

STATE OF NEW YORK

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2017-2018 Regular Sessions

IN SENATE

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Introduced by Sen. GIANARIS -- read twice and ordered printed, and when printed to be committed to the Committee on Rules -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- recommitted to the Committee on Transportation 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 public authorities law, the tax law and the administrative code of the city of New York, in relation to authorizing and imposing a tax surcharge on the personal income of certain high-income residents of such city in order to fund transit infrastructure improvements and reduced fares for low-income residents of such city

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

1 Section 1. Section 1205 of the public authorities law is amended by
2 adding a new subdivision 9 to read as follows:

3 9. Notwithstanding any other provision of law, the authority and any
4 of its subsidiary corporations shall establish and implement a half-fare
5 rate program for low-income residents of the city who are eighteen years
6 of age or older and younger than sixty-five years of age. For purposes
7 of this subdivision, the term "low-income" shall mean an annual income
8 that is below the federal poverty line as determined by the United
9 States department of health and human services pursuant to subdivision 2
10 of section 9902 of title 42 of the United States code. The half-fare
11 rate program established and implemented pursuant to this subdivision
12 shall include subway and bus service, exclusive of express bus service
13 during peak hours. Such half-rate program shall not be made available to
14 such low-income residents of the city eighteen years of age or older and
15 younger than sixty-five years of age who are eligible for the half-fare
16 rate programs available to seniors and people with disabilities pursuant
17 to subdivision two or eight of this section. Upon the written request of

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

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1 the mayor and in accordance with such request, the authority or its
2 subsidiary corporations shall delegate authority to the city to assist
3 with the administration of such half-fare rate program, including the
4 eligibility of applicants.

5 § 2. The public authorities law is amended by adding a new section
6 1270-i to read as follows:

7 § 1270-i. New York city dedicated personal income tax surcharge fund.

8 1. The authority shall establish a fund to be known as the "New York
9 city dedicated personal income tax surcharge fund" which shall be kept
10 separate from and shall not be commingled with any other moneys of the
11 authority. The fund shall consist of a "transit infrastructure improve-
12 ment account" and a "low-income resident reduced fare account."

13 2. There shall be deposited into the New York city dedicated personal
14 income tax surcharge fund the moneys transferred to the metropolitan
15 transportation authority from the New York city transitional finance
16 authority pursuant to subsection (e) of section thirteen hundred four-E
17 of the tax law, and any other provision of law directing or permitting
18 the deposit of moneys in such fund, to be used exclusively for the
19 financing of transit infrastructure improvements and reduced fares for
20 low-income residents of the city of New York.

21 3. Moneys in the transit infrastructure improvement account (a) shall
22 be used to fund capital projects that satisfy the following criteria:
23 (i) defined as state of good repair, normal replacement, or an Americans
24 with Disabilities Act related system improvement within the capital
25 program of the authority; and (ii) included in any of the following
26 categories within the capital program of the authority: New York city
27 transit authority buses, subway cars, track, line equipment, line struc-
28 tures, signals and communications, traction power, shops and yards,
29 depots, service vehicles, passenger station projects, as needed to
30 comply with the Americans with Disabilities Act, Staten Island railway
31 and authority bus company projects; and (b) may be (i) pledged by the
32 authority as security for the payment of principal and interest on bonds
33 issued after July first, two thousand eighteen to finance capital
34 projects that meet the criteria identified in paragraph (a) of this
35 subdivision, including bonds issued to refund such bonds and (ii) used
36 for payment of principal and interest on such bonds, funding of reserves
37 required in connection with such bonds, and the payment of costs of
38 issuance related to such bonds. To the extent moneys in the transit
39 infrastructure improvement account have been pledged by the authority to
40 secure the payment of principal and interest on bonds as herein
41 provided, moneys deposited into the New York city dedicated personal
42 income tax surcharge fund shall first be deposited into the transit
43 infrastructure account to the extent necessary to make payments pursuant
44 to paragraph (b) of this subdivision. After making such payments, moneys
45 deposited in the transit infrastructure improvement account shall be
46 used to fund projects that meet the criteria identified in paragraph (a)
47 of this subdivision.

