

110TH CONGRESS
1ST SESSION

S. 1236

To amend the Elementary and Secondary Education Act of 1965 regarding highly qualified teachers, growth models, adequate yearly progress, Native American language programs, and parental involvement, and for other purposes.

IN THE SENATE OF THE UNITED STATES

APRIL 26, 2007

Ms. MURKOWSKI (for herself and Mr. STEVENS) introduced the following bill; which was read twice and referred to the Committee on Health, Education, Labor, and Pensions

A BILL

To amend the Elementary and Secondary Education Act of 1965 regarding highly qualified teachers, growth models, adequate yearly progress, Native American language programs, and parental involvement, and for other purposes.

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 “School Accountability
5 Improvements Act”.

1 **SEC. 2. HIGHLY QUALIFIED TEACHERS IN SMALL SCHOOLS.**

2 (a) PURPOSE.—The purpose of this section is to en-
 3 sure that teachers in public elementary and secondary
 4 schools know the subject matter and curriculum that they
 5 are teaching and can convey the subject matter to stu-
 6 dents.

7 (b) HIGHLY QUALIFIED TEACHERS OF MULTIPLE
 8 ACADEMIC SUBJECTS IN SMALL SCHOOLS.—Section
 9 1119(a) of the Elementary and Secondary Education Act
 10 of 1965 (20 U.S.C. 6319(a)) is amended by adding at the
 11 end the following:

12 “(4) EXCEPTION FOR MULTI-SUBJECT TEACH-
 13 ERS IN SMALL SCHOOLS.—

14 “(A) IN GENERAL.—Notwithstanding sec-
 15 tion 9101(23) or any other provision of this
 16 Act, a middle or secondary school teacher who
 17 is employed to teach multiple core academic
 18 subjects in a school designated as a small
 19 school under subparagraph (B) but who is not
 20 highly qualified as the term is defined in such
 21 section, shall be deemed to be highly qualified
 22 for purposes of this Act if the teacher—

23 “(i) meets the requirements of sub-
 24 paragraph (A) of such section;

25 “(ii) meets the requirements of sub-
 26 clause (I) or (II) of subparagraph (B)(ii)

1 of such section for 1 or more of the core
2 academic subjects that the teacher teaches;
3 and

4 “(iii) demonstrates highly effective de-
5 livery of instruction on a performance as-
6 sessment, developed or adopted by the
7 State within which the small school is lo-
8 cated, that assesses skills that are widely
9 accepted as necessary for the effective de-
10 livery of instruction.

11 “(B) SMALL SCHOOL.—A State edu-
12 cational agency shall designate a school as a
13 small school for a school year if the State edu-
14 cational agency determines, based on evidence
15 provided by the local educational agency serving
16 the school, that the school—

17 “(i) has unique staffing or hiring
18 challenges that require 1 or more teachers
19 at the school to teach multiple core aca-
20 demic subjects for such year;

21 “(ii) has made a reasonable effort to
22 recruit and retain for such year middle or
23 secondary school teachers who meet the re-
24 quirements of subparagraph (A) and either
25 subparagraph (B) or (C) of section

1 9101(23), to teach all students attending
2 the school; and

3 “(iii) had an average daily student
4 membership of less than 200 students for
5 the previous full school year.”.

6 **SEC. 3. GROWTH MODELS.**

7 Section 1111(b)(2) of the Elementary and Secondary
8 Education Act (20 U.S.C. 6311(b)(2)) is amended by add-
9 ing at the end the following:

10 “(L) GROWTH MODELS.—

11 “(i) IN GENERAL.—In the case of a
12 State that desires to satisfy the require-
13 ments of a single, statewide State account-
14 ability system under subparagraph (A)
15 through the use of a growth model, the
16 Secretary shall approve such State’s use of
17 the growth model if—

18 “(I) the State plan ensures that
19 100 percent of students in each group
20 described in subparagraph (C)(v)—

21 “(aa) meet or exceed the
22 State’s proficient level of aca-
23 demic achievement on the State
24 assessments under paragraph (3)
25 by the 2013–2014 school year; or

1 “(bb) are making sufficient
2 progress to enable each student
3 to meet or exceed the State’s pro-
4 ficient level on such assessments
5 for the student’s corresponding
6 grade level not later than the stu-
7 dent’s final year in secondary
8 school;

9 “(II) the State plan complies
10 with all of the requirements of this
11 paragraph, except as provided in
12 clause (ii);

13 “(III) the growth model is based
14 on a fully approved assessment sys-
15 tem;

16 “(IV) the growth model cal-
17 culates growth in student proficiency
18 for the purposes of determining ade-
19 quate yearly progress either by indi-
20 vidual students or by cohorts of stu-
21 dents, and may use methodologies,
22 such as confidence intervals and the
23 State-approved minimum designa-
24 tions, that will yield statistically reli-
25 able data;

1 “(V) the growth model includes
2 all students; and

3 “(VI) in the case of a growth
4 model that tracks individual students,
5 the State has the capacity to track
6 and manage the data efficiently and
7 effectively.

