

Granger Lucas (OK) Sanford Sanchez Stabenow Udall (NM)
 Green (WI) Manzullo Saxton Sanders Stark Velazquez
 Greenwood McCollum Schaffer Stenholm Vento
 Gutknecht McCrery Sensenbrenner Sawyer Strickland Visclosky
 Hall (TX) McHugh Sessions Schakowsky Stupak Waters
 Hansen McInnis Shaw Scott Tanner Watt (NC)
 Hastert McIntosh Shays Serrano Tauscher Waxman
 Hastings (WA) McKeon Sherwood Shadegg Taylor (MS) Weiner
 Hayes Metcalf Sherman Sherman Thompson (CA) Wexler
 Hayworth Mica Simpson Shows Thompson (MS) Weygand
 Hefley Miller (FL) Skeen Siskey Thurman Wise
 Herger Miller, Gary Smith (MI) Skelton Tierney Woolsey
 Hill (MT) Moran (KS) Smith (NJ) Slaughter Towns Wu
 Hilleary Morella Smith (TX) Smith (WA) Traficant Wynn
 Hobson Myrick Souder Snyder Turner
 Hoekstra Nethercutt Spence Spratt Udall (CO)

Boehner Jackson-Lee Nadler
 Camp (TX) Oxley
 Cummings Jefferson Royce
 Dooley Kennedy Scarborough
 Fattah Lipinski Shuster
 Hinojosa McCarthy (MO) Weldon (PA)
 McCarthy (NY) Young (FL)

NOT VOTING—19

So the resolution was agreed to.
 A motion to reconsider the vote whereby said resolution was agreed to was, by unanimous consent, laid on the table.

¶118.29 STUDENT ACADEMIC ACHIEVEMENT

The SPEAKER pro tempore, Mr. LATOURETTE, pursuant to House Resolution 338 and rule XVIII, declared the House resolved into the Committee of the Whole House on the state of the Union for the consideration of the bill (H.R. 2300) to allow a State to combine certain funds to improve the academic achievement of all its students.

The SPEAKER pro tempore, Mr. LATOURETTE, by unanimous consent, designated Mr. PEASE as Chairman of the Committee of the Whole.

The Acting Chairman, Mr. MILLER of Florida assumed the Chair; and after some time spent therein,

¶118.30 RECORDED VOTE

A recorded vote by electronic device was ordered in the Committee of the Whole on the following amendment submitted by Mr. FATTAH:

Page 22, line 20, redesignate section 16 as section 17 and insert after line 9 the following:

SEC. 16. EDUCATIONAL EQUITY.

(a) EDUCATIONAL EQUITY.—Notwithstanding any other provision of this Act, beginning 3 years after the date of enactment of this Act no State shall receive Federal funds for its performance agreement under programs specified in section 4 unless the State certifies annually to the Secretary that—

(1) per pupil expenditure in the local educational agencies in the State are substantially equal, taking into consideration the variation in cost of serving pupils with special needs and the local variation in cost of providing education services; or

(2) the achievement levels of students on reading and mathematics assessments, graduation rates, and rates of college-bound students in the local educational are substantially equal to those of the local educational agencies with the highest per pupil expenditures.

(b) GUIDELINES.—The Secretary, in consultation with the National Academy of Sciences, shall develop and publish guidelines not later than one year after the date of enactment of this Act to define the terms “substantially equal” and “per pupil expenditures.”

