S T A T E O F N E W Y O R K

10463

I N A S S E M B L Y

March 26, 2010

Introduced by M. of A. CASTELLI -- Multi-Sponsored by -- M. of A. ALFANO, SCOZZAFAVA, WEISENBERG -- read once and referred to the Committee on Governmental Operations

AN ACT to amend the state finance law and the military law, in relation to establishing the New York military family relief fund; to amend the tax law, in relation to establishing gifts for the New York military family relief fund and providing that grants from the New York military family relief fund shall not be subject to state personal income tax; and providing for the repeal of such provisions upon expiration thereof

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

Section 1. The state finance law is amended by adding a new section 89-h to read as follows:

S 89-H. NEW YORK MILITARY FAMILY RELIEF FUND. 1. THERE IS HEREBY ESTABLISHED IN THE JOINT CUSTODY OF THE COMMISSIONER OF TAXATION AND FINANCE AND THE COMPTROLLER, A SPECIAL FUND TO BE KNOWN AS THE "NEW YORK MILITARY FAMILY RELIEF FUND".

2. SUCH FUND SHALL CONSIST OF ALL REVENUES RECEIVED BY THE DEPARTMENT OF TAXATION AND FINANCE PURSUANT TO THE PROVISIONS OF SECTIONS TWO HUNDRED NINE-H AND SIX HUNDRED THIRTY-C OF THE TAX LAW, AND ALL MONEYS APPROPRIATED, CREDITED OR TRANSFERRED THERETO FROM ANY OTHER FUND OR SOURCE PURSUANT TO LAW. NOTHING CONTAINED IN THIS SECTION SHALL PREVENT THE STATE FROM RECEIVING GRANTS, GIFTS OR BEQUESTS FOR THE PURPOSES OF THE FUND AS DEFINED IN THIS SECTION AND DEPOSITING THEM INTO THE FUND ACCORDING TO LAW.

3. MONEYS IN THE NEW YORK MILITARY FAMILY RELIEF FUND SHALL BE KEPT SEPARATE AND SHALL NOT BE COMMINGLED WITH ANY OTHER MONEYS IN THE CUSTODY OF THE COMMISSIONER OF TAXATION AND FINANCE AND THE COMPTROLLER.

4. THE MONEYS IN SUCH FUND SHALL BE EXPENDED ONLY FOR THE PURPOSES DESIGNATED IN SECTION TWO HUNDRED TWENTY-FOUR OF THE MILITARY LAW.

5. ALL PAYMENTS FROM SUCH FUND SHALL BE MADE BY THE DEPARTMENT OF TAXATION AND FINANCE AFTER AUDIT AND WARRANT OF THE COMPTROLLER ON VOUCHERS APPROVED BY THE ADJUTANT GENERAL.

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

LBD16375-01-0

S 2. The military law is amended by adding a new section 224 to read as follows:

S 224. NEW YORK MILITARY FAMILY RELIEF FUND. 1. DEFINITIONS. AS USED IN THIS SECTION, THE FOLLOWING TERMS SHALL HAVE THE FOLLOWING MEANINGS:

A. "ELIGIBLE MEMBER" MEANS A NEW YORK RESIDENT WHO IS (1) A MEMBER OF A FORCE OF THE ORGANIZED MILITIA OR A RESERVE COMPONENT OF THE ARMED FORCES OF THE UNITED STATES, (2) CALLED TO ACTIVE MILITARY SERVICE OF THE UNITED STATES FOR A PERIOD OF NOT LESS THAN NINETY CONSECUTIVE DAYS, AND (3) STATIONED AT LEAST THREE HUNDRED MILES AWAY FROM HIS OR HER PRIMARY RESIDENCE.

B. "MILITARY INCOME" MEANS MILITARY SALARY PLUS BASIC HOUSING ALLOWANCE.

2. GRANTS. AN ELIGIBLE MEMBER IS ENTITLED TO A GRANT OF UP TO THREE THOUSAND DOLLARS ANNUALLY IF THE MILITARY INCOME OF THE ELIGIBLE MEMBER, WHILE IN ACTIVE MILITARY SERVICE OF THE UNITED STATES, IS AT LEAST THIRTY PERCENT LESS THAN THE ELIGIBLE MEMBER'S INCOME FROM CIVILIAN EMPLOYMENT WHEN SUCH INCOME FROM CIVILIAN EMPLOYMENT IS EIGHTY-FIVE THOUSAND DOLLARS OR LESS.

3. ADMINISTRATION. THE DIVISION OF MILITARY AND NAVAL AFFAIRS SHALL ADMINISTER THE GRANTS AUTHORIZED BY THIS SECTION. AMONG PERSONS ELIGIBLE FOR GRANTS, PRIORITY SHALL BE GIVEN TO THOSE HAVING THE GREATEST DEMONSTRATED NEED, AS DETERMINED PURSUANT TO RULES AND REGULATIONS ESTABLISHED BY THE DIVISION OF MILITARY AND NAVAL AFFAIRS.

