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SENATE BILL DRS35106-NB-55

Short Title: National Guard Modifications/Omnibus. (Public)

Sponsors: Senators Britt, Daniel, and Ford (Primary Sponsors).

Referred to:

1 A BILL TO BE ENTITLED  
2 AN ACT TO TRANSFER THE NORTH CAROLINA NATIONAL GUARD TUITION  
3 ASSISTANCE PROGRAM FROM THE STATE EDUCATION ASSISTANCE  
4 AUTHORITY TO THE DEPARTMENT OF PUBLIC SAFETY, TO CODIFY THE  
5 TARHEEL CHALLENGE ACADEMY, TO MAKE CHANGES TO THE BUTNER  
6 TIMBER FUND SALE PROCEEDS, AND TO MAKE CHANGES TO THE NORTH  
7 CAROLINA NATIONAL GUARD RESERVE JOBS ACT.

8 The General Assembly of North Carolina enacts:

9  
10 **PART I. TRANSFER TUITION ASSISTANCE PROGRAM**

11 **SECTION 1.(a)** The North Carolina National Guard Tuition Assistance Program  
12 administered by the State Education Assistance Authority is transferred to the Department of  
13 Public Safety. This transfer shall have all of the elements of a Type I transfer, as defined in  
14 G.S. 143A-6. The State Education Assistance Authority shall transfer all associated program  
15 administration funds to the Department of Public Safety.

16 **SECTION 1.(b)** Part 2 of Article 23 of Chapter 116 of the General Statutes,  
17 G.S. 116-209.50 through G.S. 116-209.55, is recodified as Article 15 of Chapter 127A of the  
18 General Statutes, G.S. 127A-190 through G.S. 127A-195.

19 **SECTION 1.(c)** Article 15 of Chapter 127A of the General Statutes, as recodified as  
20 Article 15 of Chapter 127A of the General Statutes by subsection (b) of this section, reads as  
21 rewritten:

22 "Article 15.

23 "North Carolina National Guard Tuition Assistance Act of 1975.

24 **"§ 127A-190. Short title.**

25 This ~~Part~~ Article shall be known and may be cited as the North Carolina National Guard  
26 Tuition Assistance Act of 1975.

27 **"§ 127A-191. Purpose.**

28 The General Assembly of North Carolina, recognizing that the North Carolina National  
29 Guard is the only organized, trained and equipped military force subject to the control of the  
30 State, hereby establishes a program of tuition assistance for qualifying guard members for the  
31 purpose of encouraging voluntary membership in the North Carolina National Guard, improving  
32 the educational level of its members, and thereby benefiting the State as a whole.

33 **"§ 127A-192. Definitions.**

34 The following definitions apply in this Part:

- 35 (1) Academic Year. – The annual enrollment period used by the Authority.



- 1 (2) Private Educational Institutions. – Any junior college, senior college or  
2 university which is operated and governed by private interests not under the  
3 control of the federal, State or any local government, which is located within  
4 and licensed by the State of North Carolina, which does not operate for profit,  
5 whose curriculum is primarily directed toward the awarding of associate,  
6 baccalaureate or graduate degrees, which agrees to the applicable  
7 administration and funding provisions of this Part.
- 8 (3) Proprietary School. – An educational institution that is (i) defined as a  
9 proprietary school in G.S. 115D-87(2), (ii) licensed by the State Board of  
10 Community Colleges, ~~and or~~ (iii) listed by the North Carolina State Approving  
11 Agency for Veterans and Military Education as an approved proprietary  
12 school for purposes of this Part.
- 13 (3a) Secretary. – The Secretary of Public Safety or his or her designee.
- 14 (4) State Educational Institutions. – Any of the constituent institutions of the  
15 University of North Carolina, or any community college operated under the  
16 provisions of Chapter 115D of the General Statutes of North Carolina.
- 17 (5) Student Loan. – A loan or loans made to eligible students or parents of  
18 students to aid in attaining an education beyond the high school level.

19 **"§ 127A-193. Benefit.**

20 The benefit provided under this ~~Part~~ Article shall consist of a monetary educational assistance  
21 grant not to exceed the highest amount charged by a State educational institution per academic  
22 year or a lesser amount, as prescribed by the ~~Authority, Secretary,~~ to remain within the funds  
23 appropriated, to qualifying members of the North Carolina National Guard. Benefits provided  
24 under ~~G.S. 116-209.55(g)~~ G.S. 127A-195(g) shall be payable for a period of one year at a time,  
25 renewable at the option of the ~~Authority, Secretary.~~ All other benefits provided under this ~~Part~~  
26 Article shall be payable for a period of one academic year at a time, renewable at the option of  
27 the ~~Authority, Secretary.~~

28 **"§ 127A-194. Eligibility.**

29 (a) Active members of the North Carolina National Guard who are enrolled or who shall  
30 enroll in any proprietary school, private educational institution, or State educational institution  
31 shall be eligible to apply for this tuition assistance benefit: Provided, that the applicant has a  
32 minimum obligation of two years remaining as a member of the North Carolina National Guard  
33 from the end of the academic period for which tuition assistance is provided or that the applicant  
34 commit himself or herself to extended membership for at least two additional years from the end  
35 of that academic period.

