

SCHOLARSHIPS FOR OPPORTUNITY AND RESULTS ACT

MARCH 17, 2011.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. ISSA, from the Committee on Oversight and Government Reform, submitted the following

R E P O R T

together with

MINORITY VIEWS

[To accompany H.R. 471]

[Including cost estimate of the Congressional Budget Office]

The Committee on Oversight and Government Reform, to whom was referred the bill (H.R. 471) to reauthorize the DC opportunity scholarship program, and for other purposes, having considered the same, reports favorably thereon with an amendment and recommends that the bill as amended do pass.

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The amendment is as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the “Scholarships for Opportunity and Results Act” or the “SOAR Act”.

SEC. 2. FINDINGS.

Congress finds the following:

(1) Parents are best equipped to make decisions for their children, including the educational setting that will best serve the interests and educational needs of their child.

(2) For many parents in the District of Columbia, public school choice provided under the Elementary and Secondary Education Act of 1965, as well as under other public school choice programs, is inadequate. More educational options are needed to ensure all families in the District of Columbia have access to a quality education. In particular, funds are needed to provide low-income parents with enhanced public opportunities and private educational environments, regardless of whether such environments are secular or nonsecular.

(3) While the per student cost for students in the public schools of the District of Columbia is one of the highest in the United States, test scores for such students continue to be among the lowest in the Nation. The National Assessment of Educational Progress (NAEP), an annual report released by the National Center for Education Statistics, reported in its 2009 study that students in the District of Columbia were being outperformed by every State in the Nation. On the 2009 NAEP, 56 percent of fourth grade students scored “below basic” in reading, and 44 percent scored “below basic” in mathematics. Among eighth grade students, 49 percent scored “below basic” in reading and 60 percent scored “below basic” in mathematics. On the 2009 NAEP reading assessment, only 17 percent of the District of Columbia fourth grade students could read proficiently, while only 13 percent of the eighth grade students scored at the proficient or advanced level.

(4) In 2003, Congress passed the DC School Choice Incentive Act of 2003 (Public Law 108–199; 118 Stat. 126), to provide opportunity scholarships to parents of students in the District of Columbia to enable them to pursue a high-quality education at a public or private elementary or secondary school of their choice. The DC Opportunity Scholarship Program (DC OSP) under such Act was part of a comprehensive 3-part funding arrangement that also included additional funds for the District of Columbia public schools, and additional funds for public charter schools of the District of Columbia. The intent of the approach was to ensure that progress would continue to be made to improve public schools and public charter schools, and that funding for the opportunity scholarship program would not lead to a reduction in funding for the District of Columbia public and charter schools. Resources would be available for a variety of educational options that would give families in the District of Columbia a range of choices with regard to the education of their children.

(5) The DC OSP was established in accordance with the Supreme Court decision, *Zelman v. Simmons-Harris*, 536 U.S. 639 (2002), which found that a program enacted for the valid secular purpose of providing educational assistance to low-income children in a demonstrably failing public school system is constitutional if it is neutral with respect to religion and provides assistance to a broad class of citizens who direct government aid to religious and secular schools solely as a result of their genuine and independent private choices.

(6) Since the inception of the DC OSP, it has consistently been oversubscribed. Parents express strong support for the opportunity scholarship program. Rigorous studies of the program by the Institute of Education Sciences have shown significant improvements in parental satisfaction and in reading scores that are more dramatic when only those students consistently using the scholarships are considered. The program also was found to result in significantly higher graduation rates for DC OSP students.

(7) The DC OSP is a program that offers families in need, in the District of Columbia, important alternatives while public schools are improved. This program should be reauthorized as 1 of a 3-part comprehensive funding strategy for the District of Columbia school system that provides new and equal funding for public schools, public charter schools, and opportunity scholarships for students to attend private schools.

SEC. 3. PURPOSE.

The purpose of this Act is to provide low-income parents residing in the District of Columbia, particularly parents of students who attend elementary schools or secondary schools identified for improvement, corrective action, or restructuring under section 1116 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6316), with expanded opportunities for enrolling their children in other schools in the District of Columbia, at least until the public schools in the District of Columbia have adequately addressed shortfalls in health, safety, and security, and the students in the District of Columbia public schools are testing in mathematics and reading at or above the national average.

SEC. 4. GENERAL AUTHORITY.**(a) OPPORTUNITY SCHOLARSHIPS.—**

(1) **IN GENERAL.**—From funds appropriated under section 14(a)(1), the Secretary shall award grants on a competitive basis to eligible entities with approved applications under section 5 to carry out a program to provide eligible students with expanded school choice opportunities. The Secretary may award a single grant or multiple grants, depending on the quality of applications submitted and the priorities of this Act.

(2) **DURATION OF GRANTS.**—The Secretary may make grants under this subsection for a period of not more than 5 years.

(b) DC PUBLIC SCHOOLS AND CHARTER SCHOOLS.—From funds appropriated under paragraphs (2) and (3) of section 14(a), the Secretary shall provide funds to the Mayor of the District of Columbia, if the Mayor agrees to the requirements described in section 11(a), for—

(1) the District of Columbia public schools to improve public education in the District of Columbia; and

(2) the District of Columbia public charter schools to improve and expand quality public charter schools in the District of Columbia.

SEC. 5. APPLICATIONS.

(a) IN GENERAL.—In order to receive a grant under section 4(a), an eligible entity shall submit an application to the Secretary at such time, in such manner, and accompanied by such information as the Secretary may require.

(b) CONTENTS.—The Secretary may not approve the request of an eligible entity for a grant under section 4(a) unless the entity's application includes—

(1) a detailed description of—

(A) how the entity will address the priorities described in section 6;

(B) how the entity will ensure that if more eligible students seek admission in the program of the entity than the program can accommodate, eligible students are selected for admission through a random selection process which gives weight to the priorities described in section 6;

(C) how the entity will ensure that if more participating eligible students seek admission to a participating school than the school can accommodate, participating eligible students are selected for admission through a random selection process;

(D) how the entity will notify parents of eligible students of the expanded choice opportunities in order to allow the parents to make informed decisions;

(E) the activities that the entity will carry out to provide parents of eligible students with expanded choice opportunities through the awarding of scholarships under section 7(a);

(F) how the entity will determine the amount that will be provided to parents under section 7(a)(2) for the payment of tuition, fees, and transportation expenses, if any;

(G) how the entity will seek out private elementary schools and secondary schools in the District of Columbia to participate in the program;

(H) how the entity will ensure that each participating school will meet the reporting and other program requirements under this Act;

(I) how the entity will ensure that participating schools submit to site visits by the entity as determined to be necessary by the entity, except that a participating school may not be required to submit to more than 1 site visit per school year;

(J) how the entity will ensure that participating schools are financially responsible and will use the funds received under section 7 effectively;

(K) how the entity will address the renewal of scholarships to participating eligible students, including continued eligibility; and

(L) how the entity will ensure that a majority of its voting board members or governing organization are residents of the District of Columbia; and

(2) an assurance that the entity will comply with all requests regarding any evaluation carried out under section 9(a).

SEC. 6. PRIORITIES.

In awarding grants under section 4(a), the Secretary shall give priority to applications from eligible entities that will most effectively—

(1) in awarding scholarships under section 7(a), give priority to—

(A) eligible students who, in the school year preceding the school year for which the eligible students are seeking a scholarship, attended an elementary school or secondary school identified for improvement, corrective action, or restructuring under section 1116 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6316);

(B) students who have been awarded a scholarship in a preceding year under this Act or the DC School Choice Incentive Act of 2003 (sec. 38–1851.01 et seq., D.C. Official Code), as such Act was in effect on the day before the date of the enactment of this Act, but who have not used the scholarship, including eligible students who were provided notification of selection for a scholarship for school year 2009–2010, which was later rescinded in accordance with direction from the Secretary of Education; and

(C) students whose household includes a sibling or other child who is already participating in the program of the eligible entity under this Act, regardless of whether such students have, in the past, been assigned as members of a control study group for the purposes of an evaluation under section 9(a);

(2) target resources to students and families that lack the financial resources to take advantage of available educational options; and

(3) provide students and families with the widest range of educational options.

SEC. 7. USE OF FUNDS.

(a) OPPORTUNITY SCHOLARSHIPS.—

(1) IN GENERAL.—Subject to paragraphs (2) and (3), an eligible entity receiving a grant under section 4(a) shall use the grant funds to provide eligible students with scholarships to pay the tuition, fees, and transportation expenses, if any, to enable the eligible students to attend the District of Columbia private elementary school or secondary school of their choice beginning in school year 2011–2012. Each such eligible entity shall ensure that the amount of any tuition or fees charged by a school participating in such entity’s program under this Act to an eligible student participating in the program does not exceed the amount of tuition or fees that the school charges to students who do not participate in the program.

(2) PAYMENTS TO PARENTS.—An eligible entity receiving a grant under section 4(a) shall make scholarship payments under the entity’s program under this Act to the parent of the eligible student participating in the program, in a manner which ensures that such payments will be used for the payment of tuition, fees, and transportation expenses (if any), in accordance with this Act.

