

110TH CONGRESS
1ST SESSION

H. R. 4305

To amend part A of title I of the Elementary and Secondary Education Act of 1965 to improve elementary and secondary education.

IN THE HOUSE OF REPRESENTATIVES

DECEMBER 6, 2007

Mr. ALLEN (for himself and Mr. MICHAUD) introduced the following bill;
which was referred to the Committee on Education and Labor

A BILL

To amend part A of title I of the Elementary and Secondary Education Act of 1965 to improve elementary and secondary education.

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; TABLE OF CONTENTS.**

4 (a) SHORT TITLE.—This Act may be cited as the
5 “Improving Student Testing Act of 2007”.

6 (b) TABLE OF CONTENTS.—The table of contents for
7 this Act is as follows:

- Sec. 1. Short title; table of contents.
- Sec. 2. References.
- Sec. 3. Findings.
- Sec. 4. Purposes.
- Sec. 5. State and local flexibility in assessment and accountability models.

Sec. 6. Privacy protections for data systems.

Sec. 7. Timeline.

Sec. 8. Improvements to the peer review process.

Sec. 9. Disaggregation of graduation rates.

Sec. 10. Competitive grants for creating and implementing high-quality assessments.

Sec. 11. Competitive grants for increasing capacity at the State and local level.

1 **SEC. 2. REFERENCES.**

2 Except as otherwise expressly provided, whenever in
3 this Act an amendment or revision is expressed in terms
4 of an amendment to, or revision of, a section or other pro-
5 vision, the reference shall be considered to be made to a
6 section or other provision of the Elementary and Sec-
7 ondary Education Act of 1965 (20 U.S.C. 6301 et seq.).

8 **SEC. 3. FINDINGS.**

9 Congress makes the following findings:

10 (1) State and local governments bear the ma-
11 jority of the cost of and responsibility for educating
12 public elementary school and secondary school stu-
13 dents.

14 (2) State and local governments often struggle
15 to find adequate funding to provide basic edu-
16 cational services.

17 (3) The Federal Government has not provided
18 its full share of funding for numerous federally man-
19 dated elementary and secondary education pro-
20 grams.

1 (4) Underfunded Federal education mandates
2 increase financial pressures on States and local edu-
3 cational agencies.

4 (5) States and local educational agencies are
5 facing increased costs when implementing the an-
6 nual student academic assessments required under
7 section 1111(b)(3)(C)(vii) of the Elementary and
8 Secondary Education Act of 1965 (20 U.S.C.
9 6311(b)(3)(C)(vii)).

10 (6) Multiple measures of student academic
11 achievement on various methods of assessment pro-
12 vide a more complete picture of a student's
13 strengths and weaknesses than does a single score
14 on a high stakes standardized test.

15 (7) The frequency of using high-quality assess-
16 ments as a tool to measure student achievement
17 should be decided by State educational agencies and
18 local educational agencies.

19 **SEC. 4. PURPOSES.**

20 Section 1001 (20 U.S.C. 6301) is amended—

21 (1) by redesignating paragraphs (8) through
22 (12) as paragraphs (10) through (14), respectively;
23 and

24 (2) by inserting after paragraph (7) the fol-
25 lowing:

1 “(8) encouraging State educational agencies
 2 and local educational agencies to design innovative
 3 State assessment systems that include valid and reli-
 4 able high-quality assessments, including teacher-de-
 5 signed formative assessments, performance-based as-
 6 sessments, portfolio assessments, and other locally
 7 designed assessments;

8 “(9) providing additional resources for States to
 9 encourage the use of more than high stakes stand-
 10 ardized testing in making key decisions about stu-
 11 dents and schools, including accountability deter-
 12 minations, student promotion and retention deci-
 13 sions, and school funding decisions;”.

14 **SEC. 5. STATE AND LOCAL FLEXIBILITY IN ASSESSMENT**
 15 **AND ACCOUNTABILITY MODELS.**

16 (a) CHANGES TO ACADEMIC STANDARDS.—Section
 17 1111(b)(1)(D) (20 U.S.C. 6311(b)(1)(D)) is amended—

18 (1) in clause (i)(III), by inserting “, including
 19 higher-order thinking and analysis skills” after
 20 “skills”; and

21 (2) in clause (ii)(III), by striking “the lower-
 22 achieving” and inserting “all”.

