

114TH CONGRESS
1ST SESSION

S. 197

To amend the Elementary and Secondary Education Act of 1965 to award grants to States to improve delivery of high-quality assessments, and for other purposes.

IN THE SENATE OF THE UNITED STATES

JANUARY 20, 2015

Ms. BALDWIN (for herself, Mrs. MURRAY, Mr. BROWN, Mr. FRANKEN, Ms. WARREN, Mr. MURPHY, and Mr. CASEY) introduced the following bill; which was read twice and referred to the Committee on Health, Education, Labor, and Pensions

A BILL

To amend the Elementary and Secondary Education Act of 1965 to award grants to States to improve delivery of high-quality assessments, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Support Making As-
5 sessments Reliable and Timely Act” or the “SMART
6 Act”.

1 **SEC. 2. ACCOUNTABILITY.**

2 (a) IN GENERAL.—Subpart 1 of part A of title VI
3 of the Elementary and Secondary Education Act of 1965
4 (20 U.S.C. 7301 et seq.) is amended to read as follows:

5 **“SEC. 6111. GRANTS TO IMPROVE DELIVERY OF HIGH-QUAL-**
6 **ITY ASSESSMENTS AND FOR RELATED AC-**
7 **TIVITIES.**

8 “(a) IN GENERAL.—From the amount made avail-
9 able under section 6114(b)(5) and subject to subpara-
10 graphs (A) and (B) of such section for a fiscal year, the
11 Secretary shall make grants, from allotments under sub-
12 section (b), to States to enable the States to—

13 “(1) develop, administer, and further align
14 State assessments required by section 1111(b)(3) to
15 State academic content standards required by sec-
16 tion 1111(b)(1);

17 “(2) ensure the provision of appropriate accom-
18 modations as required by section 1111(b)(3)(C)(ix)
19 to students who are limited English proficient and
20 students who are children with disabilities to im-
21 prove the rates of inclusion in State assessments of
22 such students;

23 “(3) develop State assessment systems aligned
24 to the State’s academic content standards that sup-
25 port systems of continuous improvement;

1 “(4) support local educational agencies in iden-
2 tifying uses of assessment data, which may include
3 appropriate use of student assessment data as one
4 of multiple measures of student learning for teacher
5 and school leader performance and evaluation; and

6 “(5) carry out the activities described in the re-
7 port required under subsection (c).

8 “(b) ALLOTMENT OF FUNDS.—From the amount re-
9 served under section 6114(b)(5) for each fiscal year, each
10 State shall receive an allotment for such year in an
11 amount equal to—

12 “(1) \$4,000,000; and

13 “(2) with respect to any amounts remaining
14 after the allotment is made under paragraph (1) to
15 all States, an amount that bears the same relation-
16 ship to such total remaining amounts as the number
17 of students ages 5 through 17 in the State (as deter-
18 mined by the Secretary on the basis of the most re-
19 cent satisfactory data) bears to the total number of
20 such students in all States.

21 “(c) STATE REPORT.—Not later than 6 months after
22 a State receives a grant under this section, the State shall,
23 in consultation with education stakeholders, prepare and
24 make publically available a report that explains how the
25 State has used, or will use, the grant to—

1 “(1) improve the quality and use of the State’s
2 assessment system, including assessments not re-
3 quired by section 1111(b)(3), and for related activi-
4 ties;

5 “(2) ensure that all summative assessments
6 that are used for accountability purposes are valid
7 and reliable, and consistent with relevant, nationally
8 recognized professional and technical standards; and

9 “(3) improve the use of State assessment data
10 by school leaders, educators, and parents, and for
11 related activities, such as—

12 “(A) disseminating the assessment data in
13 an accessible and understandable format for
14 educators, parents, and families;

15 “(B) decreasing time between admin-
16 istering such State assessments and releasing
17 assessment data;

18 “(C) supporting the dissemination of
19 promising practices from local educational
20 agencies that have successfully used assessment
21 data to improve individual student and overall
22 school performance;

23 “(D) identifying appropriate uses of as-
24 sessment data, which may include appropriate
25 use of student assessment data as one of mul-

1 tiple measures of student learning for teacher
 2 and school leader performance and evaluation;
 3 and

4 “(E) providing professional development on
 5 assessment and data literacy to teachers and
 6 school leaders, including on the development
 7 and effective use of formative and classroom-
 8 based assessments aligned with State academic
 9 content standards.

