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**Budget Materials - Appropriations
Riders 1999: District of Columbia**

New file

Budget - appropriations rules 1999 -
district of Columbia

DISTRICT OF COLUMBIA

FY 1999 APPROPRIATIONS BILLS: LANGUAGE ISSUES

Appropriations Bill: DC

Language Issue: Private School Vouchers in D.C.

Location in House Bill: Title II- District of Columbia Student Opportunity Scholarships

Location in Senate Bill: Provision not included

Current Bill Language: The objectionable provision was stricken from the House\Senate Conference agreement

Administration Proposal: Not applicable.

PERMIT USE OF FEDERAL FUNDS FOR PRIVATE SCHOOL VOUCHERS IN D.C.

Subcommittee: District of Columbia

Ranking: High X Medium ___ Low ___

1999 Budget Policy: None.

Latest House Action: Title II of the House-passed bill (H.R. 4380) contains language that would allow the use of Federal funds to provide private school vouchers in the District. The House SAP contains a senior advisers veto threat regarding private school vouchers.

Latest Senate Action: The Senate Committee bill has no similar provision, but it may be added on the floor.

Latest Conference Action: The Conference bill does not contain the objectionable language.

Solution/Options: Delete the voucher language.

Justification:

- The Administration strongly opposes use of Federal taxpayer funds for private school vouchers. This provision would: (1) allow a few selected students to attend private schools; (2) draw attention away from the difficult work of reforming public schools that serve the overwhelming majority of D.C. students; and (3) set a dangerous precedent for using Federal taxpayer funds for schools that are not accountable to the public.
- Parents and students in D.C. already have increased public school choice with the passage of charter school legislation in 1996. D.C. charter school legislation is one of the most liberal in the country, permitting 20 new charters to be granted each year. Sixteen new charter schools are scheduled to open this Fall, in addition to the 3 currently operating.

FY 1998 Appropriations Action: Both the House and Senate included funding for private school vouchers in their bills. Following a Presidential veto threat and negotiations, the language was removed.

Prepared By/Date: Leslie Mustain (5-7768), 10/6/98

ADOPTION

Subcommittee: District of Columbia

Ranking: High X Medium ___ Low ___

1999 Budget Policy: Protecting the health and safety of children under our foster care system is an Administration priority. In 1997, the President signed into law the Adoption and Safe Families Act in an effort to improve the child welfare system and promote adoption.

Latest House Action: The House bill (H.R. 4380) contains a provision (**Section 153**) offered by Rep. Largent (R-OK) that would prohibit adoptions in the District by couples that are unmarried or not related by blood. The House Rules and Floor SAPs, dated August 5 and 6, respectively, contained a strong objection to this provision and a veto recommendation.

Latest Senate Action: Senate bill contains no similar provision.

Latest Conference Action: Preliminary conference bill contains this objectionable language (**Section 171**). [*Compromise agreement* - The House/Senate conference agreement contains a provision (**Section 157** - District of Columbia Adoption Improvement Act of 1998) that was in the Senate subcommittee bill that would require the DC Child and Family Services Agency to undertake certain actions, e.g., establish a database to track abused and neglected children cases, require the Agency to enter into a contract with a private service provider to provide adoption recruitment and placement services. **The compromise agreement could be to keep this language and drop the more egregious prohibition on adoptions by unmarried couples language**]

Solution/Options: Work with the Conferees to get the objectionable House provision removed during Conference action.

Justification:

- The Administration would concur with Members of Congress that the District's Child and Family Services Agency (CFSA), which provides child welfare and protection services to District residents is in need of reform. Although the Agency has been under a General Receiver since August 1995, the quality of services provided to children under CFSA's purview is unacceptable. The Largent provision would not address the fundamental need for management reforms at CFSA.
- This rider would interfere with critical casework decisions where the best interest of the child should govern decisions on adoptive or foster parents. It would also limit the applicant pool from which CFSA can select adoptive or foster parents at a time when hundreds of children are legally free for adoption, and awaiting permanent homes.
- This provision represents congressional micromanagement of District affairs, about which the Administration continues to object in letters and SAPs regarding the D.C. appropriations bills/acts.

