

107TH CONGRESS
2D SESSION

S. 2866

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

IN THE SENATE OF THE UNITED STATES

AUGUST 1, 2002

Mr. GREGG (for himself, Mr. HUTCHINSON, Mr. CRAIG, and Mr. BROWNBACK) introduced the following bill; which was read twice and referred to the Committee on Governmental Affairs

A BILL

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

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE, FINDINGS, AND PRECEDENTS.**

4 (a) **SHORT TITLE.**—This Act may be cited as the
5 “District of Columbia Student Opportunity Scholarship
6 Act of 2002”.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

12 (5) *Zelman v. Simmons-Harris*, 536 U.S. ____,
13 No. 00–1751 slip op. (June 27, 2002), which upheld
14 a State-funded school choice pilot program in Cleve-
15 land, Ohio, providing low-income families a tax-sup-
16 ported education scholarship. The case held that be-
17 cause the program was one of true private choice, al-
18 lowing parents a genuine and independent decision
19 whether to use a tuition scholarship at a partici-
20 pating public school or private school, the program
21 did not violate the establishment clause of the first
22 amendment of the Constitution.

23 **SEC. 2. DEFINITIONS.**

24 In this Act:

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

4 (2) The term “Corporation” means the District
5 of Columbia Scholarship Corporation established
6 under section 3(a).

7 (3) The term “eligible institution”—

8 (A) in the case of an institution serving a
9 student who receives a tuition scholarship under
10 section 4(d)(1), means a public, private, or
11 independent elementary or secondary school;
12 and

13 (B) in the case of an institution serving a
14 student who receives an enhanced achievement
15 scholarship under section 4(d)(2), means an ele-
16 mentary or secondary school or an entity that
17 provides services to a student enrolled in an ele-
18 mentary or secondary school to enhance such
19 student’s achievement through instruction de-
20 scribed in section 4(d)(2).

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

23 (5) The term “poverty line” means the official
24 poverty line, as established by the Director of the
25 Office of Management and Budget and revised an-

1 nually under section 673(2) of the Community Serv-
 2 ices Block Grant Act (42 U.S.C. 9902(2)), applica-
 3 ble to a family of the size involved.

4 **SEC. 3. DISTRICT OF COLUMBIA SCHOLARSHIP CORPORA-**
 5 **TION.**

6 (a) GENERAL REQUIREMENTS.—

7 (1) IN GENERAL.—There is authorized to be es-
 8 tablished a private, nonprofit corporation, to be
 9 known as the “District of Columbia Scholarship
 10 Corporation”, which is neither an agency nor estab-
 11 lishment of the United States Government or the
 12 District of Columbia Government.

13 (2) DUTIES.—The Corporation shall have the
 14 responsibility and authority to administer, publicize,
 15 and evaluate the scholarship program in accordance
 16 with this Act, and to determine student and school
 17 eligibility for participation in such program.

18 (3) CONSULTATION.—The Corporation shall ex-
 19 ercise its authority—

20 (A) in a manner consistent with maxi-
 21 mizing educational opportunities for the max-
 22 imum number of interested families; and

23 (B) in consultation with the District of Co-
 24 lumbia Board of Education or entity exercising
 25 administrative jurisdiction over the District of

1 Columbia Public Schools, the Superintendent of
2 the District of Columbia Public Schools, and
3 other school scholarship programs in the Dis-
4 trict of Columbia.

5 (4) APPLICATION OF PROVISIONS.—The Cor-
6 poration shall be subject to the provisions of this
7 Act, and, to the extent consistent with this Act, to
8 the District of Columbia Nonprofit Corporation Act
9 (sec. 29–301.01 et seq., D.C. Official Code).

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

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

18 (7) DISBURSEMENT.—The Secretary of the
19 Treasury shall make available and disburse to the
20 Corporation, before October 15 of each fiscal year or
21 not later than 15 days after the date of enactment
22 of an Act making appropriations for the District of
23 Columbia for such year, whichever occurs later, such
24 funds as have been appropriated to the District of

1 Columbia Scholarship Fund for the fiscal year in
2 which such disbursement is made.

3 (8) AVAILABILITY.—Funds authorized to be ap-
4 propriated under this Act shall remain available
5 until expended.