(3) AMOUNT OF ASSISTANCE.—

(A) VARYING AMOUNTS PERMITTED.—Subject to the other requirements of this section, an eligible entity receiving a grant under section 4(a) may award scholarships in larger amounts to those eligible students with the greatest need.

(B) ANNUAL LIMIT ON AMOUNT.—

(i) LIMIT FOR SCHOOL YEAR 2011–2012.—The amount of assistance provided to any eligible student by an eligible entity under the entity’s program under this Act for school year 2011–2012 may not exceed—

(I) \$8,000 for attendance in kindergarten through grade 8; and
(II) \$12,000 for attendance in grades 9 through 12.

(ii) CUMULATIVE INFLATION ADJUSTMENT.—Beginning the school year following the school year of the date of the enactment of this Act, the Secretary shall adjust the maximum amounts of assistance described in clause (i) for inflation, as measured by the percentage increase, if any, from the preceding fiscal year in the Consumer Price Index for All Urban Consumers, published by the Bureau of Labor Statistics of the Department of Labor.

(4) PARTICIPATING SCHOOL REQUIREMENTS.—None of the funds provided under this Act for opportunity scholarships may be used by an eligible student to enroll in a participating private school unless the participating school—

(A) has and maintains a valid certificate of occupancy issued by the District of Columbia;

(B) makes readily available to all prospective students information on its school accreditation;

(C) in the case of a school that has been operating for 5 years or less, submits to the eligible entity administering the program proof of adequate financial resources reflecting the financial sustainability of the school and the school's ability to be in operation through the school year;

(D) agrees to submit to site visits as determined to be necessary by the eligible entity pursuant to section 5(b)(1)(I);

(E) has financial systems, controls, policies, and procedures to ensure that funds are used according to this Act; and

(F) ensures that each teacher of core subject matter in the school has a baccalaureate degree or equivalent degree, whether such degree was awarded in or outside of the United States.

(b) ADMINISTRATIVE EXPENSES.—An eligible entity receiving a grant under section 4(a) may use not more than 3 percent of the amount provided under the grant each year for the administrative expenses of carrying out its program under this Act during the year, including—

(1) determining the eligibility of students to participate;

(2) selecting eligible students to receive scholarships;

(3) determining the amount of scholarships and issuing the scholarships to eligible students;

(4) compiling and maintaining financial and programmatic records; and

(5) conducting site visits as described in section 5(b)(1)(I).

(c) PARENTAL ASSISTANCE.—An eligible entity receiving a grant under section 4(a) may use not more than 2 percent of the amount provided under the grant each year for the expenses of educating parents about the entity's program under this Act, and assisting parents through the application process, under this Act, including—

(1) providing information about the program and the participating schools to parents of eligible students;

(2) providing funds to assist parents of students in meeting expenses that might otherwise preclude the participation of eligible students in the program; and

(3) streamlining the application process for parents.

(d) STUDENT ACADEMIC ASSISTANCE.—An eligible entity receiving a grant under section 4(a) may use not more than 1 percent of the amount provided under the grant each year for expenses to provide tutoring services to participating eligible students that need additional academic assistance. If there are insufficient funds to provide tutoring services to all such students in a year, the eligible entity shall give priority in such year to students who previously attended an elementary school or secondary school that was identified for improvement, corrective action, or restructuring under section 1116 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6316).

SEC. 8. NONDISCRIMINATION AND OTHER REQUIREMENTS FOR PARTICIPATING SCHOOLS.

(a) IN GENERAL.—An eligible entity or a school participating in any program under this Act shall not discriminate against program participants or applicants on the basis of race, color, national origin, religion, or sex.

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

(1) IN GENERAL.—Notwithstanding any other provision of law, the prohibition of sex discrimination in subsection (a) 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 subsection (a) is inconsistent with the religious tenets or beliefs of the school.

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

(3) APPLICABILITY.—For purposes of this Act, the provisions of section 909 of the Education Amendments of 1972 (20 U.S.C. 1688) shall apply to this Act as if section 909 of the Education Amendments of 1972 (20 U.S.C. 1688) were part of this Act.

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

(d) RELIGIOUSLY AFFILIATED SCHOOLS.—

(1) IN GENERAL.—Notwithstanding any other provision of law, a school participating in any program under this Act 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–1 et seq.), including the exemptions in such title.

(2) MAINTENANCE OF PURPOSE.—Notwithstanding any other provision of law, funds made available under this Act to eligible students, which are used at a participating school as a result of their parents' choice, shall not, consistent with the first amendment of the Constitution, necessitate any change in the participating school's teaching mission, require any participating school to remove religious art, icons, scriptures, or other symbols, or preclude any 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.

(e) RULE OF CONSTRUCTION.—A scholarship (or any other form of support provided to parents of eligible students) under this Act shall be considered assistance to the student and shall not be considered assistance to the school that enrolls the eligible student. The amount of any scholarship (or other form of support provided to parents of an eligible student) under this Act shall not be treated as income of the parents for purposes of Federal tax laws or for determining eligibility for any other Federal program.

(f) REQUESTS FOR DATA AND INFORMATION.—Each school participating in a program funded under this Act shall comply with all requests for data and information regarding evaluations conducted under section 9(a).

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

(h) NATIONALLY NORM-REFERENCED STANDARDIZED TESTS.—

(1) IN GENERAL.—Each participating school shall comply with any testing requirements determined to be necessary for evaluation under section 9(a)(2)(A)(i).

(2) MAKE-UP SESSION.—If a participating school does not administer a nationally norm-referenced standardized test or the Institute of Education Sciences does not receive data on a student who is receiving an opportunity scholarship, then the Secretary (through the Institute of Education Sciences of the Department of Education) shall administer such test at least one time during a school year for each student receiving an opportunity scholarship.

SEC. 9. EVALUATIONS.

(a) IN GENERAL.—

(1) DUTIES OF THE SECRETARY AND THE MAYOR.—The Secretary and the Mayor of the District of Columbia shall—

(A) jointly enter into an agreement with the Institute of Education Sciences of the Department of Education to evaluate annually the performance of students who received scholarships under the 5-year program under this Act;

(B) jointly enter into an agreement to monitor and evaluate the use of funds authorized and appropriated for the District of Columbia public schools and the District of Columbia public charter schools under this Act; and

(C) make the evaluations described in subparagraph (A) and (B) public in accordance with subsection (c).

(2) DUTIES OF THE SECRETARY.—The Secretary, through a grant, contract, or cooperative agreement, shall—

(A) ensure that the evaluation under paragraph (1)(A)—

(i) is conducted using the strongest possible research design for determining the effectiveness of the opportunity scholarship program under this Act; and

(ii) addresses the issues described in paragraph (4); and

(B) disseminate information on the impact of the program—

(i) in increasing the academic growth and achievement of participating eligible students; and

(ii) on students and schools in the District of Columbia.

(3) DUTIES OF THE INSTITUTE OF EDUCATION SCIENCES.—The Institute of Education Sciences of the Department of Education shall—

(A) use a grade appropriate, nationally norm-referenced standardized test each school year to assess participating eligible students;

(B) measure the academic achievement of all participating eligible students; and

(C) work with the eligible entities to ensure that the parents of each student who applies for a scholarship under this Act (regardless of whether the student receives the scholarship) and the parents of each student participating in the scholarship program under this Act, agree that the student

will participate in the measurements given annually by the Institute of Educational Sciences for the period for which the student applied for or received the scholarship, respectively, except that nothing in this subparagraph shall affect a student's priority for an opportunity scholarship as provided under section 6.

(4) ISSUES TO BE EVALUATED.—The issues to be evaluated under paragraph (1)(A) shall include the following:

(A) A comparison of the academic growth and achievement of participating eligible students in the measurements described in paragraph (3) to the academic growth and achievement of the eligible students in the same grades who sought to participate in the scholarship program under this Act but were not selected.

(B) The success of the program in expanding choice options for parents of participating eligible students, improving parental and student satisfaction of such parents and students, respectively, and increasing parental involvement of such parents in the education of their children.

(C) The reasons parents of participating eligible students choose for their children to participate in the program, including important characteristics for selecting schools.

(D) A comparison of the retention rates, high school graduation rates, and college admission rates of participating eligible students with the retention rates, high school graduation rates, and college admission rates of students of similar backgrounds who do not participate in such program.

(E) A comparison of the safety of the schools attended by participating eligible students and the schools in the District of Columbia attended by students who do not participate in the program, based on the perceptions of the students and parents.

(F) Such other issues with respect to participating eligible students as the Secretary considers appropriate for inclusion in the evaluation, such as the impact of the program on public elementary schools and secondary schools in the District of Columbia.

(G) An analysis of the issues described in subparagraphs (A) through (F) by applying such subparagraphs by substituting “the subgroup of participating eligible students who have used each opportunity scholarship awarded to such students under this Act to attend a participating school” for “participating eligible students” each place such term appears.

(5) PROHIBITION.—Personally identifiable information regarding the results of the measurements used for the evaluations may not be disclosed, except to the parents of the student to whom the information relates.

