

110TH CONGRESS
1ST SESSION

S. 2312

To amend title VI of the Elementary and Secondary Education Act of 1965
to provide for State student achievement contracts.

IN THE SENATE OF THE UNITED STATES

NOVEMBER 6, 2007

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

A BILL

To amend title VI of the Elementary and Secondary Education Act of 1965 to provide for State student achievement contracts.

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. STATE STUDENT ACHIEVEMENT CONTRACTS.**

4 (a) AMENDMENT.—Title VI of the Elementary and
5 Secondary Education Act of 1965 (20 U.S.C. 7301 et
6 seq.) is amended—

7 (1) by redesignating part C (20 U.S.C. 7371 et
8 seq.) as part D;

1 (2) by redesignating sections 6301 and 6302
 2 (20 U.S.C. 7371, 7372) as sections 6401 and 6402,
 3 respectively; and

4 (3) by inserting after part B (20 U.S.C. 7341
 5 et seq.) the following:

6 **“PART C—STATE STUDENT ACHIEVEMENT**

7 **CONTRACTS**

8 **“SEC. 6301. SHORT TITLE.**

9 “‘This part may be cited as the ‘State Student
 10 Achievement Contracts Act’.

11 **“SEC. 6302. PURPOSE.**

12 “‘The purpose of this part is to allow not more than
 13 12 State educational agencies, that establish and imple-
 14 ment challenging and rigorous academic standards, aca-
 15 demic assessments, and accountability systems, greater
 16 flexibility to—

17 “(1) improve their academic achievement stand-
 18 ards, academic assessments, and State account-
 19 ability systems;

20 “(2) increase the academic achievement of all
 21 students;

22 “(3) narrow achievement gaps between the
 23 lowest- and highest-achieving groups of students;
 24 and

1 “(4) eliminate barriers to implementing effective education reforms.

3 **“SEC. 6303. STATE STUDENT ACHIEVEMENT CONTRACTS.**

4 “(a) **AUTHORITY.**—In accordance with this part, the
 5 Secretary shall establish and implement procedures that
 6 permit the Secretary to enter into a State student achievement
 7 contract, on a competitive basis, with not more than
 8 12 State educational agencies, under which such a State
 9 educational agency may—

10 “(1) waive any statutory or regulatory requirement of any program under this Act (other than a
 11 requirement of this part) under which the Secretary
 12 awards funds to States on the basis of a formula, including such a requirement applicable to any local
 13 educational agency or school within the State, except
 14 those requirements relating to—

17 “(A) maintenance of effort;

18 “(B) comparability of services;

19 “(C) equitable participation of students
 20 and professional staff in private schools;

21 “(D) allocation or distribution of funds to
 22 local educational agencies, subject to paragraph
 23 (2);

24 “(E) serving eligible school attendance
 25 areas in rank order under section 1113(a)(3);

1 “(F) the selection of a school attendance
2 area or school under subsections (a) and (b) of
3 section 1113, except that such a State edu-
4 cational agency may grant a waiver to allow a
5 school attendance area or school to participate
6 in activities under part A of title I if the per-
7 centage of children from low-income families in
8 the school attendance area or who attend such
9 school is not less than 10 percentage points
10 below the lowest percentage of such children for
11 any school attendance area or school in the
12 State that meets the requirements of sub-
13 sections (a) and (b) of section 1113;

14 “(G) use of Federal funds to supplement,
15 not supplant, non-Federal funds;

16 “(H) applicable civil rights requirements;
17 and

18 “(I) prohibitions regarding—

19 “(i) State aid described in section
20 9522;

21 “(ii) use of funds for religious worship
22 or instruction described in section 9505;
23 and

24 “(iii) uses of funds for activities de-
25 scribed in section 9526;

1 “(2) use funds made available to the State for
2 State-level activities under section 1004, paragraph
3 (4) or (5) of section 1202(d), section 2113(a)(3),
4 section 2412(a)(1), subsection (a)(1) (with the
5 agreement of the chief executive officer of the
6 State), (b)(2), or (c)(1) of section 4112, section
7 4202(c), or section 5112(b), to carry out the uses of
8 funds under 1 or more of such sections, paragraphs,
9 or subsections, or under part A of title I, except that
10 any such funds so used shall not be subject to allo-
11 cation or distribution requirements under such sec-
12 tions, paragraphs, subsections, or part;

