Representative ELEANOR HOLMES NORTON, and D.C. parents, ministers, and other local leaders have made it clear that they do not want vouchers in the District of Columbia. Members of Congress who can't get to first base with this issue in their own States should not turn around and impose it on the people of the District.

Vouchers would undermine D.C. school reforms already underway. Last year, Congress created a Control Board and all but eliminated the locally elected school board. This bill would create yet another bureaucracy in the form of a federally appointed corporation to run the voucher program. Six of the seven corporation members would be nominated by the Federal Government, and those nominations are controlled by the Republican Congress. Only one representative of D.C. would serve on the corporation. This is precisely the kind of Federal takeover of a local school system that Republican Senators oppose for any other community in America.

Public funds should not go to private schools when District of Columbia public schools have urgent needs of their own. Roof repairs still need to be made; 65 percent of the schools have faulty plumbing; 41 percent of the schools don't have enough power outlets and electrical wiring to accommodate computers and other needed technology; 66 percent of the schools have inadequate heating, ventilation, and air conditioning. Funding these repairs should be our top priority, not conducting a foolish ideological experiment on school vouchers.

Another serious problem with private school vouchers is the exclusionary policies of private schools. Scarce Federal dollars should not go to schools that can exclude children. There is no requirement in the bill that schools receiving vouchers must accept minority students, or students with limited English proficiency, or students with disabilities, or homeless students, or students with discipline problems.

Public schools are open to all children. Public schools don't have the luxury of closing their doors to students who pose difficult challenges.

Voucher proponents argue that vouchers increase choice for parents. But choice for parents is a mirage. Private schools apply different rules than public schools. Unlike public schools, which must accept all children, private schools can decide whether to accept a child or not. The real choice goes to the schools, not the parents. The better the private school, the more selective it is, and the more students are turned away. In Cleveland, nearly half of the public school students who received vouchers could not find a private school that would accept them.

Vouchers will not help the overwhelming majority of children who need help. The current voucher scheme will, at most, enable 2,000 D.C. children to attend private schools, out of the 78,000 children who attend D.C. public schools. This proposal would provide vouchers for 3 percent of D.C. children—and do nothing for the other 97 percent. This is no way to spend federal dollars. We should invest in strategies that help all children, not just a few.

As I have said before, instead of supporting local efforts to revitalize the schools, voucher proponents are attempting to make the D.C. public schools a guinea pig for an ideological experiment in education that voters in D.C. have soundly rejected, and that voters across the country have soundly rejected too. Our Republican colleagues have clearly been unable to generate any significant support for vouchers in their own States. It is a travesty of responsible action for them to attempt to foist their discredited idea on the long-suffering people and long-suffering public schools of the District of Columbia. If vouchers are a bad idea for the public schools in all 50 States, they are a bad idea for the public schools of the District of Columbia too.

Many of us in Congress favor D.C. home rule. Many of us in Congress believe that the people of the District of Columbia should be entitled to have voting representation in the Senate and the House, like the people in every State. It is an embarrassment to our democracy that the most powerful democracy on Earth denies the most basic right of any democracy—the right to vote—to the citizens of the Nation's Capital.

D.C. is not a test tube for misguided Republican ideological experiments on education. Above all, D.C. is not a slave plantation. Republicans in Congress should stop acting like plantation masters, and start treating the people of D.C. with the respect they deserve.

General Becton, local leaders, and D.C. parents are working hard to improve all D.C. public schools for all children. Congress should give them its support, not undermine them.

Another serious objection to this voucher scheme is its unconstitutionality. The vast majority of private schools that charge tuition less than the $3,200 available for a voucher are religious schools. Providing vouchers to religious schools violates the establishment clause of the first amendment of the U.S. Constitution. It's a Federal subsidy for sectarian schools. In many States, voucher schemes would violate the State constitution, too.

Last January, a Wisconsin lower court held that the expansion of the Milwaukee voucher program to include religious schools was unconstitutional and violated the Wisconsin Constitution. The court stated that ''We do not object to the existence of parochial schools or that they attempt to spread their beliefs through their schools. They just cannot do it with State tax dollars.''

Last August, the Wisconsin State Court of Appeals affirmed that decision, holding that the expansion of the State voucher program to include religious schools was unconstitutional under the Wisconsin Constitution.

Last May, an Ohio appellate court reversed a trial court's decision to allow public money to be paid to religious schools. The appeals court held that the voucher program violated the principle of separation of church and state under both the United States Constitution and the Ohio Constitution. The court ruled that the voucher program ''steers aid to sectarian schools, resulting in what amounts to a direct government subsidy.''

Last June, a Vermont State Superior Court held that the use of vouchers to pay tuition at private religious schools violates both the U.S. Constitution and the Vermont Constitution.

As these cases demonstrate, the courts are clear that vouchers for religious schools are unconstitutional, and Congress should abide by their rulings.

