

118TH CONGRESS
1ST SESSION

H. R. 1741

To amend the Elementary and Secondary Education Act of 1965 to decrease the frequency of standardized tests administered to students in grades 3 through 12, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

MARCH 23, 2023

Mr. BOWMAN (for himself, Ms. WILSON of Florida, Ms. OCASIO-CORTEZ, Ms. BROWN, Mr. ESPAILLAT, Mrs. RAMIREZ, Mr. CASAR, Mr. PAYNE, Ms. VELÁZQUEZ, Ms. JAYAPAL, Mrs. CHERFILUS-MCCORMICK, Ms. TLAIB, Ms. JACKSON LEE, Ms. NORTON, Ms. PRESSLEY, Ms. CROCKETT, Ms. LEE of Pennsylvania, Ms. WILLIAMS of Georgia, and Mr. FROST) introduced the following bill; which was referred to the Committee on Education and the Workforce

A BILL

To amend the Elementary and Secondary Education Act of 1965 to decrease the frequency of standardized tests administered to students in grades 3 through 12, 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 “More Teaching Less
5 Testing Act of 2023”.

1 **SEC. 2. FINDINGS.**

2 Congress finds the following:

3 (1) An overwhelming body of research evidence
4 demonstrates that—

5 (A) standardized testing scores are highly
6 correlated with the socioeconomic status of a
7 student; and

8 (B) test-based accountability has not im-
9 proved equity in public schools.

10 (2) According to the National Education Asso-
11 ciation, there is a nationwide shortage of 300,000
12 teachers and school staff.

13 (3) According to the 2022 report of the Amer-
14 ican Federation of Teachers Teacher and School
15 Staff Shortage Task Force titled “Here Today,
16 Gone Tomorrow?”, reducing the frequency of stand-
17 ardized testing and empowering teachers to use au-
18 thentic assessments that measure what students
19 know and can do is a critical component to address-
20 ing the nationwide teacher shortage.

21 (4) Research published by the National Acad-
22 emies Press shows that summative assessments are
23 appropriate for curriculum and in-school account-
24 ability but are not appropriate when used as a domi-
25 nant factor in making high-stakes decisions and can

1 undermine the quality of education and equality of
2 opportunity.

3 (5) The peer-reviewed Research in Middle Level
4 Education Journal published a study in 2017 show-
5 ing that State standardized test results are strongly
6 influenced by non-school factors and that standard-
7 ized test results cannot capture the complexities of
8 the influence of middle level administrators may
9 have on the lives of students. Nevertheless, the use
10 of State standardized test results drove school ad-
11 ministrator evaluations in more than 40 States.

12 (6) More than 1,185 accredited, four-year col-
13 leges and universities removed ACT and SAT test
14 score requirements for prospective applicants for the
15 Fall 2022 semester.

16 (7) According to a sum of mean science, read-
17 ing, and mathematics scores from the OECD Pro-
18 gramme for International Student Assessment (in
19 this Act referred to as “PISA”) results for 2018,
20 the United States ranked 22nd out of participating
21 countries. In mathematics, the United States ranked
22 36th out of the 79 participating countries and re-
23 gions, which was below the international average.
24 Throughout the high-stakes accountability era,

1 standardized test scores in the United States have
2 remained flat.

3 (8) Even before the COVID–19 pandemic
4 began, progress had stalled on the main measure of
5 academic well-being in the United States, the Na-
6 tional Assessment of Educational Progress (in this
7 Act referred to as “NAEP”). According to the 2019
8 NAEP, the average performance of American
9 fourth-and eighth-graders in math and reading has
10 declined since the 2017 NAEP.

11 (9) According to the National Center for Edu-
12 cation Statistics, students demonstrating the lowest
13 performance in reading have made no progress since
14 the first NAEP was conducted almost 30 years ago.

