

112TH CONGRESS
1ST SESSION

S. 1724

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

OCTOBER 17, 2011

Ms. MURKOWSKI 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, 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 2 core academic subjects
10 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, as certified by the State edu-
24 cational agency, been unable, despite reasonable
25 efforts to do so, to recruit, hire, or retain a suf-

1 ficient number of teachers who are highly quali-
2 fied in the core academic subjects for the school
3 year for which the determination is being made
4 under this paragraph.”.

5 **SEC. 3. GROWTH MODELS.**

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

9 “(L) GROWTH MODELS.—

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

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

20 “(aa) meet or exceed the
21 State’s proficient level of aca-
22 demic achievement on the State
23 assessments under paragraph (3)
24 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 grade level in which the
6 student is enrolled not later than
7 the student’s final year in sec-
8 ondary 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) the State has the capacity
4 to track and manage the data for the
5 growth model efficiently and effec-
6 tively.

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

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

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

1 assessment for the student’s cor-
 2 responding grade level not later than
 3 the student’s final year in secondary
 4 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).”; 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), not later
7 than the first day of the second school year fol-
8 lowing identification under paragraph (1), the
9 local educational agency serving such school
10 shall—

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

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

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

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

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

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

21 and

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

23 (b) SUPPLEMENTAL EDUCATIONAL SERVICES PRO-
 24 VIDERS.—Section 1116(e) of the Elementary and Sec-

1 onday Education Act of 1965 (20 U.S.C. 6316(e)) is
2 amended—

3 (1) by redesignating paragraph (12) as para-
4 graph (13);

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

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

14 (3) in paragraph (13)(A) (as redesignated by
15 paragraph (1)), by inserting “, who is in any of
16 grades 3 through 12 and who did not meet or exceed
17 the proficient level on the most recent State assess-
18 ment in mathematics or in reading or language
19 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 correc-
4 tive action or restructuring under paragraph
5 (7) or (8) of subsection (b), respectively, the
6 local educational agency serving such school
7 shall not be required to implement subsection
8 (b)(7)(C)(iv) or subsection (b)(8)(B), respec-
9 tively, if the local educational agency dem-
10 onstrates to the State educational agency that
11 the school would have made adequate yearly
12 progress for each assessment and for each such
13 subgroup for the most recent school year if the
14 percentage of students who met or exceeded the
15 proficient level of academic achievement on the
16 State assessment was calculated by counting—

17 “(i) the students who met or exceeded
18 such proficient level; and

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

1 meets the requirements described in sub-
2 clauses (III) through (VI) of section
3 1111(b)(2)(L)(i).

4 “(2) LOCAL EDUCATIONAL AGENCIES.—Not-
5 withstanding this section or any other provision of
6 law, in the case of a local educational agency that
7 failed to make adequately yearly progress under sub-
8 section (c)(1) solely because the local educational
9 agency did not meet or exceed 1 or more annual
10 measurable objectives set by the State under section
11 1111(b)(2)(G) for the subgroup of students with dis-
12 abilities or students with limited English proficiency,
13 or both such subgroups—

14 “(A) if the local educational agency is
15 identified for improvement under subsection
16 (c)(3), the local educational agency shall only be
17 required to develop or revise and implement a
18 local educational agency plan under subsection
19 (c)(7) with respect to each such subgroup that
20 did not meet or exceed each annual measurable
21 objective; and

22 “(B) if the local educational agency is
23 identified for corrective action under subsection
24 (c)(10), the State educational agency shall not
25 be required to implement such subsection if the

1 State educational agency demonstrates to the
2 Secretary that the local educational agency
3 would have made adequate yearly progress for
4 each assessment and for each such subgroup if
5 the percentage of students who met or exceeded
6 the proficient level of academic achievement on
7 the State assessment was calculated by count-
8 ing—

9 “(i) the students who meet or exceed
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 **SEC. 6. NATIVE AMERICAN LANGUAGE PROGRAMS.**

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

1 “(M) NATIVE AMERICAN LANGUAGE PRO-
2 GRAMS.—Notwithstanding subparagraph (I) or
3 any other provision of law—

4 “(i) a school serving students who re-
5 ceive not less than a half day of daily Na-
6 tive language instruction in an American
7 Indian language, an Alaska Native lan-
8 guage, or Hawaiian in at least grades kin-
9 dergarten through grade 2 for a school
10 year that does not have State assessments
11 under paragraph (3) available in the Na-
12 tive American language taught at the
13 school as provided for in paragraph
14 (3)(C)(ix)(III)—

15 “(I) shall assess students in
16 grade 3 as required under paragraph
17 (3), and such students shall be in-
18 cluded in determining if the school
19 met the participation requirements for
20 all groups of students as required
21 under subparagraph (I)(ii) for such
22 school year; and

23 “(II) shall not include such as-
24 sessment results for students in grade
25 3 in determining if the school met or