Last month, in a keynote address to the Conference of the Council of Great City Schools, Coretta Scott King said,

> I don't have a lot of sympathy with those who would further diminish the resources available to urban public schools with a voucher system . . . The debate over vouchers takes the focus away from where it really needs to be—on how we can increase funding and resources, so that every public school can provide the best possible education for all students.

Coretta King is right. Instead of subsidizing private schools, we need to support ways to improve and reform the public schools—not in a few schools, but in all schools; not for a few students, but for all students.

Subsidies for a few children at the expense of the many divides communities. The federal government should help bring communities together, not divide them. We should make investments that help all children in all neighborhood schools to get a good, safe education. I oppose the D.C. voucher bill as unwise, unacceptable, and unconstitutional.

Private school vouchers are not the answer to the problems facing the nation's schools. It is a mistake and a misuse of tax dollars to send children to private schools at public expense.

DC SCHOOL VOUCHER BILL

Ms. MOSELEY-BRAUN. Mr. President, I strongly appose S. 1502, a bill to take funds away from public school children in order to subsidize private schools.

Supporters of this legislation claim that the $7 million they propose to spend on private schools does not divert funds from public school children. The truth, however, is that in the zero-sum budget, any funds spent on vouchers must be drawn from other education funds. That means less resources for public school children.

Seven million dollars could make a real difference in the DC public schools. We could fully fund after-school programs at every DC school.

We could buy 368 new boilers for the DC schools. We could rewire the 65 schools that don't have electrical wiring to accommodate computers and multimedia equipment. We could upgrade the plumbing in the 102 schools with substandard facilities. With just $1 million, we could buy 66,000 new hardcover books for DC's school libraries. There are real improvements we could make to the DC public school system with $7 million. Instead, this bill proposes to siphon those funds away from the public school children.

Some of my colleagues suggest that, were it not for management problems, the DC schools would not be in the condition they are now in. How a diversion of $7 million from the public schools to private schools will solve that problem is beyond me. I have a better solution: good management. Paul Vallas has turned around the Chicago schools. It would not surprise me if some day the Chicago Public Schools were competing on the same level as the public schools that comprise the First in the World Consortium in north suburban Chicago. Students in those schools compete with students at the finest schools in the world. The DC schools have new management, and I have every confidence that General Becton will be able to do for the DC schools what Paul Vallas is doing for the Chicago schools.

Some of my colleagues suggest that school vouchers will help improve the public schools by increasing competition—by creating, in effect, a marketplace for education. There is a problem with that proposal. By definition, markets have winners and losers, and our country cannot afford any losers in a game of educational roulette.

Supporters of school vouchers state that this is not like a game of roulette, that research proves that voucher programs have positive effects on student achievement. The facts, however, do not speak so clearly to this issue. The data is mixed. Some studies show improvement. Some studies show declining achievement. Some studies show no difference at all between the students in public schools and those placed in private schools. We do know that programs in other countries have not succeeded. In France, Britain, the Netherlands, and Chile, voucher programs actually widened the achievement gap, instead of narrowing it.

That is the real problem. Vouchers do not fix public schools. Vouchers do not solve problems. Vouchers raise false hopes in parents who desire better schools for their children. Vouchers are not answers to the real problems that we must address in our public schools.

Mr. President, for the last three years, proponents of this bill in the Senate have failed to pass this bad idea. Today, however, in order to expedite the business of the Senate, I, and my colleagues who oppose this bill, are willing to the let the Senate pass this measure, because President Clinton has wisely pledged to veto it. Our willingness to let this legislation pass the Senate does not represent any weakening of our belief that it is fundamentally flawed, that it represents an abandonment of public education, and a pessimistic capitulation to a winnable challenge—the improvement of our public schools so they may serve all our children into the 21st century.

We have agreed to let this legislation clear the Senate, in these last hours of the first session of the 105th Congress, as part of a much larger arrangement to consider a number of important issues, including: measures to fund the activities of the State Department, the Commerce Department, and the Justice Department; measures to fund the District of Columbia and our foreign aid operations; a stop-gap measure to fund our highway and mass transit programs; and legislation granting the President the so-called ''fast track'' authority to negotiate trade agreements. It is in this context, and with the advance knowledge that the President will veto this DC voucher bill, that we have agreed to let the Senate proceed with this bill.

Mr. President, I hope that next year we will focus on real solutions to the problems facing our public schools. According to the U.S. General Accounting Office, 14 million children attend schools that are literally crumbling down around them, and we have let our public schools fall $112 billion into physical disrepair. Our children cannot learn the skills they need to keep us competitive in this kind of environment. I know that we can do better for our children. We can fix our schools, and I look forward to working with my colleagues next year on legislation to form a partnership with state and local governments to rebuild and modernize our crumbling schools. I look forward to working with my colleagues next year to address the real needs of our nation's 52 million public school children.

Mr. HOLLINGS. Mr. President, today we are passing important legislation which I strongly oppose by voice vote. The normal Senate procedure would be to vote on such an important bill, and I do not like to see Senators avoid a recorded vote on a bill with such dire implications for public education. However, the President has committed to veto the full bill, and I am confident from repeated past votes that if we did not have this commitment, the Senate would block the bill. Also, without this commitment, I would be glad not only to force a vote, but also to discuss the bill at length.