23 (b) ACCOUNTABILITY DEFINITION CHANGES.—Sec-
 24 tion 1111(b)(2)(A) (20 U.S.C. 6311(b)(2)(A) is amend-
 25 ed—

1 (1) in the matter preceding clause (i)—

2 (A) by inserting “or adequate yearly
3 growth” after “progress”; and

4 (B) by striking “under this paragraph”
5 and inserting “in the State plan in accordance
6 with this paragraph and subject to the State’s
7 selection of an assessment system described in
8 paragraph (3)(E)”; and

9 (2) in clause (iii)—

10 (A) by striking “sanctions” and inserting
11 “proven interventions”; and

12 (B) by inserting “or adequate yearly
13 growth” after “adequate yearly progress”.

14 (c) ADEQUATE YEARLY PROGRESS CHANGES.—Sec-
15 tion 1111(b)(2) (as amended by subsection (b)) (20
16 U.S.C. 6311(b)(2)) is further amended—

17 (1) in subparagraph (B), by inserting “, and at
18 the State’s selection, other academic indicators,”
19 after “assessments”; and

20 (2) in subparagraph (D)—

21 (A) in clause (i), by striking “and” after
22 the semicolon;

23 (B) by striking clause (ii) and inserting the
24 following:

1 “(ii) in order to provide a more accu-
 2 rate determination of school improvement
 3 and subject to subparagraph (C)(iv), may
 4 elect to use other academic indicators de-
 5 scribed in clauses (vi) or (vii) of subpara-
 6 graph (C) to determine which schools and
 7 local educational agencies are identified for
 8 school improvement, corrective action, or
 9 restructuring under section 1116; and”;
 10 and
 11 (C) by adding at the end the following:

12 “(iii) shall ensure that assessments
 13 described in paragraph (3) represent not
 14 less than 50 percent of the factors used to
 15 determine how academic achievement is
 16 measured for purposes of determining ade-
 17 quate yearly progress or adequate yearly
 18 growth.”.

19 (d) CHANGES TO ANNUAL MEASURABLE OBJEC-
 20 TIVES.—Section 1111(b)(2)(G) (20 U.S.C.
 21 6311(b)(2)(G)) is amended—

22 (1) in clause (iii), by inserting “, or to meet a
 23 certain level of adequate yearly growth,” after “pro-
 24 ficient level”; and

1 (2) in clause (iv), by inserting “, or definition
2 of adequate yearly growth,” after “academic achieve-
3 ment”.

4 (e) STATE FLEXIBILITY TO DESIGN GROWTH MOD-
5 ELS.—Section 1111(b)(2) (20 U.S.C. 6311(b)(2)) is fur-
6 ther amended by adding at the end the following:

7 “(L) STATE FLEXIBILITY TO DESIGN
8 GROWTH MODELS.—

9 “(i) IN GENERAL.—Notwithstanding
10 any other provisions of this section, in car-
11 rying out this section a State may choose
12 from among the following statewide ac-
13 countability models:

14 “(I) STATUS MODEL.—Maintain-
15 ing annual assessments under a status
16 model, as described in subparagraphs
17 (B) through (K) of this paragraph.

18 “(II) GROWTH MODEL.—Imple-
19 menting a growth model account-
20 ability system described in clause (ii).

21 “(III) HYBRID MODEL.—Imple-
22 menting a hybrid accountability
23 model, including a combined growth
24 and status model, if the growth model

1 meets the requirements described in
2 clause (ii).

3 “(ii) REQUIREMENTS FOR GROWTH
4 MODELS.—A growth model accountability
5 system referred to in subclause (II) or
6 (III) of clause (i) shall meet the following
7 requirements:

8 “(I) VALID, RELIABLE, AND AC-
9 CURATE MEASURES.—The growth
10 model uses valid, reliable, and accu-
11 rate measures.

12 “(II) SUFFICIENT TECHNICAL
13 QUALITY AND CAPACITY.—The growth
14 model has sufficient technical quality
15 and technical capacity to ensure the
16 growth model can function fairly and
17 accurately for each student.

18 “(III) STATEWIDE PRIVACY-PRO-
19 TECTED DATA SYSTEM.—The growth
20 model has a statewide privacy-pro-
21 tected data system capable of tracking
22 individual students’ growth.

23 “(IV) ANNUAL ASSESSMENTS.—
24 The State annually assesses students
25 in grades 3 through 8 and once in

grades 9 through 12 and such assessments produce reliable results in each grade and from year to year.

“(V) PERFORMANCE MEASURES OR GROWTH TARGETS.—The State may set performance measures or growth targets based on a student’s current academic level, but may not set performance measures or growth targets for students on the basis of the student’s membership in 1 of the groups listed in subparagraph (C)(v)(II).

“(VI) ABILITY TO EVALUATE.—The State is able to evaluate student gains or progress in, at a minimum, mathematics and reading or language arts.”.

