

109TH CONGRESS
2^D SESSION

H. R. 5822

To establish the America's Opportunity Scholarships for Kids Program.

IN THE HOUSE OF REPRESENTATIVES

JULY 18, 2006

Mr. SAM JOHNSON of Texas introduced the following bill; which was referred to the Committee on Education and the Workforce

A BILL

To establish the America's Opportunity Scholarships for Kids Program.

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

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the "America's Opportunity
5 Scholarships for Kids Act".

6 **SEC. 2. PURPOSE.**

7 It is the purpose of this Act to support local efforts
8 to enable students from low-income families who attend
9 a school identified for restructuring under section
10 1116(b)(8) of the Elementary and Secondary Education
11 Act of 1965 (20 U.S.C. 6316(b)(8))—

1 (1) to attend a private elementary school or sec-
2 ondary school, or a public elementary school or sec-
3 ondary school outside the student’s home school dis-
4 trict, including a public charter school; or

5 (2) to receive intensive, sustained supplemental
6 educational services.

7 **SEC. 3. DEFINITIONS.**

8 In this Act:

9 (1) **ELEMENTARY SCHOOL; LOCAL EDU-**
10 **CATIONAL AGENCY; SECONDARY SCHOOL; SEC-**
11 **RETARY; STATE EDUCATIONAL AGENCY.**—The terms
12 “elementary school”, “local educational agency”,
13 “secondary school”, “Secretary”, and “State edu-
14 cational agency” have the meanings given the terms
15 in section 9101 of the Elementary and Secondary
16 Education Act of 1965 (20 U.S.C. 7801).

17 (2) **ELIGIBLE ENTITY.**—The term “eligible enti-
18 ty” means—

19 (A) a local educational agency;

20 (B) a State educational agency; or

21 (C) a nonprofit organization or a consor-
22 tium of nonprofit organizations.

23 (3) **ELIGIBLE STUDENT.**—The term “eligible
24 student” means a student from a low-income family
25 who—

1 (A) with respect to a school identified for
2 restructuring under section 1116(b)(8) of the
3 Elementary and Secondary Education Act of
4 1965 (20 U.S.C. 6316(b)(8))—

5 (i) is eligible to enroll in the beginning
6 grade of the school;

7 (ii) except as provided in subpara-
8 graph (C), attended the school for the en-
9 tire school year preceding the identifica-
10 tion;

11 (iii) in the case of a student who
12 transfers to the school to attend any grade
13 beyond the beginning grade of the school,
14 attends the school for the remainder of the
15 school year in which the transfer occurs; or

16 (iv) received a scholarship under this
17 Act in a preceding school year due to such
18 identification; or

19 (B) is a sibling of a student described in
20 any 1 of clauses (i) through (iv) of subpara-
21 graph (A).

22 (4) LOW-INCOME FAMILY.—The term “low-in-
23 come family” means a family whose income does not
24 exceed 185 percent of the poverty line, except that
25 in the case of a student participating in a project

1 under this Act for a second or any succeeding school
2 year the term includes a family whose income does
3 not exceed 220 percent of the poverty line.

4 (5) **POVERTY LINE.**—The term “poverty line”
5 means the income official poverty line (as defined by
6 the Office of Management and Budget, and revised
7 annually in accordance with section 673(2) of the
8 Community Services Block Grant Act (42 U.S.C.
9 9902(2)) applicable to a family of the size involved.

10 (6) **PRIVATE PROVIDER.**—The term “private
11 provider” means a nonprofit or for-profit private
12 provider of supplemental educational services de-
13 scribed in section 1116(e)(1) of the Elementary and
14 Secondary Education Act of 1965 (20 U.S.C.
15 6316(e)(1)) that is on the updated list of approved
16 providers maintained by the State educational agen-
17 cy under section 1116(e)(4)(C) of such Act (20
18 U.S.C. 6316(e)(4)(C)).

