

106TH CONGRESS
1ST SESSION

S. 1266

To allow a State to combine certain funds to improve the academic achievement of all its students.

IN THE SENATE OF THE UNITED STATES

JUNE 22, 1999

Mr. GORTON (for himself, Ms. COLLINS, Mr. GREGG, Mr. COVERDELL, Mr. BROWNBACK, Mr. ASHCROFT, Mr. HELMS, and Mr. VOINOVICH) introduced the following bill; which was read twice and referred to the Committee on Health, Education, Labor, and Pensions

A BILL

To allow a State to combine certain funds to improve the academic achievement of all its students.

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 “Academic Achievement
5 for All Act (Straight A’s Act)”.

6 **SEC. 2. PURPOSE.**

7 The purpose of this Act is to create options for States
8 and communities—

1 (1) to improve the academic achievement of all
2 students, and to focus the resources of the Federal
3 Government upon such achievement;

4 (2) to give States and communities maximum
5 freedom in determining how to boost academic
6 achievement and implement education reforms;

7 (3) to hold States and communities accountable
8 for boosting the academic achievement of all stu-
9 dents, especially disadvantaged children; and

10 (4) to narrow achievement gaps between the
11 lowest and highest performing groups of students so
12 that no child is left behind.

13 **SEC. 3. PERFORMANCE AGREEMENT.**

14 (a) PROGRAM AUTHORIZED.—A State may, at its op-
15 tion, execute a performance agreement with the Secretary
16 under which the provisions of law described in section 4(a)
17 shall not apply to such State except as otherwise provided
18 in this Act.

19 (b) APPROVAL OF PERFORMANCE AGREEMENT.—A
20 performance agreement submitted to the Secretary under
21 this section shall be approved by the Secretary unless the
22 Secretary makes a written determination, within 60 days
23 after receiving the performance agreement, that the per-
24 formance agreement is in violation of the provisions of this
25 Act.

1 (c) TERMS OF PERFORMANCE AGREEMENT.—Each
2 performance agreement executed pursuant to this Act
3 shall include the following provisions:

4 (1) TERM.—A statement that the term of the
5 performance agreement shall be 5 years.

6 (2) APPLICATION OF PROGRAM REQUIRE-
7 MENTS.—A statement that no program requirements
8 of any program included by the State in the per-
9 formance agreement shall apply, except as otherwise
10 provided in this Act.

11 (3) LIST.—A list provided by the State of the
12 programs that it wishes to include in the perform-
13 ance agreement.

14 (4) USE OF FUNDS TO IMPROVE STUDENT
15 ACHIEVEMENT.—Include a 5-year plan describing
16 how the State intends to combine and use the funds
17 from programs included in the performance agree-
18 ment to advance the education priorities of the
19 State, improve student achievement, and narrow
20 achievement gaps between students.

21 (5) ACCOUNTABILITY SYSTEM REQUIRE-
22 MENTS.—If a State includes part A of title I of the
23 Elementary and Secondary Education Act of 1965
24 in its performance agreement, the State shall include
25 a certification that the State has the following:

1 (A)(i) developed and implemented the chal-
2 lenging State content standards, challenging
3 State student performance standards, and
4 aligned assessments described in section
5 1111(b) of the Elementary and Secondary Edu-
6 cation Act of 1965, and for which local edu-
7 cational agencies in the State are producing the
8 individual school performance profiles required
9 by section 1116(a)(3) of such Act; or

10 (ii) developed and implemented a system to
11 measure the degree of change from 1 school
12 year to the next in student performance on such
13 assessments;

14 (B) established a system under which as-
15 sessment information is disaggregated by race,
16 ethnicity, sex, English proficiency status, and
17 socioeconomic status for the State, each local
18 educational agency, and each school, except
19 that such disaggregation shall not be required
20 in cases in which the number of students in any
21 such group is insufficient to yield statistically
22 reliable information or would reveal the identity
23 of an individual student;

(C) established specific, measurable, numerical performance objectives for student achievement, including—

