

AMENDMENT NO. _____ Calendar No. _____

Purpose: To amend the innovative assessment and accountability demonstration authority.

IN THE SENATE OF THE UNITED STATES—114th Cong., 1st Sess.

S. 1177

To reauthorize the Elementary and Secondary Education Act of 1965 to ensure that every child achieves.

Referred to the Committee on _____ and ordered to be printed

Ordered to lie on the table and to be printed

AMENDMENT intended to be proposed by _____

Viz:

1 Beginning on page 196, strike line 12 and all that
2 follows through page 210, line 6, and insert the following:

3 **“SEC. 1205. INNOVATIVE ASSESSMENT AND ACCOUNT-**
4 **ABILITY DEMONSTRATION AUTHORITY.**

5 “(a) INNOVATIVE ASSESSMENT SYSTEM DEFINED.—

6 The term ‘innovative assessment system’ means a system
7 of assessments that may include—

8 “(1) competency-based assessments,
9 instructionally embedded assessments, interim as-
10 sements, cumulative year-end assessments, or per-
11 formance-based assessments that combine into an
12 annual summative determination for a student,

1 which may be administered through computer adapt-
2 ive assessments; and

3 “(2) assessments that validate when students
4 are ready to demonstrate mastery or proficiency and
5 allow for differentiated student support based on in-
6 dividual learning needs.

7 “(b) DEMONSTRATION AUTHORITY.—

8 “(1) IN GENERAL.—The Secretary may provide
9 a State educational agency, or a consortium of State
10 educational agencies, in accordance with paragraph
11 (3), with the authority to establish an innovative as-
12 sessment system.

13 “(2) DEMONSTRATION PERIOD.—In accordance
14 with the requirements described in subsection (c),
15 each State educational agency, or consortium of
16 State educational agencies, that submits an applica-
17 tion under this section shall propose in its applica-
18 tion the period of time over which it desires to exer-
19 cise the demonstration authority, except that such
20 period shall not exceed 5 years.

21 “(3) INITIAL DEMONSTRATION AUTHORITY;
22 PROGRESS REPORT; EXPANSION.—

23 “(A) INITIAL PERIOD.—During the first 3
24 years of the demonstration authority under this
25 section, the Secretary shall provide State edu-

1 educational agencies, or consortia of State edu-
2 cational agencies, subject to meeting the appli-
3 cation requirements in subsection (c), with the
4 authority described in paragraph (1).

5 “(B) LIMITATION.—During the first 3
6 years of the demonstration authority under this
7 section, the total number of participating State
8 educational agencies, including those partici-
9 pating in a consortium, may not exceed 7, and
10 not more than 4 State educational agencies may
11 participate in a single consortium.

12 “(C) PROGRESS REPORT.—

13 “(i) IN GENERAL.—Not later than 90
14 days after the end of the first 3 years of
15 the initial demonstration period described
16 in subparagraph (A), the Director of the
17 Institute of Education Sciences, in con-
18 sultation with the Secretary, shall publish
19 a report detailing the initial progress of
20 the approved innovative assessment sys-
21 tems prior to providing additional State
22 educational agencies with the demonstra-
23 tion authority described in paragraph (1).

24 “(ii) CRITERIA.—The progress report
25 under clause (i) shall draw upon the an-

1 nual information submitted by partici-
2 pating States described in subsection
3 (c)(2)(I) and examine the extent to
4 which—

5 “(I) the innovative assessment
6 systems have demonstrated progress
7 for all students, including at-risk stu-
8 dents, in relation to such measures
9 as—

10 “(aa) student achievement
11 and academic outcomes;

12 “(bb) graduation rates for
13 high schools;

14 “(cc) retention rates of stu-
15 dents in school; and

16 “(dd) rates of remediation
17 for students;

18 “(II) the innovative assessment
19 systems have facilitated progress in
20 relation to at least one other valid and
21 reliable indicator of quality, success,
22 or student support, such as those re-
23 ported annually by the State in ac-
24 cordance with section
25 1111(b)(3)(B)(ii)(IV);

1 “(III) the State educational
2 agencies have solicited feedback from
3 teachers, principals, other school lead-
4 ers, and parents about their satisfac-
5 tion with the innovative assessment
6 system;

