

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2003

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HOUSE DRH80410-RK-44\* (4/23)

Short Title: In-State Tuition for Military Reservists. (Public)

Sponsors: Representatives Sutton; K. Williams, Pate, Warner, Lucas, and C. Johnson.

Referred to:

A BILL TO BE ENTITLED

AN ACT TO AUTHORIZE IN-STATE TUITION FOR MEMBERS OF THE RESERVE COMPONENTS WHO ARE ASSIGNED TO UNITS LOCATED IN NORTH CAROLINA.

The General Assembly of North Carolina enacts:

**SECTION 1.** G.S. 116-143.1 reads as rewritten:

**"§ 116-143.1. Provisions for determining resident status for tuition purposes.**

(a) As defined under this section:

(1) A "legal resident" or "resident" is a person who qualifies as a domiciliary of North Carolina; a "nonresident" is a person who does not qualify as a domiciliary of North Carolina.

(2) A "resident for tuition purposes" is a person who qualifies for the in-State tuition rate; a "nonresident for tuition purposes" is a person who does not qualify for the in-State tuition rate.

(3) "Institution of higher education" means any of the constituent institutions of the University of North Carolina and the community colleges under the jurisdiction of the State Board of Community Colleges.

(b) To qualify as a resident for tuition purposes, a person must have established legal residence (domicile) in North Carolina and maintained that legal residence for at least 12 months immediately prior to his or her classification as a resident for tuition purposes. Every applicant for admission shall be required to make a statement as to his length of residence in the State.

(c) To be eligible for classification as a resident for tuition purposes, a person must establish that his or her presence in the State currently is, and during the requisite 12-month qualifying period was, for purposes of maintaining a bona fide domicile

1 rather than of maintaining a mere temporary residence or abode incident to enrollment  
2 in an institution of higher education.

3 (d) An individual shall not be classified as a resident for tuition purposes and,  
4 thus, not rendered eligible to receive the in-State tuition rate, until he or she has  
5 provided such evidence related to legal residence and its duration as may be required by  
6 officials of the institution of higher education from which the individual seeks the  
7 in-State tuition rate.

8 (e) When an individual presents evidence that the individual has living parent(s)  
9 or court-appointed guardian of the person, the legal residence of such parent(s) or  
10 guardian shall be prima facie evidence of the individual's legal residence, which may be  
11 reinforced or rebutted relative to the age and general circumstances of the individual by  
12 the other evidence of legal residence required of or presented by the individual;  
13 provided, that the legal residence of an individual whose parents are domiciled outside  
14 this State shall not be prima facie evidence of the individual's legal residence if the  
15 individual has lived in this State the five consecutive years prior to enrolling or  
16 reregistering at the institution of higher education at which resident status for tuition  
17 purposes is sought.

18 (f) In making domiciliary determinations related to the classification of persons  
19 as residents or nonresidents for tuition purposes, the domicile of a married person,  
20 irrespective of sex, shall be determined, as in the case of an unmarried person, by  
21 reference to all relevant evidence of domiciliary intent. For purposes of this section:

22 (1) No person shall be precluded solely by reason of marriage to a person  
23 domiciled outside North Carolina from establishing or maintaining  
24 legal residence in North Carolina and subsequently qualifying or  
25 continuing to qualify as a resident for tuition purposes;

26 (2) No persons shall be deemed solely by reason of marriage to a person  
27 domiciled in North Carolina to have established or maintained a legal  
28 residence in North Carolina and subsequently to have qualified or  
29 continued to qualify as a resident for tuition purposes;

30 (3) In determining the domicile of a married person, irrespective of sex,  
31 the fact of marriage and the place of domicile of his or her spouse shall  
32 be deemed relevant evidence to be considered in ascertaining  
33 domiciliary intent.

34 (g) Any nonresident person, irrespective of sex, who marries a legal resident of  
35 this State or marries one who later becomes a legal resident, may, upon becoming a  
36 legal resident of this State, accede to the benefit of the spouse's immediately precedent  
37 duration as a legal resident for purposes of satisfying the 12-month durational  
38 requirement of this section.

