

116TH CONGRESS
1ST SESSION

S. 145

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

IN THE SENATE OF THE UNITED STATES

JANUARY 16, 2019

Mr. SCOTT of South Carolina (for himself, Mr. McCONNELL, Mr. ALEXANDER, Mr. BOOZMAN, Mr. CRUZ, Mr. CORNYN, Mr. RUBIO, Mr. SASSE, Mrs. BLACKBURN, and Mr. BRAUN) 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 Section 3013(3) of division C of the Department of
 13 Defense and Full-Year Continuing Appropriations Act,
 14 2011 (sec. 38–1853.13(3), D.C. Official Code) is amend-
 15 ed, in the matter preceding subparagraph (A), by inserting
 16 “, is enrolled, or will be enrolled for the next school year,
 17 in a public or private elementary school or secondary
 18 school,” after “District of Columbia”.

19 **TITLE II—EDUCATION PORTA-**
 20 **BILITY FOR INDIVIDUALS**
 21 **WITH DISABILITIES**

22 **SEC. 201. PURPOSE.**

23 The purpose of this title is to provide options to
 24 States to innovate and improve the education of children
 25 with disabilities by expanding the choices for students and

1 parents under the Individuals with Disabilities Education
 2 Act (20 U.S.C. 1400 et seq.).

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

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

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

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

1 appropriate school for their child, ex-
2 cept that in no case shall the amount
3 of Federal funds provided under this
4 subclause to a parent of a child with
5 a disability for a year exceed the total
6 amount of tuition, fees, and transpor-
7 tation costs for the child for the year;

8 “(II) the authorization of a par-
9 ent to exercise this option fulfills the
10 State’s obligation under paragraph (1)
11 with respect to the child during the
12 period in which the child is enrolled in
13 the selected school; and

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

18 (b) RESEARCH AND INNOVATION TO IMPROVE SERV-
19 ICES AND RESULTS FOR CHILDREN WITH DISABIL-
20 ITIES.—Section 663(c) of the Individuals with Disabilities
21 Education Act (20 U.S.C. 1463(c)) is amended—

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

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

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

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

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

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

21 “(ii) permits persons to receive a State tax
22 credit for donations to an entity that provides
23 funds to parents of eligible students described
24 in subparagraph (A), to be used by the parents
25 to pay some or all of the costs of attendance at

1 the selected school (which may include tuition,
2 fees, and transportation costs);

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

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

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

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

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

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

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

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

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

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

21 “(i) accredited, licensed, or otherwise
22 operating in accordance with State law;
23 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 8101 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 STUDENTS.—The
5 term “military dependent students” 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

1 changes for the 12-month period ending the
2 preceding June in the Consumer Price Index
3 for All Urban Consumers published by the Bu-
4 reau of Labor Statistics of the Department of
5 Labor.

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

12 (c) SELECTION OF SCHOLARSHIPS RECIPIENTS.—

13 (1) RANDOM SELECTION.—If more eligible mili-
14 tary students apply for scholarships under the pro-
15 gram under this section than the Secretary can ac-
16 commodate, the Secretary shall select the scholar-
17 ship recipients through a random selection process
18 from students who submitted applications by the ap-
19 plication deadline specified by the Secretary.

20 (2) CONTINUED ELIGIBILITY.—

21 (A) IN GENERAL.—An individual who is
22 selected to receive a scholarship under the pro-
23 gram under this section shall continue to re-
24 ceive a scholarship for each year of the program
25 until the individual—

1 (i) graduates from secondary school or
2 elects to no longer participate in the pro-
3 gram;

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

7 (iii) is no longer an eligible military
8 student.

9 (B) CONTINUED PARTICIPATION FOR MILI-
10 TARY TRANSFERS.—

11 (i) TRANSFER TO PRIVATE NON-MILI-
12 TARY HOUSING.—Notwithstanding sub-
13 paragraph (A)(iii), an individual receiving
14 a scholarship under this section for a
15 school year who meets the requirements of
16 subparagraphs (A) and (C) of subsection
17 (a)(2) and whose family, during such
18 school year, moves into private non-mili-
19 tary housing that is not considered to be
20 part of the military installation, shall con-
21 tinue to receive the scholarship for use at
22 the participating school for the remaining
23 portion of the school year.

24 (ii) TRANSFER TO A DIFFERENT MILI-
25 TARY INSTALLATION.—Notwithstanding

1 subparagraph (A)(iii), an individual receiv-
2 ing a scholarship under this section for a
3 school year whose family is transferred to
4 a different military installation shall no
5 longer be eligible to receive such scholar-
6 ship beginning on the date of the transfer.
7 Such individual may apply to participate in
8 any program offered under this section for
9 the new military installation for a subse-
10 quent school year, if such individual quali-
11 fies as an eligible military student for such
12 school year.

13 (d) NONDISCRIMINATION AND OTHER PROVISIONS.—

14 (1) NONDISCRIMINATION.—A participating
15 school shall not discriminate against program par-
16 ticipants or applicants on the basis of race, color,
17 national origin, or sex.

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

20 (A) IN GENERAL.—Notwithstanding any
21 other provision of law, the prohibition of sex
22 discrimination in paragraph (1) shall not apply
23 to a participating school that is operated by, su-
24 pervised by, controlled by, or connected to a re-
25 ligious organization to the extent that the appli-

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

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

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

12 (4) RULES OF CONDUCT AND OTHER SCHOOL
13 POLICIES.—A participating school, including the
14 schools described in subsection (e), may require eli-
15 gible students to abide by any rules of conduct and
16 other requirements applicable to all other students
17 at the school.

18 (e) RELIGIOUSLY AFFILIATED SCHOOLS.—

19 (1) IN GENERAL.—Notwithstanding any other
20 provision of law, a participating school that is oper-
21 ated by, supervised by, controlled by, or connected
22 to, a religious organization may exercise its right in
23 matters of employment consistent with title VII of
24 the Civil Rights Act of 1964 (42 U.S.C. 2000e et
25 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-

1 ships awarded under the pilot program under this
2 section that includes the content described in para-
3 graph (3) for the applicable school year of the re-
4 port.

5 (2) FINAL REPORT.—Not later than 90 days
6 after the end of the pilot program under this section,
7 the Secretary shall prepare and submit to Congress
8 a report on the scholarships awarded under the pro-
9 gram that includes the content described in para-
10 graph (3) for each school year of the program.

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

14 (A) the number of applicants for scholar-
15 ships under this section;

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

18 (C) the number of participating schools;

19 (D) the number of elementary school stu-
20 dents receiving scholarships under this section
21 and the number of secondary school students
22 receiving such scholarships; and

23 (E) the results of a survey, conducted by
24 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 2020 through 2024.

6 (h) OFFSET IN DEPARTMENT OF EDUCATION SALA-
7 RIES.—Notwithstanding any other provision of law, for
8 fiscal year 2020 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.

○