6 (9) USES.—Funds authorized to be appro-
7 priated under this Act shall be used by the Corpora-
8 tion in a prudent and financially responsible man-
9 ner, solely for scholarships, contracts, and adminis-
10 trative costs.

11 (10) AUTHORIZATION OF APPROPRIATIONS.—

12 (A) IN GENERAL.—There are authorized to
13 be appropriated to the District of Columbia
14 Scholarship Fund—

15 (i) \$7,000,000 for fiscal year 2003;

16 (ii) \$8,000,000 for fiscal year 2004;

17 and

18 (iii) \$10,000,000 for each of fiscal
19 years 2005 through 2007.

20 (B) LIMITATION.—Not more than 7.5 per-
21 cent of the amount appropriated to carry out
22 this Act for any fiscal year may be used by the
23 Corporation for salaries and administrative
24 costs.

1 (b) ORGANIZATION AND MANAGEMENT; BOARD OF
2 DIRECTORS.—

3 (1) BOARD OF DIRECTORS; MEMBERSHIP.—

4 (A) IN GENERAL.—The Corporation shall
5 have a Board of Directors (hereinafter in this
6 Act referred to as the “Board”), comprised of
7 seven members, with six members of the Board
8 appointed by the President not later than 30
9 days after receipt of nominations from the
10 Speaker of the House of Representatives and
11 the President pro tempore of the Senate.

12 (B) HOUSE NOMINATIONS.—The President
13 shall appoint three of the members from a list
14 of nine individuals nominated by the Speaker of
15 the House of Representatives in consultation
16 with the minority leader of the House of Rep-
17 resentatives.

18 (C) SENATE NOMINATIONS.—The Presi-
19 dent shall appoint three members from a list of
20 nine individuals nominated by the President pro
21 tempore of the Senate in consultation with the
22 minority leader of the Senate.

23 (D) DEADLINE.—The Speaker of the
24 House of Representatives and Majority Leader
25 of the Senate shall submit their nominations to

1 the President not later than 30 days after the
2 date of the enactment of this Act.

3 (E) APPOINTEE BY MAYOR.—The Mayor
4 of the District of Columbia shall appoint one
5 member of the Board not later than 60 days
6 after the date of the enactment of this Act.

7 (F) POSSIBLE INTERIM MEMBERS.—If the
8 President does not appoint the six members of
9 the Board in the 30-day period described in
10 subparagraph (A), then the Speaker of the
11 House of Representatives and the President pro
12 tempore of the Senate shall each appoint two
13 members of the Board, and the minority leader
14 of the House of Representatives and the minor-
15 ity leader of the Senate shall each appoint one
16 member of the Board, from among the individ-
17 uals nominated under subparagraphs (A) and
18 (B), as the case may be. The appointees under
19 the preceding sentence together with the ap-
20 pointee of the Mayor of the District of Colum-
21 bia, shall serve as an interim Board with all the
22 powers and other duties of the Board described
23 in this Act, until the President makes the ap-
24 pointments as described in this subsection.

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

4 (3) ELECTIONS.—Members of the Board annu-
5 ally shall elect one of the members of the Board to
6 be the Chairperson of the Board.

7 (4) RESIDENCY.—All members appointed to the
8 Board shall be residents of the District of Columbia
9 at the time of appointment and while serving on the
10 Board.

11 (5) NONEMPLOYEE.—No member of the Board
12 may be an employee of the United States Govern-
13 ment or the District of Columbia Government when
14 appointed to or during tenure on the Board, unless
15 the individual is on a leave of absence from such a
16 position while serving on the Board.

17 (6) INCORPORATION.—The members of the ini-
18 tial Board shall serve as incorporators and shall take
19 whatever steps are necessary to establish the Cor-
20 poration under the District of Columbia Nonprofit
21 Corporation Act (sec. 29–301.01 et seq., D.C. Offi-
22 cial Code).

