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HOUSE BILL NO. 1882

Offered January 11, 2023

Prefiled January 10, 2023

A BILL to amend and reenact § 23.1-610 of the Code of Virginia and to amend the Code of Virginia by adding in Article 3 of Chapter 1 of Title 44 a section numbered 44-41.3, relating to Virginia National Guard member benefits; health savings accounts.

Patron—Freitas

Referred to Committee on Public Safety

Be it enacted by the General Assembly of Virginia:

1. That § 23.1-610 of the Code of Virginia is amended and reenacted and that the Code of Virginia is amended by adding in Article 3 of Chapter 1 of Title 44 a section numbered 44-41.3 as follows:

§ 23.1-610. Members of the National Guard; grants.

A. Any individual who (i) is a member of the Virginia National Guard and has a minimum remaining obligation of two years, (ii) has satisfactorily completed required initial active duty service, (iii) is satisfactorily performing duty in accordance with regulations of the National Guard, and (iv) is enrolled in any course or program at any public institution of higher education or accredited nonprofit private institution of higher education whose primary purpose is to provide collegiate or graduate education and not to provide religious training or theological education is eligible for a grant in the amount of the difference between the full cost of tuition and any other educational benefits for which he is eligible as a member of the National Guard. Grants provided under this section shall be subject to limitation based on the amount of funds appropriated for such purpose. If applications for grants exceed the amount of funding appropriated, the Department of Military Affairs (the Department) shall issue grants to eligible recipients based on the order in which applications were received.

B. Application for a grant shall be made to the Department of Military Affairs (the Department) no later than 30 days prior to the beginning of an academic semester. The Department shall determine whether an applicant is eligible for the grant as described in subsection A and communicate acceptance and any additional requirements determined by the Department in writing no later than 30 days after receipt of an application. Applicants eligible for a grant pursuant to this section shall:

1. Satisfy all financial obligations with the institution of higher education at the beginning of each semester; and

2. Provide written proof of acceptable academic performance and good standing with the institution of higher education for the current term to the Department no later than 30 days following the end of a term or semester. Upon the receipt of proof of academic performance and continued good standing to the Department, the Department shall issue grants in a manner and amount that is consistent with regulations promulgated by the Adjutant General. As used in this subdivision, "academic performance" means (i) achieving a passing grade in each course during the semester and (ii) maintaining a cumulative grade point average of at least 2.0 on a scale of 4.0 or its equivalent, and "good standing" means that the individual has fulfilled all obligations to the institution of higher education.

C. Any member of the Virginia National Guard receiving grants under this section shall incur a single two-year service obligation to the Virginia National Guard. The two-year obligation shall commence on the last day of the last term or semester for which tuition assistance was awarded. Service in the inactive National Guard, the active duty or reserve forces of the United States, or the National Guard of any other state shall not count as applicable service toward fulfilling this incurred service obligation. Federal active duty mobilizations occurring while still a member of the Virginia National Guard and state active duty for the Commonwealth shall count toward the two-year service obligation.

D. The Department may utilize grant funding in order to recruit qualified applicants for service in the Virginia National Guard. The yearly funding amount for such recruitment shall be at the discretion of the Adjutant General and the Department and not exceed \$50,000 per fiscal year.

E. Any member of the Virginia National Guard receiving a benefit pursuant to § 44-41.3 shall not be eligible to receive any grant pursuant to this section in the same year.

§ 44-41.3. Health savings accounts for members of the National Guard.

A. For the purposes of this section:

"Department" means the Department of Military Affairs.

"Member" means a member of the Virginia National Guard.

"Health savings account" means the same as that term is defined in § 38.2-5604.

B. The Department shall establish a health savings account for any individual who (i) is a member

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59 *and has a minimum remaining obligation of two years, (ii) has satisfactorily completed required initial*
60 *active duty service, (iii) is satisfactorily performing duty in accordance with regulations of the National*
61 *Guard, (iv) is eligible for such an account pursuant to § 223 of the Internal Revenue Code, and (v)*
62 *elects to receive a benefit under this section in lieu of a grant under § 23.1-610. The Department shall*
63 *contribute an amount equal to any contribution made by the member up to the maximum yearly*
64 *contribution allowable under § 223 of the Internal Revenue Code.*

65 *C. In the event that a member ceases to be eligible for a health savings account under § 223 of the*
66 *Internal Revenue Code, whether by reason of being called to active duty military service or otherwise,*
67 *the Department shall cease making contributions to the account and shall provide notice to the member*
68 *of the loss of eligibility.*

69 *D. The Department may establish the health savings accounts required by this section with any*
70 *provider of such accounts pursuant to § 38.2-5602.1.*