(b) REPORTS.—The Secretary shall submit to the Committees on Appropriations, Education and the Workforce, and Oversight and Government Reform of the House of Representatives and the Committees on Appropriations, Health, Education, Labor, and Pensions, and Homeland Security and Governmental Affairs of the Senate—

(1) annual interim reports, not later than April 1 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), on the progress and preliminary results of the evaluation of the opportunity scholarship program funded under this Act; and

(2) a final report, not later than 1 year after the final year for which a grant is made under section 4(a), on the results of the evaluation of the program.

(c) PUBLIC AVAILABILITY.—All reports and underlying data gathered pursuant to this section shall be made available to the public upon request, in a timely manner following submission of the applicable report under subsection (b), except that personally identifiable information shall not be disclosed or made available to the public.

(d) LIMIT ON AMOUNT EXPENDED.—The amount expended by the Secretary to carry out this section for any fiscal year may not exceed 5 percent of the total amount appropriated under section 14(a)(1) for the fiscal year.

SEC. 10. REPORTING REQUIREMENTS.

(a) ACTIVITIES REPORTS.—Each eligible entity receiving funds under section 4(a) during a year shall submit a report to the Secretary not later than July 30 of the following year regarding the activities carried out with the funds during the preceding year.

(b) ACHIEVEMENT REPORTS.—

(1) IN GENERAL.—In addition to the reports under subsection (a), each eligible entity receiving funds under section 4(a) shall, not later than September 1 of the year during which the second school year of the entity's pro-

gram is completed and each of the next 2 years thereafter, submit to the Secretary a report, including any pertinent data collected in the preceding 2 school years, concerning—

(A) the academic growth and achievement of students participating in the program;

(B) the high school graduation and college admission rates of students who participate in the program, where appropriate; and

(C) parental satisfaction with the program.

(2) PROHIBITING DISCLOSURE OF PERSONAL INFORMATION.—No report under this subsection may contain any personally identifiable information.

(c) REPORTS TO PARENTS.—

(1) IN GENERAL.—Each eligible entity receiving funds under section 4(a) shall ensure that each school participating in the entity’s program under this Act during a school year reports at least once during the year to the parents of each of the school’s students who are participating in the program on—

(A) the student’s academic achievement, as measured by a comparison with the aggregate academic achievement of other participating students at the student’s school in the same grade or level, as appropriate, and the aggregate academic achievement of the student’s peers at the student’s school in the same grade or level, as appropriate;

(B) the safety of the school, including the incidence of school violence, student suspensions, and student expulsions; and

(C) the accreditation status of the school.

(2) PROHIBITING DISCLOSURE OF PERSONAL INFORMATION.—No report under this subsection may contain any personally identifiable information, except as to the student who is the subject of the report to that student’s parent.

(d) REPORT TO CONGRESS.—Not later than 6 months after the first appropriation of funds under section 14, and each succeeding year thereafter, the Secretary shall submit to the Committees on Appropriations, Education and the Workforce, and Oversight and Government Reform of the House of Representatives and the Committees on Appropriations, Health, Education, Labor, and Pensions, and Homeland Security and Governmental Affairs of the Senate, an annual report on the findings of the reports submitted under subsections (a) and (b).

SEC. 11. DC PUBLIC SCHOOLS AND DC PUBLIC CHARTER SCHOOLS.

(a) CONDITION OF RECEIPT OF FUNDS.—As a condition of receiving funds under this Act on behalf of the District of Columbia public schools and the District of Columbia public charter schools, the Mayor shall agree to carry out the following:

(1) INFORMATION REQUESTS.—Ensure that all the District of Columbia public schools and the District of Columbia public charter schools comply with all reasonable requests for information for purposes of the evaluation under section 9(a).

(2) AGREEMENT WITH THE SECRETARY.—Enter into the agreement described in section 9(a)(1)(B) to monitor and evaluate the use of funds authorized and appropriated for the District of Columbia public schools and the District of Columbia public charter schools under this Act.

(3) SUBMISSION OF REPORT.—Not later than 6 months after the first appropriation of funds under section 14, and each succeeding year thereafter, submit to the Committee on Appropriations, the Committee on Education and the Workforce, and the Committee on Oversight and Government Reform of the House of Representatives, and the Committee on Appropriations, the Committee on Health, Education, Labor, and Pensions, and the Committee on Homeland Security and Governmental Affairs of the Senate, information on—

(A) how the funds authorized and appropriated under this Act for the District of Columbia public schools and the District of Columbia public charter schools were used in the preceding school year; and

(B) how such funds are contributing to student achievement.

(b) ENFORCEMENT.—If, after reasonable notice and an opportunity for a hearing for the Mayor, the Secretary determines that the Mayor has not been in compliance with 1 or more of the requirements described in subsection (a), the Secretary may withhold from the Mayor, in whole or in part, further funds under this Act for the District of Columbia public schools and the District of Columbia public charter schools.

(c) RULE OF CONSTRUCTION.—Nothing in this section shall be construed to reduce, or otherwise affect, funding provided under this Act for the opportunity scholarship program under this Act.

SEC. 12. TRANSITION PROVISIONS.

(a) REPEAL.—The DC School Choice Incentive Act of 2003 (sec. 38–1851.01 et seq., D.C. Official Code) is repealed.

(b) **SPECIAL RULES.**—Notwithstanding any other provision of law—

(1) funding appropriated to provide opportunity scholarships for students in the District of Columbia under the heading “Federal Payment for School Improvement” in title IV of division D of the Omnibus Appropriations Act, 2009 (Public Law 111–8; 123 Stat. 653), the heading “Federal Payment for School Improvement” in title IV of division C of the Consolidated Appropriations Act, 2010 (Public Law 111–117; 123 Stat. 3181), or any other Act, may be used to provide opportunity scholarships under section 7(a) for the 2011–2012 school year to students who have not previously received such scholarships;

(2) the fourth and fifth provisos under the heading “Federal Payment for School Improvement” of title IV of Division C of the Consolidated Appropriations Act, 2010 (Public Law 111–117; 123 Stat. 3181) shall not apply; and

(3) any unobligated amounts reserved to carry out the provisos described in paragraph (2) shall be made available to an eligible entity receiving a grant under section 4(a)—

(A) for administrative expenses described in section 7(b); or

(B) to provide opportunity scholarships under section 7(a), including to provide such scholarships for the 2011–2012 school year to students who have not previously received such scholarships.

(c) **MULTIYEAR AWARDS.**—The recipient of a grant or contract under the DC School Choice Incentive Act of 2003 (sec. 38–1851.01 et seq., D.C. Official Code), as such Act was in effect on the day before the date of the enactment of this Act, shall continue to receive funds in accordance with the terms and conditions of such grant or contract, except that—

(1) the provisos relating to opportunity scholarships in the Acts described in subsection (b)(1) shall not apply; and

(2) the memorandum of understanding described in subsection (d), including any revision made under such subsection, shall apply.

(d) **MEMORANDUM OF UNDERSTANDING.**—The Secretary and the Mayor of the District of Columbia shall revise the memorandum of understanding entered into under the DC School Choice Incentive Act of 2003 (sec. 38–1851.01 et seq., D.C. Official Code), as such Act was in effect on the day before the date of the enactment of this Act, to address—

(1) the implementation of the opportunity scholarship program under this Act; and

(2) how the Mayor will ensure that the District of Columbia public schools and the District of Columbia public charter schools comply with all the reasonable requests for information as necessary to fulfill the requirements for evaluations conducted under section 9(a).

(e) **ORDERLY TRANSITION.**—Subject to subsections (c) and (d), the Secretary shall take such steps as the Secretary determines to be appropriate to provide for the orderly transition to the authority of this Act from any authority under the provisions of the DC School Choice Incentive Act of 2003 (sec. 38–1851.01 et seq., D.C. Official Code), as such Act was in effect on the day before the date of enactment of this Act.

SEC. 13. DEFINITIONS.

As used in this Act:

(1) **ELEMENTARY SCHOOL.**—The term “elementary school” means an institutional day or residential school, including a public elementary charter school, that provides elementary education, as determined under District of Columbia law.

(2) **ELIGIBLE ENTITY.**—The term “eligible entity” means any of the following:

(A) A nonprofit organization.

(B) A consortium of nonprofit organizations.

(3) **ELIGIBLE STUDENT.**—The term “eligible student” means a student who is a resident of the District of Columbia and comes from a household—

(A) receiving assistance under the supplemental nutrition assistance program established under the Food and Nutrition Act of 2008 (7 U.S.C. 2011 et seq.); or

(B) whose income does not exceed—

(i) 185 percent of the poverty line; or

(ii) in the case of a student participating in the opportunity scholarship program in the preceding year under this Act or the DC School Choice Incentive Act of 2003 (sec. 38–1851.01 et seq., D.C. Official Code), as such Act was in effect on the day before the date of enactment of this Act, 300 percent of the poverty line.

(4) **MAYOR.**—The term “Mayor” means the Mayor of the District of Columbia.

(5) **PARENT.**—The term “parent” has the meaning given that term in section 9101 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7801).

(6) PARTICIPATING ELIGIBLE STUDENT.—The term “participating eligible student” means an eligible student awarded an opportunity scholarship under this Act, without regard to whether the student uses the scholarship to attend a participating school.

