

118TH CONGRESS  
1ST SESSION

# S. 266

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

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## IN THE SENATE OF THE UNITED STATES

FEBRUARY 2, 2023

Mr. SCOTT of South Carolina (for himself, Mr. BRAUN, Mr. CORNYN, Mr. SCOTT of Florida, Mr. RUBIO, and Mr. WICKER) 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.

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(4) of the Scholarships for Opportunity  
 13 and Results Act (sec. 38–1853.13(4), D.C. Official Code)  
 14 is amended, in the matter preceding subparagraph (A),  
 15 by inserting “, is enrolled, or will be enrolled for the next  
 16 school year, in a public or private elementary school or  
 17 secondary school,” after “District of Columbia”.

18 **TITLE II—EDUCATION PORT-**  
 19 **ABILITY FOR INDIVIDUALS**  
 20 **WITH DISABILITIES**

21 **SEC. 201. PURPOSE.**

22 The purpose of this title is to provide options to  
 23 States to innovate and improve the education of children  
 24 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 2024 through 2028.

6           (h) OFFSET IN DEPARTMENT OF EDUCATION SALA-  
7 RIES.—Notwithstanding any other provision of law, for  
8 fiscal year 2024 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.

○