

108TH CONGRESS
1ST SESSION

H. R. 684

To provide scholarships for District of Columbia elementary and secondary students, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 11, 2003

Mr. FLAKE (for himself and Mr. LIPINSKI) introduced the following bill; which was referred to the Committee on Government Reform

A BILL

To provide scholarships for District of Columbia elementary and secondary students, 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, FINDINGS, AND PRECEDENTS.**

4 (a) **SHORT TITLE.**—This Act may be cited as the
5 “District of Columbia Student Opportunity Scholarship
6 Act of 2003”.

7 (b) **FINDINGS.**—Congress makes the following find-
8 ings:

9 (1) Public education in the District of Columbia
10 is in a crisis, as evidenced by the following:

1 (A) The District of Columbia schools have
2 the lowest average of any school system in the
3 Nation on the National Assessment of Edu-
4 cation Progress.

5 (B) 72 percent of fourth graders in the
6 District of Columbia tested below basic pro-
7 ficiency in reading on the National Assessment
8 of Education Progress in 1998.

9 (C) According to the District of Columbia's
10 own data, only 53 percent of District of Colum-
11 bia public school students in the 10th grade are
12 reading at or above the basic level.

13 (D) Only 28 percent of District of Colum-
14 bia public school students in the 10th grade
15 test at or above the basic level in mathematics.

16 (E) The National Education Goals Panel
17 reported in 1996 that both students and teach-
18 ers in District of Columbia schools are sub-
19 jected to levels of violence that are twice the na-
20 tional average.

21 (F) In 1999, nearly one in five District of
22 Columbia high school students stated that, at
23 some point in the preceding month, they felt too
24 unsafe to go to school, while nearly one out of

1 every seven students admitted to bringing a
2 weapon to school.

3 (G) Many of the District of Columbia's
4 146 schools are in a state of terrible disrepair,
5 including leaking roofs, bitterly cold classrooms,
6 and numerous fire code violations.

7 (2) Significant improvements in the education
8 of educationally deprived children in the District of
9 Columbia can be accomplished by—

10 (A) increasing educational opportunities
11 for the children by expanding the range of edu-
12 cational choices that best meet the needs of the
13 children;

14 (B) fostering diversity and competition
15 among school programs for the children;

16 (C) providing the families of the children
17 more of the educational choices already avail-
18 able to affluent families; and

19 (D) enhancing the overall quality of edu-
20 cation in the District of Columbia by increasing
21 parental involvement in the direction of the
22 education of the children.

23 (3) The 475 private schools in the District of
24 Columbia and the surrounding area offer a safer and

1 more stable learning environment than many of the
2 public schools.

3 (4) Costs are often much lower in private
4 schools than corresponding costs in public schools.

5 (5) Not all children are alike and therefore
6 there is no one school or program that fits the needs
7 of all children.

8 (6) The formation of sound values and moral
9 character is crucial to helping young people escape
10 from lives of poverty, family breakup, drug abuse,
11 crime, and school failure.

12 (7) In addition to offering knowledge and skills,
13 education should contribute positively to the forma-
14 tion of the internal norms and values which are vital
15 to a child's success in life and to the well-being of
16 society.

17 (8) Schools should help to provide young people
18 with a sound moral foundation which is consistent
19 with the values of their parents. To find such a
20 school, parents need a full range of choices to deter-
21 mine where their children can best be educated.

22 (c) PRECEDENTS.—The United States Supreme
23 Court has determined that programs giving parents choice
24 and increased input in their children's education, includ-
25 ing the choice of a religious education, do not violate the

1 Constitution. The Supreme Court has held that as long
2 as the beneficiary decides where education funds will be
3 spent on such individual's behalf, public funds can be used
4 for education in a religious institution because the public
5 entity has neither advanced nor hindered a particular reli-
6 gion, or religion in general, and therefore has not violated
7 the establishment clause of the first amendment to the
8 Constitution. Supreme Court precedents include the fol-
9 lowing:

10 (1) *Wisconsin v. Yoder*, 406 U.S. 205 (1972),
11 *Pierce v. Society of Sisters*, 268 U.S. 510 (1925),
12 and *Meyer v. Nebraska*, 262 U.S. 390 (1923), which
13 held that parents have the primary role in and are
14 the primary decision makers in all areas regarding
15 the education and upbringing of their children.

16 (2) *Mueller v. Allen*, 463 U.S. 388 (1983),
17 which declared a Minnesota tax deduction program
18 that provided State income tax benefits for edu-
19 cational expenditures by parents, including tuition in
20 religiously affiliated schools, does not violate the
21 Constitution.