15 (10) According to the 2015 survey from the
16 Council of the Great City Schools titled “Student
17 Testing in America’s Great City Schools: An Inven-
18 tory and Preliminary Analysis”, there is no correla-
19 tion between the amount of mandated testing time
20 and the reading and mathematics scores in grades
21 four and eight on the NAEP.

22 (11) In the same survey from the Council of the
23 Great City Schools, 39 percent of school districts re-
24 ported having to wait between two and four months
25 before final State test results were available at the

1 school level, minimizing the utility of these tests for
2 instructional purposes.

3 (12) In 2015, a typical American student took
4 112 mandated standardized tests across the length
5 of their elementary and secondary education years,
6 including both federally mandated summative assess-
7 ments and non-federally mandated summative as-
8 sements. Countries that outperform the United
9 States on the PISA only test their students three
10 times throughout the kindergarten through twelfth-
11 grade years.

12 (13) Research has shown that current testing
13 volumes narrow curriculum to the tested topics, par-
14 ticularly when exams are high stakes. Other impor-
15 tant subjects, such as art, music, finance, foreign
16 languages, social studies, civics, and physical edu-
17 cation are downplayed or ignored.

18 (14) Studies show that standardized testing
19 leads to the narrowing of instruction and classroom
20 curriculum even within assessed subjects.

21 (15) The negative impact of standardized test-
22 ing extends to students, their families, and the eco-
23 nomic well-being of their communities. The mass
24 availability of school ratings based on standardized
25 test scores has accelerated divergence in housing val-

1 ues, income distributions, and education levels as
2 well as the racial and ethnic composition across com-
3 munities.

4 (16) African Americans, especially boys, are
5 disproportionately placed or misplaced in special
6 education, frequently based on standardized test re-
7 sults.

8 (17) A reduction in the administration of and
9 preparation for mandated summative assessments
10 would afford more time and resources for other
11 learning opportunities that—

12 (A) incorporate a diverse array of high-
13 quality assessment methods, including formative
14 assessments embedded within instruction, per-
15 formance-based assessment, and methods to as-
16 sess understanding and skill development
17 through project-based learning; and

18 (B) promote deeper learning, positive cog-
19 nitive development, and the skills needed for the
20 21st century workforce.

21 **SEC. 3. SENSE OF CONGRESS RELATING TO APPROPRIATE**
22 **USES OF SUMMATIVE ASSESSMENTS.**

23 It is the sense of Congress that—

24 (1) to support a love of learning that fosters
25 joy, curiosity, creativity, rigor, collaborative problem

1 solving, and the development of 21st century skills,
2 public elementary and secondary schools need more
3 capacity and resources for meaningful educational
4 experiences;

5 (2) the requirement for States to administer
6 annual standardized tests to receive Federal funds
7 under title I of the Elementary and Secondary Edu-
8 cation Act of 1965 limits classroom instruction, pro-
9 motes memorization over critical thinking, and
10 prioritizes multiple choice tests over balanced assess-
11 ment systems using multiple measures that promote
12 high-quality teaching and learning;

13 (3) a robust body of research demonstrates that
14 the overuse of standardized testing takes a negative
15 toll on students, teachers, and the classroom envi-
16 ronment;

17 (4) States should be supported in developing
18 and implementing innovative, evidence-based, and
19 standards-based assessment systems that support
20 high-quality teaching and learning and the ability to
21 meaningfully measure performance rather than
22 using commercial assessment products that are lim-
23 ited to demonstrating proficiency to a standardized
24 test; and

1 (5) State assessment and accountability sys-
2 tems should—

3 (A) focus on, not hinder, critical thinking;

4 (B) reflect principles of reciprocity, such
5 that identified needs and areas for growth re-
6 sult in the allocation of both resources and ca-
7 pacity building opportunities to support im-
8 provement; and

9 (C) promote equitable opportunities for
10 high-quality teaching and deep learning on a
11 range of academic, socioemotional, and 21st
12 century skills.

