

106TH CONGRESS
1ST SESSION

S. 50

To improve options for excellence in education.

IN THE SENATE OF THE UNITED STATES

JANUARY 19, 1999

Mrs. HUTCHISON (for herself and Mr. DEWINE) introduced the following bill;
which was read twice and referred to the Committee on Health, Edu-
cation, Labor, and Pensions

A BILL

To improve options for excellence in education.

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

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Options for Excellence
5 in Education Act of 1999”.

6 **SEC. 2. FINDINGS.**

7 The Congress makes the following findings:

8 (1) A quality, safe, and effective education for
9 every American child has and will continue to be key
10 to our success or failure as a Nation.

1 (2) As America continues to lead the world eco-
2 nomic and technological revolution, our Nation must
3 strengthen our Nation's commitment to ensuring
4 that every child is equipped to face the challenges of
5 the next century.

6 (3) Since the inception of public education, it
7 has been the States and local communities that have
8 built and shaped our public school system.

9 (4) While the Federal Government must con-
10 tinue to have a strong supportive role in public edu-
11 cation, it should reward successful State and local
12 policies, not dictate what those policies should be.

13 (5) The recent success of many States in im-
14 proving their educational standards and outcomes
15 proves that State and local education agencies are in
16 the best position to understand the unique needs of
17 their students and to develop and implement appro-
18 priate educational reforms.

19 (6) Although several Federal education pro-
20 grams today do offer some measure of flexibility, far
21 too many mandates, conditions, and reporting re-
22 quirements exist, draining precious dollars away
23 from the classroom.

1 (7) The proper focus of Federal education pol-
 2 icy should be on student performance outcomes, not
 3 on process.

4 (8) Our Nation’s children are far too precious
 5 to delay a comprehensive change in the way the Fed-
 6 eral Government supports and encourages excellence
 7 in our Nation’s public schools.

8 **SEC. 3. DEFINITIONS.**

9 In this Act:

10 (1) IN GENERAL.—The terms “elementary
 11 school”, “local educational agency”, “secondary
 12 school”, “Secretary”, “State”, and “State edu-
 13 cational agency” have the meanings given the terms
 14 in section 14101 of the Elementary and Secondary
 15 Education Act of 1965.

16 (2) POVERTY LINE.—The term “poverty line”
 17 means the poverty line (as defined by the Office of
 18 Management and Budget, and revised annually in
 19 accordance with section 673(2) of the Community
 20 Services Block Grant Act (42 U.S.C. 9902(2)) appli-
 21 cable to a family of the size involved.

22 **SEC. 4. ED-FLEX EXPANSION.**

23 (a) PROGRAM ESTABLISHED.—The Secretary shall
 24 carry out an education flexibility program under which the
 25 Secretary authorizes qualified State educational agencies

1 to waive Federal statutory and regulatory requirements
 2 applicable to State educational agencies, local educational
 3 agencies, and individual schools under all or a portion of
 4 the requirements of any State administered program au-
 5 thorized by the Elementary and Secondary Education Act
 6 of 1965 (other than a program authorized under title VIII
 7 of the Elementary and Secondary Education Act of 1965),
 8 the Goals 2000: Educate America Act, and the Carl D.
 9 Perkins Vocational and Technical Education Act of 1998,
 10 including programs under titles I, II, III, IV, and VI, and
 11 part C of title VII, of the Elementary and Secondary Edu-
 12 cation Act of 1965.

13 (b) REQUIREMENTS.—

14 (1) SUPPLEMENT NOT SUPPLANT.—Federal
 15 funds received under any of the programs for which
 16 a waiver is granted under this section may only be
 17 used to supplement, and not supplant State and
 18 local funds that would otherwise be spent to carry
 19 out the fundamental purposes of the programs.

20 (2) ADMINISTRATIVE EXPENSES.—If the Sec-
 21 retary determines that a State educational agency is
 22 spending for administrative expenses a greater per-
 23 centage of the funds awarded under a program for
 24 which a waiver is granted under this section than
 25 the State spent in the year immediately preceding

1 the granting of the waiver, then the Secretary shall
 2 reduce the funds made available to that State under
 3 the program in an amount equal to the increased
 4 expenditure.