(7) PARTICIPATING SCHOOL.—The term “participating school” means a private elementary school or secondary school participating in the opportunity scholarship program of an eligible entity under this Act.

(8) POVERTY LINE.—The term “poverty line” has the meaning given that term in section 9101 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7801).

(9) SECONDARY SCHOOL.—The term “secondary school” means an institutional day or residential school, including a public secondary charter school, that provides secondary education, as determined under District of Columbia law, except that the term does not include any education beyond grade 12.

(10) SECRETARY.—The term “Secretary” means the Secretary of Education.

SEC. 14. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—There are authorized to be appropriated \$60,000,000 for fiscal year 2012 and for each of the 4 succeeding fiscal years, of which—

(1) one-third shall be made available to carry out the opportunity scholarship program under this Act for each fiscal year;

(2) one-third shall be made available to carry out section 4(b)(1) for each fiscal year; and

(3) one-third shall be made available to carry out section 4(b)(2) for each fiscal year.

(b) APPORTIONMENT.—If the total amount of funds appropriated under subsection (a) for a fiscal year does not equal \$60,000,000, the funds shall be apportioned in the manner described in subsection (a) for such fiscal year.

COMMITTEE STATEMENT AND VIEWS

PURPOSE AND SUMMARY

The Committee is concerned with the persistent and systemic failings of schools in the DC Public School system, particularly those located in traditionally low-income areas. To address these shortcomings, the Committee supports reauthorizing the DC Opportunity Scholarship Program (OSP).

H.R. 471, the Scholarships for Opportunity and Results (SOAR) Act, reauthorizes and makes improvements to the DC OSP. The legislation increases the scholarship amount from \$7,500 generally to up to \$8,000 for elementary students and up to \$12,000 for secondary students. The legislation also continues and strengthens reporting requirements to determine the effectiveness of the program, while enhancing the rigor of eligibility requirements pertaining to private schools that participate in the program.

H.R. 471 authorizes \$60 million to be appropriated annually for each of the next five fiscal years. Consistent with the “three-sector” approach to educational improvement in the District, the funding is equally divided among the DC OSP, the DC public schools, and DC public charter schools.

BACKGROUND AND NEED FOR LEGISLATION

The United States Constitution grants Congress the authority “To exercise exclusive Legislation in all Cases Whatsoever over said District . . .”

Congress has used its Constitutional authority to address what it deems as significant issues in the District. In 1996, due to the long-standing educational failures of the DC public schools, the D.C. School Reform Act (P.L. 104–134) was enacted, creating charter schools in the district to increase education options for students enrolled in public schools that were consistently under-performing.

In 2003, continuing education reform efforts in DC, Congress created the first federally-funded, private school voucher program in the country, the DC OSP. Under what was termed the “three-sector” approach to school improvement in the District, the new law also provided additional, direct federal payments to DC public schools and DC public charter schools. The funding was to be used to help improve the education of students enrolled in traditional public schools and help improve and expand quality charter schools.

After several successful years of offering these scholarships to needy families, the Obama Administration rescinded 216 scholarships that had been promised to new enrollees who were due to enter the DC OSP in the 2009–2010 school year. The Democratic Congress also passed an FY 2010 omnibus appropriations bill specifying that the use of any funds provided *in any act* for Opportunity Scholarships after the 2009–2010 school year would only be available if the program were to be reauthorized and the District of Columbia were to adopt legislation approving that reauthorization.

While public education in the District continues to improve, there is still much work to be done. DC consistently has an average per pupil expenditure higher than any state, while its students’ test scores are consistently among the lowest in the Nation.

LEGISLATIVE HISTORY

The DC OSP was first created as part of H.R. 2556, the D.C. Parental Choice Incentive Act, adopted by the House Government Reform Committee by a 22–21 vote on July 10, 2003. That legislation was subsequently incorporated into H.R. 2776, the FY 2004 Consolidated Appropriations Act, signed into law on January 23, 2004 (P.L. 108–199). Appropriations for the program were authorized through FY 2008.

The Omnibus Appropriations Act, 2009 (P.L. 111–8) specified that the use of any funds in any act for Opportunity Scholarships after the 2009–2010 school year shall be available only upon reauthorization of the program and the adoption of legislation by the District of Columbia approving such reauthorization. The Omnibus Appropriations Act, 2010 (P.L. 111–117) eliminated this restriction on funding, but specified that the \$13.2 million it allocated to Opportunity Scholarships could be used to provide them only to students who received scholarships in the 2009–2010 school year.

The Committee’s Health Care, D.C., Census, and National Archives Subcommittee held a hearing on the DC OSP and H.R. 471 on March 1, 2011. The full Oversight and Government Reform Committee then reported the legislation favorably by a vote of 21 to 14 on March 10, 2011.

SECTION-BY-SECTION

Section 1. Short title

This Act may be cited as the Scholarships for Opportunity and Results (SOAR) Act.

Section 2. Findings

Parents are best equipped to make decisions for their children, including the educational setting that will best serve the interests and educational needs of their children. The per student cost for students in DC public schools is one of the highest in the United States despite the fact that test scores for such students continue to be among the lowest.

Congress passed the DC School Choice Incentive Act in 2003 to provide opportunity scholarships to students in DC as part of a three-sector approach that also includes the financing of improvements in the District's traditional public schools and public charter schools. Parents have expressed strong support for the DC OSP, and studies conducted by the Institute of Education Sciences have shown significant improvements in parental satisfaction, reading scores, and graduation rates for students participating in the program.

The DC OSP offers needy District families important alternatives while public schools are being improved. This program should be reauthorized as one prong of a three part comprehensive funding strategy for the District of Columbia school system—one that provides new and equal funding for public schools, public charter schools, and opportunity scholarships for students to attend private schools.

Section 3. Purpose

The purpose of the SOAR Act is to provide low-income parents residing in DC with expanded opportunities for enrolling their children in other schools within DC, at least until the public schools in DC have adequately addressed shortfalls in health, safety, and security, and the students in the DC public schools are testing at or above the national average in mathematics and reading.

Section 4. General authority

The Secretary shall award grants on a competitive basis to eligible entities that will provide students with expanded school choice opportunities. The Secretary shall award grants for not longer than five years.

The Secretary shall provide funds to the Mayor of DC to be used to improve education in public schools and to improve and expand quality public charter schools in DC.

Section 5. Applications

The Secretary will select an eligible entity or entities to manage the DC OSP based on specific criteria that ensures eligible students are able to receive scholarships through a random selection process if there are more students than the program can accommodate. The entity will provide guidance to parents in applying for the scholarship program. The entity will determine the amount that will be provided to parents for tuition, transportation and any other necessary expenses. The entity also will ensure that participating schools are financially responsible and that they address the renewal process of scholarships for participating eligible students. The Secretary may not require an eligible entity to conduct more than one annual site visit per participating school. The entity also

must provide assurances that it will comply with all requests regarding the program's evaluation.

Section 6. Priorities

Priority in scholarship eligibility is given to those students who attended an elementary or secondary school identified for improvement, corrective action, or restructuring under section 116 of the Elementary and Secondary Education Act of 1965; those who have been awarded a scholarship in a prior year, including those students whose scholarships were rescinded by the Secretary of Education; those who are siblings of students who have been awarded a scholarship; and those who are students whose household includes a sibling or other child who is already participating in the program.

Section 7. Use of funds

Funds provided under this Act for the DC OSP are to provide eligible students with scholarships to pay the tuition, fees, and transportation expenses necessary to attend a DC private elementary school or secondary school of their choice. The eligible entity must ensure that the tuition and fees being charged to a participating student do not exceed the tuition and fees charged to students who are not participating in the program. The amount of assistance provided to any eligible student for school year 2011–2012 may not exceed \$8,000 per year for attendance in Kindergarten through eighth grade, or \$12,000 per year for attendance in ninth through twelfth grades. The Secretary of Education will be given the authority to adjust the scholarship amounts for each succeeding year, based on the rate of inflation as determined by the Department of Labor.

Schools participating in the program must: maintain a valid certificate of occupancy issued by the District of Columbia; make readily available information on its school accreditation; demonstrate that it has adequate financial resources to prove financial sustainability, if the schools have been operating for less than five years; agree to an annual site visit by the administering entity; have financial systems in place to ensure funds are used according to this Act; and ensure that each teacher of core subject matter has a baccalaureate (or equivalent degree if educated outside the U.S.).

The eligible entity receiving a grant may not use more than 3% of the total grant amount each year to carry out administrative expenses, which include expenses incurred in: determining students' eligibility to participate in the program; selecting eligible students to receive scholarships; determining the scholarship amounts; filing and maintaining financial and programmatic records; and conducting the annual site visit.

The eligible entity receiving a grant may not use more than 2% of the total grant amount each year for educating parents about the program and assisting them with the application.

The eligible entity receiving a grant may not use more than 1% of the total grant amount each year for tutoring services for participating students in need of academic assistance.