It was decided in the { Yeas 183
 negative } Nays 235

¶118.31 [Roll No. 530] AYES—183

Abercrombie Gonzalez Ney
 Ackerman Gordon Obey
 Allen Green (TX) Olver
 Andrews Gutierrez Ortiz
 Baldacci Hall (TX) Owens
 Baldwin Hastings (FL) Pallone
 Barcia Hill (IN) Pascrell
 Barrett (WI) Hilliard Pastor
 Becerra Hinchey Payne
 Bentsen Hinojosa Pelosi
 Berman Hoeffel Peterson (MN)
 Bishop Holden Phelps
 Blagojevich Holt Pomeroy
 Blumenauer Hooley Price (NC)
 Bonior Hoyer Rahall
 Borski Insee Rangel
 Boswell Jackson (IL) Reyes
 Boucher John Rivers
 Brady (PA) Johnson, E. B. Rodriguez
 Brown (FL) Jones (OH) Roemer
 Brown (OH) Kanjorski Rothman
 Capps Kennedy Roybal-Allard
 Capuano Kildee Rush
 Cardin Kilpatrick Sanchez
 Carson Kind (WI) Sanders
 Clay Kleczka Sandlin
 Clayton Klink Sawyer
 Clement Kucinich Schakowsky
 Clyburn LaFalce Scott
 Condit Lampson Serrano
 Conyers Lantos Sherman
 Costello Larson Shows
 Coyne Lee Slaughter
 Cramer Levin Smith (WA)
 Crowley Lewis (GA) Stabenow
 Cummings Lofgren Stark
 Danner Lowey Stenholm
 Davis (IL) Lucas (KY) Strickland
 DeFazio Luther Stupak
 DeGette Maloney (NY) Tauscher
 Delahunt Martinez Taylor (MS)
 DeLauro Matsui Thompson (CA)
 Deutsch McDermott Thompson (MS)
 Dicks McGovern Tierney
 Dingell McIntyre Towns
 Dixon McKinney Traficant
 Doggett McNulty Udall (CO)
 Dooley Meek (FL) Udall (NM)
 Doyle Meeks (NY) Velazquez
 Engel Menendez Visclosky
 Eshoo Millender Waters
 Etheridge McDonald Watt (NC)
 Evans Miller, George Waxman
 Farr Minge Weiner
 Fattah Mink Wexler
 Filner Moakley Weygand
 Foley Mollohan Wise
 Ford Morella Woolsey
 Frank (MA) Murtha Wu
 Frost Nadler Wynn
 Gejdenson Napolitano
 Gephardt Neal

NOES—235

Aderholt Callahan Edwards
 Archer Calvert Ehlers
 Arney Campbell Ehrlich
 Bachus Canady Emerson
 Baird Cannon English
 Baker Castle Everett
 Ballenger Chabot Ewing
 Barr Chambliss Fletcher
 Barrett (NE) Chenoweth-Hage Forbes
 Bartlett Coble Fossella
 Barton Coburn Fowler
 Bass Collins Franks (NJ)
 Bateman Combest Frelinghuysen
 Bereuter Cook Gallegly
 Berkeley Cooksey Ganske
 Berry Cox Gekas
 Biggart Crane Gibbons
 Bilbray Cubin Gilchrist
 Bilirakis Cunningham Gillmor
 Biley Davis (FL) Gilman
 Blunt Davis (VA) Goode
 Boehlert Deal Goodlatte
 Boehner DeLay Goodling
 Bonilla DeMint Goss
 Bono Diaz-Balart Graham
 Boyd Dickey Granger
 Bryant Doolittle Green (WI)
 Burr Dreier Greenwood
 Burton Duncan Gutknecht
 Buyer Dunn Hansen

NAYS—201

Abercrombie Doyle Maloney (CT)
 Ackerman Edwards Maloney (NY)
 Allen Engel Markey
 Andrews Eshoo Martinez
 Baird Etheridge Mascara
 Baldacci Evans Matsui
 Baldwin Farr McDermott
 Barcia Filner McGovern
 Barrett (WI) Ford McIntyre
 Becerra Frank (MA) McKinney
 Bentsen Frost McNulty
 Berkley Gejdenson Meehan
 Berman Gephardt Meek (FL)
 Berry Gonzalez Meeks (NY)
 Bishop Gordon Menendez
 Blagojevich Graham Millender-
 Blumenauer Green (TX) McDonald
 Bonior Gutierrez Miller, George
 Borski Hall (OH) Minge
 Boswell Hastings (FL) Mink
 Boucher Hill (IN) Moakley
 Boyd Mollohan Mollohan
 Brady (PA) Hinchey Moore
 Brown (FL) Hoeffel Moran (VA)
 Brown (OH) Holden Murtha
 Capps Holt Napolitano
 Capuano Hooley Neal
 Cardin Hoyer Oberstar
 Carson Insee Obey
 Clay Jackson (IL) Oliver
 Clayton John Ortiz
 Clement Johnson, E. B. Owens
 Clyburn Jones (OH) Pallone
 Coburn Kanjorski Pascrell
 Condit Kaptur Pastor
 Conyers Kildee Payne
 Costello Kilpatrick Pelosi
 Coyne Kind (WI) Peterson (MN)
 Cramer Kleczka Phelps
 Crowley Klink Pickett
 Danner Kucinich Pomeroy
 Davis (FL) LaFalce Price (NC)
 Davis (IL) Lampson Rahall
 DeFazio Lantos Rangel
 DeGette Larson Reyes
 Delahunt Lee Rivers
 DeLauro Levin Rodriguez
 Deutsch Lewis (GA) Roemer
 Dicks Lofgren Rothman
 Dingell Lowey Roybal-Allard
 Dixon Lucas (KY) Rush
 Doggett Luther Sabo