In fact, there is a healthy sign that even supporters of the ill-advised idea of starting a taxpayer-funded private school voucher program are re-thinking their support. Five days ago, the House defeated a private school voucher plan. Thirty-five House Republicans voted against creation of a voucher program on the basis that the legislation did not include basic civil rights protections that also are absent in the bill before us.

The United States Catholic Conference opposed that bill. I quote here from their letter:

> An additional reason why the USCC is unable to support H.R. 2746 is the ''Not School Aid'' provision in the new section 6405(a). . . . Section 6405(a) can readily be construed to negate the application of longstanding civil rights statutes, in particular, Title VI of the Civil Rights Act of 1964, Title X of the Education Amendments of 1972 and Section 504 of the Rehabilitation Act of 1973, that would normally apply to a scholarship program.

In other words, by saying that the federal aid going to private schools under a voucher program is ''not school aid'' the bill proponents excuse them from full compliance with federal protections that currently apply to public schools.

Mr. President, that is not just my interpretation or that of the Catholic Conference. That is the reading of proponents of the bill.

Specifically, Mr. Clint Bolick, who has a group named ''Institute for Justice,'' has been agitating to start taxpayer funding for private school tuitions. Here is what Mr. Bolick said about the Catholic Conference and civil rights in a memo that leaked out last month:

> Dick Komer and I met with representatives of the Catholic Conference, who urged that the bill contain the full panoply of federal civil rights regulations, including Title IX (gender) and disability provisions. We argued strongly against those regulations. We are pleased to report that the final bill contains only a general anti-discrimination requirement and expressly provides that schools are not ''recipients of federal funds.''

So Mr. Bolick ''argued strongly'' against civil rights for girls and disabled children, but he is pleased to report that schools receiving vouchers would not be ''recipients of federal funds.''

This is absurd. The federal government today spends about $12 billion on elementary and secondary education. That is about $250 per child in a public school. But the proponents of this bill want from the outset to give private schools $3,200 per child in federal funds. If we do that, just three voucher children would provide a private school with more federal assistance than we provide to a whole public school classroom. If that is ''Not School Aid,'' I don't know what is. There are a lot of public school classrooms that would like to have $3,200 per child in federal assistance, and they would not be crowing about how basic civil rights protections were rolled back.

I say this to criticize this proposed legislation, not the private schools. I believe that we have a duty as public servants to fund the public schools, and we have a duty to the private schools to leave them alone. I support private schools. About nine out of ten are religious, and I particularly support their freedom to stay that way without federal intervention. Make no mistake. If we go down this road of putting $3,200 per child of federal taxpayers' money

into private school classrooms, federal regulation will follow and that will be a tragedy.

This is not conjecture, the Bush Administration studied it. In a report titled ''Choice of Schools in Six Nations,'' here is what they found:

For those who believe strongly in religious schooling and fear that government influence will come with public funding, reason exists for their concern. Catholic or Protestant schools in each of the nations studied have increasingly been assimilated to the assumptions and guiding values of public schooling. This process does not even seem to be the result of deliberate efforts . . . but rather of the difficulty for a private school playing by public rules, to maintain its distance from the common assumptions and habits of the predominant system.

World Bank economist Estelle James did a similar survey and found that ''. . . heavy controls invariably accompany subsidies, particularly over teacher salaries and qualifications, price, and other entrance criteria.'' She looked particularly closely at Australia, and found ''. . . increasing regulation and centralization of decisions and the loss of private school autonomy . . .''

I raise all of these points to appeal to my colleagues on the other side of the aisle. I do not talk to hear myself talk, but to urge serious consideration. We have House colleagues reconsidering. We have the Catholic Conference urging civil rights protections. We have Bush Administration and World Bank studies indicating heavy regulation. We have a proposal that clearly disadvantages public schools on the matter of federal funding. Who will really be happy if we pass this?

Mr. President, we must finally remember our duty to public education. I go back to Horace Mann, the great champion of public schools. He said that

The idea of an educational system that was at once both universal, free and available to all the people, rich and poor alike, was revolutionary. This is the great thing about America. No other nation ever had such an institution. . . . The free public school system . . . has been in large measure the secret of America's success.

The proposal before us erodes public education. It disadvantages public schools in federal funding and under federal regulation. Instead, it offers more funds to private schools which should exist as an independent alternative, but which are not ''universal, free'' or ''available to all the people.'' I urge my colleagues who have supported this private voucher idea to reconsider over the holidays, and I thank the President in advance for his veto.

The PRESIDING OFFICER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading, was read the third time, and passed, as follows:

S. 1502

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; FINDINGS; PRECEDENTS.

(a) SHORT TITLE.—This Act may be cited as the ''District of Columbia Student Opportunity Scholarship Act of 1997''.

