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Introduced by M. of A. CASTELLI, ORTIZ, BURLING, SALADINO, FINCH, MONTESANO -- Multi-Sponsored by -- M. of A. BARCLAY, HAWLEY, MOLINARO, WEISENBERG -- read once and referred to the Committee on Higher Education

AN ACT to amend the military law and the education law, in relation to providing a recruitment incentive and retention program for certain active members of the New York army national guard, New York air national guard, and New York naval militia; to amend chapter 268 of the laws of 1996, amending the education law and the state finance law relating to providing a recruitment incentive and retention program for certain active members of the New York army national guard, New York air national guard, and New York naval militia, in relation to the effectiveness thereof; to amend the military law and the state finance law, in relation to creating the veterans recruiter assistance program; to amend the labor law, in relation to allowing state, county and municipal employees to be compensated for up to 49 days of military deployment per year; to amend the military law, in relation to the service credit time of military personnel; to amend the real property tax law, in relation to veteran eligibility for real property tax exemptions; and providing for the repeal of certain provisions upon expiration thereof

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

Section 1. This act shall be known and may be cited as the "service members recruitment and retention act of 2011".

S 2. The military law is amended by adding a new article 14 to read as follows:

ARTICLE XIV

MILITARY PERSONNEL TUITION ASSISTANCE

SECTION 400. RECRUITMENT INCENTIVE AND RETENTION PROGRAM FOR MEMBERS OF THE NEW YORK STATE ORGANIZED MILITIA.

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

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S 400. RECRUITMENT INCENTIVE AND RETENTION PROGRAM FOR MEMBERS OF THE NEW YORK STATE ORGANIZED MILITIA. THE DIVISION OF MILITARY AND NAVAL AFFAIRS IS AUTHORIZED, WITHIN AMOUNTS APPROPRIATED OR OTHERWISE LAWFULLY AVAILABLE FROM ANY OTHER SOURCE, TO ESTABLISH A RECRUITMENT INCENTIVE AND RETENTION PROGRAM. SUCH PROGRAM, AS ESTABLISHED PURSUANT TO SECTION SIX HUNDRED SIXTY-NINE-B OF THE EDUCATION LAW, SHALL BE FOR THE PURPOSE OF REWARDING MEMBERS OF THE NEW YORK STATE ORGANIZED MILITIA WITH A PUBLIC BENEFIT OF TUITION ASSISTANCE IN THE FURTHERANCE OF THEIR EDUCATION.

S 3. Paragraphs b, e and f of subdivision 2 of section 669-b of the education law, as added by chapter 268 of the laws of 1996, are amended to read as follows:

b. The term "degree producing curriculum" shall mean a series of courses programmed to culminate in a specific post-secondary degree, GRADUATE DEGREE or diploma when successfully completed.

e. The term "part-time study" shall mean enrollment in an approved post-secondary degree, OR GRADUATE DEGREE program for at least six but less than twelve semester hours, or the equivalent per semester, or at least four but less than eight semester hours per quarter in an institution.

f. The term "institution" shall mean any institution of higher education recognized and approved by the regents or the university of the state of New York which provides a course of study leading to the granting of a post-secondary degree, GRADUATE DEGREE or diploma.

S 4. Subdivisions 5 and 7 of section 669-b of the education law, as added by chapter 268 of the laws of 1996, are amended to read as follows:

5. Any active member who currently possesses a [baccalaureate] DOCTORATE degree or higher is ineligible for participation in the recruitment incentive program provided by this section.

7. Upon the recipient's attainment of [a baccalaureate] THE EDUCATIONAL degree or cessation of status as an active member, whichever occurs first, the benefit provided by this section shall be discontinued. The tuition benefit provided by this section may be suspended at the direction of the division of military and naval affairs for a recipient's failure to maintain good military standing as an active member, for the failure to maintain good academic progress and program pursuit, or for the failure to maintain sufficient academic standing to retain eligibility for any other financial assistance the recipient may be receiving.

S 5. Section 5 of chapter 268 of the laws of 1996, amending the education law and the state finance law relating to providing a recruitment incentive and retention program for certain active members of the New York army national guard, New York air national guard, and New York naval militia, as amended by section 1 of part B of chapter 56 of the laws of 2005, is amended to read as follows:

S 5. This act shall take effect January 1, 1997 [and shall expire and be deemed repealed March 31, 2011; provided that any person who has begun to receive the benefits of this act prior to its expiration and repeal shall be entitled to continue to receive the benefits of this act after its expiration and repeal until completion of a baccalaureate degree or cessation of status as an active member, whichever occurs first].