(f) STATE FLEXIBILITY TO DESIGN ASSESSMENT SYSTEMS.—Section 1111(b)(3) (20 U.S.C. 6311(b)(3)) is amended by adding at the end the following:

“(E) STATE FLEXIBILITY TO DESIGN ASSESSMENT SYSTEMS.—

“(i) STATE ASSESSMENT SYSTEMS.—

1 “(I) IN GENERAL.—Notwith-
2 standing any other provision of this
3 Act, in carrying out this section a
4 State may choose to design a state-
5 wide assessment system described in
6 clause (ii) that is subject to peer re-
7 view and approval under subsection
8 (e).

9 “(II) MAINTAINING CURRENT AS-
10 SESSMENT SYSTEM.—Notwithstanding
11 any other provision of this Act, a
12 State may elect to maintain the
13 State’s statewide assessment system
14 in effect on the day before the date of
15 enactment of the Improving Student
16 Testing Act of 2007.

17 “(III) CONSULTATION.—A State
18 shall consult with local educational
19 agencies, principals, teachers, and
20 parents when designing an assessment
21 system under this subparagraph.

22 “(ii) STATEWIDE ASSESSMENT SYS-
23 TEM OPTIONS.—In carrying out this sec-
24 tion a State may choose from among the

1 following statewide assessment system op-
2 tions:

3 “(I) ALTERNATIVE ASSESSMENT
4 MODELS.—

5 “(aa) IN GENERAL.—Sub-
6 ject to item (bb), a State may
7 conduct statewide assessments as
8 described in paragraph (3) not
9 less than—

10 “(AA) once in grades 3
11 through 5;

12 “(BB) once in grades 6
13 through 9; and

14 “(CC) once in grades
15 10 through 12.

16 “(bb) SPECIAL RULE.—If a
17 State chooses to assess statewide
18 in grade-spans, then the State is
19 encouraged to use more than
20 standardized, point-in-time as-
21 sessments to determine adequate
22 yearly progress or adequate year-
23 ly growth, and decisions related
24 to school improvement, corrective

1 action, and restructuring under
2 section 1116.

3 “(II) MULTIPLE MEASURES OF
4 ASSESSMENT.—A State may choose to
5 implement a system of State or locally
6 designed or administered formative
7 assessments, performance assess-
8 ments, portfolio assessments, bench-
9 mark assessments, end-of-course ex-
10 aminations, and other measures of as-
11 sessment, as an alternative to or in
12 conjunction with statewide standard-
13 ized assessments, if each such assess-
14 ment in the system—

15 “(aa) measures higher-order
16 thinking skills; and

17 “(bb) meets the require-
18 ments of subparagraph (C)(xvi).

19 “(III) HYBRID ASSESSMENT
20 MODEL.—A State may choose to cre-
21 ate a hybrid assessment model com-
22 posed of statewide standardized as-
23 sessments and multiple measures of
24 assessment described in subclause
25 (II).”.

1 (g) ASSESSMENT CHANGES.—Section 1111(b)(3) (as
2 amended by subsection (e)) is further amended—

3 (1) in subparagraph (A)—

4 (A) by striking “, yearly” after “high-quality”; and
5

6 (B) by striking “that will be used as the
7 primary” and inserting “, subject to the State’s
8 selection of an assessment system under subparagraph (E), that will be used as 1 of the”;
9
10 (2) in subparagraph (C)—

11 (A) in the matter preceding item (aa) of
12 clause (v)(I), by striking “except as otherwise
13 provided for grades 3 through 8 under clause
14 vii” and inserting “subject to a State’s selection
15 of an assessment system under subparagraph
16 (E)”;

17 (B) in clause (vii), by striking “beginning
18 not” and all that follows through “through 8
19 in” and inserting “measure the achievement of
20 students against the challenging State academic
21 content and student academic achievement
22 standards in each of the grades assessed in”;

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

1 (D) in clause (xv), by striking the period
2 and inserting “; and”; and

3 (E) by adding at the end the following:

4 “(xvi) if the State chooses, include
5 other valid and reliable assessments, in-
6 cluding State or locally designed or admin-
7 istered formative assessments, performance
8 assessments, portfolio assessments, bench-
9 mark assessments, end-of-course examina-
10 tions, and other local assessments, that—

11 “(I) are aligned with the State’s
12 academic content standards and stu-
13 dent academic achievement standards;

14 “(II) have been approved through
15 the peer-review process described in
16 subsection (e);

17 “(III) measure higher-order
18 thinking skills;

19 “(IV) produce evidence about
20 student learning and achievement in a
21 timely manner; and

22 “(V) provide teachers with mean-
23 ingful feedback so that the teachers
24 can modify, improve, and target in-

1 structional strategies based on indi-
2 vidual student need.”.