13 **SEC. 4. DECREASING STANDARDIZED TESTING FREQUENCY**
14 **FOR STUDENTS IN GRADES 3 THROUGH 12.**

15 (a) **EXPANSION OF STATE EDUCATIONAL ASSESS-**
16 **MENT OPTIONS.**—Section 8101 of the Elementary and
17 Secondary Education Act of 1965 (20 U.S.C. 7801) is
18 amended by adding at the end the following:

19 “(53) **COMBINATION TESTING.**—The term ‘com-
20 bination testing’ means an educational assessment
21 system in which a State administers grade-span test-
22 ing using—

23 “(A) representative sampling; or

24 “(B) matrix sampling.

1 “(54) GRADE-SPAN TESTING.—The term
2 ‘grade-span testing’ means an educational assess-
3 ment system in which a State administers each of
4 the assessments described in section 1111(b)(2)(A)
5 once during—

6 “(A) grades 3 through 5;

7 “(B) grades 6 through 9; and

8 “(C) grades 10 through 12.

9 “(55) MATRIX SAMPLING.—The term ‘matrix
10 sampling’ means an educational assessment adminis-
11 tration method in which a State—

12 “(A) divides the total number of questions
13 on an educational assessment into groups that
14 are comprised of an equal number of questions;

15 “(B) divides the students enrolled at an el-
16 ementary or secondary school who will receive
17 such educational assessment into groups that
18 are comprised of—

19 “(i) an equal number of students; and

20 “(ii) with respect to each subgroup of
21 students (described in section
22 1111(b)(2)(B)(xi)), a number of students
23 belonging to such subgroup that is equal to
24 the proportion of—

1 “(I) the total number of students
2 enrolled at such school belonging to
3 such subgroup; to

4 “(II) the total number of stu-
5 dents enrolled at such school; and

6 “(C) administers such groups of questions
7 to such groups of students in a manner deter-
8 mined by the Secretary to be appropriate.

9 “(56) REPRESENTATIVE SAMPLING.—

10 “(A) IN GENERAL.—The term ‘representa-
11 tive sampling’ means an educational assessment
12 administration method in which a State—

13 “(i) administers, in accordance with
14 subparagraph (B), math, reading or lan-
15 guage arts, and science assessments to a
16 representative sample of students from a
17 sample of public elementary and secondary
18 schools in the State; and

19 “(ii) is able to draw from such sam-
20 pling valid and reliable inferences about
21 the performance of students—

22 “(I) in the State and in local
23 educational agencies served by the
24 State; and

1 “(II) in the elementary and sec-
2 ondary schools selected for such sam-
3 pling.

4 “(B) SAMPLE REQUIREMENTS.—A State
5 shall ensure that—

6 “(i) each assessment described in sub-
7 paragraph (A)(i) is administered to a dif-
8 ferent representative sample of students;
9 and

10 “(ii) the composition of each such rep-
11 resentative sample of students enables re-
12 sults to be disaggregated in accordance
13 with section 1111(b)(2)(B)(xi).”.

14 (b) STATE DISCRETION CONCERNING THE FRE-
15 QUENCY OF STANDARDIZED TESTING.—Section
16 1111(b)(2)(B) of the Elementary and Secondary Edu-
17 cation Act of 1965 (20 U.S.C. 6311(b)(2)(B)) is amend-
18 ed—

19 (1) in clause (i)(II)—

20 (A) by inserting “, in accordance with
21 clause (v),” after “administered”; and

22 (B) by striking “all”;

23 (2) in clause (v)—

24 (A) by amending subclause (I) to read as
25 follows:

1 “(I) in the case of mathematics, read-
 2 ing or language arts, and science, be ad-
 3 ministered using—

4 “(aa) combination testing;

5 “(bb) grade-span testing; or

6 “(cc) representative sampling—

7 “(AA) not more than once
 8 in each of grades 3 through 8;
 9 and

10 “(BB) at least once in
 11 grades 9 through 12; and”;

12 (B) by striking subclause (II); and

13 (C) by redesignating subclause (III) as
 14 subclause (II); and

15 (3) in clause (vii)(I), by inserting “, as applica-
 16 ble” after “students”.