Section 8. Nondiscrimination and other requirements for participating schools

An eligible entity or a school participating in the program shall not discriminate against program participants or applicants on the basis of race, color, national origin, religion, or sex. Each school must comply with all requests for data and information regarding evaluations. Participating schools may require eligible students to abide by any rules of conduct applicable to all other students at the school. Each participating school shall administer a nationally norm-referenced standardized test in reading and math, of which the results of the test shall be reported to the students' parents or legal guardians.

Section 9. Evaluations

The Secretary and the Mayor are to work jointly with the Institute of Education and Sciences (IES) of the Department of Education to evaluate annually the performance of students who received scholarships, and to monitor and evaluate the use of funds authorized and appropriated for DC public schools and DC public charter schools.

The Secretary, through a grant, contract, or cooperative agreement, is to conduct the strongest possible research design to determine the effectiveness of the DC OSP. The IES shall measure the academic growth and achievement of all participating eligible students. In addition to academic achievement, the study will compare the retention rates, high school graduation rates and college admission rates of students, and the school safety of participating eligible students with the retention rates, high school graduation rates and college admission rates, and the school safety of students of similar backgrounds who do not participate in the program.

The Secretary shall submit interim reports to the House Committees on Appropriations, Education and Workforce, and Oversight and Government Reform, and the Senate Committees on Appropriations, Health, Education, Labor and Pensions, and Homeland Security and Government Affairs, beginning on April 1 of the following year after the date of enactment, and each subsequent year, on the progress and preliminary results of the evaluation of the program. The Secretary also will submit to those Committees a final report on the results of the evaluation of the program no later than one year after the final year for which a grant is made.

Section 10. Reporting requirements

Eligible entities managing the DC OSP will submit annual reports to the Secretary and to parents concerning the academic growth and achievement of students participating in the program, high school graduation and college admission rates of students who participate in the program, parental satisfaction with the program, and school safety information.

Section 11. DC public schools and DC public charter schools

As a condition of receiving funds on behalf of DC public schools and DC public charter schools, the Mayor shall comply with reasonable requests for information for purposes of evaluating the program, enter into an agreement with the Secretary to monitor and evaluate the use of funds, and submit a report to Congress on how

the funds authorized and appropriated under the Act for DC public schools and DC public charter schools were used, and how such funds are contributing to student achievement.

If, after reasonable notice and an opportunity for a hearing for the Mayor, the Secretary determines that the Mayor has not been in compliance with one or more of the requirements, the Secretary may withhold, in whole, or in part, further funds under this Act for DC public schools and DC public charter schools.

Section 12. Transitional provisions

The Act makes null and void the provisions in the Omnibus Appropriations Act of fiscal year (FY) 2009 that prohibit new student enrollment in the DC OSP, as well as the provisions in the Consolidated Appropriations Act of FY 2010 that require site inspections twice annually and the additional report that was to be submitted by June 15, 2010 on academic rigor.

An eligible entity that received the multiyear grant or contract to manage the DC OSP may continue to administer the program if it adheres to the requirements described in this Act.

The Secretary and Mayor of the District of Columbia shall revise the memorandum of understanding entered into under the DC School Choice Incentive Act to address how the Mayor will ensure that the DC public schools and DC public charter schools will comply with reasonable requests for information as necessary to fulfill evaluation requirements, and to address the the implementation of the scholarship program under this Act.

Section 13. Definitions

The term “Eligible Entity” includes a nonprofit organization or a consortium of nonprofit organizations.

The term “Eligible Student” includes a student who is a resident of the District of Columbia and comes from a household that receives assistance under the supplemental nutrition assistance program, whose income does not exceed 185 percent of the federal poverty line, or, in the case of a student participating in the program in the preceding year, does not exceed 300 percent of the federal poverty line.

The term “Mayor” means the Mayor of the District of Columbia.

The term “Participating Student” means an eligible student awarded an opportunity scholarship under this Act, without regard to whether the student uses the scholarship to attend a participating school.

The term “Participating School” means a private elementary school or secondary school participating in the opportunity scholarship program of an eligible entity under this Act.

Section 14. Authorization of appropriations

There are authorized to be appropriated \$60,000,000 for fiscal year 2012 and for each of the four succeeding years, of which shall be equally divided to carry out the DC Opportunity Scholarship Program, to improve public education in the DC public schools, and to improve quality public charter schools in the DC public charter schools.

If the total funds appropriated under this Act for a fiscal year does not equal the authorized spending level, the funds appro-

priated shall be equally divided among the DC OSP, the DC public schools and the DC public charter schools.

EXPLANATION OF AMENDMENTS

Rep. Issa offered an amendment in the nature of a substitute which made minor technical corrections to the legislation. Most significantly, the amendment clarifies that eligible private schools offering scholarships must give priority consideration to the students who had their scholarships rescinded by the Secretary of Education. The amendment also requires a nationally norm-referenced standardized test to be used to ensure the best possible evaluation of the Opportunity Scholarship Program students is used to determine the effectiveness of the program. And it requires that the evaluation of the program now compare students in the program to those who applied for a scholarship and did not receive one, so that a more accurate assessment can be made of how the program affects academic growth and achievement. The amendment was agreed to by voice vote.

Rep. Norton offered an amendment in the nature of a substitute that would have removed all of the funding for the Opportunity Scholarship Program and transferred those dollars evenly into DC public schools and DC public charter schools. The Norton amendment was defeated by a roll call vote of 12–21.

COMMITTEE CONSIDERATION

On March 10, 2011, the Committee met in open session and ordered reported favorably the bill, H.R. 471, as amended, by roll call vote of 21–14, a quorum being present.

ROLL CALL VOTES

COMMITTEE ON OVERSIGHT AND GOVERNMENT REFORM

112TH CONGRESS - RATIO (23-17)

ROLL CALL

Meeting on: Business Meeting HR 471, HR 899, HR 793 Date: March 10, 2011

Vote on: 1A Norton Amendment in the Nature of a Substitute to HR 471

Republicans	Aye	No	Present	Democrats	Aye	No	Present
MR. ISSA (<i>Chairman</i>)		X		MR. CUMMINGS (<i>Ranking</i>)	X		
MR. BURTON		X		MR. TOWNS	X		
MR. MICA				MRS. MALONEY	X		
MR. PLATTS	X			MS. NORTON	X		
MR. TURNER		X		MR. KUCINICH	X		
MR. McHENRY		X		MR. TIERNEY	X		
MR. JORDAN		X		MR. CLAY	X		
MR. CHAFFETZ		X		MR. LYNCH			
MR. MACK		X		MR. COOPER			
MR. WALBERG		X		MR. CONNOLLY	X		
MR. LANKFORD		X		MR. QUIGLEY			
MR. AMASH		X		MR. DAVIS			
MS. BUERKLE		X		MR. BRALEY	X		
DR. GOSAR		X		MR. WELCH	X		
MR. LABRADOR		X		MR. YARMUTH			
MR. MEEHAN		X		MR. MURPHY	X		
DR. DesJARLAIS		X		MS. SPEIER			
MR. WALSH		X					
MR. GOWDY		X					
MR. ROSS		X					
MR. GUINTA		X					
MR. FARENTHOLD		X					
MR. KELLY		X					

Roll Call Totals: Ayes 12 Nays 21 Present _____
 Voice Vote: Passed _____ Failed X _____ Unanimous consent: Passed _____ Failed _____
 [Quorum to bring up bill = 14 Quorum to report bill = 21]

COMMITTEE ON OVERSIGHT AND GOVERNMENT REFORM

112TH CONGRESS – RATIO (23-17)

ROLL CALL

Meeting on: Business Meeting HR 471, HR 899, HR 793

Date: March 10, 2011

Vote on: Favorably Reporting HR 471 to the House as amended

Republicans	Aye	No	Present	Democrats	Aye	No	Present
MR. ISSA (<i>Chairman</i>)	X			MR. CUMMINGS (<i>Ranking</i>)		X	
MR. BURTON	X			MR. TOWNS		X	
MR. MICA				MRS. MALONEY		X	
MR. PLATTS		X		MS. NORTON		X	
MR. TURNER	X			MR. KUCINICH		X	
MR. McHENRY	X			MR. TIERNEY		X	
MR. JORDAN	X			MR. CLAY		X	
MR. CHAFFETZ	X			MR. LYNCH			
MR. MACK	X			MR. COOPER			
MR. WALBERG	X			MR. CONNOLLY		X	
MR. LANKFORD	X			MR. QUIGLEY		X	
MR. AMASH	X			MR. DAVIS			
MS. BUERKLE	X			MR. BRALEY		X	
DR. GOSAR	X			MR. WELCH		X	
MR. LABRADOR	X			MR. YARMUTH			
MR. MEEHAN	X			MR. MURPHY		X	
DR. DesJARLAIS	X			MS. SPEIER		X	
MR. WALSH	X						
MR. GOWDY	X						
MR. ROSS	X						
MR. GUINTA	X						
MR. FARENTHOLD	X						
MR. KELLY	X						

Roll Call Totals: Ayes 21 Nays 14 Present _____
 Voice Vote: Passed X Failed _____ Unanimous consent: Passed _____ Failed _____
 [Quorum to bring up bill = 14 Quorum to report bill = 21]

APPLICATION OF LAW TO THE LEGISLATIVE BRANCH

Section 102(b)(3) of Public Law 104–1 requires a description of the application of this bill to the legislative branch where the bill relates to the terms and conditions of employment or access to public services and accommodations. This bill authorizes the Secretary of Education to award five-year grants on a competitive basis to nonprofit organizations to carry out a program to provide expanded school choice opportunities to students who are District of Columbia (DC) residents and who come from households: (1) receiving assistance under the supplemental nutrition assistance program under the Food and Nutrition Act of 2008; or (2) with incomes not exceeding 185% of the poverty line, except in certain grandfathered circumstances.