22 (3) *Witters v. Department of Services for the*
23 *Blind*, 474 U.S. 481 (1986), in which the Supreme
24 Court ruled unanimously that public funds for the

1 vocational training of the blind could be used at a
2 Bible college for ministry training.

3 (4) *Zobrest v. Catalina Foothills School Dis-*
4 *trict*, 509 U.S. 1 (1993), which held that a deaf
5 child could receive an interpreter, paid for by the
6 public, in a private religiously affiliated school under
7 the Individuals with Disabilities Education Act (20
8 U.S.C. 1400 et seq.). The case held that providing
9 an interpreter in a religiously affiliated school did
10 not violate the establishment clause of the first
11 amendment of the Constitution.

12 (5) *Simmons-Harris v. Zelman*, 122 S. Ct.
13 2460 (2002), which upheld as constitutional a school
14 voucher program providing tuition subsidies to stu-
15 dents in failing schools in Cleveland to enable them
16 to attend private schools, notwithstanding that most
17 of the private schools were religious in nature.

18 **SEC. 2. DEFINITIONS.**

19 In this Act:

20 (1) The term “Board” means the Board of Di-
21 rectors of the Corporation established under section
22 3(b)(1).

23 (2) The term “Corporation” means the District
24 of Columbia Scholarship Corporation established
25 under section 3(a).

1 (3) The term “eligible institution”—

2 (A) in the case of an institution serving a
3 student who receives a tuition scholarship under
4 section 4(d)(1), means a public, private, or
5 independent elementary or secondary school;
6 and

7 (B) in the case of an institution serving a
8 student who receives an enhanced achievement
9 scholarship under section 4(d)(2), means an ele-
10 mentary or secondary school or an entity that
11 provides services to a student enrolled in an ele-
12 mentary or secondary school to enhance such
13 student’s achievement through instruction de-
14 scribed in section 4(d)(2).

15 (4) The term “parent” includes a legal guard-
16 ian or other person standing in loco parentis.

17 (5) The term “poverty line” means the official
18 poverty line, as established by the Director of the
19 Office of Management and Budget and revised an-
20 nually under section 673(2) of the Community Serv-
21 ices Block Grant Act (42 U.S.C. 9902(2)), applica-
22 ble to a family of the size involved.

23 **SEC. 3. DISTRICT OF COLUMBIA SCHOLARSHIP CORPORA-**
24 **TION.**

25 (a) GENERAL REQUIREMENTS.—

1 (1) IN GENERAL.—There is authorized to be es-
2 tablished a private, nonprofit corporation, to be
3 known as the “District of Columbia Scholarship
4 Corporation”, which is neither an agency nor estab-
5 lishment of the United States Government or the
6 District of Columbia Government.

7 (2) DUTIES.—The Corporation shall have the
8 responsibility and authority to administer, publicize,
9 and evaluate the scholarship program in accordance
10 with this Act, and to determine student and school
11 eligibility for participation in such program.

12 (3) CONSULTATION.—The Corporation shall ex-
13 ercise its authority—

14 (A) in a manner consistent with maxi-
15 mizing educational opportunities for the max-
16 imum number of interested families; and

17 (B) in consultation with the District of Co-
18 lumbia Board of Education or entity exercising
19 administrative jurisdiction over the District of
20 Columbia Public Schools, the Superintendent of
21 the District of Columbia Public Schools, and
22 other school scholarship programs in the Dis-
23 trict of Columbia.

24 (4) APPLICATION OF PROVISIONS.—The Cor-
25 poration shall be subject to the provisions of this

1 Act, and, to the extent consistent with this Act, to
2 the District of Columbia Nonprofit Corporation Act
3 (sec. 29–301.01 et seq., D.C. Official Code).

4 (5) RESIDENCE.—The Corporation shall have
5 its place of business in the District of Columbia and
6 shall be considered, for purposes of venue in civil ac-
7 tions, to be a resident of the District of Columbia.

8 (6) FUND.—There is established in the Treas-
9 ury a fund that shall be known as the District of
10 Columbia Scholarship Fund, to be administered by
11 the Secretary of the Treasury.

12 (7) DISBURSEMENT.—The Secretary of the
13 Treasury shall make available and disburse to the
14 Corporation, before October 15 of each fiscal year or
15 not later than 15 days after the date of enactment
16 of an Act making appropriations for the District of
17 Columbia for such year, whichever occurs later, such
18 funds as have been appropriated to the District of
19 Columbia Scholarship Fund for the fiscal year in
20 which such disbursement is made.

21 (8) AVAILABILITY.—Funds authorized to be ap-
22 propriated under this Act shall remain available
23 until expended.

24 (9) USES.—Funds authorized to be appro-
25 priated under this Act shall be used by the Corpora-

1 tion in a prudent and financially responsible man-
2 ner, solely for scholarships, contracts, and adminis-
3 trative costs.

