

# STATE OF NEW YORK

2743

2019-2020 Regular Sessions

## IN ASSEMBLY

January 25, 2019

Introduced by M. of A. O'DONNELL -- read once and referred to the Committee on Corporations, Authorities and Commissions

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  
18 the mayor and in accordance with such request, the authority or its  
19 subsidiary corporations shall delegate authority to the city to assist  
20 with the administration of such half-fare rate program, including the  
21 eligibility of applicants.

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

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

3 § 1270-j. New York city dedicated personal income tax surcharge fund.  
4 1. The authority shall establish a fund to be known as the "New York  
5 city dedicated personal income tax surcharge fund" which shall be kept  
6 separate from and shall not be commingled with any other moneys of the  
7 authority. The fund shall consist of a "transit infrastructure improve-  
8 ment account" and a "low-income resident reduced fare account."

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

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

44 4. The state does hereby pledge and agree with the holders of any  
45 issue of bonds secured by pledge described in paragraph (b) of subdivi-  
46 sion three of this section that the state will not limit or alter the  
47 rights hereby vested in the metropolitan transportation authority to  
48 fulfill the terms of any agreements made with bondholders pursuant to  
49 this title, or in any way impair the rights and remedies of such holders  
50 or the security for such bonds until such bonds are fully paid and  
51 discharged. Nothing contained in this section shall be deemed to  
52 restrict the right of the state to amend, modify, repeal or otherwise  
53 alter statutes imposing or relating to the taxes payable to the New York  
54 city transitional finance authority pursuant to section thirteen hundred  
55 thirteen of the tax law, but such taxes shall in all events continue to  
56 be so payable so long as any such taxes are imposed. Nothing in this

section shall be deemed to obligate the state to make any additional payments or impose any taxes to satisfy the debt service obligations of the metropolitan transportation authority.

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

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

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

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

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

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

5. Tax revenues received by the authority pursuant to section thirteen hundred thirteen of the tax law, together with any alternative revenues received by the authority, shall be applied in the following order of priority: first pursuant to the authority's contracts with bondholders, then to pay the authority's operating expenses not otherwise provided for, then to a dedicated personal income tax surcharge fund pursuant to subsection (d) of section thirteen hundred four-E of the tax law in the amount provided for in such section, and then pursuant to the authority's agreements with the city, which agreements shall require the authority to transfer the balance of such taxes not required to meet contractual or other obligations of the authority to the city as frequently as practicable.

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

1 § 1304-E. Tax surcharge for transit infrastructure improvements and  
2 reduced fares for low-income residents of the city of New York. (a) In  
3 addition to the taxes authorized by subsection (a) of section thirteen  
4 hundred one of this article, any city imposing such taxes is hereby  
5 authorized and empowered to adopt and amend local laws imposing in any  
6 such city for each taxable year beginning after two thousand eighteen, a  
7 tax surcharge on the city taxable income of certain city resident indi-  
8 viduals, estates and trusts.

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

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

18 For taxable years beginning after two thousand eighteen:

<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>

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

24 For taxable years beginning after two thousand eighteen:

<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>

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

36 For taxable years beginning after two thousand eighteen:

<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>

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

45 (d) Subject to the priority of payments identified in section twenty-  
46 seven hundred ninety-nine-hh of the public authorities law, the New York  
47 city transitional finance authority shall transfer to the metropolitan  
48 transportation authority the amount estimated by the mayor of the city  
49 of New York to be the amount received by the New York city transitional  
50 finance authority from the tax surcharge imposed pursuant to the author-  
51 ity of this section, up to the total amount available after deducting  
52 from revenues received by the New York city transitional finance author-  
53 ity pursuant to this section and subsection (c) of section thirteen  
54 hundred thirteen of this article amounts to be paid pursuant to the New  
55 York city transitional finance authority's contracts with bondholders  
56 and the New York city transitional finance authority's operating

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

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

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

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

54 (2) (A) Subject to the limitation set forth in subparagraph (B) of  
55 this paragraph, the credit allowed to a taxpayer for a taxable year  
56 shall be equal to all or a portion of the amount determined in paragraph



1 three of this subsection, provided, however, such portion shall not be  
2 less than:

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

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

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

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

27 § 6. The opening paragraph of subsection (c) of section 1313 of the  
28 tax law, as amended by section 8 of part C of chapter 58 of the laws of  
29 2005, is amended to read as follows:

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

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

47 § 11-1704.2 Tax surcharge for transit infrastructure improvements and  
48 reduced fares for low-income residents of the city. (a) In addition to  
49 the taxes imposed by sections 11-1701, 11-1703, 11-1704 and 11-1704.1 of  
50 this subchapter, there is hereby imposed for each taxable year beginning  
51 after two thousand eighteen, a tax surcharge on the city taxable income  
52 of certain city resident individuals, estates and trusts.

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

55 (1) Resident married individuals filing joint returns and resident  
56 surviving spouses. The tax surcharge under this section on the city

taxable income of certain city resident married individuals who make a single return jointly with his or her spouse under subdivision (b) of section 11-1751 of this chapter and on the city taxable income of certain city resident surviving spouses shall be determined in accordance with the following table:

For taxable years beginning after two thousand eighteen:

<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>

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

For taxable years beginning after two thousand eighteen:

<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>

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

For taxable years beginning after two thousand eighteen:

<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>

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

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

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

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

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

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

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

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

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

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

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

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

30 (B) Notwithstanding anything to the contrary in subparagraph (A) of  
31 this paragraph, the credit allowed to a taxpayer for a taxable year  
32 under this subdivision shall not exceed the sum of the taxes that would  
33 otherwise be imposed by sections 11-1701, 11-1703, 11-1704 [~~and~~],  
34 11-1704.1 and 11-1704.2 of this [~~chapter~~] subchapter on such taxpayer  
35 for such taxable year after the allowance of any other credits allowed  
36 by this section or section 11-1721 of this chapter.

37 § 9. This act shall take effect immediately and shall be deemed to  
38 have been in full force and effect on and after January 1, 2019;  
39 provided that subdivision 9 of section 1205 of the public authorities  
40 law, as added by section one of this act, shall take effect January 1,  
41 2020.