

Department of Planning and Budget

2002 Fiscal Impact Statement

1. Bill Number HB43

House of Origin ☒ Introduced ☐ Substitute ☐ Engrossed
Second House ☐ In Committee ☐ Substitute ☐ Enrolled

2. Patron Hamilton

3. Committee Appropriations

4. Title In-state tuition for spouses and dependents of active military personnel.

5. Summary/Purpose: The proposed legislation amends §23-7.4:2 of the *Code of Virginia* to allow spouses and dependents of military personnel residing in Virginia and claiming residency in another state to attend public institutions of higher education at in-state tuition rates. The legislation also provides that such students shall be counted as in-state students for admissions, enrollment and tuition and fee revenue policy purposes.

6. Fiscal Impact Estimates are: Final

6a. Expenditure Impact:

<i>Fiscal Year</i>	<i>Dollars</i>	<i>Positions</i>	<i>Fund</i>
2002-03	\$8.6 million		GF
2003-04	\$9.3 million		GF

6b. Revenue Impact:

<i>Fiscal Year</i>	<i>Dollars</i>	<i>Positions</i>	<i>Fund</i>
2002-03	(\$8.6 million)		NGF
2003-04	(\$9.3 million)		NGF

7. Budget amendment necessary: Yes, to offset the reduction in tuition and fee revenues at affected institutions.

8. Fiscal implications: Implementation of this legislation would result in reduced non-general fund (tuition and fee) revenues to the affected institutions of higher education. General fund support would be required to offset this loss of non-general fund revenues.

From 1989 to 1994 a provision of the *Code of Virginia* allowed the spouse or dependent of a member of the armed forces stationed in Virginia but claiming residency in another state to receive in-state rates at Virginia's public institutions of higher education. The General Assembly provided general fund support to offset the lost tuition and fee revenue resulting from this provision. When the general fund offset approached \$5 million, the General Assembly suspended this provision of the *Code*, eliminating the entitlement to in-state rates and removing all general fund offset support. (See *Other Comments* below for additional background information.) The State Council of Higher Education for Virginia (SCHEV) maintained records from the revenue offsets provided by the General Assembly in the early 1990's. Based on these data, using the same number of military spouses and dependents but adjusting tuition and fee to the current in-state and out-of-state rates, the current cost of

providing this benefit to military personnel is estimated at \$17.9 million for the FY2002 biennium.

-04

- 9. Specific agency or political subdivisions affected** : Affected institutions include CNU, CWM, GMU, JMU, MWC, NSU, ODU, UVA, VCU, VPI, RBC and VCCS. Those institutions most seriously affected are VCCS with a \$5.3 million biennial impact, ODU with a \$4.4 million dollar impact, and CNU with a \$2.2 million dollar impact and GMU with a \$1.9 million dollar impact.

10. Technical amendment necessary: None

11. Other comments: The following provides background information on this legislation.

As presently enacted, §23-7.4:2.A.(i),(ii), and (iii) of the *Code of Virginia* provides for in-state tuition rates for members of the military stationed in Virginia and their families under certain conditions:

- Section 23-7.4B. allows active duty military personnel stationed in Virginia to waive the one-year Virginia residency requirement, and to voluntarily elect to establish Virginia as their permanent residence. This would make such military personnel and their dependents immediately eligible for in-state tuition rates. It also makes such personnel eligible to pay state income taxes.
- Section 23-7.4:2.A.(i) allows a child of a member of the armed forces stationed in Virginia, but claiming residency in another state, to receive in-state tuition rates if the nonmilitary parent shall have lived and worked full-time in Virginia for at least one year prior to the request for the child's in-state tuition, and that no nonmilitary parent shall have paid individual state income taxes for that period.
- Section 23-7.4:2.A.(ii) allows the spouse of a member of the armed forces stationed in Virginia, but claiming residency in another state, to receive in-state tuition rates if the spouse shall have lived and worked full-time in Virginia for at least one year prior to the request for the in-state tuition, and that spouses shall have paid individual state income taxes for that period.
- Section 23-7.4:2.A.(iii), added in 1988, allows the spouse or dependent of a member of the armed forces stationed in Virginia, but claiming residency in another state, to receive in-state tuition rates for one year so long as either parent continues to live in Virginia, even if neither claims residency nor pays state income taxes.
- The existing 23-7.4:2.A.(iii) also directs that such dependents provided in-state tuition for one year during the period the military parent or spouse is residing in Virginia shall be counted as out-of-state students for admissions, enrollment, and tuition and fee revenue policy purposes.
- Section 4-2.01.b.4. of Chapter 1, the 1998 Appropriation Act, suspended the entitlement to in-state tuition charges referenced in Paragraph A.(iii.) of 23-7.4:2 of the *Code of Virginia* during the 1998-2000 biennium. This continued a policy of suspending this section of the Code included in Chapter 966, the 1994 Appropriation Act. From FY1989 to FY1994, the General Assembly had provided funds to the institutions of higher education to offset the lost revenue due to this policy (the difference between out-of-state and in-state tuition rates). However, as more individuals took advantage of this policy, the cost of such an offset continued to rise. It

was estimated that it would take approximately \$5 million in general fund support to replace the tuition revenue lost by this section of the Code in FY1995. Furthermore, any of the dependents requesting in-state tuition under §23-7.4:2.A.(iii) could have received in-state tuition rates if their military parent had opted to declare residency and pay state individual income taxes as provided for in §23-7.4:2.B. of the Code (above).

The proposed legislation would

- Eliminate §23-7.4:2.A.(iii), nullifying the suspension included in the Appropriation Act;
- Modify the language in §§23-7.4:2.A.(ii) and (ii) such that spouses and dependents of military personnel stationed in Virginia, but claiming a state other than Virginia as their state of legal residence, would still be entitled to in-state tuition rates if that spouse or the nonmilitary parent of the dependent were registered to vote in Virginia;
- Provide that such student would be entitled to in-state tuition rates not just for one year but for as long as the military parent is stationed in Virginia ;
- Direct that such students must be counted as in-state students for admissions, enrollment and tuition and fee revenue policy purposes.

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cc: Secretary of Education