36 (b) This tuition assistance benefit shall be applicable to students in the following  
37 categories:

- 38 (1) Students seeking to achieve completion of their secondary school education  
39 at a community college or technical institute.
- 40 (2) Students seeking trade or vocational training or education.
- 41 (3) Students seeking to achieve a two-year associate degree.
- 42 (4) Students seeking to achieve a four-year baccalaureate degree.
- 43 (5) Students seeking to achieve a graduate degree.
- 44 (6) Students enrolled in a program granting a graduate certificate.
- 45 (7) Students enrolled in a professional certification program recommended by the  
46 Director of the North Carolina National Guard Education and Employment  
47 Center and approved by the North Carolina National Guard Education  
48 Services Officer.

49 (c) The following persons shall be eligible to apply for disbursements to pay outstanding  
50 student loans pursuant to ~~G.S. 116-209.55(g)~~ G.S. 127A-195(g):

- 51 (1) Persons described in subsections (a) and (b) of this section.

- 1 (2) Active members of the North Carolina National Guard who were previously  
2 enrolled in any proprietary school, private educational institution, or State  
3 educational institution, but only if:  
4 a. The applicant has a minimum obligation of two years remaining as a  
5 member of the North Carolina National Guard from the time of the  
6 application; or  
7 b. The applicant commits himself or herself to extended membership for  
8 at least two additional years from the time of the application.

9 **"§ 127A-195. Administration and funding.**

10 (a) ~~The Authority-Secretary~~ is charged with the administration of the tuition assistance  
11 program under this Part. ~~The Secretary may delegate administrative tasks to other persons within~~  
12 ~~the Department of Public Safety as the Secretary deems best for the orderly administration of this~~  
13 ~~program.~~

14 (b) ~~The Authority-Secretary~~ shall determine the eligibility of applicants, select the benefit  
15 recipients, establish the effective date of the benefit, and may suspend or revoke the benefit if the  
16 ~~Authority-Secretary~~ finds that the recipient does not maintain an adequate academic status, or if  
17 the recipient engages in riots, unlawful demonstrations, the seizure of educational buildings, or  
18 otherwise engages in disorderly conduct, breaches of the peace, or unlawful assemblies. The  
19 ~~Authority-Secretary~~ shall maintain such records and shall promulgate such rules and regulations  
20 as the ~~Authority-Secretary~~ deems necessary for the orderly administration of this program. The  
21 ~~Authority-Secretary~~ may require of proprietary schools or State or private educational institutions  
22 such reports and other information as the ~~Authority-Secretary~~ may need to carry out the  
23 provisions of this ~~Part Article~~ and the ~~Authority-Secretary~~ shall disburse benefit payments for  
24 recipients upon certification of enrollment by the enrolling institutions.

25 (c) All tuition benefit disbursements shall be made to the proprietary school or State or  
26 private educational institution concerned, for credit to the tuition account of each recipient. Funds  
27 disbursed pursuant to subsection (g) of this section shall be made to the student loan creditor  
28 concerned to be applied against the outstanding student loans of each North Carolina National  
29 Guard member beneficiary.

30 (d) The participation by any proprietary school or private educational institution in this  
31 program shall be subject to the applicable provisions of this ~~Part Article~~ and to examination by  
32 the State Auditor of the accounts of the benefit recipients attending or having attended such  
33 private schools or institutions. The ~~Authority-Secretary~~ may defer making an award or may  
34 suspend an award in any proprietary school or private educational institution which does not  
35 comply with the provisions of this ~~Part Article~~ relating to said institutions. The manner of  
36 payment to any proprietary school or private educational institution shall be as prescribed by the  
37 ~~Authority-Secretary~~.

38 (e) Irrespective of other provisions of this ~~Part Article~~, the ~~Authority-Secretary~~ may  
39 prescribe special procedures for adjusting the accounts of benefit recipients who, for reasons of  
40 illness, physical inability to attend classes or for other valid reason satisfactory to the ~~Authority~~,  
41 ~~Secretary~~, may withdraw from any proprietary school or State or private educational institution  
42 prior to the completion of the term, semester, quarter or other academic period being attended at  
43 the time of withdrawal.