(b) FINDINGS.—Congress makes the following findings:

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

(A) The District of Columbia schools have the lowest average of any school system in the Nation on the National Assessment of Education Progress.

(B) 72 percent of fourth graders in the District of Columbia tested below basic proficiency on the National Assessment of Education Progress in 1994.

(C) Since 1991, there has been a net decline in the reading skills of District of Columbia students as measured in scores on the standardized Comprehensive Test of Basic Skills.

(D) At least 40 percent of District of Columbia students drop out of or leave the school system before graduation.

(E) The National Education Goals Panel reported in 1996 that both students and teachers in District of Columbia schools are subjected to levels of violence that are twice the national average.

(F) Nearly two-thirds of District of Columbia teachers reported that violent student behavior is a serious impediment to teaching.

(G) Many of the District of Columbia's 152 schools are in a state of terrible disrepair, including leaking roofs, bitterly cold classrooms, and numerous fire code violations.

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

(A) increasing educational opportunities for the children by expanding the range of educational choices that best meet the needs of the children;

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

(C) providing the families of the children more of the educational choices already available to affluent families; and

(D) enhancing the overall quality of education in the District of Columbia by increasing parental involvement in the direction of the education of the children.

(3) The 350 private schools in the District of Columbia and the surrounding area offer a more safe and stable learning environment than many of the public schools.

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

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

(6) The formation of sound values and moral character is crucial to helping young people escape from lives of poverty, family break-up, drug abuse, crime, and school failure.

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

(8) Schools should help to provide young people with a sound moral foundation which is consistent with the values of their parents. To find such a school, parents need a full range of choice to determine where their children can best be educated.

(c) PRECEDENTS.—The United States Supreme Court has determined that programs giving parents choice and increased input in their children's education, including the choice of a religious education, do not violate the Constitution. The Supreme Court has held that as long as the beneficiary decides where education funds will be spent on such individual's behalf, public funds can be used for education in a religious institution because the public entity has neither advanced nor hindered a particular religion and therefore has not violated the establishment clause of the first amendment to the Constitution. Supreme Court precedents include—

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

(2) Mueller v. Allen, 463 U.S. 388 (1983) which declared a Minnesota tax deduction program that provided State income tax benefits for educational expenditures by parents, including tuition in religiously affiliated schools, does not violate the Constitution;

(3) Witters v. Department of Services for the Blind, 474 U.S. 481 (1986) in which the Supreme Court ruled unanimously that public funds for the vocational training of the blind could be used at a Bible college for ministry training; and

(4) Zobrest v. Catalina Foothills School District, 509 U.S. 1 (1993) which held that a deaf child could receive an interpreter, paid for by the public, in a private religiously affiliated school under the Individual with Disabilities Education Act (20 U.S.C. 1400 et seq.). The case held that providing an interpreter in a religiously affiliated school did not violate the establishment clause of the first amendment of the Constitution.

SEC. 2. DEFINITIONS.

As used in this Act—

(1) the term ''Board'' means the Board of Directors of the Corporation established under section 3(b)(1);

(2) the term ''Corporation'' means the District of Columbia Scholarship Corporation established under section 3(a);

(3) the term ''eligible institution''—

(A) in the case of an eligible institution serving a student who receives a tuition scholarship under section 4(c)(1), means a public, private, or independent elementary or secondary school; and

(B) in the case of an eligible institution serving a student who receives an enhanced achievement scholarship under section 4(c)(2), means an elementary or secondary school, or an entity that provides services to a student enrolled in an elementary or secondary school to enhance such student's achievement through instruction described in section 4(c)(2);

(4) the term ''parent'' includes a legal guardian or other person standing in loco parentis; and

(5) the term ''poverty line'' means the income official poverty line (as defined by the Office of Management and Budget, and revised annually in accordance with section 673(2) of the Community Services Block Grant Act (42 U.S.C. 9902(2)) applicable to a family of the size involved.

SEC. 3. DISTRICT OF COLUMBIA SCHOLARSHIP CORPORATION.

(a) GENERAL REQUIREMENTS.—

(1) IN GENERAL.—There is authorized to be established a private, nonprofit corporation, to be known as the ''District of Columbia Scholarship Corporation'', which is neither an agency nor establishment of the United States Government or the District of Columbia Government.

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

(3) CONSULTATION.—The Corporation shall exercise its authority—

(A) in a manner consistent with maximizing educational opportunities for the maximum number of interested families; and

(B) in consultation with the District of Columbia Board of Education or entity exercising administrative jurisdiction over the District of Columbia Public Schools, the Superintendent of the District of Columbia Public Schools, and other school scholarship programs in the District of Columbia.

(4) APPLICATION OF PROVISIONS.—The Corporation shall be subject to the provisions of this Act, and, to the extent consistent with this Act, to the District of Columbia Nonprofit Corporation Act (D.C. Code, sec. 29–501 et seq.).

(5) RESIDENCE.—The Corporation shall have its place of business in the District of Columbia and shall be considered, for purposes of venue in civil actions, to be a resident of the District of Columbia.