19 (7) **SUPPLEMENTAL EDUCATIONAL SERVICES.**—
20 The term “supplemental educational services” has
21 the meaning given the term in section
22 1116(e)(12)(C) of the Elementary and Secondary
23 Education Act of 1965 (20 U.S.C. 6316(e)(12)(C)).

24 **SEC. 4. PROGRAM AUTHORIZED.**

25 (a) **AUTHORITY.**—

1 (1) IN GENERAL.—Subject to paragraph (2)
2 and from amounts appropriated under section 6 for
3 a fiscal year, the Secretary shall award grants, on a
4 competitive basis, to eligible entities to support
5 projects that provide—

6 (A) scholarships to enable eligible students
7 to attend—

8 (i) the private elementary school or
9 secondary school of their parent’s choice;

10 or

11 (ii) a public elementary school or sec-
12 ondary school of their parents’ choice out-
13 side of the eligible student’s home school
14 district, consistent with State law; or

15 (B) eligible students with intensive, sus-
16 tained supplemental educational services on an
17 annual basis.

18 (2) SCHOLARSHIP DURATION RULE.—Each eli-
19 gible entity that receives a grant under this Act shall
20 only award a scholarship under this Act to an eligi-
21 ble student for—

22 (A)(i) in the case of an eligible student de-
23 scribed in section 3(3)(A), the first school year
24 for which the eligible student is eligible to re-
25 ceive the scholarship with respect to a school

1 identified for restructuring under section
2 1116(b)(8) of the Elementary and Secondary
3 Education Act of 1965; and

4 (ii) in the case of an eligible student de-
5 scribed in section 3(3)(B), the first school year
6 taught at the school so identified; and

7 (B) each subsequent school year through
8 the school year applicable to the final grade
9 taught at the school so identified.

10 (b) DURATION OF GRANTS.—The Secretary may
11 award grants under this Act for a period of not more than
12 5 years.

13 (c) PRIORITIES.—In awarding grants under this Act,
14 the Secretary shall give priority to eligible entities that—

15 (1) propose to serve eligible students in a local
16 educational agency with a large number or percent-
17 age of schools identified for restructuring under sec-
18 tion 1116(b)(8) of the Elementary and Secondary
19 Education Act of 1965 (20 U.S.C. 6316(b)(8));

20 (2) possess the knowledge and capacity to in-
21 form parents of eligible students, in urban, subur-
22 ban, and rural areas, about public and private ele-
23 mentary school and secondary school options; and

24 (3) will augment the scholarships provided to
25 eligible students under this Act in order to help en-

1 sure that parents can afford the cost (including tui-
2 tion, fees, and necessary transportation expenses) of
3 the schools the parents choose to have their children
4 attend under this Act.

5 (d) APPLICATION REQUIREMENTS.—

6 (1) IN GENERAL.—To be considered for a grant
7 under this Act, an eligible entity shall submit an ap-
8 plication to the Secretary at such time, in such man-
9 ner, and containing such information as the Sec-
10 retary may reasonably require.

11 (2) CONTENTS.—The application shall, at a
12 minimum, include a description of—

13 (A) the eligible entity’s plan for—

14 (i) recruiting private schools, local
15 educational agencies, charter schools, and
16 private providers, to participate in the
17 project in order to meet eligible student de-
18 mand for private and public school admis-
19 sion and supplemental educational services;
20 and

21 (ii) ensuring that participating schools
22 that enroll eligible students receiving schol-
23 arships under this Act, and private pro-
24 viders participating in the project, will

1 meet the applicable requirements of the
2 project;

3 (B) each school identified for restructuring
4 that will be served under the project, includ-
5 ing—

6 (i) the name of each such school; and

7 (ii) such demographic and socio-
8 economic information as the Secretary may
9 require;

10 (C) how the eligible entity will work with
11 the identified schools and the local educational
12 agency to identify the parents of eligible stu-
13 dents (including through contracts or coopera-
14 tive agreements with the public school or local
15 educational agency) consistent with the require-
16 ments of the Family Educational Rights and
17 Privacy Act of 1974 (20 U.S.C. 1232g);

