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113TH CONGRESS
2D SESSION

S. 1909

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

IN THE SENATE OF THE UNITED STATES

JANUARY 9, 2014

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

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A BILL

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

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Creating Hope and Opportunity for Individuals and Communities through Education Act'' or the ''CHOICE Act''.

TITLE I—IMPROVING THE SCHOLARSHIPS FOR OPPORTUNITY AND RESULTS ACT

SEC. 101. PURPOSE.

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

SEC. 102. IMPROVEMENTS TO THE SCHOLARSHIPS FOR OPPORTUNITY AND RESULTS ACT.

(a) CARRYOVER AMOUNTS.—Section 3014 of division C of the Department of Defense and Full-Year Continuing Appropriations Act, 2011 (Public Law 112–10, 125 Stat. 211) is amended by adding at the end the following:

"(c) CARRYOVER AMOUNTS.—

"(1) IN GENERAL.—Amounts appropriated under this section shall remain available until expended.

"(2) USE OF CARRYOVER AMOUNTS.—Of the funds appropriated under this section that are unobligated, are not expended in the fiscal year for which such funds are appropriated, and are not necessary for the continuation of the scholarships already

awarded, the Secretary shall, for the subsequent fiscal year—

"(A) use 2 percent of such funds to carry out outreach and parental education and assistance activities described in section 3007(c) that are in addition to any such activities carried out by an eligible entity under such section; and

"(B) use the remaining amount of such funds to provide opportunity scholarships to eligible students who have not previously received such a scholarship.".

(b) CLARIFICATION IN STUDENT ELIGIBILITY.—Section 3013(3) of division C of the Department of Defense and Full-Year Continuing Appropriations Act, 2011 (Public Law 112–10, 125 Stat. 211) is amended, in the matter preceding subparagraph (A), by inserting ", is enrolled, or will be enrolled for the next school year, in a public or private elementary school or secondary school," after "District of Columbia".

TITLE II—EDUCATION PORTABILITY FOR INDIVIDUALS WITH DISABILITIES

SEC. 201. PURPOSE.

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

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

SEC. 202. AMENDMENTS TO THE INDIVIDUALS WITH DISABILITIES EDUCATION ACT.

(a) CHILDREN ENROLLED IN PRIVATE SCHOOLS BY THEIR PARENTS.—Section 612(a)(10)(A) of the Individuals with Disabilities Education Act (20 U.S.C. 1412(a)(10)(A)) is amended by adding at the end the following:

"(viii) PARENT OPTION PROGRAM.—If a State has established a program that meets the requirements of section 663(c)(11) (whether statewide or in limited areas of the State) and that allows a parent of a child described in section 663(c)(11)(A) to use public funds, or private funds in accordance with 633(c)(11)(B)(ii), to pay some or all of the costs of attendance at a private school—

"(I) funds allocated to the State under section 611 may be used by the State to supplement such public or private funds, if the Federal funds are 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;

(2) in paragraph (10), by striking the period and inserting "; and"; and

(3) by adding at the end the following:

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

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

"(B)(i) permits the parent to receive from the State funds to be used to pay some or all of the costs of attendance at the selected school (which may include tuition, fees, and transportation costs); or

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

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

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

"(i) the prohibition of sex discrimination 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 application of such prohibition is inconsistent with the religious tenets or beliefs of the school; and

"(ii) notwithstanding this subparagraph or any other provision of law, a parent may choose, and a school may offer, a single-sex school, class, or activity;

"(D) notwithstanding any other provision of law, allows any school participating in the program that is operated by, supervised by, controlled by, or connected to, a religious organization to exercise its right in matters of em-

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

"(E) allows a school to participate in the program without, consistent with the First Amendment of the Constitution of the United States—

"(i) necessitating any change in the participating school's teaching mission;

"(ii) requiring any private participating school to remove religious art, icons, scriptures, or other symbols; or

"(iii) precluding any private participating school from retaining religious terms in its name, selecting its board members on a religious basis, or including religious references in its mission statements and other chartering or governing documents; and

"(F) requires a participating school selected for a child with a disability to be academically accountable to the parent for meeting the educational needs of the student.".