8 “(ii) SPECIAL RULE.—Notwith-
9 standing any other provision of law, for
10 purposes of any provision that requires the
11 calculation of a number or percentage of
12 students who must meet or exceed the pro-
13 ficient level of academic achievement on a
14 State assessment under paragraph (3), a
15 State using a growth model approved
16 under clause (i) shall calculate such num-
17 ber or percentage by counting—

18 “(I) the students who meet or ex-
19 ceed the proficient level of academic
20 achievement on the State assessment;
21 and

22 “(II) the students who, as dem-
23 onstrated through the growth model,
24 are making sufficient progress to en-
25 able each student to meet or exceed

1 the proficient level on the assessment
 2 for the student's corresponding grade
 3 level not later than the student's final
 4 year in secondary school.”.

5 **SEC. 4. SCHOOL CHOICE AND SUPPLEMENTAL EDU-**
 6 **CATIONAL SERVICES.**

7 (a) SCHOOL CHOICE AND SUPPLEMENTAL EDU-
 8 CATIONAL SERVICES.—Section 1116(b) of the Elementary
 9 and Secondary Education Act of 1965 (20 U.S.C.
 10 6316(b)) is amended—

11 (1) in paragraph (1)—

12 (A) by striking subparagraph (E) and in-
 13 serting the following:

14 “(E) SUPPLEMENTAL EDUCATIONAL SERV-
 15 ICES.—In the case of a school identified for
 16 school improvement under this paragraph, the
 17 local educational agency shall, not later than
 18 the first day of the school year following such
 19 identification, make supplemental educational
 20 services available consistent with subsection
 21 (e)(1).”; and

22 (B) by striking subparagraph (F);

23 (2) by striking paragraph (5) and inserting the
 24 following:

1 “(5) FAILURE TO MAKE ADEQUATE YEARLY
2 PROGRESS AFTER IDENTIFICATION.—

3 “(A) IN GENERAL.—In the case of any
4 school served under this part that fails to make
5 adequate yearly progress, as set out in the
6 State’s plan under section 1111(b)(2), by the
7 end of the first full school year after identifica-
8 tion under paragraph (1), the local educational
9 agency serving such school shall—

10 “(i) provide students in grades 3
11 through 12 who are enrolled in the school
12 and who did not meet or exceed the pro-
13 ficient level on the most recent State as-
14 sessment in mathematics or in reading or
15 language arts with the option to transfer
16 to another public school served by the local
17 educational agency in accordance with sub-
18 paragraph (B);

19 “(ii) continue to make supplemental
20 educational services available consistent
21 with subsection (e)(1); and

22 “(iii) continue to provide technical as-
23 sistance.

24 “(B) PUBLIC SCHOOL CHOICE.—

1 “(i) IN GENERAL.—In carrying out
2 subparagraph (A)(i) with respect to a
3 school, the local educational agency serving
4 such school shall, not later than the first
5 day of the school year following such iden-
6 tification, provide all students described in
7 subparagraph (A)(i) with the option to
8 transfer to another public school served by
9 the local educational agency, which may in-
10 clude a public charter school, that has not
11 been identified for school improvement
12 under this paragraph, unless such an op-
13 tion is prohibited by State law.

14 “(ii) RULE.—In providing students
15 the option to transfer to another public
16 school, the local educational agency shall
17 give priority to the lowest achieving chil-
18 dren from low-income families, as deter-
19 mined by the local educational agency for
20 purposes of allocating funds to schools
21 under section 1113(c)(1).

22 “(C) TRANSFER.—Students who use the
23 option to transfer under subparagraph (A)(i),
24 paragraph (7)(C)(i) or (8)(A)(i), or subsection
25 (c)(10)(C)(vii) shall be enrolled in classes and

1 other activities in the public school to which the
2 students transfer in the same manner as all
3 other children at the public school.”; and

4 (3) in paragraph (8)(A)(i), by striking “all”.