Hastings (WA)	Metcalf	Shaw
Hayes	Mica	Shays
Hayworth	Miller (FL)	Sherwood
Hefley	Miller, Gary	Shimkus
Herger	Moore	Simpson
Hill (MT)	Moran (KS)	Sisisky
Hilleary	Moran (VA)	Skeen
Hobson	Myrick	Skelton
Hoekstra	Nethercutt	Smith (MI)
Horn	Northup	Smith (NJ)
Hostettler	Norwood	Smith (TX)
Houghton	Nussle	Snyder
Hulshof	Oberstar	Souder
Hunter	Ose	Spence
Hutchinson	Oxley	Spratt
Hyde	Packard	Stearns
Isakson	Paul	Stump
Istook	Pease	Sununu
Jenkins	Peterson (PA)	Sweeney
Johnson (CT)	Petri	Talent
Johnson, Sam	Pickering	Tancredo
Jones (NC)	Pickett	Tanner
Kaptur	Pitts	Tauzin
Kasich	Pombo	Taylor (NC)
Kelly	Porter	Terry
King (NY)	Portman	Thomas
Kingston	Pryce (OH)	Thornberry
Knollenberg	Quinn	Thune
Kolbe	Radanovich	Thurman
Kuykendall	Ramstad	Tiahrt
LaHood	Regula	Toomey
Largent	Reynolds	Turner
Latham	Riley	Upton
LaTourette	Rogan	Vento
Lazio	Rogers	Vitter
Leach	Rohrabacher	Walden
Lewis (CA)	Ros-Lehtinen	Walsh
Lewis (KY)	Roukema	Wamp
Linder	Royce	Watkins
LoBiondo	Ryan (WI)	Watts (OK)
Lucas (OK)	Ryun (KS)	Weldon (FL)
Maloney (CT)	Sabo	Weller
Manzullo	Salmon	Whitfield
McColum	Sanford	Wicker
McCrery	Saxton	Wilson
McHugh	Schaffer	Wolf
McInnis	Sensenbrenner	Young (AK)
McIntosh	Sessions	
McKeon	Shadegg	

NOT VOTING—15

Brady (TX)	Lipinski	Scarborough
Camp	Markey	Shuster
Hall (OH)	Mascara	Weldon (PA)
Jackson-Lee	McCarthy (MO)	Young (FL)
(TX)	McCarthy (NY)	
Jefferson	Meehan	

So the amendment was not agreed to. The SPEAKER pro tempore, Mr. LAHOOD, assumed the Chair.

When Mr. PEASE, Chairman, pursuant to House Resolution 338, reported the bill back to the House with an amendment adopted by the Committee.

The previous question having been ordered by said resolution.

The following amendment, reported from the Committee of the Whole House on the state of the Union, was agreed to:

Strike out all after the enacting clause and insert:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Academic Achievement for All Act (Straight A's Act)".

SEC. 2. PURPOSE.

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

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

(2) to improve teacher quality and subject matter mastery, especially in math, reading, and science;

(3) to empower parents and schools to effectively address the needs of their children and students;

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

(5) to eliminate Federal barriers to implementing effective State and local education programs;

(6) to hold States and communities accountable for boosting the academic achievement of all students, especially disadvantaged children; and

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

SEC. 3. PERFORMANCE AGREEMENT.

(a) PROGRAM AUTHORIZED.—Not more than 10 States may, at their option, execute a performance agreement with the Secretary under which the provisions of law described in section 4(a) shall not apply to such State except as otherwise provided in this Act.