4 (10) AUTHORIZATION OF APPROPRIATIONS.—

5 (A) IN GENERAL.—There are authorized to
6 be appropriated to the District of Columbia
7 Scholarship Fund—

8 (i) \$7,000,000 for fiscal year 2004;

9 (ii) \$8,000,000 for fiscal year 2005;

10 and

11 (iii) \$10,000,000 for each of fiscal
12 years 2006 through 2008.

13 (B) LIMITATION.—Not more than 7.5 per-
14 cent of the amount appropriated to carry out
15 this Act for any fiscal year may be used by the
16 Corporation for salaries and administrative
17 costs.

18 (b) ORGANIZATION AND MANAGEMENT; BOARD OF
19 DIRECTORS.—

20 (1) BOARD OF DIRECTORS; MEMBERSHIP.—

21 (A) IN GENERAL.—The Corporation shall
22 have a Board of Directors (hereinafter in this
23 Act referred to as the “Board”), comprised of
24 seven members, with six members of the Board
25 appointed by the President not later than 30

1 days after receipt of nominations from the
2 Speaker of the House of Representatives and
3 the President pro tempore of the Senate.

4 (B) HOUSE NOMINATIONS.—The President
5 shall appoint three of the members from a list
6 of nine individuals nominated by the Speaker of
7 the House of Representatives in consultation
8 with the minority leader of the House of Rep-
9 resentatives.

10 (C) SENATE NOMINATIONS.—The Presi-
11 dent shall appoint three members from a list of
12 nine individuals nominated by the President pro
13 tempore of the Senate in consultation with the
14 minority leader of the Senate.

15 (D) DEADLINE.—The Speaker of the
16 House of Representatives and Majority Leader
17 of the Senate shall submit their nominations to
18 the President not later than 30 days after the
19 date of the enactment of this Act.

20 (E) APPOINTEE BY MAYOR.—The Mayor
21 of the District of Columbia shall appoint one
22 member of the Board not later than 60 days
23 after the date of the enactment of this Act.

24 (F) POSSIBLE INTERIM MEMBERS.—If the
25 President does not appoint the six members of

1 the Board in the 30-day period described in
2 subparagraph (A), then the Speaker of the
3 House of Representatives and the President pro
4 tempore of the Senate shall each appoint two
5 members of the Board, and the minority leader
6 of the House of Representatives and the minor-
7 ity leader of the Senate shall each appoint one
8 member of the Board, from among the individ-
9 uals nominated under subparagraphs (A) and
10 (B), as the case may be. The appointees under
11 the preceding sentence together with the ap-
12 pointee of the Mayor of the District of Colum-
13 bia, shall serve as an interim Board with all the
14 powers and other duties of the Board described
15 in this Act, until the President makes the ap-
16 pointments as described in this subsection.

17 (2) POWERS.—All powers of the Corporation
18 shall vest in and be exercised under the authority of
19 the Board.

20 (3) ELECTIONS.—Members of the Board annu-
21 ally shall elect one of the members of the Board to
22 be the Chairperson of the Board.

23 (4) RESIDENCY.—All members appointed to the
24 Board shall be residents of the District of Columbia

1 at the time of appointment and while serving on the
2 Board.

3 (5) NONEMPLOYEE.—No member of the Board
4 may be an employee of the United States Govern-
5 ment or the District of Columbia Government when
6 appointed to or during tenure on the Board, unless
7 the individual is on a leave of absence from such a
8 position while serving on the Board.

9 (6) INCORPORATION.—The members of the ini-
10 tial Board shall serve as incorporators and shall take
11 whatever steps are necessary to establish the Cor-
12 poration under the District of Columbia Nonprofit
13 Corporation Act (sec. 29–301.01 et seq., D.C. Offi-
14 cial Code).

15 (7) GENERAL TERM.—The term of office of
16 each member of the Board shall be 5 years, except
17 that any member appointed to fill a vacancy occur-
18 ring prior to the expiration of the term for which the
19 predecessor was appointed shall be appointed for the
20 remainder of such term.

21 (8) CONSECUTIVE TERM.—No member of the
22 Board shall be eligible to serve in excess of two con-
23 secutive terms of 5 years each. A partial term shall
24 be considered as one full term. Any vacancy on the

1 Board shall not affect the Board's power, but shall
2 be filled in a manner consistent with this Act.

3 (9) NO BENEFIT.—No part of the income or as-
4 sets of the Corporation shall inure to the benefit of
5 any Director, officer, or employee of the Corpora-
6 tion, except as salary or reasonable compensation for
7 services.

