SHALL BE DEEMED TO HAVE BEEN MADE WITH RESPECT TO THE TAXES SO ASSESSED IN PROPORTION TO THE AMOUNTS OF SUCH TAXES DUE, INCLUDING TAX, PENALTIES, INTEREST AND ADDITIONS TO TAX.

(B) JOINT ACTION. IF THE COMMISSIONER TAKES ACTION UNDER SUCH ARTICLE TWENTY-TWO OR UNDER A LOCAL LAW ENACTED PURSUANT TO THE AUTHORITY OF ARTICLE THIRTY, THIRTY-A OR THIRTY-B OF THIS CHAPTER WITH RESPECT TO THE ENFORCEMENT AND COLLECTION OF THE TAX OR TAXES ASSESSED UNDER SUCH ARTICLES THE COMMISSIONER SHALL, WHEREVER POSSIBLE, ACCOMPANY SUCH ACTION WITH A SIMILAR ACTION UNDER SIMILAR ENFORCEMENT AND COLLECTION PROVISIONS OF THE SCHOOL DISTRICT INCOME TAX SURCHARGE.

(C) APPORTIONMENT OF MONEYS COLLECTED BY JOINT ACTION. ANY MONEYS COLLECTED AS A RESULT OF SUCH JOINT ACTION SHALL BE DEEMED TO HAVE BEEN COLLECTED IN PROPORTION TO THE AMOUNTS DUE, INCLUDING TAX, PENALTIES, INTEREST AND ADDITIONS TO TAX, UNDER ARTICLE TWENTY-TWO OF THIS CHAPTER OR UNDER A LOCAL LAW ENACTED PURSUANT TO THE AUTHORITY OF ARTICLE THIRTY, THIRTY-A, OR THIRTY-B OF THIS CHAPTER AND THE SCHOOL DISTRICT INCOME TAX SURCHARGE.

(D) JOINT DEFICIENCY ACTION. WHENEVER THE COMMISSIONER TAKES ANY ACTION WITH RESPECT TO A DEFICIENCY OF INCOME TAX UNDER ARTICLE TWENTY-TWO OF THIS CHAPTER OR UNDER A LOCAL LAW ENACTED PURSUANT TO THE AUTHORITY OF ARTICLE THIRTY, THIRTY-A OR THIRTY-B OF THIS CHAPTER, OTHER THAN THE ACTION SET FORTH IN SUBSECTION (A) OF THIS SECTION, THE COMMISSIONER MAY IN HIS OR HER DISCRETION ACCOMPANY SUCH ACTION WITH A SIMILAR ACTION UNDER THE SCHOOL DISTRICT INCOME TAX SURCHARGE.

S 9. ADMINISTRATION, COLLECTION AND REVIEW. (A) GENERAL. EXCEPT AS OTHERWISE PROVIDED IN THIS ARTICLE, THE SCHOOL DISTRICT INCOME TAX SURCHARGE SHALL BE ADMINISTERED AND COLLECTED BY THE COMMISSIONER IN THE SAME MANNER AS THE TAX IMPOSED BY ARTICLE TWENTY-TWO OF THIS CHAPTER IS ADMINISTERED AND COLLECTED BY THE COMMISSIONER. ALL OF THE PROVISIONS OF ARTICLE TWENTY-TWO OF THIS CHAPTER RELATING TO OR APPLICABLE TO PAYMENT OF ESTIMATED TAX, RETURNS, PAYMENT OF TAX, WITHHOLDING OF TAX FROM WAGES, EMPLOYER'S STATEMENTS AND RETURNS, EMPLOYER'S LIABILITY FOR TAXES REQUIRED TO BE WITHHELD AND ALL OTHER PROVISIONS OF ARTICLE TWENTY-TWO RELATING TO OR APPLICABLE TO THE ADMINISTRATION, COLLECTION, LIABILITY FOR AND REVIEW OF THE TAX IMPOSED BY ARTICLE TWENTY-TWO, INCLUDING SECTIONS SIX HUNDRED FIFTY-TWO AND SIX HUNDRED FIFTY-THREE, SECTIONS SIX HUNDRED FIFTY-SEVEN THROUGH SIX HUNDRED FIFTY-NINE, SECTION SIX HUNDRED SIXTY-ONE, SECTIONS SIX HUNDRED SEVENTY-ONE AND SIX HUNDRED SEVENTY-TWO, SECTIONS SIX HUNDRED SEVENTY-FOUR THROUGH SIX HUNDRED SEVENTY-EIGHT AND SECTIONS SIX HUNDRED EIGHTY-ONE THROUGH SIX HUNDRED NINETY-SEVEN OF THIS CHAPTER, INCLUSIVE, SHALL APPLY TO THE SCHOOL DISTRICT INCOME TAX SURCHARGE WITH THE SAME FORCE AND EFFECT AS IF THOSE PROVISIONS HAD BEEN INCORPORATED IN FULL INTO THIS MODEL SURCHARGE, AND HAD EXPRESSLY REFERRED TO THE SCHOOL DISTRICT INCOME TAX SURCHARGE, EXCEPT WHERE ANY SUCH PROVISION IS EITHER INCONSISTENT WITH A PROVISION OF THIS MODEL SURCHARGE OR IS NOT RELEVANT TO THIS MODEL SURCHARGE. WHENEVER THERE IS

