

109TH CONGRESS
1ST SESSION

H. R. 2569

To amend the accountability provisions of the Elementary and Secondary Education Act of 1965, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

MAY 24, 2005

Mr. ANDREWS introduced the following bill; which was referred to the Committee on Education and the Workforce

A BILL

To amend the accountability provisions 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 “No Child Left Behind
5 Improvement Act of 2005”.

6 **SEC. 2. AMENDMENTS TO ESEA.**

7 (a) HIGHLY QUALIFIED TEACHERS.—

8 (1) MIDDLE SCHOOL TEACHERS.—Paragraph

9 (23) of section 9101 of the Elementary and Sec-

1 ondary Education Act of 1965 (20 U.S.C. 7801) is
2 amended—

3 (A) in subclause (II) of subparagraph
4 (B)(ii), by inserting “in the case of a secondary
5 school teacher,” before “successful completion”;

6 (B) at the end of subparagraph (B), by
7 adding the following:

8 “(III) in the case of a middle
9 school teacher, successful completion,
10 in at least one of the academic sub-
11 jects in which the teacher teaches, of
12 an academic major, a graduate de-
13 gree, coursework equivalent to an un-
14 dergraduate academic major, or ad-
15 vanced certification or credentialing
16 and, in every other academic subject
17 in which the teacher teaches, of at
18 least an academic minor;”.

19 (C) in subparagraph (C), by striking the
20 period at the end and inserting a semicolon;
21 and

22 (D) by adding at the end the following:

23 “(D) when used with respect to a middle
24 school teacher who was not new to the profes-
25 sion as of the date of the enactment of the No

1 Child Left Behind Act of 2001, means that the
 2 teacher holds at least a bachelor’s degree and—

3 “(i) has met the applicable standard
 4 in subparagraph (B)(ii) or (C)(ii); or

5 “(ii) satisfies such criteria as the Sec-
 6 retary may establish for demonstrating an
 7 extensive history of teaching experience
 8 and a positive teaching record (including
 9 positive peer reviews and any postgraduate
 10 credits or training); and”.

11 (2) SPECIAL EDUCATION AND CORRECTIONS
 12 EDUCATION TEACHERS.—Paragraph (23) of section
 13 9101 of the Elementary and Secondary Education
 14 Act of 1965 (20 U.S.C. 7801), as amended by para-
 15 graph (1), is amended—

16 (A) in clause (ii) of subparagraph (B), by
 17 inserting “subject to subparagraph (E),” before
 18 “a middle or secondary school teacher”; and

19 (B) by adding at the end the following:

20 “(E) in lieu of demonstrating for purposes
 21 of subparagraph (B)(ii) a high level of com-
 22 petency in each of the academic subjects in
 23 which a middle or secondary school teacher
 24 teaches—

1 “(i) a middle or secondary school
2 teacher primarily serving children with dis-
3 abilities or a middle or secondary school
4 teacher primarily serving children or youth
5 described in section 1411 may, for the first
6 3 school years after the date of the enact-
7 ment of the No Child Left Behind Im-
8 provement Act of 2005 or the first 3
9 school years of such teacher’s teaching ca-
10 reer, demonstrate such a high level of com-
11 petency by satisfying the requirements of
12 subclause (I), (II), or (III) of subpara-
13 graph (B)(ii) only with respect to special
14 education or corrections education, respec-
15 tively; and

16 “(ii) notwithstanding the limitation of
17 3 school years in clause (i), a middle or
18 secondary school teacher who teaches 3 or
19 more subjects and exclusively serves chil-
20 dren with disabilities or a middle or sec-
21 ondary school teacher who teaches 3 or
22 more subjects and exclusively serves chil-
23 dren or youth described in section 1411
24 may, for as long as the teacher continues
25 to serve in such capacity, demonstrate such

a high level of competency by satisfying the requirements of subclause (I), (II), or (III) of subparagraph (B)(ii) only with respect to special education or corrections education, respectively.”.

(b) ADEQUATE YEARLY PROGRESS.—

(1) STUDENT WITH DISABILITIES.—

(A) MODIFICATION OF STANDARDS, ASSESSMENTS.—Subsection (b) of section 1111 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6311) is amended by adding at the end the following:

“(11) CHILDREN WITH DISABILITIES.—

“(A) MODIFICATION OF STANDARDS, ASSESSMENTS.—With respect to a child with a disability, a State plan shall provide for alternate challenging academic content standards and challenging student academic achievement standards under paragraph (1)(A), alternate high standards of academic achievement described in paragraph (2)(C)(i), and alternate yearly student academic assessments described in paragraph (3), to align such standards and assessments with the child’s individualized education program.

1 “(B) DETERMINATION OF APPLICABLE AS-
2 SESSMENT.—In carrying out this paragraph,
3 consistent with the Individuals with Disabilities
4 Education Act, the State—

5 “(i) shall allow the individualized edu-
6 cation program team of each child with a
7 disability in the State to determine wheth-
8 er an alternate academic assessment
9 should be administered to the child in lieu
10 of the academic assessment otherwise re-
11 quired by paragraph (3);

12 “(ii) shall require the individualized
13 education program team of the child to se-
14 lect any such alternate academic assess-
15 ment from among the alternate assess-
16 ments included in the State’s plan pursu-
17 ant to subparagraph (C); and

18 “(iii) shall require that any alternate
19 academic assessment administered to a
20 child under this paragraph be more ad-
21 vanced than any such assessment adminis-
22 tered to the child in a previous school year
23 under this paragraph.