8 (10) POLITICAL ACTIVITY.—The Corporation
9 may not contribute to or otherwise support any po-
10 litical party or candidate for elective public office.

11 (11) NOT OFFICERS OR EMPLOYEES.—The
12 members of the Board shall not, by reason of such
13 membership, be considered to be officers or employ-
14 ees of the United States Government or of the Dis-
15 trict of Columbia Government.

16 (12) STIPENDS.—The members of the Board,
17 while attending meetings of the Board or while en-
18 gaged in duties related to such meetings or other ac-
19 tivities of the Board pursuant to this Act, shall be
20 provided a stipend. Such stipend shall be at the rate
21 of \$150 per day for which the member of the Board
22 is officially recorded as having worked, except that
23 no member may be paid a total stipend amount in
24 any calendar year in excess of \$5,000.

25 (c) OFFICERS AND STAFF.—

1 (1) EXECUTIVE DIRECTOR.—The Corporation
2 shall have an executive director, and such other
3 staff, as may be appointed by the Board for terms
4 and at rates of compensation, not to exceed level
5 EG–16 of the Educational Service of the District of
6 Columbia, to be fixed by the Board.

7 (2) STAFF.—With the approval of the Board,
8 the executive director may appoint and fix the salary
9 of such additional personnel as the executive director
10 considers appropriate.

11 (3) ANNUAL RATE.—No staff of the Corpora-
12 tion may be compensated by the Corporation at an
13 annual rate of pay greater than the annual rate of
14 pay of the executive director.

15 (4) SERVICE.—All officers and employees of the
16 Corporation shall serve at the pleasure of the Board.

17 (5) QUALIFICATION.—No political test or quali-
18 fication may be used in selecting, appointing, pro-
19 moting, or taking other personnel actions with re-
20 spect to officers, agents, or employees of the Cor-
21 poration.

22 (d) POWERS OF THE CORPORATION.—

23 (1) GENERALLY.—The Corporation is author-
24 ized to obtain grants from, and make contracts with,

1 individuals and with private, State, and Federal
2 agencies, organizations, and institutions.

3 (2) HIRING AUTHORITY.—The Corporation may
4 hire, or accept the voluntary services of, consultants,
5 experts, advisory boards, and panels to aid the Cor-
6 poration in carrying out this Act.

7 (e) FINANCIAL MANAGEMENT AND RECORDS.—

8 (1) AUDITS.—The financial statements of the
9 Corporation shall be—

10 (A) maintained in accordance with gen-
11 erally accepted accounting principles for non-
12 profit corporations; and

13 (B) audited annually by independent cer-
14 tified public accountants.

15 (2) REPORT.—The report for each such audit
16 shall be included in the annual report to Congress
17 required by section 11(c).

18 (f) ADMINISTRATIVE RESPONSIBILITIES.—

19 (1) SCHOLARSHIP APPLICATION SCHEDULE AND
20 PROCEDURES.—Not later than 30 days after the ini-
21 tial Board is appointed and the first executive direc-
22 tor of the Corporation is hired under this Act, the
23 Corporation shall implement a schedule and proce-
24 dures for processing applications for, and awarding,
25 student scholarships under this Act. The schedule

1 and procedures shall include establishing a list of
2 certified eligible institutions located in the areas
3 specified in section 4(d)(1)), distributing scholarship
4 information to parents and the general public (in-
5 cluding through a newspaper of general circulation),
6 and establishing deadlines for steps in the scholar-
7 ship application and award process.

8 (2) INSTITUTIONAL APPLICATIONS AND ELIGI-
9 BILITY.—

10 (A) IN GENERAL.—An eligible institution
11 that desires to participate in the scholarship
12 program under this Act shall file an application
13 with the Corporation for certification for par-
14 ticipation in the scholarship program under this
15 Act that shall—

16 (i) demonstrate that the eligible insti-
17 tution has operated with not fewer than 25
18 students during the 3 years preceding the
19 year for which the determination is made
20 unless the eligible institution is applying
21 for certification as a new eligible institu-
22 tion under subparagraph (C);

23 (ii) contain an assurance that the eli-
24 gible institution will comply with all appli-
25 cable requirements of this Act;

1 (iii) contain an annual statement of
2 the eligible institution's budget; and

3 (iv) describe the eligible institution's
4 proposed program, including personnel
5 qualifications and fees.

6 (B) CERTIFICATION.—

7 (i) IN GENERAL.—Except as provided
8 in subparagraph (C), not later than 60
9 days after receipt of an application in ac-
10 cordance with subparagraph (A), the Cor-
11 poration shall certify an eligible institution
12 to participate in the scholarship program
13 under this Act.