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

(7) DISBURSEMENT.—The Secretary of the Treasury shall make available and disburse to the Corporation, before October 15 of each fiscal year or not later than 15 days after the date of enactment of an Act making appropriations for the District of Columbia for such year, whichever occurs later, such funds as have been appropriated to the District of Columbia Scholarship Fund for the fiscal year in which such disbursement is made.

(8) AVAILABILITY.—Funds authorized to be appropriated under this Act shall remain available until expended.

(9) USES.—Funds authorized to be appropriated under this Act shall be used by the Corporation in a prudent and financially responsible manner, solely for scholarships, contracts, and administrative costs.

(10) AUTHORIZATION.—

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

(i) $7,000,000 for fiscal year 1998;

(ii) $8,000,000 for fiscal year 1999; and

(iii) $10,000,000 for each of fiscal years 2000 through 2002.

(B) LIMITATION.—Not more than 7.5 percent of the amount appropriated to carry out this Act for any fiscal year may be used by the Corporation for salaries and administrative costs.

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

(1) BOARD OF DIRECTORS; MEMBERSHIP.—

(A) IN GENERAL.—The Corporation shall have a Board of Directors (referred to in this title as the ''Board''), comprised of 7 members with 6 members of the Board appointed by the President not later than 30 days after receipt of nominations from the Speaker of the House of Representatives and the Majority Leader of the Senate.

(B) HOUSE NOMINATIONS.—The President shall appoint 3 of the members from a list of 9 individuals nominated by the Speaker of the House of Representatives in consultation with the Minority Leader of the House of Representatives.

(C) SENATE NOMINATIONS.—The President shall appoint 3 members from a list of 9 individuals nominated by the Majority Leader of the Senate in consultation with the Minority Leader of the Senate.

(D) DEADLINE.—The Speaker of the House of Representatives and Majority Leader of the Senate shall submit their nominations to the President not later than 30 days after the date of the enactment of this Act.

(E) APPOINTEE OF MAYOR.—The Mayor shall appoint 1 member of the Board not later than 60 days after the date of the enactment of this Act.

(F) POSSIBLE INTERIM MEMBERS.—If the President does not appoint the 6 members of the Board in the 30-day period described in subparagraph (A), then the Speaker of the House of Representatives and the Majority Leader of the Senate shall each appoint 2 members of the Board, and the Minority Leader of the House of Representatives and the Minority Leader of the Senate shall each appoint 1 member of the Board, from among the individuals nominated pursuant to subparagraphs (A) and (B), as the case may be. The appointees under the preceding sentence together with the appointee of the Mayor, shall serve as an interim Board with all the powers and other duties of the Board described in this title, until the President makes the appointments as described in this subsection.

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

(3) ELECTIONS.—Members of the Board annually shall elect 1 of the members of the Board to be the Chairperson of the Board.

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

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

(6) INCORPORATION.—The members of the initial Board shall serve as incorporators and shall take whatever steps are necessary to establish the Corporation under the District of Columbia Nonprofit Corporation Act (D.C. Code, sec. 29–501 et seq.).

(7) GENERAL TERM.—The term of office of each member of the Board shall be 5 years, except that any member appointed to fill a vacancy occurring prior to the expiration of the term for which the predecessor was appointed shall be appointed for the remainder of such term.

(8) CONSECUTIVE TERM.—No member of the Board shall be eligible to serve in excess of 2 consecutive terms of 5 years each. A partial term shall be considered as 1 full term. Any vacancy on the Board shall not affect the Board's power, but shall be filled in a manner consistent with this title.

(9) NO BENEFIT.—No part of the income or assets of the Corporation shall inure to the benefit of any Director, officer, or employee of the Corporation, except as salary or reasonable compensation for services.

(10) POLITICAL ACTIVITY.—The Corporation may not contribute to or otherwise support any political party or candidate for elective public office.

(11) NO OFFICERS OR EMPLOYEES.—The members of the Board shall not, by reason of such membership, be considered to be officers or employees of the United States Government or of the District of Columbia Government.

(12) STIPENDS.—The members of the Board, while attending meetings of the Board or while engaged in duties related to such meetings or other activities of the Board pursuant to this Act, shall be provided a stipend. Such stipend shall be at the rate of $150 per day for which the member of the Board is officially recorded as having worked, except that no member may be paid a total stipend amount in any calendar year in excess of $5,000.

(c) OFFICERS AND STAFF.—

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

(2) STAFF.—With the approval of the Board, the Executive Director may appoint and fix the salary of such additional personnel as the Executive Director considers appropriate.

(3) ANNUAL RATE.—No staff of the Corporation may be compensated by the Corporation at an annual rate of pay greater than the annual rate of pay of the Executive Director.

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

(5) QUALIFICATION.—No political test or qualification may be used in selecting, appointing, promoting, or taking other personnel actions with respect to officers, agents, or employees of the Corporation.