FY 1998 Appropriations Action: This is a new provision. However, since 1993, the D.C. appropriations bills have contained a provision -- "the Domestic Partners Act provision" -- that would prohibit the District from using Federal or local funds to extend employment, health or

governmental benefits to unmarried, cohabiting couples. Although the Domestic Partners provision is objectionable (as is the Largent amendment) because it unjustly targets a certain segment of the District's population, we have not previously included language in letters or SAPs stating our objection to the Domestic Partners provision.

Prepared By/Date: Marcia D. Occomy (5-1092), 9/21/98, Updated 10/6/98.

FY 1999 APPROPRIATIONS BILLS: LANGUAGE ISSUES

Appropriations Bill: DC

Language Issue: Prohibition on Adoption in D.C. by Unmarried Couples

Location in House Bill: Section 153, General Provisions

Location in Senate Bill: Provision not included

Current Bill Language: Section 171, General Provisions

Administration Proposal: *Compromise agreement* - The House/Senate conference agreement contains a provision (**Section 157 - District of Columbia Adoption Improvement Act of 1998**) that would require the DC Child and Family Services Agency to undertake certain actions to improve adoption services in the District, e.g., establish a database to track abused and neglected children cases, require the Agency to enter into a contract with a private service provider to provide adoption recruitment and placement services. **The compromise agreement could be to keep this language and drop the more egregious prohibition on adoptions by unmarried couples language, Section 171.]**

SEC. 171. None of the funds contained in this Act may be used to carry out any joint adoption of a child between individuals who are not related by blood or marriage.

This Act may be cited as the "District of Columbia Appropriations Act, 1999".

; And the Senate agree to the same.

NEEDLE EXCHANGE

Subcommittee: District of Columbia

Ranking: High Medium Low

1999 Budget Policy: FY 1999 Budget language in the Labor/HHS bill would make the use of Federal funds for needle exchange conditional upon the certification of the Secretary of Health and Human Services that needle exchange programs are effective at preventing the spread of HIV without encouraging the use of illegal drugs. Current law is similar, except that it stipulates that such a certification could be made by the Secretary only after March 31, 1998. Although the Secretary actually endorsed the programs in April 1998, the Administration decided to allow local communities choosing to implement needle exchange programs to use their own dollars to fund them.

Latest Conference Action: Preliminary conference bill contains this objectionable language (**Section 168**).

Latest House Action: **Section 152 of The House bill (H.R. 4380)** includes language which prohibits the use of Federal and local funds for needle exchange programs in the District and which would prohibit any individual or entity that receives Federal or local funds from supporting needle exchange programs (even if the funds used for the needle exchange programs are their own).

Latest Senate Action: The Senate bill contains no similar provision.

Solution/Options: Remove the objectionable House language. **Or substitute language would only prohibit the use of Federal funds to support needle exchange programs.**

Justification: The Administration objects to this provision as an unwarranted intrusion into local affairs. It is also inconsistent with current law nationwide and Administration policy on this issue. The House SAP explained that if such language were included in the bill presented to the President, his senior advisers would recommend that the President veto the bill.

FY 1998 Appropriations Action: No such language was included in last year's bill, although the enacted Labor/HHS bill stipulated that Federal funding could be used for needle exchange after March 31, 1998, only if certified by the Secretary as being successful at preventing the spread of HIV without encouraging the use of illegal drugs.

Prepared By/Date: Chin-Chin Ip (5-7797), 10/2/98

FY 1999 APPROPRIATIONS BILLS: LANGUAGE ISSUES

Appropriations Bill: District of Columbia

Language Issue: Prohibition of the Use of Federal and Local Funds for D.C. Needle Exchange Program

Location in House Bill: Section 152, General Provisions

Location in Senate Bill: Provisions not included

Current Bill Language: Section 168, General Provisions -- See Attachment

Administration Proposal: Delete provision from bill.