JOINT COLLECTION OF STATE PERSONAL INCOME TAX, CITY PERSONAL INCOME OR EARNINGS TAXES OR SCHOOL DISTRICT INCOME TAX SURCHARGE, IT SHALL BE DEEMED THAT SUCH COLLECTION SHALL REPRESENT PROPORTIONATELY THE APPLICABLE STATE PERSONAL INCOME TAX, CITY PERSONAL INCOME OR EARNINGS TAX OR SCHOOL DISTRICT INCOME TAX SURCHARGE IN DETERMINING THE AMOUNT TO BE REMITTED TO THE SCHOOL DISTRICT.

(B) PAYMENT TO DESIGNATED DEPOSITORIES. THE COMMISSIONER, IN HIS OR HER DISCRETION, MAY REQUIRE OR PERMIT ANY OR ALL PERSONS LIABLE FOR ANY SCHOOL DISTRICT INCOME TAX SURCHARGE IMPOSED UNDER THIS MODEL SURCHARGE TO MAKE PAYMENTS ON ACCOUNT OF ESTIMATED SCHOOL DISTRICT INCOME TAX SURCHARGE AND PAYMENT OF ANY SCHOOL DISTRICT INCOME TAX SURCHARGE, PENALTY OR INTEREST TO SUCH BANKS, BANKING HOUSES OR TRUST COMPANIES DESIGNATED BY THE COMMISSIONER AND TO FILE RETURNS WITH SUCH BANKS, BANKING HOUSES OR TRUST COMPANIES, AS AGENT OF THE COMMISSIONER, IN LIEU OF PAYING A SCHOOL DISTRICT INCOME TAX SURCHARGE IMPOSED UNDER THIS MODEL SURCHARGE DIRECTLY TO THE COMMISSION. HOWEVER, THE COMMISSIONER SHALL DESIGNATE ONLY SUCH BANKS, BANKING HOUSES OR TRUST COMPANIES WHICH ARE DESIGNATED BY THE COMPTROLLER AS DEPOSITORIES OF THE STATE.

(C) COMBINED FILINGS. NOTWITHSTANDING ANY OTHER PROVISIONS OF THIS ARTICLE, THE COMMISSIONER MAY REQUIRE:

(1) THE FILING OF ANY OR ALL OF THE FOLLOWING:

(A) A COMBINED RETURN WHICH, IN ADDITION TO THE RETURN PROVIDED FOR IN SECTION FIVE HEREOF, MAY ALSO INCLUDE ANY OF THE RETURNS REQUIRED PURSUANT TO THE PROVISIONS OF SECTION SIX HUNDRED FIFTY-ONE OF THIS CHAPTER TO BE FILED BY AN INDIVIDUAL, ESTATE OR TRUST WHO OR WHICH IS A RESIDENT OF NEW YORK STATE, AND WHICH MAY BE REQUIRED TO BE FILED BY SUCH INDIVIDUAL, ESTATE OR TRUST PURSUANT TO ANY LOCAL LAW ENACTED PURSUANT TO THE AUTHORITY OF ARTICLE THIRTY, THIRTY-A OR THIRTY-B OF THIS CHAPTER, AND

(B) A COMBINED EMPLOYER'S RETURN WHICH, IN ADDITION TO THE EMPLOYER'S RETURN PROVIDED FOR BY THIS MODEL SURCHARGE, MAY ALSO INCLUDE ANY OF THE EMPLOYER'S RETURNS REQUIRED TO BE FILED BY THE SAME EMPLOYER PURSUANT TO THE PROVISIONS OF SECTION SIX HUNDRED SEVENTY-FOUR OF THIS CHAPTER AND REQUIRED TO BE FILED BY SUCH EMPLOYER PURSUANT TO ANY LOCAL LAW ENACTED UNDER THE AUTHORITY OF ARTICLE THIRTY, THIRTY-A OR THIRTY-B OF THIS CHAPTER.

(2) WHERE A COMBINED RETURN OR EMPLOYER'S RETURN IS REQUIRED, AND WITH RESPECT TO THE PAYMENT OF ESTIMATED TAX, THE COMMISSIONER MAY ALSO REQUIRE THE PAYMENT OF A SINGLE AMOUNT WHICH SHALL EQUAL THE TOTAL OF THE AMOUNTS (TOTAL TAXES LESS ANY CREDITS OR REFUNDS) WHICH WOULD HAVE BEEN REQUIRED TO BE PAID WITH THE RETURNS OR EMPLOYER'S RETURNS OR IN PAYMENT OF ESTIMATED TAX PURSUANT TO THE PROVISIONS OF ARTICLE TWENTY-TWO OF THIS CHAPTER AND THIS MODEL SURCHARGE AND THE PROVISIONS OF LOCAL LAWS ENACTED UNDER THE AUTHORITY OF ARTICLE THIRTY, THIRTY-A OR THIRTY-B OF THIS CHAPTER.

S 1364. DEPOSIT AND DISPOSITION OF REVENUES. (A) DEPOSIT OF REVENUES. ALL REVENUE COLLECTED BY THE COMMISSIONER FROM THE TAX IMPOSED BY ANY SCHOOL DISTRICT PURSUANT TO THE AUTHORITY OF THIS ARTICLE SHALL BE DEPOSITED DAILY WITH SUCH RESPONSIBLE BANKS, BANKING HOUSES OR TRUST COMPANIES, AS MAY BE DESIGNATED BY THE STATE COMPTROLLER, TO THE CREDIT OF THE COMPTROLLER, IN TRUST FOR SUCH SCHOOL DISTRICT. SUCH DEPOSITS SHALL BE KEPT IN TRUST AND SEPARATE AND APART FROM ALL OTHER MONEYS IN THE POSSESSION OF THE COMPTROLLER. THE COMPTROLLER SHALL REQUIRE ADEQUATE SECURITY FROM ALL SUCH DEPOSITORIES OF SUCH REVENUE COLLECTED BY THE COMMISSIONER.

(B) RESERVES. THE COMPTROLLER SHALL RETAIN A RESERVE FOR REFUNDS IN SUCH AMOUNT AS THE COMMISSIONER MAY DETERMINE TO BE NECESSARY FOR REFUNDS IN RESPECT TO SUCH TAX AND A RESERVE FOR REASONABLE COSTS OF THE COMMISSIONER IN ADMINISTERING, COLLECTING AND DISTRIBUTING SUCH TAX.