10 **“SEC. 6112. GRANTS FOR ASSESSMENT SYSTEM ALIGN-**
 11 **MENT, QUALITY, AND USE.**

12 “(a) IN GENERAL.—From the amount reserved
 13 under section 6114(b)(3) for a fiscal year, the Secretary
 14 shall make grants, from allotments under subsection (b),
 15 to States to enable the States to—

16 “(1) in the case of a grant awarded under this
 17 section to a State for the first time—

18 “(A) carry out audits of State assessment
 19 systems and ensure that local educational agen-
 20 cies carry out audits of local assessments under
 21 subsection (e)(1);

22 “(B) prepare and carry out the State plan
 23 under subsection (e)(6); and

24 “(C) award subgrants under subsection (f);
 25 and

1 “(2) in the case of a grant awarded under this
2 section to a State that has previously received a
3 grant under this section—

4 “(A) carry out the State plan under sub-
5 section (e)(6); and

6 “(B) award subgrants under subsection
7 (f).

8 “(b) MINIMUM AMOUNT.—Each State with an ap-
9 proved application shall receive a grant amount of not less
10 than \$2,000,000 per fiscal year.

11 “(c) REALLOCATION.—If a State chooses not to apply
12 to receive a grant under this subsection, or if such State’s
13 application under subsection (d) is disapproved by the Sec-
14 retary, the Secretary shall reallocate such grant amount
15 to other States with approved applications.

16 “(d) APPLICATION.—A State desiring to receive a
17 grant under this section shall submit an application to the
18 Secretary at such time, in such manner, and containing
19 such information as the Secretary may require.

20 “(e) AUDITS OF STATE ASSESSMENT SYSTEMS AND
21 LOCAL ASSESSMENTS.—

22 “(1) AUDIT REQUIREMENTS.—Not later than 1
23 year after a State receives a grant under this section
24 for the first time, the State shall—

1 “(A) conduct an audit of the State assess-
2 ment system;

3 “(B) ensure that each local educational
4 agency under the State’s jurisdiction and re-
5 ceiving funds under this Act—

6 “(i) conducts an audit of each local
7 assessment administered by the local edu-
8 cational agency; and

9 “(ii) submits the results of such audit
10 to the State; and

11 “(C) report the results of each State and
12 local educational agency audit conducted under
13 subparagraphs (A) and (B)—

14 “(i) in a publicly available format,
15 such as a widely accessible online platform;
16 and

17 “(ii) with appropriate accessibility
18 provisions for individuals with disabilities
19 and individuals with limited English pro-
20 ficiency.

21 “(2) RESOURCES FOR LOCAL EDUCATIONAL
22 AGENCIES.—In carrying out paragraph (1)(B), each
23 State shall develop and provide local educational
24 agencies with resources, such as guidelines and pro-
25 tocols, to assist the agencies in conducting and re-

1 porting the results of the audit required under such
2 paragraph.

3 “(3) STATE ASSESSMENT SYSTEM DESCRIP-
4 TION.—An audit of a State assessment system con-
5 ducted under paragraph (1) shall include a descrip-
6 tion of each State assessment carried out in the
7 State, including—

8 “(A) the grade and subject matter as-
9 sessed;

10 “(B) whether the assessment is required
11 under section 1111(b)(3);

12 “(C) the annual cost to the State edu-
13 cational agency involved in developing, pur-
14 chasing, administering, and scoring the assess-
15 ment;

16 “(D) the purpose for which the assessment
17 was designed and the purpose for which the as-
18 sessment is used, including assessments de-
19 signed to contribute to systems of continuous
20 improvement of teaching and learning;

21 “(E) the time for disseminating assess-
22 ment results;

23 “(F) a description of how the assessment
24 is aligned with the State’s academic content
25 standards under section 1111(b)(1);

1 “(G) a description of any State law or reg-
2 ulation that established the requirement for the
3 assessment;

4 “(H) the schedule and calendar for all
5 State assessments given; and

6 “(I) a description of the State’s policies for
7 inclusion of students who are limited English
8 proficient and students with disabilities.