S 6. The military law is amended by adding a new section 262-a to read as follows:

S 262-A. VETERANS RECRUITER ASSISTANTS PROGRAM FOR THE NEW YORK NATIONAL GUARD. 1. THE DIVISION OF MILITARY AND NAVAL AFFAIRS IS AUTHORIZED, WITHIN AMOUNTS APPROPRIATED OR OTHERWISE LAWFULLY AVAILABLE FROM ANY SOURCE, TO ESTABLISH A VETERANS RECRUITER ASSISTANTS PROGRAM FOR THE NEW YORK NATIONAL GUARD.

2. THE TERM "NEW YORK NATIONAL GUARD" SHALL MEAN THE NEW YORK ARMY NATIONAL GUARD AND THE NEW YORK AIR NATIONAL GUARD.

3. A RECRUITING INCENTIVE AWARD NOT TO EXCEED FIVE HUNDRED DOLLARS SHALL BE PAID BY THE DIVISION OF MILITARY AND NAVAL AFFAIRS TO ANY VETERAN WHO HAS BEEN DISCHARGED FROM THE ARMED FORCES OF THE UNITED STATES UNDER CONDITIONS OTHER THAN DISHONORABLE AND WHO FACILITATES THE FIRST-TIME ENLISTMENT OF A QUALIFIED CANDIDATE INTO THE NEW YORK NATIONAL GUARD. ONE-HALF OF THE RECRUITING INCENTIVE AWARD WILL BE PAID TO THE RECRUITING VETERAN AT THE TIME OF THE FIRST-TIME ENLISTMENT OF THE RECRUITED CANDIDATE INTO THE NEW YORK NATIONAL GUARD. THE REMAINING ONE-HALF OF THE AWARD WILL BE PAID TO THE RECRUITING VETERAN AT THE TIME THE ENLISTED RECRUIT BEGINS INITIAL ENTRY TRAINING, ALSO KNOWN AS BASIC MILITARY TRAINING.

4. UNLESS OTHERWISE PROVIDED FOR IN THIS SECTION, ELIGIBILITY FOR THE VETERANS RECRUITING INCENTIVE PROVIDED BY THIS SECTION SHALL BE DETERMINED BY THE ADJUTANT GENERAL OF NEW YORK STATE WHO SHALL PROMULGATE SUCH ADMINISTRATIVE RULES AND PROCEDURES AS ARE NECESSARY TO IMPLEMENT THE RECRUITING INCENTIVE PROVIDED UNDER THIS SECTION.

S 7. The state finance law is amended by adding a new section 91-h to read as follows:

S 91-H. VETERANS RECRUITER ASSISTANTS PROGRAM ACCOUNT. 1. THERE IS HEREBY ESTABLISHED IN THE JOINT CUSTODY OF THE STATE COMPTROLLER AND THE COMMISSIONER OF TAXATION AND FINANCE AN ACCOUNT IN THE MISCELLANEOUS SPECIAL REVENUE FUND TO BE KNOWN AS THE VETERANS RECRUITER ASSISTANTS PROGRAM ACCOUNT.

2. SUCH ACCOUNT SHALL CONSIST OF ALL REVENUES RECEIVED FROM CONTRIBUTIONS, DONATIONS AND ALL OTHER MONEYS CREDITED OR TRANSFERRED THERETO FROM ANY OTHER FUND OR SOURCE PURSUANT TO LAW.

3. MONEYS OF THE ACCOUNT, FOLLOWING APPROPRIATION BY THE LEGISLATURE, MAY BE EXPENDED FOR THE VETERANS RECRUITER ASSISTANTS PROGRAM FOR THE NEW YORK NATIONAL GUARD ESTABLISHED PURSUANT TO SECTION TWO HUNDRED SIXTY-TWO-A OF THE MILITARY LAW. MONEYS SHALL BE PAID OUT OF THE ACCOUNT ON THE AUDIT AND WARRANT OF THE STATE COMPTROLLER ON VOUCHERS CERTIFIED OR APPROVED BY THE ADJUTANT GENERAL OF NEW YORK STATE.

S 8. The division of military and naval affairs shall report on the operation and subsequent effectiveness of the program created by section six of this act, one year after it shall have become law and annually thereafter to the governor, temporary president of the senate and the speaker of the assembly.

