H. R. 118TH CONGRESS 1ST SESSION

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

Mr. BOWMAN introduced the following bill; which was referred to the Committee on _______________________

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.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the “More Teaching Less Testing Act of 2023”.

SEC. 2. FINDINGS.

Congress finds the following:
(1) An overwhelming body of research evidence demonstrates that—

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

(B) test-based accountability has not improved equity in public schools.

(2) According to the National Education Association, there is a nationwide shortage of 300,000 teachers and school staff.

(3) According to the 2022 report of the American Federation of Teachers Teacher and School Staff Shortage Task Force titled “Here Today, Gone Tomorrow?”, reducing the frequency of standardized testing and empowering teachers to use authentic assessments that measure what students know and can do is a critical component to addressing the nationwide teacher shortage.

(4) Research published by the National Academies Press shows that summative assessments are appropriate for curriculum and in-school accountability but are not appropriate when used as a dominant factor in making high-stakes decisions and can undermine the quality of education and equality of opportunity.
(5) The peer-reviewed Research in Middle Level Education Journal published a study in 2017 showing that state standardized test results are strongly influenced by non-school factors and that standardized test results cannot capture the complexities of the influence of middle level administrators may have on the lives of students. Nevertheless, the use of state standardized test results drove school administrator evaluations in more than 40 states.

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

(7) According to a sum of mean science, reading, and mathematics scores from the OECD Programme for International Student Assessment (in this Act referred to as “PISA”) results for 2018, the United States ranked 22nd out of participating countries. In mathematics, the United States ranked 36th out of the 79 participating countries and regions, which was below the international average. Throughout the high-stakes accountability era, standardized test scores in the United States have remained flat.
(8) Even before the COVID–19 pandemic began, progress had stalled on the main measure of academic well-being in the United States, the National Assessment of Educational Progress (in this Act referred to as “NAEP”). According to the 2019 NAEP, the average performance of American fourth-and eighth-graders in math and reading has declined since the 2017 NAEP.

(9) According to the National Center for Education Statistics, students demonstrating the lowest performance in reading have made no progress since the first NAEP was conducted almost 30 years ago.

(10) According to the 2015 survey from the Council of the Great City Schools titled “Student Testing in America’s Great City Schools: An Inventory and Preliminary Analysis”, there is no correlation between the amount of mandated testing time and the reading and mathematics scores in grades four and eight on the NAEP.

(11) In the same survey from the Council of the Great City Schools, 39 percent of school districts reported having to wait between two and four months before final State test results were available at the school level, minimizing the utility of these tests for instructional purposes.
(12) In 2015, a typical American student took 112 mandated standardized tests across the length of their elementary and secondary education years, including both federally mandated summative assessments and non-federally mandated summative assessments. Countries that outperform the United States on the PISA only test their students three times throughout the kindergarten through twelfth-grade years.

(13) Research has shown that current testing volumes narrow curriculum to the tested topics, particularly when exams are high stakes. Other important subjects, such as art, music, finance, foreign languages, social studies, civics, and physical education are downplayed or ignored.

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

(15) The negative impact of standardized testing extends to students, their families, and the economic well-being of their communities. The mass availability of school ratings based on standardized test scores has accelerated divergence in housing values, income distributions, and education levels as
well as the racial and ethnic composition across communities.

(16) African-Americans, especially boys, are disproportionately placed or misplaced in special education, frequently based on standardized test results.

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

(A) incorporate a diverse array of high-quality assessment methods, including formative assessments embedded within instruction, performance-based assessment, and methods to assess understanding and skill development through project-based learning; and

(B) promote deeper learning, positive cognitive development, and the skills needed for the 21st century workforce.