5 (c) DEFINITION OF QUALIFIED STATE EDUCATIONAL
 6 AGENCY.—In this section the term “qualified State edu-
 7 cational agency” means a State educational agency that
 8 has in place or develops specific, measurable educational
 9 improvement goals and expected outcomes, and com-
 10 prehensive, challenging statewide student assessments.

11 (d) DURATION.—Each waiver under subsection (a)
 12 shall be granted for a period of 5 years.

13 (e) REIMPOSITION OF SPECIFIC STATUTORY OR REG-
 14 ULATORY REQUIREMENTS.—

15 (1) SPECIFIC WAIVERS AUTHORIZED.—If the
 16 Secretary finds that the fundamental purposes of
 17 any program for which a waiver is granted under
 18 subsection (a) are not being achieved, then the Sec-
 19 retary may require the State educational agency to
 20 submit an application for a waiver of specific statu-
 21 tory or regulatory requirements under that program.
 22 The application shall set forth the justification for
 23 failing to meet the fundamental purposes of that
 24 program, including how the waiver of the specific re-
 25 quirements will help to raise overall student per-

1 formance. If the Secretary finds that the granting of
 2 the waiver of the specific requirements will help to
 3 raise overall student performance, then the Sec-
 4 retary shall grant a 2-year waiver of the specific re-
 5 quirements, except that the duration of the waiver of
 6 the specific requirements shall not exceed the 5 year
 7 period applicable to the State educational agency's
 8 waiver authority under subsection (a).

9 (2) FAILURE.—If the Secretary does not grant
 10 a waiver of the specific requirements under this sub-
 11 section, then the Secretary may reimpose any exist-
 12 ing statutory or regulatory requirements under the
 13 program that are necessary to ensure that the fun-
 14 damental purposes of the program are achieved.

15 (f) APPLICATION.—Each qualified State educational
 16 agency desiring a grant under this section shall submit
 17 an application to the Secretary at such time, in such man-
 18 ner, and accompanied by such information as the Sec-
 19 retary may require.

20 (g) REPORTS.—

21 (1) STATE EDUCATIONAL AGENCY REPORT.—
 22 Each qualified State educational agency granted
 23 waiver authority under this section shall—

1 (A) annually report the results of the stu-
 2 dent assessments described in subsection (c) to
 3 the Secretary; and

4 (B) not less than annually submit a com-
 5 prehensive report to the Secretary on the devel-
 6 opment, implementation, and results of the
 7 goals and outcomes described in subsection (c),
 8 including an explanation of how the State edu-
 9 cational agency is achieving the fundamental
 10 purposes of each of the programs for which a
 11 waiver is granted under this section.

12 (2) SECRETARY.—The Secretary shall compile
 13 the results of the student assessments and make the
 14 results widely available (including via the Internet)
 15 to the general public in a standardized, simplified
 16 format, including student performance results at the
 17 State, school district, and individual school levels,
 18 and, where practicable, how the results compare with
 19 previous years.

20 **SEC. 5. EXCELLENCE GRANTS.**

21 (a) AUTHORIZATION OF APPROPRIATIONS.—There
 22 are authorized to be appropriated \$3,000,000,000 for fis-
 23 cal year 2000, and such sums as may be necessary for
 24 each of the fiscal years 2001 through 2004 to carry out
 25 this section, of which—

1 (1) \$1,000,000,000 shall be available to carry
2 out subsection (b) for each fiscal year;

3 (2) \$1,000,000,000 shall be available to carry
4 out subsection (c) for each fiscal year; and

5 (3) \$1,000,000,000 shall be available to carry
6 out subsection (d) for each fiscal year.

7 (b) STUDENT EXCELLENCE.—

8 (1) ALLOTMENT.—From funds made available
9 under subsection (a)(1) for a fiscal year, the Sec-
10 retary shall make an allotment to each State edu-
11 cational agency in an amount that bears the same
12 relation to such funds as the amount the State re-
13 ceived under part A of title I of the Elementary and
14 Secondary Education Act of 1965 for such year
15 bears to the amount received by all States under
16 such part for such year.

