

1387--A

2015-2016 Regular Sessions

I N   S E N A T E

January 12, 2015

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Introduced by Sen. PARKER -- read twice and ordered printed, and when printed to be committed to the Committee on Investigations and Government Operations -- recommitted to the Committee on Investigations and Government Operations in accordance with Senate Rule 6, sec. 8 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the tax law and the education law, in relation to education tax surcharge

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

1     Section 1. Legislative intent. The legislature hereby finds and  
2     declares that an omnibus education financing plan is essential to effec-  
3     tively and comprehensively provide a sound basic education to public  
4     school students in the city of New York. The "emergency in education"  
5     surcharge tax, grounded in the need to provide immediate, adequate  
6     support for public education in the city of New York, is such a plan.  
7     The plan recognizes and addresses several factors: (1) that increased  
8     operating aid is necessary to ensure New York city students are prepared  
9     to achieve the higher standards implemented by the New York state board  
10    of regents, (2) that the city of New York is committed to shouldering  
11    its "fair share" of the cost of educating students in its public  
12    schools, and (3) that students currently attending public schools in the  
13    city of New York cannot afford to wait as litigation concerning the  
14    state of New York's education financing system is decided by the courts.  
15    The mayor and the city council have agreed that the financing program  
16    provided for in this act will provide the funds necessary to implement  
17    the "emergency in education" plan. The state must authorize the new  
18    revenue sources requested by the city of New York to enable the city to  
19    effectively educate public school students.  
20    S 2. The tax law is amended by adding a new section 1304-e to read as  
21    follows:

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

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1 S 1304-E. EMERGENCY IN EDUCATION TAX SURCHARGE. (A) IN ADDITION TO THE  
2 TAXES AUTHORIZED BY ANY OTHER SECTION OF THIS ARTICLE, ANY CITY IMPOSING  
3 SUCH TAXES IS HEREBY AUTHORIZED AND EMPOWERED TO ADOPT AND AMEND LOCAL  
4 LAWS IMPOSING IN ANY SUCH CITY TAX SURCHARGES ON (1) THE NEW YORK CITY  
5 ADJUSTED GROSS INCOME, AND (2) THE TAX DUE UNDER SECTION THIRTEEN  
6 HUNDRED FOUR OF THIS ARTICLE OF EVERY CITY RESIDENT INDIVIDUAL, ESTATE  
7 AND TRUST, AS SET FORTH IN SUBSECTIONS (B), (C), (D), (E), (F) AND (G)  
8 OF THIS SECTION.

9 (B) FOR TAXABLE YEARS BEGINNING IN TWO THOUSAND SIXTEEN, THE TAX  
10 SURCHARGES IMPOSED PURSUANT TO THE AUTHORITY OF THIS SECTION SHALL BE  
11 DETERMINED AS FOLLOWS: (1) A TAX OF ONE PERCENT ON THE PORTION OF THE  
12 NEW YORK CITY SOURCE ADJUSTED GROSS INCOME OF EVERY RESIDENT INDIVIDUAL,  
13 ESTATE OR TRUST AND OF EVERY NONRESIDENT OR PART-YEAR RESIDENT INDIVID-  
14 UAL, ESTATE OR TRUST, ABOVE ONE HUNDRED THOUSAND DOLLARS, (2) A TAX OF  
15 ONE PERCENT ON THE PORTION OF SUCH INCOME ABOVE TWO HUNDRED THOUSAND  
16 DOLLARS, AND (3) A SURCHARGE OF TWELVE AND ONE-HALF PERCENT ON THE  
17 AMOUNT OF TAX DUE BY EVERY RESIDENT INDIVIDUAL, ESTATE OR TRUST AND OF  
18 EVERY NONRESIDENT OR PART-YEAR RESIDENT INDIVIDUAL, ESTATE OR TRUST  
19 PURSUANT TO SECTION THIRTEEN HUNDRED FOUR OF THIS ARTICLE.