48 4. The state does hereby pledge and agree with the holders of any
49 issue of bonds secured by pledge described in paragraph (b) of subdivi-
50 sion three of this section that the state will not limit or alter the
51 rights hereby vested in the metropolitan transportation authority to
52 fulfill the terms of any agreements made with bondholders pursuant to
53 this title, or in any way impair the rights and remedies of such holders
54 or the security for such bonds until such bonds are fully paid and
55 discharged. Nothing contained in this section shall be deemed to
56 restrict the right of the state to amend, modify, repeal or otherwise

1 alter statutes imposing or relating to the taxes payable to the New York
2 city transitional finance authority pursuant to section thirteen hundred
3 thirteen of the tax law, but such taxes shall in all events continue to
4 be so payable so long as any such taxes are imposed. Nothing in this
5 section shall be deemed to obligate the state to make any additional
6 payments or impose any taxes to satisfy the debt service obligations of
7 the metropolitan transportation authority.

8 5. Moneys in the low-income resident reduced fare account shall be
9 used to fund the half-fare rate program for low-income residents of the
10 city of New York pursuant to subdivision nine of section twelve hundred
11 five of this article and may be used for payment of the reasonable oper-
12 ating costs incurred by the New York city transit authority for the
13 administration of the half-fare rate program, provided that no more than
14 one percent of the moneys deposited into the low-income resident reduced
15 fare account pursuant to subdivision six of this section shall be used
16 for such costs.

17 6. The moneys deposited into the fund from the New York city transi-
18 tional finance authority shall be equally divided between the transit
19 infrastructure improvement account and the low-income resident reduced
20 fare account.

21 7. Twice each calendar year, the mayor of the city of New York shall
22 conduct a review of the amount of moneys deposited in each of the two
23 accounts. To the extent such review indicates that:

24 a. the moneys in the transit infrastructure improvement account are
25 sufficient to satisfy the requirements of any debt service incurred in
26 such calendar year as a result of obligations issued and secured pursu-
27 ant to paragraph b of subdivision three of this section, and the moneys
28 in the low-income resident reduced fare account are insufficient to
29 satisfy the total needs of the low-income resident reduced fare program
30 established pursuant to subdivision nine of section twelve hundred five
31 of this article, the mayor of the city of New York, or such mayor's
32 designee, may direct the metropolitan transportation authority to trans-
33 fer a specified amount of moneys from the transit infrastructure
34 improvement account to the low-income resident reduced fare account; and

35 b. the moneys in the low-income resident reduced fare account are
36 sufficient to satisfy the needs of the half-fare rate program for low-
37 income residents of the city of New York established pursuant to subdi-
38 vision nine of section twelve hundred five of this article, in such
39 calendar year, the mayor of the city of New York, or such mayor's desig-
40 nee, may direct the metropolitan transportation authority to transfer a
41 specified amount of moneys from the low-income resident reduced fare
42 account to the transit infrastructure improvement account.

43 § 3. Subdivision 5 of section 2799-hh of the public authorities law,
44 as added by chapter 16 of the laws of 1997, is amended to read as
45 follows:

46 5. Tax revenues received by the authority pursuant to section thirteen
47 hundred thirteen of the tax law, together with any alternative revenues
48 received by the authority, shall be applied in the following order of
49 priority: first pursuant to the authority's contracts with bondholders,
50 then to pay the authority's operating expenses not otherwise provided
51 for, then to a dedicated personal income tax surcharge fund pursuant to
52 subsection (d) of section thirteen hundred four-E of the tax law in the
53 amount provided for in such section, and then pursuant to the authori-
54 ty's agreements with the city, which agreements shall require the
55 authority to transfer the balance of such taxes not required to meet

1 contractual or other obligations of the authority to the city as
2 frequently as practicable.