39 (h) No person shall lose his or her resident status for tuition purposes solely by  
40 reason of serving in the armed forces outside this State.

41 (h1) Any member of a North Carolina National Guard unit or a member of a  
42 Reserve Component Unit based in North Carolina who is a nonresident shall be eligible  
43 to be charged the in-State tuition rate and shall pay the full amount of the in-State

1 tuition rate and applicable mandatory fees. This subsection applies to members in a  
2 reserve or active duty status.

3 (i) A person who, having acquired bona fide legal residence in North Carolina,  
4 has been classified as a resident for tuition purposes but who, while enrolled in a State  
5 institution of higher education, loses North Carolina legal residence, shall continue to  
6 enjoy the in-State tuition rate for a statutory grace period. This grace period shall be  
7 measured from the date on which the culminating circumstances arose that caused loss  
8 of legal residence and shall continue for 12 months; provided, that a resident's marriage  
9 to a person domiciled outside of North Carolina shall not be deemed a culminating  
10 circumstance even when said resident's spouse continues to be domiciled outside of  
11 North Carolina; and provided, further, that if the 12-month period ends during a  
12 semester or academic term in which such a former resident is enrolled at a State  
13 institution of higher education, such grace period shall extend, in addition, to the end of  
14 that semester or academic term.

15 (j) Notwithstanding the prima facie evidence of legal residence of an individual  
16 derived pursuant to subsection (e), notwithstanding the presumptions of the legal  
17 residence of a minor established by common law, and notwithstanding the authority of a  
18 judicially determined custody award of a minor, for purposes of this section, the legal  
19 residence of a minor whose parents are divorced, separated, or otherwise living apart  
20 shall be deemed to be North Carolina for the time period relative to which either parent  
21 is entitled to claim and does in fact claim the minor as a dependent for North Carolina  
22 individual income tax purposes. The provisions of this subsection shall pertain only to a  
23 minor who is claimed as a dependent by a North Carolina legal resident.

24 Any person who immediately prior to his or her eighteenth birthday would have  
25 been deemed under this subsection a North Carolina legal resident but who achieves  
26 majority before enrolling at an institution of higher education shall not lose the benefit  
27 of this subsection if that person:

- 28 (1) Upon achieving majority, acts, to the extent that the person's degree of  
29 actual emancipation permits, in a manner consistent with bona fide  
30 legal residence in North Carolina; and
- 31 (2) Begins enrollment at an institution of higher education not later than  
32 the fall academic term next following completion of education  
33 prerequisite to admission at such institution.

34 (k) Notwithstanding other provisions of this section, a minor who satisfies the  
35 following conditions immediately prior to commencement of an enrolled term at an  
36 institution of higher education, shall be accorded resident tuition status for that term:

- 37 (1) The minor has lived for five or more consecutive years continuing to  
38 such term in North Carolina in the home of an adult relative other than  
39 a parent, domiciled in this State; and
- 40 (2) The adult relative has functioned during those years as a de facto  
41 guardian of the minor and exercised day-to-day care, supervision, and  
42 control of the minor.

43 A person who immediately prior to his or her eighteenth birthday qualified for or  
44 was accorded resident status for tuition purposes pursuant to this subsection shall be

1 deemed upon achieving majority to be a legal resident of North Carolina of at least 12  
2 months' duration; provided, that the legal residence of such an adult person shall be  
3 deemed to continue in North Carolina only so long as the person does not abandon legal  
4 residence in this State.

5 (l) Any person who ceases to be enrolled at or graduates from an institution of  
6 higher education while classified as a resident for tuition purposes and subsequently  
7 abandons North Carolina domicile shall be permitted to reenroll at an institution of  
8 higher education as a resident for tuition purposes without necessity of meeting the  
9 12-month durational requirement of this section if the person reestablishes North  
10 Carolina domicile within 12 months of abandonment of North Carolina domicile and  
11 continuously maintains the reestablished North Carolina domicile at least through the  
12 beginning of the academic term(s) for which in-State tuition status is sought. The  
13 benefit of this subsection shall be accorded not more than once to any one person."

14 **SECTION 2.** This act becomes effective July 1, 2004.