13 “(3) allow local educational agencies in the
14 State to use funds made available under section
15 2121, 2412(a)(2)(A), 4112(b)(1), or 5112(a) to
16 carry out the uses of funds under 1 or more of such
17 sections or under part A of title I, except that any
18 such funds so used shall not be subject to allocation
19 or distribution requirements under such sections or
20 part; and

21 “(4) require local educational agencies identi-
22 fied under subsection (b)(5)(C) to use funds in ac-
23 cordance with paragraph (3) in order to effectively
24 implement the intervention described in subsection
25 (b)(5)(D).

1 “(b) STATE APPLICATIONS.—To be eligible to enter
 2 into a State student achievement contract under this part,
 3 a State educational agency shall submit an application to
 4 the Secretary at such time, in such manner, and con-
 5 taining such information as the Secretary may reasonably
 6 require. The application shall demonstrate that the State
 7 is in full compliance with all requirements of part A of
 8 title I, as such part was in effect on the day before the
 9 date of enactment of the State Student Achievement Con-
 10 tracts Act, relating to academic standards, assessments,
 11 and accountability, and shall include the following:

12 “(1) EVIDENCE.—Evidence that the proposed
 13 contract was reviewed by independent experts with
 14 knowledge and expertise in educational standards,
 15 assessments, and accountability.

16 “(2) STANDARDS.—A demonstration, consistent
 17 with section 1111(b)(1)(A), through a documented
 18 and validated standards-setting process, including an
 19 independent, external review, that the State aca-
 20 demic content standards, State student academic
 21 achievement standards, and educational objectives
 22 under paragraph (12), are—

23 “(A) fully articulated and aligned across
 24 kindergarten through grade 12, and include col-
 25 lege and career-ready standards for secondary

1 school graduation, including aligned course-level
 2 outcomes, developed in consultation with the
 3 State agency responsible for higher education,
 4 institutions of higher education, and representa-
 5 tives of the business community; or

6 “(B) at least as rigorous as national or
 7 international education standards and objectives
 8 measuring long-term trends and student aca-
 9 demic achievement standards and objectives.

10 “(3) ASSESSMENTS.—

11 “(A) ASSURANCES.—An assurance that
 12 the State will—

13 “(i) assess students in the subjects
 14 and grades described in section
 15 1111(b)(3)(C)(v) and (vii), conduct such
 16 assessment annually, and comply with sec-
 17 tion 1111(b)(7);

18 “(ii) demonstrate to the Secretary
 19 that any assessment used by the State and
 20 conducted under subparagraph (A) meets
 21 the requirements of clauses (i) through (iv)
 22 and (vi) through (xv) of section
 23 1111(b)(3)(C); and

24 “(iii) describe any other student aca-
 25 demic assessments the State educational

1 agency will use, consistent with section
 2 1111(b)(4), as part of the State’s account-
 3 ability system described in paragraph (5).

4 “(B) INFORMATION.—Information dem-
 5 onstrating that the State is administering as-
 6 sessments that are aligned with the standards
 7 described in paragraph (2), or will administer
 8 such aligned assessments in the next school
 9 year.

10 “(4) DISAGGREGATION.—An assurance that—
 11 “(A) the State will disaggregate data in
 12 the same manner as data are disaggregated
 13 under section 1111(b)(2)(C)(v)(II); and

14 “(B) student performance data will be
 15 disaggregated in the same manner as data are
 16 disaggregated under section 1111(b)(3)(C)(xiii).

17 “(5) ACCOUNTABILITY SYSTEM.—An expla-
 18 nation of how the State will use the State’s author-
 19 ity described in subsection (a) to develop and imple-
 20 ment—

21 “(A) statewide annual measurable objec-
 22 tives which shall—

23 “(i) be set separately for all assess-
 24 ments used by the State under paragraph
 25 (3);

1 “(ii) be the same for all schools and
2 local educational agencies in the States;

3 “(iii) identify a single minimum per-
4 centage of students who are required to
5 meet or exceed the proficient level on the
6 academic assessments that applies sepa-
7 rately to each group of students described
8 in section 1111(b)(2)(C)(v)(II); and

9 “(iv) ensure that all students will
10 meet or exceed the State’s proficient level
11 of academic achievement on the State as-
12 sessments within the State’s timeline de-
13 scribed in paragraph (6).

