

106TH CONGRESS  
1ST SESSION

# S. 1676

To improve accountability for schools and local educational agencies under part A of title I of the Elementary and Secondary Education Act of 1965, and for other purposes.

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## IN THE SENATE OF THE UNITED STATES

SEPTEMBER 30, 1999

Mr. BINGAMAN 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 improve accountability for schools and local educational agencies under part A of title I of the Elementary and Secondary Education Act of 1965, 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 Improvement  
5       Accountability Act”.

1 **SEC. 2. IMPROVED ACCOUNTABILITY.**

2 (a) STATE PLANS.—Section 1111(b) of the Elemen-  
3 tary and Secondary Education Act of 1965 (20 U.S.C.  
4 6311(b)) is amended—

5 (1) in the subsection heading, by striking “AND  
6 ASSESSMENTS” and inserting “, ASSESSMENTS, AND  
7 ACCOUNTABILITY”;

8 (2) by amending paragraph (2) to read as fol-  
9 lows:

10 “(2) YEARLY PROGRESS.

11 “(A) IN GENERAL.—Each State plan shall  
12 specify what constitutes adequate yearly  
13 progress in student achievement and other out-  
14 comes the State will require, under the State’s  
15 accountability system described in paragraph  
16 (3), for the State and for each school and each  
17 local educational agency receiving funds under  
18 this part. The yearly progress specified in the  
19 State plan—

20 “(i) shall be based primarily on the  
21 standards described in paragraph (1) and  
22 the assessments described in paragraph  
23 (3), and shall include specific numerical  
24 yearly progress requirements in each sub-  
25 ject and grade included in the State as-  
26 sessments;

1 “(ii) shall include separate improve-  
2 ment requirements for economically dis-  
3 advantaged students, disabled students,  
4 and limited English proficient students by  
5 school and by subject area, to ensure that  
6 all such students meet the State’s pro-  
7 ficient or advanced levels of performance  
8 on all assessments required under this sec-  
9 tion within 10 years of the date of enact-  
10 ment of the Elementary and Secondary  
11 Education Amendments of 1999; and

12 “(iii) at the State’s discretion, may  
13 also include other academic outcome meas-  
14 ures such as promotion, completion of col-  
15 lege preparatory courses, and secondary  
16 school completion, if the inclusion of the  
17 discretionary outcome measures does not  
18 reduce the number of schools or local edu-  
19 cational agencies that would be subject to  
20 improvement or corrective action if the  
21 measures were not considered.

22 “(B) ANNUAL IMPROVEMENT.—Each State  
23 plan shall require yearly progress so that—

24 “(i) in the case of a State, not less  
25 than 90 percent of the local educational

1 agencies within the State meet the State's  
 2 criteria for adequate yearly progress; and

3 “(ii) in the case of a local educational  
 4 agency, not less than 90 percent of the  
 5 schools served by the local educational  
 6 agency meet the State's criteria for ade-  
 7 quate yearly progress.

8 “(C) LONG-TERM IMPROVEMENT.—Each  
 9 State plan shall require yearly progress that is  
 10 continuous and substantial to result in all stu-  
 11 dents meeting the State's proficient or ad-  
 12 vanced levels of performance within 10 years of  
 13 the date of enactment of the Elementary and  
 14 Secondary Education Amendments of 1999.”;

15 (3) in paragraph (3)—

16 (A) in subparagraph (A)—

17 (i) by striking “developed or adopted”  
 18 and inserting “in place”; and

19 (ii) by inserting “, not later than the  
 20 school year 2000–2001,” after “will be  
 21 used”;

22 (B) in subparagraph (F)—

23 (i) in clause (ii), by striking “and”  
 24 after the semicolon;

1 (ii) in clause (iii), by inserting “and”  
 2 after the semicolon; and

3 (iii) by adding at the end the fol-  
 4 lowing:

5 “(iv) the use of assessments written in  
 6 Spanish for the assessment of Spanish-  
 7 speaking students with limited English  
 8 proficiency, if Spanish-language assess-  
 9 ments are more likely than English lan-  
 10 guage assessments to yield accurate and  
 11 reliable information regarding what those  
 12 students know and can do in content areas  
 13 other than English;”

