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SENATE BILL NO. 121

Offered January 11, 2006

Prefiled January 10, 2006

A BILL to amend and reenact § 23-7.4:2 of the Code of Virginia, relating to eligibility for in-state tuition for members of the military and their spouses and dependents.

Patron—O'Brien

Referred to Committee on Education and Health

Be it enacted by the General Assembly of Virginia:

1. That § 23-7.4:2 of the Code of Virginia is amended and reenacted as follows:

§ 23-7.4:2. Eligibility for in-state or reduced tuition for students not domiciled in Virginia; tuition grants for members of the National Guard of the Commonwealth of Virginia.

A. A nonmilitary student whose parent or spouse is a member of the armed forces *Military personnel and their dependents* may establish domicile in the same manner as any other student. However, a ~~nonmilitary student~~, all military personnel on active duty for more than 30 days, both regular and reserves, who are domiciled in Virginia or are assigned to a permanent duty station in Virginia and their dependents living in Virginia, who are not otherwise eligible for in-state tuition; whose parent or spouse is a member of the military residing in the Commonwealth pursuant to military orders and claiming a state other than Virginia on his State of Legal Residence Certificate, shall be entitled to in-state tuition charges when the following conditions are met: (i) if the student is a child of a member of the armed forces, then the nonmilitary parent shall have, for at least one year immediately prior to the date of alleged entitlement for in-state tuition charges, resided in Virginia, been employed full time and paid individual income taxes to Virginia. Such student shall be eligible for in-state tuition charges only if the nonmilitary parent claims him as a dependent for Virginia and federal income tax purposes, as evidenced by claiming him as a dependent on an individual or joint return; or (ii) if the student is the spouse of a member of the armed forces, then such student shall have, for at least one year immediately prior to the date of alleged entitlement for in-state tuition, resided in Virginia, been employed full time and paid individual income taxes to Virginia; or (iii) if the student is the child or the spouse of a member of the armed forces, then the student shall be entitled to in-state tuition charges for a maximum of one year during the period that the military parent or spouse is residing in the Commonwealth. Any student whose spouse or parent is a member of the armed forces shall be eligible for in-state tuition charges for so long as the conditions of clauses (i) and (ii) of this subsection continue to be met. *shall be entitled to in-state tuition for as long as they are continuously enrolled. Military personnel and their dependents provided in-state tuition for one year during the period the military parent or spouse is residing in Virginia under the provisions of this subsection shall be counted as out-of-state students for admissions, enrollment and tuition and fee revenue policy purposes.*

B. Students who live outside this Commonwealth and have been employed full time inside Virginia for at least one year immediately prior to the date of the alleged entitlement for in-state tuition shall be eligible for in-state tuition charges if such student has paid Virginia income taxes on all taxable income earned in this Commonwealth for the tax year prior to the date of the alleged entitlement. Students claimed as dependents for federal and Virginia income tax purposes who live outside this Commonwealth shall become eligible for in-state tuition charges if the nonresident parents claiming them as dependents have been employed full time inside Virginia for at least one year immediately prior to the date of the alleged entitlement and paid Virginia income taxes on all taxable income earned in this Commonwealth for the tax year prior to the date of the alleged entitlement. Such students shall continue to be eligible for in-state tuition charges for so long as they or their qualifying parent is employed full time in Virginia, paying Virginia income taxes on all taxable income earned in this Commonwealth and the student is claimed as a dependent for Virginia and federal income tax purposes.

C. Any person who (i) is a member of the National Guard of the Commonwealth of Virginia 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 state institution of higher education, any private, accredited and nonprofit institution of higher education in the Commonwealth whose primary purpose is to provide collegiate or graduate education and not to provide religious training or theological education, any course or program offered by any such institution or any public career and technical education school shall be 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. Application for a grant shall be made to the

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59 Department of Military Affairs. Grants shall be awarded from funds available for the purpose by such
60 Department.