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“(H) A statement of the balance of each account held by the District of Columbia Financial Responsibility and Management Assistance Authority as of the end of the quarter, together with a description of the activities within each such account during the quarter.”.

SEC. 166. No funds made available pursuant to any provision of this Act or any other Act now or hereafter enacted shall be used to capitalize the National Capital Revitalization Corporation or for the purpose of implementing the National Capital Revitalization Act of 1998 (D.C. Act 12-355) or for the purpose of implementing any of the provisions of the National Capital Revitalization Act of 1998.

SEC. 167. The District government shall maintain for fiscal year 1999 the same funding levels as provided in fiscal year 1997 for homeless services in the District of Columbia.

SEC. 168. None of the funds contained in this Act may be used for any program of distributing sterile needles or syringes for the hypodermic injection of any illegal drug, or for any payment to any individual or entity who carries out any such program.

SEC. 169. None of the funds contained in this Act may be used to conduct any ballot initiative which seeks

NEW ISSUE: LIMIT ON ATTORNEYS' FEES IN SPECIAL EDUCATION CASES IN THE DISTRICT OF COLUMBIA.

Subcommittee: District of Columbia

Ranking: High ___ Medium X Low ___

1999 Budget Policy: None.

Latest House Action: The House-passed bill includes a provision that would, in effect, limit access to the due process provisions of IDEA by: (1) limiting the award of attorneys' fees for a party who prevails in a special education court action to the rate stated in DC Code for the criminal defense of indigents (\$50/hr, not to exceed \$1300/case), and (2) barring the school system from paying plaintiffs' attorneys' fees in administrative proceedings.

Latest Senate Action: The Senate bill does not contain this language.

Solution/Options: Delete the language. Or, substitute language that would authorize an NAS or GAO study of the use of litigation in special education in DCPS. If neither is attainable, modify the language to remove the bar on payment of fees in administrative proceedings.

Justification:

- IDEA already places limits on attorneys' fees. It stipulates that fees be awarded only by a court, and must be based on prevailing rates in the community for "the kind and quality of services furnished." (Sec. 615(i)(3)(B-G)). This amendment would set a dangerous precedent for other States to, in effect, alter IDEA requirements.
- The provision would likely deny access to due process protections in IDEA as families who could not afford to pay attorneys' fees would be unlikely to find adequate representation at the prescribed compensation level.
- Because DCPS has a poor record of identifying and providing services to children with disabilities, families must often rely on attorneys to obtain the services to which they're entitled under IDEA.

FY 1998 Appropriations Action: None.

Prepared By/Date: Jonathan Travers (5-3895), 10/5/98

FY 1999 APPROPRIATIONS BILLS: LANGUAGE ISSUES

Appropriations Bill: District of Columbia

Language Issue: Prohibition on Payment of Attorney's Fees in Special Education Cases

Location in House Bill: Section 130 — General Provisions

Location in Senate Bill: Not in Senate bill.

Current Bill Language: See Attachment A.

Administration Proposal: Delete provision from bill.

Or, substitute attached language which would authorize a study of the use of litigation to resolve special education conflicts in the school system. Such a study would determine whether special education attorneys are being overly-compensated and the extent to which this over-compensation contributes to DCPS spending on special education litigation. (Attachment B -- study language not yet available)

Or, modify the existing language by striking subsection (b), which would remove the prohibition on payment of fees in *administrative* proceedings. Because special education litigation originates in administrative proceedings, this prohibition would restrict any ability to seek due process for families that could not afford representation in administrative proceedings. (See Attachment C)

Attachment A: Prohibition on Payment of Attorney's Fees in Special Education Cases

Language:

SEC. 130. (a) None of the funds contained in this Act may be made available to pay the fees of an attorney who represents a party who prevails in an action brought against the District of Columbia Public Schools under the Individuals with Disabilities Education Act (20 U.S.C. 1400 et seq.) if--

(1) the hourly rate of compensation of the attorney exceeds the hourly rate of compensation under section 11-2604(a), District of Columbia Code; or

(2) the maximum amount of compensation of the attorney exceeds the maximum amount of compensation under section 11-2604(b)(1), District of Columbia Code, except that compensation and reimbursement in excess of such maximum may be approved for extended or complex representation in accordance with section 11-2604(c), District of Columbia Code.

