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**AMENDMENT TO H.R. 2765, AS REPORTED
OFFERED BY MR. TOM DAVIS OF VIRGINIA**

Page 52, insert after line 12 the following:

1 **TITLE IV—DC PARENTAL**
2 **CHOICE**

3 **SEC. 401. SHORT TITLE.**

4 This title may be cited as the “DC Parental Choice
5 Incentive Act of 2003”.

6 **SEC. 402. FINDINGS.**

7 The Congress finds the following:

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

12 (2) For many parents in the District of Colum-
13 bia, public school choice provided for under the No
14 Child Left Behind Act of 2001 is inadequate due to
15 capacity constraints within the public schools.
16 Therefore, in keeping with the spirit of the No Child
17 Left Behind Act of 2001, school choice options, in
18 addition to those already available to parents in the
19 District of Columbia (such as magnet and charter
20 schools and open enrollment schools) should be made
21 available to those parents.



1 (3) In the most recent mathematics assessment
2 on the National Assessment of Educational Progress
3 (NAEP), administered in 2000, a lower percentage
4 of 4th-grade students in DC demonstrated pro-
5 ficiency than was the case for any State. Seventy-six
6 percent of DC fourth-graders scored at the “below
7 basic” level and of the 8th-grade students in the
8 District of Columbia, only 6 percent of the students
9 tested at the proficient or advanced levels, and 77
10 percent were below basic. In the most recent NAEP
11 reading assessment, in 1998, only 10 percent of DC
12 fourth-graders could read proficiently, while 72 per-
13 cent were below basic. At the 8th-grade level, 12
14 percent were proficient or advanced and 56 percent
15 were below basic.

16 (4) A program enacted for the valid secular
17 purpose of providing educational assistance to low-
18 income children in a demonstrably failing public
19 school system is constitutional under *Zelman v. Sim-*
20 *mons-Harris* if it is neutral with respect to religion
21 and provides assistance to a broad class of citizens
22 who direct government aid to schools solely as a re-
23 sult of their independent private choices.



1 **SEC. 403. PURPOSE.**

2 The purpose of this title is to provide low-income par-
3 ents residing in the District of Columbia, particularly par-
4 ents of students who attend elementary or secondary
5 schools identified for improvement, corrective action, or
6 restructuring under section 1116 of the Elementary and
7 Secondary Education Act of 1965 (20 U.S.C. 6316), with
8 expanded opportunities for enrolling their children in high-
9 er-performing schools in the District of Columbia.

10 **SEC. 404. GENERAL AUTHORITY.**

11 (a) **AUTHORITY.**—From funds appropriated to carry
12 out this title, the Secretary shall award grants on a com-
13 petitive basis to eligible entities with approved applications
14 under section 405 to carry out activities to provide eligible
15 students with expanded school choice opportunities. The
16 Secretary may award a single grant or multiple grants,
17 depending on the quality of applications submitted and the
18 priorities of this title.

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

22 **SEC. 405. APPLICATIONS.**

23 (a) **IN GENERAL.**—In order to receive a grant under
24 this title, an eligible entity shall submit an application to
25 the Secretary at such time, in such manner, and accom-
26 panied by such information as the Secretary may require.



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

4 (1) a detailed description of—

5 (A) how the entity will address the prior-
6 ities described in section 406;

7 (B) how the entity will ensure that if more
8 eligible students seek admission in the program
9 than the program can accommodate, eligible
10 students are selected for admission through a
11 random selection process which gives weight to
12 the priorities described in section 406;

13 (C) how the entity will ensure that if more
14 participating eligible students seek admission to
15 a participating school than the school can ac-
16 commodate, participating eligible students are
17 selected for admission through a random selec-
18 tion process;

19 (D) how the entity will notify parents of el-
20 ible students of the expanded choice opportu-
21 nities;

22 (E) the activities that the entity will carry
23 out to provide parents of eligible students with
24 expanded choice opportunities through the
25 awarding of scholarships under section 407(a);