(d) POWERS OF THE CORPORATION.—

(1) GENERALLY.—The Corporation is authorized to obtain grants from, and make contracts with, individuals and with private, State, and Federal agencies, organizations, and institutions.

(2) HIRING AUTHORITY.—The Corporation may hire, or accept the voluntary services of, consultants, experts, advisory boards, and panels to aid the Corporation in carrying out this title.

(e) FINANCIAL MANAGEMENT AND RECORDS.—

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

(A) maintained in accordance with generally accepted accounting principles for nonprofit corporations; and

(B) audited annually by independent certified public accountants.

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

(f) ADMINISTRATIVE RESPONSIBILITIES.—

(1) SCHOLARSHIP APPLICATION SCHEDULE AND PROCEDURES.—Not later than 30 days after the initial Board is appointed and the first Executive Director of the Corporation is hired under this Act, the Corporation shall implement a schedule and procedures for processing applications for, and awarding, student scholarships under this Act. The schedule and procedures shall include establishing a list of certified eligible institutions, distributing scholarship information to parents and the general public (including through a newspaper of general circulation), and establishing deadlines for steps in the scholarship application and award process.

(2) INSTITUTIONAL APPLICATIONS AND ELIGIBILITY.—

(A) IN GENERAL.—An eligible institution that desires to participate in the scholarship program under this Act shall file an application with the Corporation for certification for participation in the scholarship program under this Act that shall—

(i) demonstrate that the eligible institution has operated with not less than 25 students during the 3 years preceding the year for which the determination is made unless the eligible institution is applying for certification as a new eligible institution under subparagraph (C);

(ii) contain an assurance that the eligible institution will comply with all applicable requirements of this Act;

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

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

(B) CERTIFICATION.—

(i) IN GENERAL.—Except as provided in subparagraph (C), not later than 60 days after receipt of an application in accordance with subparagraph (A), the Corporation shall certify an eligible institution to participate in the scholarship program under this Act.

(ii) CONTINUATION.—An eligible institution's certification to participate in the scholarship program shall continue unless such eligible institution's certification is revoked in accordance with subparagraph (D).

(C) NEW ELIGIBLE INSTITUTION.—

(i) IN GENERAL.—An eligible institution that did not operate with at least 25 students in the 3 years preceding the year for which the determination is made may apply for a 1-year provisional certification to participate in the scholarship program under this Act for a single year by providing to the Corporation not later than July 1 of the year preceding the year for which the determination is made—

(I) a list of the eligible institution's board of directors;

(II) letters of support from not less than 10 members of the community served by such eligible institution;

(III) a business plan;

(IV) an intended course of study;

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

(VI) assurances that the eligible institution will comply with all applicable requirements of this Act; and

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

(ii) CERTIFICATION.—Not later than 60 days after the date of receipt of an application described in clause (i), the Corporation shall certify in writing the eligible institution's provisional certification to participate in the scholarship program under this Act unless the Corporation determines that good cause exists to deny certification.

(iii) RENEWAL OF PROVISIONAL CERTIFICATION.—After receipt of an application under clause (i) from an eligible institution that includes a statement of the eligible institution's budget completed not earlier than 12 months before the date such application is filed, the Corporation shall renew an eligible institution's provisional certification for the second and third years of the school's participation in the scholarship program under this Act unless the Corporation finds—

(I) good cause to deny the renewal, including a finding of a pattern of violation of requirements described in paragraph (3)(A); or

(II) consistent failure of 25 percent or more of the students receiving scholarships under this Act and attending such school to make appropriate progress (as determined by the Corporation) in academic achievement.

(iv) DENIAL OF CERTIFICATION.—If provisional certification or renewal of provisional certification under this subsection is denied, then the Corporation shall provide a written explanation to the eligible institution of the reasons for such denial.

(D) REVOCATION OF ELIGIBILITY.—

(i) IN GENERAL.—The Corporation, after notice and hearing, may revoke an eligible institution's certification to participate in the scholarship program under this Act for a year succeeding the year for which the determination is made for—

(I) good cause, including a finding of a pattern of violation of program requirements described in paragraph (3)(A); or

(II) consistent failure of 25 percent or more of the students receiving scholarships under this Act and attending such school to make appropriate progress (as determined by the Corporation) in academic achievement.

(ii) EXPLANATION.—If the certification of an eligible institution is revoked, the Corporation shall provide a written explanation of the Corporation's decision to such eligible institution and require a pro rata refund of the proceeds of the scholarship funds received under this Act.

(3) PARTICIPATION REQUIREMENTS FOR ELIGIBLE INSTITUTIONS.—

(A) REQUIREMENTS.—Each eligible institution participating in the scholarship program under this Act shall—

(i) provide to the Corporation not later than June 30 of each year the most recent annual statement of the eligible institution's budget; and

(ii) charge a student that receives a scholarship under this Act not more than the cost of tuition and mandatory fees for, and transportation to attend, such eligible institution as other students who are residents of the District of Columbia and enrolled in such eligible institution.