3 (h) SPECIAL RULE.—Section 1111(b) (20 U.S.C.
4 6311(b)) is further amended by striking paragraph (4).

5 **SEC. 6. PRIVACY PROTECTIONS FOR DATA SYSTEMS.**

6 Subpart 1 of part A of title I of the Elementary and
7 Secondary Education Act of 1965 (20 U.S.C. 6311 et
8 seq.) is amended by adding at the end the following:

9 **“SEC. 1120C. PRIVACY PROTECTIONS FOR DATA SYSTEMS.**

10 “(a) IN GENERAL.—Each State receiving a grant
11 under this part shall implement measures to—

12 “(1) limit the use of information in a statewide
13 education data system by a State educational agen-
14 cy, a local educational agency, or an institution of
15 higher education to the purposes and functions for
16 such information set forth in Federal or State edu-
17 cation law, and allow access to the information in
18 the statewide education data system only to those
19 State or local employees or agents, and only on such
20 terms, as may be necessary to fulfill those purposes
21 and functions;

22 “(2) prohibit the disclosure of student-level in-
23 formation in the data system to any other person,
24 agency, institution, or entity, except that States may
25 allow the disclosures permitted under section 444 of

1 the General Education Provisions Act in accordance
2 with the limitations set forth in this section and any
3 additional limitations set forth in State law;

4 “(3) require any person, agency, institution, or
5 entity to whom disclosure of information in the data
6 system is authorized under section 444 of the Gen-
7 eral Education Provisions Act to sign a data use
8 agreement prior to disclosure, that—

9 “(A) prohibits the party from further dis-
10 closing the information;

11 “(B) prohibits the party from using the in-
12 formation for any purpose other than the pur-
13 pose specified in the agreement; and

14 “(C) requires the party to destroy the in-
15 formation when the purpose for which the dis-
16 closure was made is accomplished;

17 “(4) if consistent with the purpose of the disclo-
18 sure, remove personally identifying information and
19 unique identifiers before disclosing student-level in-
20 formation in the data system;

21 “(5) in addition to the accounting requirements
22 set forth under section 444 of the General Edu-
23 cation Provisions Act, maintain a record of the date
24 of each disclosure of information in the data system,
25 a detailed description of the information disclosed,

1 and the name and address of the person, agency, in-
2 stitution, or entity to whom the disclosure was made,
3 which accounting shall be made available on request
4 to parents of any student whose information has
5 been disclosed, or to the student if the student has
6 reached the age of 18 or is enrolled in a postsec-
7 ondary educational institution;

8 “(6) ensure that any disclosure of aggregate
9 data in the data system is in a form that does not
10 permit the identification of individual students, and
11 that any unique identifiers in the data system are
12 removed prior to disclosure of aggregate data;

13 “(7) maintain adequate security measures to
14 ensure the confidentiality and integrity of the data
15 system; and

16 “(8) ensure adequate enforcement of the re-
17 quirements of this section.

18 “(b) USE OF UNIQUE IDENTIFIERS.—

19 “(1) GOVERNMENTAL USE OF UNIQUE IDENTI-
20 FIERS.—It shall be unlawful for any Federal agency,
21 any employee of any Federal agency, any State or
22 local agency in a State that receives funds under
23 this Act, or any employee of a State or local agency
24 in a State that receives funds under this Act, to use
25 unique identifiers employed in a statewide education

1 data system for any purpose other than as author-
2 ized by Federal or State education law, or to deny
3 any individual any right, benefit, or privilege pro-
4 vided by law because of such individual's refusal to
5 disclose the individual's unique identifier.

6 “(2) REGULATIONS.—Not later than 1 year
7 after the date of enactment of the Improving Stu-
8 dent Testing Act of 2007, the Secretary shall pro-
9 mulgate regulations governing the use of unique
10 identifiers employed in statewide education data sys-
11 tems, with the goal of safeguarding individual pri-
12 vacy. The regulations may require States seeking
13 grants under this part to have in place measures to
14 limit the use of unique identifiers by nongovern-
15 mental parties to the extent practicable, consistent
16 with the uses of the information authorized in Fed-
17 eral or State education law.

18 “(c) FORMULA GRANTS FOR PRIVACY PROTECTED
19 DATA SYSTEMS.—

20 “(1) GRANTS AUTHORIZED.—The Secretary is
21 authorized to award a grant, from allotments under
22 paragraph (2), to each State receiving funds under
23 this part, for the purposes of carrying out the re-
24 quirements of this section related to privacy protec-
25 tions and unique identifiers.