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

5 (G) how the entity will seek out private el-
6 elementary and secondary schools in the District
7 of Columbia to participate in the program, and
8 will ensure that participating schools will meet
9 the applicable requirements of this title and
10 provide the information needed for the entity to
11 meet the reporting requirements of this title;

12 (H) how the entity will ensure that partici-
13 pating schools are financially responsible;

14 (I) how the entity will address the renewal
15 of scholarships to participating eligible stu-
16 dents, including continued eligibility; and

17 (J) how the entity will ensure that a ma-
18 jority of its voting board members or governing
19 organization are residents of the District of Co-
20 lumbia; and

21 (2) an assurance that the entity will comply
22 with all requests regarding any evaluation carried
23 out under section 409.



1 **SEC. 406. PRIORITIES.**

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

5 (1) give priority to eligible students who, in the
6 school year preceding the school year for which the
7 eligible student is seeking a scholarship, attended an
8 elementary or secondary school identified for im-
9 provement, corrective action, or restructuring under
10 section 1116 of the Elementary and Secondary Edu-
11 cation Act of 1965 (20 U.S.C. 6316);

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

15 (3) provide students and families with the
16 widest range of educational options; and

17 (4) serve students of varying ages and grade
18 levels.

19 **SEC. 407. USE OF FUNDS.**

20 (a) SCHOLARSHIPS.—

21 (1) IN GENERAL.—Subject to paragraph (2)
22 and (3), a grantee shall use the grant funds to pro-
23 vide eligible students with scholarships to pay the
24 tuition, fees, and transportation expenses, if any, to
25 enable them to attend the District of Columbia pri-
26 vate elementary or secondary school of their choice.



1 Each grantee shall ensure that the amount of any
2 tuition or fees charged by a school participating in
3 the grantee's program under this title to an eligible
4 student participating in the program does not exceed
5 the amount of tuition or fees that the school custom-
6 arily charges to students who do not participate in
7 the program.

8 (2) PAYMENTS TO PARENTS.—A grantee shall
9 make scholarship payments under the program
10 under this title to the parent of the eligible student
11 participating in the program, in a manner which en-
12 sures that such payments will be used for the pay-
13 ment of tuition, fees, and transportation expenses (if
14 any), in accordance with this title.

15 (3) AMOUNT OF ASSISTANCE.—

16 (A) VARYING AMOUNTS PERMITTED.—Sub-
17 ject to the other requirements of this section, a
18 grantee may award scholarships in larger
19 amounts to those eligible students with the
20 greatest need.

21 (B) ANNUAL LIMIT ON AMOUNT.—The
22 amount of assistance provided to any eligible
23 student by a grantee under a program under
24 this title may not exceed \$7,500 for any aca-
25 demic year.



1 (b) ADMINISTRATIVE EXPENSES.—A grantee may
2 use not more than 3 percent of the amount provided under
3 the grant each year for the administrative expenses of car-
4 rying out its program under this title during the year,
5 including—

6 (1) determining the eligibility of students to
7 participate;

8 (2) providing information about the program
9 and the schools involved to parents of eligible stu-
10 dents;

11 (3) selecting students to receive scholarships;

12 (4) determining the amount of scholarships and
13 issuing them to eligible students;

14 (5) compiling and maintaining financial and
15 programmatic records; and

16 (6) providing funds to assist parents in meeting
17 expenses that might otherwise preclude the partici-
18 pation of their child in the program.

19 **SEC. 408. NONDISCRIMINATION.**

20 (a) IN GENERAL.—A school participating in any pro-
21 gram under this title shall not discriminate on the basis
22 of race, color, national origin, or sex in participating in
23 the program.

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



1 (1) APPLICABILITY.—Notwithstanding sub-
2 section (a) or any other provision of law, it shall not
3 be considered discrimination on the basis of sex for
4 a school that is operated by, supervised by, con-
5 trolled by, or connected to a religious organization to
6 take sex into account to the extent that failing to do
7 so would be inconsistent with the religious tenets or
8 beliefs of the school.