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

It is the sense of Congress that—

(1) to support a love of learning that fosters joy, curiosity, creativity, rigor, collaborative problem solving, and the development of 21st century skills,
public elementary and secondary schools need more
capacity and resources for meaningful educational
experiences;

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

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

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

(5) State assessment and accountability sys-
tems should—
(A) focus on, not hinder, critical thinking;

(B) reflect principles of reciprocity, such that identified needs and areas for growth result in the allocation of both resources and capacity building opportunities to support improvement; and

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

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

(a) EXPANSION OF STATE EDUCATIONAL ASSESSMENT OPTIONS.—Section 8101 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7801) is amended by adding at the end the following:

“(53) COMBINATION TESTING.—The term ‘combination testing’ means an educational assessment system in which a State administers grade-span testing using—

“(A) representative sampling; or

“(B) matrix sampling.

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

once during—

“(A) grades 3 through 5;

“(B) grades 6 through 9; and

“(C) grades 10 through 12.

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

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

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

“(i) an equal number of students; and

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

“(I) the total number of students
enrolled at such school belonging to
such subgroup; to
“(II) the total number of students enrolled at such school; and

“(C) administers such groups of questions to such groups of students in a manner determined by the Secretary to be appropriate.

“(56) REPRESENTATIVE SAMPLING.—

“(A) IN GENERAL.—The term ‘representative sampling’ means an educational assessment administration method in which a State—

“(i) administers, in accordance with subparagraph (B), math, reading or language arts, and science assessments to a representative sample of students from a sample of public elementary and secondary schools in the State; and

“(ii) is able to draw from such sampling valid and reliable inferences about the performance of students—

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

“(II) in the elementary and secondary schools selected for such sampling.
“(B) SAMPLE REQUIREMENTS.—A State shall ensure that—

“(i) each assessment described in subparagraph (A)(i) is administered to a different representative sample of students; and

“(ii) the composition of each such representative sample of students enables results to be disaggregated in accordance with section 1111(b)(2)(B)(xi).”.

(b) STATE DISCRETION CONCERNING THE FREQUENCY OF STANDARDIZED TESTING.—Section 1111(b)(2)(B) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6311(b)(2)(B)) is amended—

(1) in clause (i)(II)—

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

(B) by striking “all”;

(2) in clause (v)—

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

“(I) in the case of mathematics, reading or language arts, and science, be administered using—
“(aa) combination testing;

“(bb) grade-span testing; or

“(cc) representative sampling—

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

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

(B) by striking subclause (II); and

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

(3) in clause (vii)(I), by inserting “, as applicable” after “students”.

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

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

(2) in subclauses (I) and (II) of subparagraph (B)(i), by striking “annual” in each place it appears.
SEC. 5. PUBLIC COMMENT PERIOD REGARDING THE ADMINISTRATION OF ASSESSMENTS FOR EACH GRADE.

Section 1111(b)(2)(L) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6311(b)(2)(L)) is amended—

(1) by striking “at the sole discretion of such State” and inserting “following a 90-day public comment period inviting input from a broad community of local stakeholders, including educators, principals, other school leaders, parents, and primary caregivers”; and

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

SEC. 6. ESTABLISHING A TASKFORCE TO EVALUATE TESTING PRACTICES AND TO PROMOTE QUALITY TEACHING.

(a) ESTABLISHMENT.—There is established a taskforce within the National Center for Education Research to be known as the “Taskforce to Evaluate Testing Practices and Promote Quality Teaching” (in this section referred to as the “Taskforce”).

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

(1) identify—
(A) the effect standardized test practices have on student wellness, learning, and postsecondary education success;

(B) opportunities to promote in elementary and secondary schools performance-based assessment systems that are developmentally appropriate, promote experiential and project-based learning, and build technological literacy skills;

(C) potential metrics of educational quality and equity that do not rely on standardized assessments, including opportunity-to-learn data; and

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

(2) make recommendations to address such barriers.

(c) MEMBERSHIP.—

(1) IN GENERAL.—Not later than 1 year after the date of the enactment of this Act, the Commissioner for Education Research shall appoint to the Taskforce not fewer than 5, and not more than 10, members.
(2) INCLUSION OF EDUCATIONAL ASSESSMENT EXPERTS.—At least 1 member shall be an individual with expertise in education assessment systems, including performance-based assessments.