1 exceeded the annual measurable objec-
2 tives for all groups of students as re-
3 quired under subparagraph (I)(i) for
4 such school year; and

5 “(ii) in the case of a school serving
6 students in any of grades 4 through 8 who
7 received such Native American language
8 instruction, such school shall count for
9 purposes of calculating the percentage of
10 students who met or exceeded the pro-
11 ficient level of academic achievement on
12 the State assessment—

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

15 “(II) the students who are mak-
16 ing sufficient progress to enable each
17 such student to meet or exceed such
18 proficient level on the assessment for
19 the student’s corresponding grade
20 level by the time the student enters
21 grade 7, as demonstrated through a
22 growth model that meets the require-
23 ments described in subclauses (III)
24 through (VI) of subparagraph
25 (L)(i).”.

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

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

4 (1) in section 2131(1)(B) (20 U.S.C.
5 6631(1)(B)), by inserting “1 or more parent teacher
6 associations or organizations,” after “another local
7 educational agency,”; and

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

9 (A) in subsection (a)(2)(C), by inserting
10 “1 or more parent teacher associations or orga-
11 nizations,” after “such local educational agen-
12 cies,”;

13 (B) by redesignating subsection (b) as sub-
14 section (c); and

15 (C) by inserting after subsection (a) the
16 following:

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

21 “(1) developing parental engagement strategies,
22 with accountability goals, as a key part of the ongo-
23 ing school improvement plan under section
24 1116(b)(3)(A) for a school identified for improve-
25 ment under section 1116(b)(1); or

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

4 “(A) include the research-based standards
5 and methodologies of effective parent or family
6 involvement programs; and

7 “(B) to the greatest extent possible, in-
8 volve the members of the local and State parent
9 teacher association or organization in such
10 training activities and in the implementation of
11 school improvement plans under section
12 1116(b)(3)(A).”.

13 **SEC. 8. QUALIFICATIONS FOR AMERICAN INDIAN, ALASKA**
14 **NATIVE, OR NATIVE HAWAIIAN LANGUAGE,**
15 **CULTURE, OR HISTORY TEACHERS.**

16 Section 1119 of the Elementary and Secondary Edu-
17 cation Act of 1965 (20 U.S.C. 6319) is amended by add-
18 ing at the end the following:

19 “(m) **QUALIFICATIONS FOR AMERICAN INDIAN,**
20 **ALASKA NATIVE, OR NATIVE HAWAIIAN LANGUAGE, CUL-**
21 **TURE, OR HISTORY TEACHERS.—**

22 “(1) **LANGUAGE OR CULTURE.—**

23 “(A) **IN GENERAL.—**Notwithstanding any
24 other provision of law, the requirements of sub-
25 section (a) on local educational agencies and

1 States with respect to highly qualified teachers,
2 shall not apply to a teacher of American Indian,
3 Alaska Native, or Native Hawaiian language or
4 culture, whether the teacher is teaching on a
5 permanent, part-time, or occasional basis.

6 “(B) COMPETENCY.—A State may require
7 that a local tribe or tribal organization, as de-
8 fined in section 4 of the Indian Self-Determina-
9 tion and Education Assistance Act (25 U.S.C.
10 450b), verify the competency of a public school
11 teacher of American Indian, Alaska Native, or
12 Native Hawaiian language or culture to teach
13 such subject, to the chief administrative officer
14 of the local educational agency or the chief
15 State school officer.

16 “(2) HISTORY.—

17 “(A) IN GENERAL.—Notwithstanding any
18 other provision of law, the requirements of sub-
19 section (a) on local educational agencies and
20 States with respect to highly qualified teachers,
21 shall not apply to a teacher who is a Native
22 elder or other authority on American Indian,
23 Alaska Native, or Native Hawaiian history who
24 provides instruction in such subject, whether on
25 a periodic or 1-time basis.

1 “(B) COMPETENCY.—A State may require
 2 that a local tribe or tribal organization, as de-
 3 fined in section 4 of the Indian Self-Determina-
 4 tion and Education Assistance Act (25 U.S.C.
 5 450b), verify the competency of the instructor
 6 described in subparagraph (A) of American In-
 7 dian, Alaska Native, or Native Hawaiian his-
 8 tory to teach such subject, to the chief adminis-
 9 trative officer of the local educational agency or
 10 the chief State school officer.”.

11 **SEC. 9. CONFORMING AMENDMENTS.**

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

15 (1) in subsection (b)—

16 (A) in paragraph (6)(F), by striking
 17 “(1)(E),”;

18 (B) in paragraph (7)(C)(i), by striking
 19 “paragraph (1) (E) and (F)” and inserting
 20 “subparagraphs (B) and (C) of paragraph (5)”;

21 (C) in paragraph (8)(A)(i), by striking
 22 “paragraph (1) (E) and (F)” and inserting
 23 “subparagraphs (B) and (C) of paragraph (5)”;

24 (D) in paragraph (9)—

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

○