

114TH CONGRESS
1ST SESSION

S. 265

To expand opportunity through greater choice in education, and for other purposes.

IN THE SENATE OF THE UNITED STATES

JANUARY 27, 2015

Mr. SCOTT (for himself, Mr. CORNYN, Mr. ALEXANDER, Mr. CRUZ, Mr. RUBIO, Mr. FLAKE, and Mr. HATCH) introduced the following bill; which was read twice and referred to the Committee on Health, Education, Labor, and Pensions

A BILL

To expand opportunity through greater choice in education,
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 “Creating Hope and
5 Opportunity for Individuals and Communities through
6 Education Act” or the “CHOICE Act”.

1 **TITLE I—IMPROVING THE**
 2 **SCHOLARSHIPS FOR OPPOR-**
 3 **TUNITY AND RESULTS ACT**

4 **SEC. 101. PURPOSE.**

5 The purpose of this title is to amend the Scholarships
 6 for Opportunity and Results Act (Public Law 112–10, 125
 7 Stat. 199) in order to improve provisions concerning op-
 8 portunity scholarships available for low-income students in
 9 the District of Columbia.

10 **SEC. 102. IMPROVEMENTS TO THE SCHOLARSHIPS FOR OP-**
 11 **PORTUNITY AND RESULTS ACT.**

12 (a) CARRYOVER AMOUNTS.—Section 3014 of division
 13 C of the Department of Defense and Full-Year Continuing
 14 Appropriations Act, 2011 (Public Law 112–10, 125 Stat.
 15 212) is amended by adding at the end the following:

16 “(c) CARRYOVER AMOUNTS.—

17 “(1) IN GENERAL.—Amounts appropriated
 18 under this section shall remain available until ex-
 19 pended.

20 “(2) USE OF CARRYOVER AMOUNTS.—Of the
 21 funds appropriated under this section that are unob-
 22 ligated, are not expended in the fiscal year for which
 23 such funds are appropriated, and are not necessary
 24 for the continuation of the scholarships already

1 awarded, the Secretary shall, for the subsequent fis-
2 cal year—

3 “(A) use 2 percent of such funds to carry
4 out outreach and parental education and assist-
5 ance activities described in section 3007(c) that
6 are in addition to any such activities carried out
7 by an eligible entity under such section; and

8 “(B) use the remaining amount of such
9 funds to provide opportunity scholarships to eli-
10 gible students who have not previously received
11 such a scholarship.”.

12 (b) CLARIFICATION IN STUDENT ELIGIBILITY.—Sec-
13 tion 3013(3) of division C of the Department of Defense
14 and Full-Year Continuing Appropriations Act, 2011 (Pub-
15 lic Law 112–10, 125 Stat. 211) is amended, in the matter
16 preceding subparagraph (A), by inserting “, is enrolled,
17 or will be enrolled for the next school year, in a public
18 or private elementary school or secondary school,” after
19 “District of Columbia”.

20 **TITLE II—EDUCATION PORT-**
21 **ABILITY FOR INDIVIDUALS**
22 **WITH DISABILITIES**

23 **SEC. 201. PURPOSE.**

24 The purpose of this title is to provide options to
25 States to innovate and improve the education of children

1 with disabilities by expanding the choices for students and
 2 parents under the Individuals with Disabilities Education
 3 Act (20 U.S.C. 1400 et seq.).

4 **SEC. 202. AMENDMENTS TO THE INDIVIDUALS WITH DIS-**
 5 **ABILITIES EDUCATION ACT.**

6 (a) CHILDREN ENROLLED IN PRIVATE SCHOOLS BY
 7 THEIR PARENTS.—Section 612(a)(10)(A) of the Individ-
 8 uals with Disabilities Education Act (20 U.S.C.
 9 1412(a)(10)(A)) is amended by adding at the end the fol-
 10 lowing:

11 “(viii) PARENT OPTION PROGRAM.—If
 12 a State has established a program that
 13 meets the requirements of section
 14 663(c)(11) (whether statewide or in limited
 15 areas of the State) and that allows a par-
 16 ent of a child described in section
 17 663(c)(11)(A) to use public funds, or pri-
 18 vate funds in accordance with
 19 633(c)(11)(B)(ii), to pay some or all of the
 20 costs of attendance at a private school—

21 “(I) funds allocated to the State
 22 under section 611 may be used by the
 23 State to supplement such public or
 24 private funds, if the Federal funds are
 25 distributed to parents who make a

genuine independent choice as to the appropriate school for their child, except that in no case shall the amount of Federal funds provided under this subclause to a parent of a child with a disability for a year exceed the total amount of tuition, fees, and transportation costs for the child for the year;

“(II) the authorization of a parent to exercise this option fulfills the State’s obligation under paragraph (1) with respect to the child during the period in which the child is enrolled in the selected school; and

“(III) a selected school accepting such funds shall not be required to carry out any of the requirements of this title with respect to such child.”.