(b) LOCAL INPUT.—States shall provide parents, teachers, and local schools and districts notice and opportunity to comment on any proposed performance agreement prior to submission to the Secretary as provided under general State law notice and comment provisions.

(c) APPROVAL OF PERFORMANCE AGREEMENT.—A performance agreement submitted to the Secretary under this section shall be considered as approved by the Secretary within 60 days after receipt of the performance agreement unless the Secretary provides a written determination to the State that the performance agreement fails to satisfy the requirements of this Act before the expiration of the 60-day period.

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

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

(2) APPLICATION OF PROGRAM REQUIREMENTS.—A statement that no program requirements of any program included by the State in the performance agreement shall apply, except as otherwise provided in this Act.

(3) LIST.—A list provided by the State of the programs that it wishes to include in the performance agreement.

(4) USE OF FUNDS TO IMPROVE STUDENT ACHIEVEMENT.—A 5-year plan describing how the State intends to combine and use the funds from programs included in the performance agreement to advance the education priorities of the State, improve student achievement, and narrow achievement gaps between students.

(5) ACCOUNTABILITY REQUIREMENTS.—If a State includes any part of title I of the Elementary and Secondary Education Act of 1965 in its performance agreement, the State shall include a certification that the State has done the following:

(A)(i) developed and implemented the challenging State content standards, challenging State student performance standards, and aligned assessments described in section 1111(b) of the Elementary and Secondary Education Act of 1965; or

(ii) developed and implemented a system to measure the degree of change from one school year to the next in student performance;

(B) developed and is implementing a statewide accountability system that has been or is reasonably expected to be effective in substantially increasing the numbers and percentages of all students who meet the State's proficient and advanced levels of performance;

(C) established a system under which assessment information may be disaggregated within each State, local educational agency, and school by each major racial and ethnic group, gender, English proficiency status, migrant status, and by economically disadvantaged students as compared to students who are not economically disadvan-

taged (except that such disaggregation shall not be required in cases in which the number of students in any such group is insufficient to yield statistically reliable information or would reveal the identity of an individual student);

(D) established specific, measurable, numerical performance objectives for student achievement, including a definition of performance considered to be proficient by the State on the academic assessment instruments described under subparagraph (A);

(E) 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, using the assessments described under subparagraph (A);

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

(iii) implementing corrective actions after no more than 3 years if the assistance and capacity building under clause (ii) is not effective.

(6) PERFORMANCE GOALS.—

(A) STUDENT ACADEMIC ACHIEVEMENT.—Each State shall establish annual student performance goals for the 5-year term of the performance agreement that, at a minimum—

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

(ii) take into account the progress of students from every local educational agency and school in the State;

(iii) are based primarily on the State's challenging content and student performance standards and assessments described under paragraph (5)(A);

(iv) include specific annual improvement goals in each subject and grade included in the State assessment system, which must include, at a minimum, reading or language arts and math;

(v) compares the proportions of students at the "basic", "proficient", and "advanced" levels of performance (as defined by the State) with the proportions of students at each of the three levels in the same grade in the previous school year;

(vi) includes annual numerical goals for improving the performance of each group specified in paragraph (5)(C) and narrowing gaps in performance between the highest and lowest performing students in accordance with section 10(b); and

(vii) requires all students in the State to make substantial gains in achievement.

(B) ADDITIONAL INDICATORS OF PERFORMANCE.—A State may identify in the performance agreement any additional indicators of performance such as graduation, dropout, or attendance rates.

(C) CONSISTENCY OF PERFORMANCE MEASURES.—A State shall maintain, at a minimum, the same level of challenging State student performance standards and assessments throughout the term of the performance agreement.

(7) FISCAL RESPONSIBILITIES.—An assurance that the State will use fiscal control and fund accounting procedures that will ensure proper disbursement of, and accounting for, Federal funds paid to the State under this Act.

(8) CIVIL RIGHTS.—An assurance that the State will meet the requirements of applicable Federal civil rights laws.

(9) PRIVATE SCHOOL PARTICIPATION.—

(A) EQUITABLE PARTICIPATION.—An assurance that the State will provide for the equitable participation of students and professional staff in private schools.