Legislative branch employees and their families, to the extent that they are otherwise eligible for the benefits provided by this legislation, have equal access to its benefits.

STATEMENT OF OVERSIGHT FINDINGS AND RECOMMENDATIONS OF THE COMMITTEE

In compliance with clause 3(c)(1) of rule XIII and clause 2(b)(1) of rule X of the Rules of the House of Representatives, the Committee's oversight findings and recommendations are reflected in the descriptive portions of this report.

STATEMENT OF GENERAL PERFORMANCE GOALS AND OBJECTIVES

In accordance with clause 3(c)(4) of rule XIII of the Rules of the House of Representatives, the Committee's performance goals and objectives are reflected in the descriptive portions of this report.

FEDERAL ADVISORY COMMITTEE ACT

The Committee finds that the legislation does not establish or authorize the establishment of an advisory committee within the definition of 5 U.S.C. App., Section 5(b).

UNFUNDED MANDATE STATEMENT

Section 423 of the Congressional Budget and Impoundment Control Act (as amended by Section 101(a)(2) of the Unfunded Mandates Reform Act, P.L. 104–4) requires a statement as to whether the provisions of the reported include unfunded mandates. In compliance with this requirement the Committee has received a letter from the Congressional Budget Office included herein.

EARMARK IDENTIFICATION

H.R. 471 does not include any congressional earmarks, limited tax benefits, or limited tariff benefits as defined in clause 9 of rule XXI.

COMMITTEE ESTIMATE

Clause 3(d)(2) of rule XIII of the Rules of the House of Representatives requires an estimate and a comparison by the Committee of the costs that would be incurred in carrying out H.R. 471. However, clause 3(d)(3)(B) of that rule provides that this require-

ment does not apply when the Committee has included in its report a timely submitted cost estimate of the bill prepared by the Director of the Congressional Budget Office under section 402 of the Congressional Budget Act.

BUDGET AUTHORITY AND CONGRESSIONAL BUDGET OFFICE COST
ESTIMATE

With respect to the requirements of clause 3(c)(2) of rule XIII of the Rules of the House of Representatives and section 308(a) of the Congressional Budget Act of 1974 and with respect to requirements of clause 3(c)(3) of rule XIII of the Rules of the House of Representatives and section 402 of the Congressional Budget Act of 1974, the Committee has received the following cost estimate for H.R. 471 from the Director of Congressional Budget Office:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, March 14, 2011.

Hon. DARRELL ISSA,
*Chairman, Committee on Oversight and Government Reform,
House of Representatives, Washington, DC.*

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 471, the Scholarships for Opportunity and Results Act.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Justin Humphrey.

Sincerely,

DOUGLAS W. ELMENDORF,
Director.

Enclosure.

H.R. 471—Scholarships for Opportunity and Results Act

H.R. 471 would authorize the appropriation of \$20 million for each of fiscal years 2012 through 2016 for the District of Columbia Opportunity Scholarship Program, which provides scholarships for private-school tuition to parents of students who reside in the District of Columbia and meet certain criteria. In addition, it would authorize the appropriation of \$40 million for each of fiscal years 2012 through 2016 to improve Washington, D.C., public schools and to improve and expand public charter schools, provided that the mayor of the District of Columbia agrees to certain requirements.

Based on historical spending patterns for similar programs, CBO estimates that implementing the bill would cost \$300 million over the 2012–2016 period, assuming appropriation of the authorized amounts, as shown in the following table. Enacting the bill would have no impact on direct spending or revenues; therefore, pay-as-you-go procedures do not apply.

The costs of this legislation fall within budget function 500 (education, training, employment, and social services).

	By fiscal year, in millions of dollars—					
	2012	2013	2014	2015	2016	2012–2016
CHANGES IN SPENDING SUBJECT TO APPROPRIATION						
Authorization Level	60	60	60	60	60	300
Estimated Outlays	60	60	60	60	60	300

H.R. 471 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act and would impose no costs on state, local, or tribal governments. Any costs incurred by the District of Columbia would be incurred voluntarily and would result from complying with conditions of assistance.

The CBO staff contact for this estimate is Justin Humphrey. This estimate was approved by Peter H. Fontaine, Assistant Director for Budget Analysis.

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3(e) of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets):

DC SCHOOL CHOICE INCENTIVE ACT OF 2003

(Title III of division C of Public Law 108–199; §§ 38-1851.01 et seq., DC Official Code)

[TITLE III—DC SCHOOL CHOICE INCENTIVE ACT OF 2003

[SEC. 301. SHORT TITLE.

[This title may be cited as the “DC School Choice Incentive Act of 2003”.

[SEC. 302. FINDINGS.

[The Congress finds the following:

[(1) Parents are best equipped to make decisions for their children, including the educational setting that will best serve the interests and educational needs of their child.

[(2) For many parents in the District of Columbia, public school choice provided for under the No Child Left Behind Act of 2001 as well as under other public school choice programs, is inadequate due to capacity constraints. Available educational alternatives to the public schools are insufficient and more educational options are needed. In particular, funds are needed to assist low-income parents to exercise choice among enhanced public opportunities and private educational environments, whether religious or nonreligious. Therefore, in keeping with the spirit of the No Child Left Behind Act of 2001, school choice options, in addition to those already available to parents in the District of Columbia (such as magnet and charter schools and open enrollment schools) should be made available to those parents.

[(3) In the most recent mathematics assessment on the National Assessment of Educational Progress (NAEP), adminis-

tered in 2000, a lower percentage of 4th-grade students in the District of Columbia demonstrated proficiency than was the case for any State. Seventy-six percent of the District of Columbia fourth-graders scored at the “below basic” level and of the 8th-grade students in the District of Columbia, only 6 percent of the students tested at the proficient or advanced levels, and 77 percent were below basic. In the most recent NAEP reading assessment, in 1998, only 10 percent of the District of Columbia fourth-graders could read proficiently, while 72 percent were below basic. At the 8th-grade level, 12 percent were proficient or advanced and 56 percent were below basic.

[(4) A program enacted for the valid secular purpose of providing educational assistance to low-income children in a demonstrably failing public school system is constitutional under *Zelman v. Simmons-Harris*, 536 U.S. 639 (2002), if it is neutral with respect to religion and provides assistance to a broad class of citizens who direct government aid to religious and secular schools solely as a result of their genuine and independent private choices.

[(5) The Mayor of the District of Columbia, the Chairman of the Education Committee of the City Council of the District of Columbia, and the President of the District of Columbia Board of Education support this title.

[(6) This title provides additional money for the District of Columbia public schools and therefore money for scholarships is not being taken out of money that would otherwise go to the District of Columbia public schools.

[(7) This title creates a 5-year program tailored to the current needs and particular circumstances of low-income children in District of Columbia schools. This title does not establish parameters or requirements for other school choice programs.

[SEC. 303. PURPOSE.

[The purpose of this title is to provide low-income parents residing in the District of Columbia, particularly parents of students who attend elementary schools or secondary schools identified for improvement, corrective action, or restructuring under section 1116 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6316), with expanded opportunities for enrolling their children in higher-performing schools in the District of Columbia.

[SEC. 304. GENERAL AUTHORITY.

[(a) **AUTHORITY.**—From funds appropriated to carry out this title, the Secretary shall award grants on a competitive basis to eligible entities with approved applications under section 305 to carry out activities to provide eligible students with expanded school choice opportunities. The Secretary may award a single grant or multiple grants, depending on the quality of applications submitted and the priorities of this title.

[(b) **DURATION OF GRANTS.**—The Secretary may make grants under this section for a period of not more than 5 years.

[(c) **MEMORANDUM OF UNDERSTANDING.**—The Secretary and the Mayor of the District of Columbia shall enter into a memorandum of understanding, as described in the statement of the managers, regarding the design of, selection of eligible entities to receive

grants under, and implementation of, a program assisted under this title.

[SEC. 305. APPLICATIONS.

[(a) IN GENERAL.—In order to receive a grant under this title, an eligible entity shall submit an application to the Secretary at such time, in such manner, and accompanied by such information as the Secretary may require.