24 “(C) ALTERNATIVE ASSESSMENTS.—Each
25 State plan shall include alternate academic as-

1 sessments that may be administered to children
2 with disabilities for purposes of complying with
3 this paragraph.

4 “(D) DEFINITION.—In this paragraph, the
5 term ‘individualized education program’ has the
6 meaning given to that term in section 602 of
7 the Individuals with Disabilities Education
8 Act.”.

9 (B) RULE OF CONSTRUCTION.—The
10 amendment made by this paragraph shall be
11 construed as superseding the 1.0 percent cap at
12 section 200.13(c)(1) of title 34, Code of Federal
13 Regulations (imposing a cap on the number of
14 children with disabilities whose proficient and
15 advanced scores, although based on alternate
16 achievement standards, may be included in cal-
17 culating adequate yearly progress).

18 (2) STUDENTS WITH LIMITED ENGLISH PRO-
19 FICIENCY.—Section 1111(b) of the Elementary and
20 Secondary Education Act of 1965 (20 U.S.C.
21 6311(b)) is amended—

22 (A) in paragraph (2)(C)—

23 (i) in clause (vi), by striking “and” at
24 the end;

(ii) in clause (vii), by striking the period at the end and inserting a semicolon; and

(iii) by adding at the end the following:

“(viii) notwithstanding the participation of students with limited English proficiency in the yearly student academic assessments in mathematics, reading or language arts, and science described in paragraph (3), measures the achievement of the group of such students based exclusively on the progress of such students in acquiring English proficiency, as determined by measuring the progress of such students on a longitudinal basis, taking into consideration the performance of such students on the academic assessments of English language proficiency required under paragraph (7); and”;

(B) by amending paragraph (6) to read as follows:

“(6) STUDENTS WITH LIMITED ENGLISH PROFICIENCY.—In addition to administering to students with limited English proficiency the yearly student

1 academic assessments in mathematics, reading or
 2 language arts, and science described in paragraph
 3 (3), each State plan shall demonstrate that the State
 4 educational agency, in consultation with local edu-
 5 cational agencies, has implemented high-quality,
 6 yearly assessments, including at a minimum the aca-
 7 demic assessments of English language proficiency
 8 required under paragraph (7), for measuring on a
 9 longitudinal basis the progress of each individual
 10 student with limited English proficiency served by
 11 the State educational agency.”.

12 (3) LONGITUDINAL MEASUREMENT OF AYP.—
 13 Subsection (b) of section 1111 of the Elementary
 14 and Secondary Education Act of 1965 (20 U.S.C.
 15 6311) is amended—

16 (A) at the end of paragraph (2)(C), as
 17 amended by paragraph (2), by adding the fol-
 18 lowing:

19 “(ix) at the State’s discretion, meas-
 20 ures the progress of public elementary
 21 schools, secondary schools, and local edu-
 22 cational agencies by tracking the progress
 23 of individual students or cohorts of stu-
 24 dents on a longitudinal basis in lieu of, or
 25 in addition to, comparing the proficiency of

1 a class of students with the proficiency of
2 earlier classes of students.”; and

3 (B) at the end of subsection (b), as amend-
4 ed by paragraph (1), by adding the following:

5 “(12) LONGITUDINAL PROGRESS OF TRANSFER-
6 RING STUDENTS.—

7 “(A) IN GENERAL.—If a State chooses to
8 measure adequate yearly progress on a longitu-
9 dinal basis pursuant to paragraph (2)(C)(ix),
10 the State may exclude from such measurement
11 of progress at a school any student who trans-
12 ferred to that school at the beginning of or dur-
13 ing the school year involved.

14 “(B) STUDENTS WHO FREQUENTLY
15 TRANSFER.—The Secretary by regulation—

16 “(i) shall ensure that a State choosing
17 to measure adequate yearly progress on a
18 longitudinal basis has in effect a system
19 for measuring the progress of students who
20 frequently transfer among schools; and

21 “(ii) in the case of a student who at-
22 tends 3 or more schools in any 5-year pe-
23 riod, shall provide for the sharing of school
24 records.”.

1 (4) PERCENTAGE OF STUDENTS REQUIRED TO
2 TAKE ASSESSMENTS.—Clause (ii) of section
3 1111(b)(2)(I) of the Elementary and Secondary
4 Education Act of 1965 (20 U.S.C. 6311(b)(2)(I)) is
5 amended by inserting “, and except that a school
6 may satisfy the 95 percent requirement described in
7 this clause based on a 3-year average of the applica-
8 ble percentage” after “personally identifiable infor-
9 mation about an individual student”.

10 (5) CONFORMING AMENDMENTS.—Subsection
11 (b) of section 1111 of the Elementary and Sec-
12 ondary Education Act of 1965 (20 U.S.C. 6311) is
13 amended—

14 (A) in subparagraph (B) of paragraph (1),
15 by striking “The academic standards” and in-
16 serting “Subject to paragraphs (2)(C)(viii), (6),
17 and (11), the academic standards”; and

18 (B) in clause (i) of paragraph (3)(C), by
19 inserting “subject to paragraphs (6) and (11),”
20 before “be the same academic assessments”.

21 (c) EFFECTIVE DATE.—The amendments made by
22 this Act shall apply only with respect to the first school
23 year beginning after the date of the enactment of this Act
24 and subsequent school years.

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