14 (ii) CONTINUATION.—An eligible insti-
15 tution's certification to participate in the
16 scholarship program shall continue unless
17 such eligible institution's certification is re-
18 voked in accordance with subparagraph
19 (D).

20 (C) NEW ELIGIBLE INSTITUTION.—

21 (i) IN GENERAL.—An eligible institu-
22 tion that did not operate with at least 25
23 students in the 3 years preceding the year
24 for which the determination is made may
25 apply for a 1-year provisional certification

1 to participate in the scholarship program
2 under this Act for a single year by pro-
3 viding to the Corporation not later than
4 July 1 of the year preceding the year for
5 which the determination is made—

6 (I) a list of the eligible institu-
7 tion's board of directors;

8 (II) letters of support from not
9 less than 10 members of the commu-
10 nity served by such eligible institution;

11 (III) a business plan;

12 (IV) an intended course of study;

13 (V) assurances that the eligible
14 institution will begin operations with
15 not less than 25 students;

16 (VI) assurances that the eligible
17 institution will comply with all appli-
18 cable requirements of this Act; and

19 (VII) a statement that satisfies
20 the requirements of clauses (ii) and
21 (iv) of subparagraph (A).

22 (ii) CERTIFICATION.—Not later than
23 60 days after the date of receipt of an ap-
24 plication described in clause (i), the Cor-
25 poration shall certify in writing the eligible

1 institution's provisional certification to
2 participate in the scholarship program
3 under this Act unless the Corporation de-
4 termines that good cause exists to deny
5 certification.

6 (iii) RENEWAL OF PROVISIONAL CER-
7 TIFICATION.—After receipt of an applica-
8 tion under clause (i) from an eligible insti-
9 tution that includes a statement of the eli-
10 gible institution's budget completed not
11 earlier than 12 months before the date
12 such application is filed, the Corporation
13 shall renew an eligible institution's provi-
14 sional certification for the second and third
15 years of the school's participation in the
16 scholarship program under this Act unless
17 the Corporation finds—

18 (I) good cause to deny the re-
19 newal, including a finding of a pattern
20 of violation of requirements described
21 in paragraph (3)(A); or

22 (II) consistent failure of 25 per-
23 cent or more of the students receiving
24 scholarships under this Act and at-
25 tending such school to make appro-

1 appropriate progress (as determined by the
2 Corporation) in academic achieve-
3 ment.

4 (iv) DENIAL OF CERTIFICATION.—If
5 provisional certification or renewal of pro-
6 visional certification under this subsection
7 is denied, then the Corporation shall pro-
8 vide a written explanation to the eligible
9 institution of the reasons for such denial.

10 (D) REVOCATION OF ELIGIBILITY.—

11 (i) IN GENERAL.—The Corporation,
12 after notice and opportunity for a hearing,
13 may revoke an eligible institution’s certifi-
14 cation to participate in the scholarship pro-
15 gram under this Act for a year succeeding
16 the year for which the determination is
17 made for—

18 (I) good cause, including a find-
19 ing of a pattern of violation of pro-
20 gram requirements described in para-
21 graph (3)(A); or

22 (II) consistent failure of 25 per-
23 cent or more of the students receiving
24 scholarships under this Act and at-
25 tending such school to make appro-

1 appropriate progress (as determined by the
2 Corporation) in academic achieve-
3 ment.

4 (ii) EXPLANATION.—If the certifi-
5 cation of an eligible institution is revoked,
6 the Corporation shall provide a written ex-
7 planation of the Corporation’s decision to
8 such eligible institution and require a pro
9 rata refund of the proceeds of the scholar-
10 ship funds received under this Act.

11 (iii) STUDENT ELIGIBILITY NOT AF-
12 FECTED.—A student receiving a scholar-
13 ship under this Act who attends an institu-
14 tion that has had its eligibility revoked
15 under this subparagraph may utilize such
16 scholarship at another eligible institution.

17 (3) PARTICIPATION REQUIREMENTS FOR ELIGI-
18 BLE INSTITUTIONS.—

19 (A) REQUIREMENTS.—Each eligible insti-
20 tution participating in the scholarship program
21 under this Act shall—

22 (i) provide to the Corporation not
23 later than June 30 of each year the most
24 recent annual statement of the eligible in-
25 stitution’s budget; and

1 (ii) charge a student that receives a
2 scholarship under this Act not more than
3 the cost of tuition and mandatory fees for,
4 and (as appropriate) transportation to at-
5 tend, such eligible institution as other stu-
6 dents who are residents of the District of
7 Columbia and enrolled in such eligible in-
8 stitution.

9 (B) COMPLIANCE.—The Corporation may
10 require documentation of compliance with the
11 requirements of subparagraph (A), but neither
12 the Corporation nor any governmental entity
13 may impose requirements upon an eligible insti-
14 tution as a condition for participation in the
15 scholarship program under this Act, other than
16 requirements established under this Act.