3 § 4. The tax law is amended by adding a new section 1304-E to read as
4 follows:

5 § 1304-E. Tax surcharge for transit infrastructure improvements and
6 reduced fares for low-income residents of the city of New York. (a) In
7 addition to the taxes authorized by subsection (a) of section thirteen
8 hundred one of this article, any city imposing such taxes is hereby
9 authorized and empowered to adopt and amend local laws imposing in any
10 such city for each taxable year beginning after two thousand seventeen,
11 a tax surcharge on the city taxable income of certain city resident
12 individuals, estates and trusts.

13 (b) A tax surcharge imposed pursuant to the authority of this section
14 shall be determined as follows:

15 (1) Resident married individuals filing joint returns and resident
16 surviving spouses. The tax surcharge under this section on the city
17 taxable income of certain city resident married individuals who make a
18 single return jointly with his or her spouse under subsection (b) of
19 section thirteen hundred six of this article and on the city taxable
20 income of certain city resident surviving spouses shall be determined in
21 accordance with the following table:

22 For taxable years beginning after two thousand seventeen:

<u>If the city taxable income is:</u>	<u>The tax surcharge is:</u>
<u>Over \$1,000,000</u>	<u>.534% of excess over \$1,000,000</u>

25 (2) Resident heads of households. The tax surcharge under this section
26 on the city taxable income of certain city resident heads of households
27 shall be determined in accordance with the following table:

28 For taxable years beginning after two thousand seventeen:

<u>If the city taxable income is:</u>	<u>The tax surcharge is:</u>
<u>Over \$750,000</u>	<u>.534% of excess over \$750,000</u>

31 (3) Resident unmarried individuals, resident married individuals
32 filing separate returns and resident estates and trusts. The tax
33 surcharge under this section on the city taxable income of certain city
34 resident individuals who are not city resident married individuals who
35 make a single return jointly with his or her spouse under subsection (b)
36 of section thirteen hundred six of this article or city resident heads
37 of households or city resident surviving spouses, and on the city taxa-
38 ble income of certain city resident estates and trusts shall be deter-
39 mined in accordance with the following table:

40 For taxable years beginning after two thousand seventeen:

<u>If the city taxable income is:</u>	<u>The tax surcharge is:</u>
<u>Over \$500,000</u>	<u>.534% of excess over \$500,000</u>

43 (c) A tax surcharge imposed pursuant to the authority of this section
44 shall be administered and collected in the same manner as the taxes
45 imposed pursuant to the authority of this article, and all of the
46 provisions of this article, including section thirteen hundred ten,
47 shall apply to the tax surcharge imposed pursuant to the authority of
48 this section.

49 (d) Subject to the priority of payments identified in section twenty-
50 seven hundred ninety-nine-hh of the public authorities law, the New York
51 city transitional finance authority shall transfer to the metropolitan
52 transportation authority the amount estimated by the mayor of the city
53 of New York to be the amount received by the New York city transitional
54 finance authority from the tax surcharge imposed pursuant to the author-
55 ity of this section, up to the total amount available after deducting
56 from revenues received by the New York city transitional finance author-

1 ity pursuant to this section and subsection (c) of section thirteen
2 hundred thirteen of this article amounts to be paid pursuant to the New
3 York city transitional finance authority's contracts with bondholders
4 and the New York city transitional finance authority's operating
5 expenses not otherwise provided for. After the mayor of the city of New
6 York has received data from the department allowing such mayor to deter-
7 mine the actual amount of revenues received by the New York city transi-
8 tional finance authority that are attributable to the tax surcharge
9 imposed pursuant to the authority of this section, such mayor shall
10 inform the New York city transitional finance authority of such actual
11 amount, minus any actual operating costs assumed by the city of New York
12 attributable to the half-fare rate program pursuant to subdivision nine
13 of section twelve hundred five of the public authorities law, and the
14 New York city transitional finance authority shall adjust the next
15 payment to be made to the metropolitan transportation authority pursuant
16 to this section to reflect any difference between such actual amount
17 minus such operating costs and the estimate previously provided by such
18 mayor.