(b) RESEARCH AND INNOVATION TO IMPROVE SERVICES AND RESULTS FOR CHILDREN WITH DISABILITIES.—Section 663(c) of the Individuals with Disabilities Education Act (20 U.S.C. 1463(c)) is amended—

(1) in paragraph (9), by striking “and” after the semicolon;

1 (2) in paragraph (10), by striking the period at
2 the end and inserting “; and”; and

3 (3) by adding at the end the following:

4 “(11) supporting the post-award planning and
5 design, and the initial implementation (which may
6 include costs for informing the community, acquiring
7 necessary equipment and supplies, and other initial
8 operational costs), during a period of not more than
9 3 years, of State programs that allow the parent of
10 a child with a disability to make a genuine inde-
11 pendent choice of the appropriate public or private
12 school for their child, if the program—

13 “(A) requires that the child be a child who
14 has received an initial evaluation described in
15 section 614(a) and has been identified as a
16 child with a disability, in accordance with part
17 B;

18 “(B)(i) permits the parent to receive from
19 the State funds to be used to pay some or all
20 of the costs of attendance at the selected school
21 (which may include tuition, fees, and transpor-
22 tation costs); or

23 “(ii) permits persons to receive a State tax
24 credit for donations to an entity that provides
25 funds to parents of eligible students described

1 in subparagraph (A), to be used by the parents
2 to pay some or all of the costs of attendance at
3 the selected school (which may include tuition,
4 fees, and transportation costs);

5 “(C) prohibits any school that agrees to
6 participate in the program from discriminating
7 against eligible students on the basis of race,
8 color, national origin, or sex, except that—

9 “(i) the prohibition of sex discrimina-
10 tion shall not apply to a participating
11 school that is operated by, supervised by,
12 controlled by, or connected to a religious
13 organization to the extent that the applica-
14 tion of such prohibition is inconsistent with
15 the religious tenets or beliefs of the school;
16 and

17 “(ii) notwithstanding this subpara-
18 graph or any other provision of law, a par-
19 ent may choose, and a school may offer, a
20 single-sex school, class, or activity;

21 “(D) notwithstanding any other provision
22 of law, allows any school participating in the
23 program that is operated by, supervised by,
24 controlled by, or connected to, a religious orga-
25 nization to exercise its right in matters of em-

1 ployment consistent with title VII of the Civil
 2 Rights Act of 1964 (42 U.S.C. 2000e et seq.),
 3 including the exemptions in that title;

4 “(E) allows a school to participate in the
 5 program without, consistent with the First
 6 Amendment of the Constitution of the United
 7 States—

8 “(i) necessitating any change in the
 9 participating school’s teaching mission;

10 “(ii) requiring any private partici-
 11 pating school to remove religious art,
 12 icons, scriptures, or other symbols; or

13 “(iii) precluding any private partici-
 14 pating school from retaining religious
 15 terms in its name, selecting its board
 16 members on a religious basis, or including
 17 religious references in its mission state-
 18 ments and other chartering or governing
 19 documents; and

20 “(F) requires a participating school se-
 21 lected for a child with a disability to be—

22 “(i) accredited, licensed, or otherwise
 23 operating in accordance with State law;
 24 and

1 “(ii) academically accountable to the
 2 parent for meeting the educational needs
 3 of the student.”.

4 **TITLE III—MILITARY** 5 **SCHOLARSHIPS**

6 **SEC. 301. PURPOSE.**

7 The purpose of this title is to ensure high-quality
 8 education for children of military personnel who live on
 9 military installations and thus have less freedom to exer-
 10 cise school choice for their children, in order to improve
 11 the ability of the Armed Forces to retain such military
 12 personnel.

13 **SEC. 302. MILITARY SCHOLARSHIP PROGRAM.**

14 (a) DEFINITIONS.—In this section:

15 (1) ESEA DEFINITIONS.—The terms “child”,
 16 “elementary school”, “secondary school”, and “local
 17 educational agency” have the meanings given the
 18 terms in section 9101 of the Elementary and Sec-
 19 ondary Education Act of 1965 (20 U.S.C. 7801).

20 (2) ELIGIBLE MILITARY STUDENT.—The term
 21 “eligible military student” means a child who—

22 (A) is a military dependent student;

23 (B) lives on a military installation selected
 24 to participate in the program under subsection

25 (b)(2); and

1 (C) chooses to attend a participating
 2 school, rather than a school otherwise assigned
 3 to the child.