17 (2) GRANTS.—From amounts made available
18 under paragraph (1) the State educational agency
19 shall award grants on a competitive basis to 25 per-
20 cent of the local educational agencies in the State
21 that demonstrate in the application submitted under
22 subsection (e)—

23 (A) the greatest improvement, from a year
24 to the succeeding year, in student performance,

1 as measured by the State educational agency;
 2 or

3 (B) the most innovative, comprehensive
 4 and cost-effective approaches to raising student
 5 performance.

6 (3) USES.—Grant funds awarded under this
 7 subsection shall be used to further the most success-
 8 ful and cost-effective elements of curriculum and
 9 standards development, student performance evalua-
 10 tion, student motivation, and other efforts directly
 11 related to student performance.

12 (c) SCHOOL EXCELLENCE.—

13 (1) ALLOTMENT.—From funds made available
 14 under subsection (a)(2) for a fiscal year, the Sec-
 15 retary shall make an allotment to each State edu-
 16 cational agency in an amount that bears the same
 17 relation to such funds as the amount the State re-
 18 ceived under part A of title I of the Elementary and
 19 Secondary Education Act of 1965 for such year
 20 bears to the amount received by all States under
 21 such part for such year.

22 (2) IN GENERAL.—From amounts made avail-
 23 able under paragraph (1), the State educational
 24 agency shall award grants on a competitive basis to
 25 25 percent of the elementary schools or secondary

1 schools in the State that demonstrate in the applica-
 2 tion submitted under subsection (e)—

3 (A) the greatest improvement, from a year
 4 to the succeeding year, in student performance,
 5 as measured by the State educational agency;
 6 or

7 (B) the most innovative, comprehensive,
 8 and cost-effective approaches to school support.

9 (2) USES.—Grant funds awarded under this
 10 subsection shall be used to further the most success-
 11 ful and cost-effective elements of school systemic
 12 support, including technology development and ad-
 13 ministrative enhancement.

14 (d) TEACHER EXCELLENCE.—

15 (1) IN GENERAL.—From amounts made avail-
 16 able under subsection (a)(3) for a fiscal year, the
 17 Secretary shall award grants on a competitive basis
 18 to State educational agencies that demonstrate in
 19 the application submitted under subsection (e)—

20 (A) the greatest improvement, from a year
 21 to the succeeding year, with respect to strength-
 22 ening the educational, certification, and per-
 23 formance standards of teachers in the State; or

1 (B) the most innovative, comprehensive,
2 and cost-effective approaches to teacher certifi-
3 cation and professional development.

4 (2) USES.—Grant funds awarded under this
5 subsection shall be used to further the most success-
6 ful elements of the State educational agency’s efforts
7 regarding the standards described in paragraph
8 (1)(A).

9 (3) PRIORITY.—In awarding grants under this
10 subsection, the Secretary shall give priority to State
11 educational agencies that—

12 (A) emphasize and reward substantive
13 mastery over subject matter taught; and

14 (B) provide incentives to reward teacher
15 performance.

16 (e) APPLICATION.—Each State educational agency
17 desiring a grant under this section shall submit to the Sec-
18 retary an application at such time, in such manner, and
19 accompanied by such information as the Secretary may
20 require.

21 **SEC. 6. EDUCATIONAL OPTIONS.**

22 (a) PROGRAM AUTHORIZED.—

23 (1) DETERMINATION.—For each State the Sec-
24 retary shall determine the 25 percent of local edu-
25 cational agencies within the State that demonstrate

1 in the application submitted under subsection (c),
2 that the agencies serve the lowest performing stu-
3 dents in the State, as measured by the State edu-
4 cational agency.

5 (2) REDUCTIONS.—The Secretary shall reduce
6 the amount of Federal education assistance provided
7 under the provisions of law described in section 4(a)
8 and that is provided to each local educational agency
9 for which a determination is made under paragraph
10 (1) for a fiscal year by an amount equal to 5 percent
11 of the amount of such assistance awarded (either di-
12 rectly or through the State educational agency) to
13 the local educational agency for the preceding fiscal
14 year. Such funds may be referred to as a local edu-
15 cational agency’s “School Improvement Fund”.

16 (3) CHOICE PROGRAMS.—The Secretary shall
17 make the total amount reduced under paragraph (2)
18 for each local educational agency for which a deter-
19 mination is made under paragraph (1) available to
20 the State to carry out 1 or more choice programs
21 described in subsection (b).