19 (e) Any revenues transferred to the metropolitan transportation
20 authority pursuant to subsection (d) of this section shall be paid into
21 a dedicated personal income tax surcharge fund to be used exclusively
22 for the financing of transit infrastructure improvements and reduced
23 fares for low-income residents of the city of New York in accordance
24 with the provisions of section twelve hundred seventy-i of the public
25 authorities law. Such revenues shall only supplement and shall not
26 supplant any federal, state, or local funds expended by the metropolitan
27 transportation authority for New York city transit authority, the metro-
28 politan transportation authority bus company or Staten Island rapid
29 transit operating authority projects, and shall not affect any payment
30 by the city of New York pursuant to agreements relating to the metropol-
31 itan transportation authority bus company and Staten Island rapid trans-
32 it operating authority.

33 § 5. Paragraphs 1 and 2 of subsection (e) of section 1310 of the tax
34 law, as added by chapter 481 of the laws of 1997, are amended to read as
35 follows:

36 (1) Notwithstanding any other provision of law to the contrary, any
37 city imposing a tax under this article is hereby authorized and
38 empowered to adopt and amend local laws for any taxable year beginning
39 after nineteen hundred ninety-seven, as specified in such local laws,
40 providing for a credit as provided in paragraph two of this subsection
41 against the taxes imposed pursuant to the authority granted by section
42 thirteen hundred one of this article on the city taxable income deter-
43 mined pursuant to sections thirteen hundred four, thirteen hundred
44 four-A [~~and~~], thirteen hundred four-B and thirteen hundred four-E of
45 this article and on the ordinary income portion of a lump sum distrib-
46 ution determined pursuant to section thirteen hundred one-B of this
47 article, to any city resident individual, estate or trust whose city
48 adjusted gross income includes income, gain, loss or deductions from one
49 or more unincorporated businesses conducted by such city resident indi-
50 vidual, estate or trust on which a tax is imposed by chapter five of
51 title eleven of the administrative code of the city of New York, or a
52 distributive share of income, gain, loss and deductions of, or guaran-
53 teed payments from, one or more partnerships on which a tax is imposed
54 by such chapter. Any such local laws may contain provisions to ensure
55 that such credit shall not reduce the tax paid by a city resident below

1 that which would be paid by such city resident if such city resident
2 were a city nonresident.

3 (2) (A) Subject to the limitation set forth in subparagraph (B) of
4 this paragraph, the credit allowed to a taxpayer for a taxable year
5 shall be equal to all or a portion of the amount determined in paragraph
6 three of this subsection, provided, however, such portion shall not be
7 less than:

8 (i) If the city taxable income is forty-two thousand dollars or less,
9 sixty-five percent of the amount determined in paragraph three of this
10 subsection.

11 (ii) If the city taxable income is greater than forty-two thousand
12 dollars but not greater than one hundred forty-two thousand dollars, a
13 percentage of the amount determined in paragraph three of this
14 subsection to be determined by subtracting from sixty-five percent, one
15 tenth of a percentage point (.001) for every increment of two hundred
16 dollars, or fractional part thereof, of city taxable income in excess of
17 forty-two thousand dollars.

18 (iii) If the city taxable income is greater than one hundred forty-two
19 thousand dollars, fifteen percent of the amount determined in paragraph
20 three of this subsection.

21 (B) Notwithstanding anything to the contrary in subparagraph (A) of
22 this paragraph, the credit allowed to a taxpayer for a taxable year
23 under this subsection shall not exceed the sum of the taxes that would
24 otherwise be imposed on such taxpayer for such taxable year pursuant to
25 the authority granted by section thirteen hundred one of this article on
26 the city taxable income determined pursuant to sections thirteen hundred
27 four, thirteen hundred four-A ~~and~~, thirteen hundred four-B and thir-
28 teen hundred four-E of this article and on the ordinary income portion
29 of a lump sum distribution determined pursuant to section thirteen
30 hundred one-B of this article, reduced by the credits allowed to such
31 taxpayer pursuant to subsections (a), (c) and (d) of this section.