1 “(2) ALLOTMENT FORMULA.—The Secretary
 2 shall establish a formula for the allotment of grants
 3 under this subsection that ensures that no State re-
 4 ceives less than \$500,000 annually and that each
 5 State receives an equitable share of the amount al-
 6 lotted based upon relevant State factors, including
 7 student population size.

8 “(3) DEFINITION OF STATE.—In this sub-
 9 section the term ‘State’ means each of the several
 10 States of the United States, the District of Colum-
 11 bia, and the Commonwealth of Puerto Rico.

12 “(d) AUTHORIZED AMOUNTS.—There are authorized
 13 to be appropriated to carry out this section \$35,000,000
 14 for each of fiscal years 2008 through 2012.”.

15 **SEC. 7. TIMELINE.**

16 Section 1111(b)(2)(F) (20 U.S.C. 6311(b)(2)(F)) is
 17 amended by adding at the end the following: “The Sec-
 18 retary shall waive the timeline described in this subpara-
 19 graph if the amount appropriated to carry out this part
 20 for each of fiscal years 2008 through 2015 does not equal
 21 or exceed the amount authorized to be appropriated to
 22 carry out this part for each such fiscal year.”.

23 **SEC. 8. IMPROVEMENTS TO THE PEER REVIEW PROCESS.**

24 Section 1111(e)(1) (20 U.S.C. 6311(e)(1)) is further
 25 amended—

1 (1) by striking subparagraph (B) and inserting
2 the following:

3 “(B) appoint individuals to the peer review
4 process who are—

5 “(i) representative of parents, teach-
6 ers, State educational agencies, local edu-
7 cational agencies, and professional edu-
8 cation associations; and

9 “(ii) skilled practitioners or education
10 researchers with knowledge of fair, valid,
11 and reliable assessment design, including
12 individuals with expertise in 1 or more of
13 the following:

14 “(I) Developing educational
15 standards.

16 “(II) Developing valid and reli-
17 able assessments for all students, in-
18 cluding alternative assessments for
19 students with disabilities and English
20 language learners.

21 “(III) Creating valid account-
22 ability models.

23 “(IV) Accurately assessing the
24 needs of low-performing schools.

1 “(V) Adequately measuring the
2 other educational needs of students so
3 that issues relating to the education
4 of the whole child are addressed.”;

5 (2) by redesignating subparagraphs (C) through
6 (F) as subparagraphs (F) through (I), respectively;

7 (3) by inserting after subparagraph (B) (as
8 amended by paragraph (1)) the following:

9 “(C) establish a list of individuals who are
10 eligible to be appointed to a peer review panel
11 under this subsection and ensure that from the
12 list of eligible peer reviewers, each peer review
13 team contains—

14 “(i) not less than 1 representative se-
15 lected from among recommendations from
16 State educational agencies;

17 “(ii) not less than 1 representative se-
18 lected from among recommendations from
19 local educational agencies;

20 “(iii) not less than 1 representative
21 selected from among recommendations
22 from professional educational associations;

23 “(iv) not less than 1 representative se-
24 lected by the Secretary; and

1 “(v) not less than 1 representative
2 who works in a school;

3 “(D) ensure that there is consistency from
4 State to State with respect to all decisions
5 reached by the peer review panels;

6 “(E) ensure that States are given the op-
7 portunity to receive timely feedback from peer
8 review teams, in person or via electronic com-
9 munication, and directly interact with peer re-
10 view panels on issues that need clarification
11 during the peer review process;”;

12 (4) in subparagraph (H)(iii) (as redesignated
13 by paragraph (2)), by striking “and” after the semi-
14 colon;

15 (5) in subparagraph (I) (as redesignated by
16 paragraph (2)), by striking the period and inserting
17 a semicolon; and

18 (6) by adding at the end the following:

19 “(J) post all approval and denial decisions
20 regarding the State plans and final State plans,
21 State plan amendments, and waiver decisions
22 for each State plan, on a publicly available
23 website in an easily identifiable location, and
24 provide written notification to States of all such

1 decisions within 3 business days of such deci-
 2 sions; and

3 “(K) direct the Inspector General of the
 4 Department to review the final determinations
 5 reached by the Secretary under this subsection
 6 for consistent decisionmaking through the peer
 7 review process across all States and report the
 8 findings to Congress once every 2 years.”.

9 **SEC. 9. DISAGGREGATION OF GRADUATION RATES.**

10 (a) IN GENERAL.—Section 1111(h)(1)(C)(vi) (20
 11 U.S.C. 6311(h)(1)(C)) is amended by inserting before the
 12 semicolon the following: “, disaggregated by the student
 13 subgroups described in subsection (b)(2)(C)(v)(II)”.