22 (b) CHOICE PROGRAMS.—

23 (1) PUBLIC SCHOOL CHOICE.—A State may es-
24 tablish a public school choice program that meets
25 the following requirements:

1 (A) The program shall allow students at-
2 tending public schools (including at minimum
3 students attending a school served by a local
4 educational agency, for which a determination
5 is made under subsection (a)(1)) to attend the
6 public school of their choice within the school
7 district, region, or State, as provided by the
8 State.

9 (B)(i) The program shall provide that if a
10 student is unable to enroll in a high performing
11 school within the student's school district, then
12 the student shall be allowed to enroll in a school
13 within a reasonable distance from the student's
14 residence.

15 (ii) The term "high performing school"
16 means a school at which student performance,
17 as measured by the State, ranks in the top half
18 of all schools statewide.

19 (C) The program shall not require the
20 State to provide transportation or other costs
21 incurred by the student if the school chosen by
22 the student is farther than 50 miles from the
23 student's residence.

24 (D) Federal funds made available under
25 this program shall be used for all costs associ-

1 ated with adequately implementing the pro-
2 gram, including transportation, tuition transfer
3 payments to schools to which students transfer
4 under the program, school construction if nec-
5 essary to accommodate high-demand schools,
6 public education campaigns to inform students
7 and parents about the program, administrative
8 costs, and other costs reasonably necessary to
9 implement the program.

10 (2) PRIVATE SCHOOL CHOICE.—A State may
11 establish a private school choice program that meets
12 the following requirements:

13 (A) The program shall enable students at-
14 tending public schools in the State, including at
15 a minimum students whose families have in-
16 comes below the poverty line, whose perform-
17 ance on statewide student performance exami-
18 nations place the students in the bottom half of
19 students at their grade level, and who attend
20 schools served by local educational agencies for
21 which a determination is made under subsection
22 (a)(1), as measured or determined by the State,
23 to attend the private or parochial school of their
24 choice.

1 (B) Federal funds provided under the pro-
2 gram may be used—

3 (i) by parents with children participat-
4 ing in the program, for tuition payments to
5 private or parochial schools, not to exceed
6 \$5,000 per student, per year; and

7 (ii) for administrative and other costs
8 directly related to implementation of the
9 program.

10 (3) ALTERNATIVE SCHOOL CHOICE.—A State
11 may establish an alternative school choice program
12 that meets the following requirements:

13 (A) The program shall improve the edu-
14 cational options available to students and their
15 parents through greater school choice and com-
16 petition, including the establishment or expan-
17 sion of charter schools and magnet schools.
18 Such program shall be targeted, at a minimum,
19 to serving local educational agencies for which
20 a determination is made under subsection
21 (a)(1) and other local educational agencies that
22 the State determines to be chronically under-
23 performing.

24 (B) If, after 2 years of implementing the
25 program, the Secretary determines that a State

1 has failed to substantially improve and expand
 2 the quality and quantity of educational options
 3 available to students served by the local edu-
 4 cational agencies described in subparagraph
 5 (A), then the funds shall be used by the State
 6 to implement a public school choice program
 7 under paragraph (1) or a private school choice
 8 program under paragraph (2).

9 **SEC. 7. CAREERS TO CLASSROOMS.**

10 (a) **PLACEMENT PROGRAM.**—The Secretary may es-
 11 tablish a program of awarding grants to States—

12 (1) to enable the States to assist eligible indi-
 13 viduals to obtain—

14 (A) certification or licensure as elementary
 15 school or secondary school teachers; or

16 (B) the credentials necessary to serve as
 17 teachers’ aides; and

18 (2) to facilitate the employment of the eligible
 19 individuals by local educational agencies identified
 20 under subsection (b)(2) as experiencing a shortage
 21 of teachers or teachers’ aides.