14 (C) by redesignating subparagraphs (G),  
 15 (H), and (I), as subparagraphs (H), (I), and  
 16 (J); and

17 (D) by inserting after subclause (F) the  
 18 following:

19 “(G) require the participation of—

20 “(i) not less than 90 percent of the  
 21 economically disadvantaged students in the  
 22 grade level in which the assessment is  
 23 given;

1 “(ii) not less than 90 percent of the  
 2 migrant students in the grade level in  
 3 which the assessment is given; and

4 “(iii) not less than 90 percent of the  
 5 students with disabilities in the grade level  
 6 in which the assessment is given.”;

7 (4) by striking paragraph (7);

8 (5) by redesignating paragraphs (4), (5), (6)  
 9 and (8) as paragraphs (8), (9), (10) and (11), re-  
 10 spectively;

11 (6) by inserting after paragraph (3) the fol-  
 12 lowing:

13 “(4) ACCOUNTABILITY.—Each State plan shall  
 14 demonstrate that the State has developed and is im-  
 15 plementing a statewide accountability system that is  
 16 or will be effective in substantially increasing the  
 17 numbers and percentages of all students, including  
 18 economically disadvantaged students, disabled stu-  
 19 dents, and students with limited proficiency in  
 20 English, who meet the State’s proficient and ad-  
 21 vanced levels of performance within 10 years of the  
 22 date of enactment of the Elementary and Secondary  
 23 Education Amendments of 1999. Each State ac-  
 24 countability system shall—

1           “(A) be based on the standards and as-  
2           sessments developed or adopted under para-  
3           graphs (1) and (3), respectively, and take into  
4           account the performance of all students eligible  
5           for assistance under this part;

6           “(B) be the same accountability system the  
7           State uses for all schools or all local educational  
8           agencies in the State, if the State has an ac-  
9           countability system for all schools or all local  
10          educational agencies in the State;

11          “(C) require substantial and continuous  
12          yearly progress in the achievement of all stu-  
13          dents, including economically disadvantaged  
14          students, disabled students, and students with  
15          limited English proficiency, as described in  
16          paragraph (2), in all schools and local edu-  
17          cational agencies receiving funds under this  
18          part;

19          “(D) provide for the identification of dis-  
20          tinguished schools and local educational agen-  
21          cies receiving funds under this part, and pro-  
22          vide for the dissemination of practices and  
23          strategies that enabled the schools and local  
24          educational agencies to make outstanding  
25          progress;

“(E) provide for the identification of schools and local educational agencies in need of improvement, as required by section 1116, and provide for the provision of technical assistance, professional development, and other capacity-building as needed, including those measures specified in sections 1116(c)(5) and 1117, to ensure that schools and local educational agencies so identified have the resources, skills, and knowledge needed to carry out their obligations under sections 1114 and 1115 and to meet the requirements for adequate yearly progress described in paragraph (2);

“(F) specify the corrective action or actions the State will take, as required by section 1116(d)(6), with respect to each school and local educational agency that is identified as in need of improvement for 2 or more years; and

“(G) provide for prompt reporting to parents of students enrolled in schools that are identified for school improvement or are subject to corrective action.

“(5) PUBLIC NOTICE AND COMMENT.—Each State plan shall contain assurances that—



“(A) in developing the State plan for annual yearly progress, the State diligently sought public comment from a range of institutions and individuals in the State with an interest in improved student achievement; and

“(B) the State will continue to make a substantial effort to ensure that information regarding this part is widely known and understood by citizens, parents, teachers, and school administrators throughout the State, including, at a minimum, publication of the information and explanatory text in each major newspaper in the State and on the State educational agency’s web site.

“(6) ANNUAL REVIEW.—The Secretary shall review the information submitted by each State under paragraph (2) relating to the adequate yearly progress of States, schools, and local educational agencies for purposes of determining State and local compliance with section 1116.

“(7) PENALTIES.—

“(A) INELIGIBILITY FOR RESERVATIONS.—  
If a State fails to meet the deadlines described in paragraphs (1)(C) and (6) for demonstrating

1 that the State has in place high-quality State  
2 content and student performance standards,  
3 aligned assessments, and a system for meas-  
4 uring and monitoring adequate yearly progress  
5 for a fiscal year, then the State shall be ineli-  
6 gible to reserve any funds under section  
7 1003(a)(1) for the succeeding fiscal year that  
8 exceed the amount so reserved for such pur-  
9 poses by the State for the fiscal year preceding  
10 the fiscal year for which the determination is  
11 made.