(B) APPLICATION OF BYPASS.—An assurance that sections 14504, 14505, and 14506 of the El-

Elementary and Secondary Education Act of 1965 (20 U.S.C. 8894, 8895, and 8896) shall apply to all services and assistance provided under this Act in the same manner as they apply to services and assistance provided in accordance with section 14503 of such Act.

(10) **STATE FINANCIAL PARTICIPATION.**—An assurance that the State will not reduce the level of spending of State funds for elementary and secondary education during the term of the performance agreement.

(11) **ANNUAL REPORT.**—An assurance that not later than 1 year after the execution of the performance agreement, and annually thereafter, each State shall disseminate widely to parents and the general public, submit to the Secretary, distribute to print and broadcast media, and post on the Internet, a report that includes—

(A) student academic performance data, disaggregated as provided in paragraph (5)(C); and

(B) a detailed description of how the State has used Federal funds to improve student academic performance and reduce achievement gaps to meet the terms of the performance agreement.

(e) **SPECIAL RULE.**—If a State does not include any part of title I of the Elementary and Secondary Education Act of 1965 in its performance agreement, the State shall—

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

(2) establish challenging academic performance goals for such other programs using academic assessment data described in paragraph (5).

(f) **AMENDMENT TO PERFORMANCE AGREEMENT.**—A State may submit an amendment to the performance agreement to the Secretary under the following circumstances:

(1) **REDUCE SCOPE OF PERFORMANCE AGREEMENT.**—Not later than 1 year after the execution of the performance agreement, a State may amend the performance agreement through a request to withdraw a program from such agreement. If the Secretary approves the amendment, the requirements of existing law shall apply for any program withdrawn from the performance agreement.

(2) **EXPAND SCOPE OF PERFORMANCE AGREEMENT.**—Not later than 1 year after the execution of the performance agreement, a State may amend its performance agreement to include additional programs and performance indicators for which it will be held accountable.

(3) **APPROVAL OF AMENDMENT.**—An amendment submitted to the Secretary under this subsection shall be considered as approved by the Secretary within 60 days after receipt of the amendment unless the Secretary provides a written determination to the State that the performance agreement if amended by the amendment would fail to satisfy the requirements of this Act, before the expiration of the 60-day period.

SEC. 4. ELIGIBLE PROGRAMS.

(a) **ELIGIBLE PROGRAMS.**—The provisions of law referred to in section 3(a) except as otherwise provided in subsection (b), are as follows:

(1) Part A of title I of the Elementary and Secondary Education Act of 1965.

(2) Part B of title I of the Elementary and Secondary Education Act of 1965.

(3) Part C of title I of the Elementary and Secondary Education Act of 1965.

(4) Part D of title I of the Elementary and Secondary Education Act of 1965.

(5) Part B of title II of the Elementary and Secondary Education Act of 1965.

(6) Section 3132 of title III of the Elementary and Secondary Education Act of 1965.

(7) Title IV of the Elementary and Secondary Education Act of 1965.

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

(9) Section 307 of the Department of Education Appropriation Act of 1999.

(10) Comprehensive school reform programs as authorized under section 1502 of the Elementary and Secondary Education Act of 1965 and described on pages 96-99 of the Joint Explanatory Statement of the Committee of Conference included in House Report 105-390 (Conference Report on the Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Act, 1998).

(11) Part C of title VII of the Elementary and Secondary Education Act of 1965.

(12) Title III of the Goals 2000: Educate America Act.

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

(14) Subtitle B of title VII of the Stewart B. McKinney Homeless Assistance Act.

(b) **ALLOCATIONS TO STATES.**—A State may choose to consolidate funds from any or all of the programs described in subsection (a) without regard to the program requirements of the provisions referred to in such subsection, except that the proportion of funds made available for national programs and allocations to each State for State and local use, under such provisions, shall remain in effect unless otherwise provided.

(c) **USES OF FUNDS.**—Funds made available under this Act to a State shall be used for any elementary and secondary educational purposes permitted by State law of the participating State.

SEC. 5. WITHIN-STATE DISTRIBUTION OF FUNDS.