(i) a definition of performance considered to be satisfactory by the State on the assessment instruments described under subparagraphs (A) and (B) with performance objectives established for all students and for specific student groups, including groups for which data is disaggregated under subparagraph (B); and

(ii) the objective of improving the performance of all groups and narrowing gaps in performance between those groups; and

(D) developed and implemented a statewide system for holding its local educational agencies and schools accountable for student performance that includes—

(i) a procedure for identifying local educational agencies and schools in need of improvement;

(ii) assisting and building capacity in local educational agencies and schools identified as in need of improvement to improve teaching and learning; and

1 (iii) implementing corrective actions if
2 the assistance and capacity building under
3 clause (ii) is not effective.

4 (6) PERFORMANCE GOALS.—

5 (A) STUDENT ACHIEVEMENT DATA.—Each
6 State shall establish student performance goals
7 for the 5-year term of the performance agree-
8 ment that, at a minimum—

9 (i) establish a single high standard of
10 performance for all students;

11 (ii) take into account the progress of
12 students from every local educational agen-
13 cy and school in the State;

14 (iii) measure changes in the percent-
15 ages of students at selected grade levels
16 meeting specified proficiency levels of
17 achievement (established by the State) in
18 the final year of the performance agree-
19 ment, compared to such percentages in the
20 baseline year (as described in subpara-
21 graph (C));

22 (iv) set numerical goals to attain by
23 the end of the term of the performance
24 agreement to—

1 (I) improve the performance of
2 the groups specified in paragraph
3 (5)(B); and

4 (II) reduce achievement gaps be-
5 tween the highest and lowest per-
6 forming groups of students by raising
7 the achievement levels of the lowest
8 performing students in mathematics
9 and reading, at a minimum; and

10 (v) require all students in the State to
11 make substantial gains in achievement.

12 (B) ADDITIONAL INDICATORS OF PER-
13 FORMANCE.—A State may identify in the per-
14 formance agreement any additional indicators
15 of performance such as graduation, dropout, or
16 attendance rates.

17 (C) BASELINE PERFORMANCE DATA.—To
18 determine student achievement levels for the
19 baseline year, the State shall use its most re-
20 cent achievement data when executing the per-
21 formance agreement.

22 (D) CONSISTENCY OF PERFORMANCE
23 MEASURES.—A State shall maintain, at a min-
24 imum, the same challenging State student per-

1 formance standards and assessments through-
2 out the term of the performance agreement.

3 (7) FISCAL RESPONSIBILITIES.— An assurance
4 that the State will use fiscal control and fund ac-
5 counting procedures that will ensure proper dis-
6 bursement of, and accounting for, Federal funds
7 paid to the State under this Act.

8 (8) CIVIL RIGHTS.—An assurance that the
9 State will meet the requirements of applicable Fed-
10 eral civil rights laws.

11 (9) PRIVATE SCHOOL PARTICIPATION.—An as-
12 surance that the State will provide for the equitable
13 participation of students and professional staff in
14 private schools in accordance with section 14503 of
15 the Elementary and Secondary Education Act of
16 1965 (20 U.S.C. 8893).

17 (10) STATE FINANCIAL PARTICIPATION.—An
18 assurance that the State will not reduce the level of
19 spending of State funds for education during the
20 term of the performance agreement.

21 (11) ANNUAL REPORT.—An assurance that not
22 later than 1 year after the execution of the perform-
23 ance agreement, and annually thereafter, each State
24 shall disseminate widely to the general public, sub-
25 mit to the Secretary, distribute to print and broad-

1 cast media, and post on the Internet, a report that
2 includes—

3 (A) student performance data,
4 disaggregated as provided in paragraph
5 (5)(A)(ii); and

6 (B) a detailed description of how the State
7 has used Federal funds to improve student per-
8 formance and reduce achievement gaps to meet
9 the terms of the performance agreement.

10 (d) SPECIAL RULE.—If a State does not include part
11 A of title I of the Elementary and Secondary Education
12 Act of 1965 in its performance agreement, the State
13 shall—

14 (1) certify that it has developed a system to
15 measure the academic performance of all students;
16 and

17 (2) establish performance goals in accordance
18 with subsection (c)(6) for such other programs.