5 (b) SUPPLEMENTAL EDUCATIONAL SERVICES PRO-
6 VIDERS.—Section 1116(e) of the Elementary and Sec-
7 ondary Education Act of 1965 (20 U.S.C. 6316(e)) is
8 amended—

9 (1) by redesignating paragraph (12) as para-
10 graph (13);

11 (2) by inserting after paragraph (11) the fol-
12 lowing:

13 “(12) RULE REGARDING PROVIDERS.—Notwith-
14 standing paragraph (13)(B), a local educational
15 agency identified under subsection (c) that is re-
16 quired to arrange for the provision of supplemental
17 educational services under this subsection may serve
18 as a provider of such services in accordance with
19 this subsection.”; and

20 (3) in paragraph (13)(A) (as redesignated by
21 paragraph (1)), by inserting “, who is in any of
22 grades 3 through 12 and who did not meet or exceed
23 the proficient level on the most recent State assess-
24 ment in mathematics or in reading or language
25 arts” before the semicolon.

1 **SEC. 5. CALCULATING ADEQUATE YEARLY PROGRESS FOR**
 2 **STUDENTS WITH DISABILITIES AND STU-**
 3 **DENTS WITH LIMITED ENGLISH PRO-**
 4 **FICIENCY.**

5 Section 1116 of the Elementary and Secondary Edu-
 6 cation Act of 1965 (as amended by section 4) (20 U.S.C.
 7 6316) is further amended—

8 (1) by redesignating subsection (h) as sub-
 9 section (i); and

10 (2) by inserting after subsection (g) the fol-
 11 lowing:

12 “(h) PARTIAL SATISFACTION OF AYP.—

13 “(1) SCHOOLS.—Notwithstanding this section
 14 or any other provision of law, in the case of a school
 15 that failed to make adequate yearly progress under
 16 section 1111(b)(2) solely because the school did not
 17 meet or exceed 1 or more annual measurable objec-
 18 tives set by the State under section 1111(b)(2)(G)
 19 for the subgroup of students with disabilities or stu-
 20 dents with limited English proficiency, or both such
 21 subgroups—

22 “(A) if such school is identified for school
 23 improvement under subsection (b)(1), such
 24 school shall only be required to develop or revise
 25 and implement a school plan under subsection
 26 (b)(3) with respect to each such subgroup that

1 did not meet or exceed each annual measurable
2 objective; and

3 “(B) if such school is identified for re-
4 structuring under subsection (b)(8), the local
5 educational agency serving such school shall not
6 be required to implement subsection (b)(8)(B)
7 if the local educational agency demonstrates to
8 the State educational agency that the school
9 would have made adequate yearly progress for
10 each assessment and for each such subgroup for
11 the most recent school year if the percentage of
12 students who met or exceeded the proficient
13 level of academic achievement on the State as-
14 sessment was calculated by counting—

15 “(i) the students who met or exceeded
16 such proficient level; and

17 “(ii) the students who are making suf-
18 ficient progress to enable each such stu-
19 dent to meet or exceed the proficient level
20 on the assessment for the student’s cor-
21 responding grade level not later than the
22 student’s final year in secondary school, as
23 demonstrated through a growth model that
24 meets the requirements described in sub-

1 clauses (III) through (VI) of section
2 1111(b)(2)(L)(i).

3 “(2) LOCAL EDUCATIONAL AGENCIES.—Not-
4 withstanding this section or any other provision of
5 law, in the case of a local educational agency that
6 is identified for corrective action under subsection
7 (c)(10) solely because the local educational agency
8 did not meet or exceed 1 or more annual measurable
9 objectives set by the State under section
10 1111(b)(2)(G) for the subgroup of students with dis-
11 abilities or students with limited English proficiency,
12 or both such subgroups, the State educational agen-
13 cy shall not be required to implement subsection
14 (c)(10) if the State educational agency demonstrates
15 to the Secretary that the school would have made
16 adequate yearly progress for each assessment and
17 for each such subgroup if the percentage of students
18 who met or exceeded the proficient level of academic
19 achievement on the State assessment was calculated
20 by counting—

21 “(A) the students who meet or exceed such
22 proficient level; and

23 “(B) the students who are making suffi-
24 cient progress to enable each such student to
25 meet or exceed the proficient level on the as-

1 assessment for the student’s corresponding grade
 2 level not later than the student’s final year in
 3 secondary school, as demonstrated through a
 4 growth model that meets the requirements de-
 5 scribed in subclauses (III) through (VI) of sec-
 6 tion 1111(b)(2)(L)(i).”.

