

111<sup>TH</sup> CONGRESS  
1<sup>ST</sup> SESSION

# S. 1430

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.

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IN THE SENATE OF THE UNITED STATES

JULY 9, 2009

Ms. MURKOWSKI introduced the following bill; which was read twice and referred to the Committee on Health, Education, Labor, and Pensions

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## 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, RURAL,**  
2 **OR REMOTE SCHOOLS.**

3 (a) PURPOSES.—The purposes of this section are—

4 (1) to ensure that local educational agencies  
5 have flexibility in the ways in which the local edu-  
6 cational agencies may provide instruction in core  
7 academic subjects;

8 (2) to provide relief to teachers who are as-  
9 signed to teach more than two core academic sub-  
10 jects in small, rural, or remote schools; and

11 (3) to provide assurances to students that their  
12 instructors will have appropriate knowledge of the  
13 core academic subjects the instructors teach.

14 (b) HIGHLY QUALIFIED TEACHERS OF MULTIPLE  
15 CORE ACADEMIC SUBJECTS IN SMALL SCHOOLS.—Sec-  
16 tion 1119(a) of the Elementary and Secondary Education  
17 Act of 1965 (20 U.S.C. 6319(a)) is amended by adding  
18 at the end the following:

19 “(4) SPECIAL RULE FOR SMALL, RURAL, OR RE-  
20 MOTE SCHOOLS.—In the case of a local educational  
21 agency that is unable to provide a highly qualified  
22 teacher to serve as an on-site classroom teacher for  
23 a core academic subject in a small, rural, or remote  
24 school, the local educational agency may meet the  
25 requirements of this section by using distance learn-  
26 ing to provide such instruction by a teacher who is

1 highly qualified in the core academic subject, as long  
 2 as—

3 “(A) the teacher who is highly qualified in  
 4 the core academic subject—

5 “(i) is responsible for providing at  
 6 least 50 percent of the direct instruction in  
 7 the core academic subject through distance  
 8 learning;

9 “(ii) is responsible for monitoring stu-  
 10 dent progress; and

11 “(iii) is the teacher who assigns the  
 12 students their grades; and

13 “(B) an on-site teacher who is highly  
 14 qualified in a subject other the core academic  
 15 subject taught through distance learning is  
 16 present in the classroom throughout the period  
 17 of distance learning and provides supporting in-  
 18 struction and assistance to the students.”.

19 (c) SMALL, RURAL, OR REMOTE SCHOOLS.—Section  
 20 9101 of the Elementary and Secondary Education Act of  
 21 1965 (20 U.S.C. 7801) is amended—

22 (1) by redesignating paragraphs (41) through  
 23 (43) as paragraphs (42) through (44), respectively;

1           (2) in the undesignated paragraph following  
2 paragraph (39), by striking “STATE.—The” and in-  
3 sserting the following

4           “(41) STATE.—The”; and

5           (3) by inserting after paragraph (39) the fol-  
6 lowing:

7           “(40) SMALL, RURAL, OR REMOTE SCHOOL.—  
8 The term ‘small, rural, or remote school’ means a  
9 school that—

10           “(A)(i) is served by a local educational  
11 agency that meets the eligibility requirements of  
12 section 6211(b) or 6221(b)(1)(B);

13           “(ii) has an average daily student member-  
14 ship of fewer than 500 students for grades kin-  
15 dergarten through grade 12, inclusive, for the  
16 full school year preceding the school year for  
17 which the determination is being made under  
18 this paragraph; or

19           “(iii) has an average daily membership of  
20 fewer than 100 students in grades 7 through  
21 12, inclusive, for such preceding full school  
22 year; and

23           “(B) has been unable, despite reasonable  
24 efforts to do so, to recruit, hire, or retain a suf-  
25 ficient number of teachers who are highly quali-

1           fied in the core academic subjects for the school  
 2           year for which the determination is being made  
 3           under this paragraph.”.