20 (C) FOR TAXABLE YEARS BEGINNING IN TWO THOUSAND SEVENTEEN, THE TAX  
21 SURCHARGES IMPOSED PURSUANT TO THE AUTHORITY OF THIS SECTION SHALL BE  
22 DETERMINED AS FOLLOWS: (1) A TAX OF NINE-TENTHS OF ONE PERCENT ON THE  
23 PORTION OF THE NEW YORK CITY SOURCE ADJUSTED GROSS INCOME OF EVERY RESI-  
24 DENT INDIVIDUAL, ESTATE OR TRUST AND OF EVERY NONRESIDENT OR PART-YEAR  
25 RESIDENT INDIVIDUAL, ESTATE OR TRUST, ABOVE ONE HUNDRED THOUSAND  
26 DOLLARS, (2) A TAX OF NINE-TENTHS OF ONE PERCENT ON THE PORTION OF SUCH  
27 INCOME ABOVE TWO HUNDRED THOUSAND DOLLARS, AND (3) A SURCHARGE OF ELEVEN  
28 AND ONE-QUARTER PERCENT ON THE AMOUNT OF TAX DUE BY EVERY RESIDENT INDI-  
29 VIDUAL, ESTATE OR TRUST AND OF EVERY NONRESIDENT OR PART-YEAR RESIDENT  
30 INDIVIDUAL, ESTATE OR TRUST PURSUANT TO SECTION THIRTEEN HUNDRED FOUR OF  
31 THIS ARTICLE.

32 (D) FOR TAXABLE YEARS BEGINNING IN TWO THOUSAND EIGHTEEN, THE TAX  
33 SURCHARGES IMPOSED PURSUANT TO THE AUTHORITY OF THIS SECTION SHALL BE  
34 DETERMINED AS FOLLOWS: (1) A TAX OF EIGHT-TENTHS OF ONE PERCENT ON THE  
35 PORTION OF THE NEW YORK CITY SOURCE ADJUSTED GROSS INCOME OF EVERY RESI-  
36 DENT INDIVIDUAL, ESTATE OR TRUST AND OF EVERY NONRESIDENT OR PART-YEAR  
37 RESIDENT INDIVIDUAL, ESTATE OR TRUST, ABOVE ONE HUNDRED THOUSAND  
38 DOLLARS, (2) A TAX OF EIGHT-TENTHS OF ONE PERCENT ON THE PORTION OF SUCH  
39 INCOME ABOVE TWO HUNDRED THOUSAND DOLLARS, AND (3) A SURCHARGE OF TEN  
40 PERCENT ON THE AMOUNT OF TAX DUE BY EVERY RESIDENT INDIVIDUAL, ESTATE OR  
41 TRUST AND OF EVERY NONRESIDENT OR PART-YEAR RESIDENT INDIVIDUAL, ESTATE  
42 OR TRUST PURSUANT TO SECTION THIRTEEN HUNDRED FOUR OF THIS ARTICLE.

43 (E) FOR TAXABLE YEARS BEGINNING IN TWO THOUSAND NINETEEN, THE TAX  
44 SURCHARGES IMPOSED PURSUANT TO THE AUTHORITY OF THIS SECTION SHALL BE  
45 DETERMINED AS FOLLOWS: (1) A TAX OF SEVEN-TENTHS OF ONE PERCENT ON THE  
46 PORTION OF THE NEW YORK CITY SOURCE ADJUSTED GROSS INCOME OF EVERY RESI-  
47 DENT INDIVIDUAL, ESTATE OR TRUST AND OF EVERY NONRESIDENT OR PART-YEAR  
48 RESIDENT INDIVIDUAL, ESTATE OR TRUST, ABOVE ONE HUNDRED THOUSAND  
49 DOLLARS, (2) A TAX OF SEVEN-TENTHS OF ONE PERCENT ON THE PORTION OF SUCH  
50 INCOME ABOVE TWO HUNDRED THOUSAND DOLLARS, AND (3) A SURCHARGE OF EIGHT  
51 AND THREE-QUARTERS PERCENT ON THE AMOUNT OF TAX DUE BY EVERY RESIDENT  
52 INDIVIDUAL, ESTATE OR TRUST AND OF EVERY NONRESIDENT OR PART-YEAR RESI-  
53 DENT INDIVIDUAL, ESTATE OR TRUST PURSUANT TO SECTION THIRTEEN HUNDRED  
54 FOUR OF THIS ARTICLE.