4 (3) MILITARY DEPENDENT STUDENT.—The
 5 term “military dependent student” has the meaning
 6 given the term in section 572(e) of the National De-
 7 fense Authorization Act for Fiscal Year 2006 (20
 8 U.S.C. 7703b(e)).

9 (4) PARTICIPATING SCHOOL.—The term “par-
 10 ticipating school” means a public or private elemen-
 11 tary school or secondary school that—

12 (A) accepts scholarship funds provided
 13 under this section on behalf of an eligible mili-
 14 tary student for the costs of tuition, fees, or
 15 transportation of the eligible military student;
 16 and

17 (B) is accredited, licensed, or otherwise op-
 18 erating in accordance with State law.

19 (5) SECRETARY.—The term “Secretary” means
 20 the Secretary of Defense.

21 (b) PROGRAM AUTHORIZED.—

22 (1) IN GENERAL.—From amounts made avail-
 23 able under subsection (g) and beginning for the first
 24 full school year following the date of enactment of
 25 this Act, the Secretary shall carry out a 5-year pilot

1 program to award scholarships to enable eligible
2 military students to attend the public or private ele-
3 mentary schools or secondary schools selected by the
4 eligible military students' parents.

5 (2) SCOPE OF PROGRAM.—

6 (A) IN GENERAL.—The Secretary shall se-
7 lect not less than 5 military installations to par-
8 ticipate in the pilot program described in para-
9 graph (1). In making such selection, the Sec-
10 retary shall choose military installations where
11 eligible military students would most benefit
12 from expanded educational options.

13 (B) INELIGIBILITY.—A military installa-
14 tion that provides, on its premises, education
15 for all elementary school and secondary school
16 grade levels through one or more Department
17 of Defense dependents' schools shall not be eli-
18 gible for participation in the program.

19 (3) AMOUNT OF SCHOLARSHIPS.—

20 (A) IN GENERAL.—The annual amount of
21 each scholarship awarded to an eligible military
22 student under this section shall not exceed the
23 lesser of—

24 (i) the cost of tuition, fees, and trans-
25 portation associated with attending the

1 participating school selected by the parents
2 of the student; or

3 (ii)(I) in the case of an eligible mili-
4 tary student attending elementary school—

5 (aa) \$8,000 for the first full
6 school year following the date of en-
7 actment of this Act; or

8 (bb) the amount determined
9 under subparagraph (B) for each
10 school year following such first full
11 school year; or

12 (II) in the case of an eligible military
13 student attending secondary school—

14 (aa) \$12,000 for the first full
15 school year following the date of en-
16 actment of this Act; or

17 (bb) the amount determined
18 under subparagraph (B) for each
19 school year following such first full
20 school year.

21 (B) ADJUSTMENT FOR INFLATION.—For
22 each school year after the first full school year
23 following the date of enactment of this Act, the
24 amounts specified in subclauses (I) and (II) of
25 subparagraph (A)(ii) shall be adjusted to reflect

changes for the 12-month period ending the preceding June in the Consumer Price Index for All Urban Consumers published by the Bureau of Labor Statistics of the Department of Labor.

(4) PAYMENTS TO PARENTS.—The Secretary shall make scholarship payments under this section to the parent of the eligible military student in a manner that ensures such payments will be used for the payment of tuition, fees, and transportation expenses (if any) in accordance with this section.

(c) SELECTION OF SCHOLARSHIPS RECIPIENTS.—

(1) RANDOM SELECTION.—If more eligible military students apply for scholarships under the program under this section than the Secretary can accommodate, the Secretary shall select the scholarship recipients through a random selection process from students who submitted applications by the application deadline specified by the Secretary.

(2) CONTINUED ELIGIBILITY.—

(A) IN GENERAL.—An individual who is selected to receive a scholarship under the program under this section shall continue to receive a scholarship for each year of the program until the individual—

(i) graduates from secondary school or elects to no longer participate in the program;

(ii) exceeds the maximum age for which the State in which the student lives provides a free public education; or

(iii) is no longer an eligible military student.

(B) CONTINUED PARTICIPATION FOR MILITARY TRANSFERS.—

(i) TRANSFER TO PRIVATE NON-MILITARY HOUSING.—Notwithstanding subparagraph (A)(iii), an individual receiving a scholarship under this section for a school year who meets the requirements of subparagraphs (A) and (C) of subsection (a)(2) and whose family, during such school year, moves into private non-military housing that is not considered to be part of the military installation, shall continue to receive the scholarship for use at the participating school for the remaining portion of the school year.