44 (f) Any balance of the monetary educational assistance grant up to the maximum for the  
45 academic year remaining after tuition is paid pursuant to subsection (c) of this section may be  
46 disbursed to the recipient as reimbursement for required course books and materials. The manner  
47 of obtaining the reimbursement payment for these required books and materials shall be as  
48 prescribed by the ~~Authority-Secretary~~.

49 (g) Any funds not needed to accomplish the other purposes of this ~~Part Article~~ may be  
50 used to help members of the North Carolina National Guard repay outstanding student loans in  
51 accordance with rules to be adopted by the ~~Authority-Secretary~~. These rules shall provide that

1 the length of a member's deployment may be considered in determining whether or not, and in  
2 what amount, a member receives assistance pursuant to this subsection. There shall be no  
3 reimbursement under this subsection for payments already made on student loans, and funds shall  
4 not be provided under this subsection for the purpose of paying student loans obtained for courses  
5 from which the member withdrew or for which the member did not receive a passing grade.  
6 Payments for outstanding loans shall not exceed the maximum benefit available under ~~G.S.~~  
7 ~~116-209.53-G.S.~~ 127A-193."

8 SECTION 1.(e) This section becomes effective October 1, 2021.

9  
10 **PART II. TARHEEL CHALLENGE ACADEMY**

11 SECTION 2.(a) Chapter 127A of the General Statutes is amended by adding a new  
12 Article to read:

13 "Article 18.

14 "Tarheel Challenge Academy.

15 "**§ 127A-220. Purpose; establishment.**

16 The purpose of this Article is to authorize the North Carolina National Guard's Tarheel  
17 Challenge Academy to operate independently of existing schools. The Tarheel Challenge  
18 Academy is established as a Division of the North Carolina National Guard. The Tarheel  
19 Challenge Academy shall satisfy all of the following:

- 20 (1) Exist as a cost-free program.  
21 (2) Be housed for administrative purposes within the North Carolina National  
22 Guard.  
23 (3) Be a community-based school that leads, trains, and mentors at-risk youth.  
24 (4) Be designated as an approved alternative learning program, as defined in this  
25 Article, and an innovative school option.  
26 (5) Create at least a 22-week residential program that requires a 12-month  
27 post-residential mentoring period.  
28 (6) Improve life skills and employment potential of participants by providing  
29 quasi-military based training and supervised work experience.  
30 (7) Teach the "8 Core Components" of academic excellence, job skills, health and  
31 hygiene, physical fitness, life coping skills, responsible citizenship,  
32 leadership, and service to community.  
33 (8) Increase opportunity for participants to receive a high school diploma or its  
34 equivalent.  
35 (9) Enjoy the full cooperation of other State and local agencies in carrying out its  
36 program.

37 "**§ 127A-221. Definitions.**

38 The following definitions apply for the purposes of this Article:

- 39 (1) Academy. – Tarheel Challenge Academy, a Division of the North Carolina  
40 National Guard.  
41 (2) Alternative learning program. – A program offered by the Academy that  
42 provides specialized services for at-risk students outside of a standard  
43 classroom setting. Services should be designed to meet the needs of students  
44 who have not been successful in the traditional school setting.  
45 (3) Eligible participant. – An individual who meets all of the following criteria:  
46 a. Is a minimum of 16 years of age and a maximum of 18 years of age at  
47 the time of entry into the program.  
48 b. Has failed to complete or has left school for any reason before  
49 graduation or completion of a program of studies without transferring  
50 to another school and has not received a certificate from a program of  
51 equivalency or has not progressed in a traditional high school setting.

- c. A citizen or legal resident of the United States.
- d. Unemployed or underemployed.
- e. Not currently on parole or probation and not accused or convicted of a crime that would be considered a felony if the individual was an adult.
- f. Free from use of illegal drugs or substances.
- g. Physically and mentally capable to participate in the alternative learning program.

**"§ 127A-222. Administration; supervision.**

The general supervision and administration of the Academy shall be vested in the North Carolina National Guard Adjutant General. It shall be the duty of the Adjutant General or his or her designee to do all of the following:

- (1) Create a written document that incorporates the terms and conditions imposed on the Academy by the Federal Youth Challenge Program.
- (2) Organize and establish all rules and regulations for the Academy, as necessary.
- (3) Direct and control all Academy personnel matters.
- (4) Oversee and direct the administration and functioning of the alternative learning program offered by the Academy."