32 § 6. The opening paragraph of subsection (c) of section 1313 of the
33 tax law, as amended by section 8 of part C of chapter 58 of the laws of
34 2005, is amended to read as follows:

35 Subject to the provisions of subsection (g) of this section, the comp-
36 troller, after reserving such refund fund and such costs shall, commenc-
37 ing on or before the fifteenth day of each month, pay to the New York
38 city transitional finance authority on a daily basis the balance of
39 taxes imposed pursuant to the authority of this article or former arti-
40 cle two-E of the general city law to be applied by the authority, in the
41 following order of priority: first pursuant to the authority's contracts
42 with bondholders, then to pay the authority's operating expenses not
43 otherwise provided for, then to a dedicated personal income tax
44 surcharge fund pursuant to subsection (d) of section thirteen hundred
45 four-E of this article and then pursuant to the authority's agreements
46 with the city, which agreements shall require the authority to transfer
47 the balance of such taxes not required to meet contractual or other
48 obligations of the authority to the city as frequently as practicable;
49 except that the comptroller shall:

50 § 7. The administrative code of the city of New York is amended by
51 adding a new section 11-1704.2 to read as follows:

52 § 11-1704.2 Tax surcharge for transit infrastructure improvements and
53 reduced fares for low-income residents of the city. (a) In addition to
54 the taxes imposed by sections 11-1701, 11-1703, 11-1704 and 11-1704.1 of
55 this subchapter, there is hereby imposed for each taxable year beginning

1 after two thousand seventeen, a tax surcharge on the city taxable income
 2 of certain city resident individuals, estates and trusts.

3 (b) The tax surcharge imposed pursuant to this section shall be deter-
 4 mined as follows:

5 (1) Resident married individuals filing joint returns and resident
 6 surviving spouses. The tax surcharge under this section on the city
 7 taxable income of certain city resident married individuals who make a
 8 single return jointly with his or her spouse under subdivision (b) of
 9 section 11-1751 of this chapter and on the city taxable income of
 10 certain city resident surviving spouses shall be determined in accord-
 11 ance with the following table:

12 For taxable years beginning after two thousand seventeen:

13 <u>If the city taxable income is:</u>	<u>The tax surcharge is:</u>
14 <u>Over \$1,000,000</u>	<u>.534% of excess over \$1,000,000</u>

15 (2) Resident heads of households. The tax surcharge under this section
 16 on the city taxable income of certain city resident heads of households
 17 shall be determined in accordance with the following table:

18 For taxable years beginning after two thousand seventeen:

19 <u>If the city taxable income is:</u>	<u>The tax surcharge is:</u>
20 <u>Over \$750,000</u>	<u>.534% of excess over \$750,000</u>

21 (3) Resident unmarried individuals, resident married individuals
 22 filing separate returns and resident estates and trusts. The tax
 23 surcharge under this section on the city taxable income of certain city
 24 resident individuals who are not city resident married individuals who
 25 make a single return jointly with his or her spouse under subdivision
 26 (b) of section 11-1751 of this chapter or city resident heads of house-
 27 holds or city resident surviving spouses, and on the city taxable income
 28 of certain city resident estates and trusts shall be determined in
 29 accordance with the following table:

30 For taxable years beginning after two thousand seventeen:

31 <u>If the city taxable income is:</u>	<u>The tax surcharge is:</u>
32 <u>Over \$500,000</u>	<u>.534% of excess over \$500,000</u>

33 (c) The tax surcharge imposed pursuant to this section shall be admin-
 34 istered and collected in the same manner as the taxes imposed pursuant
 35 to sections 11-1701, 11-1703, 11-1704 and 11-1704.1, and shall be
 36 distributed in accordance with subsection (d) of section 1304-E of the
 37 tax law, and all of the provisions of this chapter, including section
 38 11-1706 of this subchapter, and sections 11-1721 and 11-1773 of this
 39 chapter, shall apply to the tax surcharge imposed pursuant to this
 40 section.