23 (7) GENERAL TERM.—The term of office of
24 each member of the Board shall be 5 years, except
25 that any member appointed to fill a vacancy occur-

1 ring prior to the expiration of the term for which the
2 predecessor was appointed shall be appointed for the
3 remainder of such term.

4 (8) CONSECUTIVE TERM.—No member of the
5 Board shall be eligible to serve in excess of two con-
6 secutive terms of 5 years each. A partial term shall
7 be considered as one full term. Any vacancy on the
8 Board shall not affect the Board's power, but shall
9 be filled in a manner consistent with this Act.

10 (9) NO BENEFIT.—No part of the income or as-
11 sets of the Corporation shall inure to the benefit of
12 any Director, officer, or employee of the Corpora-
13 tion, except as salary or reasonable compensation for
14 services.

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

18 (11) NOT OFFICERS OR EMPLOYEES.—The
19 members of the Board shall not, by reason of such
20 membership, be considered to be officers or employ-
21 ees of the United States Government or of the Dis-
22 trict of Columbia Government.

23 (12) STIPENDS.—The members of the Board,
24 while attending meetings of the Board or while en-
25 gaged in duties related to such meetings or other ac-

1 tivities of the Board pursuant to this Act, shall be
2 provided a stipend. Such stipend shall be at the rate
3 of \$150 per day for which the member of the Board
4 is officially recorded as having worked, except that
5 no member may be paid a total stipend amount in
6 any calendar year in excess of \$5,000.

7 (c) OFFICERS AND STAFF.—

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

14 (2) STAFF.—With the approval of the Board,
15 the executive director may appoint and fix the salary
16 of such additional personnel as the executive director
17 considers appropriate.

18 (3) ANNUAL RATE.—No staff of the Corpora-
19 tion may be compensated by the Corporation at an
20 annual rate of pay greater than the annual rate of
21 pay of the executive director.

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

24 (5) QUALIFICATION.—No political test or quali-
25 fication may be used in selecting, appointing, pro-

1 moting, or taking other personnel actions with re-
2 spect to officers, agents, or employees of the Cor-
3 poration.

4 (d) POWERS OF THE CORPORATION.—

5 (1) GENERALLY.—The Corporation is author-
6 ized to obtain grants from, and make contracts with,
7 individuals and with private, State, and Federal
8 agencies, organizations, and institutions.

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

13 (e) FINANCIAL MANAGEMENT AND RECORDS.—

14 (1) AUDITS.—The financial statements of the
15 Corporation shall be—

16 (A) maintained in accordance with gen-
17 erally accepted accounting principles for non-
18 profit corporations; and

19 (B) audited annually by independent cer-
20 tified public accountants.

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

24 (f) ADMINISTRATIVE RESPONSIBILITIES.—

1 (1) SCHOLARSHIP APPLICATION SCHEDULE AND
 2 PROCEDURES.—Not later than 30 days after the ini-
 3 tial Board is appointed and the first executive direc-
 4 tor of the Corporation is hired under this Act, the
 5 Corporation shall implement a schedule and proce-
 6 dures for processing applications for, and awarding,
 7 student scholarships under this Act. The schedule
 8 and procedures shall include establishing a list of
 9 certified eligible institutions located in the areas
 10 specified in section 4(d)(1)), distributing scholarship
 11 information to parents and the general public (in-
 12 cluding through a newspaper of general circulation),
 13 and establishing deadlines for steps in the scholar-
 14 ship application and award process.

15 (2) INSTITUTIONAL APPLICATIONS AND ELIGI-
 16 BILITY.—

17 (A) IN GENERAL.—An eligible institution
 18 that desires to participate in the scholarship
 19 program under this Act shall file an application
 20 with the Corporation for certification for par-
 21 ticipation in the scholarship program under this
 22 Act that shall—

23 (i) demonstrate that the eligible insti-
 24 tution has operated with not fewer than 25
 25 students during the 3 years preceding the

1 year for which the determination is made
2 unless the eligible institution is applying
3 for certification as a new eligible institu-
4 tion under subparagraph (C);

5 (ii) contain an assurance that the eli-
6 gible institution will comply with all appli-
7 cable requirements of this Act;

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

10 (iv) describe the eligible institution's
11 proposed program, including personnel
12 qualifications and fees.