(B) COMPLIANCE.—The Corporation may require documentation of compliance with the requirements of subparagraph (A), but neither the Corporation nor any governmental entity may impose requirements upon an eligible institution as a condition for participation in the scholarship program under this Act, other than requirements established under this Act.

SEC. 4. SCHOLARSHIPS AUTHORIZED.

(a) ELIGIBLE STUDENTS.—The Corporation is authorized to award tuition scholarships under subsection (c)(1) and enhanced achievement scholarships under subsection (c)(2) to students in kindergarten through grade 12—

(1) who are residents of the District of Columbia; and

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

(b) SCHOLARSHIP PRIORITY.—

(1) FIRST.—The Corporation first shall award scholarships to students described in subsection (a) who—

(A) are enrolled in a District of Columbia public school or preparing to enter a District of Columbia public kindergarten, except that this subparagraph shall apply only for academic years 1997–1998, 1998–1999, and 1999–2000; or

(B) have received a scholarship from the Corporation for the academic year preceding the academic year for which the scholarship is awarded.

(2) SECOND.—If funds remain for a fiscal year for awarding scholarships after awarding scholarships under paragraph (1), the Corporation shall award scholarships to students who are described in subsection (a), not described in paragraph (1), and otherwise eligible for a scholarship under this Act.

(3) LOTTERY SELECTION.—The Corporation shall award scholarships to students under this subsection using a lottery selection process whenever the amount made available to carry out this Act for a fiscal year is insufficient to award a scholarship to each student who is eligible to receive a scholarship under this Act for the fiscal year.

(c) USE OF SCHOLARSHIP.—

(1) TUITION SCHOLARSHIPS.—A tuition scholarship may be used for the payment of the cost of the tuition and mandatory fees for, and transportation to attend, an eligible institution located within the geographic boundaries of the District of Columbia; Montgomery County, Maryland; Prince Georges County, Maryland; Arlington County, Virginia; Alexandria City, Virginia; Falls Church City, Virginia; Fairfax City, Virginia; or Fairfax County, Virginia.

(2) ENHANCED ACHIEVEMENT SCHOLARSHIP.—An enhanced achievement scholarship may be used only for the payment of the costs of tuition and mandatory fees for, and transportation to attend, a program of instruction provided by an eligible institution which enhances student achievement of the core curriculum and is operated outside of regular school hours to supplement the regular school program.

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

SEC. 5. SCHOLARSHIP AWARDS.

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

(b) NOTIFICATION.—Each eligible institution that receives the proceeds of a scholarship payment under subsection (a) shall notify the Corporation not later than 10 days after—

(1) the date that a student receiving a scholarship under this Act is enrolled, of the name, address, and grade level of such student;

(2) the date of the withdrawal or expulsion of any student receiving a scholarship under this Act, of the withdrawal or expulsion; and

(3) the date that a student receiving a scholarship under this Act is refused admission, of the reasons for such a refusal.

(c) TUITION SCHOLARSHIP.—

(1) EQUAL TO OR BELOW POVERTY LINE.—For a student whose family income is equal to or below the poverty line, a tuition scholarship may not exceed the lesser of—

(A) the cost of tuition and mandatory fees for, and transportation to attend, an eligible institution; or

(B) $3,200 for fiscal year 1998, with such amount adjusted in proportion to changes in the Consumer Price Index for all urban consumers published by the Department of Labor for each of fiscal years 1999 through 2002.

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

(A) 75 percent of the cost of tuition and mandatory fees for, and transportation to attend, an eligible institution; or

(B) $2,400 for fiscal year 1998, with such amount adjusted in proportion to changes in the Consumer Price Index for all urban consumers published by the Department of Labor for each of fiscal years 1999 through 2002.

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

(1) the costs of tuition and mandatory fees for, and transportation to attend, a program of instruction at an eligible institution; or

(2) $500 for 1998, with such amount adjusted in proportion to changes in the Consumer Price Index for all urban consumers published by the Department of Labor for each of fiscal years 1999 through 2002.

SEC. 6. SCHOLARSHIP PAYMENTS.

(a) PAYMENTS.—The Corporation shall make scholarship payments to the parent of a student awarded a scholarship under this Act.

(b) DISTRIBUTION OF SCHOLARSHIP FUNDS.—Scholarship funds may be distributed by check, or another form of disbursement, issued by the Corporation and made payable directly to a parent of a student awarded a scholarship under this Act. The parent may use the scholarship funds only for payment of tuition, mandatory fees, and transportation costs as described in this Act.

(c) PRO RATA AMOUNTS FOR STUDENT WITHDRAWAL.—If a student receiving a scholarship under this Act withdraws or is expelled from an eligible institution after the proceeds of a scholarship is paid to the eligible institution, then the eligible institution shall refund to the Corporation on a pro rata basis the proportion of any such proceeds received for the remaining days of the school

year. Such refund shall occur not later than 30 days after the date of the withdrawal or expulsion of the student.

SEC. 7. CIVIL RIGHTS.