12 “(B) WITHHOLDING ADMINISTRATIVE  
13 FUNDS.—

14 “(i) IN GENERAL.—Except as de-  
15 scribed in clause (ii), if a State fails to  
16 meet the deadlines described in paragraphs  
17 (1)(C) and (6) for a fiscal year, then the  
18 Secretary may withhold funds made avail-  
19 able under this part for administrative ex-  
20 penses for the succeeding fiscal year in  
21 such amount as the Secretary determines  
22 appropriate.

23 “(ii) SPECIAL RULE.—For each suc-  
24 ceeding fiscal year for which a State fails  
25 to meet the deadlines described in para-

1                   graphs (1) and (6) after the fiscal year de-  
 2                   scribed in clause (i), the Secretary shall  
 3                   withhold not less than  $\frac{1}{5}$  of the funds  
 4                   made available under this part for adminis-  
 5                   trative expenses for the fiscal year.”; and  
 6                   (7) by amending paragraph (10) (as redesign-  
 7                   nated by paragraph (5)) to read as follows:

8                   “(10) ASSESSMENT DEVELOPMENT.—A State  
 9                   that has not developed challenging State assess-  
 10                  ments that are aligned to challenging State content  
 11                  standards, in at least mathematics and reading or  
 12                  language arts by school year 2000–2001, may apply  
 13                  to the Secretary for a one-time, 1-year extension to  
 14                  complete development and alignment of the assess-  
 15                  ments.”.

16                  (b) ASSESSMENT AND IMPROVEMENT.—Section 1116  
 17                  of the Elementary and Secondary Education Act of 1965  
 18                  (20 U.S.C. 6317) is amended—

19                  (1) by amending subsection (a) to read as fol-  
 20                  lows:

21                  “(a) STATE AND LOCAL REVIEW.—

22                  “(1) IN GENERAL.—Each State and local edu-  
 23                  cational agency receiving funds under this part shall  
 24                  use the State assessments and other academic meas-  
 25                  ures or indicators, if any, described in the State plan

1 to review annually the progress of each school served  
2 under this part to determine whether the school is  
3 meeting or making the adequate yearly progress  
4 specified under section 1111(b)(2) toward enabling  
5 all students to meet the State's student performance  
6 standards described in the State plan.

7 “(2) PUBLICATION AND DISSEMINATION; RE-  
8 SULTS.—Each local educational agency receiving  
9 funding under this part shall—

10 “(A) publicize and disseminate to teachers  
11 and other staff, parents, students, and the com-  
12 munity, the results of the annual review under  
13 paragraph (1) of all schools served under this  
14 part in individual school performance profiles  
15 that include statistically sound results  
16 disaggregated in the same manner as results  
17 are disaggregated under section 1111(b)(3)(I);  
18 and

19 “(B) provide the results of the local annual  
20 review to schools so that the schools can contin-  
21 ually refine the program of instruction to help  
22 all children served under this part in those  
23 schools meet the State's student performance  
24 standards.

1           “(3) SPECIAL RULE.—A local educational agen-  
 2           cy may use any additional local measures or indica-  
 3           tors described in the State plan to review annually  
 4           the yearly progress of each school served under this  
 5           part if the use of such additional measures does not  
 6           result in fewer schools being identified as needing  
 7           improvement than would otherwise be identified  
 8           without using such additional measures.”;

9           (2) in subsection (c)—

10           (A) in paragraph (2)—

11           (i) by redesignating subparagraphs  
 12           (B) and (C) as subparagraphs (C) and  
 13           (D), respectively;

14           (ii) in subparagraph (A)—

15           (I) by redesignating clause (ii) as  
 16           clause (iii); and

17           (II) by striking clause (i) and in-  
 18           serting the following:

19           “(i) in understandable language and  
 20           form, promptly notify the parents of each  
 21           student enrolled in the school that the  
 22           school was designated by the State or local  
 23           educational agency as needing improve-  
 24           ment and provide with the notification—

1 “(I) the reasons for such des-  
2 ignation; and

3 “(II) information about opportu-  
4 nities for parents to participate in the  
5 school improvement process;

