

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

6823--A

I N S E N A T E

February 11, 2010

Introduced by Sen. C. JOHNSON -- read twice and ordered printed, and when printed to be committed to the Committee on Investigations and Government Operations -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the tax law, in relation to creating a taxpayer abuse sanction, and to amend the state finance law, in relation to establishing the education taxpayer abuse penalty fund and the taxpayer abuse penalty fund

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

1 Section 1. The tax law is amended by adding a new section 608 to read
2 as follows:

3 S 608. TAXPAYER ABUSE SANCTION. (A) FOR PURPOSES OF THIS SECTION, THE
4 TERM "PUBLIC RETIREMENT SYSTEM OF THE STATE" SHALL MEAN THE NEW YORK
5 STATE EMPLOYEES' RETIREMENT SYSTEM, THE NEW YORK STATE POLICEMEN'S AND
6 FIREMEN'S RETIREMENT SYSTEM, THE NEW YORK STATE TEACHERS' RETIREMENT
7 SYSTEM, THE NEW YORK CITY EMPLOYEES' RETIREMENT SYSTEM, THE NEW YORK
8 CITY TEACHERS' RETIREMENT SYSTEM, THE NEW YORK CITY POLICE PENSION FUND,
9 THE NEW YORK CITY FIRE DEPARTMENT PENSION FUND, THE NEW YORK CITY BOARD
10 OF EDUCATION RETIREMENT SYSTEM AND ANY OTHER RETIREMENT SYSTEM OF THE
11 STATE OR CITY OF NEW YORK.

12 (B) FOR TAXABLE YEARS BEGINNING ON OR AFTER JANUARY FIRST, TWO THOU-
13 SAND TEN, THERE SHALL BE A SANCTION IMPOSED AGAINST THE INCOME OF ANY
14 MEMBER OF A PUBLIC RETIREMENT SYSTEM OF THE STATE, WHO WAS CONVICTED OF:
15 (1) GRAND LARCENY IN THE FIRST DEGREE PURSUANT TO SECTION 155.42 OF THE
16 PENAL LAW; (2) GRAND LARCENY IN THE SECOND DEGREE PURSUANT TO SECTION
17 155.40 OF THE PENAL LAW; OR (3) SCHEME TO DEFRAUD IN THE FIRST DEGREE
18 PURSUANT TO SECTION 190.65 OF THE PENAL LAW; WHERE SUCH CONVICTION WAS
19 BASED UPON ACTS COMMITTED WHICH RELATED TO THE NATURE OF SUCH MEMBER'S
20 PUBLIC SERVICE.

21 (C) SUCH SANCTION SHALL BE IMPOSED FOR ANY TAXABLE YEAR DURING WHICH
22 SUCH MEMBER OF A PUBLIC RETIREMENT SYSTEM OF THE STATE IS ELIGIBLE TO
23 RECEIVE A PENSION BENEFIT AND SHALL BE IN AN AMOUNT EQUAL TO THE AMOUNT
24 OF ANY SUCH BENEFIT RECEIVED DURING SUCH TAXABLE YEAR.

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

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(D) MONIES RECEIVED FROM SANCTIONS IMPOSED PURSUANT TO THIS SECTION SHALL:

(1) FOR MONIES RECEIVED FROM SANCTIONS IMPOSED FOR A CONVICTION OF A PERSON WHO IS A MEMBER OF THE NEW YORK STATE TEACHERS' RETIREMENT SYSTEM; THE NEW YORK CITY TEACHERS' RETIREMENT SYSTEM OR THE NEW YORK CITY BOARD OF EDUCATION RETIREMENT SYSTEM, BE DEPOSITED IN THE EDUCATION TAXPAYER ABUSE PENALTY FUND ESTABLISHED PURSUANT TO SECTION NINETY-NINE-T OF THE STATE FINANCE LAW AND DISTRIBUTED PURSUANT TO THE PROVISIONS OF SUCH SECTION; OR

(2) FOR MONIES RECEIVED FROM SANCTIONS IMPOSED FOR A CONVICTION OF A PERSON WHO IS A MEMBER OF THE NEW YORK STATE EMPLOYEES' RETIREMENT SYSTEM, THE NEW YORK STATE POLICEMEN'S AND FIREMEN'S RETIREMENT SYSTEM, THE NEW YORK CITY EMPLOYEES' RETIREMENT SYSTEM, THE NEW YORK CITY POLICE PENSION FUND, THE NEW YORK CITY FIRE DEPARTMENT PENSION FUND, OR ANY OTHER RETIREMENT SYSTEM OF THE STATE OR CITY OF NEW YORK OTHER THAN A RETIREMENT SYSTEM SET FORTH IN PARAGRAPH ONE OF THIS SUBDIVISION, BE DEPOSITED IN THE TAXPAYER ABUSE PENALTY FUND ESTABLISHED PURSUANT TO SECTION NINETY-NINE-U OF THE STATE FINANCE LAW AND DISTRIBUTED PURSUANT TO THE PROVISIONS OF SUCH SECTION.

S 2. The state finance law is amended by adding two new sections 99-t and 99-u to read as follows:

S 99-T. EDUCATION TAXPAYER ABUSE PENALTY 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 "EDUCATION TAXPAYER ABUSE PENALTY FUND".