55 (F) FOR TAXABLE YEARS BEGINNING IN TWO THOUSAND TWENTY, THE TAX  
56 SURCHARGES IMPOSED PURSUANT TO THE AUTHORITY OF THIS SECTION SHALL BE

1 DETERMINED AS FOLLOWS: (1) A TAX OF SIX-TENTHS OF ONE PERCENT ON THE  
2 PORTION OF THE NEW YORK CITY SOURCE ADJUSTED GROSS INCOME OF EVERY RESI-  
3 DENT INDIVIDUAL, ESTATE OR TRUST AND OF EVERY NONRESIDENT OR PART-YEAR  
4 RESIDENT INDIVIDUAL, ESTATE OR TRUST, ABOVE ONE HUNDRED THOUSAND  
5 DOLLARS, (2) A TAX OF SIX-TENTHS OF ONE PERCENT ON THE PORTION OF SUCH  
6 INCOME ABOVE TWO HUNDRED THOUSAND DOLLARS, AND (3) A SURCHARGE OF SEVEN  
7 AND ONE-HALF PERCENT ON THE AMOUNT OF TAX DUE BY EVERY RESIDENT INDIVID-  
8 UAL, ESTATE OR TRUST AND OF EVERY NONRESIDENT OR PART-YEAR RESIDENT  
9 INDIVIDUAL, ESTATE OR TRUST PURSUANT TO SECTION THIRTEEN HUNDRED FOUR OF  
10 THIS ARTICLE.

11 (G) FOR TAXABLE YEARS BEGINNING IN TWO THOUSAND TWENTY-ONE AND THERE-  
12 AFTER, THE TAX SURCHARGES IMPOSED PURSUANT TO THE AUTHORITY OF THIS  
13 SECTION SHALL BE DETERMINED AS FOLLOWS: (1) A TAX OF ONE-HALF OF ONE  
14 PERCENT ON THE PORTION OF THE NEW YORK CITY SOURCE ADJUSTED GROSS INCOME  
15 OF EVERY RESIDENT INDIVIDUAL, ESTATE OR TRUST AND OF EVERY NONRESIDENT  
16 OR PART-YEAR RESIDENT INDIVIDUAL, ESTATE OR TRUST, ABOVE ONE HUNDRED  
17 THOUSAND DOLLARS, (2) A TAX OF ONE-HALF OF ONE PERCENT ON THE PORTION OF  
18 SUCH INCOME ABOVE TWO HUNDRED THOUSAND DOLLARS, AND (3) A SURCHARGE OF  
19 SIX AND ONE-QUARTER PERCENT ON THE AMOUNT OF TAX DUE BY EVERY RESIDENT  
20 INDIVIDUAL, ESTATE OR TRUST AND OF EVERY NONRESIDENT OR PART-YEAR RESI-  
21 DENT INDIVIDUAL, ESTATE OR TRUST PURSUANT TO SECTION THIRTEEN HUNDRED  
22 FOUR OF THIS ARTICLE.