6 “(ii) with parents, the local edu-  
7 cational agency, and the school support  
8 team, develop or revise a school improve-  
9 ment plan that meets the requirements of  
10 subparagraph (B) and describe in the plan  
11 the specific improvements that the school  
12 will undertake that have the greatest likeli-  
13 hood of improving the performance of par-  
14 ticipating children in meeting the State’s  
15 student performance standards; and”; and  
16 (iii) by inserting before subparagraph  
17 (C) (as redesignated by clause (i)) the fol-  
18 lowing:

19 “(B) Any plan prepared pursuant to sub-  
20 paragraph (A) shall—

21 “(i) describe the achievement prob-  
22 lems to be solved;

23 “(ii) identify strategies or models to  
24 be put into place to address the achieve-  
25 ment problems;

1                   “(iii) explain how such a strategy or  
2                   model works to produce gains in student  
3                   achievement;

4                   “(iv) summarize evaluation-based evi-  
5                   dence of improvements in student achieve-  
6                   ment after implementation of such strate-  
7                   gies or models in other schools; and

8                   “(v) describe how the local edu-  
9                   cational agency will hold the school ac-  
10                  countable for, and assist the school in,  
11                  meeting the school’s obligations to provide  
12                  enriched and accelerated curricula, effec-  
13                  tive instructional methods, highly qualified  
14                  professional development, and timely and  
15                  effective individual assistance, in partner-  
16                  ship with parents.”; and

17                  (B) by amending paragraph (5) to read as  
18                  follows:

19                  “(5) CORRECTIVE ACTION.—(A) A local edu-  
20                  cational agency shall take corrective action during  
21                  the third academic year after the academic year in  
22                  which a school is identified under paragraph (1) if  
23                  the school fails to make adequate yearly progress  
24                  under section 1111(b)(2).

1           “(B) The corrective action described in sub-  
2 paragraph (A) may include—

3           “(i) deferring, reducing, or withholding  
4 funds;

5           “(ii) revoking authority for a school to op-  
6 erate a schoolwide program;

7           “(iii) decreasing decisionmaking authority  
8 at the school level;

9           “(iv) restructuring the school, such as  
10 by—

11           “(I) creating schools within schools or  
12 other small learning environments; or

13           “(II) making alternative governance  
14 arrangements (such as the creation of a  
15 public charter school);

16           “(v) reconstituting the school staff;

17           “(vi) eliminating the use of  
18 noncredentialed staff;

19           “(vii) authorizing students to transfer, in-  
20 cluding providing transportation costs, to high-  
21 er performing public schools that are not identi-  
22 fied for school improvement and are served by  
23 the local educational agency; and

24           “(viii) closing the school.



1           “(C) A local educational agency shall take cor-  
 2       rective action with respect to a school identified for  
 3       corrective action under subparagraph (A). The cor-  
 4       rective action shall—

5           “(i) change the school’s administration or  
 6       governance by the means specified in subpara-  
 7       graph (B) (iii), (v), or (vi); and

8           “(ii) provide all students enrolled in the  
 9       school with the option to transfer pursuant to  
 10      the requirements of subparagraph (B)(vii).

11          “(D) A school that is no longer operating a  
 12      schoolwide program due to a corrective action may  
 13      not resume operation of the schoolwide program  
 14      until the local educational agency determines that  
 15      the school has adequately reformed its schoolwide  
 16      program plan to enable the school to make adequate  
 17      progress toward meeting the State’s challenging stu-  
 18      dent performance standards.”; and

19          (3) in subsection (d)—

20              (A) in paragraph (4)—

21                  (i) by redesignating subparagraph (B)  
 22                  as subparagraph (C); and

23                  (ii) by striking subparagraph (A) and  
 24                  inserting the following:

1           “(A) Each local educational agency identi-  
2           fied under paragraph (3) shall, in consultation  
3           with schools, parents, and educational experts,  
4           revise its local educational agency plan under  
5           section 1112 in ways that meet the require-  
6           ments of subparagraph (B) and describe in the  
7           revised plan the specific improvements that the  
8           local educational agency will undertake that  
9           have the greatest likelihood of improving the  
10          performance of participating children in meet-  
11          ing the State’s student performance standards.