(a) **IN GENERAL.**—The distribution of funds from programs included in a performance agreement from a State to a local educational agency within the State shall be determined by the Governor of the State and the State legislature. In a State in which the constitution or State law designates another individual, entity, or agency to be responsible for education, the allocation of funds from programs included in the performance agreement from a State to a local educational agency within the State shall be determined by that individual, entity, or agency, in consultation with the Governor and State Legislature. Nothing in this section shall be construed to supersede or modify any provision of a State constitution or State law.

(b) **LOCAL INPUT.**—States shall provide parents, teachers, and local schools and districts notice and opportunity to comment on the proposed allocation of funds as provided under general State law notice and comment provisions.

(c) **LOCAL HOLD HARMLESS OF PART A TITLE 1 FUNDS.**—

(1) **IN GENERAL.**—In the case of a State that includes part A of title I of the Elementary and Secondary Education Act of 1965 in the performance agreement, the agreement shall provide an assurance that each local educational agency shall receive under the performance agreement an amount equal to or greater than the amount such agency received under part A of title I of such Act in the fiscal year preceding the fiscal year in which the performance agreement is executed.

(2) **PROPORTIONATE REDUCTION.**—If the amount made available to the State from the Secretary for a fiscal year is insufficient to pay to each local educational agency the amount made available under part A of title I of the Elementary and Secondary Education Act of 1965 to such agency for the preceding fiscal year, the State shall reduce the amount each local educational agency receives by a uniform percentage.

SEC. 6. LOCAL PARTICIPATION.

(a) **NONPARTICIPATING STATE.**—

(1) **IN GENERAL.**—If a State chooses not to submit a performance agreement under this

Act, any local educational agency in such State is eligible, at its option, to submit to the Secretary a performance agreement in accordance with this section.

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

(b) **STATE APPROVAL.**—When submitting a performance agreement to the Secretary, an eligible local educational agency described in subsection (a) shall provide written documentation from the State in which such agency is located that it has no objection to the agency's proposal for a performance agreement.

(c) **APPLICATION.**—

(1) **IN GENERAL.**—Except as provided in this section, and to the extent applicable, the requirements of this Act shall apply to an eligible local educational agency that submits a performance agreement in the same manner as the requirements apply to a State.

(2) **EXCEPTIONS.**—The following provisions shall not apply to an eligible local educational agency:

(A) **WITHIN STATE DISTRIBUTION FORMULA NOT APPLICABLE.**—The formula for the allocation of funds under section 5 shall not apply.

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

SEC. 7. LIMITATIONS ON STATE AND LOCAL EDUCATIONAL AGENCY ADMINISTRATIVE EXPENDITURES.

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

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

(c) **LOCAL EDUCATIONAL AGENCY.**—A local educational agency participating in this Act under a performance agreement under section 6 may not use for administrative purposes more than 4 percent of the total amount of funds allocated to such agency under the programs included in the performance agreement.

SEC. 8. PERFORMANCE REVIEW.

(a) **MID-TERM PERFORMANCE REVIEW.**—If, during the 5-year term of the performance agreement, student achievement significantly declines for three consecutive years in the academic performance categories established in the performance agreement, the Secretary may, after notice and opportunity for a hearing, terminate the agreement.

(b) **FAILURE TO MEET TERMS.**—If at the end of the 5-year term of the performance agreement a State has not substantially met the performance goals submitted in the performance agreement, the Secretary shall, after notice and an opportunity for a hearing, terminate the performance agreement and the State shall be required to comply with the program requirements, in effect at the time of termination, for each program included in the performance agreement.

(c) **PENALTY FOR FAILURE TO IMPROVE STUDENT PERFORMANCE.**—If a State has made no progress toward achieving its performance goals by the end of the term of the agreement, the Secretary may reduce funds for

State administrative costs for each program included in the performance agreement by up to 50 percent for each year of the 2-year period following the end of the term of the performance agreement.

SEC. 9. RENEWAL OF PERFORMANCE AGREEMENT.

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

(b) RENEWAL REQUIREMENTS.—A State that has met or has substantially met its performance goals submitted in the performance agreement at the end of the 5-year term may reapply to the Secretary to renew its performance agreement for an additional 5-year period. Upon the completion of the 5-year term of the performance agreement or as soon thereafter as the State submits data required under the agreement, the Secretary shall renew, for an additional 5-year term, the performance agreement of any State that has met or has substantially met its performance goals.