(ii) TRANSFER TO A DIFFERENT MILITARY INSTALLATION.—Notwithstanding

subparagraph (A)(iii), an individual receiving a scholarship under this section for a school year whose family is transferred to a different military installation shall no longer be eligible to receive such scholarship beginning on the date of the transfer. Such individual may apply to participate in any program offered under this section for the new military installation for a subsequent school year, if such individual qualifies as an eligible military student for such school year.

(d) NONDISCRIMINATION AND OTHER PROVISIONS.—

(1) NON-DISCRIMINATION.—A participating school shall not discriminate against program participants or applicants on the basis of race, color, national origin, or sex.

(2) APPLICABILITY AND SINGLE-SEX SCHOOLS, CLASSES, OR ACTIVITIES.—

(A) IN GENERAL.—Notwithstanding any other provision of law, the prohibition of sex discrimination in paragraph (1) shall not apply to a participating school that is operated by, supervised by, controlled by, or connected to a religious organization to the extent that the appli-

cation of paragraph (1) is inconsistent with the religious tenets or beliefs of the school.

(B) SINGLE-SEX SCHOOLS, CLASSES, OR ACTIVITIES.—Notwithstanding paragraph (1) or any other provision of law, a parent may choose, and a participating school may offer, a single-sex school, class, or activity.

(3) CHILDREN WITH DISABILITIES.—Nothing in this section may be construed to alter or modify the Individuals with Disabilities Education Act (20 U.S.C. 1400 et seq.).

(4) RULES OF CONDUCT AND OTHER SCHOOL POLICIES.—A participating school, including the schools described in subsection (e), may require eligible students to abide by any rules of conduct and other requirements applicable to all other students at the school.

(e) RELIGIOUSLY AFFILIATED SCHOOLS.—

(1) IN GENERAL.—Notwithstanding any other provision of law, a participating school that is operated by, supervised by, controlled by, or connected to, a religious organization may exercise its right in matters of employment consistent with title VII of the Civil Rights Act of 1964 (42 U.S.C. 2000e et seq.), including the exemptions in that title.

1 (2) MAINTENANCE OF PURPOSE.—Notwith-
 2 standing any other provision of law, funds made
 3 available under this title to eligible military students
 4 that are received by a participating school, as a re-
 5 sult of their parents' choice, shall not, consistent
 6 with the First Amendment of the Constitution of the
 7 United States—

8 (A) necessitate any change in the partici-
 9 pating school's teaching mission;

10 (B) require any private participating
 11 school to remove religious art, icons, scriptures,
 12 or other symbols; or

13 (C) preclude any private participating
 14 school from retaining religious terms in its
 15 name, selecting its board members on a reli-
 16 gious basis, or including religious references in
 17 its mission statements and other chartering or
 18 governing documents.

19 (f) REPORTS.—

20 (1) ANNUAL REPORTS.—Not later than July 30
 21 of the year following the year of the date of enact-
 22 ment of this Act, and each subsequent year through
 23 the year in which the final report is submitted under
 24 paragraph (2), the Secretary shall prepare and sub-
 25 mit to Congress an interim report on the scholar-

ships awarded under the pilot program under this section that includes the content described in paragraph (3) for the applicable school year of the report.

(2) FINAL REPORT.—Not later than 90 days after the end of the pilot program under this section, the Secretary shall prepare and submit to Congress a report on the scholarships awarded under the program that includes the content described in paragraph (3) for each school year of the program.

(3) CONTENT.—Each annual report under paragraph (1) and the final report under paragraph (2) shall contain—

(A) the number of applicants for scholarships under this section;

(B) the number, and the average dollar amount, of scholarships awarded;

(C) the number of participating schools;

(D) the number of elementary school students receiving scholarships under this section and the number of secondary school students receiving such scholarships; and

(E) the results of a survey, conducted by the Secretary, regarding parental satisfaction

1 with the scholarship program under this sec-
2 tion.

3 (g) AUTHORIZATION OF APPROPRIATIONS.—There
4 are authorized to be appropriated to carry out this section
5 \$10,000,000 for each of fiscal years 2016 through 2020.

6 (h) OFFSET IN DEPARTMENT OF EDUCATION SALA-
7 RIES.—Notwithstanding any other provision of law, for
8 fiscal year 2016 and each of the 4 succeeding fiscal years,
9 the Secretary of Education shall return to the Treasury
10 \$10,000,000 of the amounts made available to the Sec-
11 retary for salaries and expenses of the Department of
12 Education for such year.

○