12          “(B) Any revised plan prepared pursuant  
13          to subparagraph (A) shall—

14               “(i) describe the achievement prob-  
15               lems to be solved;

16               “(ii) identify strategies or models to  
17               be put into place to address the achieve-  
18               ment problems;

19               “(iii) explain how such a strategy or  
20               model works to produce gains in student  
21               achievement;

22               “(iv) summarize evaluation-based evi-  
23               dence of improvements in student achieve-  
24               ment after implementation of such strate-  
25               gies or models in other schools; and

“(v) describe how the local educational agency will hold the schools accountable for, and assist schools in, meeting the schools’ obligations to provide enriched and accelerated curricula, effective instructional methods, highly qualified professional development, and timely and effective individual assistance, in partnership with parents.”; and

(B) in paragraph (6)(B)—

(i) in clause (i)—

(I) by amending subclause (I) to read as follows:

“(I) deferring, reducing or withholding funds;”;

(II) by amending subclause (VI) to read as follows:

“(VI) authorizing students to transfer, including providing transportation costs, to higher performing public schools that are not identified for school improvement;”;

(III) in subclause (VII), by striking the period and inserting ”; and”; and

1 (IV) by adding at the end the fol-  
2 lowing:

3 “(VIII) eliminating the use of  
4 noncredentialed staff.”;

5 (ii) by amending clause (ii) to read as  
6 follows:

7 “(ii) The State educational agency  
8 shall take action with respect to a local  
9 educational agency identified for correction  
10 action under subparagraph (A). The cor-  
11 rective action shall—

12 “(I) change the governance of the  
13 local educational agency by the means  
14 specified in clause (i) (II), (III), (IV)  
15 or (V); and

16 “(II) provide all students enrolled  
17 in the schools served by the local edu-  
18 cational agency with the ability to  
19 transfer pursuant to the requirements  
20 of clause (i)(VI).”; and

21 (iii) by striking subparagraph (C).

22 (c) CONFORMING AMENDMENTS.—The Elementary  
23 and Secondary Education Act of 1965 (20 U.S.C. 6301  
24 et seq.) is amended—

(1) in section 1111(b)(1)(c) (20 U.S.C. 6311(b)(1)(c)), by striking “paragraph (6)” and inserting “paragraph (10)”.

(2) in section 1116 (20 U.S.C. 6317)—

(A) in subsection (c)(1)—

(i) in subparagraph (B)—

(I) in subparagraph (A), by inserting “or” after the semicolon;

(II) in the matter preceding clause (i), by striking “as defined in the State’s plan under section 1111(b)(2)(A)(i)” and inserting “as specified in the State’s plan under section 1111(b)(2)”; and

(III) in clause (ii), by striking “; or” and inserting a period; and

(ii) by striking subparagraph (C); and

(B) in subsection (d)—

(i) in paragraph (1)(A), by striking “as defined in section 1111(b)(2)(A)(ii)” and inserting “as specified in section 1111(b)(2)”; and

(ii) in paragraph (2), by striking “definition of adequate progress as defined in section 1111(b)(2)(A)(ii)” and inserting

1 “determination of adequate progress as  
2 specified in section 1111(b)(2)”; and

3 (iii) in paragraph (3)—

4 (I) by striking “agency that—”  
5 and all that follows through “two con-  
6 secutive” and inserting “agency that  
7 for two consecutive”;

8 (II) by striking “; or” and insert-  
9 ing a period; and

10 (III) by striking clause (ii).

11 (3) in section 1117(c)(2)(A), by striking “defi-  
12 nition of adequate progress as defined in section  
13 1111(b)(2)(A)(i)” and inserting “determination of  
14 adequate progress specified in section 1111(b)(2)”;  
15 and

16 (4) in section 1118(c)(4)(B), by striking  
17 “1116(a)(3)” and inserting “1116(a)(2)(A)”.

18 (d) REGULATIONS.—The Secretary shall promulgate  
19 regulations, not later than 6 months after the date of en-  
20 actment of the Elementary and Secondary Education  
21 Amendments of 1999, implementing the amendments  
22 made by this section.

23 (e) EFFECTIVE DATE.—The amendments made by  
24 this Act shall take effect for the school year 2000–2001.

○