(1) FROM THE RESERVE FOR REFUNDS THE COMPTROLLER SHALL PAY ANY REFUNDS OF SUCH TAX TO WHICH A TAXPAYER SHALL BE ENTITLED UNDER ANY SURCHARGE ENACTED BY A SCHOOL DISTRICT PURSUANT TO THE AUTHORITY OF THIS ARTICLE, EXCEPT THAT

(A) THE COMPTROLLER SHALL PAY TO THE STATE DEPARTMENT OF SOCIAL SERVICES THAT AMOUNT OF OVERPAYMENT OF SUCH TAX AND THE INTEREST ON SUCH AMOUNT WHICH IS CERTIFIED TO HIM OR HER BY THE COMMISSIONER AS THE AMOUNT TO BE CREDITED AGAINST PAST-DUE SUPPORT PURSUANT TO SUBDIVISION SIX OF SECTION ONE HUNDRED SEVENTY-ONE-C OF THIS CHAPTER,

(B) THE COMPTROLLER SHALL PAY TO THE NEW YORK STATE HIGHER EDUCATION SERVICES CORPORATION THAT AMOUNT OF OVERPAYMENT OF SUCH TAX AND THE INTEREST ON SUCH AMOUNT WHICH IS CERTIFIED TO HIM OR HER BY THE COMMISSIONER AS THE AMOUNT TO BE CREDITED AGAINST THE AMOUNT OF DEFAULTS IN REPAYMENT OF GUARANTEED STUDENT LOANS PURSUANT TO SUBDIVISION FIVE OF SECTION ONE HUNDRED SEVENTY-ONE-D OF THIS CHAPTER,

(C) THE COMPTROLLER SHALL PAY TO THE STATE UNIVERSITY OF NEW YORK OR THE CITY UNIVERSITY OF NEW YORK RESPECTIVELY THAT AMOUNT OF OVERPAYMENT OF SUCH TAX AND THE INTEREST ON SUCH AMOUNT WHICH IS CERTIFIED TO HIM OR HER BY THE COMMISSIONER AS THE AMOUNT TO BE CREDITED AGAINST THE AMOUNT OF DEFAULTS IN REPAYMENT OF STATE OR CITY UNIVERSITY LOANS PURSUANT TO SUBDIVISION SIX OF SECTION ONE HUNDRED SEVENTY-ONE-E OF THIS CHAPTER,

(D) NOTWITHSTANDING ANY OTHER PROVISION OF LAW, THE COMPTROLLER SHALL CREDIT TO THE REVENUE ARREARAGE ACCOUNT, PURSUANT TO SECTION NINETY-ONE-A OF THE STATE FINANCE LAW, THAT AMOUNT OF OVERPAYMENT OF SUCH TAX AND THE INTEREST ON SUCH AMOUNT WHICH IS CERTIFIED TO HIM OR HER BY THE COMMISSIONER AS THE AMOUNT TO BE CREDITED AGAINST A PAST-DUE LEGALLY ENFORCEABLE DEBT OWED TO A STATE AGENCY PURSUANT TO SUBDIVISION SIX OF SECTION ONE HUNDRED SEVENTY-ONE-F OF THIS CHAPTER, AND

(E) THE COMPTROLLER SHALL PAY TO A NON-OBLIGATED SPOUSE THAT AMOUNT OF OVERPAYMENT OF SUCH TAX AND THE INTEREST ON SUCH AMOUNT WHICH HAS BEEN CREDITED PURSUANT TO SECTION ONE HUNDRED SEVENTY-ONE-C, ONE HUNDRED SEVENTY-ONE-D, ONE HUNDRED SEVENTY-ONE-E OR ONE HUNDRED SEVENTY-ONE-F OF THIS CHAPTER AND WHICH IS CERTIFIED TO HIM OR HER BY THE COMMISSIONER AS THE AMOUNT DUE SUCH NON-OBLIGATED SPOUSE PURSUANT TO PARAGRAPH SIX OF SUBSECTION (B) OF SECTION SIX HUNDRED FIFTY-ONE OF THIS CHAPTER, AND THE COMPTROLLER SHALL DEDUCT A LIKE AMOUNT WHICH HE OR SHE SHALL PAY INTO THE TREASURY TO THE CREDIT OF THE GENERAL FUND FROM AMOUNTS SUBSEQUENTLY PAYABLE TO THE DEPARTMENT OF FAMILY ASSISTANCE, THE STATE UNIVERSITY OF NEW YORK, THE CITY UNIVERSITY OF NEW YORK, THE HIGHER EDUCATION SERVICES CORPORATION OR TO THE REVENUE ARREARAGE ACCOUNT PURSUANT TO SECTION NINETY-ONE-A OF THE STATE FINANCE LAW, AS THE CASE MAY BE, WHICHEVER HAD BEEN CREDITED THE AMOUNT ORIGINALLY WITHHELD FROM SUCH OVERPAYMENT.