17 **SEC. 4. SCHOLARSHIPS AUTHORIZED.**

18 (a) ELIGIBLE STUDENTS.—The Corporation may
19 award tuition scholarships under subsection (d)(1) and en-
20 hanced achievement scholarships under subsection (d)(2)
21 to students preparing to enter kindergarten through grade
22 12—

23 (1) who are residents of the District of Colum-
24 bia; and

1 (2) whose family income does not exceed 185
2 percent of the poverty line.

3 (b) SCHOLARSHIP PRIORITY.—Subject to subsection
4 (c), the Corporation shall award scholarships based on the
5 following priorities:

6 (1) PREVIOUS SCHOLARSHIP RECIPIENTS.—For
7 the second and subsequent academic years for which
8 scholarships are awarded, the Corporation first shall
9 award scholarships to students eligible under sub-
10 section (a) who received a scholarship from the Cor-
11 poration in the preceding academic year.

12 (2) VICTIMS OF SCHOOL VIOLENCE.—For any
13 academic year, if funds remain available after the
14 application of paragraph (1), the Corporation shall
15 award scholarships to eligible students who do not
16 receive an award under such paragraph and who
17 have been victims of a documented violent act on
18 school grounds.

19 (3) DISTRICT OF COLUMBIA SCHOOL AGE CHIL-
20 DREN.—For any academic year, if funds remain
21 after the application of paragraphs (1) and (2), the
22 Corporation shall award scholarships to eligible stu-
23 dents who do not receive an award under such para-
24 graphs and who are—

1 (A) enrolled in a public, private, or inde-
2 pendent elementary or secondary school; or

3 (B) preparing to enter kindergarten
4 through grade 12 at such a school.

5 (c) LOTTERY SELECTION.—If, in applying subsection
6 (b), the number of students described in a paragraph of
7 such subsection is such that the amount available is insuf-
8 ficient to award the appropriate scholarship amount to
9 each such student, the Corporation shall select by lottery
10 the students who will receive an award.

11 (d) USE OF SCHOLARSHIP.—

12 (1) TUITION SCHOLARSHIPS.—A tuition schol-
13 arship may be used for the payment of the cost of
14 the tuition and mandatory fees for, and (as appro-
15 priate) transportation to attend, an eligible institu-
16 tion located within the geographic boundaries of—

17 (A) the District of Columbia;

18 (B) Montgomery County, Maryland;

19 (C) Prince George’s County, Maryland;

20 (D) Arlington County, Virginia;

21 (E) Alexandria City, Virginia;

22 (F) Falls Church City, Virginia;

23 (G) Fairfax City, Virginia; or

24 (H) Fairfax County, Virginia.

1 (2) ENHANCED ACHIEVEMENT SCHOLARSHIP.—

2 An enhanced achievement scholarship may be used
3 only for the payment of the costs of tuition and
4 mandatory fees for, and (as appropriate) transpor-
5 tation to attend, a program of instruction provided
6 by an eligible institution which enhances student
7 achievement of the core curriculum and is operated
8 outside of regular school hours to supplement the
9 regular school program.

10 (e) NOT SCHOOL AID.—A scholarship under this Act
11 shall be considered assistance to the student and shall not
12 be considered assistance to an eligible institution.

13 **SEC. 5. SCHOLARSHIP AWARDS.**

14 (a) AWARDS.—From the funds made available under
15 this Act, the Corporation shall award a scholarship to a
16 student and make scholarship payments in accordance
17 with section 6.

18 (b) NOTIFICATION.—Each eligible institution that re-
19 ceives the proceeds of a scholarship payment under sub-
20 section (a) shall provide the following notifications:

21 (1) ENROLLMENT.—Not later than 10 days
22 after the date that a student receiving a scholarship
23 under this Act is enrolled, the institution shall notify
24 the Corporation of the name, address, and grade
25 level of such student.

1 (2) WITHDRAWAL OR EXPULSION.—Not later
2 than 10 days after the date of the withdrawal or ex-
3 pulsion of any student receiving a scholarship under
4 this Act, the institution shall notify the Corporation
5 of the withdrawal or expulsion.

6 (3) REFUSAL OF ADMISSION.—Not later than
7 10 days after the date that a student receiving a
8 scholarship under this Act is refused admission, the
9 institution shall notify the Corporation of the rea-
10 sons for such a refusal.