19 (e) AMENDMENT TO PERFORMANCE AGREEMENT.—
20 A State may submit an amendment to the performance
21 agreement to the Secretary under the following cir-
22 cumstances:

23 (1) REDUCE SCOPE OF PERFORMANCE AGREE-
24 MENT.—Not later than 1 year after the execution of
25 the performance agreement, a State may amend the

1 performance agreement through a request to with-
 2 draw a program from such agreement. If the Sec-
 3 retary approves the amendment, the requirements of
 4 existing law shall apply for any program withdrawn
 5 from the performance agreement.

6 (2) EXPAND SCOPE OF PERFORMANCE AGREE-
 7 MENT.—Not later than 1 year after the execution of
 8 the performance agreement, a State may amend its
 9 performance agreement to include additional pro-
 10 grams and performance indicators for which it will
 11 be held accountable.

12 **SEC. 4. ELIGIBLE PROGRAMS.**

13 (a) ELIGIBLE PROGRAMS.—The provisions of law re-
 14 ferred to in section 3(a) except as otherwise provided in
 15 subsection (b), are as follows:

16 (1) Part A of title I of the Elementary and Sec-
 17 ondary Education Act of 1965.

18 (2) Part B of title I of the Elementary and Sec-
 19 ondary Education Act of 1965.

20 (3) Part C of title I of the Elementary and Sec-
 21 ondary Education Act of 1965.

22 (4) Part D of title I of the Elementary and Sec-
 23 ondary Education Act of 1965.

24 (5) Section 1502, part E of title I of the Ele-
 25 mentary and Secondary Education Act of 1965.

1 (6) Part B of title II of the Elementary and
2 Secondary Education Act of 1965.

3 (7) Section 3132 of title III of the Elementary
4 and Secondary Education Act of 1965.

5 (8) Title IV of the Elementary and Secondary
6 Education Act of 1965.

7 (9) Title VI of the Elementary and Secondary
8 Education Act of 1965.

9 (10) Section 307 of the Department of Edu-
10 cation Appropriation Act of 1999.

11 (11) Comprehensive school reform programs as
12 authorized under section 1502 of the Elementary
13 and Secondary Education Act of 1965 and described
14 on pages 96-99 of the Joint Explanatory Statement
15 of the Committee of Conference included in House
16 Report 105–390 (Conference Report on the Depart-
17 ments of Labor, Health and Human Services, and
18 Education, and Related Agencies Appropriations
19 Act, 1998)’’.

20 (12) Part C of title VII of the Elementary and
21 Secondary Education Act of 1965.

22 (13) Title III of the Goals 2000: Educate
23 America Act.

1 (14) Sections 115 and 116, and parts B and C
2 of title I of the Carl D. Perkins Vocational Technical
3 Education Act.

4 (15) Subtitle B of title VII of the Stewart B.
5 McKinney Homeless Assistance Act.

6 (b) ALLOCATION AMOUNTS.—A State may choose to
7 combine funds from any or all of the programs described
8 in subsection (a) without regard to the program require-
9 ments of such provisions, except as otherwise provided in
10 this Act and except that allocation ratios provided under
11 the provisions referred to in subsection (a) shall remain
12 in effect unless otherwise provided.

13 (c) USES OF FUNDS.—Funds made available under
14 this Act to a State shall be used for any educational pur-
15 pose permitted by State law of the participating State.