14 “(B) a single, statewide accountability sys-
15 tem consistent with the requirements of section
16 1111(b)(2);

17 “(C) a comprehensive, uniform system for
18 identifying schools and local educational agen-
19 cies for intervention based on achievement to-
20 wards meeting proficiency targets established
21 under paragraph (6) for students and sub-
22 groups that are disaggregated under paragraph
23 (4); and

24 “(D) a comprehensive, uniform system for
25 providing intervention to schools and local edu-

1 cational agencies identified under subparagraph
2 (C), including a specific description and expla-
3 nation of—

4 “(i) specific interventions that will be
5 provided to all schools and local edu-
6 cational agencies so identified—

7 “(I) which shall include providing
8 options to students in schools so iden-
9 tified, including options regarding—

10 “(aa) supplemental edu-
11 cational services that will be pro-
12 vided consistent with 1116(e); or

13 “(bb) public school choice
14 that will be provided consistent
15 with section 1116(b)(1)(E); and

16 “(II) which may include—

17 “(aa) targeted intervention
18 by the State or local educational
19 agency;

20 “(bb) replacement of school
21 personnel; and

22 “(cc) conversion of a public
23 school into a public charter
24 school;

1 “(ii) how the State or local edu-
 2 cational agency will monitor local edu-
 3 cational agency or school performance over
 4 time and impose more stringent measures
 5 on local educational agencies or schools, re-
 6 spectively, the longer local educational
 7 agencies or schools, respectively, do not
 8 make adequate yearly progress; and

9 “(iii) how the State will ensure that
 10 local educational agencies or schools that
 11 do not make adequate yearly progress for
 12 5 consecutive school years undertake alter-
 13 nate governance arrangements.

14 “(6) STUDENT PROFICIENCY TARGETS.—A
 15 demonstration and explanation of the State trajec-
 16 tory that is in place for all students to meet pro-
 17 ficiency targets—

18 “(A) by the timelines established in sec-
 19 tions 1111(b)(2)(E) and 1111(b)(2)(F); or

20 “(B) in not more than 3 years and upon
 21 graduation from secondary school.

22 “(7) TEACHER QUALITY.—An assurance that
 23 the State has rigorous teacher quality standards,
 24 which may include State determined teacher effec-
 25 tiveness standards, that reflect clear and fair meas-

1 ures of teacher and principal performance based on
2 demonstrated improvements in student academic
3 achievement.

4 “(8) DATA SYSTEMS.—A demonstration that
5 the State educational agency has an effective data
6 system capable of reporting classroom and school
7 level data.

8 “(9) WAIVERS.—A list of any statutory or reg-
9 ulatory requirements that the State intends to waive
10 for local educational agencies and schools within the
11 State as part of the State student achievement con-
12 tract and the process the State educational agency
13 will use to evaluate and grant such waivers.

14 “(10) STATE APPROVAL.—An assurance that
15 the proposed State student achievement contract
16 was developed by the State educational agency in
17 consultation with local educational agencies, teach-
18 ers, principals, pupil services personnel, administra-
19 tors (including administrators of programs described
20 in parts A through H of title I), and parents, and
21 was approved by not less than 1 of the following:

22 “(A) The Governor of the State.

23 “(B) The State legislature.

1 “(11) DURATION.—A statement that the dura-
2 tion of the State student achievement contract shall
3 be for a period of not more than 5 years.

4 “(12) EDUCATIONAL OBJECTIVES PLAN.—A
5 plan, for the duration of the State student achieve-
6 ment contract, that describes the educational objec-
7 tives the State educational agency plans to achieve,
8 which objectives shall meet requirements similar to
9 the requirements of clauses (i) through (v) of section
10 1111(b)(2)(G).

11 “(13) CONSOLIDATED FUNDS.—A description
12 of the funds the State educational agency intends to
13 use in accordance with subsection (a)(2) and how
14 the funds will be used.