(b) None of the funds contained in this Act may be made available to pay the fees of an attorney who represents a party who prevails in an administrative proceeding under the Individuals with Disabilities Education Act (20 U.S.C. 1400 et seq.).

Attachment B: Prohibition on Payment of Attorney's Fees in Special Education Cases

Alternative Language:

~~SEC. 130. (a) None of the funds contained in this Act may be made available to pay the fees of an attorney who represents a party who prevails in an action brought against the District of Columbia Public Schools under the Individuals with Disabilities Education Act (20 U.S.C. 1400 et seq.) if--~~

~~— (1) the hourly rate of compensation of the attorney exceeds the hourly rate of compensation under section 11-2604(a), District of Columbia Code; or~~

~~— (2) the maximum amount of compensation of the attorney exceeds the maximum amount of compensation under section 11-2604(b)(1), District of Columbia Code, except that compensation and reimbursement in excess of such maximum may be approved for extended or complex representation in accordance with section 11-2604(e), District of Columbia Code.~~

~~(b) None of the funds contained in this Act may be made available to pay the fees of an attorney who represents a party who prevails in an administrative proceeding under the Individuals with Disabilities Education Act (20 U.S.C. 1400 et seq.).~~

[Insert language on study here]

Attachment C: Prohibition on Payment of Attorney's Fees in Special Education Cases

Alternative Language II:

SEC. 130. (a) None of the funds contained in this Act may be made available to pay the fees of an attorney who represents a party who prevails in an action brought against the District of Columbia Public Schools under the Individuals with Disabilities Education Act (20 U.S.C. 1400 et seq.) if--

(1) the hourly rate of compensation of the attorney exceeds the hourly rate of compensation under section 11-2604(a), District of Columbia Code; or

(2) the maximum amount of compensation of the attorney exceeds the maximum amount of compensation under section 11-2604(b)(1), District of Columbia Code, except that compensation and reimbursement in excess of such maximum may be approved for extended or complex representation in accordance with section 11-2604(c), District of Columbia Code.

~~(b) None of the funds contained in this Act may be made available to pay the fees of an attorney who represents a party who prevails in an administrative proceeding under the Individuals with Disabilities Education Act (20 U.S.C. 1400 et seq.).~~

DISTRICT OF COLUMBIA MICROMANAGEMENT PROVISIONS

Subcommittee: District of Columbia

Ranking: High Medium Low

1999 Budget Policy: The Administration has continued to support the Home Rule principle of local self-government, allowing the District to manage its own affairs without unnecessary Federal government interference. In that spirit, the Administration transmitted a bill in May that would allow the District to appropriate its own budget without congressional approval.

Preliminary House/Senate Conference Agreement:

- Repeal of Residency Requirement Amendment Act of 1998 in conference agreement - Section 153
- Restrictions on use of local funds for public school teachers salaries and pay raises p. (Public Education appropriations language)
- Prohibition on the use of local funds to pay the salary and expenses of an Authority officer or employee who has not provided monthly financial reports to the DC CFO (DC Financial Responsibility and Management Assistance Authority appropriations language)

Latest House Action: The House bill (**H.R. 4380**) contains several provisions that restrict or otherwise condition management of the District Government, including (**Section 148**) repeal of the Residency Requirement Amendment Act of 1998 (D.C. Act 12-340), a prohibition on the use of local funds to pay the salary or expenses of an officer or employee of the Authority who has not provided a monthly statement of the balance of each Authority account to the District's Chief Financial Officer (**District of Columbia Financial Responsibility and Management Assistance Authority appropriations language**), and restrictions on the authority of the Superintendent of the District of Columbia Public Schools by legislating how local funds are used for salaries and pay raises (**Public Education System appropriations language**). The House Rules and Floor SAPS contained objections to these provisions.

