*** § 669-b. Recruitment incentive and retention program for members of the New York state organized militia.** 1. 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.

2. Definitions as used in this section:

a. The term "active member" shall mean a member of a federally recognized unit of the New York army national guard, New York air national guard, or New York naval militia who meets the minimum requirements for satisfactory active membership as set forth in the regulations of the United States departments of the army, navy and air force, as applicable, and the New York state division of military and naval affairs.

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

c. The term "tuition" shall mean the total semester, quarter, or classroom hour cost of instruction to the student as periodically published in the catalogue of the institution, specifically excluding mandatory fees, book charges, and room and board.

d. The term "tuition benefit" shall mean the payment of whatever cost is attributable to the cost of tuition after the deduction of any other available educational grant aid, including the Army Continuing Education System (ACES) (AR-621-5 17 November 1993) and any successor Army regulations, that could defray such cost; however, specifically excluding the federal Montgomery GI Bill.

e. The term "part-time study" shall mean enrollment in an approved post-secondary 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 or diploma.

g. The term "legal resident" shall mean a person whose principal domicile is located within New York state in excess of one hundred eighty-six days per year; excepting active federal military duty.

3. Notwithstanding the provisions of any other general, special, or local law, rule, or regulation, any active member who has successfully completed advanced individual training or commissioning and other requirements of the division of military and naval affairs for tuition benefit eligibility shall be entitled to the tuition benefit provided by this section upon his or her enrollment in a degree producing curriculum in any institution.

4. Unless otherwise provided for in this section, eligibility for the tuition benefit provided by this section shall be determined by the education services offices of the division of military and naval affairs, which shall issue certificates of eligibility and promulgate such administrative rules and procedures as are necessary to implement the tuition benefit provided under this section. Such administrative rules and procedures shall include in the factors for the determination of eligibility for the tuition benefit provided by this section the fulfillment of the contractual obligation and commitments for service in the New York army national guard, New York air national guard and New York naval militia.

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

5-a. Notwithstanding the provisions of subdivision three of this section, the adjutant general may, as defined in agency regulation, and within appropriated amounts, allow active members who have not completed basic or advanced individual training or commissioning to participate in

the recruitment incentive program.

5-b. Notwithstanding the provisions of any other general, special or local law, rule or regulation, a recipient who has failed to successfully complete his or her term of enlistment, if such failure is not due to causes beyond his or her control as determined by the adjutant general or his designee, shall be ineligible to participate in the tuition benefit provided by this section. Monies expended by the administrating agency of such benefit shall be reimbursed to the state in the full amount by the former recipient within one year of termination of active membership.

5-c. Notwithstanding the provisions of any other general, special or local law, a recipient who has successfully completed his or her term of enlistment due to having served in a combat theater or combat zone of operations, shall be eligible to continue to participate in the tuition benefit provided by this section, if such recipient was enrolled in said benefit prior to deployment in a combat theater or combat zone of operations.

6. The tuition benefit provided by this section shall be restricted to legal residents of the state. The benefit may be used for either part-time or full-time study. No restriction as to sessions, student status, or space availability which does not apply to all students shall be placed by institutions upon recipients under this program.

7. Upon the recipient's attainment of a baccalaureate 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.

8. Unless otherwise provided for in this section, the tuition benefit

shall be on the terms and conditions set by the division of military and naval affairs, provided that any such benefit shall not exceed an amount equal to the actual annual tuition charged to the recipient or the tuition charged by the state university of New York, whichever is less, offset by any financial assistance and any other resources available through the national guard or the division of military and naval affairs on behalf of the recipient, including the Army Continuing Education System (ACES) (AR-621-5 17 November 1993) and any successor Army regulations, and the total of all other state, federal, or other educational grant aid that is received or receivable by such student during the school year for which such benefit is applicable. For the purposes of this subdivision, benefits available under the federal Montgomery GI Bill act of 1984 shall not be considered as federal or other educational aid.

9. Any active member who is eligible for the tuition benefit provided by this section must apply for all other available state, federal, including the Army Continuing Education System (ACES) (AR-621-5 17 November 1993) and any successor Army regulations, or other educational grant aid at time of enrollment. The division of military and naval affairs shall access all financial assistance available on behalf of all such active members. Any grant aid or financial assistance received, excluding that of the Montgomery GI Bill Act of 1984, shall be utilized to offset the cost of tuition to the maximum extent possible, except that nothing shall require that aid or assistance received which may be used towards costs other than that of tuition shall be applied toward the cost of tuition.

10. The tuition benefit provided by this section shall be effective beginning with the school semester or quarter following its enactment into law.

* NB Repealed September 1, 2031