15 “(14) STATE REPORT CARD.—An assurance
16 that the State will disseminate the information, in-
17 cluding school and school district level information,
18 required in section 6304 to all parents in the State.

19 “(c) STATES THAT PLAN TO ADOPT MORE RIG-
20 OROUS STANDARDS AND ASSESSMENTS.—

21 “(1) IN GENERAL.—A State educational agency
22 that does not meet the requirements of subsection
23 (b)(2) or (3) may apply for and (subject to the limit
24 on the number of States that may be approved
25 under this part pursuant to subsection (a)) be grant-

1 ed waiver authority under paragraph (2) if the State
2 educational agency—

3 “(A) meets the requirements of paragraph
4 (1) and paragraphs (4) through (14) of sub-
5 section (b); and

6 “(B) includes a plan, satisfactory to the
7 Secretary, to meet the requirements of sub-
8 section (b)(2) or (3).

9 “(2) WAIVER.—A State educational agency de-
10 scribed in paragraph (1) whose application is ap-
11 proved under this part is authorized to waive statu-
12 tory and regulatory requirements applicable to local
13 educational agencies and schools (other than any
14 such requirement described in subparagraphs (A)
15 through (I) of subsection (a)(1)) under the following
16 programs:

17 “(A) Part A of title I, other than for sec-
18 tions 1111 and 1116.

19 “(B) Subpart 3 of part B, and parts C, D,
20 and F, of title I.

21 “(C) Subparts 2 and 3 of part A of title
22 II.

23 “(D) Subpart 1 of part D of title II.

24 “(E) Part A of title III.

25 “(F) Subpart 1 of part A of title IV.

1 “(G) Part A of title V.

2 “(d) APPROVAL OF STATE STUDENT ACHIEVEMENT
3 CONTRACTS.—

4 “(1) IN GENERAL.—Not later than 90 days
5 after the receipt of a State student achievement con-
6 tract application submitted by the State educational
7 agency, the Secretary shall—

8 “(A) receive recommendations from the
9 peer review panel established in paragraph (2);
10 and

11 “(B) approve the State student achieve-
12 ment contract or provide the State educational
13 agency with a written explanation of the rea-
14 sons the State student achievement contract
15 fails to satisfy a purpose, goal, or a requirement
16 of this part.

17 “(2) PEER-REVIEW PROCESS.—In carrying out
18 paragraph (1), the Secretary shall—

19 “(A) establish an independent peer review
20 panel to evaluate, and make recommendations
21 for approval or disapproval of, State student
22 achievement contract applications; and

23 “(B) appoint individuals to the peer review
24 panel who are—

1 “(i) knowledgeable of, and have exper-
 2 tise in, educational standards, assessments,
 3 and accountability; and

4 “(ii) representative of State edu-
 5 cational agencies and organizations rep-
 6 resenting State agencies or Governors.

7 “(3) DISAPPROVAL OF CONTRACT.—If the Sec-
 8 retary disapproves a State’s student achievement
 9 contract application, then the State educational
 10 agency shall have 60 days to resubmit a revised
 11 State student achievement contract. Subject to the
 12 12 State educational agency limitation described in
 13 subsection (a), the Secretary shall approve the re-
 14 vised State student achievement contract within 60
 15 days of receipt of the revised contract or provide the
 16 State with a written determination that the revised
 17 State student achievement contract fails to satisfy a
 18 purpose, goal, or requirement of this part.

19 “(e) AMENDMENT TO ACHIEVEMENT CONTRACT.—

20 “(1) IN GENERAL.—A State educational agency
 21 may submit to the Secretary amendments to the
 22 State student achievement contract, on an annual
 23 basis. The Secretary shall submit the amendments
 24 to the peer review panel.

25 “(2) REVIEW OF AMENDMENT.—

1 “(A) IN GENERAL.—Not later than 60
 2 days after the receipt of a proposed State stu-
 3 dent achievement contract amendment sub-
 4 mitted by a State educational agency, the Sec-
 5 retary shall receive recommendations from the
 6 peer review panel and approve the amendment
 7 or provide the State educational agency with a
 8 written determination that the amendment fails
 9 to satisfy a purpose, goal, or requirement of
 10 this part.