[(b) CONTENTS.—The Secretary may not approve the request of an eligible entity for a grant under this title unless the entity's application includes—

[(1) a detailed description of—

[(A) how the entity will address the priorities described in section 306;

[(B) how the entity will ensure that if more eligible students seek admission in the program than the program can accommodate, eligible students are selected for admission through a random selection process which gives weight to the priorities described in section 306;

[(C) how the entity will ensure that if more participating eligible students seek admission to a participating school than the school can accommodate, participating eligible students are selected for admission through a random selection process;

[(D) how the entity will notify parents of eligible students of the expanded choice opportunities and how the entity will ensure that parents receive sufficient information about their options to allow the parents to make informed decisions;

[(E) the activities that the entity will carry out to provide parents of eligible students with expanded choice opportunities through the awarding of scholarships under section 307(a);

[(F) how the entity will determine the amount that will be provided to parents for the tuition, fees, and transportation expenses, if any;

[(G) how the entity will seek out private elementary schools and secondary schools in the District of Columbia to participate in the program, and will ensure that participating schools will meet the applicable requirements of this title and provide the information needed for the entity to meet the reporting requirements of this title;

[(H) how the entity will ensure that participating schools are financially responsible and will use the funds received under this title effectively;

[(I) how the entity will address the renewal of scholarships to participating eligible students, including continued eligibility; and

[(J) how the entity will ensure that a majority of its voting board members or governing organization are residents of the District of Columbia; and

[(2) an assurance that the entity will comply with all requests regarding any evaluation carried out under section 309.

[SEC. 306. PRIORITIES.

【In awarding grants under this title, the Secretary shall give priority to applications from eligible entities who will most effectively—

【(1) give priority to eligible students who, in the school year preceding the school year for which the eligible student is seeking a scholarship, attended an elementary school or secondary school identified for improvement, corrective action, or restructuring under section 1116 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6316);

【(2) target resources to students and families that lack the financial resources to take advantage of available educational options; and

【(3) provide students and families with the widest range of educational options.

[SEC. 307. USE OF FUNDS.**[(a) SCHOLARSHIPS.—**

【(1) IN GENERAL.—Subject to paragraphs (2) and (3), a grantee shall use the grant funds to provide eligible students with scholarships to pay the tuition, fees, and transportation expenses, if any, to enable them to attend the District of Columbia private elementary school or secondary school of their choice. Each grantee shall ensure that the amount of any tuition or fees charged by a school participating in the grantee's program under this title to an eligible student participating in the program does not exceed the amount of tuition or fees that the school customarily charges to students who do not participate in the program.

【(2) PAYMENTS TO PARENTS.—A grantee shall make scholarship payments under the program under this title to the parent of the eligible student participating in the program, in a manner which ensures that such payments will be used for the payment of tuition, fees, and transportation expenses (if any), in accordance with this title.

[(3) AMOUNT OF ASSISTANCE.—

【(A) VARYING AMOUNTS PERMITTED.—Subject to the other requirements of this section, a grantee may award scholarships in larger amounts to those eligible students with the greatest need.

【(B) ANNUAL LIMIT ON AMOUNT.—The amount of assistance provided to any eligible student by a grantee under a program under this title may not exceed \$7,500 for any academic year.

【(4) CONTINUATION OF SCHOLARSHIPS.—Notwithstanding section 312(3)(B), an eligible entity receiving a grant under this title may award a scholarship, for the second or any succeeding year of an eligible student's participation in a program under this title, to a student who comes from a household whose income does not exceed 200 percent (or, in the case of an eligible student whose first year of participation in the program is an academic year ending in June 2005 or June 2006 and whose second or succeeding year is an academic year ending on or before June 2009, 300 percent) of the poverty line.

【(b) ADMINISTRATIVE EXPENSES.—A grantee may use not more than 3 percent of the amount provided under the grant each year

for the administrative expenses of carrying out its program under this title during the year, including—

- [(1) determining the eligibility of students to participate;
- [(2) providing information about the program and the schools involved to parents of eligible students;
- [(3) selecting students to receive scholarships;
- [(4) determining the amount of scholarships and issuing the scholarships to eligible students;
- [(5) compiling and maintaining financial and programmatic records; and
- [(6) providing funds to assist parents in meeting expenses that might otherwise preclude the participation of their child in the program.

[SEC. 308. NONDISCRIMINATION.

[(a) IN GENERAL.—An eligible entity or a school participating in any program under this title shall not discriminate against program participants or applicants on the basis of race, color, national origin, religion, or sex.

[(b) APPLICABILITY AND SINGLE SEX SCHOOLS, CLASSES, OR ACTIVITIES.—

[(1) IN GENERAL.—Notwithstanding any other provision of law, the prohibition of sex discrimination in subsection (a) 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 subsection (a) is inconsistent with the religious tenets or beliefs of the school.

[(2) SINGLE SEX SCHOOLS, CLASSES, OR ACTIVITIES.—Notwithstanding subsection (a) or any other provision of law, a parent may choose and a school may offer a single sex school, class, or activity.

[(3) APPLICABILITY.—For purposes of this title, the provisions of section 909 of the Education Amendments of 1972 (20 U.S.C. 1688) shall apply to this title as if section 909 of the Education Amendments of 1972 (20 U.S.C. 1688) were part of this title.

[(c) CHILDREN WITH DISABILITIES.—Nothing in this title may be construed to alter or modify the provisions of the Individuals with Disabilities Education Act.

[(d) RELIGIOUSLY AFFILIATED SCHOOLS.—

[(1) IN GENERAL.—Notwithstanding any other provision of law, a school participating in any program under this title 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–1 et seq.), including the exemptions in such title.

[(2) MAINTENANCE OF PURPOSE.—Notwithstanding any other provision of law, funds made available under this title to eligible 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, necessitate any change in the participating school's teaching mission, require any participating school to remove religious art, icons, scriptures, or other symbols, or preclude any participating school from retaining religious terms in its name, selecting its board members on a religious basis, or including religious ref-

erences in its mission statements and other chartering or governing documents.

[(e) **RULE OF CONSTRUCTION.**—A scholarship (or any other form of support provided to parents of eligible students) under this title shall be considered assistance to the student and shall not be considered assistance to the school that enrolls the eligible student. The amount of any scholarship (or other form of support provided to parents of an eligible student) under this title shall not be treated as income of the parents for purposes of Federal tax laws or for determining eligibility for any other Federal program.

[SEC. 309. EVALUATIONS.

[(a) IN GENERAL.—

[(1) **DUTIES OF THE SECRETARY AND THE MAYOR.**—The Secretary and the Mayor of the District of Columbia shall jointly select an independent entity to evaluate annually the performance of students who received scholarships under the 5-year program under this title, and shall make the evaluations public in accordance with subsection (c).

[(2) **DUTIES OF THE SECRETARY.**—The Secretary, through a grant, contract, or cooperative agreement, shall—

[(A) ensure that the evaluation is conducted using the strongest possible research design for determining the effectiveness of the programs funded under this title that addresses the issues described in paragraph (4); and

[(B) disseminate information on the impact of the programs in increasing the student academic achievement of participating students, and on the impact of the programs on students and schools in the District of Columbia.

[(3) **DUTIES OF THE INDEPENDENT ENTITY.**—The independent entity shall—

[(A) measure the academic achievement of all participating eligible students;

[(B) use the same grade appropriate measurement every school year to assess participating eligible students as the measurement used by the District of Columbia Public Schools to assess District of Columbia Public School students in the first year of the program; and

[(C) work with the eligible entities to ensure that the parents of each student who applies for a scholarship under this title (regardless of whether the student receives the scholarship) and the parents of each student participating in the scholarship program under this title, agree that the student will participate in the measurements given annually by the independent entity for the period for which the student applied for or received the scholarship, respectively.

[(4) **ISSUES TO BE EVALUATED.**—The issues to be evaluated include the following:

[(A) A comparison of the academic achievement of participating eligible students in the measurements described in this section to the achievement of—

[(i) students in the same grades in the District of Columbia public schools; and

[(ii) the eligible students in the same grades in the District of Columbia public schools who sought to par-

ticipate in the scholarship program but were not selected.

[(B) The success of the programs in expanding choice options for parents.

[(C) The reasons parents choose for their children to participate in the programs.

[(D) A comparison of the retention rates, dropout rates, and (if appropriate) graduation and college admission rates, of students who participate in the programs funded under this title with the retention rates, dropout rates, and (if appropriate) graduation and college admission rates of students of similar backgrounds who do not participate in such programs.

[(E) The impact of the program on students, and public elementary schools and secondary schools, in the District of Columbia.

[(F) A comparison of the safety of the schools attended by students who participate in the programs and the schools attended by students who do not participate in the programs.

[(G) Such other issues as the Secretary considers appropriate for inclusion in the evaluation.

[(5) PROHIBITION.—Personally identifiable information regarding the results of the measurements used for the evaluations may not be disclosed, except to the parents of the student to whom the information relates.

[(b) REPORTS.—The Secretary shall submit to the Committees on Appropriations, Education and the Workforce, and Government Reform of the House of Representatives and the Committees on Appropriations, Health, Education, Labor, and Pensions, and Governmental Affairs of the Senate—

[(1) annual interim reports, not later than December 1 of each year for which a grant is made under this title, on the progress and preliminary results of the evaluation of the programs funded under this title; and

[(2) a final report, not later than 1 year after the final year for which a grant is made under this title, on the results of the evaluation of the programs funded under this title.