17 (c) STATEWIDE ACCOUNTABILITY SYSTEM.—Section
 18 1111(c)(4) of the Elementary and Secondary Education
 19 Act of 1965 (20 U.S.C. 6311(c)(4)) is amended—

20 (1) in subparagraph (A)(i)(I)(aa), by striking
 21 “annual”; and

22 (2) in subclauses (I) and (II) of subparagraph
 23 (B)(i), by striking “annual” in each place it appears.

1 **SEC. 5. PUBLIC COMMENT PERIOD REGARDING THE AD-**
2 **MINISTRATION OF ASSESSMENTS FOR EACH**
3 **GRADE.**

4 Section 1111(b)(2)(L) of the Elementary and Sec-
5 ondary Education Act of 1965 (20 U.S.C. 6311(b)(2)(L))
6 is amended—

7 (1) by striking “at the sole discretion of such
8 State” and inserting “following a 90-day public com-
9 ment period inviting input from a broad community
10 of local stakeholders, including educators, principals,
11 other school leaders, parents, and primary care-
12 givers”; and

13 (2) by inserting “, and preparation for,” after
14 “administration of”.

15 **SEC. 6. ESTABLISHING A TASKFORCE TO EVALUATE TEST-**
16 **ING PRACTICES AND TO PROMOTE QUALITY**
17 **TEACHING.**

18 (a) ESTABLISHMENT.—There is established a
19 taskforce within the National Center for Education Re-
20 search to be known as the “Taskforce to Evaluate Testing
21 Practices and Promote Quality Teaching” (in this section
22 referred to as the “Taskforce”).

23 (b) DUTIES.— The duties of the Taskforce shall be
24 to—

25 (1) identify—

1 (A) the effect standardized test practices
2 have on student wellness, learning, and postsec-
3 ondary education success;

4 (B) opportunities to promote in elementary
5 and secondary schools performance-based as-
6 sessment systems that are developmentally ap-
7 propriate, promote experiential and project-
8 based learning, and build technological literacy
9 skills;

10 (C) potential metrics of educational quality
11 and equity that do not rely on standardized as-
12 sessments, including opportunity-to-learn data;
13 and

14 (D) barriers that prevent elementary and
15 secondary schools from establishing innovative
16 assessment systems; and

17 (2) make recommendations to address such bar-
18 riers.

19 (c) MEMBERSHIP.—

20 (1) IN GENERAL.—Not later than 1 year after
21 the date of the enactment of this Act, the Commis-
22 sioner for Education Research shall appoint to the
23 Taskforce not fewer than 5, and not more than 10,
24 members.

1 (2) INCLUSION OF EDUCATIONAL ASSESSMENT
2 EXPERTS.—At least 1 member shall be an individual
3 with expertise in education assessment systems, in-
4 cluding performance-based assessments.

5 (3) TERMS.—Each member shall be appointed
6 for a term of 2 years.

7 (4) BASIC PAY.—Members shall each be paid at
8 a rate equal to the rate of basic pay for level IV of
9 the Executive Schedule.

10 (5) VACANCIES.—A vacancy in the Taskforce
11 shall be filled by an appointment of a new member
12 by the Director (as described in subsection (d)) in
13 consultation with—

14 (A) public elementary school teachers;

15 (B) public secondary school teachers;

16 (C) public school leaders; and

17 (D) individuals representing organizations
18 with expertise in education policy.

19 (d) DIRECTOR OF TASKFORCE.—The Taskforce shall
20 have a Director who shall be appointed by the Commis-
21 sioner, in consultation with—

22 (1) public elementary school teachers;

23 (2) public secondary school teachers;

24 (3) public school leaders;

1 (4) school-based mental health services pro-
2 viders; and

3 (5) individuals representing organizations with
4 expertise in education policy.