16 **SEC. 5. WITHIN-STATE DISTRIBUTION OF FUNDS.**

17 (a) IN GENERAL.—The distribution of funds from
18 programs included in the performance agreement from a
19 State to a local educational agency within the State shall
20 be determined by the State legislature and the Governor
21 of the State. In a State in which the constitution or State
22 law designates another individual, entity, or agency to be
23 responsible for education, such other individual, entity, or
24 agency shall work in consultation with the Governor and

1 State legislature to determine the local distribution of
2 funds.

3 (b) LOCAL HOLD HARMLESS OF PART A TITLE 1
4 FUNDS.—

5 (1) IN GENERAL.—In the case of a State that
6 includes part A of title I in the performance agree-
7 ment, the agreement shall provide an assurance that
8 each local educational agency shall receive an
9 amount equal to or greater than the amount such
10 agency received under part A of title I of the Ele-
11 mentary and Secondary Education Act of 1965 in
12 the fiscal year preceding the fiscal year in which the
13 performance agreement is executed.

14 (2) PROPORTIONATE REDUCTION.—If the
15 amount made available to the State from the Sec-
16 retary for a fiscal year is insufficient to pay to each
17 local educational agency the amount made available
18 to such agency for the preceding fiscal year, the
19 State shall reduce the amount each local educational
20 agency receives by a uniform percentage.

21 **SEC. 6. LOCAL PARTICIPATION.**

22 (a) NONPARTICIPATING STATE.—

23 (1) IN GENERAL.—If a State chooses not to
24 submit a performance agreement under this Act, any
25 local educational agency in such State is eligible, at

1 its option, to submit to the Secretary a performance
2 agreement in accordance with this section.

3 (2) AGREEMENT.—The terms of a performance
4 agreement between an eligible local educational agency
5 and the Secretary shall specify the programs to be in-
6 cluded in the performance agreement, as agreed upon by
7 the State and the agency, from the list under section 4(a).

8 (b) STATE APPROVAL.—When submitting a perform-
9 ance agreement to the Secretary, an eligible local edu-
10 cational agency described in subsection (a) shall provide
11 written documentation from the State in which such agen-
12 cy is located that it has no objection to the agency's pro-
13 posal for a performance agreement.

14 (c) APPLICATION.—

15 (1) IN GENERAL.—Except as provided in this
16 section, and to the extent applicable, the require-
17 ments of this Act shall apply to an eligible local edu-
18 cational agency that submits a performance agree-
19 ment in the same manner as the requirements apply
20 to a State.

21 (2) EXCEPTIONS.—The following provisions
22 shall not apply to an eligible local educational agen-
23 cy:

24 (A) WITHIN STATE DISTRIBUTION FOR-
25 MULA NOT APPLICABLE.—The formula for the

1 allocation of funds under section 5 shall not
2 apply.

3 (B) STATE SET ASIDE SHALL NOT
4 APPLY.—The State set aside for administrative
5 funds in section 7 shall not apply.

6 **SEC. 7. SET-ASIDE FOR STATE ADMINISTRATIVE EXPENDI-**
7 **TURES.**

8 (a) IN GENERAL.—Except as otherwise provided
9 under subsection (b), a State that includes part A of title
10 I of the Elementary and Secondary Education Act of 1965
11 in the performance agreement may use not more than 1
12 percent of such total amount of funds allocated to such
13 State under the programs included in the performance
14 agreement for administrative purposes.

15 (b) EXCEPTION.—A State that does not include part
16 A of title I of the Elementary and Secondary Education
17 of 1965 its performance agreement may use not more than
18 3 percent of the total amount of funds allocated to such
19 State under the programs included in the performance
20 agreement for administrative purposes.

21 **SEC. 8. PERFORMANCE REVIEW.**

22 (a) FAILURE TO MEET TERMS.—If at the end of the
23 5-year term of the performance agreement a State has
24 failed to meet at least 80 percent of the performance goals
25 submitted in the performance agreement, the Secretary

1 shall terminate the performance agreement and the State
 2 shall be required to comply with the program requirement,
 3 in effect at the time of termination, of each program in-
 4 cluded in the performance agreement.

5 (b) PENALTY FOR FAILURE TO IMPROVE STUDENT
 6 PERFORMANCE.—If a State has made little or no progress
 7 toward achieving its performance goals by the end of the
 8 term of the agreement, the Secretary shall reduce funds
 9 for State administrative costs for each program included
 10 in the performance agreement by 50 percent for the 2-
 11 year period following the end of the term of the perform-
 12 ance agreement.