18 (D) how the eligible entity will structure
19 the project in a manner that permits eligible
20 students to participate in the second and suc-
21 ceeding school years of the project if the schools
22 the eligible students attend with scholarship as-
23 sistance under this Act are subsequently identi-
24 fied for restructuring under section 1116(b)(8)

1 of the Elementary and Secondary Education
2 Act of 1965 (20 U.S.C. 6316(b)(8));

3 (E) how the eligible entity will use funds
4 received under this Act;

5 (F) how the eligible entity will ensure that
6 if more eligible students seek admission to the
7 project than the project can accommodate, the
8 eligible students will be selected through a ran-
9 dom selection process;

10 (G) how the eligible entity will notify par-
11 ents of eligible students of the expanded choice
12 opportunities provided under the project and
13 how the eligible entity will provide parents with
14 sufficient information to enable the parents to
15 make an informed decision;

16 (H) how the eligible entity will ensure that
17 the schools receiving eligible students under the
18 grant are financially responsible and will use
19 the grant funds received under this Act effec-
20 tively;

21 (I) how the eligible entity will prioritize be-
22 tween providing scholarships and providing sus-
23 tained, intensive supplemental educational serv-
24 ices, including the timing and duration of offer-

1 ing the opportunity for parents to determine
2 which provision the parents prefer; and

3 (J) how the eligible entity will address the
4 renewal of support for participating eligible stu-
5 dents, including continued eligibility.

6 (e) USES OF FUNDS.—

7 (1) IN GENERAL.—Each eligible entity that re-
8 ceives a grant under this Act may—

9 (A) reserve not more than 5 percent of the
10 grant funds for administrative expenses, includ-
11 ing costs associated with recruiting and select-
12 ing eligible students, private schools, and pri-
13 vate providers, to participate in the project;

14 (B) only for the first year for which grant
15 funds are received under this Act, reserve not
16 more than 5 percent of the grant funds (in ad-
17 dition to the funds reserved under subpara-
18 graph (A)), for initial implementation expenses,
19 including costs associated with outreach, pro-
20 viding information to parents and school offi-
21 cials, and other administrative expenses;

22 (C) use the grant funds to provide scholar-
23 ships to eligible students to pay for the cost, in-
24 cluding tuition, fees, and necessary transpor-
25 tation expenses, to attend the private school of

1 their parents' choice or a public elementary
2 school or secondary school of their parents'
3 choice outside of the eligible students' home
4 school district (consistent with State law), ex-
5 cept that the scholarship shall not exceed
6 \$4,000 per student per school year; and

7 (D) use the grant funds to pay the costs,
8 including reasonable transportation costs, of
9 supplemental educational services (including
10 summer school or after-school programs) pro-
11 vided by a private provider to eligible students,
12 except that the costs shall not exceed \$3,000
13 per student, per school year.

14 (2) FUNDING ORDER.—Each eligible entity that
15 receives a grant under this Act shall—

16 (A) first fund scholarships for eligible stu-
17 dents to attend the private school of their par-
18 ents' choice or a public elementary school or
19 secondary school of their parents' choice outside
20 of the eligible students' home school district
21 (consistent with State law); and

22 (B) use any remaining grant funds to pro-
23 vide eligible students with access to supple-
24 mental educational services.

1 (3) PAYMENT.—Each eligible entity that re-
2 ceives a grant under this Act shall make scholarship
3 payments under this Act to the parent of the eligible
4 student participating in the project, in a manner
5 that ensures that the payments will be used only for
6 the payment of tuition, fees, and necessary transpor-
7 tation expenses, in accordance with this Act.

8 (f) PROHIBITION.—A student who receives supple-
9 mental educational services under this Act shall not be eli-
10 gible to receive other such services under section 1116(e)
11 of the Elementary and Secondary Education Act of 1965
12 (20 U.S.C. 6316(e)).