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

(b) APPLICABILITY AND CONSTRUCTION WITH RESPECT TO DISCRIMINATION ON THE BASIS OF SEX.—

(1) APPLICABILITY.—With respect to discrimination on the basis of sex, subsection (a) shall not apply to an eligible institution that is controlled by a religious organization if the application of subsection (a) is inconsistent with the religious tenets of the eligible institution.

(2) CONSTRUCTION.—With respect to discrimination on the basis of sex, nothing in subsection (a) shall be construed to require any person, or public or private entity to provide or pay, or to prohibit any such person or entity from providing or paying, for any benefit or service, including the use of facilities, related to an abortion. Nothing in the preceding sentence shall be construed to permit a penalty to be imposed on any person or individual because such person or individual is seeking or has received any benefit or service related to a legal abortion.

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

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

SEC. 8. CHILDREN WITH DISABILITIES.

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

SEC. 9. RULE OF CONSTRUCTION.

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

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

SEC. 10. REPORTING REQUIREMENTS.

(a) IN GENERAL.—An eligible institution participating in the scholarship program under this Act shall report to the Corporation not later than July 30 of each year in a manner prescribed by the Corporation, the following data:

(1) Student achievement in the eligible institution's programs.

(2) Grade advancement for scholarship students.

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

(4) Graduation, college admission test scores, and college admission rates, if applicable for scholarship students.

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

(6) Student attendance for scholarship and nonscholarship students.

(7) General information on curriculum, programs, facilities, credentials of personnel, and disciplinary rules at the eligible institution.

(8) Number of scholarship students enrolled.

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

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

SEC. 11. PROGRAM APPRAISAL.

(a) STUDY.—Not later than 4 years after the date of enactment of this Act, the Comptroller General shall enter into a contract, with an evaluating agency that has demonstrated experience in conducting evaluations, for an independent evaluation of the scholarship program under this Act, including—

(1) a comparison of test scores between scholarship students and District of Columbia public school students of similar backgrounds, taking into account the students' academic achievement at the time of the award of their scholarships and the students' family income level;

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

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

(4) the impact of the scholarship program on the District of Columbia public schools, including changes in the public school enrollment, and any improvement in the academic performance of the public schools.

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

(c) REPORT TO CONGRESS.—Not later than September 1 of each year, the Corporation shall submit a progress report on the scholarship program to the appropriate committees of Congress. Such report shall include a review of how scholarship funds were expended, including the initial academic achievement levels of students who have participated in the scholarship program.

(d) AUTHORIZATION.—There are authorized to be appropriated for the study described in subsection (a), $250,000, which shall remain available until expended.

SEC. 12. JUDICIAL REVIEW.

(a) JURISDICTION.—

(1) IN GENERAL.—The United States District Court for the District of Columbia shall have jurisdiction in any action challenging the constitutionality of the scholarship program under this Act and shall provide expedited review.

(2) STANDING.—The parent of any student eligible to receive a scholarship under this Act shall have standing in an action challenging the constitutionality of the scholarship program under this Act.

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

SEC. 13. EFFECTIVE DATE.

This Act shall be effective for each of the fiscal years 1998 through 2002.

SEC. 14. APPROPRIATION OF INITIAL FEDERAL CONTRIBUTION TO FUND.

There are hereby appropriated, out of any money in the Treasury not otherwise appropriated, $7,000,000 for the District of Columbia Scholarship Fund.

Mr. STEVENS. Mr. President, is it proper at this time to move to reconsider the action taken by the Senate under this time agreement?

The PRESIDING OFFICER. Yes.

Mr. STEVENS. I move to reconsider the vote.

Mr. GREGG. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. FORD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. SESSIONS. Mr. President, I ask unanimous consent the call of the quorum be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SESSIONS. I know there may be some agenda items that are necessary for other Members of the Senate to complete tonight. If so, I am happy to yield at an appropriate time.

BILL LANN LEE NOMINATION

Mr. SESSIONS. Mr. President, I rise to talk about the Bill Lann Lee nomination as Assistant Attorney General for Civil Rights. He is a good man, a lawyer of skill and experience. He is the son of an immigrant who has worked hard and done very well professionally and financially.

However, his nomination is in the Senate Judiciary Committee. Many of his positions are outside the mainstream of current legal thought, and I believe we need to reject that nomination. Regretfully, I intend to vote no when it comes up before the Judiciary Committee.

There has been some discussion and comments made that there have been scurrilous attacks against him. I just want to say that is not so. Certainly it is not so from the Senators who are members of the Judiciary Committee who have considered this nomination. Senator HATCH, the chairman of the Judiciary Committee, came to this body earlier this week. He made a very long, professional address, delineating his concerns about this nomination and why he had decided to vote no. He talked about legal issues, professional issues, positions of importance, and that is the basis of our concern—not personal attacks.

This position is a serious position. Mr. Lee has been treated respectfully. I have been at every hearing he has attended, and I have been at every hearing in which his nomination has been discussed. It has been discussed on a high level, according to the highest professional standards of this Senate. That is the way it should be. But his