4 **SEC. 3. GROWTH MODELS.**

5           Section 1111(b)(2) of the Elementary and Secondary  
 6 Education Act of 1965 (20 U.S.C. 6311(b)(2)) is amended  
 7 by adding at the end the following:

8                   “(L) GROWTH MODELS.—

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

16                                   “(I) the State plan ensures that  
 17                                   100 percent of students in each group  
 18                                   described in subparagraph (C)(v)—

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

24   “(bb) are making sufficient  
 25   progress to enable each student

1 to meet or exceed the State’s pro-  
2 ficient level on such assessments  
3 for the student’s corresponding  
4 grade level not later than the stu-  
5 dent’s final year in secondary  
6 school;

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

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

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

24 “(V) the growth model includes  
25 all students; and

1                   “(VI) the State has the capacity  
2                   to track and manage the data for the  
3                   growth model efficiently and effec-  
4                   tively.

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

15                  “(I) the students who meet or ex-  
16                  ceed the proficient level of academic  
17                  achievement on the State assessment;  
18                  and

19                  “(II) the students who, as dem-  
20                  onstrated through the growth model,  
21                  are making sufficient progress to en-  
22                  able each student to meet or exceed  
23                  the proficient level on the State as-  
24                  sessment for the student’s cor-  
25                  responding grade level not later than

1                   the student’s final year in secondary  
2                   school.”.

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

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

9                   (1) in paragraph (1)—

10                   (A) by striking subparagraph (E) and in-  
11                   serting the following:

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

20                   (B) by striking subparagraph (F);

21                   (2) by striking paragraph (5) and inserting the  
22                   following:

23                   “(5) FAILURE TO MAKE ADEQUATE YEARLY  
24                   PROGRESS AFTER IDENTIFICATION.—



1           “(A) IN GENERAL.—In the case of any  
2 school served under this part that fails to make  
3 adequate yearly progress, as set out in the  
4 State’s plan under section 1111(b)(2), not later  
5 than the first day of the second school year fol-  
6 lowing identification under paragraph (1), the  
7 local educational agency serving such school  
8 shall—

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

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

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

23           “(B) PUBLIC SCHOOL CHOICE.—In car-  
24 rying out subparagraph (A)(i) with respect to a  
25 school, the local educational agency serving

1 such school shall, not later than the first day of  
 2 the school year following such identification,  
 3 provide all students described in subparagraph  
 4 (A)(i) with the option to transfer to another  
 5 public school served by the local educational  
 6 agency, which may include a public charter  
 7 school, that has not been identified for school  
 8 improvement under this paragraph, unless such  
 9 an option is prohibited by State law.

10 “(C) TRANSFER.—Students who use the  
 11 option to transfer under subparagraph (A)(i),  
 12 paragraph (7)(C)(i) or (8)(A)(i), or subsection  
 13 (c)(10)(C)(vii), shall be enrolled in classes and  
 14 other activities in the public school to which the  
 15 students transfer in the same manner as all  
 16 other children at the public school.”;

17 (3) in paragraph (7)(C)(i), by striking “all”;

18 and

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

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

24 (1) by redesignating paragraph (12) as para-  
 25 graph (13);

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

3           “(12) RULE REGARDING PROVIDERS.—Notwith-  
4           standing paragraph (13)(B), a local educational  
5           agency identified under subsection (c) that is re-  
6           quired to arrange for the provision of supplemental  
7           educational services under this subsection may serve  
8           as a provider of such services in accordance with  
9           this subsection.”; and

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

16 **SEC. 5. CALCULATING ADEQUATE YEARLY PROGRESS FOR**  
17                   **STUDENTS WITH DISABILITIES AND STU-**  
18                   **DENTS WITH LIMITED ENGLISH PRO-**  
19                   **FICIENCY.**

20           Section 1116 of the Elementary and Secondary Edu-  
21           cation Act of 1965 (as amended by section 4) (20 U.S.C.  
22           6316) is further amended—

23           (1) by redesignating subsection (h) as sub-  
24           section (i); and

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

3           “(h) PARTIAL SATISFACTION OF AYP.—

4           “(1) SCHOOLS.—Notwithstanding this section  
5           or any other provision of law, in the case of a school  
6           that failed to make adequate yearly progress under  
7           section 1111(b)(2) solely because the school did not  
8           meet or exceed 1 or more annual measurable objec-  
9           tives set by the State under section 1111(b)(2)(G)  
10          for the subgroup of students with disabilities or stu-  
11          dents with limited English proficiency, or both such  
12          subgroups—