22 (b) **STATES WITH ALTERNATIVE CERTIFICATION**
 23 **REQUIREMENTS AND TEACHER AND TEACHER’S AIDE**
 24 **SHORTAGES.**—Upon the establishment of the placement

1 program authorized by subsection (a), the Secretary
2 shall—

3 (1) conduct a survey of States to identify those
4 States that have alternative certification or licensure
5 requirements for teachers;

6 (2) periodically request information from States
7 identified under paragraph (1) to identify in these
8 States those local educational agencies that—

9 (A) are receiving grants under title I of the
10 Elementary and Secondary Education Act of
11 1965 (20 U.S.C. 6301 et seq.) as a result of
12 having within their jurisdictions concentrations
13 of children from low-income families; and

14 (B) are also experiencing a shortage of
15 qualified teachers, in particular a shortage of
16 science, mathematics, computer science, or engi-
17 neering teachers; and

18 (3) periodically request information from all
19 States to identify local educational agencies that—

20 (A) are receiving grants under title I of the
21 Elementary and Secondary Education Act of
22 1965 (20 U.S.C. 6301 et seq.) as a result of
23 having within their jurisdictions concentrations
24 of children from low-income families; and

1 (B) are experiencing a shortage of teach-
 2 ers' aides.

3 (c) DEFINITION OF ELIGIBLE INDIVIDUAL.—In this
 4 section the term “eligible individual” means an individual
 5 who has received—

6 (1) in the case of an individual applying for as-
 7 sistance for placement as an elementary school or
 8 secondary school teacher, a baccalaureate or ad-
 9 vanced degree from an accredited institution of high-
 10 er education; or

11 (2) in the case of an individual applying for as-
 12 sistance for placement as a teacher's aide in an ele-
 13 mentary school or secondary school, an associate,
 14 baccalaureate, or advanced degree from an accred-
 15 ited institution of higher education or a junior or
 16 community college.

17 (d) SELECTION OF ELIGIBLE INDIVIDUALS.—

18 (1) IN GENERAL.—Selection of eligible individ-
 19 uals to participate in the placement program author-
 20 ized by subsection (a) shall be made on the basis of
 21 applications submitted to a State. An application
 22 shall be in such form and contain such information
 23 as the State may require.

24 (2) PRIORITY.—In selecting eligible individuals
 25 to receive assistance for placement as elementary

1 school or secondary school teachers, the State shall
2 give priority to eligible individuals who—

3 (A) have substantial, demonstrated career
4 experience in science, mathematics, computer
5 science, or engineering and agree to seek em-
6 ployment as science, mathematics, computer
7 science, or engineering teachers in elementary
8 schools or secondary schools; or

9 (B) have substantial, demonstrated career
10 experience in another subject area identified by
11 the State, as important for national educational
12 objectives and agree to seek employment in that
13 subject area in elementary schools or secondary
14 schools.

15 (e) AGREEMENT.—An eligible individual selected to
16 participate in the placement program authorized by sub-
17 section (a) shall be required to enter into an agreement
18 with the State, in which the eligible individual agrees—

19 (1) to obtain, within such time as the State
20 may require, certification or licensure as an elemen-
21 tary school or secondary school teacher or the nec-
22 essary credentials to serve as a teacher's aide in an
23 elementary school or secondary school; and

24 (2) to accept—

(A) in the case of an eligible individual selected for assistance for placement as a teacher, an offer of full-time employment as an elementary school or secondary school teacher for not less than two school years with a local educational agency identified under subsection (b)(2), to begin the school year after obtaining that certification or licensure; or

(B) in the case of an eligible individual selected for assistance for placement as a teacher's aide, an offer of full-time employment as a teacher's aide in an elementary school or secondary school for not less than 2 school years with a local educational agency identified under subsection (b)(3), to begin the school year after obtaining the necessary credentials.

(f) STIPEND FOR PARTICIPANTS.—

(1) IN GENERAL.—The State shall pay to an eligible individual participating in the placement program a stipend in an amount equal to the lesser of—

(A) \$5,000; or

(B) the total costs of the type described in paragraphs (1), (2), (3), (8), and (9) of section 472 of the Higher Education Act of 1965 (20

1 U.S.C. 1087ll) incurred by the eligible individ-
2 ual while obtaining teacher certification or li-
3 censure or the necessary credentials to serve as
4 a teacher's aide and employment as an elemen-
5 tary school or secondary school teacher or
6 teacher aide.