2. SUCH FUND SHALL CONSIST OF ALL REVENUES RECEIVED BY THE DEPARTMENT OF TAXATION AND FINANCE, PURSUANT TO THE PROVISIONS OF PARAGRAPH ONE OF SUBDIVISION (D) OF SECTION SIX HUNDRED EIGHT OF THE TAX LAW AND ALL OTHER 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. ANY INTEREST RECEIVED BY THE COMPTROLLER ON MONEYS ON DEPOSIT IN SUCH FUND SHALL BE RETAINED IN AND BECOME PART OF SUCH FUND.

3. MONEYS IN SUCH FUND SHALL BE DISTRIBUTED TO SCHOOL DISTRICTS IN THE STATE WHERE PERSONS SUBJECT TO THE PROVISIONS OF SUBDIVISION (B) OF SECTION SIX HUNDRED EIGHT OF THE TAX LAW WERE EMPLOYED AT THE TIME OF THE COMMISSION OF THE ACT OR ACTS UPON WHICH SUCH CONVICTION WAS BASED. THE AMOUNT OF MONEYS IN THE FUND THAT SHALL BE DISTRIBUTED TO A SCHOOL DISTRICT PURSUANT TO THIS SUBDIVISION SHALL BE EQUAL TO THE DOLLAR AMOUNT OF THE SANCTION IMPOSED UPON SUCH CONVICTED PERSON. ANY MONEYS RECEIVED BY THE FUND FROM A SOURCE OTHER THAN A SANCTION IMPOSED PURSUANT TO THE PROVISIONS OF SUBDIVISION (B) OF SECTION SIX HUNDRED EIGHT OF THE TAX LAW SHALL BE DISTRIBUTED EQUALLY AMONG SCHOOL DISTRICTS LOCATED IN THE STATE.

4. MONEYS SHALL BE PAYABLE FROM THE FUND ON THE AUDIT AND WARRANT OF THE STATE COMPTROLLER ON VOUCHERS APPROVED AND CERTIFIED BY THE COMMISSIONER OF TAXATION AND FINANCE.

5. TO THE EXTENT PRACTICABLE, MONEYS OF THE FUND SHALL BE DISTRIBUTED TO SCHOOL DISTRICTS AT LEAST ONCE ANNUALLY.

S 99-U. TAXPAYER ABUSE PENALTY 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 "TAXPAYER ABUSE PENALTY FUND".

1 2. SUCH FUND SHALL CONSIST OF ALL REVENUES RECEIVED BY THE DEPARTMENT
2 OF TAXATION AND FINANCE, PURSUANT TO THE PROVISIONS OF PARAGRAPH TWO OF
3 SUBDIVISION (D) OF SECTION SIX HUNDRED EIGHT OF THE TAX LAW AND ALL
4 OTHER MONEYS APPROPRIATED, CREDITED, OR TRANSFERRED THERETO FROM ANY
5 OTHER FUND OR SOURCE PURSUANT TO LAW. NOTHING CONTAINED IN THIS SECTION
6 SHALL PREVENT THE STATE FROM RECEIVING GRANTS, GIFTS OR BEQUESTS FOR THE
7 PURPOSES OF THE FUND AS DEFINED IN THIS SECTION AND DEPOSITING THEM INTO
8 THE FUND ACCORDING TO LAW. ANY INTEREST RECEIVED BY THE COMPTROLLER ON
9 MONEYS ON DEPOSIT IN SUCH FUND SHALL BE RETAINED IN AND BECOME PART OF
10 SUCH FUND.

11 3. MONEYS IN SUCH FUND SHALL BE DISTRIBUTED TO MUNICIPALITIES IN THE
12 STATE WHERE PERSONS SUBJECT TO THE PROVISIONS OF SUBDIVISION (B) OF
13 SECTION SIX HUNDRED EIGHT OF THE TAX LAW WERE EMPLOYED AT THE TIME OF
14 THE COMMISSION OF THE ACT OR ACTS UPON WHICH SUCH CONVICTION WAS BASED
15 OR TO THE STATE IF SUCH PERSON WAS EMPLOYED BY THE STATE. THE AMOUNT OF
16 MONEYS IN THE FUND THAT SHALL BE DISTRIBUTED TO A MUNICIPALITY OR TO THE
17 STATE PURSUANT TO THIS SUBDIVISION SHALL BE EQUAL TO THE DOLLAR AMOUNT
18 OF THE SANCTION IMPOSED UPON SUCH CONVICTED PERSON. ANY MONEYS RECEIVED
19 BY THE FUND FROM A SOURCE OTHER THAN A SANCTION IMPOSED PURSUANT TO THE
20 PROVISIONS OF SUBDIVISION (B) OF SECTION SIX HUNDRED EIGHT OF THE TAX
21 LAW SHALL BE DISTRIBUTED EQUALLY AMONG MUNICIPALITIES LOCATED IN THE
22 STATE.

23 4. MONEYS SHALL BE PAYABLE FROM THE FUND ON THE AUDIT AND WARRANT OF
24 THE STATE COMPTROLLER ON VOUCHERS APPROVED AND CERTIFIED BY THE COMMIS-
25 SIONER OF TAXATION AND FINANCE.

26 5. TO THE EXTENT PRACTICABLE, MONEYS OF THE FUND SHALL BE DISTRIBUTED
27 TO MUNICIPALITIES AT LEAST ONCE ANNUALLY.

28 S 3. This act shall take effect immediately and shall apply to taxable
29 years beginning on or after January 1, 2010.