13 (g) PROJECT PERFORMANCE.—Each eligible entity
14 receiving a grant under this Act shall prepare and submit
15 to the Secretary a final report on the results of the project
16 assisted under this Act that contains such information as
17 the Secretary may require. At a minimum, the report shall
18 include information on the academic achievement of stu-
19 dents receiving scholarships and supplemental educational
20 services under the project.

21 (h) PERFORMANCE INFORMATION.—Each eligible en-
22 tity that receives a grant under this Act shall collect and
23 report such performance information as the Secretary may
24 require for the national evaluation conducted under sub-
25 section (i).

1 (i) NATIONAL EVALUATION.—From the amount
2 made available for any fiscal year under section 6, the Sec-
3 retary shall reserve such sums as may be necessary to con-
4 duct an independent evaluation, by grant or by contract,
5 of the program carried out under this Act, which shall in-
6 clude an assessment of the impact of the program on stu-
7 dent achievement. The Secretary shall report the results
8 of the evaluation to the appropriate committees of Con-
9 gress.

10 **SEC. 5. NONDISCRIMINATION.**

11 (a) IN GENERAL.—An eligible entity or a school par-
12 ticipating in a project under this Act shall not discriminate
13 against an individual participant in, or an individual appli-
14 cant to participate in, the project on the basis of race,
15 color, religion, sex, or national origin.

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

18 (1) IN GENERAL.—Notwithstanding any other
19 provision of law, the prohibition of sex discrimina-
20 tion described in subsection (a) shall not apply to a
21 school described in subsection (a) that is operated
22 by, supervised by, controlled by, or connected to, a
23 religious organization, to the extent that the applica-
24 tion of subsection (a) is inconsistent with the reli-
25 gious tenets or beliefs of the organization.

1 (2) PARENTAL CHOICE.—Notwithstanding sub-
2 section (a) or any other provision of law, a parent
3 may choose to enroll a child in, and a school may
4 offer, a single-sex school, class, or activity under a
5 project funded under this Act.

6 (3) NEUTRALITY.—Section 909 of the Edu-
7 cation Amendments of 1972 (20 U.S.C. 1688) shall
8 apply to this Act.

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

13 (d) RELIGIOUSLY AFFILIATED SCHOOLS.—

14 (1) IN GENERAL.—Notwithstanding any other
15 provision of law, a school described in subsection (a)
16 that is operated by, supervised by, controlled by, or
17 connected to, a religious organization may exercise,
18 in matters of employment, the school’s rights con-
19 sistent with title VII of the Civil Rights Act of 1964
20 (42 U.S.C. 2000e et seq.), including the exemptions
21 in that title.

22 (2) SPECIAL RULE.—Notwithstanding any other
23 provision of law, if a school described in subsection
24 (a) receives funds made available under this Act for
25 an eligible student as a result of a choice made by

1 the student's parent, the receipt of the funds shall
2 not, consistent with the first amendment of the Con-
3 stitution—

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

6 (B) require the school to remove any reli-
7 gious art, icon, scripture, or other symbol; or

8 (C) preclude the school from retaining a
9 religious term in its name, selecting its board
10 members on a religious basis, or including a re-
11 ligious reference in its mission statement or an-
12 other chartering or governing document.

13 (e) RULES OF CONSTRUCTION.—For purposes of
14 Federal law, a scholarship provided under this Act to a
15 student shall be considered to be assistance to the parent
16 of the student and shall not be considered to be assistance
17 to the school that enrolls the student. The amount of any
18 scholarship (or other form of support for the provision of
19 supplemental educational services) provided to a parent of
20 an eligible student under this Act shall not be treated as
21 income of a parent of the eligible student for purposes of
22 Federal tax laws or for purposes of determining eligibility
23 for any other Federal program, other than the program
24 carried out under this Act.

1 **SEC. 6. AUTHORIZATION OF APPROPRIATIONS.**

2 There are authorized to be appropriated to carry out
3 this Act \$100,000,000 for fiscal year 2007 and such sums
4 as may be necessary for each of the 4 succeeding fiscal
5 years.

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