

2154

2009-2010 Regular Sessions

I N S E N A T E

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Introduced by Sens. MAZIARZ, ALESI, DeFRANCISCO, DIAZ, LANZA, LAVALLE, LIBOUS, MORAHAN, RANZENHOFER, VOLKER, YOUNG -- read twice and ordered printed, and when printed to be committed to the Committee on Higher Education

AN ACT to amend the education law and the state finance law, in relation to tuition awards for active members of the reserve armed forces of the United States 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:

1 Section 1. The education law is amended by adding a new section 669-e
2 to read as follows:
3 S 669-E. TUITION AWARDS FOR MEMBERS OF THE RESERVE ARMED FORCES OF THE
4 UNITED STATES. 1. THE DIVISION OF MILITARY AND NAVAL AFFAIRS IS AUTHOR-
5 IZED, WITHIN AMOUNTS APPROPRIATED OR OTHERWISE LAWFULLY AVAILABLE FROM
6 ANY OTHER SOURCE, TO ESTABLISH A TUITION AWARD PROGRAM.
7 2. AS USED IN THIS SECTION, THE TERM:
8 A. "ACTIVE MEMBER" SHALL MEAN A MEMBER OF A BRANCH OF THE RESERVE
9 ARMED FORCES OF THE UNITED STATES WHO MEETS THE MINIMUM REQUIREMENTS FOR
10 SATISFACTORY ACTIVE MEMBERSHIP AS SET FORTH IN THE REGULATIONS OF THE
11 UNITED STATES DEPARTMENTS OF THE ARMY, COAST GUARD, NAVY AND AIR FORCE,
12 AS APPLICABLE.
13 B. "DEGREE PRODUCING CURRICULUM" SHALL MEAN A SERIES OF COURSES
14 PROGRAMMED TO CULMINATE IN A SPECIFIC POST-SECONDARY DEGREE OR DIPLOMA
15 WHEN SUCCESSFULLY COMPLETED.
16 C. "TUITION" SHALL MEAN THE TOTAL SEMESTER, QUARTER, OR CLASSROOM HOUR
17 COST OF INSTRUCTION TO THE STUDENT AS PERIODICALLY PUBLISHED IN THE
18 CATALOGUE OF THE INSTITUTION, SPECIFICALLY EXCLUDING MANDATORY FEES,
19 BOOK CHARGES, AND ROOM AND BOARD.
20 D. "TUITION BENEFIT" SHALL MEAN THE PAYMENT OF WHATEVER COST IS
21 ATTRIBUTABLE TO THE COST OF TUITION AFTER THE DEDUCTION OF ANY OTHER

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

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1 AVAILABLE EDUCATIONAL GRANT AID, INCLUDING THE ARMY CONTINUING EDUCATION
2 SYSTEM (ACES) (AR-621-5 17 NOVEMBER 1993) AND ANY SUCCESSOR ARMY REGU-
3 LATIONS, THAT COULD DEFRAY SUCH COST; HOWEVER, SPECIFICALLY EXCLUDING
4 THE FEDERAL MONTGOMERY GI BILL.

5 E. "PART-TIME STUDY" SHALL MEAN ENROLLMENT IN AN APPROVED POST-SECON-
6 DARY DEGREE PROGRAM FOR AT LEAST SIX BUT LESS THAN TWELVE SEMESTER
7 HOURS, OR THE EQUIVALENT PER SEMESTER, OR AT LEAST FOUR BUT LESS THAN
8 EIGHT SEMESTER HOURS PER QUARTER IN AN INSTITUTION.

9 F. "INSTITUTION" SHALL MEAN ANY INSTITUTION OF HIGHER EDUCATION RECOG-
10 NIZED AND APPROVED BY THE REGENTS OR THE UNIVERSITY OF THE STATE OF NEW
11 YORK WHICH PROVIDES A COURSE OF STUDY LEADING TO THE GRANTING OF A
12 POST-SECONDARY DEGREE OR DIPLOMA.

13 G. "LEGAL RESIDENT" SHALL MEAN A PERSON WHOSE PRINCIPAL DOMICILE IS
14 LOCATED WITHIN NEW YORK STATE IN EXCESS OF ONE HUNDRED EIGHTY- SIX DAYS
15 PER YEAR AND HAS BEEN SO DOMICILED FOR NOT LESS THAN THE THREE PREVIOUS
16 YEARS; EXCEPTING ACTIVE FEDERAL MILITARY DUTY WHO WAS A RESIDENT OF THE
17 STATE AT THE TIME OF ENTRY INTO THE ARMED FORCES OF THE UNITED STATES
18 AND IS AN ACTIVE MEMBER OF THE RESERVE ARMED FORCES OF THE UNITED
19 STATES.