13 (B) CERTIFICATION.—

14 (i) IN GENERAL.—Except as provided
15 in subparagraph (C), not later than 60
16 days after receipt of an application in ac-
17 cordance with subparagraph (A), the Cor-
18 poration shall certify an eligible institution
19 to participate in the scholarship program
20 under this Act.

21 (ii) CONTINUATION.—An eligible insti-
22 tution's certification to participate in the
23 scholarship program shall continue unless
24 such eligible institution's certification is re-

1 voked in accordance with subparagraph
2 (D).

3 (C) NEW ELIGIBLE INSTITUTION.—

4 (i) IN GENERAL.—An eligible institu-
5 tion that did not operate with at least 25
6 students in the 3 years preceding the year
7 for which the determination is made may
8 apply for a 1-year provisional certification
9 to participate in the scholarship program
10 under this Act for a single year by pro-
11 viding to the Corporation not later than
12 July 1 of the year preceding the year for
13 which the determination is made—

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

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

19 (III) a business plan;

20 (IV) an intended course of study;

21 (V) assurances that the eligible
22 institution will begin operations with
23 not less than 25 students;

1 (VI) assurances that the eligible
2 institution will comply with all appli-
3 cable requirements of this Act; and

4 (VII) a statement that satisfies
5 the requirements of clauses (ii) and
6 (iv) of subparagraph (A).

7 (ii) CERTIFICATION.—Not later than
8 60 days after the date of receipt of an ap-
9 plication described in clause (i), the Cor-
10 poration shall certify in writing the eligible
11 institution's provisional certification to
12 participate in the scholarship program
13 under this Act unless the Corporation de-
14 termines that good cause exists to deny
15 certification.

16 (iii) RENEWAL OF PROVISIONAL CER-
17 TIFICATION.—After receipt of an applica-
18 tion under clause (i) from an eligible insti-
19 tution that includes a statement of the eli-
20 gible institution's budget completed not
21 earlier than 12 months before the date
22 such application is filed, the Corporation
23 shall renew an eligible institution's provi-
24 sional certification for the second and third
25 years of the school's participation in the

1 scholarship program under this Act unless
2 the Corporation finds—

3 (I) good cause to deny the re-
4 newal, including a finding of a pattern
5 of violation of requirements described
6 in paragraph (3)(A); or

7 (II) consistent failure of 25 per-
8 cent or more of the students receiving
9 scholarships under this Act and at-
10 tending such school to make appro-
11 priate progress (as determined by the
12 Corporation) in academic achieve-
13 ment.

14 (iv) DENIAL OF CERTIFICATION.—If
15 provisional certification or renewal of pro-
16 visional certification under this subsection
17 is denied, then the Corporation shall pro-
18 vide a written explanation to the eligible
19 institution of the reasons for such denial.

20 (D) REVOCATION OF ELIGIBILITY.—

21 (i) IN GENERAL.—The Corporation,
22 after notice and opportunity for a hearing,
23 may revoke an eligible institution's certifi-
24 cation to participate in the scholarship pro-
25 gram under this Act for a year succeeding

1 the year for which the determination is
2 made for—

3 (I) good cause, including a find-
4 ing of a pattern of violation of pro-
5 gram requirements described in para-
6 graph (3)(A); or

7 (II) consistent failure of 25 per-
8 cent or more of the students receiving
9 scholarships under this Act and at-
10 tending such school to make appro-
11 priate progress (as determined by the
12 Corporation) in academic achieve-
13 ment.

14 (ii) EXPLANATION.—If the certifi-
15 cation of an eligible institution is revoked,
16 the Corporation shall provide a written ex-
17 planation of the Corporation's decision to
18 such eligible institution and require a pro
19 rata refund of the proceeds of the scholar-
20 ship funds received under this Act.