14 (b) FORMULA GRANTS FOR DISAGGREGATION AND
 15 REPORTING OF DATA.—

16 (1) IN GENERAL.—The Secretary of Education
 17 is authorized to award a grant, from allotments
 18 under paragraph (2), to each State receiving funds
 19 under part A of title I of the Elementary and Sec-
 20 ondary Education Act of 1965 (20 U.S.C. 6311 et
 21 seq.), for the purposes of carrying out the require-
 22 ments to disaggregate and report data as required
 23 under sections 1111(b)(2)(C), 1111(b)(3)(C)(xiii),
 24 and 1111(h) of such Act (20 U.S.C. 6311(b)(2)(C),
 25 6311(b)(3)(C)(xiii), 6311(h)).

1 (2) ALLOTMENT FORMULA.—The Secretary
 2 shall establish a formula for the allotment of grants
 3 under this subsection that ensures that no State re-
 4 ceives less than \$1,000,000 annually and that each
 5 State receives an equitable share of the amount al-
 6 lotted based upon relevant State factors, including
 7 student population size.

8 (3) DEFINITION OF STATES.—In this sub-
 9 section the term “State” means each of the several
 10 States of the United States, the District of Colum-
 11 bia, and the Commonwealth of Puerto Rico.

12 (4) AUTHORIZATION.—There are authorized to
 13 be appropriated to carry out this subsection
 14 \$70,000,000 for each of fiscal years 2008 through
 15 2012.

16 **SEC. 10. COMPETITIVE GRANTS FOR CREATING AND IMPLE-**
 17 **MENTING HIGH-QUALITY ASSESSMENTS.**

18 (a) PURPOSES.—The purposes of this section are as
 19 follows:

20 (1) To provide additional resources to State
 21 educational agencies, local educational agencies, and
 22 schools so that accountability decisions about stu-
 23 dents and schools are based on well-designed mul-
 24 tiple measures of assessment rather than 1 high
 25 stakes standardized test.

(2) To assist State educational agencies, local educational agencies, and schools in the design and implementation of high-quality assessments, including State or locally designed school district assessments, formative assessments, performance assessments, portfolio assessments, alternative assessments for students with disabilities and English Language Learners, and other assessments that measure higher-order thinking skills and are aligned with State student academic achievement and academic content standards in order to create multiple measures of assessment that—

(A) improve classroom instruction; or

(B) are used in accountability systems.

(b) DEFINITIONS.—In this section:

(1) ESEA DEFINITIONS.—The terms used in this section have the meanings given the terms in section 9101 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7801).

(2) FORMATIVE ASSESSMENT.—The term “formative assessment” means an assessment that—

(A) produces evidence about student learning and achievement in a timely manner; and

(B) provides students and teachers with meaningful feedback so that teachers can mod-

1 ify, improve, and target instructional strategies
2 based on individual student need, and students
3 can assess the students' own academic progress.

4 (3) MULTIPLE MEASURES OF ASSESSMENT.—

5 The term “multiple measures of assessment” means
6 different forms of assessment that offer all students
7 various ways to show academic achievement and
8 progress.

9 (4) PERFORMANCE ASSESSMENT.—The term
10 “performance assessment” means an assessment
11 that measures the ability of students to apply knowl-
12 edge and demonstrate achievement through perform-
13 ance-based tasks.

14 (5) PORTFOLIO ASSESSMENT.—The term “port-
15 folio assessment” means an assessment that accu-
16 mulates student work to use as formative or
17 summative evidence of student academic progress.

18 (c) GRANTS AUTHORIZED.—The Secretary of Edu-
19 cation is authorized to award grants to State educational
20 agencies to enable the State educational agencies to carry
21 out the authorized activities described in subsection (d).

22 (d) AUTHORIZED ACTIVITIES.—

23 (1) IN GENERAL.—A State educational agency
24 that receives a grant under this section shall use the
25 funds made available through the grant for the de-

1 sign or implementation of high-quality assessments
2 in local classrooms, including—

3 (A) partnering with institutions of higher
4 education to train teachers in how to develop
5 and utilize the assessments described in sub-
6 section (a)(2) and how to teach students to as-
7 sess their own learning;

8 (B) creating the assessments described in
9 subsection (a)(2) and aligning the assessments
10 with State student academic achievement and
11 academic content standards;

12 (C) aligning local assessments across the
13 State to develop a system of common assess-
14 ments;

15 (D) designing student reports that detail
16 assessment results and that can be used to in-
17 form classroom instruction and provide parents
18 with timely information on student progress;
19 and

20 (E) collaborating with other State edu-
21 cational agencies to share information about as-
22 sessment development and implementation
23 across the States.