20 3. NOTWITHSTANDING THE PROVISIONS OF ANY OTHER GENERAL, SPECIAL, OR
21 LOCAL LAW, RULE, OR REGULATION, ANY ACTIVE MEMBER WHO HAS SUCCESSFULLY
22 COMPLETED ADVANCED INDIVIDUAL TRAINING OR COMMISSIONING AND OTHER
23 REQUIREMENTS OF THE DIVISION OF MILITARY AND NAVAL AFFAIRS FOR TUITION
24 BENEFIT ELIGIBILITY SHALL BE ENTITLED TO THE TUITION BENEFIT PROVIDED BY
25 THIS SECTION UPON HIS OR HER ENROLLMENT IN A DEGREE PRODUCING CURRICULUM
26 IN ANY INSTITUTION.

27 4. UNLESS OTHERWISE PROVIDED FOR IN THIS SECTION, ELIGIBILITY FOR THE
28 TUITION BENEFIT PROVIDED BY THIS SECTION SHALL BE DETERMINED BY THE
29 EDUCATION SERVICES OFFICES OF THE DIVISION OF MILITARY AND NAVAL
30 AFFAIRS, WHICH SHALL ISSUE CERTIFICATES OF ELIGIBILITY AND PROMULGATE
31 SUCH ADMINISTRATIVE RULES AND PROCEDURES AS ARE NECESSARY TO IMPLEMENT
32 THE TUITION BENEFIT PROVIDED UNDER THIS SECTION. SUCH ADMINISTRATIVE
33 RULES AND PROCEDURES SHALL INCLUDE IN THE FACTORS FOR THE DETERMINATION
34 OF ELIGIBILITY FOR THE TUITION BENEFIT PROVIDED BY THIS SECTION THE
35 FULFILLMENT OF THE OBLIGATION AND COMMITMENTS FOR SERVICE IN THE RESERVE
36 ARMED FORCES OF THE UNITED STATES.

37 5. ANY ACTIVE MEMBER WHO CURRENTLY POSSESSES A BACCALAUREATE DEGREE OR
38 HIGHER IS INELIGIBLE FOR PARTICIPATION IN THE RECRUITMENT INCENTIVE
39 PROGRAM PROVIDED BY THIS SECTION.

40 6. THE TUITION BENEFIT PROVIDED BY THIS SECTION SHALL BE RESTRICTED TO
41 LEGAL RESIDENTS OF THE STATE. THE BENEFIT MAY BE USED FOR EITHER
42 PART-TIME OR FULL-TIME STUDY. NO RESTRICTION AS TO SESSIONS, STUDENT
43 STATUS, OR SPACE AVAILABILITY WHICH DOES NOT APPLY TO ALL STUDENTS SHALL
44 BE PLACED BY INSTITUTIONS UPON RECIPIENTS UNDER THIS PROGRAM.

45 7. UPON THE RECIPIENT'S ATTAINMENT OF A BACCALAUREATE DEGREE OR CESSA-
46 TION OF STATUS AS AN ACTIVE MEMBER, WHICHEVER OCCURS FIRST, THE BENEFIT
47 PROVIDED BY THIS SECTION SHALL BE DISCONTINUED. THE TUITION BENEFIT
48 PROVIDED BY THIS SECTION MAY BE SUSPENDED AT THE DIRECTION OF THE DIVI-
49 SION OF MILITARY AND NAVAL AFFAIRS FOR A RECIPIENT'S FAILURE TO MAINTAIN
50 GOOD MILITARY STANDING AS AN ACTIVE MEMBER, FOR THE FAILURE TO MAINTAIN
51 GOOD ACADEMIC PROGRESS AND PROGRAM PURSUIT, OR FOR THE FAILURE TO MAIN-
52 TAIN SUFFICIENT ACADEMIC STANDING TO RETAIN ELIGIBILITY FOR ANY OTHER
53 FINANCIAL ASSISTANCE THE RECIPIENT MAY BE RECEIVING.

54 8. UNLESS OTHERWISE PROVIDED FOR IN THIS SECTION, THE TUITION BENEFIT
55 SHALL BE ON THE TERMS AND CONDITIONS SET BY THE DIVISION OF MILITARY AND
56 NAVAL AFFAIRS, PROVIDED THAT ANY SUCH BENEFIT SHALL NOT EXCEED AN AMOUNT

1 EQUAL TO THE ACTUAL ANNUAL TUITION CHARGED TO THE RECIPIENT OR THE
2 TUITION CHARGED BY THE STATE UNIVERSITY OF NEW YORK, WHICHEVER IS LESS,
3 OFFSET BY ANY FINANCIAL ASSISTANCE AND ANY OTHER RESOURCES AVAILABLE
4 THROUGH THE NATIONAL GUARD OR THE DIVISION OF MILITARY AND NAVAL AFFAIRS
5 ON BEHALF OF THE RECIPIENT, INCLUDING THE ARMY CONTINUING EDUCATION
6 SYSTEM (ACES) (AR-621-5 17 NOVEMBER 1993) AND ANY SUCCESSOR ARMY REGU-
7 LATIONS, AND THE TOTAL OF ALL OTHER STATE, FEDERAL, OR OTHER EDUCATIONAL
8 GRANT AID THAT IS RECEIVED OR RECEIVABLE BY SUCH STUDENT DURING THE
9 SCHOOL YEAR FOR WHICH SUCH BENEFIT IS APPLICABLE. FOR THE PURPOSES OF
10 THIS SUBDIVISION, BENEFITS AVAILABLE UNDER THE FEDERAL MONTGOMERY GI
11 BILL ACT OF 1984 SHALL NOT BE CONSIDERED AS FEDERAL OR OTHER EDUCATIONAL
12 AID.

