

STATE OF NEW YORK

4403

2021-2022 Regular Sessions

IN SENATE

February 4, 2021

Introduced by Sen. PARKER -- read twice and ordered printed, and when printed to be committed to the Committee on Investigations and Government Operations

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 § 2. The tax law is amended by adding a new section 1304-e to read as
21 follows:

22 § 1304-e. Emergency in education tax surcharge. (a) In addition to the
23 taxes authorized by any other section of this article, any city imposing
24 such taxes is hereby authorized and empowered to adopt and amend local

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

LBD09332-01-1

1 laws imposing in any such city tax surcharges on (1) the New York city
2 adjusted gross income, and (2) the tax due under section thirteen
3 hundred four of this article of every city resident individual, estate
4 and trust, as set forth in subsections (b), (c), (d), (e), (f) and (g)
5 of this section.

6 (b) For taxable years beginning in two thousand twenty-one, the tax
7 surcharges imposed pursuant to the authority of this section shall be
8 determined as follows: (1) a tax of one percent on the portion of the
9 New York city source adjusted gross income of every resident individual,
10 estate or trust and of every nonresident or part-year resident individ-
11 ual, estate or trust, above one hundred thousand dollars, (2) a tax of
12 one percent on the portion of such income above two hundred thousand
13 dollars, and (3) a surcharge of twelve and one-half percent on the
14 amount of tax due by every resident individual, estate or trust and of
15 every nonresident or part-year resident individual, estate or trust
16 pursuant to section thirteen hundred four of this article.

17 (c) For taxable years beginning in two thousand twenty-two, the tax
18 surcharges imposed pursuant to the authority of this section shall be
19 determined as follows: (1) a tax of nine-tenths of one percent on the
20 portion of the New York city source adjusted gross income of every resi-
21 dent individual, estate or trust and of every nonresident or part-year
22 resident individual, estate or trust, above one hundred thousand
23 dollars, (2) a tax of nine-tenths of one percent on the portion of such
24 income above two hundred thousand dollars, and (3) a surcharge of eleven
25 and one-quarter percent on the amount of tax due by every resident indi-
26 vidual, estate or trust and of every nonresident or part-year resident
27 individual, estate or trust pursuant to section thirteen hundred four of
28 this article.

29 (d) For taxable years beginning in two thousand twenty-three, the tax
30 surcharges imposed pursuant to the authority of this section shall be
31 determined as follows: (1) a tax of eight-tenths of one percent on the
32 portion of the New York city source adjusted gross income of every resi-
33 dent individual, estate or trust and of every nonresident or part-year
34 resident individual, estate or trust, above one hundred thousand
35 dollars, (2) a tax of eight-tenths of one percent on the portion of such
36 income above two hundred thousand dollars, and (3) a surcharge of ten
37 percent on the amount of tax due by every resident individual, estate or
38 trust and of every nonresident or part-year resident individual, estate
39 or trust pursuant to section thirteen hundred four of this article.

40 (e) For taxable years beginning in two thousand twenty-four, the tax
41 surcharges imposed pursuant to the authority of this section shall be
42 determined as follows: (1) a tax of seven-tenths of one percent on the
43 portion of the New York city source adjusted gross income of every resi-
44 dent individual, estate or trust and of every nonresident or part-year
45 resident individual, estate or trust, above one hundred thousand
46 dollars, (2) a tax of seven-tenths of one percent on the portion of such
47 income above two hundred thousand dollars, and (3) a surcharge of eight
48 and three-quarters percent on the amount of tax due by every resident
49 individual, estate or trust and of every nonresident or part-year resi-
50 dent individual, estate or trust pursuant to section thirteen hundred
51 four of this article.

52 (f) For taxable years beginning in two thousand twenty-five, the tax
53 surcharges imposed pursuant to the authority of this section shall be
54 determined as follows: (1) a tax of six-tenths of one percent on the
55 portion of the New York city source adjusted gross income of every resi-
56 dent individual, estate or trust and of every nonresident or part-year

1 resident individual, estate or trust, above one hundred thousand
2 dollars, (2) a tax of six-tenths of one percent on the portion of such
3 income above two hundred thousand dollars, and (3) a surcharge of seven
4 and one-half percent on the amount of tax due by every resident individ-
5 ual, estate or trust and of every nonresident or part-year resident
6 individual, estate or trust pursuant to section thirteen hundred four of
7 this article.

8 (g) For taxable years beginning in two thousand twenty-six and there-
9 after, the tax surcharges imposed pursuant to the authority of this
10 section shall be determined as follows: (1) a tax of one-half of one
11 percent on the portion of the New York city source adjusted gross income
12 of every resident individual, estate or trust and of every nonresident
13 or part-year resident individual, estate or trust, above one hundred
14 thousand dollars, (2) a tax of one-half of one percent on the portion of
15 such income above two hundred thousand dollars, and (3) a surcharge of
16 six and one-quarter percent on the amount of tax due by every resident
17 individual, estate or trust and of every nonresident or part-year resi-
18 dent individual, estate or trust pursuant to section thirteen hundred
19 four of this article.