**SECTION 2.(b)** This section becomes effective October 1, 2021.

**PART III. BUTNER TIMBER FUND SALE PROCEEDS**

**SECTION 3.** G.S. 146-30 reads as rewritten:

**"§ 146-30. Application of net proceeds.**

(a) The net proceeds of any disposition made in accordance with this Subchapter shall be handled in accordance with the following priority:

- (1) First, in accordance with the provisions of any trust or other instrument of title whereby title to real property was acquired.
- (2) Second, as provided by any other act of the General Assembly.
- (3) Third, by depositing the net proceeds with the State Treasurer.

Nothing in this section, however, prohibits the disposition of any State lands by exchange for other lands, but if the appraised value in fee simple of any property involved in the exchange is at least twenty-five thousand dollars (\$25,000), then the exchange shall not be made without consultation with the Joint Legislative Commission on Governmental Operations.

...  
(d) Notwithstanding any other provision of this Subchapter, the following exceptions apply:

- ...
- (8) The net proceeds derived from the sale of any portion of the land owned by the State in the Camp Butner reservation shall be deposited with the State Treasurer in a capital improvement account to the credit of the Department of Health and Human Services to make capital improvements on or to property owned by the State in the Camp Butner reservation subject to approval by the Office of State Budget and Management. The net proceeds derived from the sale of timber from land owned by the State in the Camp Butner reservation shall be deposited with the State Treasurer in a capital improvement account to the credit of the Department of Public Safety to be used to support the North Carolina National Guard's Camp Butner Training Center and other North Carolina National Guard–operated Training Centers. The definition of "Camp Butner reservation" in G.S. 122C-3 applies to this subdivision.

...."

1  
2 **PART IV. NORTH CAROLINA NATIONAL GUARD RESERVE JOB ACT**

3 **SECTION 4.(a)** Article 13 of Chapter 126 of the General Statutes is amended by  
4 adding a new section to read:

5 **"§ 126-80.5. National Guard preference.**

6 (a) It shall be the policy of the State of North Carolina that, in recognition and  
7 appreciation for service to the State and this country, and in recognition of the time and advantage  
8 lost toward the pursuit of a civilian career, an eligible member of the National Guard as defined  
9 in G.S. 126-81(4) shall be granted preference in employment for positions subject to the  
10 provisions of this Chapter with every State department, agency, and institution.

11 (b) In all evaluations of applicants for positions with this State or any of its departments,  
12 agencies, or institutions, a preference shall be awarded to all eligible members of the National  
13 Guard who are citizens of the State. This preference applies to initial employment and extends  
14 to other employment events, including a subsequent hiring, promotion, reassignment, or  
15 horizontal transfer.

16 (c) The provisions of this section shall be subject to the provisions of Article 9 of Chapter  
17 143B of the General Statutes."

18 **SECTION 4.(b)** G.S. 126-81 reads as rewritten:

19 **"§ 126-81. Definitions.**

20 ~~As used in this Article:~~ The following definitions apply in this Article:

- 21 (1) ~~"A period of war" includes~~ Period of war. – World War I (April 16, 1917,  
22 through November 11, 1918), World War II (December 7, 1941, through  
23 December 31, 1946), the Korean Conflict (June 27, 1950, through January 31,  
24 1955), the period of time between January 31, 1955, and the end of the  
25 hostilities in Vietnam (May 7, 1975), or any other campaign, expedition, or  
26 engagement for which a campaign badge or medal is authorized by the United  
27 States Department of Defense.
- 28 (2) ~~"Veteran" means a~~ Veteran. – A person who served in the Armed Forces of  
29 the United States on active duty, for reasons other than training, and has been  
30 discharged under other than dishonorable conditions.
- 31 (3) ~~"Eligible veteran" means:~~ Eligible veteran. – Any of the following:
- 32 a. A veteran who served during a period of war; ~~or~~war.
- 33 b. The spouse of a disabled ~~veteran; or~~veteran.
- 34 c. The surviving spouse or dependent of a veteran who dies on active  
35 duty during a period of war either directly or indirectly as a result of  
36 such ~~service; or~~service.
- 37 d. A veteran who suffered a service-connected disability during  
38 peacetime; ~~or~~peacetime.
- 39 e. The spouse of a veteran described in subdivision d. of this ~~subsection;~~  
40 ~~or~~subsection.
- 41 f. The surviving spouse or dependent of a person who served in the  
42 Armed Forces of the United States on active duty, for reasons other  
43 than training, who died for service-related reasons during peacetime.
- 44 (4) Eligible member of the National Guard. – Any of the following:
- 45 a. A resident of North Carolina who is a current member in good standing  
46 of either the North Carolina Army National Guard, the North Carolina  
47 Air National Guard, or the reserves of the Armed Forces of the United  
48 States.
- 49 b. A resident of North Carolina who is a former member of either the  
50 North Carolina Army National Guard, the North Carolina Air National  
51 Guard, or the reserves of the Armed Forces of the United States whose

1 discharge condition is greater than dishonorable with a minimum of  
 2 six years of creditable service.