23 (H) THE COMMISSIONER IN COOPERATION WITH THE COMPTROLLER SHALL MAIN-  
24 TAIN SUCH RECORDS AS ARE NECESSARY TO DETERMINE WHAT PORTION OF THE  
25 INCOME TAX REVENUES COLLECTED ON BEHALF OF A CITY IMPOSING TAXES PURSU-  
26 ANT TO THIS ARTICLE ARE ATTRIBUTABLE TO THE EMERGENCY IN EDUCATION TAX  
27 SURCHARGE ESTABLISHED BY THIS SECTION AND SHALL TRANSMIT SUCH FUNDS TO  
28 SUCH CITY IN A MANNER THAT ALLOWS SUCH FUNDS TO BE CLEARLY SEGREGATED  
29 FROM ALL OTHER FUNDS AND ACCOUNTED FOR SEPARATELY. SUCH CITY SHALL MAIN-  
30 TAIN SUCH FUNDS IN A SEPARATE FUND TO BE CALLED THE EMERGENCY IN EDUCA-  
31 TION TAX SURCHARGE REVENUE ACCOUNT AND SHALL PUBLISH MONTHLY REPORTS ON  
32 SUCH FUND'S RECEIPTS, DISBURSEMENTS AND BALANCES IN A MANNER THAT WILL  
33 ALLOW FOR A CLEAR UNDERSTANDING OF THE FINANCIAL CONDITION OF SUCH FUND  
34 AND OF THE USES THAT HAVE BEEN MADE OF THE FUND'S RESOURCES. DISBURSE-  
35 MENTS FROM THIS FUND SHALL BE IN ADDITION TO THE FUNDS THAT SUCH CITY IS  
36 REQUIRED TO MAKE FOR EDUCATIONAL PURPOSES PURSUANT TO SUBDIVISION FIVE-C  
37 OF SECTION TWENTY-FIVE HUNDRED SEVENTY-SIX OF THE EDUCATION LAW AND NO  
38 DISBURSEMENTS FROM THIS FUND OR OTHER FINANCIAL TRANSACTIONS INVOLVING  
39 THIS FUND SHALL BE TAKEN INTO CONSIDERATION IN ANY MANNER WHATSOEVER IN  
40 DETERMINING SUCH CITY'S COMPLIANCE WITH THE REQUIREMENTS OF SUCH SUBDI-  
41 VISION FIVE-C OF SECTION TWENTY-FIVE HUNDRED SEVENTY-SIX OF THE EDUCA-  
42 TION LAW.

43 (I) ANY MONIES GENERATED BY THIS SECTION SHALL BE USED FOR PUBLIC  
44 EDUCATION PURPOSES ONLY, INCLUDING HIRING AND RETAINING TEACHERS, TEACH-  
45 ER TRAINING, DECREASING CLASS SIZES, AND EQUIPPING AND BUILDING FACILI-  
46 TIES.

47 S 3. The education law is amended by adding a new section 2589 to read  
48 as follows:

49 S 2589. EMERGENCY IN EDUCATION OPERATING AID. 1. IN ADDITION TO THE  
50 GENERAL OPERATING AID AUTHORIZED BY ANY OTHER SECTION OF LAW, ANY CITY  
51 IMPOSING AN EMERGENCY IN EDUCATION TAX SURCHARGE PURSUANT TO SECTION  
52 THIRTEEN HUNDRED FOUR-E OF THE TAX LAW SHALL RECEIVE ADDITIONAL APPOR-  
53 TIONMENTS OF PUBLIC MONEY FOR GENERAL OPERATING AID PURPOSES, TO BE  
54 KNOWN AS EMERGENCY IN EDUCATION OPERATING AID, FOR SCHOOL YEARS COMMENC-  
55 ING ON AND AFTER JULY FIRST, TWO THOUSAND SEVENTEEN AS SET FORTH IN  
56 SUBDIVISIONS TWO, THREE, FOUR, FIVE, SIX AND SEVEN OF THIS SECTION. SUCH

1 APPORTIONMENTS SHALL BE IN ADDITION TO AND NOT IN LIEU OF THE APPORTION-  
2 MENTS OF PUBLIC MONEY TO SUCH CITY FOR GENERAL OPERATING AID PURPOSES  
3 MADE AVAILABLE TO SUCH CITY PURSUANT TO OTHER SECTIONS OF LAW AND  
4 PROVIDED THAT THE AMOUNTS MADE AVAILABLE TO SUCH CITY PURSUANT TO SUCH  
5 OTHER PROVISIONS OF LAW SHALL NOT IN ANY SCHOOL YEAR COMMENCING ON OR  
6 AFTER JULY FIRST, TWO THOUSAND SEVENTEEN BE LESS THAN THE AMOUNT MADE  
7 AVAILABLE TO SUCH CITY FOR SUCH PURPOSES, WITH THE CATEGORIES OF AID TO  
8 BE COVERED BY THIS REQUIREMENT TO BE DETERMINED BY THE COMMISSIONER,  
9 DURING THE SCHOOL YEAR COMMENCING ON JULY FIRST, TWO THOUSAND SIXTEEN  
10 TIMES A NUMBER DETERMINED BY DIVIDING THE CONSUMER PRICE INDEX FOR ALL  
11 URBAN CONSUMERS FOR THE CALENDAR YEAR PRECEDING THE COMMENCEMENT OF THE  
12 SCHOOL YEAR FOR WHICH SUCH APPORTIONMENT IS BEING PROVIDED BY THE  
13 CONSUMER PRICE INDEX FOR ALL URBAN CONSUMERS FOR THE TWO THOUSAND THIR-  
14 TEEN CALENDAR YEAR.