20 (h) The commissioner in cooperation with the comptroller shall main-
21 tain such records as are necessary to determine what portion of the
22 income tax revenues collected on behalf of a city imposing taxes pursu-
23 ant to this article are attributable to the emergency in education tax
24 surcharge established by this section and shall transmit such funds to
25 such city in a manner that allows such funds to be clearly segregated
26 from all other funds and accounted for separately. Such city shall main-
27 tain such funds in a separate fund to be called the emergency in educa-
28 tion tax surcharge revenue account and shall publish monthly reports on
29 such fund's receipts, disbursements and balances in a manner that will
30 allow for a clear understanding of the financial condition of such fund
31 and of the uses that have been made of the fund's resources. Disburse-
32 ments from this fund shall be in addition to the funds that such city is
33 required to make for educational purposes pursuant to subdivision five-c
34 of section twenty-five hundred seventy-six of the education law and no
35 disbursements from this fund or other financial transactions involving
36 this fund shall be taken into consideration in any manner whatsoever in
37 determining such city's compliance with the requirements of such subdi-
38 vision five-c of section twenty-five hundred seventy-six of the educa-
39 tion law.

40 (i) Any monies generated by this section shall be used for public
41 education purposes only, including hiring and retaining teachers, teach-
42 er training, decreasing class sizes, and equipping and building facili-
43 ties.

44 § 3. The education law is amended by adding a new section 2589 to read
45 as follows:

46 § 2589. Emergency in education operating aid. 1. In addition to the
47 general operating aid authorized by any other section of law, any city
48 imposing an emergency in education tax surcharge pursuant to section
49 thirteen hundred four-e of the tax law shall receive additional appor-
50 tionments of public money for general operating aid purposes, to be
51 known as emergency in education operating aid, for school years commenc-
52 ing on and after July first, two thousand twenty-two as set forth in
53 subdivisions two, three, four, five, six and seven of this section. Such
54 apportionments shall be in addition to and not in lieu of the apporportion-
55 ments of public money to such city for general operating aid purposes
56 made available to such city pursuant to other sections of law and

provided that the amounts made available to such city pursuant to such other provisions of law shall not in any school year commencing on or after July first, two thousand twenty-two be less than the amount made available to such city for such purposes, with the categories of aid to be covered by this requirement to be determined by the commissioner, during the school year commencing on July first, two thousand twenty-one times a number determined by dividing the consumer price index for all urban consumers for the calendar year preceding the commencement of the school year for which such apportionment is being provided by the consumer price index for all urban consumers for the two thousand eighteen calendar year.

2. For the school year commencing on July first, two thousand twenty-two, such emergency in education operating aid shall be an amount equal to twenty percent of the amount transmitted to such a city pursuant to subsection (h) of section thirteen hundred four-e of the tax law during the two thousand eighteen calendar year.

3. For the school year commencing on July first, two thousand twenty-three, such emergency in education operating aid shall be an amount equal to twenty percent of the amount transmitted to such a city pursuant to subsection (h) of section thirteen hundred four-e of the tax law during the two thousand nineteen calendar year.

4. For the school year commencing on July first, two thousand twenty-four, such emergency in education operating aid shall be an amount equal to forty percent of the amount transmitted to such a city pursuant to subsection (h) of section thirteen hundred four-e of the tax law during the two thousand twenty calendar year.

5. For the school year commencing on July first, two thousand twenty-five, such emergency in education operating aid shall be an amount equal to sixty percent of the amount transmitted to such a city pursuant to subsection (h) of section thirteen hundred four-e of the tax law during the two thousand twenty-one calendar year.

6. For the school year commencing on July first, two thousand twenty-six, such emergency in education operating aid shall be an amount equal to eighty percent of the amount transmitted to such a city pursuant to subsection (h) of section thirteen hundred four-e of the tax law during the two thousand twenty-two calendar year.

7. For the school year commencing on and after July first, two thousand twenty-seven, such emergency in education operating aid shall be an amount equal to the amount transmitted to such a city pursuant to subsection (h) of section thirteen hundred four-e of the tax law during the preceding calendar year.

8. The moneys generated by this section shall be used for public education purposes only, including hiring and retaining teachers, teacher training, decreasing class sizes and equipping and building classrooms.

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

5-c. a. If the total amount requested in such estimate is not appropriated, each city having a population of one million or more inhabitants shall appropriate an amount not less than the greater of:

(i) the product of the city share in the base year and the pupil change index, as such terms are defined in paragraph c of this subdivision, or

(ii) an amount equal to the average proportion of the total expense budget of such city, as amended, not including the portion of such expense budget equal to the total state and federal aid appropriated for

1 education purposes, appropriated for the purposes of such city school
2 district in the three fiscal years of such city immediately preceding
3 the year for which said estimate is filed.

4 b. If the total amount requested in the estimate exceeds the greater
5 of the two amounts computed in paragraph a of this subdivision, such
6 excess shall be subject to such consideration and such action by the
7 appropriate city legislative body and/or city officer as that taken upon
8 other departmental estimates. The city is authorized to make additional
9 appropriations for educational purposes authorized by this chapter.

10 c. For the purposes of this subdivision, the terms:

11 (i) "city share" shall mean: the total appropriation of any city
12 having a population of one million or more inhabitants for elementary
13 and secondary education purposes as defined by the commissioner minus
14 the total amount of federal and state aid appropriated for elementary
15 and secondary education purposes;

16 (ii) "base year" shall mean: the fiscal year immediately preceding the
17 fiscal year for which the estimate is filed;

18 (iii) "pupil change index" shall mean: the ratio computed by dividing
19 the total public school enrollment of the city school district, includ-
20 ing all students wholly or partially supported by such city's funds, in
21 the year in which the estimate is filed by the enrollment of such city
22 school district in the year immediately preceding the year in which the
23 estimate is filed.

24 § 5. This act shall take effect immediately.