7 (2) RELATION TO OTHER ASSISTANCE.—A sti-
8 pend paid under paragraph (1) shall be taken into
9 account in determining the eligibility of the eligible
10 individual for Federal student financial assistance
11 provided under title IV of the Higher Education Act
12 of 1965 (20 U.S.C. 1070 et seq.).

13 (g) GRANTS TO FACILITATE PLACEMENT.—

14 (1) TEACHERS.—In the case of an eligible indi-
15 vidual in the placement program obtaining teacher
16 certification or licensure, the State may offer to
17 enter into an agreement under this subsection with
18 the first local educational agency identified under
19 subsection (b)(2) that employs the eligible individual
20 as a full-time elementary school or secondary school
21 teacher after the eligible individual obtains teacher
22 certification or licensure.

23 (2) TEACHER'S AIDES.—In the case of an eligi-
24 ble individual in the program obtaining credentials
25 to serve as a teacher's aide, the State may offer to

enter into an agreement under this subsection with the first local educational agency identified under subsection (b)(3) that employs the participant as a full-time teacher's aide.

(3) AGREEMENTS CONTRACTS.—Under an agreement referred to in paragraph (1) or (2)—

(A) the local educational agency shall agree to employ the eligible individual full time for not less than 2 consecutive school years (at a basic salary to be certified to the State) in a school of the local educational agency that—

(i) serves a concentration of children from low-income families; and

(ii) has an exceptional need for eligible individuals; and

(B) the State shall agree to pay to the local educational agency for each eligible individual, from amounts provided under this section, \$5,000 per year for a maximum of 2 years.

(h) REIMBURSEMENT UNDER CERTAIN CIRCUMSTANCES.—

(1) IN GENERAL.—If an eligible individual in the placement program fails to obtain teacher certification or licensure or employment as an elementary

1 school or secondary school teacher or employment as
2 a teacher's aide as required under the agreement or
3 voluntarily leaves, or is terminated for cause, from
4 the employment during the 2 years of required serv-
5 ice, the eligible individual shall be required to reim-
6 burse the State for any stipend paid to the eligible
7 individual under subsection (f)(1) in an amount that
8 bears the same ratio to the amount of the stipend
9 as the unserved portion of required service bears to
10 the 2 years of required service. A State shall for-
11 ward the proceeds of any reimbursement received
12 under this paragraph to the Secretary.

13 (2) OBLIGATION TO REIMBURSE.—The obliga-
14 tion to reimburse the State under this subsection is,
15 for all purposes, a debt owing the United States. A
16 discharge in bankruptcy under title 11 shall not re-
17 lease a participant from the obligation to reimburse
18 the State. Any amount owed by an eligible individual
19 under paragraph (1) shall bear interest at the rate
20 equal to the highest rate being paid by the United
21 States on the day on which the reimbursement is de-
22 termined to be due for securities having maturities
23 of 90 days or less and shall accrue from the day on
24 which the eligible individual is first notified of the
25 amount due.

1 (i) EXCEPTIONS TO REIMBURSEMENT PROVISIONS.—

2 (1) IN GENERAL.—An eligible individual in the
3 placement program shall not be considered to be in
4 violation of an agreement entered into under sub-
5 section (e) during any period in which the
6 participant—

7 (A) is pursuing a full-time course of study
8 related to the field of teaching at an eligible in-
9 stitution;

10 (B) is serving on active duty as a member
11 of the Armed Forces;

12 (C) is temporarily totally disabled for a pe-
13 riod of time not to exceed 3 years as established
14 by sworn affidavit of a qualified physician;

15 (D) is unable to secure employment for a
16 period not to exceed 12 months by reason of the
17 care required by a spouse who is disabled;

18 (E) is seeking and unable to find full-time
19 employment as a teacher or teacher's aide in an
20 elementary school or secondary school for a sin-
21 gle period not to exceed 27 months; or

22 (F) satisfies the provisions of additional
23 reimbursement exceptions that may be pre-
24 scribed by the Secretary.

1 (2) FORGIVENESS.—An eligible individual shall
2 be excused from reimbursement under subsection (h)
3 if the eligible individual becomes permanently totally
4 disabled as established by sworn affidavit of a quali-
5 fied physician. The Secretary may also waive reim-
6 bursement in cases of extreme hardship to the par-
7 ticipant, as determined by the Secretary.