9 (2) SINGLE-SEX SCHOOLS, CLASSES, OR ACTIVI-
10 TIES.—Notwithstanding subsection (a) or any other
11 provision of law, a parent may choose and a school
12 may offer a single-sex school, class, or activity.

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



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

4 (d) RELIGIOUSLY AFFILIATED SCHOOLS.—

5 (1) IN GENERAL.—Notwithstanding any other
6 provision of law, a school participating in any pro-
7 gram under this title which is operated by, super-
8 vised by, controlled by, or connected to, a religious
9 organization may employ persons of the same reli-
10 gion to the extent determined by that school to pro-
11 mote the religious purpose for which the school is es-
12 tablished or maintained.

13 (2) RELIGIOUS PURPOSES.—Notwithstanding
14 any other provision of law, funds made available
15 under this title may be used for religious educational
16 purposes, and no participating school shall be re-
17 quired to remove religious art, icons, scriptures, or
18 other symbols. A participating school may retain re-
19 ligious terms in its name, select its board members
20 on a religious basis, and include religious references
21 in its mission statements and other chartering or
22 governing documents.

23 (e) RULE OF CONSTRUCTION.—A scholarship (or any
24 other form of support provided to parents of eligible stu-
25 dents) under this title shall be considered assistance to



1 the student and shall not be considered assistance to the
2 school that enrolls the eligible student. The amount of any
3 scholarship (or other form of support provided to parents
4 of an eligible student) under this title shall not be treated
5 as income of the parents for purposes of Federal tax laws
6 or for determining eligibility for any other Federal pro-
7 gram.

8 **SEC. 409. EVALUATIONS.**

9 (a) IN GENERAL.—

10 (1) DUTIES OF SECRETARY.—The Secretary
11 shall—

12 (A) conduct an evaluation using the
13 strongest possible research design for deter-
14 mining the effectiveness of the programs funded
15 under this title that addresses the issues de-
16 scribed in paragraph (2); and

17 (B) disseminate information on the impact
18 of the programs in increasing the student aca-
19 demic achievement of participating students, as
20 well as other appropriate measures of student
21 success, and on the impact of the programs on
22 students and schools in the District of Colum-
23 bia.

24 (2) ISSUES TO BE EVALUATED.—The issues de-
25 scribed in this paragraph include the following:



1 (A) A comparison of the academic achieve-
2 ment of students who participate in the pro-
3 grams funded under this title with the academic
4 achievement of students of similar backgrounds
5 who do not participate in such programs.

6 (B) The success of the programs in ex-
7 panding choice options for parents.

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

10 (D) A comparison of the retention rates,
11 dropout rates, and (if appropriate) graduation
12 and college admission rates of students who
13 participate in the programs funded under this
14 title with the retention rates, dropout rates, and
15 (if appropriate) graduation and college admis-
16 sion rates of students of similar backgrounds
17 who do not participate in such programs.

18 (E) The impact of the program on stu-
19 dents and public elementary and secondary
20 schools in the District of Columbia.

21 (F) A comparison of the safety of the
22 schools attended by students who participate in
23 the programs and the schools attended by stu-
24 dents who do not participate in the programs.



1 (G) Such other issues as the Secretary
2 considers appropriate for inclusion in the eval-
3 uation.

4 (b) REPORTS.—The Secretary shall submit to the
5 Committees on Appropriations, Education and the Work-
6 force, and Government Reform of the House of Represent-
7 atives and the Committees on Appropriations, Health,
8 Education, Labor, and Pensions, and Governmental Af-
9 fairs of the Senate—

10 (1) annual interim reports not later than De-
11 cember 1 of each year for which a grant is made
12 under this title on the progress and preliminary re-
13 sults of the evaluation of the programs funded under
14 this title; and

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

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



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

5 **SEC. 410. REPORTING REQUIREMENTS.**

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

11 (b) ACHIEVEMENT REPORTS.—

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

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

22 (B) the graduation and college admission
23 rates of students who participate in the pro-
24 gram, where appropriate; and

25 (C) parental satisfaction with the program.



