

8372

I N   A S S E M B L Y

January 9, 2014

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Introduced by M. of A. THIELE, CAHILL -- read once and referred 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 ASSEM-  
BLY, DO ENACT AS FOLLOWS:

1     Section 1. Title 5 of the education law is amended by adding a new  
2     article 71 to read as follows:

3                                     ARTICLE 71

4                     FINANCING OF SCHOOL DISTRICTS

5     SECTION 3501. LEGISLATIVE INTENT.

6             3502. BASIC QUALITY EDUCATION.

7             3503. MINIMUM APPORTIONMENT.

8             3504. LOCAL ENRICHMENT OPTIONS.

9             3505. COLLECTION AND DISTRIBUTION.

10            3506. CONSTRUCTION WITH OTHER LAWS.

11            3507. SEVERABILITY.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

32 S 3. The real property tax law is amended by adding a new section  
33 467-h to read as follows:

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

44 S 4. The tax law is amended by adding two new sections 601-b and  
45 601-c to read as follows:

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

54 2. THE COMMISSIONER SHALL ESTABLISH A SEPARATE ACCOUNT OR ACCOUNTS TO  
55 RECEIVE THE ADDITIONAL TAX IMPOSED BY SUBSECTION ONE OF THIS SECTION AND  
56 SHALL PAY INTO SUCH ACCOUNT OR ACCOUNTS THE TOTAL OF ALL SUCH TAXES WHEN

1 RECEIVED AND RETAIN THE SAME SUBJECT TO DISBURSEMENT IN ACCORDANCE WITH  
2 THE PROVISIONS OF THE EDUCATION LAW.

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

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

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

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

25 S 7. Section 1213 of the tax law, as amended by section 2 of part WW  
26 of chapter 57 of the laws of 2010, is amended to read as follows:

27 S 1213. Deliveries outside the jurisdiction where sale is made. Where  
28 a sale of tangible personal property or services, including prepaid  
29 telephone calling services, but not including other services described  
30 in subdivision (b) of section eleven hundred five of this chapter,  
31 including an agreement therefor, is made in any city[, ] OR county [or  
32 school district], but the property sold, the property upon which the  
33 services were performed or prepaid telephone calling or other service is  
34 or will be delivered to the purchaser elsewhere, such sale shall not be  
35 subject to tax by such city[, ] OR county [or school district]. However,  
36 if delivery occurs or will occur in a city[, ] OR county [or school  
37 district] imposing a tax on the sale or use of such property, prepaid  
38 telephone calling or other services, the vendor shall be required to  
39 collect from the purchaser, as provided in section twelve hundred  
40 fifty-four of this article, the aggregate sales or compensating use  
41 taxes imposed by the city, if any, AND county [and school district] in  
42 which delivery occurs or will occur, for distribution by the commission-  
43 er to such taxing jurisdiction or jurisdictions. For the purposes of  
44 this section delivery shall be deemed to include transfer of possession  
45 to the purchaser and the receiving of the property or of the service,  
46 including prepaid telephone calling service, by the purchaser. Notwith-  
47 standing the foregoing, where a transportation service described in  
48 paragraph ten of subdivision (c) of section eleven hundred five of this  
49 chapter begins in one jurisdiction but ends in another jurisdiction, any  
50 tax imposed pursuant to the authority of this article shall be due the  
51 jurisdiction or jurisdictions where the service commenced.

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

54 S 1220. Territorial limitations. Any tax imposed under the authority  
55 of this article shall apply only within the territorial limits of the  
56 city[, ] OR county [or school district] imposing the tax, except that

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

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

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

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

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

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

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

53 S 13. This act shall take effect on the first of January next  
54 succeeding the date on which it shall have become a law provided, howev-  
55 er, that sections two, five, seven, eight, nine and ten of this act  
56 shall take effect 3 years after such effective date.