41 § 8. Paragraphs 1 and 2 of subdivision (c) of section 11-1706 of the
 42 administrative code of the city of New York, as added by chapter 481 of
 43 the laws of 1997, subparagraph (A) of paragraph 2 as amended by local
 44 law number 35 of the city of New York for the year 2007, are amended to
 45 read as follows:

46 (1) A city resident individual, estate or trust whose city adjusted
 47 gross income includes income, gain, loss or deductions from one or more
 48 unincorporated businesses conducted by such city resident individual,
 49 estate or trust that are subject to the tax imposed by chapter five of
 50 this title, or a distributive share of income, gain, loss and deductions
 51 of, or guaranteed payments from, one or more partnerships that are
 52 subject to the tax imposed by such chapter, shall be allowed a credit as
 53 provided in paragraph two of this subdivision against the tax otherwise
 54 due under sections 11-1701, 11-1703, 11-1704 [~~and~~], 11-1704.1 and
 55 11-1704.2 of this [~~chapter~~] subchapter.

1 (2) (A) Subject to the limitation set forth in subparagraph (B) of
2 this paragraph, the credit allowed to a taxpayer for a taxable year
3 under this subdivision shall be determined as follows:

4 (i) For taxable years beginning on or after January first, nineteen
5 hundred ninety-seven and before January first, two thousand seven:

6 (I) If the city taxable income is forty-two thousand dollars or less,
7 the credit shall be sixty-five percent of the amount determined in para-
8 graph three of this subdivision.

9 (II) If the city taxable income is greater than forty-two thousand
10 dollars but not greater than one hundred forty-two thousand dollars, the
11 amount of the credit shall be a percentage of the amount determined in
12 paragraph three of this subdivision, such percentage to be determined by
13 subtracting from sixty-five percent, one-tenth of a percentage point
14 (.001) for every increment of two hundred dollars, or fractional part
15 thereof, of city taxable income in excess of forty-two thousand dollars.

16 (III) If the city taxable income is greater than one hundred forty-two
17 thousand dollars, the credit shall be fifteen percent of the amount
18 determined in paragraph three of this subdivision.

19 (ii) For taxable years beginning on or after January first, two thou-
20 sand seven:

21 (I) If the city taxable income is forty-two thousand dollars or less,
22 the credit shall be one hundred percent of the amount determined in
23 paragraph three of this subdivision.

24 (II) If the city taxable income is greater than forty-two thousand
25 dollars but less than one hundred forty-two thousand dollars, the amount
26 of the credit shall be a percentage of the amount determined in para-
27 graph three of this subdivision, such percentage to be determined by
28 subtracting from one hundred percent, a percentage determined by
29 subtracting forty-two thousand dollars from city taxable income, divid-
30 ing the result by one hundred thousand dollars and multiplying by seven-
31 ty-seven percent.

32 (III) If the city taxable income is one hundred forty-two thousand
33 dollars or greater, the credit shall be twenty-three percent of the
34 amount determined in paragraph three of this subdivision.

35 (B) Notwithstanding anything to the contrary in subparagraph (A) of
36 this paragraph, the credit allowed to a taxpayer for a taxable year
37 under this subdivision shall not exceed the sum of the taxes that would
38 otherwise be imposed by sections 11-1701, 11-1703, 11-1704 ~~[and]~~,
39 11-1704.1 and 11-1704.2 of this ~~[chapter]~~ subchapter on such taxpayer
40 for such taxable year after the allowance of any other credits allowed
41 by this section or section 11-1721 of this chapter.

42 § 9. This act shall take effect immediately and shall be deemed to
43 have been in full force and effect on and after January 1, 2018;
44 provided that subdivision 9 of section 1205 of the public authorities
45 law, as added by section one of this act, shall take effect January 1,
46 2019.