13                 “(A) if such school is identified for school  
14                 improvement under subsection (b)(1), such  
15                 school shall only be required to develop or revise  
16                 and implement a school plan under subsection  
17                 (b)(3) with respect to each such subgroup that  
18                 did not meet or exceed each annual measurable  
19                 objective; and

20                 “(B) if such school is identified for correc-  
21                 tive action or restructuring under paragraph  
22                 (7) or (8) of subsection (b), respectively, the  
23                 local educational agency serving such school  
24                 shall not be required to implement subsection  
25                 (b)(7)(C)(iv) or subsection (b)(8)(B), respec-

1           tively, if the local educational agency dem-  
2           onstrates to the State educational agency that  
3           the school would have made adequate yearly  
4           progress for each assessment and for each such  
5           subgroup for the most recent school year if the  
6           percentage of students who met or exceeded the  
7           proficient level of academic achievement on the  
8           State assessment was calculated by counting—

9                   “(i) the students who met or exceeded  
10                   such proficient level; and

11                   “(ii) the students who are making suf-  
12                   ficient progress to enable each such stu-  
13                   dent to meet or exceed the proficient level  
14                   on the assessment for the student’s cor-  
15                   responding grade level not later than the  
16                   student’s final year in secondary school, as  
17                   demonstrated through a growth model that  
18                   meets the requirements described in sub-  
19                   clauses (III) through (VI) of section  
20                   1111(b)(2)(L)(i).

21           “(2) LOCAL EDUCATIONAL AGENCIES.—Not-  
22           withstanding this section or any other provision of  
23           law, in the case of a local educational agency that  
24           failed to make adequately yearly progress under sub-  
25           section (c)(1) solely because the local educational

1 agency did not meet or exceed 1 or more annual  
2 measurable objectives set by the State under section  
3 1111(b)(2)(G) for the subgroup of students with dis-  
4 abilities or students with limited English proficiency,  
5 or both such subgroups—

6 “(A) if the local educational agency is  
7 identified for improvement under subsection  
8 (c)(3), the local educational agency shall only be  
9 required to develop or revise and implement a  
10 local educational agency plan under subsection  
11 (c)(7) with respect to each such subgroup that  
12 did not meet or exceed each annual measurable  
13 objective; and

14 “(B) if the local educational agency is  
15 identified for corrective action under subsection  
16 (c)(10), the State educational agency shall not  
17 be required to implement such subsection if the  
18 State educational agency demonstrates to the  
19 Secretary that the local educational agency  
20 would have made adequate yearly progress for  
21 each assessment and for each such subgroup if  
22 the percentage of students who met or exceeded  
23 the proficient level of academic achievement on  
24 the State assessment was calculated by count-  
25 ing—

1                   “(i) the students who meet or exceed  
2                   such proficient level; and

3                   “(ii) the students who are making suf-  
4                   ficient progress to enable each such stu-  
5                   dent to meet or exceed the proficient level  
6                   on the assessment for the student’s cor-  
7                   responding grade level not later than the  
8                   student’s final year in secondary school, as  
9                   demonstrated through a growth model that  
10                  meets the requirements described in sub-  
11                  clauses (III) through (VI) of section  
12                  1111(b)(2)(L)(i).”.

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

14                  Section 1111(b)(2) of the Elementary and Secondary  
15                  Education Act of 1965 (as amended by section 3) (20  
16                  U.S.C. 6311(b)(2)) is further amended by adding at the  
17                  end the following:

18                         “(M) NATIVE AMERICAN LANGUAGE PRO-  
19                         GRAMS.—Notwithstanding subparagraph (I) or  
20                         any other provision of law—

21                                 “(i) a school serving students who re-  
22                                 ceive not less than a half day of daily Na-  
23                                 tive language instruction in an American  
24                                 Indian language, an Alaska Native lan-  
25                                 guage, or Hawaiian in at least grades kin-

1           dergarten through grade 2 for a school  
2           year that does not have State assessments  
3           under paragraph (3) available in the Na-  
4           tive American language taught at the  
5           school as provided for in paragraph  
6           (3)(C)(ix)(III)—

