

112TH CONGRESS  
1ST SESSION

# H. R. 276

To amend title 38, United States Code, to allow for the transfer of educational assistance under the Post-9/11 Educational Assistance Program to certain dependents to be used for special education.

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## IN THE HOUSE OF REPRESENTATIVES

JANUARY 12, 2011

Mr. FORTENBERRY (for himself, Mrs. McMORRIS RODGERS, and Mr. KISSELL) introduced the following bill; which was referred to the Committee on Veterans' Affairs

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## A BILL

To amend title 38, United States Code, to allow for the transfer of educational assistance under the Post-9/11 Educational Assistance Program to certain dependents to be used for special education.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. USE OF TRANSFERRED POST-9/11 EDU-**  
4 **CATIONAL ASSISTANCE PROGRAM BENEFITS**  
5 **FOR SPECIAL EDUCATION.**

6 (a) IN GENERAL.—Section 3319 of title 38, United  
7 States Code, is amended by adding at the end the fol-  
8 lowing new subsection:

1       “(k) USE OF TRANSFERRED EDUCATIONAL ASSIST-  
2 ANCE FOR SPECIAL EDUCATION.—(1) In accordance with  
3 paragraph (5), a dependent described in paragraph (2) to  
4 whom entitlement to educational assistance is transferred  
5 under this section may use such assistance for special edu-  
6 cation described in paragraph (3), regardless of whether  
7 such dependent has completed the requirements of a sec-  
8 ondary school diploma (or equivalency certificate).

9       “(2) A dependent described in this paragraph is a  
10 dependent whom the Secretary of Defense determines—

11               “(A) is a student with an intellectual disability  
12               (as defined in section 760(2) of the Higher Edu-  
13               cation Act of 1965 (20 U.S.C. 1140(2))); or

14               “(B) has a developmental disability (as defined  
15               in section 102(8) of the Developmental Disabilities  
16               Assistance and Bill of Rights Act of 2000 (42  
17               U.S.C. 15002(8))).

18       “(3) Special education described in this paragraph in-  
19 cludes the following, regardless of whether the instruction,  
20 program, or course is an approved program of education  
21 for purposes of section 3313(b) of this title:

22               “(A) Instruction described in section 602(29) of  
23               the Individuals with Disabilities Education Act (20  
24               U.S.C. 1401).

1           “(B) Model comprehensive transition and post-  
2           secondary programs under section 767 of the Higher  
3           Education Act of 1965 (20 U.S.C. 1140g).

4           “(C) Educational summer camp programs.

5           “(D) Life skills courses.

6           “(E) Programs with respect to training related  
7           to assistive technologies.

8           “(F) College preparatory courses or other pro-  
9           grams related to transitioning after secondary edu-  
10          cation (or the equivalent).

11          “(G) Programs regarding communication skills  
12          training, including training involving augmentative  
13          communication devices and other assistive tech-  
14          nology.

15          “(H) Functional skills training courses.

16          “(I) Service learning programs.

17          “(J) Work study programs.

18          “(K) Vocational education programs.

19          “(4) The Secretary of Defense shall prescribe regula-  
20          tions to determine whether any dependents described in  
21          paragraph (2) who use educational assistance under this  
22          subsection for special education described in paragraph  
23          (3) shall be required to enroll in the exceptional family  
24          member program of the Department of Defense.

1 “(5) In the case of educational assistance used under  
2 this subsection for special education described in para-  
3 graph (3), the Secretary concerned shall not pay the  
4 monthly stipend described in section 3313(c)(1)(B) of this  
5 title if the Secretary determines that the stipend is not  
6 relevant for such special education.

7 “(6) Any educational assistance provided to a de-  
8 pendent under this subsection for special education de-  
9 scribed in paragraph (3)—

10 “(A) is in addition to any other educational as-  
11 sistance benefits provided to the dependent by the  
12 Federal Government (other than under this chap-  
13 ter); and

14 “(B) may not be included in calculating income  
15 for purposes of determining whether such dependent  
16 is eligible for any other educational assistance bene-  
17 fits provided by the Federal Government.”.

18 (b) CONFORMING AMENDMENTS.—Such section is  
19 further amended—

20 (1) in subsection (g)(2), by striking “in the  
21 case of” and inserting “except as provided in sub-  
22 section (k), in the case of”; and

23 (2) in subsection (h)—

24 (A) in paragraph (2), by inserting “and  
25 subsection (k)” after “(e)(2)”; and

1           (B) in paragraph (6), by striking the pe-  
2           riod at the end and inserting the following:  
3           “and, in the case of a dependent described in  
4           subsection (k)(2), the pursuit of special edu-  
5           cation described in subsection (k)(3).”.

6           (c) EFFECTIVE DATE.—The amendments made by  
7 this Act shall take effect on the date that is 180 days  
8 after the date of the enactment of this Act.

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