

111TH CONGRESS
2D SESSION

H. R. 6372

To amend title 38, United States Code, to provide for the entitlement of surviving spouses of members of the Armed Forces who die while serving on active duty to educational assistance under the Post-9/11 Educational Assistance Program, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

SEPTEMBER 29, 2010

Mr. NYE (for himself, Mr. BISHOP of New York, and Mr. MCNERNEY) introduced the following bill; which was referred to the Committee on Veterans' Affairs

A BILL

To amend title 38, United States Code, to provide for the entitlement of surviving spouses of members of the Armed Forces who die while serving on active duty to educational assistance under the Post-9/11 Educational Assistance Program, and for other purposes.

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. SHORT TITLE.**

4 This Act may be cited as the “Spouses of Fallen He-
5 roes Scholarship Act”.

1 **SEC. 2. ENTITLEMENT OF SURVIVING SPOUSES OF MEM-**
2 **BERS OF THE ARMED FORCES WHO DIE**
3 **WHILE SERVING ON ACTIVE DUTY TO EDU-**
4 **CATIONAL ASSISTANCE UNDER THE POST-9/11**
5 **EDUCATIONAL ASSISTANCE PROGRAM.**

6 (a) ENTITLEMENT.—Section 3311(b) of title 38,
7 United States Code, is amended by adding at the end the
8 following new paragraph:

9 “(10) An individual who is the surviving spouse
10 of a person who, on or after September 11, 2001,
11 dies in line of duty while serving on active duty as
12 a member of the Armed Forces.”.

13 (b) AMOUNT.—Section 3313(c)(1) of such title is
14 amended by striking “or (9)” and inserting “(9), or (10)”.

15 (c) TIME LIMITATION FOR USE.—Section 3321(b) of
16 such title is amended by adding at the end the following
17 new paragraph:

18 “(5) APPLICABILITY TO SURVIVING SPOUSES OF
19 DECEASED MEMBERS.—The period during which an
20 individual entitled to educational assistance by rea-
21 son of section 3311(b)(10) may use such individual’s
22 entitlement expires on the date that is 20 years after
23 the date of the death of the person from whom such
24 entitlement is derived.”.

1 (d) PRECEDENCE OF USE OF EDUCATIONAL ASSIST-
2 ANCE BENEFITS.—Section 3322 of such title is amended
3 by adding at the end the following new subsection:

4 “(e) SURVIVING SPOUSES.—An individual who is eli-
5 gible for educational assistance under a program estab-
6 lished by this chapter by reason of section 3311(b)(10)
7 of this title and who is also entitled to a program of edu-
8 cational assistance under chapter 35 of this title shall uti-
9 lize the program established by this chapter first before
10 receiving educational assistance under chapter 35 of this
11 title. Use of both programs remains subject to the 48-
12 month aggregate period for which an individual may re-
13 ceive assistance under two or more of the provisions of
14 law listed in section 3695 of this title.”.

15 (e) DEFINITION OF SURVIVING SPOUSE.—Section
16 3301 of such title is amended by adding at the end the
17 following new paragraph:

18 “(5) The term ‘surviving spouse’ means a per-
19 son of the opposite sex who was the spouse of a vet-
20 eran at the time of the veteran’s death, and who
21 lived with the veteran continuously from the date of
22 marriage to the date of the veteran’s death (except
23 where there was a separation which was due to the
24 misconduct of, or procured by, the veteran without
25 the fault of the spouse) regardless of remarriage.”.

1 (f) EFFECTIVE DATE; APPLICABILITY.—

2 (1) EFFECTIVE DATE.—The amendments made
3 by this section shall take effect on August 1, 2009.

4 (2) APPLICABILITY.—The Secretary of Vet-
5 erans Affairs shall begin making payments to indi-
6 viduals entitled to educational assistance by reason
7 of paragraph (10) of section 3311(b) of title 38,
8 United States Code, as added by subsection (a), by
9 not later than August 1, 2011. In the case of an in-
10 dividual entitled to educational assistance by reason
11 of such paragraph for the period beginning on Au-
12 gust 1, 2009, and ending on July 31, 2011, the Sec-
13 retary shall make retroactive payments to such indi-
14 vidual for such period by not later than August 1,
15 2011.

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