7 **SEC. 6. NATIVE AMERICAN LANGUAGE PROGRAMS.**

8 Section 1111(b)(2) of the Elementary and Secondary
 9 Education Act of 1965 (as amended by section 3) (20
 10 U.S.C. 6316(b)(2)) is further amended by adding at the
 11 end the following:

12 “(M) NATIVE AMERICAN LANGUAGE PRO-
 13 GRAMS.—Notwithstanding subparagraph (I) or
 14 any other provision of law—

15 “(i) a school serving students who re-
 16 ceive not less than a half day of daily Na-
 17 tive language instruction in an American
 18 Indian language, an Alaska Native lan-
 19 guage, or Native Hawaiian in at least
 20 grades kindergarten through grade 2 for a
 21 school year that does not have State as-
 22 sessments under paragraph (3) available in
 23 the Native American language taught at
 24 the school as provided for in paragraph
 25 (3)(C)(ix)(III)—

1 “(I) shall assess students in
2 grade 3 as required under paragraph
3 (3), and such students shall be in-
4 cluded in determining if the school
5 met the participation requirements for
6 all groups of students as required
7 under subparagraph (I)(ii) for such
8 school year; and

9 “(II) shall not include such as-
10 sessment results for students in grade
11 3 in determining if the school met or
12 exceeded the annual measurable objec-
13 tives for all groups of students as re-
14 quired under subparagraph (I)(i) for
15 such school year; and

16 “(ii) in the case of a school serving
17 students in any of grades 4 through 8 who
18 received such Native American language
19 instruction, such school shall count for
20 purposes of calculating the percentage of
21 students who met or exceeded the pro-
22 ficient level of academic achievement on
23 the State assessment—

24 “(I) the students who met or ex-
25 ceeded such proficient level; and

1 “(II) the students who are mak-
 2 ing sufficient progress to enable each
 3 such student to meet or exceed such
 4 proficient level on the assessment for
 5 the student’s corresponding grade
 6 level by the time the student enters
 7 grade 7, as demonstrated through a
 8 growth model that meets the require-
 9 ments described in subclauses (III)
 10 through (VI) of paragraph (L)(i).”.

11 **SEC. 7. IMPROVING EFFECTIVE PARENTAL INVOLVEMENT.**

12 Section 2134 of the Elementary and Secondary Edu-
 13 cation Act of 1965 (20 U.S.C. 6634) is amended—

14 (1) in subsection (a)(2)(C), by inserting “one or
 15 more parent teacher associations or organizations,”
 16 after “such local educational agencies,”;

17 (2) by redesignating subsection (b) as sub-
 18 section (c); and

19 (3) by inserting after subsection (a) the fol-
 20 lowing:

21 “(b) OPTIONAL USE OF FUNDS.—An eligible part-
 22 nership that receives a subgrant under this section may
 23 use subgrant funds remaining after carrying out all of the
 24 activities described in subsection (a) for—

1 “(1) developing parental engagement strategies,
 2 with accountability goals, as a key part of the ongoing
 3 school improvement plan under section
 4 1116(b)(3)(A) for a school identified for improve-
 5 ment under section 1116(b)(1); or

6 “(2) providing training to teachers, principals,
 7 and parents in skills that will enhance effective com-
 8 munication, which training shall—

9 “(A) include the research-based standards
 10 and methodologies of effective parent or family
 11 involvement programs; and

12 “(B) to the greatest extent possible, in-
 13 volve the members of the local and State parent
 14 teacher association or organization in such
 15 training activities and in the implementation of
 16 school improvement plans under section
 17 1116(b)(3)(A).”.

18 **SEC. 8. CONFORMING AMENDMENTS.**

19 Section 1116 of the Elementary and Secondary Edu-
 20 cation Act of 1965 (as amended by sections 4 and 5) (20
 21 U.S.C. 6316) is further amended—

22 (1) in subsection (b)—

23 (A) in paragraph (6)(F), by striking
 24 “(1)(E),”;

1 (B) in paragraph (7)(C)(i), by striking
2 “paragraph (1)(E) and (F)” and inserting
3 “subparagraphs (B) and (C) of paragraph (5)”;
4 (C) in paragraph (8)(A)(i), by striking
5 “paragraph (1)(E) and (F)” and inserting
6 “subparagraphs (B) and (C) of paragraph (5)”;
7 (D) in paragraph (9)—
8 (i) by striking “paragraph (1)(E)”
9 and inserting “paragraph (5)(B)”; and
10 (ii) by striking “(1)(A), (5),” and in-
11 serting “(5)(A),”; and
12 (E) in paragraph (11), by striking
13 “(1)(A),”;
14 (2) in subsection (e)(10)(C)(vii), by striking
15 “subsections (b)(1)(E) and (F),” and inserting
16 “subparagraphs (B) and (C) of subsection (b)(5)”;
17 (3) in subsection (e)(1), by inserting “(1),”
18 after “described in paragraph”;
19 (4) in subsection (f)(1)(A)(ii), by inserting
20 “(A)” after “(b)(5)”; and
21 (5) in subsection (g)(3)(A), by striking “sub-
22 section (b)(1)(E)” and inserting “subsection
23 (b)(5)(B)”.

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