8 (j) DEFINITIONS.—In this section:

9 (1) STATE.—The term “State” means each of
10 the several States of the United States, the District
11 of Columbia, American Samoa, the Federated States
12 of Micronesia, Guam, the Republic of the Marshall
13 Islands, the Commonwealth of the Northern Mari-
14 ana Islands, the Commonwealth of Puerto Rico, the
15 Republic of Palau, and the United States Virgin Is-
16 lands.

17 (2) ALTERNATIVE CERTIFICATION OR LICEN-
18 SURE.—The term “alternative certification or licen-
19 sure requirements” means State or local teacher cer-
20 tification or licensure requirements that permit a
21 demonstrated competence in appropriate subject
22 areas gained in careers outside of education to be
23 substituted for traditional teacher training course
24 work.

1 **SEC. 8. TREATMENT OF QUALIFIED PUBLIC EDUCATIONAL**
 2 **FACILITY BONDS AS EXEMPT FACILITY**
 3 **BONDS.**

4 (a) TREATMENT AS EXEMPT FACILITY BOND.—Sub-
 5 section (a) of section 142 of the Internal Revenue Code
 6 of 1986 (relating to exempt facility bond) is amended by
 7 striking “or” at the end of paragraph (11), by striking
 8 the period at the end of paragraph (12) and inserting “,
 9 or”, and by adding at the end the following:

10 “(13) qualified public educational facilities.”.

11 (b) QUALIFIED PUBLIC EDUCATIONAL FACILI-
 12 TIES.—Section 142 of the Internal Revenue Code of 1986
 13 is amended by adding at the end the following:

14 “(k) QUALIFIED PUBLIC EDUCATIONAL FACILI-
 15 TIES.—

16 “(1) IN GENERAL.—For purposes of subsection
 17 (a)(13), the term ‘qualified public educational facil-
 18 ity’ means any school facility which is—

19 “(A) part of a public elementary school or
 20 a public secondary school,

21 “(B) except as provided in paragraph
 22 (7)(B)(iii), located in a high-growth school dis-
 23 trict or a low-income school district, and

24 “(C) owned by a private, for-profit cor-
 25 poration pursuant to a public-private partner-

1 ship agreement with a State or local edu-
 2 cational agency described in paragraph (2).

3 “(2) PUBLIC-PRIVATE PARTNERSHIP AGREE-
 4 MENT DESCRIBED.—A public-private partnership
 5 agreement is described in this paragraph if it is an
 6 agreement—

7 “(A) under which the corporation agrees—

8 “(i) to do 1 or more of the following:
 9 construct, rehabilitate, refurbish, or equip
 10 a school facility, and

11 “(ii) at the end of the contract term,
 12 to transfer the school facility to such agen-
 13 cy for no additional consideration, and

14 “(B) the term of which does not exceed the
 15 term of the underlying issue.

16 “(3) SCHOOL FACILITY.—For purposes of this
 17 subsection, the term ‘school facility’ means—

18 “(A) school buildings,

19 “(B) functionally related and subordinate
 20 facilities and land with respect to such build-
 21 ings, including any stadium or other facility pri-
 22 marily used for school events, and

23 “(C) any property, to which section 168
 24 applies (or would apply but for section 179), for
 25 use in the facility.

1 “(4) PUBLIC SCHOOLS.—For purposes of this
 2 subsection, the terms ‘elementary school’ and ‘sec-
 3 ondary school’ have the meanings given such terms
 4 by section 14101 of the Elementary and Secondary
 5 Education Act of 1965 (20 U.S.C. 8801), as in ef-
 6 fect on the date of the enactment of this subsection.

7 “(5) HIGH-GROWTH SCHOOL DISTRICT.—For
 8 purposes of this subsection, the term ‘high-growth
 9 school district’ means a school district established
 10 under State law which had an enrollment of at least
 11 5,000 students in the second academic year preced-
 12 ing the date of the issuance of the bond and an in-
 13 crease in student enrollment of at least 20 percent
 14 during the 5-year period ending with such academic
 15 year.