(2) THE AMOUNT RESERVED FOR ADMINISTERING, COLLECTING AND DISTRIBUTING SUCH TAX SHALL BE PAID BY THE COMPTROLLER ON OR BEFORE THE FIFTEENTH DAY OF EACH MONTH INTO THE GENERAL FUND OF THE STATE TREASURY TO THE CREDIT OF THE STATE PURPOSES ACCOUNT THEREIN.

S 13. Subdivision (e) of section 1800 of the tax law, as added by chapter 65 of the laws of 1985, is amended to read as follows:

(e) As used in this article, the term "related income or earnings tax statute" means any law, ordinance or resolution imposed pursuant to the authority of article thirty, [thirty-a or thirty-b] THIRTY-A, THIRTY-B

OR THIRTY-C of this chapter or article two-E of the general city law, while such article two-E shall remain in full force and effect.

S 14. Subdivision (c) of section 3008 of the tax law, as added by chapter 770 of the laws of 1992, is amended to read as follows:

(c) Assessments attributable to certain mathematical errors by the department. In the case of an assessment of any tax imposed by or pursuant to the authority of article twenty-two, thirty, thirty-A [or], thirty-B OR THIRTY-C of this chapter [or article two-E of the general city law] attributable in whole or in part to a mathematical error described in subparagraph (A) of paragraph two of subsection (g) of section sixty-two hundred thirteen of the federal internal revenue code, if the return was prepared by an officer or employee of the department acting in his or her official capacity to provide assistance to taxpayers in the preparation of income tax returns, the commissioner is authorized to abate the assessment of all or any part of any interest on such deficiency for any period ending on or before the tenth day following the date of notice and demand by the commissioner for payment of the deficiency.

S 15. Section 171 of the tax law is amended by adding a new subdivision twenty-ninth to read as follows:

TWENTY-NINTH. DEVELOP GUIDELINES AND PROVIDE TECHNICAL ASSISTANCE TO A STUDY COMMISSION OF A SCHOOL DISTRICT FORMED PURSUANT TO SECTION FIFTEEN HUNDRED ONE-D OF THE EDUCATION LAW IN ORDER TO IMPLEMENT THE PROVISIONS OF ARTICLE THIRTY-C OF THIS CHAPTER AND SECTION THIRTEEN HUNDRED SEVEN OF THE REAL PROPERTY TAX LAW.

S 16. The state education department, the department of taxation and finance and the office of real property services are hereby directed to conduct a joint study on whether this act has provided school districts with greater flexibility to finance public education and afforded relief to residential property taxpayers, and report jointly to the governor and the legislature together with any recommendations for change to meet these purposes. Said study shall not commence until this act has been in effect for five years upon which the aforementioned agencies shall file a joint written report to the governor and the legislature by no later than the sixth year after this act takes effect.

S 17. This act shall take effect immediately.

S 3. Severability clause. If any clause, sentence, paragraph, subdivision, section or part of this act shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair, or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, subdivision, section or part thereof directly involved in the controversy in which such judgment shall have been rendered. It is hereby declared to be the intent of the legislature that this act would have been enacted even if such invalid provisions had not been included herein.

S 4. This act shall take effect immediately provided, however, that the applicable effective dates of Parts A and B of this act shall be as specifically set forth in the last section of such Parts.