21 (iii) STUDENT ELIGIBILITY NOT AF-
22 FECTED.—A student receiving a scholar-
23 ship under this Act who attends an institu-
24 tion that has had its eligibility revoked

1 under this subparagraph may utilize such
2 scholarship at another eligible institution.

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

5 (A) REQUIREMENTS.—Each eligible insti-
6 tution participating in the scholarship program
7 under this Act shall—

8 (i) provide to the Corporation not
9 later than June 30 of each year the most
10 recent annual statement of the eligible in-
11 stitution's budget; and

12 (ii) charge a student that receives a
13 scholarship under this Act not more than
14 the cost of tuition and mandatory fees for,
15 and (as appropriate) transportation to at-
16 tend, such eligible institution as other stu-
17 dents who are residents of the District of
18 Columbia and enrolled in such eligible in-
19 stitution.

20 (B) COMPLIANCE.—The Corporation may
21 require documentation of compliance with the
22 requirements of subparagraph (A), but neither
23 the Corporation nor any governmental entity
24 may impose requirements upon an eligible insti-
25 tution as a condition for participation in the

1 scholarship program under this Act, other than
2 requirements established under this Act.

3 **SEC. 4. SCHOLARSHIPS AUTHORIZED.**

4 (a) **ELIGIBLE STUDENTS.**—The Corporation may
5 award tuition scholarships under subsection (d)(1) and en-
6 hanced achievement scholarships under subsection (d)(2)
7 to students in kindergarten through grade 12—

8 (1) who are residents of the District of Colum-
9 bia; and

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

12 (b) **SCHOLARSHIP PRIORITY.**—Subject to subsection
13 (c), the Corporation shall award scholarships based on the
14 following priorities:

15 (1) **PREVIOUS SCHOLARSHIP RECIPIENTS.**—For
16 the second and subsequent academic years for which
17 scholarships are awarded, the Corporation first shall
18 award scholarships to students eligible under sub-
19 section (a) who received a scholarship from the Cor-
20 poration in the preceding academic year.

21 (2) **DISTRICT OF COLUMBIA PUBLIC SCHOOL**
22 **ENROLLEES.**—For the first three academic years for
23 which scholarships are awarded, if funds remain
24 after the application of paragraph (1), the Corpora-
25 tion shall award scholarships to eligible students who

1 do not receive an award under such paragraph and
2 who are—

3 (A) enrolled in a District of Columbia pub-
4 lic school; or

5 (B) preparing to enter a District of Colum-
6 bia public kindergarten.

7 (3) VICTIMS OF SCHOOL VIOLENCE.—For any
8 academic year, if funds remain available after the
9 application of paragraphs (1) and (2), the Corpora-
10 tion shall award scholarships to eligible students who
11 do not receive an award under such paragraphs and
12 who have been victims of a documented violent act
13 on school grounds.

14 (4) OTHER ELIGIBLE STUDENTS.—For any
15 academic year, if funds remain available after the
16 application of paragraphs (1) through (3), the Cor-
17 poration shall award scholarships to eligible students
18 who do not receive an award under such paragraphs.

19 (c) LOTTERY SELECTION.—If, in applying subsection
20 (b), the number of students described in a paragraph of
21 such subsection is such that the amount available is insuf-
22 ficient to award the appropriate scholarship amount to
23 each such student, the Corporation shall select by lottery
24 the students who will receive an award.

25 (d) USE OF SCHOLARSHIP.—

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

6 (A) the District of Columbia;

7 (B) Montgomery County, Maryland;

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

9 (D) Arlington County, Virginia;

10 (E) Alexandria City, Virginia;

11 (F) Falls Church City, Virginia;

12 (G) Fairfax City, Virginia; or

13 (H) Fairfax County, Virginia.