61 D. Notwithstanding the provisions of § 23-7.4 or any other provision of the law to the contrary, the
62 governing board of any state institution of higher education or the governing board of the Virginia
63 Community College System may charge the same tuition as is charged to any person domiciled in
64 Virginia pursuant to the provisions of § 23-7.4 to:

65 1. Any person enrolled in one of the institution's programs designated by the State Council of Higher
66 Education who is domiciled in and is entitled to reduced tuition charges in the institutions of higher
67 learning in any state which is a party to the Southern Regional Education Compact which has similar
68 reciprocal provisions for persons domiciled in Virginia;

69 2. Any student from a foreign country who is enrolled in a foreign exchange program approved by
70 the state institution during the same period that an exchange student from the same state institution, who
71 is entitled to in-state tuition pursuant to § 23-7.4, is attending the foreign institution; and

72 3. Any high school or magnet school student, not otherwise qualified for in-state tuition, who is
73 enrolled in courses specifically designed as part of the high school or magnet school curriculum in a
74 community college for which he may, upon successful completion, receive high school and community
75 college credit pursuant to a dual enrollment agreement between the high school or magnet school and
76 the community college.

77 E. The governing board of the Virginia Community College System may charge reduced tuition to
78 any person enrolled in one of the System's institutions who lives within a 30-mile radius of a Virginia
79 institution, is domiciled in, and is entitled to in-state tuition charges in the institutions of higher learning
80 in any state which is contiguous to Virginia and which has similar reciprocal provisions for persons
81 domiciled in Virginia.

82 F. The board of the University of Virginia's College at Wise and the board of visitors of the
83 University of Virginia may charge reduced tuition to any person enrolled at the University of Virginia's
84 College at Wise who lives within a 50-mile radius of the University of Virginia's College at Wise, is
85 domiciled in, and is entitled to in-state tuition charges in the institutions of higher learning in Kentucky,
86 if Kentucky has similar reciprocal provisions for persons domiciled in Virginia.

87 In addition, the board of the University of Virginia's College at Wise and the board of visitors of the
88 University of Virginia may charge reduced tuition to any person enrolled at the University of Virginia's
89 College at Wise who lives within a 50-mile radius of the University of Virginia's College at Wise, is
90 domiciled in, and is entitled to in-state tuition charges in the institutions of higher learning in Tennessee,
91 if Tennessee has similar reciprocal provisions for persons domiciled in Virginia. The board of the
92 University of Virginia's College at Wise and its partners or associates offering programs jointly at a
93 regional off-campus center may also charge reduced tuition to any person enrolled in such joint
94 programs who lives within a 50-mile radius of the University of Virginia's College at Wise, is domiciled
95 in, and is entitled to in-state tuition charges in the institutions of higher learning in Tennessee, if
96 Tennessee has similar reciprocal provisions for persons domiciled in Virginia. Any such respective
97 partners or associates shall establish and charge separately tuition rates for their independent classes or
98 programs at such regional centers.

99 Any out-of-state students granted in-state tuition pursuant to this subsection and subsection E shall be
100 counted as out-of-state students for the purposes of determining admissions, enrollment, and tuition and
101 fee revenue policies.

102 G. Public institutions of higher education may enter into special arrangement contracts with Virginia
103 employers or authorities controlling federal installations or agencies located in Virginia. The special
104 arrangement contracts shall be for the purpose of providing reduced rate tuition charges for the
105 employees of the Virginia employers or federal personnel when the employers or federal authorities are
106 assuming the liability for paying, to the extent permitted by federal law, the tuition for the employees or
107 personnel in question and the employees or personnel are classified by the requirements of this section
108 as out-of-state.

109 Special arrangement contracts with Virginia employers or federal installations or agencies may be for
110 group instruction in facilities provided by the employer or federal authority or in the institution's
111 facilities or on a student-by-student basis for specific employment-related programs.

112 Special arrangement contracts shall be valid for a period not to exceed two years and shall be
113 reviewed for legal sufficiency by the Office of the Attorney General prior to signing. All rates agreed to
114 by the public institutions shall be at least equal to in-state tuition and shall only be granted by the
115 institution with which the employer or the federal authorities have a valid contract for students for
116 whom the employer or federal authorities are paying the tuition charges.

117 All special arrangement contracts with authorities controlling federal installations or agencies shall
118 include a specific number of students to be served at reduced rates.

119 Nothing in this subsection shall change the domiciliary status of any student for the purposes of
120 enrollment reporting or calculating the proportions of general funds and tuition and fees contributed to

121 the cost of education.