The House bill also includes a provision that would impose penalties for possession of tobacco products by minors in the District. The September 29 SAP objected to this provision. Neither the House nor the Senate bill includes language proposed in D.C.'s local budget to permit the District to enter into contingent fee arrangements to enter into litigation against tobacco companies. This has not been mentioned in SAPs.

Solution/Options: Work with the Conferees to get the objectionable House provisions removed during Conference action.

Justification:

- These provisions represent an unwarranted intrusion into the affairs of the District and undercut the basic Home Rule principle of local self-government.

- In general, the House District Subcommittee has included various egregious micromanagement provisions in the District bill during the appropriations process, while the Senate has worked to produce clean bills. At conference, the provisions usually fall out of the bill.

FY 1998 Appropriations Action: The FY 1998 appropriations bill contained several micromanagement provisions, including language directing the closure of the University of the District of Columbia School of Law unless the school received provisional accreditation by the American Bar Association by a certain date. The language was not included in the enacted bill.

Prepared By/Date: Marcia D. Occomy (5-1092), 8/21/98, Updated 10/6



Marcia D. Occomy

10/07/98 10:57:44 AM

Record Type: Record

To: Patricia E. Romani/OMB/EOP

cc:

Subject: Info on repeal of Residency Requirement Act

*See M.D.'s
request*

----- Forwarded by Marcia D. Occomy/OMB/EOP on 10/07/98 10:57 AM -----



Marcia D. Occomy

10/07/98 10:56:32 AM

Record Type: Record

To: Michael Deich/OMB/EOP@EOP, Theodore Wartell/OMB/EOP@EOP

cc: Alan B. Rhinesmith/OMB/EOP@EOP, Mark J. Schwartz/OMB/EOP@EOP, Janie L. Jeffers/OMB/EOP@EOP

Subject: Info on repeal of Residency Requirement Act

Section 153 of the House/Senate Conference Agreement would repeal the Residency Requirement Reinstatement Amendment Act of 1998. The act would require individuals hired by the District government following the effective date of the act to be residents of the District of Columbia. **Repeal of this Act passed by the D.C. Council is considered an unwarranted intrusion into the affairs of the local government and an impediment to encourage migration back into the city of middle-class taxpaying residents to help expand the tax base.** The repeal was pushed by Reps. Hoyer and Moran who represent the surrounding jurisdictions. This objectionable provision was included in the House bill and not in the Senate Committee bill.

- Marcia

DISTRICT OF COLUMBIA ECONOMIC DEVELOPMENT INITIATIVE

(BA in millions of dollars)

<u>FY 1998</u>	<u>FY 1999 Req.</u>	<u>House</u>	<u>Senate</u>	<u>Likely Conference</u>	<u>Proposed Final Level</u>
NA	100	25	50	50	60

Subcommittee: DC

1999 Budget Policy: The request is \$100 million for this new initiative: (1) \$50 million to capitalize the locally-chartered National Capital Revitalization Corporation (NCRC); (2) \$25 million for management reforms for the city's economic development infrastructure; (3) and \$25 million for Metrorail improvements at the new Washington Convention Center site.

Latest House Action: Title I of the House bill (H.R. 4380) would provide \$25 million for the Metrorail improvements (as requested) and \$21 million to capitalize a local infrastructure fund for transportation-related improvements (not requested). Chairman Taylor redirected the funding requested for the NCRC for several earmarks, including, full funding of public charter schools, private school vouchers, Boys Town program expansion, a new city museum, a 5.5 percent firefighter pay raise. The Administration communicated in letters and SAPs an appreciation for the Committee's full support of charter schools while urging the Committee to provide additional resources for the economic development corporation and management reforms. A veto recommendation for the private school voucher provision (as well as two other objectionable language provisions) was communicated in the House Rules and Floor SAPs.