14 (2) ENHANCED ACHIEVEMENT SCHOLARSHIP.—

15 An enhanced achievement scholarship may be used
 16 only for the payment of the costs of tuition and
 17 mandatory fees for, and (as appropriate) transpor-
 18 tation to attend, a program of instruction provided
 19 by an eligible institution which enhances student
 20 achievement of the core curriculum and is operated
 21 outside of regular school hours to supplement the
 22 regular school program.

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

1 **SEC. 5. SCHOLARSHIP AWARDS.**

2 (a) AWARDS.—From the funds made available under
3 this Act, the Corporation shall award a scholarship to a
4 student and make scholarship payments in accordance
5 with section 6.

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

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

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

19 (3) REFUSAL OF ADMISSION.—Not later than
20 10 days after the date that a student receiving a
21 scholarship under this Act is refused admission, the
22 institution shall notify the Corporation of the rea-
23 sons for such a refusal.

24 (c) TUITION SCHOLARSHIP.—

25 (1) EQUAL TO OR BELOW POVERTY LINE.—For
26 a student whose family income is equal to or below

1 the poverty line, a tuition scholarship may not ex-
 2 ceed the lesser of—

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

6 (B) \$5,000 for fiscal year 2003, with such
 7 amount adjusted in proportion to changes in
 8 the Consumer Price Index for All Urban Con-
 9 sumers published by the Department of Labor
 10 for each of fiscal years 2004 through 2007.

11 (2) ABOVE POVERTY LINE.—For a student
 12 whose family income is greater than the poverty line,
 13 but not more than 185 percent of the poverty line,
 14 a tuition scholarship may not exceed the lesser of—

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

18 (B) \$3,750 for fiscal year 2003, with such
 19 amount adjusted in proportion to changes in
 20 the Consumer Price Index for All Urban Con-
 21 sumers published by the Department of Labor
 22 for each of fiscal years 2004 through 2007.

23 (d) ENHANCED ACHIEVEMENT SCHOLARSHIP.—An
 24 enhanced achievement scholarship may not exceed the
 25 lesser of—

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

4 (2) \$800 for 2003, with such amount adjusted
5 in proportion to changes in the Consumer Price
6 Index for All Urban Consumers published by the De-
7 partment of Labor for each of fiscal years 2004
8 through 2007.

9 **SEC. 6. SCHOLARSHIP PAYMENTS.**

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

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

20 (c) PRO RATA AMOUNTS FOR STUDENT WITH-
21 DRAWAL.—If a student receiving a scholarship under this
22 Act withdraws or is expelled from an eligible institution
23 after the proceeds of a scholarship is paid to the eligible
24 institution, then the eligible institution shall refund to the
25 Corporation on a pro rata basis the proportion of any such

1 proceeds received for the remaining days of the school
 2 year. Such refund shall occur not later than 30 days after
 3 the date of the withdrawal or expulsion of the student.

4 **SEC. 7. CIVIL RIGHTS.**

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

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

11 (1) APPLICABILITY.—With respect to discrimi-
 12 nation on the basis of sex, subsection (a) shall not
 13 apply to an eligible institution that is controlled by
 14 a religious organization if the application of sub-
 15 section (a) is inconsistent with the religious tenets of
 16 the eligible institution.

17 (2) CONSTRUCTION.—With respect to discrimi-
 18 nation on the basis of sex, nothing in subsection (a)
 19 shall be construed to require any person, or public
 20 or private entity to provide or pay, or to prohibit any
 21 such person or entity from providing or paying, for
 22 any benefit or service, including the use of facilities,
 23 related to an abortion. Nothing in the preceding sen-
 24 tence shall be construed to permit a penalty to be
 25 imposed on any person or individual because such

1 person or individual is seeking or has received any
 2 benefit or service related to a legal abortion.

3 (3) SINGLE-SEX SCHOOLS, CLASSES, OR ACTIVITIES.—With respect to discrimination on the basis
 4 of sex, nothing in subsection (a) shall be construed
 5 to prevent a parent from choosing, or an eligible institution from offering, a single-sex school, class, or
 6 activity.
 7 activity.