SEC. 10. ACHIEVEMENT GAP REDUCTION REWARDS.

(a) CLOSING THE GAP REWARD FUND.—
 (1) IN GENERAL.—To reward States that make significant progress in eliminating achievement gaps by raising the achievement levels of the lowest performing students, the Secretary shall set aside sufficient funds from the Fund for the Improvement of Education under part A of title X of the Elementary and Secondary Education Act of 1965 to grant a reward to States that meet the conditions set forth in subsection (b) by the end of their 5-year performance agreement.

(2) REWARD AMOUNT.—The amount of the reward referred to in paragraph (1) shall be not less than 5 percent of funds allocated to the State during the first year of the performance agreement for programs included in the agreement.

(b) CONDITIONS OF PERFORMANCE REWARD.—Subject to paragraph (3), a State is eligible to receive a reward under this section as follows:

(1) A State is eligible for such an award if the State reduces by not less than 25 percent, over the 5-year term of the performance agreement, the difference between the percentage of highest and lowest performing groups of students that meet the State's definition of "proficient" as referenced in section 1111(b)(1)(D)(i)(II) of the Elementary and Secondary Education Act of 1965.

(2) A State is eligible for such an award if a State increases the proportion of two or more groups of students under section 3(d)(5)(C) that meet State proficiency standards by 25 percent.

(3) A State shall receive such an award if the following requirements are met:

(A) CONTENT AREAS.—The reduction in the achievement gap or improvement in achievement shall include not less than two content areas, one of which shall be mathematics or reading.

(B) GRADES TESTED.—The reduction in the achievement gap or improvement in achievement shall occur in at least two grade levels.

(c) RULE OF CONSTRUCTION.—Student achievement gaps shall not be considered to have been reduced in circumstances where the average academic performance of the highest performing quintile of students has decreased.

SEC. 11. STRAIGHT A'S PERFORMANCE REPORT.

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

SEC. 12. APPLICABILITY OF TITLE XIV OF THE ELEMENTARY AND SECONDARY EDUCATION ACT OF 1965.

To the extent that provisions of title XIV of the Elementary and Secondary Education Act of 1965 are inconsistent with this Act, this Act shall be construed as superseding such provisions.

SEC. 13. APPLICABILITY OF GENERAL EDUCATION PROVISIONS ACT.

To the extent that the provisions of the General Education Provisions Act are inconsistent with this Act, this Act shall be construed as superseding such provisions, except where relating to civil rights, withholding of funds and enforcement authority, and family educational and privacy rights.

SEC. 14. APPLICABILITY TO HOME SCHOOLS.

Nothing in this Act shall be construed to affect home schools whether or not a home school is treated as a private school or home school under State law.

SEC. 15. GENERAL PROVISIONS REGARDING NON-RECIPIENT, NON-PUBLIC SCHOOLS.

Nothing in this Act shall be construed to permit, allow, encourage, or authorize any Federal control over any aspect of any private, religious, or home school, whether or not a home school is treated as a private school or home school under State law.

SEC. 16. DEFINITIONS.

For the purpose of this Act:

(1) ALL STUDENTS.—The term "all students" means all students attending public schools or charter schools that are participating in the State's accountability and assessment system.

(2) ALL SCHOOLS.—The term "all schools" means all schools that are participating in the State's accountability and assessment system.

(3) LOCAL EDUCATIONAL AGENCY.—The term "local educational agency" has the same meaning given such term in section 14101 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 8801).

(4) SECRETARY.—The term "Secretary" means the Secretary of Education.

(5) STATE.—The term "State" means each of the 50 States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, the United States Virgin Islands, the Commonwealth of the Northern Mariana Islands, and American Samoa.

SEC. 17. EFFECTIVE DATE.

This Act shall take effect with respect to funds appropriated for the fiscal year beginning October 1, 2000.

The bill, as amended, was ordered to be engrossed and read a third time, was read a third time by title.

Mr. CLAY moved to recommit the bill to the Committee on Education and the Workforce with instructions to promptly report the bill back to the House, in a manner that addresses the need to help communities to reduce class size, to modernize the Nation's crumbling and overcrowded public schools, and to ensure that the teachers are highly qualified.