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

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

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

(A) public elementary school teachers;

(B) public secondary school teachers;

(C) public school leaders; and

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

(d) DIRECTOR OF TASKFORCE.—The Taskforce shall have a Director who shall be appointed by the Commissioner, in consultation with—

(1) public elementary school teachers;

(2) public secondary school teachers;

(3) public school leaders;
(4) school-based mental health services providers; and

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

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

(1) a review, disaggregated by each State, of assessments administered to students in kindergarten through grade 12 that includes—

(A) a description of each summative assessment the State used, including assessments developed pursuant to the innovative assessment demonstration authority under section 1204 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6364);

(B) an estimation of the cost of administering each such assessment;

(C) an estimation, for each grade, of the test administration time allocated each academic year for such assessments;

(D) an estimation, for each grade, of the classroom instructional time lost each academic
year while preparing students for each such assessment; and

(E) a description of how each State is using data from such assessments, including whether such data is used for punitive purposes;

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

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

(A) the extent to which statewide summative assessments are aligned to 21st century skill development;

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

(C) the impact of such assessment and accountability systems on the quality of instruction and opportunities for deeper learning across a variety of subjects and skills;
(4) a description of barriers that prevent schools from establishing and implementing innovative assessment systems that promote performance-based assessment;

(5) recommendations to overcome such barriers; and

(6) recommendations for innovative assessment systems that—

(A) are created in partnership with teachers and other educators;

(B) empower teachers;

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

(D) create a framework for designing a balanced assessment system that supports equitable opportunities for learning and centers students’ needs.

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

(g) DEFINITIONS.—In this section:
(1) APROPRIATE CONGRESSIONAL COMMIT-TEES.—The term “appropriate congressional com-
mittees” means—

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

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

(C) the Committee on Education and Labor of the House of Representatives.

(2) ESEA TERMS.—

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

(B) The term “innovative assessment system” has the meaning given such term in section 1204(a) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6364(a)).

(C) The term “school-based mental health services provider” has the meaning given such term in section 4102 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7112).
SEC. 7. EXPANSION OF INNOVATIVE ASSESSMENT DEMONSTRATION AUTHORITY.

(a) Expansion of Authority.—Section 1204 of the Elementary and Secondary Education Act of 1965 is amended—

(1) in subsection (a)(1), by striking “an annual” and inserting “a”;

(2) in subsection (b)—

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

(B) in paragraph (3)—

(i) in the matter preceding subparagraph (A), by striking “3 years” and inserting “5 years”; and

(ii) in subparagraph (A), by striking “a total number of not more than 7 participating State educational agencies” and inserting “a total number of not fewer than 20 participating State educational agencies”;

(3) in subsection (e)(2)(A)—

(A) in clause (x)—

(i) by striking “an annual,” and inserting “a”;
(ii) by inserting “assessed in a given subject in a given year” after “each individual student”; and

(iii) by striking “and” at the end;

(B) in clause (xi)(II), by striking the period at the end and inserting “; and”; and

(C) by adding at the end the following:

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

(4) in subsection (f)(1)(B)(i), by striking “comparable to the State assessments” and inserting “determined by the Secretary to be of equal or greater rigor to the State assessments”;

(5) in subsection (i)(3), by striking “comparable to measures of academic achievement” and inserting “determined by the Secretary to be of equal or greater rigor to measures of academic achievement”; and

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

(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary of Edu-
cation $100,000,000 for the fiscal year in which the date of the enactment of this Act occurs, and for each of the 4 succeeding fiscal years, to carry out section 1204 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6364).

SEC. 8. AUTHORIZATION OF APPROPRIATIONS FOR LOCAL EDUCATIONAL AGENCY GRANTS.

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

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

SEC. 9. PROHIBITION ON USE OF ESEA FUNDS FOR CERTAIN PURPOSES.

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

(1) consider the summative assessments required under section 1111(b)(2) of such Act as a sole or dominant factor when—

(A) implementing grade-retention policies;
(B) awarding a student a high school diploma; or

(C) evaluating the performance of teachers or administrators;

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

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

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

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