[(c) PUBLIC AVAILABILITY.—All reports and underlying data gathered pursuant to this section shall be made available to the public upon request, in a timely manner following submission of the applicable report under subsection (b), except that personally identifiable information shall not be disclosed or made available to the public.

[(d) LIMIT ON AMOUNT EXPENDED.—The amount expended by the Secretary to carry out this section for any fiscal year may not exceed 3 percent of the total amount appropriated to carry out this title for the fiscal year.

[(SEC. 310. REPORTING REQUIREMENTS.

[(a) ACTIVITIES REPORTS.—Each grantee receiving funds under this title during a year shall submit a report to the Secretary not later than July 30 of the following year regarding the activities carried out with the funds during the preceding year.

[(b) ACHIEVEMENT REPORTS.—

[(1) IN GENERAL.—In addition to the reports required under subsection (a), each grantee shall, not later than September 1 of the year during which the second academic year of the grantee's program is completed and each of the next 2 years thereafter, submit a report to the Secretary regarding the data collected in the previous 2 academic years concerning—

[(A) the academic achievement of students participating in the program;

[(B) the graduation and college admission rates of students who participate in the program, where appropriate; and

[(C) parental satisfaction with the program.

[(2) PROHIBITING DISCLOSURE OF PERSONAL INFORMATION.—No report under this subsection may contain any personally identifiable information.

[(c) REPORTS TO PARENT.—

[(1) IN GENERAL.—Each grantee shall ensure that each school participating in the grantee's program under this title during a year reports at least once during the year to the parents of each of the school's students who are participating in the program on—

[(A) the student's academic achievement, as measured by a comparison with the aggregate academic achievement of other participating students at the student's school in the same grade or level, as appropriate, and the aggregate academic achievement of the student's peers at the student's school in the same grade or level, as appropriate; and

[(B) the safety of the school, including the incidence of school violence, student suspensions, and student expulsions.

[(2) PROHIBITING DISCLOSURE OF PERSONAL INFORMATION.—No report under this subsection may contain any personally identifiable information, except as to the student who is the subject of the report to that student's parent.

[(d) REPORT TO CONGRESS.—The Secretary shall submit to the Committees on Appropriations, Education and the Workforce, and Government Reform of the House of Representatives and the Committees on Appropriations, Health, Education, Labor, and Pensions, and Governmental Affairs of the Senate an annual report on the findings of the reports submitted under subsections (a) and (b).

[SEC. 311. OTHER REQUIREMENTS FOR PARTICIPATING SCHOOLS.

[(a) REQUESTS FOR DATA AND INFORMATION.—Each school participating in a program funded under this title shall comply with all requests for data and information regarding evaluations conducted under section 309(a).

[(b) RULES OF CONDUCT AND OTHER SCHOOL POLICIES.—A participating school, including those described in section 308(d), may require eligible students to abide by any rules of conduct and other requirements applicable to all other students at the school.

[SEC. 312. DEFINITIONS.

[As used in this title:

[(1) ELEMENTARY SCHOOL.—The term "elementary school" means an institutional day or residential school, including a

public elementary charter school, that provides elementary education, as determined under District of Columbia law.

【(2) ELIGIBLE ENTITY.—The term “eligible entity” means any of the following:

【(A) An educational entity of the District of Columbia Government.

【(B) A nonprofit organization.

【(C) A consortium of nonprofit organizations.

【(3) ELIGIBLE STUDENT.—The term “eligible student” means a student who—

【(A) is a resident of the District of Columbia; and

【(B) comes from a household whose income does not exceed 185 percent of the poverty line.

【(4) PARENT.—The term “parent” has the meaning given that term in section 9101 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7801).

【(5) POVERTY LINE.—The term “poverty line” has the meaning given that term in section 9101 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7801).

【(6) SECONDARY SCHOOL.—The term “secondary school” means an institutional day or residential school, including a public secondary charter school, as determined under District of Columbia law, except that the term does not include any education beyond grade 12.

【(7) SECRETARY.—The term “Secretary” means the Secretary of Education.

【SEC. 313. AUTHORIZATION OF APPROPRIATIONS.

【There are authorized to be appropriated to carry out this title \$14,000,000 for fiscal year 2004 and such sums as may be necessary for each of the 4 succeeding fiscal years.】

MINORITY VIEWS ON H.R. 471

MARCH 15, 2011

Committee Democrats oppose H.R. 471, the Scholarships for Opportunity and Results Act, because the legislation increases federal spending without an equivalent offset, provides public funds to send students to private elementary and secondary schools, and violates the District of Columbia's self-governing prerogatives.

The legislation attempts to reactivate and expand the five-year private school voucher program that was forced on the residents of the District of Columbia in fiscal year 2004. The program, created by the DC School Choice Incentive Act of 2003 (Incentive Act), was the first, and remains the only, federally created or funded private school voucher program. Despite the program's expiration in fiscal year 2009, Congress continued to fund it on the condition that no funds could be used in school year 2009–2010 unless Congress reauthorized the program.¹ In fiscal year 2010, the Obama Administration and Congress agreed to allow students enrolled in the program in school year 2009–2010 to continue until graduation, but not to admit new students.²

The legislation authorizes \$300 million over five years, but does not offset that spending, despite the highest federal deficit on record. The legislation violates the majority's "Legislative Protocols" for scheduling legislation for floor consideration, under which any bill that authorizes the appropriation of funds for any new program "shall also include language offsetting the full value of such authorization through a reduction in the authorization of current ongoing spending."³

During consideration, the majority contended that the legislation reduces spending by \$15.4 million from fiscal year 2010 (and under the continuing resolution, from fiscal year 2011). That argument presupposes that the bill is extending the authorization of an existing program, which is inaccurate. In addition, the bill still fails to offset all costs of the voucher program in fiscal year 2012. The Incentive Act authorized funding only for vouchers, not public schools or public charter schools. The authorized amounts for vouchers were \$14 million for fiscal year 2004 and such sums as may be necessary for fiscal years 2005–2008. H.R. 471 provides \$20 million for vouchers in fiscal year 2012, a \$6.8 million increase over the fiscal year 2010–2011 appropriation levels, which is not offset.

¹ See Omnibus Appropriations Act, 2009 (P.L. 111–8).

² See Omnibus Appropriations Act, 2010 (P.L. 111–117).

³ Legislative Protocols for the 112th Congress (online at www.majorityleader.gov/Protocols/).

The majority is reestablishing a program that failed to improve academic achievement. The final congressionally mandated independent study of the program found no “conclusive evidence” that it “affected student achievement” as measured by standardized reading and math tests.⁴ While the program prioritized students from the lowest performing public schools, it had “no significant impacts on [the] achievement” of these students, according to the independent study.⁵

During the Committee’s consideration of H.R. 471, Congresswoman Norton offered an amendment in the nature of a substitute that would have ensured that public funds go only to public education by redirecting the entire \$300 million authorized by the bill to be equally divided between District of Columbia Public Schools (DCPS) and District of Columbia public charter schools. When compared to other large urban school districts, the District of Columbia’s results are above average. In fact, DCPS fourth and eighth grade students were the only ones in such districts to show significant improvement in the 2009 National Assessment of Education Progress.⁶

District of Columbia public charter schools, which have been created by parents and organizations, provide publicly accountable educational options for students and parents. Thirty-eight percent of District of Columbia students attend public charter schools, and many others are on waiting lists for admission. District of Columbia public charter school students significantly outperform DCPS students, with charter middle and high school students scoring almost twice as high on standardized math and reading tests as DCPS students.⁷ Congresswoman Norton’s amendment also would have granted preference at District of Columbia public charter schools for the 216 new students who were awarded vouchers for the 2009–2010 school year, but which were later rescinded when the program was not reauthorized.

Despite assertions that the expired program was successful, the majority has not introduced a nationwide voucher bill to expand the program to other jurisdictions. The public does not support government funding for private education, as indicated by the failure of every state referendum to authorize vouchers.⁸ Instead, with H.R. 471, the majority once again tramples on the District of Columbia’s home rule, and uses the District to pursue its partisan agenda. Neither the Representative from the District of Columbia, Eleanor Holmes Norton, nor its local elected officials were asked for their views on the legislation before Speaker John Boehner introduced it. In fact, the Subcommittee on Healthcare, District of Columbia, Census, and the National Archives refused to grant the

⁴Department of Education, Institute of Education Sciences, *Evaluation of the DC Opportunity Scholarship Program: Final Report* (June 2010).

⁵*Id.*

⁶National Assessment of Educational Progress, *Trial Urban District Assessment* (2009).

⁷DC Comprehensive Assessment System (2009) (online at nclb.osse.dc.gov).

⁸See National Coalition for Public Education, *Votes on State Voucher Referenda* (January 25, 2011).

Mayor of the District of Columbia's reasonable requests to alter the paneling of witnesses and to move up the start time of the hearing held on March 1, 2011 to discuss H.R. 471. The Mayor's testimony would have provided the perspective of the City's leadership on how best to improve public education in the District of Columbia.

ELIJAH E. CUMMINGS.
DANNY K. DAVIS.
ELEANOR HOLMES NORTON.