11 (c) TUITION SCHOLARSHIP.—

12 (1) EQUAL TO OR BELOW POVERTY LINE.—For
13 a student whose family income is equal to or below
14 the poverty line, a tuition scholarship may not ex-
15 ceed the lesser of—

16 (A) the cost of tuition and mandatory fees
17 for, and (as appropriate) transportation to at-
18 tend, an eligible institution; or

19 (B) \$5,000 for fiscal year 2004, with such
20 amount adjusted in proportion to changes in
21 the Consumer Price Index for All Urban Con-
22 sumers published by the Department of Labor
23 for each of fiscal years 2005 through 2008.

24 (2) ABOVE POVERTY LINE.—For a student
25 whose family income is greater than the poverty line,

1 but not more than 185 percent of the poverty line,
2 a tuition scholarship may not exceed the lesser of—

3 (A) 75 percent of the cost of tuition and
4 mandatory fees for, and (as appropriate) trans-
5 portation to attend, an eligible institution; or

6 (B) \$3,750 for fiscal year 2004, with such
7 amount adjusted in proportion to changes in
8 the Consumer Price Index for All Urban Con-
9 sumers published by the Department of Labor
10 for each of fiscal years 2005 through 2008.

11 (d) ENHANCED ACHIEVEMENT SCHOLARSHIP.—An
12 enhanced achievement scholarship may not exceed the
13 lesser of—

14 (1) the costs of tuition and mandatory fees for,
15 and (as appropriate) transportation to attend, a pro-
16 gram of instruction at an eligible institution; or

17 (2) \$800 for fiscal year 2004, with such
18 amount adjusted in proportion to changes in the
19 Consumer Price Index for All Urban Consumers
20 published by the Department of Labor for each of
21 fiscal years 2005 through 2008.

22 **SEC. 6. SCHOLARSHIP PAYMENTS.**

23 (a) PAYMENTS.—The Corporation shall make schol-
24 arship payments to the parent of a student awarded a
25 scholarship under this Act.

1 (b) DISTRIBUTION OF SCHOLARSHIP FUNDS.—Schol-
2 arship funds may be distributed by check, or another form
3 of disbursement, issued by the Corporation and made pay-
4 able directly to a parent of a student awarded a scholar-
5 ship under this Act. The parent may use the scholarship
6 funds only for payment of tuition, mandatory fees, and
7 transportation costs as described in this Act.

8 (c) PRO RATA AMOUNTS FOR STUDENT WITH-
9 DRAWAL.—If a student receiving a scholarship under this
10 Act withdraws or is expelled from an eligible institution
11 after the proceeds of a scholarship is paid to the eligible
12 institution, then the eligible institution shall refund to the
13 Corporation on a pro rata basis the proportion of any such
14 proceeds received for the remaining days of the school
15 year. Such refund shall occur not later than 30 days after
16 the date of the withdrawal or expulsion of the student.

17 **SEC. 7. CIVIL RIGHTS.**

18 (a) IN GENERAL.—An eligible institution partici-
19 pating in the scholarship program under this Act shall not
20 discriminate on the basis of race, color, national origin,
21 or sex in carrying out the provisions of this Act.

22 (b) APPLICABILITY AND CONSTRUCTION WITH RE-
23 SPECT TO DISCRIMINATION ON THE BASIS OF SEX.—

24 (1) APPLICABILITY.—With respect to discrimi-
25 nation on the basis of sex, subsection (a) shall not

1 apply to an eligible institution that is controlled by
2 a religious organization if the application of sub-
3 section (a) is inconsistent with the religious tenets
4 of the eligible institution.

5 (2) CONSTRUCTION.—With respect to discrimi-
6 nation on the basis of sex, nothing in subsection (a)
7 shall be construed to require any person, or public
8 or private entity to provide or pay, or to prohibit any
9 such person or entity from providing or paying, for
10 any benefit or service, including the use of facilities,
11 related to an abortion. Nothing in the preceding sen-
12 tence shall be construed to permit a penalty to be
13 imposed on any person or individual because such
14 person or individual is seeking or has received any
15 benefit or service related to a legal abortion.

16 (3) SINGLE-SEX SCHOOLS, CLASSES, OR ACTIVI-
17 TIES.—With respect to discrimination on the basis
18 of sex, nothing in subsection (a) shall be construed
19 to prevent a parent from choosing, or an eligible in-
20 stitution from offering, a single-sex school, class, or
21 activity.

22 (c) REVOCATION.—Notwithstanding section
23 3(f)(2)(D), if the Corporation determines that an eligible
24 institution participating in the scholarship program under
25 this Act is in violation of subsection (a), then the Corpora-

1 tion shall revoke such eligible institution's certification to
2 participate in the program.

3 **SEC. 8. CHILDREN WITH DISABILITIES.**

4 Nothing in this Act shall affect the rights of students,
5 or the obligations of the District of Columbia public
6 schools, under the Individuals with Disabilities Education
7 Act (20 U.S.C. 1400 et seq.).