15 2. FOR THE SCHOOL YEAR COMMENCING ON JULY FIRST, TWO THOUSAND SEVEN-  
16 TEEN, SUCH EMERGENCY IN EDUCATION OPERATING AID SHALL BE AN AMOUNT EQUAL  
17 TO TWENTY PERCENT OF THE AMOUNT TRANSMITTED TO SUCH A CITY PURSUANT TO  
18 SUBSECTION (H) OF SECTION THIRTEEN HUNDRED FOUR-E OF THE TAX LAW DURING  
19 THE TWO THOUSAND THIRTEEN CALENDAR YEAR.

20 3. FOR THE SCHOOL YEAR COMMENCING ON JULY FIRST, TWO THOUSAND EIGH-  
21 TEEN, SUCH EMERGENCY IN EDUCATION OPERATING AID SHALL BE AN AMOUNT EQUAL  
22 TO TWENTY PERCENT OF THE AMOUNT TRANSMITTED TO SUCH A CITY PURSUANT TO  
23 SUBSECTION (H) OF SECTION THIRTEEN HUNDRED FOUR-E OF THE TAX LAW DURING  
24 THE TWO THOUSAND FOURTEEN CALENDAR YEAR.

25 4. FOR THE SCHOOL YEAR COMMENCING ON JULY FIRST, TWO THOUSAND NINE-  
26 TEEN, SUCH EMERGENCY IN EDUCATION OPERATING AID SHALL BE AN AMOUNT EQUAL  
27 TO FORTY PERCENT OF THE AMOUNT TRANSMITTED TO SUCH A CITY PURSUANT TO  
28 SUBSECTION (H) OF SECTION THIRTEEN HUNDRED FOUR-E OF THE TAX LAW DURING  
29 THE TWO THOUSAND FIFTEEN CALENDAR YEAR.

30 5. FOR THE SCHOOL YEAR COMMENCING ON JULY FIRST, TWO THOUSAND TWENTY,  
31 SUCH EMERGENCY IN EDUCATION OPERATING AID SHALL BE AN AMOUNT EQUAL TO  
32 SIXTY PERCENT OF THE AMOUNT TRANSMITTED TO SUCH A CITY PURSUANT TO  
33 SUBSECTION (H) OF SECTION THIRTEEN HUNDRED FOUR-E OF THE TAX LAW DURING  
34 THE TWO THOUSAND SIXTEEN CALENDAR YEAR.

35 6. FOR THE SCHOOL YEAR COMMENCING ON JULY FIRST, TWO THOUSAND TWENTY-  
36 ONE, SUCH EMERGENCY IN EDUCATION OPERATING AID SHALL BE AN AMOUNT EQUAL  
37 TO EIGHTY PERCENT OF THE AMOUNT TRANSMITTED TO SUCH A CITY PURSUANT TO  
38 SUBSECTION (H) OF SECTION THIRTEEN HUNDRED FOUR-E OF THE TAX LAW DURING  
39 THE TWO THOUSAND SEVENTEEN CALENDAR YEAR.

40 7. FOR THE SCHOOL YEAR COMMENCING ON AND AFTER JULY FIRST, TWO THOU-  
41 SAND TWENTY-TWO, SUCH EMERGENCY IN EDUCATION OPERATING AID SHALL BE AN  
42 AMOUNT EQUAL TO THE AMOUNT TRANSMITTED TO SUCH A CITY PURSUANT TO  
43 SUBSECTION (H) OF SECTION THIRTEEN HUNDRED FOUR-E OF THE TAX LAW DURING  
44 THE PRECEDING CALENDAR YEAR.

