

5135

2011-2012 Regular Sessions

I N   A S S E M B L Y

February 14, 2011

---

Introduced by M. of A. CERETTO -- read once and referred 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 AUTHORIZED,  
5     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  
22    AVAILABLE EDUCATIONAL GRANT AID, INCLUDING THE ARMY CONTINUING EDUCATION  
23    SYSTEM (ACES) (AR-621-5 17 NOVEMBER 1993) AND ANY SUCCESSOR ARMY REGU-

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

LBD01662-01-1

1 LATIONS, THAT COULD DEFRAY SUCH COST; HOWEVER, SPECIFICALLY EXCLUDING  
2 THE FEDERAL MONTGOMERY GI BILL ACT.

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

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

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

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

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

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

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

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

52 8. UNLESS OTHERWISE PROVIDED FOR IN THIS SECTION, THE TUITION BENEFIT  
53 SHALL BE ON THE TERMS AND CONDITIONS SET BY THE DIVISION OF MILITARY AND  
54 NAVAL AFFAIRS, PROVIDED THAT ANY SUCH BENEFIT SHALL NOT EXCEED AN AMOUNT  
55 EQUAL TO THE ACTUAL ANNUAL TUITION CHARGED TO THE RECIPIENT OR THE  
56 TUITION CHARGED BY THE STATE UNIVERSITY OF NEW YORK, WHICHEVER IS LESS,

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

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

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

26 S 2. Section 604 of the education law is amended by adding a new  
27 subdivision 13 to read as follows:

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

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

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

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

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

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

52 S 5. This act shall take effect on the first of January next succeed-  
53 ing the date on which it shall have become a law and shall expire and be  
54 deemed repealed five years after such date; provided that any person who  
55 has begun to receive the benefits of this act prior to its expiration  
56 and repeal shall be entitled to continue to receive the benefits of this

1 act after its expiration and repeal until completion of a baccalaureate  
2 degree or cessation of status as an active member, whichever occurs  
3 first.