13 9. ANY ACTIVE MEMBER WHO IS ELIGIBLE FOR THE TUITION BENEFIT PROVIDED
14 BY THIS SECTION MUST APPLY FOR ALL OTHER AVAILABLE STATE, FEDERAL,
15 INCLUDING THE ARMY CONTINUING EDUCATION SYSTEM (ACES) (AR-621-5 17
16 NOVEMBER 1993) AND ANY SUCCESSOR ARMY REGULATIONS, OR OTHER EDUCATIONAL
17 GRANT AID AT TIME OF ENROLLMENT. THE DIVISION OF MILITARY AND NAVAL
18 AFFAIRS SHALL ACCESS ALL FINANCIAL ASSISTANCE AVAILABLE ON BEHALF OF ALL
19 SUCH ACTIVE MEMBERS. ANY GRANT AID OR FINANCIAL ASSISTANCE RECEIVED,
20 EXCLUDING THAT OF THE MONTGOMERY GI BILL ACT OF 1984, SHALL BE UTILIZED
21 TO OFFSET THE COST OF TUITION TO THE MAXIMUM EXTENT POSSIBLE, EXCEPT
22 THAT NOTHING SHALL REQUIRE THAT AID OR ASSISTANCE RECEIVED WHICH MAY BE
23 USED TOWARDS COSTS OTHER THAN THAT OF TUITION SHALL BE APPLIED TOWARD
24 THE COST OF TUITION.

25 10. THE TUITION BENEFIT PROVIDED BY THIS SECTION SHALL BE EFFECTIVE
26 BEGINNING WITH THE SCHOOL SEMESTER OR QUARTER FOLLOWING THE EFFECTIVE
27 DATE OF THIS SECTION.

28 S 2. Section 604 of the education law is amended by adding a new
29 subdivision 12 to read as follows:

30 12. TUITION AWARDS FOR ACTIVE MEMBERS OF THE RESERVE ARMED FORCES OF
31 THE UNITED STATES ENROLLED IN APPROVED POST-SECONDARY DEGREE PROGRAMS IN
32 DEGREE-GRANTING INSTITUTIONS.

33 S 3. The state finance law is amended by adding a new section 91-h to
34 read as follows:

35 S 91-H. TUITION AWARD ACCOUNT. 1. THERE IS HEREBY ESTABLISHED IN THE
36 JOINT CUSTODY OF THE STATE COMPTROLLER AND THE COMMISSIONER OF TAXATION
37 AND FINANCE AN ACCOUNT IN THE MISCELLANEOUS SPECIAL REVENUE FUND TO BE
38 KNOWN AS THE TUITION AWARD ACCOUNT.

39 2. SUCH ACCOUNT SHALL CONSIST OF ALL REVENUES RECEIVED FROM CONTRIB-
40 UTIONS, DONATIONS AND ALL OTHER MONEYS CREDITED OR TRANSFERRED THERETO
41 FROM ANY OTHER FUND OR SOURCE PURSUANT TO LAW.

42 3. MONEYS OF THE ACCOUNT, FOLLOWING APPROPRIATION BY THE LEGISLATURE
43 MAY BE EXPENDED FOR THE TUITION AWARD PROGRAM FOR MEMBERS OF THE RESERVE
44 ARMED FORCES OF THE UNITED STATES. MONEYS SHALL BE PAID OUT OF THE
45 ACCOUNT ON THE AUDIT AND WARRANT OF THE STATE COMPTROLLER ON VOUCHERS
46 CERTIFIED OR APPROVED BY THE ADJUTANT GENERAL OF NEW YORK STATE.

47 S 4. The division of military and naval affairs shall report on the
48 operation and subsequent effectiveness of the program created by this
49 act, one year after it shall have become a law and annually thereafter,
50 to the governor, temporary president of the senate and the speaker of
51 the assembly. Upon the expiration and repeal of the provisions of this
52 act, such division shall continue to make such report in any year in
53 which any person receives benefits under the provisions of this act.

54 S 5. This act shall take effect on the first of January next succeed-
55 ing the date on which it shall have become a law and shall expire and be
56 deemed repealed five years after such date; provided that any person who

1 has begun to receive the benefits of this act prior to its expiration
2 and repeal shall be entitled to continue to receive the benefits of this
3 act after its expiration and repeal until completion of a baccalaureate
4 degree or cessation of status as an active member, whichever occurs
5 first.