5 (e) REPORT REQUIRED.—Not later than 2 years
6 after the date on which the Commissioner completes all
7 appointments to the Taskforce required under subsection
8 (c)(1), the Taskforce shall submit to the appropriate con-
9 gressional committees a report that includes—

10 (1) a review, disaggregated by each State, of
11 assessments administered to students in kinder-
12 garten through grade 12 that includes—

13 (A) a description of each summative as-
14 sessment the State used, including assessments
15 developed pursuant to the innovative assess-
16 ment demonstration authority under section
17 1204 of the Elementary and Secondary Edu-
18 cation Act of 1965 (20 U.S.C. 6364);

19 (B) an estimation of the cost of admin-
20 istering each such assessment;

21 (C) an estimation, for each grade, of the
22 test administration time allocated each aca-
23 demic year for such assessments;

24 (D) an estimation, for each grade, of the
25 classroom instructional time lost each academic

1 year while preparing students for each such as-
2 sessment; and

3 (E) a description of how each State is
4 using data from such assessments, including
5 whether such data is used for punitive pur-
6 poses;

7 (2) an accounting of Federal, State, and local
8 funds paid to for-profit entities for the purpose of
9 designing, developing, administering, and scoring
10 summative assessments;

11 (3) a study of the interaction between statewide
12 summative assessment and accountability systems,
13 as implemented as of the date of the beginning of
14 the report required under this subsection, and the
15 quality of teaching and learning, including—

16 (A) the extent to which statewide
17 summative assessments are aligned to 21st cen-
18 tury skill development;

19 (B) the extent to which such assessment
20 and accountability systems lead to a narrowing
21 of curriculum; and

22 (C) the impact of such assessment and ac-
23 countability systems on the quality of instruc-
24 tion and opportunities for deeper learning
25 across a variety of subjects and skills;

1 (4) a description of barriers that prevent
2 schools from establishing and implementing innova-
3 tive assessment systems that promote performance-
4 based assessment;

5 (5) recommendations to overcome such barriers;
6 and

7 (6) recommendations for innovative assessment
8 systems that—

9 (A) are created in partnership with teach-
10 ers and other educators;

11 (B) empower teachers;

12 (C) reduce elementary and secondary
13 school reliance upon summative assessment
14 tools from for-profit third-party vendors; and

15 (D) create a framework for designing a
16 balanced assessment system that supports equi-
17 table opportunities for learning and centers stu-
18 dents' needs.

19 (f) EXPIRATION OF TASKFORCE.—The Taskforce
20 shall expire on the date that is 30 days after the date
21 of the submission of the report required under subsection
22 (d).

23 (g) DEFINITIONS.—In this section:

1 (1) APPROPRIATE CONGRESSIONAL COMMIT-
2 TEES.—The term “appropriate congressional com-
3 mittees” means—

4 (A) the Committees on Appropriations of
5 the Senate and House of Representatives;

6 (B) the Committee on Health, Education,
7 Labor, and Pensions of the Senate; and

8 (C) the Committee on Education and the
9 Workforce of the House of Representatives.

10 (2) ESEA TERMS.—

11 (A) The terms “elementary school”,
12 “school leader”, “secondary school”, and
13 “State” have the meanings given such terms in
14 section 8101 of the Elementary and Secondary
15 Education Act of 1965 (20 U.S.C. 7801).

16 (B) The term “innovative assessment sys-
17 tem” has the meaning given such term in sec-
18 tion 1204(a) of the Elementary and Secondary
19 Education Act of 1965 (20 U.S.C. 6364(a)).

20 (C) The term “school-based mental health
21 services provider” has the meaning given such
22 term in section 4102 of the Elementary and
23 Secondary Education Act of 1965 (20 U.S.C.
24 7112).