13 **SEC. 9. RENEWAL OF PERFORMANCE AGREEMENT.**

14 (a) NOTIFICATION.—A State that wishes to renew its
 15 performance agreement shall notify the Secretary of its
 16 renewal request not less than 6 months prior to the end
 17 of the term of the performance agreement.

18 (b) RENEWAL REQUIREMENTS.—A State that has
 19 met at least 80 percent of its performance goals submitted
 20 in the performance agreement at the end of the 5-year
 21 term may reapply to the Secretary to renew its perform-
 22 ance agreement for an additional 5-year period. Upon the
 23 completion of the 5-year term of the performance agree-
 24 ment or as soon thereafter as the State submits data re-
 25 quired under the agreement, the Secretary shall renew, for

1 an additional 5-year term, the performance agreement of
2 any State that has met at least 80 percent of its perform-
3 ance goals.

4 **SEC. 10. ACHIEVEMENT GAP REDUCTION REWARDS.**

5 (a) CLOSING THE GAP REWARD FUND.—

6 (1) IN GENERAL.—To reward States that make
7 significant progress in eliminating achievement gaps
8 by raising the achievement levels of the lowest per-
9 forming students, the Secretary shall annually set
10 aside sufficient funds from the Fund for the Im-
11 provement of Education under part A of title X of
12 the Elementary and Secondary Education Act of
13 1965 to grant a reward to States that meet the con-
14 ditions set forth in subsection (b) by the end of their
15 5-year performance agreement.

16 (2) REWARD AMOUNT.—The amount of the re-
17 ward referred to in paragraph (1) shall be not less
18 than 5 percent of funds allocated to the State during
19 the first year of the performance agreement for pro-
20 grams included in the agreement.

21 (b) CONDITIONS OF PERFORMANCE REWARD.—A
22 State is eligible to receive a reward under this section if
23 the State reduces by not less than 25 percent, over the
24 5-year term of the performance agreement, the difference
25 between the percentage of highest and lowest performing

1 groups of students that meet the State’s definition of
 2 “proficient” as referenced in section 1111(b)(1)(D)(i)(II)
 3 of the Elementary and Secondary Education Act of 1965,
 4 for the following:

5 (A) CONTENT AREAS.—The reduction in
 6 the achievement gap shall include not less than
 7 2 content areas, one of which shall be mathe-
 8 matics or reading.

9 (B) GRADES TESTED.—The reduction shall
 10 occur in at least 1 grade level.

11 **SEC. 11. STRAIGHT A’S PERFORMANCE REPORT.**

12 The Secretary shall make the annual State reports
 13 described in section 3 available to the House Committee
 14 on Education and the Workforce and the Senate Com-
 15 mittee on Health, Education, Labor and Pensions not
 16 later than 60 days after the Secretary receives the report.

17 **SEC. 12. CONSTRUCTION.**

18 To the extent that provisions of title XIV of the Ele-
 19 mentary and Secondary Education Act of 1965 are incon-
 20 sistent with this Act, this Act shall be construed as super-
 21 seding such provisions.

22 **SEC. 13. DEFINITIONS.**

23 For the purpose of this Act:

24 (1) LOCAL EDUCATIONAL AGENCY.—The term
 25 “local educational agency” has the same meaning

1 given such term in section 14101 of the Elementary
2 and Secondary Education Act of 1965 (20 U.S.C.
3 8801).

4 (2) SECRETARY.—The term “Secretary” means
5 the Secretary of Education.

6 (3) STATE.—The term “State” means each of
7 the 50 States, the District of Columbia, the Com-
8 monwealth of Puerto Rico, Guam, the United States
9 Virgin Islands, the Commonwealth of the Northern
10 Mariana Islands, and American Samoa.

11 **SEC. 14. EFFECT ON STATE LAW.**

12 Nothing in this Act shall be construed to supersede
13 or modify any provision of a State constitution or State
14 law that prohibits the expenditure of public funds in or
15 by sectarian institutions.

○