9 “(4) LOCAL ASSESSMENT DESCRIPTION.—An
10 audit of a local assessment conducted under para-
11 graph (1) shall include a description of the local as-
12 sessment carried out by the local educational agency,
13 including—

14 “(A) the descriptions listed in subpara-
15 graphs (A), (D), and (E) of paragraph (3);

16 “(B) the annual cost to the local edu-
17 cational agency of developing, purchasing, ad-
18 ministering, and scoring the assessment;

19 “(C) the extent to which the assessment is
20 aligned to the State’s content standards;

21 “(D) a description of any State or local
22 law or regulation that establishes the require-
23 ment for the assessment; and

24 “(E) in the case of a summative assess-
25 ment that is used for accountability purposes,

1 whether the assessment is valid and reliable and
2 consistent with nationally recognized profes-
3 sional and technical standards.

4 “(5) STAKEHOLDER FEEDBACK.—Each audit of
5 a State assessment system or local assessment sys-
6 tem conducted under subparagraph (A) or (B) of
7 paragraph (1) shall include feedback on such system
8 from education stakeholders, which shall cover infor-
9 mation such as—

10 “(A) how educators and administrators use
11 assessment data to improve and differentiate
12 instruction;

13 “(B) the timing of release of assessment
14 data;

15 “(C) the extent to which assessment data
16 is presented in an accessible and understand-
17 able format for educators, parents, students (if
18 appropriate), and the community;

19 “(D) the opportunities, resources, and
20 training educators and administrators are given
21 to review assessment results and make effective
22 use of assessment data;

23 “(E) the distribution of technological re-
24 sources and personnel necessary to administer
25 assessments;

1 “(F) the amount of time educators spend
2 on assessment preparation;

3 “(G) the assessments that administrators,
4 educators, parents, and students, if appropriate,
5 do and do not find useful;

6 “(H) the amount of time students spend
7 taking the assessments; and

8 “(I) other information as appropriate.

9 “(6) STATE PLAN ON AUDIT FINDINGS.—

10 “(A) PREPARING THE STATE PLAN.—Not
11 later than 6 months after a State conducts an
12 audit under paragraph (1) and based on the re-
13 sults of such audit, the State shall, in coordina-
14 tion with the local educational agencies under
15 the jurisdiction of the State, prepare and sub-
16 mit to the Secretary, a plan to improve and
17 streamline State assessment systems and local
18 assessment systems, including through activities
19 such as—

20 “(i) eliminating any assessments that
21 are not required by section 1111(b)(3)
22 (such as by buying out the remainder of
23 procurement contracts with assessment de-
24 velopers) and that—

25 “(I) are low-quality;

1 “(II) are not aligned to the
2 State’s content standards under sec-
3 tion 1111(b)(1);

4 “(III) in the case of summative
5 assessments used for accountability
6 purposes, are not valid or reliable and
7 are inconsistent with nationally recog-
8 nized professional and technical
9 standards;

10 “(IV) do not contribute to sys-
11 tems of continuous improvement for
12 teaching and learning; or

13 “(V) are redundant;

14 “(ii) supporting the dissemination of
15 promising practices from local educational
16 agencies or other States that have success-
17 fully improved assessment quality and effi-
18 ciency to improve teaching and learning;

19 “(iii) supporting local educational
20 agencies or consortia of local educational
21 agencies to carry out efforts to streamline
22 local assessment systems and implementing
23 a regular process of review and evaluation
24 of assessment use in local educational
25 agencies;

1 “(iv) supporting appropriate uses of
2 assessment data, which may include appro-
3 priate use of student assessment data as
4 one of multiple measures of student learn-
5 ing for teacher and school leader perform-
6 ance and evaluation; and

7 “(v) providing professional develop-
8 ment to teachers and school leaders on se-
9 lecting and implementing formative assess-
10 ments, designing classroom-based assess-
11 ments, and assessment and data literacy.