4. RULES AND REGULATIONS. THE DIVISION OF MILITARY AND NAVAL AFFAIRS SHALL PROMULGATE RULES AND REGULATIONS TO ESTABLISH GUIDELINES AND CRITERIA TO DISBURSE AVAILABLE GRANT FUNDS TO ELIGIBLE MEMBERS WITH THE GREATEST ECONOMIC NEEDS, AND TAKE SUCH OTHER MEASURES AS IT DEEMS NECESSARY TO IMPLEMENT THE PROVISIONS OF THIS SECTION.

S 3. The tax law is amended by adding a new section 209-H to read as follows:

S 209-H. GIFT FOR THE NEW YORK MILITARY FAMILY RELIEF FUND. EFFECTIVE FOR ANY TAX YEAR COMMENCING ON OR AFTER JANUARY FIRST, OF THE CALENDAR YEAR IN WHICH THIS SECTION TAKES EFFECT, A TAXPAYER IN ANY TAXABLE YEAR MAY ELECT TO CONTRIBUTE TO THE NEW YORK MILITARY FAMILY RELIEF FUND. SUCH CONTRIBUTION SHALL BE IN ANY WHOLE DOLLAR AMOUNT AND SHALL NOT REDUCE THE AMOUNT OF THE STATE TAX OWED BY SUCH TAXPAYER, AND/OR SHALL ALLOW THE TAXPAYER TO CONTRIBUTE ALL OR ANY PORTION OF A TAX REFUND THAT IS OWED TO SUCH TAXPAYER, IF ANY. THE COMMISSIONER SHALL INCLUDE SPACE ON THE CORPORATE INCOME TAX RETURN TO ENABLE A TAXPAYER TO MAKE SUCH CONTRIBUTION AND TO CONTRIBUTE ALL OR ANY PORTION OF ITS TAX REFUND. NOTWITHSTANDING ANY OTHER PROVISION OF LAW, ALL REVENUES COLLECTED PURSUANT TO THIS SECTION SHALL BE CREDITED TO THE NEW YORK MILITARY FAMILY RELIEF FUND AND SHALL BE USED ONLY FOR THOSE PURPOSES ENUMERATED IN SECTION EIGHTY-NINE-H OF THE STATE FINANCE LAW.

S 4. Subsection (c) of section 612 of the tax law is amended by adding a new paragraph 39 to read as follows:

(39) GRANTS TO THE TAXPAYER FROM THE NEW YORK MILITARY FAMILY RELIEF FUND PURSUANT TO SECTION TWO HUNDRED TWENTY-FOUR OF THE MILITARY LAW, TO THE EXTENT INCLUDABLE IN GROSS INCOME FOR FEDERAL INCOME TAX PURPOSES.

S 5. The tax law is amended by adding a new section 630-c to read as follows:

S 630-C. GIFT FOR THE NEW YORK MILITARY FAMILY RELIEF FUND. EFFECTIVE FOR ANY TAX YEAR COMMENCING ON OR AFTER JANUARY FIRST, OF THE CALENDAR YEAR IN WHICH THIS SECTION TAKES EFFECT, AN INDIVIDUAL IN ANY TAXABLE YEAR MAY ELECT TO CONTRIBUTE TO THE NEW YORK MILITARY FAMILY RELIEF FUND. THE CONTRIBUTION SHALL BE IN ANY WHOLE DOLLAR AMOUNT AND SHALL NOT

REDUCE THE AMOUNT OF STATE TAX OWED BY SUCH INDIVIDUAL, AND/OR SHALL ALLOW THE TAXPAYER TO CONTRIBUTE ALL OR ANY PORTION OF A TAX REFUND THAT IS OWED TO SUCH TAXPAYER, IF ANY. THE COMMISSIONER SHALL INCLUDE SPACE ON THE PERSONAL INCOME TAX RETURN TO ENABLE A TAXPAYER TO MAKE SUCH CONTRIBUTION AND TO CONTRIBUTE ALL OR ANY PORTION OF THE INDIVIDUAL'S TAX REFUND. NOTWITHSTANDING ANY OTHER PROVISION OF LAW ALL REVENUES COLLECTED PURSUANT TO THIS SECTION SHALL BE CREDITED TO THE NEW YORK MILITARY FAMILY RELIEF FUND AND USED ONLY FOR THOSE PURPOSES ENUMERATED IN SECTION EIGHTY-NINE-H OF THE STATE FINANCE LAW.

S 6. This act shall take effect immediately, provided that:

(a) section two of this act shall take effect on the one hundred twentieth day after this act shall have become a law and, effective immediately, any rules and regulations necessary to implement the provisions of such section are authorized to be completed on or before the effective date of section two of this act; and

(b) the provisions of this act shall expire and be deemed repealed two years after the date that the adjutant general determines that the War on Terror has ended, provided that the adjutant general shall notify the legislative bill drafting commission upon his or her determination of the date that the War on Terror ended, in order that the commission may maintain an accurate and timely effective data base of the official text of the laws of the state of New York in furtherance of effectuating the provisions of section 44 of the legislative law and section 70-b of the public officers law.