After debate,

By unanimous consent, the previous question was ordered on the motion to recommit with instructions.

The question being put, viva voce, Will the House recommit said bill with instructions?

The SPEAKER pro tempore, Mr. LAHOOD, announced that the nays had it.

Mr. CLAY demanded a recorded vote on agreeing to said motion, which demand was supported by one-fifth of a

quorum, so a recorded vote was ordered.

The vote was taken by electronic device.

It was decided in the { Yeas 201
 negative } Nays 217

¶118.32		[Roll No. 531]
AYES—201		
Abercrombie	Gonzalez	Owens
Ackerman	Gordon	Pallone
Allen	Green (TX)	Pascrell
Andrews	Gutierrez	Pastor
Baird	Hastings (FL)	Payne
Baldacci	Hill (IN)	Pelosi
Baldwin	Hilliard	Peterson (MN)
Barcia	Hinches	Phelps
Barrett (WI)	Hinojosa	Pickett
Becerra	Hoefel	Pomeroy
Bentsen	Holden	Price (NC)
Berkley	Holt	Rahall
Berman	Hooley	Rangel
Berry	Hoyer	Reyes
Bishop	Inslee	Rivers
Blagojevich	Jackson (IL)	Rodriguez
Blumenauer	John	Roemer
Bonior	Johnson, E.B.	Rothman
Borski	Jones (OH)	Roybal-Allard
Boswell	Kanjorski	Rush
Boucher	Kaptur	Sabo
Boyd	Kennedy	Sanchez
Brady (PA)	Kildee	Sanders
Brown (FL)	Kilpatrick	Sandlin
Brown (OH)	Kind (WI)	Sawyer
Capps	Kleczka	Schakowsky
Capuano	Klink	Scott
Cardin	Kucinich	Serrano
Carson	LaFalce	Sherman
Clay	Lampson	Shows
Clayton	Lantos	Sisisky
Clement	Larson	Skelton
Clyburn	Lee	Slughter
Condit	Levin	Smith (WA)
Conyers	Lewis (GA)	Snyder
Costello	Lofgren	Spratt
Coyne	Lowey	Stabenow
Cramer	Lucas (KY)	Stark
Crowley	Luther	Stenholm
Cummings	Maloney (CT)	Strickland
Danner	Maloney (NY)	Stupak
Davis (FL)	Markey	Tanner
Davis (IL)	Martinez	Tauscher
DeFazio	Matsui	Taylor (MS)
DeGette	McDermott	Thompson (CA)
Delahunt	McGovern	Thompson (MS)
DeLauro	McIntyre	Thurman
Deutsch	McKinney	Tierney
Dicks	McNulty	Towns
Dingell	Meek (FL)	Traficant
Dixon	Meeke (NY)	Turner
Doggett	Menendez	Udall (CO)
Dooley	Millender-	Udall (NM)
Doyle	McDonald	Velazquez
Edwards	Miller, George	Vento
Engel	Mink	Visclosky
Eshoo	Moakley	Waters
Etheridge	Mollohan	Watt (NC)
Evans	Moore	Waxman
Farr	Moran (VA)	Weiner
Fattah	Murtha	Wexler
Filner	Nadler	Weygand
Forbes	Napolitano	Wise
Ford	Neal	Woolsey
Frank (MA)	Oberstar	Wu
Frost	Obey	Wynn
Gejdenson	Olver	
Gephardt	Ortiz	
NOES—217		
Aderholt	Boehlert	Coburn
Archer	Boehner	Collins
Armey	Bonilla	Combest
Bachus	Bono	Cook
Baker	Brady (TX)	Cooksey
Ballenger	Bryant	Cox
Barr	Burr	Crane
Barrett (NE)	Burton	Cubin
Bartlett	Buyer	Cunningham
Barton	Callahan	Davis (VA)
Bass	Calvert	Deal
Bateman	Campbell	DeLay
Bereuter	Canady	DeMint
Biggert	Castle	Diaz-Balart
Bilbray	Chabot	Dickey
Bilirakis	Chambliss	Doolittle
Bliley	Chenoweth-Hage	Dreier
Blunt	Coble	Duncan