24 (2) RESTRICTIONS.—Grant funds received
25 under this section shall—

1 (A) be used only for the development, im-
 2 plementation, and measurement of the assess-
 3 ments described in subsection (a)(2); and

4 (B) not be used for the purchase or devel-
 5 opment of high stakes, large scale assessments
 6 or for test preparation materials for high stakes
 7 testing.

8 (e) ELIGIBLE PARTNER ENTITIES.—

9 (1) IN GENERAL.—Each State educational
 10 agency that receives a grant under this section, upon
 11 receipt of the grant funds, may partner with an enti-
 12 ty described in paragraph (2), in order to carry out
 13 the activities assisted under the grant.

14 (2) ENTITIES.—An entity referred to in para-
 15 graph (1) is—

16 (A) an institution of higher education that
 17 has a teacher training program;

18 (B) a local educational agency; and

19 (C) a research institution with experience
 20 in designing high-quality assessments.

21 (f) APPLICATION.—To be eligible to receive a grant
 22 under this section, a State educational agency shall submit
 23 an application to the Secretary at such time, in such man-
 24 ner, and containing such information as the Secretary may
 25 require, including, at a minimum—

1 (1) a proposal to use the grant funds to design
2 or implement the assessments described in sub-
3 section (a)(2);

4 (2) a method for establishing an application
5 process whereby local educational agencies and indi-
6 vidual schools can apply to receive funds provided
7 under this section from the State educational agen-
8 cy;

9 (3) a description of how the State educational
10 agency plans to assess the effectiveness of the as-
11 sessments in raising student achievement and nar-
12 rowing the achievement gap among the State's stu-
13 dent population; and

14 (4) a description of how the State educational
15 agency plans to ensure that the assessments will be
16 used to improve teaching and provide detailed and
17 timely feedback to students and parents.

18 (g) DURATION.—A grant under this section shall be
19 awarded for a period of not more than 5 fiscal years.

20 (h) AWARD CONSIDERATIONS.—In awarding grants
21 under this section, the Secretary shall select State edu-
22 cational agencies that demonstrate the greatest need for
23 the grants and the greatest potential benefit from receipt
24 of the grants.

25 (i) REPORT AND EVALUATION.—

1 (1) STATE REPORTS.—Each State educational
2 agency that receives a grant under this section shall
3 submit—

4 (A) an annual report to the Secretary de-
5 tailing how the State educational agency is
6 using the grant funds and detailing ongoing
7 evaluation of the design of the assessments as-
8 sisted under this section, the training of edu-
9 cators in using the assessments, and the effec-
10 tiveness of the assessments as measured by stu-
11 dent achievement and growth based on multiple
12 measures of assessment; and

13 (B) a comprehensive 5-year report at the
14 end of the 5-year grant period including a de-
15 tailed analysis of—

16 (i) how the grant funds were used;

17 and

18 (ii) the impact of the grant on student
19 achievement, narrowing the achievement
20 gap, and the quality of teaching, based on
21 multiple measures of assessment.

22 (2) FEDERAL EVALUATION AND REPORT.—Not
23 later than 5 years after the date of enactment of
24 this Act, the Secretary shall—

1 (A) develop and execute a plan for evalu-
 2 ating the assessments assisted under this sec-
 3 tion and the strategies financed under this sec-
 4 tion; and

5 (B) submit a report to Congress detailing
 6 how State educational agencies used the grant
 7 funds provided under this section, the impact of
 8 the grants on student achievement and teaching
 9 in the States, and any recommendations for im-
 10 provements that can be made to the grant pro-
 11 gram under this section.

12 (j) AUTHORIZED AMOUNTS.—There are authorized to
 13 be appropriated to carry out this section \$150,000,000 for
 14 each of fiscal years 2008 through 2012.

15 **SEC. 11. COMPETITIVE GRANTS FOR INCREASING CAPAC-**
 16 **ITY AT THE STATE AND LOCAL LEVEL.**

17 (a) PURPOSES.—The purpose of this section is to as-
 18 sist State educational agencies and local educational agen-
 19 cies with—

20 (1) building State educational agency and local
 21 educational agency technical capacity; and

22 (2) improving technical assistance.

23 (b) GRANTS AUTHORIZED.—The Secretary of Edu-
 24 cation is authorized to award grants to State educational
 25 agencies and local educational agencies to enable the agen-

1 cies to carry out the authorized activities described in sub-
2 section (c).

3 (c) AUTHORIZED ACTIVITIES.—A State educational
4 agency or local educational agency that receives a grant
5 under this section shall use the funds made available
6 under the grant to carry out 1 or more of the following
7 activities:

8 (1) Creating, maintaining, and improving State
9 or local education databases that can track adequate
10 yearly growth in individual students.