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

4 (c) REPORTS TO PARENT.—

5 (1) IN GENERAL.—Each grantee shall ensure
6 that each school participating in the grantee’s pro-
7 gram under this title during a year reports at least
8 once during the year to the parents of each of the
9 school’s students who are participating in the pro-
10 gram on—

11 (A) the student’s academic achievement, as
12 measured by a comparison with the aggregate
13 academic achievement of other participating
14 students at the student’s school in the same
15 grade or level, as appropriate, and the aggre-
16 gate academic achievement of the student’s
17 peers at the student’s school in the same grade
18 or level, as appropriate; and

19 (B) the safety of the school, including the
20 incidence of school violence, student suspen-
21 sions, and student expulsions.

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



1 except as to the student who is the subject of the
2 report to that student's parent.

3 (d) REPORT TO CONGRESS.—The Secretary shall
4 submit to the Committees on Appropriations, Education
5 and the Workforce, and Government Reform of the House
6 of Representatives and the Committees on Appropriations,
7 Health, Education, Labor, and Pensions, and Govern-
8 mental Affairs of the Senate an annual report on the find-
9 ings of the reports submitted under subsections (a) and
10 (b).

11 **SEC. 411. OTHER REQUIREMENTS FOR PARTICIPATING**
12 **SCHOOLS.**

13 (a) ADMISSION OF ELIGIBLE STUDENTS.—Each
14 school choosing to participate in a program funded under
15 this title shall accept any participating eligible student on
16 a religious-neutral basis, except that if the school has more
17 participating eligible students seeking admission than it
18 can accommodate, the school shall accept participating eli-
19 gible students through a religious-neutral, random selec-
20 tion process, consistent with section 405(b)(1)(C).

21 (b) REQUESTS FOR DATA AND INFORMATION.—Each
22 school participating in a program funded under this title
23 shall comply with all requests for data and information
24 regarding evaluations conducted under section 409(a).



1 (c) RULES OF CONDUCT AND OTHER SCHOOL POLI-
2 CIES.—Subject to section 408, a participating school may
3 require eligible students to abide by any rules of conduct
4 and other requirements applicable to all other students at
5 the school.

6 **SEC. 412. DEFINITIONS.**

7 As used in this title:

8 (1) **ELEMENTARY SCHOOL.**—The term “elemen-
9 tary school” has the meaning given that term in sec-
10 tion 9101 of the Elementary and Secondary Edu-
11 cation Act of 1965 (20 U.S.C. 7801).

12 (2) **ELIGIBLE ENTITY.**—The term “eligible enti-
13 ty” means any of the following:

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

16 (B) A nonprofit organization.

17 (C) A consortium of nonprofit organiza-
18 tions.

19 (3) **ELIGIBLE STUDENT.**—The term “eligible
20 student” means a student who is a resident of the
21 District of Columbia and who comes from a house-
22 hold whose income does not exceed 185 percent of
23 the poverty line applicable to a family of the size in-
24 volved.



1 (4) PARENT.—The term “parent” has the
2 meaning given that term in section 9101 of the Ele-
3 mentary and Secondary Education Act of 1965 (20
4 U.S.C. 7801).

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

9 (6) SECONDARY SCHOOL.—The term “sec-
10 ondary school” has the meaning given that term in
11 section 9101 of the Elementary and Secondary Edu-
12 cation Act of 1965 (20 U.S.C. 7801).

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

15 **SEC. 413. AUTHORIZATION OF APPROPRIATIONS.**

16 There are authorized to be appropriated to carry out
17 this title \$10,000,000 for fiscal year 2004 and such sums
18 as may be necessary for each of the 4 succeeding fiscal
19 years.