11 “(B) TREATMENT AS APPROVED.—Each
 12 amendment for which the Secretary fails to
 13 take the action required in subparagraph (A) in
 14 the time period described in such subparagraph
 15 shall be considered approved.

16 **“SEC. 6304. ANNUAL REPORTS.**

17 “(a) IN GENERAL.—Not later than 1 year after the
 18 execution of a State student achievement contract under
 19 this part, and annually thereafter, each State educational
 20 agency executing such a contract shall disseminate widely
 21 to parents, the general public, and the Secretary, a report
 22 that includes a description, in an understandable manner,
 23 of how the State educational agency has used Federal
 24 funds under the contract to improve academic achieve-
 25 ment, narrow the achievement gap, and improve edu-

1 cational opportunities for the disadvantaged. Each such
 2 report shall include—

3 “(1) information, in the aggregate, on student
 4 achievement at each proficiency target described in
 5 section 6303(b)(6) on the State academic assess-
 6 ments, disaggregated by race, ethnicity, gender, dis-
 7 ability status, migrant status, English proficiency,
 8 and status as economically disadvantaged, except
 9 that such disaggregation shall not be required in a
 10 case in which the number of students in a category
 11 is insufficient to yield statistically reliable informa-
 12 tion or the results would reveal personally identifi-
 13 able information about an individual student;

14 “(2) information that provides a comparison be-
 15 tween—

16 “(A) the actual achievement levels of each
 17 group of students described in section
 18 1111(b)(2)(C)(v); and

19 “(B) the State’s annual measurable objec-
 20 tives for each such group of students on each
 21 of the academic assessments described in the
 22 educational objectives plan described in section
 23 6303(b)(12);

1 “(3) the percentage of students not tested
2 (disaggregated by the same categories and subject to
3 the same exception described in paragraph (1));

4 “(4) the graduation rates for secondary school
5 students (disaggregated by the same categories and
6 subject to the same exception described in paragraph
7 (1));

8 “(5) information on the performance of local
9 educational agencies in the State regarding student
10 academic achievement, including schools not meeting
11 proficiency targets described in section 6303(b)(6);

12 “(6) the professional qualifications of teachers
13 in the State, and the percentage of classes in the
14 State not taught by a teacher meeting State quali-
15 fications, in the aggregate and disaggregated by
16 high-poverty compared to low-poverty schools which,
17 for the purpose of this paragraph, means schools in
18 the top quartile of poverty and the bottom quartile
19 of poverty, respectively, in the State;

20 “(7) a description of improvement methods
21 used to assist local educational agencies and schools
22 in meeting the proficiency targets described in sec-
23 tion 6303(b)(6); and

24 “(8) a description of the State’s accountability
25 system described in section 6303(b)(5), including a

1 description of the criteria by which the State evalu-
 2 ates school performance, and the criteria that the
 3 State has established to determine the progress of
 4 schools in meeting the goals established by the
 5 State.

6 “(b) SUBMISSION TO CONGRESS.—The Secretary
 7 shall submit the reports received under subsection (a) to
 8 Congress, together with any other information the Sec-
 9 retary considers appropriate.

10 **“SEC. 6305. PERFORMANCE REVIEW AND EARLY TERMI-**
 11 **NATION.**

12 “(a) REVIEW.—For each State having in effect a
 13 State student achievement contract under this part, the
 14 peer review panel established in section 6303(d)(2) shall
 15 carry out a review of the contract, after completion of the
 16 second school year of the contract, in order to—

17 “(1) determine whether the State has met the
 18 terms of the contract described in section 6303; and

19 “(2) make recommendations to the Secretary.

20 “(b) EARLY TERMINATION.—After taking into con-
 21 sideration the recommendations received under subsection
 22 (a)(2) from the peer review panel and after providing a
 23 State educational agency with notice and an opportunity
 24 for a hearing, the Secretary shall—

1 “(1) terminate a State student achievement
2 contract, before the contract expires, if the State
3 does not, for 3 consecutive school years, meet the
4 terms of the contract described in section 6303; or
5 “(2) withhold funds under this Act.

