

105TH CONGRESS
1ST SESSION

S. 1263

To establish requirements regarding national tests in reading and mathematics.

IN THE SENATE OF THE UNITED STATES

OCTOBER 7, 1997

Mr. BINGAMAN introduced the following bill; which was read twice and referred to the Committee on Labor and Human Resources

A BILL

To establish requirements regarding national tests in reading and mathematics.

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. NATIONAL TESTS.**

4 (a) OERI ANNUAL SPENDING PLAN.—Notwithstand-
5 ing any other provision of law, the Assistant Secretary for
6 Educational Research and Improvement shall submit to
7 the Committee on Appropriations of the Senate a spending
8 plan for activities funded through the Office of Edu-
9 cational Research and Improvement for each fiscal year,
10 prior to the obligation of any funds for the fiscal year.

1 (b) EXCLUSIVE AUTHORITY.—Notwithstanding any
2 other provision of law, the National Assessment Governing
3 Board established under section 412 of the National Edu-
4 cation Statistics Act of 1994 (20 U.S.C. 9011) (hereafter
5 in this section referred to as the “Board”) shall hereafter
6 have exclusive authority over all policies, direction, and
7 guidelines for establishing and implementing voluntary na-
8 tional tests for 4th grade English reading and 8th grade
9 mathematics.

10 (c) AVAILABILITY.—The tests described in subsection
11 (b) shall be made available to a State, local educational
12 agency, or private or parochial school, upon the request
13 of the State, agency, or school, and the use of the tests
14 shall not be a condition for receiving any Federal funds.

15 (d) CONTRACT.—

16 (1) IN GENERAL.—Within 90 days after the
17 date of enactment of this Act, the Board shall review
18 the national test development contract in effect on
19 the date of enactment of this Act, and modify the
20 contract as the Board determines necessary. If the
21 contract cannot be modified to the extent determined
22 necessary by the Board, the contract shall be termi-
23 nated and the Board shall negotiate a new contract,
24 under the Board’s exclusive control, for the tests.

1 (2) BOARD DUTIES.—In exercising the Board’s
2 responsibilities under paragraph (1) regarding the
3 national tests, and notwithstanding any action un-
4 dertaken by the Department of Education or a per-
5 son contracting with or providing services for the
6 Department regarding the planning, or the develop-
7 ment of specifications, for the tests, the Board
8 shall—

9 (A) ensure that the content and standards
10 for the tests are the same as the content and
11 standards for the National Assessment;

12 (B) exercise exclusive authority over any
13 expert panel or advisory committee that will be
14 or is established with respect to the tests;

15 (C) ensure that the tests are linked to the
16 National Assessment to the maximum degree
17 possible ;

18 (D) develop test objectives, test specifica-
19 tions, and test methodology;

20 (E) develop policies for test administration,
21 including guidelines for inclusion of, and accom-
22 modations for, students with disabilities and
23 students with limited English proficiency;

1 (F) develop policies for reporting test re-
 2 sults, including the use of standards or per-
 3 formance levels, and for test use;

4 (G) have final authority over the appro-
 5 priateness of all test items;

6 (H) ensure that all items selected for use
 7 on the tests are free from racial, cultural, or
 8 gender bias; and

9 (I) take such actions and make such poli-
 10 cies as the Board determines necessary.

11 (e) CONSENT REQUIRED.—No State or local edu-
 12 cational agency may require any private or parochial
 13 school student, or home-schooled individual, to take any
 14 test developed under this Act without the written consent
 15 of the student or individual.

16 (f) NAGB AMENDMENTS.—Section 412 of the Na-
 17 tional Education Statistics Act of 1994 (20 U.S.C. 9011)
 18 is amended—

19 (1) in subsection (b)(1)—

20 (A) by amending subparagraph (A) to read
 21 as follows:

22 “(A) three Governors, or former Gov-
 23 ernors, of whom not more than 1 shall be a
 24 member of the same political party as the
 25 President;”;

1 (B) by amending subparagraph (B) to read
 2 as follows:

3 “(B) two State legislators, of whom not
 4 more than 1 shall be a member of the same po-
 5 litical party as the President;”;

6 (C) in subparagraph (H), by striking “one
 7 representative” and inserting “three representa-
 8 tives”;

9 (D) by amending subparagraph (I) to read
 10 as follows:

11 “(I) two mayors, of whom not more than
 12 1 shall be a member of the same political party
 13 as the President;”;

14 (E) by striking subparagraph (J); and

15 (F) by redesignating subparagraphs (K),
 16 (L), and (M) as subparagraphs (J), (K), and
 17 (L), respectively;

18 (2) in subsection (c)—

19 (A) in paragraph (1), by striking “and
 20 may not exceed a period of 3” and inserting
 21 “and shall be for periods of 4”; and

22 (B) in paragraph (2), by inserting “con-
 23 secutive” after “two”;

24 (3) by amending subsection (d) to read as fol-
 25 lows:

1 “(d) VACANCIES.—As vacancies on the Board occur,
 2 new members of the Board shall be appointed by the Sec-
 3 retary from among individuals who are nominated by the
 4 Board after consultation with representatives of the indi-
 5 viduals described in subsection (b)(1). For each vacancy,
 6 the Board shall nominate at least 3 individuals who are
 7 qualified by experience or training to fill the particular
 8 Board vacancy.”; and

9 (4) in subsection (e) by adding at the end the
 10 following:

11 “(7) INDEPENDENCE.—In the exercise of its
 12 functions, powers, and duties, the Board shall be
 13 independent of the Secretary and the other offices
 14 and officers of the Department. The Secretary shall,
 15 by written delegation of authority, authorize the
 16 Board to award grants and contracts, and otherwise
 17 operate, to the maximum extent practicable, inde-
 18 pendent of the Department.”.

19 (g) APPOINTMENTS.—Not later than 30 days after
 20 the date of enactment of this Act, the Secretary of Edu-
 21 cation, in consultation with the Speaker and Minority
 22 Leader of the House of Representatives, and the Majority
 23 Leader and Minority Leader of the Senate, shall appoint
 24 individuals to fill vacancies on the National Assessment
 25 Governing Board caused by the expiration of the terms

1 of members of the Board, or the creation of new member-
2 ship positions on the Board pursuant to amendments
3 made by this Act.