8 (c) REVOCATION.—Notwithstanding section
 9 3(f)(2)(D), if the Corporation determines that an eligible
 10 institution participating in the scholarship program under
 11 this Act is in violation of subsection (a), then the Corporation shall revoke such eligible institution’s certification to
 12 participate in the program.

15 **SEC. 8. CHILDREN WITH DISABILITIES.**

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

20 **SEC. 9. RULE OF CONSTRUCTION.**

21 (a) IN GENERAL.—Nothing in this Act shall be construed to prevent any eligible institution which is operated
 22 by, supervised by, controlled by, or connected to, a religious organization from employing, admitting, or giving
 23 preference to, persons of the same religion to the extent

1 determined by such institution to promote the religious
 2 purpose for which the eligible institution is established or
 3 maintained.

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

9 **SEC. 10. REPORTING REQUIREMENTS.**

10 (a) IN GENERAL.—An eligible institution partici-
 11 pating in the scholarship program under this Act shall re-
 12 port to the Corporation not later than July 30 of each
 13 year in a manner prescribed by the Corporation, the fol-
 14 lowing data:

15 (1) Student achievement in the eligible institu-
 16 tion's programs.

17 (2) Grade advancement for scholarship stu-
 18 dents.

19 (3) Disciplinary actions taken with respect to
 20 scholarship students.

21 (4) Graduation, college admission test scores,
 22 and college admission rates, if applicable for scholar-
 23 ship students.

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

1 (6) Student attendance for scholarship and
2 nonscholarship students.

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

6 (8) Number of scholarship students enrolled.

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

9 (b) CONFIDENTIALITY.—No personal identifiers may
10 be used in such report, except that the Corporation may
11 request such personal identifiers solely for the purpose of
12 verification.

13 **SEC. 11. PROGRAM APPRAISAL.**

14 (a) STUDY.—Not later than 3 years after the date
15 of enactment of this Act, the Comptroller General shall
16 enter into a contract, with an evaluating agency that has
17 demonstrated experience in conducting evaluations, for an
18 independent evaluation of the scholarship program under
19 this Act, including—

20 (1) a comparison of test scores between scholar-
21 ship students and District of Columbia public school
22 students of similar backgrounds, taking into account
23 the students' academic achievement at the time of
24 the award of their scholarships and the students'
25 family income level;

1 (2) a comparison of graduation rates between
2 scholarship students and District of Columbia public
3 school students of similar backgrounds, taking into
4 account the students' academic achievement at the
5 time of the award of their scholarships and the stu-
6 dents' family income level;

7 (3) the satisfaction of parents of scholarship
8 students with the scholarship program; and

9 (4) the impact of the scholarship program on
10 the District of Columbia public schools, including
11 changes in the public school enrollment, and any im-
12 provement in the academic performance of the public
13 schools.

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

18 (c) REPORT TO CONGRESS.—Not later than Sep-
19 tember 1 of each year, the Corporation shall submit a
20 progress report on the scholarship program to the appro-
21 priate committees of Congress. Such report shall include
22 a review of how scholarship funds were expended, includ-
23 ing the initial academic achievement levels of students who
24 have participated in the scholarship program.

1 (d) AUTHORIZATION.—There are authorized to be ap-
 2 propriated for the study described in subsection (a),
 3 \$250,000, which shall remain available until expended.

4 **SEC. 12. JUDICIAL REVIEW.**

5 (a) JURISDICTION.—

6 (1) IN GENERAL.—The United States District
 7 Court for the District of Columbia shall have juris-
 8 diction in any action challenging the constitu-
 9 tionality of the scholarship program under this Act
 10 and shall provide expedited review.

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

15 (b) APPEAL TO SUPREME COURT.—Notwithstanding
 16 any other provision of law, any order of the United States
 17 District Court for the District of Columbia which is issued
 18 pursuant to an action brought under subsection (a) shall
 19 be reviewable by appeal directly to the Supreme Court of
 20 the United States.

21 **SEC. 13. EFFECTIVE DATE.**

22 This Act shall be effective for each of fiscal years
 23 2003 through 2007.

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