7                   “(I) shall assess students in  
8                   grade 3 as required under paragraph  
9                   (3), and such students shall be in-  
10                  cluded in determining if the school  
11                  met the participation requirements for  
12                  all groups of students as required  
13                  under subparagraph (I)(ii) for such  
14                  school year; and

15                   “(II) shall not include such as-  
16                   sessment results for students in grade  
17                   3 in determining if the school met or  
18                   exceeded the annual measurable objec-  
19                   tives for all groups of students as re-  
20                   quired under subparagraph (I)(i) for  
21                   such school year; and

22                   “(ii) in the case of a school serving  
23                  students in any of grades 4 through 8 who  
24                  received such Native American language  
25                  instruction, such school shall count for



1 purposes of calculating the percentage of  
 2 students who met or exceeded the pro-  
 3 ficient level of academic achievement on  
 4 the State assessment—

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

7 “(II) the students who are mak-  
 8 ing sufficient progress to enable each  
 9 such student to meet or exceed such  
 10 proficient level on the assessment for  
 11 the student’s corresponding grade  
 12 level by the time the student enters  
 13 grade 7, as demonstrated through a  
 14 growth model that meets the require-  
 15 ments described in subclauses (III)  
 16 through (VI) of subparagraph  
 17 (L)(i).”.

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

19 Title II of the Elementary and Secondary Education  
 20 Act of 1965 (20 U.S.C. 6601 et seq.) is amended—

21 (1) in section 2131(1)(B) (20 U.S.C.  
 22 6631(1)(B)), by inserting “one or more parent  
 23 teacher associations or organizations,” after “an-  
 24 other local educational agency,”; and

25 (2) in section 2134 (20 U.S.C. 6634)—

1 (A) in subsection (a)(2)(C), by inserting  
2 “one or more parent teacher associations or or-  
3 ganizations,” after “such local educational  
4 agencies,”;

5 (B) by redesignating subsection (b) as sub-  
6 section (c); and

7 (C) by inserting after subsection (a) the  
8 following:

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

13 “(1) developing parental engagement strategies,  
14 with accountability goals, as a key part of the ongo-  
15 ing school improvement plan under section  
16 1116(b)(3)(A) for a school identified for improve-  
17 ment under section 1116(b)(1); or

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

21 “(A) include the research-based standards  
22 and methodologies of effective parent or family  
23 involvement programs; and

24 “(B) to the greatest extent possible, in-  
25 volve the members of the local and State parent

1 teacher association or organization in such  
 2 training activities and in the implementation of  
 3 school improvement plans under section  
 4 1116(b)(3)(A).”.

5 **SEC. 8. CONFORMING AMENDMENTS.**

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

9 (1) in subsection (b)—

10 (A) in paragraph (6)(F), by striking  
 11 “(1)(E),”;

12 (B) in paragraph (7)(C)(i), by striking  
 13 “paragraph (1) (E) and (F)” and inserting  
 14 “subparagraphs (B) and (C) of paragraph (5)”;

15 (C) in paragraph (8)(A)(i), by striking  
 16 “paragraph (1) (E) and (F)” and inserting  
 17 “subparagraphs (B) and (C) of paragraph (5)”;

18 (D) in paragraph (9)—

19 (i) by striking “paragraph (1)(E)”  
 20 and inserting “paragraph (5)(B)”;

21 (ii) by striking “(1)(A), (5),” and in-  
 22 serting “(5)(A),”;

23 (E) in paragraph (11), by striking  
 24 “(1)(E),”;

1           (2) in subsection (c)(10)(C)(vii), by striking  
2           “subsections (b)(1) (E) and (F)” and inserting  
3           “subparagraphs (B) and (C) of subsection (b)(5)”;  
4           (3) in subsection (e)(1), by inserting “(1),”  
5           after “described in paragraph”;  
6           (4) in subsection (f)(1)(A)(ii), by inserting  
7           “(A)” after “(b)(5)”; and  
8           (5) in subsection (g)(3)(A), by striking “sub-  
9           section (b)(1)(E)” and inserting “subsection  
10          (b)(5)(B)”.

○