8 **SEC. 9. RULE OF CONSTRUCTION.**

9 (a) IN GENERAL.—Nothing in this Act shall be con-
10 strued to prevent any eligible institution which is operated
11 by, supervised by, controlled by, or connected to, a reli-
12 gious organization from employing, admitting, or giving
13 preference to, persons of the same religion to the extent
14 determined by such institution to promote the religious
15 purpose for which the eligible institution is established or
16 maintained.

17 (b) SECTARIAN PURPOSES.—Nothing in this Act
18 shall be construed to prohibit the use of funds made avail-
19 able under this Act for sectarian educational purposes, or
20 to require an eligible institution to remove religious art,
21 icons, scripture, or other symbols.

22 **SEC. 10. REPORTING REQUIREMENTS.**

23 (a) IN GENERAL.—An eligible institution partici-
24 pating in the scholarship program under this Act shall re-
25 port to the Corporation not later than July 30 of each

1 year in a manner prescribed by the Corporation, the fol-
2 lowing data:

3 (1) Student achievement in the eligible institu-
4 tion's programs.

5 (2) Grade advancement for scholarship stu-
6 dents.

7 (3) Disciplinary actions taken with respect to
8 scholarship students.

9 (4) Graduation, college admission test scores,
10 and college admission rates, if applicable for scholar-
11 ship students.

12 (5) Types and amounts of parental involvement
13 required for all families of scholarship students.

14 (6) Student attendance for scholarship and
15 nonscholarship students.

16 (7) General information on curriculum, pro-
17 grams, facilities, credentials of personnel, and dis-
18 ciplinary rules at the eligible institution.

19 (8) Number of scholarship students enrolled.

20 (9) Such other information as may be required
21 by the Corporation for program appraisal.

22 (b) CONFIDENTIALITY.—No personal identifiers may
23 be used in such report, except that the Corporation may
24 request such personal identifiers solely for the purpose of
25 verification.

1 **SEC. 11. PROGRAM APPRAISAL.**

2 (a) STUDY.—Not later than 3 years after the date
3 of enactment of this Act, the Comptroller General shall
4 enter into a contract, with an evaluating agency that has
5 demonstrated experience in conducting evaluations, for an
6 independent evaluation of the scholarship program under
7 this Act, including—

8 (1) a comparison of test scores between scholar-
9 ship students and District of Columbia public school
10 students of similar backgrounds, taking into account
11 the students' academic achievement at the time of
12 the award of their scholarships and the students'
13 family income level;

14 (2) a comparison of graduation rates between
15 scholarship students and District of Columbia public
16 school students of similar backgrounds, taking into
17 account the students' academic achievement at the
18 time of the award of their scholarships and the stu-
19 dents' family income level;

20 (3) the satisfaction of parents of scholarship
21 students with the scholarship program; and

22 (4) the impact of the scholarship program on
23 the District of Columbia public schools, including
24 changes in the public school enrollment, and any im-
25 provement in the academic performance of the public
26 schools.

1 (b) PUBLIC REVIEW OF DATA.—All data gathered in
2 the course of the study described in subsection (a) shall
3 be made available to the public upon request except that
4 no personal identifiers shall be made public.

5 (c) REPORT TO CONGRESS.—Not later than Sep-
6 tember 1 of each year, the Corporation shall submit a
7 progress report on the scholarship program to the appro-
8 priate committees of Congress. Such report shall include
9 a review of how scholarship funds were expended, includ-
10 ing the initial academic achievement levels of students who
11 have participated in the scholarship program.

12 (d) AUTHORIZATION.—There are authorized to be ap-
13 propriated for the study described in subsection (a),
14 \$250,000, which shall remain available until expended.

15 **SEC. 12. JUDICIAL REVIEW.**

16 (a) JURISDICTION.—

17 (1) IN GENERAL.—The United States District
18 Court for the District of Columbia shall have juris-
19 diction in any action challenging the constitu-
20 tionality of the scholarship program under this Act
21 and shall provide expedited review.

22 (2) STANDING.—The parent of any student eli-
23 gible to receive a scholarship under this Act shall
24 have standing in an action challenging the constitu-
25 tionality of the scholarship program under this Act.

1 (b) APPEAL TO SUPREME COURT.—Notwithstanding
2 any other provision of law, any order of the United States
3 District Court for the District of Columbia which is issued
4 pursuant to an action brought under subsection (a) shall
5 be reviewable by appeal directly to the Supreme Court of
6 the United States.

7 **SEC. 13. EFFECTIVE DATE.**

8 This Act shall be effective for each of fiscal years
9 2004 through 2008.

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