45 8. THE MONEYS GENERATED BY THIS SECTION SHALL BE USED FOR PUBLIC  
46 EDUCATION PURPOSES ONLY, INCLUDING HIRING AND RETAINING TEACHERS, TEACH-  
47 ER TRAINING, DECREASING CLASS SIZES AND EQUIPPING AND BUILDING CLASS-  
48 ROOMS.

49 S 4. Section 2576 of the education law is amended by adding a new  
50 subdivision 5-c to read as follows:

51 5-C. A. IF THE TOTAL AMOUNT REQUESTED IN SUCH ESTIMATE IS NOT APPRO-  
52 PRIATED, EACH CITY HAVING A POPULATION OF ONE MILLION OR MORE INHABIT-  
53 ANTS SHALL APPROPRIATE AN AMOUNT NOT LESS THAN THE GREATER OF:

54 (I) THE PRODUCT OF THE CITY SHARE IN THE BASE YEAR AND THE PUPIL  
55 CHANGE INDEX, AS SUCH TERMS ARE DEFINED IN PARAGRAPH C OF THIS SUBDIVI-  
56 SION, OR

1 (II) AN AMOUNT EQUAL TO THE AVERAGE PROPORTION OF THE TOTAL EXPENSE  
2 BUDGET OF SUCH CITY, AS AMENDED, NOT INCLUDING THE PORTION OF SUCH  
3 EXPENSE BUDGET EQUAL TO THE TOTAL STATE AND FEDERAL AID APPROPRIATED FOR  
4 EDUCATION PURPOSES, APPROPRIATED FOR THE PURPOSES OF SUCH CITY SCHOOL  
5 DISTRICT IN THE THREE FISCAL YEARS OF SUCH CITY IMMEDIATELY PRECEDING  
6 THE YEAR FOR WHICH SAID ESTIMATE IS FILED.

7 B. IF THE TOTAL AMOUNT REQUESTED IN THE ESTIMATE EXCEEDS THE GREATER  
8 OF THE TWO AMOUNTS COMPUTED IN PARAGRAPH A OF THIS SUBDIVISION, SUCH  
9 EXCESS SHALL BE SUBJECT TO SUCH CONSIDERATION AND SUCH ACTION BY THE  
10 APPROPRIATE CITY LEGISLATIVE BODY AND/OR CITY OFFICER AS THAT TAKEN UPON  
11 OTHER DEPARTMENTAL ESTIMATES. THE CITY IS AUTHORIZED TO MAKE ADDITIONAL  
12 APPROPRIATIONS FOR EDUCATIONAL PURPOSES AUTHORIZED BY THIS CHAPTER.

13 C. FOR THE PURPOSES OF THIS SUBDIVISION, THE TERMS:

14 (I) "CITY SHARE" SHALL MEAN: THE TOTAL APPROPRIATION OF ANY CITY  
15 HAVING A POPULATION OF ONE MILLION OR MORE INHABITANTS FOR ELEMENTARY  
16 AND SECONDARY EDUCATION PURPOSES AS DEFINED BY THE COMMISSIONER MINUS  
17 THE TOTAL AMOUNT OF FEDERAL AND STATE AID APPROPRIATED FOR ELEMENTARY  
18 AND SECONDARY EDUCATION PURPOSES;

19 (II) "BASE YEAR" SHALL MEAN: THE FISCAL YEAR IMMEDIATELY PRECEDING THE  
20 FISCAL YEAR FOR WHICH THE ESTIMATE IS FILED;

21 (III) "PUPIL CHANGE INDEX" SHALL MEAN: THE RATIO COMPUTED BY DIVIDING  
22 THE TOTAL PUBLIC SCHOOL ENROLLMENT OF THE CITY SCHOOL DISTRICT, INCLUD-  
23 ING ALL STUDENTS WHOLLY OR PARTIALLY SUPPORTED BY SUCH CITY'S FUNDS, IN  
24 THE YEAR IN WHICH THE ESTIMATE IS FILED BY THE ENROLLMENT OF SUCH CITY  
25 SCHOOL DISTRICT IN THE YEAR IMMEDIATELY PRECEDING THE YEAR IN WHICH THE  
26 ESTIMATE IS FILED.

27 S 5. This act shall take effect immediately.