3 c. The surviving spouse and dependent of a member of the North  
 4 Carolina Army National Guard or the North Carolina Air National  
 5 Guard who dies on State active duty either directly or indirectly as a  
 6 result of that service.

7 d. The surviving spouse or dependent of a member of the North Carolina  
 8 National Guard who died for service-related reasons during  
 9 peacetime."

10 **SECTION 4.(c)** G.S. 128-15 reads as rewritten:

11 **"§ 128-15. Employment preference for veterans and their spouses or surviving spouses.**

12 (a) It shall be the policy of the State of North Carolina that, in appreciation for their  
 13 service to this State and this country during a period of war, and in recognition of the time and  
 14 advantage lost toward the pursuit of a civilian career, veterans and eligible members of the  
 15 National Guard shall be granted preference in employment with every State department, agency,  
 16 and institution.

17 (b) As used in this section:

18 (1) ~~"A period of war" includes~~ Period of war. – World War I (April 16, 1917,  
 19 through November 11, 1918), World War II (December 7, 1941, through  
 20 December 31, 1946), the Korean Conflict (June 27, 1950, through January 31,  
 21 1955), the period of time between January 31, 1955, and the end of the  
 22 hostilities in Vietnam (May 7, 1975), or any other campaign, expedition, or  
 23 engagement for which a campaign badge or medal is authorized by the United  
 24 States Department of Defense.

25 (2) ~~"Veteran" means a~~ Veteran. – A person who served in the Armed Forces of  
 26 the United States on active duty, for reasons other than training, and has been  
 27 discharged under other than dishonorable conditions.

28 (3) ~~"Eligible veteran" means:~~ Eligible veteran. – Any of the following:

29 a. ~~A veteran who served during a period of war; or~~ war.

30 b. ~~The spouse of a disabled veteran; or~~ veteran.

31 c. ~~The surviving spouse or dependent of a veteran who dies on active~~  
 32 ~~duty during a period of war either directly or indirectly as the result of~~  
 33 ~~such service; or~~ service.

34 d. ~~A veteran who suffered a disabling injury for service-related reasons~~  
 35 ~~during peacetime; or~~ peacetime.

36 e. ~~The spouse of a veteran described in subdivision d. of this subsection;~~  
 37 ~~or~~ subsection.

38 f. ~~The surviving spouse or dependent of a person who served in the~~  
 39 ~~Armed Forces of the United States on active duty, for reasons other~~  
 40 ~~than training, who dies for service-related reasons during peacetime.~~

41 (4) Eligible member of the National Guard. – Any of the following:

42 a. A resident of North Carolina who is a current member in good standing  
 43 of either the North Carolina Army National Guard, the North Carolina  
 44 Air National Guard, or the reserves of the Armed Forces of the United  
 45 States.

46 b. A resident of North Carolina who is a former member of either the  
 47 North Carolina Army National Guard, the North Carolina Air National  
 48 Guard, or the reserves of the Armed Forces of the United States whose  
 49 discharge condition is greater than dishonorable with a minimum of  
 50 six years of credible service.

1                   c.     The surviving spouse and dependent of a member of the North  
2                             Carolina Army National Guard or the North Carolina Air National  
3                             Guard who dies on State active duty either directly or indirectly as a  
4                             result of that service.

5                   d.     The surviving spouse or dependent of a member of the North Carolina  
6                             National Guard who died for service-related reasons during peacetime.

7           (c)     Hereafter, in all evaluations of applicants for positions with this State or any of its  
8 departments, institutions or agencies, a preference shall be awarded to all eligible veterans and  
9 eligible members of the National Guard who are citizens of the State and who served the State  
10 or the United States honorably in the military forces of this State or of the United States during  
11 a period of war. This preference applies to initial employment with the State and extends to other  
12 employment events including subsequent hirings, promotions, reassignments, and horizontal  
13 transfers.

14           (d)     The provisions of this section shall be subject to the provisions of Article 1 of Chapter  
15 165 of the General Statutes, G.S. 126-83, and Parts 13 and 19 of Article 9 of Chapter 143B of  
16 the General Statutes."

17

18 **PART V. EFFECTIVE DATE**

19           **SECTION 5.** Except as otherwise provided, this act is effective when it becomes  
20 law.