11 (2) Implementing adequate privacy protections
12 in State or local education databases.

13 (3) Complying with the requirement to
14 disaggregate and report data under sections
15 1111(b)(2)(C), 1111(b)(3)(C)(xiii), and 1111(h) of
16 the Elementary and Secondary Education Act of
17 1965 (20 U.S.C. 6311(b)(2)(C), 6311(b)(3)(C)(xiii),
18 6311(h)).

19 (4) Developing State educational agency or
20 local educational agency capacity to create account-
21 ability or assessment systems that contain multiple
22 measures of student achievement, including state-
23 wide, local, formative, and performance-based assess-
24 ments.

1 (5) Conducting research on proven strategies
2 for improving schools and local school districts or
3 implementing research-proven, valid, and reliable im-
4 provement strategies in schools or local school dis-
5 tricts.

6 (6) Training State educational agency staff,
7 local educational agencies, administrators, and
8 schools in making data-driven decisions.

9 (7) Developing State educational agency or
10 local educational agency capacity to provide tech-
11 nical assistance to schools in need of improvement.

12 (d) APPLICATION.—To be eligible to receive a grant
13 under this subsection, a State educational agency or local
14 educational agency shall submit an application to the Sec-
15 retary at such time, in such manner, and containing such
16 information as the Secretary may require, including, at
17 a minimum—

18 (1) a description of the privacy protections that
19 the State educational agency or local educational
20 agency has implemented or will implement pursuant
21 to section 1120C of the Elementary and Secondary
22 Education Act of 1965, and assurances that the pro-
23 tections will be in place when the grant funds are
24 made available to the State educational agency or
25 local educational agency, if applying for grant fund-

1 ing to create, maintain, or improve a State or local
2 education database;

3 (2) a description of the school improvement
4 techniques the State educational agency or local edu-
5 cational agency will implement, and a description of
6 how the techniques will meet the needs of the
7 schools or local educational agencies in the State
8 that are identified for school improvement, corrective
9 action, or restructuring under section 1116 of the
10 Elementary and Secondary Act of 1965 (20 U.S.C.
11 6316), if applying for grant funding to develop ca-
12 pacity to provide school improvement technical as-
13 sistance;

14 (3) a description of the multiple measures of
15 student achievement that a State educational agency
16 or local educational agency will include in its assess-
17 ment systems, if applying for grant funding to de-
18 velop assessment system capacity;

19 (4) a description of the training programs that
20 will be offered to staff of State educational agencies
21 and local educational agencies to boost data-driven
22 decisionmaking skills, if applying for grant funding
23 to develop such training programs;

24 (5) a method for establishing an application
25 process whereby local educational agencies can apply

1 to receive funds provided under this section from the
2 State educational agency;

3 (6) a description of how the State educational
4 agency plans to assess the effectiveness of the State
5 educational agency's capacity building efforts under
6 this section; and

7 (7) a description of how the State educational
8 agency plans to account for funds expended under
9 this section.

10 (e) DURATION.—A grant under this section shall be
11 awarded for not less than 2 fiscal years and not more than
12 5 fiscal years.

13 (f) PRIORITY.—In awarding grants under this sec-
14 tion, the Secretary shall give priority to State educational
15 agencies and local educational agencies that demonstrate
16 in the application submitted under subsection (c) the
17 greatest need for the grant and the greatest potential ben-
18 efit from receipt of the grant.

19 (g) EVALUATION.—

20 (1) STATE EVALUATIONS.—Each State edu-
21 cational agency receiving a grant under this section
22 shall submit a report at the end of the last year of
23 the grant that provides a detailed analysis of how
24 the grant funds were used and the effectiveness of
25 the grant funds in improving State educational

1 agency and local educational agency capacity to meet
2 the requirements under part A of title I of the Ele-
3 mentary and Secondary Education Act of 1965 (20
4 U.S.C. 6311 et seq.).

5 (2) FEDERAL EVALUATION.—Not later than 5
6 years after the date of enactment of this Act, the
7 Secretary shall—

8 (A) develop and execute a plan for evalu-
9 ating the State educational agency and local
10 educational agency’s capacity-building programs
11 funded under this section;

12 (B) submit a detailed report to Congress
13 on the use of the funds provided under this sec-
14 tion in improving State and local education ca-
15 pacity; and

16 (C) provide to Congress any recommenda-
17 tions for improvements that can be made to the
18 grant program funded under this section.

19 (h) AUTHORIZED AMOUNTS.—There are authorized
20 to be appropriated to carry out this section \$100,000,000
21 for each of fiscal years 2008 through 2012.

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