16 “(6) LOW-INCOME SCHOOL DISTRICT.—For
 17 purposes of this subsection—

18 “(A) IN GENERAL.—The term ‘low-income
 19 school district’ means a school district estab-
 20 lished under State law 35 percent of the enroll-
 21 ment of which is students from families with in-
 22 comes below the Federal poverty line.

23 “(B) FEDERAL POVERTY LINE.—The term
 24 ‘Federal poverty line’ means the income official
 25 poverty line (as defined by the Office of Man-

1 agement and Budget, and revised annually in
 2 accordance with section 673(2) of the Omnibus
 3 Budget Reconciliation Act of 1981) applicable
 4 to a family of the size involved.

5 “(7) ANNUAL AGGREGATE FACE AMOUNT OF
 6 TAX-EXEMPT FINANCING.—

7 “(A) IN GENERAL.—An issue shall not be
 8 treated as an issue described in subsection
 9 (a)(13) if the aggregate face amount of bonds
 10 issued by the State pursuant thereto (when
 11 added to the aggregate face amount of bonds
 12 previously so issued during the calendar year)
 13 exceeds an amount equal to the greater of—

14 “(i) \$10 multiplied by the State popu-
 15 lation, or

16 “(ii) \$20,000,000.

17 “(B) ALLOCATION RULES.—

18 “(i) IN GENERAL.—Except as other-
 19 wise provided in this subparagraph, the
 20 State may allocate in a calendar year the
 21 amount described in subparagraph (A) for
 22 such year in such manner as the State de-
 23 termines appropriate.

24 “(ii) RULES FOR CARRYFORWARD OF
 25 UNUSED AMOUNT.—With respect to any

calendar year, a State may make an election under rules similar to the rules of section 146(f), except that the sole carryforward purpose with respect to such election is the issuance of exempt facility bonds described in section 142(a)(13).

“(iii) SPECIAL ALLOCATION RULE FOR SCHOOLS OUTSIDE HIGH-GROWTH OR LOW-INCOME SCHOOL DISTRICTS.—A State may elect to allocate an aggregate face amount of bonds not to exceed \$5,000,000 from the amount described in subparagraph (A) for each calendar year for qualified public educational facilities without regard to the requirement under paragraph (1)(B).”.

(c) EXEMPTION FROM GENERAL STATE VOLUME CAPS.—Paragraph (3) of section 146(g) of the Internal Revenue Code of 1986 (relating to exception for certain bonds) is amended—

(1) by striking “or (12)” and inserting “(12), or (13)”, and

(2) by striking “and environmental enhancements of hydroelectric generating facilities” and inserting “environmental enhancements of hydro-

1 electric generating facilities, and qualified public
2 educational facilities”.

3 (d) EXEMPTION FROM LIMITATION ON USE FOR
4 LAND ACQUISITION.—Section 147(h) of the Internal Rev-
5 enue Code of 1986 (relating to certain rules not apply)
6 is amended—

7 (1) by adding at the end the following:

8 “(3) EXEMPT FACILITY BONDS FOR QUALIFIED
9 PUBLIC EDUCATIONAL FACILITIES.—Subsection (c)
10 shall not apply to any exempt facility bond issued as
11 part of an issue described in section 142(a)(13) (re-
12 lating to qualified public educational facilities).”,
13 and

14 (2) by striking “MORTGAGE REVENUE BONDS,
15 QUALIFIED STUDENT LOAN BONDS, AND QUALI-
16 FIED 501(c)(3) BONDS” in the heading and insert-
17 ing “CERTAIN BONDS”.

18 (e) EFFECTIVE DATE.—The amendments made by
19 this section shall apply to bonds issued after December
20 31, 1998.

21 **SEC. 9. ADDITIONAL INCREASE IN ARBITRAGE REBATE EX-**
22 **CEPTION FOR GOVERNMENTAL BONDS USED**
23 **TO FINANCE EDUCATION FACILITIES.**

24 (a) IN GENERAL.—Section 148(f)(4)(D)(vii) of the
25 Internal Revenue Code of 1986 (relating to increase in

1 exception for bonds financing public school capital expend-
2 itures) is amended by striking “\$5,000,000” the second
3 place it appears and inserting “\$10,000,000”.

4 (b) EFFECTIVE DATE.—The amendment made by
5 subsection (a) shall apply to obligations issued after De-
6 cember 31, 1998.

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