12 “(B) CARRY OUT THE STATE PLAN.—A
13 State shall carry out a State plan as soon as
14 practicable after the State prepares such State
15 plan under subparagraph (A) and during each
16 grant period of a grant described in subsection
17 (a)(2) that is awarded to the State.

18 “(f) SUBGRANTS TO LOCAL EDUCATIONAL AGEN-
19 CIES.—

20 “(1) IN GENERAL.—From the amount awarded
21 to a State under this section, the State shall reserve
22 not less than 20 percent of funds to make subgrants
23 to local educational agencies in the State, or con-
24 sortia of such local educational agencies, based on
25 demonstrated need in the agency’s or consortium’s

1 application to improve assessment quality, use, and
2 alignment with the State’s content standards.

3 “(2) LOCAL EDUCATIONAL AGENCY APPLICA-
4 TION.—Each local educational agency, or consortium
5 of local educational agencies, seeking a subgrant
6 under this subsection shall submit an application to
7 the State at such time, in such manner, and con-
8 taining such other information as determined by the
9 State. The application shall include a description of
10 the agency’s or consortium’s needs to improve as-
11 sessment quality, use, and alignment (as described
12 in paragraph (1)).

13 “(3) USE OF FUNDS.—A subgrant awarded
14 under this subsection to a local educational agency
15 or consortium of such agencies may be used to—

16 “(A) conduct an audit of local assessments
17 under subsection (e)(1)(B);

18 “(B) eliminate any assessments identified
19 for elimination by such audit, such as by buying
20 out the remainder of procurement contracts
21 with assessment developers;

22 “(C) disseminate the promising practices
23 described in subsection (e)(6)(A)(ii);

24 “(D) improve the capacity of school leaders
25 and educators to disseminate assessment data

1 in an accessible and understandable format for
2 parents and families, including for individuals
3 with disabilities or individuals with limited
4 English proficiency;

5 “(E) support the appropriate use of assess-
6 ment data, which may include appropriate use
7 of student assessment data as one of multiple
8 measures of student learning for teacher and
9 school leader performance and evaluation;

10 “(F) provide professional development to,
11 and time for teacher collaboration on designing
12 classroom-based assessments and improving as-
13 sessments and data literacy for, teachers and
14 school leaders, which may include providing ad-
15 ditional planning time to analyze student and
16 team data and designing instruction based on
17 data analysis;

18 “(G) improve assessment delivery systems
19 and schedules, including by increasing access to
20 technology and exam proctors, where appro-
21 priate;

22 “(H) hire instructional coaches, or promote
23 educators who may receive increased compensa-
24 tion to serve as instructional coaches, to sup-
25 port educators to develop classroom-based as-

1 assessments, interpret assessment data, and de-
2 sign instruction; and

3 “(I) provide for appropriate assessment ac-
4 commodations to maximize inclusion of students
5 who are children with disabilities and students
6 who are limited English proficient, including by
7 providing the assessments described in section
8 1111(b)(6).