S 9. The labor law is amended by adding a new section 194-a to read as follows:

S 194-A. PAY ALLOWANCES FOR TIME SPENT ON MILITARY DUTY; DEDUCTION OF VACATION TIME PROHIBITED. 1. ALL STATE EMPLOYEES WHO ARE MEMBERS OF THE ORGANIZED RESERVE OF THE UNITED STATES ARMED FORCES, INCLUDING THE NATIONAL GUARD OF THIS STATE, SHALL BE ALLOWED FULL PAY FOR ALL TIME NOT IN EXCESS OF FORTY-NINE DAYS PER YEAR SPENT ON DUTY IN CONNECTION WITH RESERVE TRAINING AND INSTRUCTION REQUIREMENTS OF THE ARMED FORCES OF THE UNITED STATES, INCLUDING THE NATIONAL GUARD OF THIS STATE. THIS LEAVE SHALL BE IN ADDITION TO ANY ANNUAL VACATION LEAVE WITH PAY TO WHICH AN EMPLOYEE MAY BE ENTITLED.

2. ALL COUNTY AND MUNICIPAL EMPLOYEES WHO ARE MEMBERS OF THE ORGANIZED RESERVE OF THE UNITED STATES ARMED FORCES, INCLUDING THE NATIONAL GUARD OF THIS STATE, SHALL BE ALLOWED FULL PAY FOR ALL TIME NOT IN EXCESS OF FORTY-NINE DAYS PER YEAR SPENT ON DUTY IN CONNECTION WITH RESERVE TRAINING AND INSTRUCTION REQUIREMENTS OF THE ARMED FORCES OF THE UNITED STATES, INCLUDING THE NATIONAL GUARD OF THIS STATE. THIS LEAVE SHALL BE AT THE DISCRETION OF THE EMPLOYING COUNTY OR MUNICIPALITY AND SHALL BE IN ADDITION TO ANY ANNUAL VACATION LEAVE WITH PAY TO WHICH AN EMPLOYEE MAY BE ENTITLED.

S 10. The military law is amended by adding a new section 244-b to read as follows:

S 244-B. PENSION CREDIT DURING ACTIVE DUTY. NOTWITHSTANDING ANY OTHER PROVISION OF LAW TO THE CONTRARY, ANY PERSON, WHO IS A MEMBER OF ANY PUBLIC RETIREMENT SYSTEM OF THE STATE, CALLED UP FOR ACTIVE DUTY SERVICE AS A MEMBER OF THE:

A. NAVAL MILITIA;

B. NEW YORK STATE GUARD;

C. NEW YORK NATIONAL GUARD;

D. RESERVES; OR

E. UNITED STATES ARMY, NAVY, MARINES, AIR FORCE, OR COAST GUARD, DURING ANY PERIOD FROM SEPTEMBER ELEVENTH, TWO THOUSAND ONE TO THE PRESENT TIME, SHALL BE AWARDED FULL PENSION CREDIT, FOR ALL TIME SO EMPLOYED ON ACTIVE DUTY, AS IF SUCH PERSON WAS EMPLOYED FULL TIME IN THEIR PUBLIC EMPLOYMENT, DURING THE TIME OF SUCH ACTIVE DUTY SERVICE, REGARDLESS OF WHETHER SUCH PERSON RECEIVES ANY WAGES OR SALARY INCOME FROM SUCH PUBLIC EMPLOYMENT DURING SUCH ACTIVE DUTY SERVICE.

S 11. Subdivision 2 of section 458-a of the real property tax law is amended by adding a new paragraph (b-1) to read as follows:

(B-1) EACH COUNTY, CITY, TOWN OR VILLAGE MAY ADOPT A LOCAL LAW TO AUTHORIZE VETERANS WHO HAVE NOT BEEN DISCHARGED OR RELEASED FROM A CURRENT, SUBSEQUENT MILITARY SERVICE PERIOD, BUT OTHERWISE QUALIFY FOR BOTH EXEMPTIONS PROVIDED FOR BY PARAGRAPHS (A) AND (B) OF THIS SUBDIVISION, TO RECEIVE BOTH EXEMPTIONS.

S 12. This act shall take effect immediately, provided, however, that the provisions of sections six, seven and eight of this act shall expire and be deemed repealed five years after the date on which they shall have become a law.