Latest Senate Action: The Senate Full Committee bill would provide \$75 million to capitalize the local infrastructure fund, of which \$25 million is available for the Metrorail improvements at the convention center site. The Committee also provided \$25 million for management reforms stipulated under the Revitalization Act. The Administration communicated its concerns on lack of funding for the locally-chartered NCRC and for full funding of public charter schools in a July 21 letter to the Full Committee.

Proposed Final Level: Seek a total of \$60 million. Work with the Conferees to push the Senate mark of \$50 million (\$25 million for management reforms and \$25 million for Metrorail improvements). Earmark the \$10 million not used under the overall 302 (b) allocation by the Senate to capitalize the locally chartered NCRC.

Justification:

- Although the Senate has not provided the full \$100 million requested for the economic development initiative, the Senate bill provides \$25 million more than the House bill. The likelihood of receiving the full \$100 million for the initiative is low given the other competing interests of the Senate and the House, but the \$50 million Senate mark is a favorable compromise.
- The Senate may agree to allocate the unused \$10 million under the cap to capitalize the NCRC as a compromise to retaining the current language providing \$500,000 to the Financial Responsibility and Management Assistance Authority to conduct a study on the feasibility of an economic development corporation for the District.

FY 1998 Appropriations Action: NA

Prepared By/Date: Marcia D. Occomy (5-1092), 8/20/98, F_EDI.WPD

ABORTION

Subcommittee: District of Columbia

Ranking: High ___ Medium X Low ___

1999 Budget Policy: The FY 1999 Budget proposed to delete the abortion funding provision that was included in the FY 1998 District of Columbia General Provisions. As in the FY 1998 Budget, the FY 1999 Budget stated that the Administration would work with Congress to address this issue.

Latest Conference Action: Preliminary conference bill contains this objectionable language prohibiting the use of Federal and local funds for abortions in the District (**Section 131**).

Latest House Action: **Section 131** of the House bill (H.R. 4380) includes a provision that would prohibit the use of Federal and District funds to pay for abortions except in those cases where the life of the mother is endangered or in situations involving rape or incest. In House Floor and Rules SAPs and in a letter to the House Full Committee, the Administration continues to object to the language as currently drafted and offers support for an amendment to strike the prohibition.

Latest Senate Action: The Senate Full Committee bill (S. 2333) contains the same objectionable abortion provision (**Section 129**) as in the House bill. In a letter dated July 21 to the Senate Full Committee, the Administration objects to the abortion provision and offers support for an amendment to strike it.

Solution/Options:

Option #1. Continue to oppose this prohibition in the Senate SAPs, but in the end, accept the language as currently drafted in the House and Senate bills.

Option #2. Work with the Conferees to modify the current language to eliminate the prohibition on the use of local funds for abortions. This is a requirement that was included in the FY 1989 - 1993 appropriations bill and reinstated beginning with the FY 1996 act. The Administration has continued to oppose this language, but it remains in current law.

Justification:

Option #1 Despite repeated objections to this provision which has been included in D.C. appropriations bills since FY 1989 (except for FY 1994 and FY 1995), this language is the same language the Administration has lived with for some time.

Option #2 The added prohibition on the use of local funds for abortions in the District is viewed by the Administration as an unwarranted intrusion into the District's affairs. There is a precedent for a language provision that only prohibits Federal funding for abortions in the District, which was included in the FY 1994 and 1995 D.C. appropriations bills.

FY 1998 Appropriations Action: The Administration objected to this provision in letters and SAPs regarding the FY 1998 District of Columbia appropriations bill.

Prepared By/Date: Marcia D. Occomy (5-1092), 8/20/98, updated 10/6/98