6 **“SEC. 6306. EVALUATION.**

7 “(a) IN GENERAL.—The Secretary shall enter into
8 a contract, with an independent organization outside of
9 the Department, for a 5-year, rigorous, scientifically valid,
10 quantitative evaluation of this part.

11 “(b) PROCESS.—The evaluation under subsection (a)
12 shall be conducted by an organization that is capable of
13 designing and carrying out an independent evaluation that
14 identifies the effects of activities carried out by State edu-
15 cational agencies and local educational agencies under this
16 part on improving student academic achievement.

17 “(c) ANALYSIS.—The evaluation under subsection (a)
18 shall include an analysis of the following:

19 “(1) The implementation of activities assisted
20 under this part and the impact of such implementa-
21 tion on increasing student academic achievement
22 (particularly in schools with high concentrations of
23 children living in poverty), relative to the goal of all
24 students reaching the proficient level of academic
25 achievement based on State academic assessments,

1 challenging State academic content standards, and
2 challenging State student academic achievement
3 standards under section 6303.

4 “(2) Each participating State educational agen-
5 cy’s method of identifying schools under
6 6303(b)(5)(C), including—

7 “(A) the impact on schools, local edu-
8 cational agencies, and the State;

9 “(B) the number of schools and local edu-
10 cational agencies so identified; and

11 “(C) the changes in the identification of
12 schools and local educational agencies as a re-
13 sult of such identification.

14 “(3) How schools, local educational agencies,
15 and participating States educational agencies have
16 used the flexibility under section 6303(a) and Fed-
17 eral, State, and local educational agency funds and
18 resources to support schools and provide technical
19 assistance to improve the academic achievement of
20 students in low-performing schools, including the im-
21 pact of the technical assistance on such academic
22 achievement.

23 “(4) The extent to which interventions de-
24 scribed in section 6303(b)(5)(D) are implemented by
25 the participating State educational agencies and

1 local educational agencies to improve the academic
2 achievement of students in low-performing schools,
3 and the effectiveness of the implementation of such
4 interventions, including the following:

5 “(A) The number of schools and local edu-
6 cational agencies identified under section
7 6303(b)(5)(C) and how many years the schools
8 or local educational agencies remain so identi-
9 fied.

10 “(B) The types of support provided by the
11 State educational agency and local educational
12 agency to schools and local educational agencies
13 respectively, so identified, and the impact of
14 such support on student academic achievement.

15 “(C) The implementation and impact of
16 actions that are taken with regard to schools
17 and local educational agencies under section
18 6303(b)(5)(D)(iii).

19 “(d) REPORTS.—

20 “(1) INTERIM REPORT.—Not later than 3 years
21 after the date of enactment of the State Student
22 Achievement Contracts Act, the Secretary shall
23 transmit to the Committee on Health, Education,
24 Labor, and Pensions of the Senate and the Com-
25 mittee on Education and Labor of the House of

1 Representatives, an interim report on the analysis
2 conducted under this subsection.

3 “(2) FINAL REPORT.—Not later than 5 years
4 after the date of enactment of the State Student
5 Achievement Contracts Act, the Secretary shall
6 transmit to the Committee on Health, Education,
7 Labor, and Pensions of the Senate and the Com-
8 mittee on Education and Labor of the House of
9 Representatives, a final report on the analysis con-
10 ducted under this subsection.”.

11 (b) CLERICAL AMENDMENT.—The table of contents
12 in section 2 of such Act (20 U.S.C. 6301 note) is amend-
13 ed—

14 (1) by redesignating the item relating to part C
15 of title VI as the item relating to part D of title VI;

16 (2) by redesignating the items relating to sec-
17 tions 6301 and 6302 as the items relating to sec-
18 tions 6401 and 6402, respectively; and

19 (3) by inserting after the item relating to sec-
20 tion 6324 the following:

“PART C—STATE STUDENT ACHIEVEMENT CONTRACTS

“Sec. 6301. Short title.

“Sec. 6302. Purpose.

“Sec. 6303. State student achievement contracts.

“Sec. 6304. Annual reports.

“Sec. 6305. Performance review and early termination.

“Sec. 6306. Evaluation.”.

