

STATE OF NEW YORK

4434

2021-2022 Regular Sessions

IN ASSEMBLY

February 4, 2021

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(1) Resident married individuals filing joint returns and resident 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 subsection (b) of section thirteen hundred six of this article 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 twenty:

<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 twenty:

<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 subsection (b) of section thirteen hundred six of this article 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 twenty:

<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) A tax surcharge imposed pursuant to the authority of this section shall be administered and collected in the same manner as the taxes imposed pursuant to the authority of this article, and all of the provisions of this article, including section thirteen hundred ten, shall apply to the tax surcharge imposed pursuant to the authority of this section.

(d) Subject to the priority of payments identified in section twenty-seven hundred ninety-nine-hh of the public authorities law, the New York city transitional finance authority shall transfer to the metropolitan transportation authority the amount estimated by the mayor of the city of New York to be the amount received by the New York city transitional finance authority from the tax surcharge imposed pursuant to the authority of this section, up to the total amount available after deducting from revenues received by the New York city transitional finance authority pursuant to this section and subsection (c) of section thirteen hundred thirteen of this article amounts to be paid pursuant to the New York city transitional finance authority's contracts with bondholders 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 twenty:

<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 twenty:

<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 twenty:

<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, 2021;
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 2022.