9 **“SEC. 6113. NATIONAL ACTIVITIES.**

10 “From the amount reserved under section
11 6114(b)(4), the Secretary shall provide technical assist-
12 ance to States to improve State understanding of existing
13 flexibility in design and implementation of high-quality,
14 streamlined State assessment systems to meet the require-
15 ments of section 1111(b)(3), including by—

16 “(1) informing States of innovative designs in
17 State assessment systems that meet the require-
18 ments of section 1111(b)(3);

19 “(2) providing technical assistance to States on
20 including appropriate assessment design and accom-
21 modation strategies that meet the requirements of
22 section 1111(b)(3) and provide for inclusion of all
23 students in State assessments;

24 “(3) providing technical assistance to States
25 conducting audits of State assessment systems

1 under section 6112(e), including by providing re-
2 sources such as templates and guidelines for data
3 collection and for making audit results publicly
4 available;

5 “(4) conducting Departmental review of exist-
6 ing regulations and guidance for any language that
7 unnecessarily confuses or inhibits innovation and
8 flexibility in assessment design and implementation,
9 and making revisions where needed, consistent with
10 the requirements of section 1111(b)(3);

11 “(5) collecting information on State develop-
12 ment of new and innovative assessment systems that
13 meet the requirements of section 1111(b)(3); and

14 “(6) reporting on such new and innovative as-
15 sessment systems to the Committee on Education
16 and the Workforce of the House of Representatives
17 and the Committee on Health, Education, Labor,
18 and Pensions of the Senate.

19 **“SEC. 6114. FUNDING.**

20 “(a) AUTHORIZATION OF APPROPRIATIONS.—

21 “(1) NATIONAL ASSESSMENT OF EDUCATIONAL
22 PROGRESS.—For the purpose of administering the
23 State assessments under the National Assessment of
24 Educational Progress, there are authorized to be ap-
25 propriated \$72,000,000 for fiscal year 2016, and

1 such sums as may be necessary for each of the 5
2 succeeding fiscal years.

3 “(2) STATE ASSESSMENTS AND RELATED AC-
4 TIVITIES.—For the purpose of carrying out this sub-
5 part, there are authorized to be appropriated
6 \$600,000,000 for fiscal year 2016, and such sums
7 as may be necessary for each of the 5 succeeding fis-
8 cal years.

9 “(b) RESERVATION AND USE OF APPROPRIATED
10 FUNDS.—From amounts made available for each fiscal
11 year under subsection (a)(2), the Secretary shall—

12 “(1) reserve one-half of 1 percent for the Bu-
13 reau of Indian Affairs;

14 “(2) reserve one-half of 1 percent for the out-
15 lying areas;

16 “(3) reserve 20 percent to carry out section
17 6112;

18 “(4) reserve 3 percent to carry out section
19 6113; and

20 “(5) use the remainder (after reserving funds
21 under paragraphs (1) through (4)) to carry out sec-
22 tion 6111, except that—

23 “(A) for any fiscal year for which the
24 funds appropriated under subsection (a)(2) are
25 equal to or greater than \$450,000,000, each

1 State that receives a grant under section 6111
 2 shall use the grant to carry out paragraphs (1)
 3 through (5) of section 6111(a); and

4 “(B) for any fiscal year for which the
 5 funds appropriated under subsection (a)(2) of
 6 this section are less than \$450,000,000, each
 7 State that receives a grant under section 6111
 8 shall only be required to use the grant to carry
 9 out paragraphs (1) through (3) of section
 10 6111(a).

11 **“SEC. 6115. DEFINITIONS.**

12 “In this subpart:

13 “(1) LOCAL ASSESSMENT.—The term ‘local as-
 14 sessment’ means an academic assessment carried out
 15 by a local educational agency that is separate from
 16 an assessment required by section 1111(b)(3).

17 “(2) STATE.—The term ‘State’ means each of
 18 the 50 States, the District of Columbia, and the
 19 Commonwealth of Puerto Rico.”.

20 (b) CONFORMING AMENDMENTS.—The table of con-
 21 tents in section 2 of the Elementary and Secondary Edu-
 22 cation Act of 1965 is amended by striking the items relat-
 23 ing to subpart 1 of part A of title VI and inserting the
 24 following:

“SUBPART 1—ACCOUNTABILITY

“Sec. 6111. Grants to improve delivery of high-quality assessments and for related activities.

“Sec. 6112. Grants for assessment system alignment, quality, and use.

“Sec. 6113. National activities.

“Sec. 6114. Funding.

“Sec. 6115. Definitions.”.