TITLE III—MILITARY SCHOLARSHIPS

SEC. 301. PURPOSE.

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

SEC. 302. MILITARY SCHOLARSHIP PROGRAM.

(a) DEFINITIONS.—In this section:

(1) ESEA DEFINITIONS.—The terms ''child'', ''elementary school'', ''secondary school'', and ''local educational agency'' have the meanings given the terms in section 9101 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7801).

(2) ELIGIBLE MILITARY STUDENT.—The term ''eligible military student'' means a child who—

(A) is a military dependent student;

(B) lives on a military installation selected to participate in the program under subsection (b)(2); and

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

(3) MILITARY DEPENDENT STUDENT.—The term ''military dependent student'' has the meaning given the term in section 572(e) of the National Defense Authorization Act for Fiscal Year 2006 (20 U.S.C. 7703b(e)).

(4) PARTICIPATING SCHOOL.—The term ''participating school'' means a public or private elementary school or secondary school that—

(A) accepts scholarship funds provided under this section on behalf of an eligible military student for the costs of tuition, fees, or transportation of the eligible military student; and

(B) is accredited, licensed, or otherwise operating in accordance with State law.

(5) SECRETARY.—The term ''Secretary'' means the Secretary of Defense.

(b) PROGRAM AUTHORIZED.—

(1) IN GENERAL.—From amounts made available under subsection (g) and beginning for the first full school year following the date of enactment of this Act, the Secretary shall carry out a 5-year pilot program to award scholarships to enable eligible military students to attend the public or private ele-

mentary schools or secondary schools selected by the eligible military students' parents.

(2) SCOPE OF PROGRAM.—

(A) IN GENERAL.—The Secretary shall select not less than 5 military installations to participate in the pilot program described in paragraph (1). In making such selection, the Secretary shall choose military installations where eligible military students would most benefit from expanded educational options.

(B) INELIGIBILITY.—A military installation that provides, on its premises, education for all elementary school and secondary school grade levels through one or more Department of Defense dependents' schools shall not be eligible for participation in the program.

(3) AMOUNT OF SCHOLARSHIPS.—

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

(i) the cost of tuition, fees, and transportation associated with attending the participating school selected by the parents of the student; or

(ii)(I) in the case of an eligible military student attending elementary school—

(aa) $8,000 for the first full school year following the date of enactment of this Act; or

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

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

(aa) $12,000 for the first full school year following the date of enactment of this Act; or

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

(B) ADJUSTMENT FOR INFLATION.—For each school year after the first full school year following the date of enactment of this Act, the amounts specified in subclauses (I) and (II) of 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.

(2) MAINTENANCE OF PURPOSE.—Notwithstanding any other provision of law, funds made available under this title to eligible military students that are received by a participating school, as a result of their parents' choice, shall not, consistent with the first amendment of the United States Constitution—

(A) necessitate any change in the participating school's teaching mission;

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

(C) preclude any private participating school from retaining religious terms in its name, selecting its board members on a religious basis, or including religious references in its mission statements and other chartering or governing documents.

(f) REPORTS.—

(1) ANNUAL REPORTS.—Not later than July 30 of the year following the year of the date of enactment of this Act, and each subsequent year through the year in which the final report is submitted under paragraph (2), the Secretary shall prepare and submit 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

with the scholarship program under this section.

(g) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section $10,000,000 for each of fiscal years 2014 through 2018.

(h) OFFSET IN DEPARTMENT OF EDUCATION SALARIES.—Notwithstanding any other provision of law, for fiscal year 2014 and each of the 4 succeeding fiscal years, the Secretary of Education shall return to the Treasury $10,000,000 of the amounts made available to the Secretary for salaries and expenses of the Department of Education for such year.

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