1 **SEC. 7. EXPANSION OF INNOVATIVE ASSESSMENT DEM-**
2 **ONSTRATION AUTHORITY.**

3 (a) **EXPANSION OF AUTHORITY.**—Section 1204 of
4 the Elementary and Secondary Education Act of 1965 is
5 amended—

6 (1) in subsection (a)(1), by striking “an an-
7 nual” and inserting “a”;

8 (2) in subsection (b)—

9 (A) in paragraph (2), by striking “5
10 years” and inserting “7 years”; and

11 (B) in paragraph (3)—

12 (i) in the matter preceding subpara-
13 graph (A), by striking “3 years” and in-
14 serting “5 years”; and

15 (ii) in subparagraph (A), by striking
16 “a total number of not more than 7 par-
17 ticipating State educational agencies” and
18 inserting “a total number of not fewer
19 than 20 participating State educational
20 agencies”;

21 (3) in subsection (e)(2)(A)—

22 (A) in clause (x)—

23 (i) by striking “an annual,” and in-
24 serting “a”;

1 (ii) by inserting “assessed in a given
2 subject in a given year” after “each indi-
3 vidual student”; and

4 (iii) by striking “and” at the end;

5 (B) in clause (xi)(II), by striking the pe-
6 riod at the end and inserting “; and”; and

7 (C) by adding at the end the following:

8 “(xii) be of equal or greater rigor to
9 the State assessments under section
10 1111(b)(2).”;

11 (4) in subsection (f)(1)(B)(i), by striking “com-
12 parable to the State assessments” and inserting “de-
13 termined by the Secretary to be of equal or greater
14 rigor to the State assessments”;

15 (5) in subsection (i)(3), by striking “com-
16 parable to measures of academic achievement” and
17 inserting “determined by the Secretary to be of
18 equal or greater rigor to measures of academic
19 achievement”; and

20 (6) in subsection (m)(1)(A)(ii), by striking
21 “comparable with statewide assessments” and in-
22 serting “determined by the Secretary to be of equal
23 or greater rigor to statewide assessments”.

24 (b) AUTHORIZATION OF APPROPRIATIONS.—There
25 are authorized to be appropriated to the Secretary of Edu-

1 cation \$100,000,000 for the fiscal year in which the date
2 of the enactment of this Act occurs, and for each of the
3 4 succeeding fiscal years, to carry out section 1204 of the
4 Elementary and Secondary Education Act of 1965 (20
5 U.S.C. 6364).

6 **SEC. 8. AUTHORIZATION OF APPROPRIATIONS FOR LOCAL**
7 **EDUCATIONAL AGENCY GRANTS.**

8 Section 1002(a) of the Elementary and Secondary
9 Education Act of 1965 (20 U.S.C. 6302(a)) is amended
10 to read as follows:

11 “(a) LOCAL EDUCATIONAL AGENCY GRANTS.—There
12 are authorized to be appropriated \$66,000,000,000 for the
13 fiscal year in which the date of the enactment of the More
14 Teaching Less Testing Act of 2023 occurs, and for each
15 of the 9 succeeding fiscal years, to carry out the activities
16 described in part A.”.

17 **SEC. 9. PROHIBITION ON USE OF ESEA FUNDS FOR CER-**
18 **TAIN PURPOSES.**

19 A State receiving funds under the Elementary and
20 Secondary Education Act of 1965 (20 U.S.C. 6301 et
21 seq.) may not—

22 (1) consider the summative assessments re-
23 quired under section 1111(b)(2) of such Act as a
24 sole or dominant factor when—

25 (A) implementing grade-retention policies;

1 (B) awarding a student a high school di-
2 ploma; or

3 (C) evaluating the performance of teachers
4 or administrators;

5 (2) establish a rating system for elementary
6 schools or local educational agencies that serve such
7 elementary schools based exclusively on the
8 summative assessment scores of students who attend
9 such elementary schools; or

10 (3) establish a rating system for secondary
11 schools or local educational agencies that serve such
12 secondary schools based exclusively on—

13 (A) the summative assessment scores of
14 students that attend such secondary schools; or

15 (B) the graduation rates of students that
16 attend such secondary schools.

○