7 “(IV) teachers, principals, and
8 other school leaders have dem-
9 onstrated a commitment and capacity
10 to implement or continue to imple-
11 ment the innovative assessment sys-
12 tems;

13 “(V) the innovative assessment
14 systems have been developed in ac-
15 cordance with the requirements of
16 subsection (c), including substantial
17 evidence that such system meets such
18 requirements; and

19 “(VI) each State participating in
20 the demonstration authority has dem-
21 onstrated that the same system of as-
22 sessments was used to measure the
23 achievement of all students that par-
24 ticipated in the demonstration author-
25 ity, and at least 95 percent of such

1 students overall and in each of the
2 categories of students, as defined in
3 section 1111(b)(3)(A), were assessed
4 under the innovative assessment sys-
5 tem.

6 “(iii) USE OF REPORT.—Upon com-
7 pletion of the progress report under clause
8 (i), the Secretary shall provide a response
9 to the findings of the progress report, in-
10 cluding a description of how the findings of
11 the report will be used—

12 “(I) to support participating
13 State educational agencies through
14 technical assistance; and

15 “(II) to inform the peer review
16 process described in subsection (d) for
17 advising the Secretary on the award-
18 ing of the demonstration authority to
19 the additional State educational agen-
20 cies described in subparagraph (D).

21 “(iv) PUBLICLY AVAILABILITY.—The
22 Secretary shall make the progress report
23 under this subparagraph and the response
24 described in clause (iii) publicly available
25 on the website of the Department.

1 “(v) PROHIBITION.—Nothing in this
2 subparagraph shall be construed to author-
3 ize the Secretary to require participating
4 States to submit any additional informa-
5 tion for the purposes of the progress report
6 beyond what the State has already pro-
7 vided in the annual report described in
8 subsection (c)(2)(I).

9 “(D) EXPANSION OF THE DEMONSTRATION
10 AUTHORITY.—Upon completion and publication
11 of the report described in subparagraph (C)(iv),
12 additional State educational agencies or con-
13 sortia of State educational agencies may apply
14 for the demonstration authority described in
15 this section without regard to the limitations
16 described in paragraph (3)(B). Such State edu-
17 cational agencies or consortia of State edu-
18 cational agencies shall be subject to all of the
19 same requirements of this section.

20 “(c) APPLICATION.—Consistent with the process de-
21 scribed in subsection (d), a State educational agency, or
22 consortium of State educational agencies, that desires to
23 participate in the program of demonstration authority
24 under this section shall submit an application to the Sec-
25 retary at such time, in such manner, and containing such

1 information as the Secretary may reasonably require.
2 Such application shall include a description of the innova-
3 tive assessment system, what experience the applicant has
4 in implementing any components of the innovative assess-
5 ment system, and the timeline over which the State pro-
6 poses to exercise this authority. In addition, the applica-
7 tion shall include the following:

8 “(1) A demonstration that the innovative as-
9 sessment system will—

10 “(A) meet all the requirements of section
11 1111(b)(2)(B), except the requirements of
12 clauses (i) and (v) of such section;

13 “(B) be aligned to the standards under
14 section 1111(b)(1) and address the depth and
15 breadth of the challenging State academic
16 standards under such section;

17 “(C) express student results or student
18 competencies in terms consistent with the State
19 aligned academic achievement standards;

20 “(D) be able to generate comparable, valid,
21 and reliable results for all students and for each
22 category of students described in section
23 1111(b)(2)(B)(xi), compared to the results for
24 such students on the State assessments under
25 section 1111(b)(2);

1 “(E) be developed in collaboration with
2 stakeholders representing the interests of chil-
3 dren with disabilities, English learners, and
4 other vulnerable children, educators, including
5 teachers, principals, and other school leaders,
6 local educational agencies, parents, and civil
7 rights organizations in the State;

8 “(F) be accessible to all students, such as
9 by incorporating the principles of universal de-
10 sign for learning;

11 “(G) provide educators, students, and par-
12 ents with timely data, disaggregated by each
13 category of students described in section
14 1111(b)(2)(B)(xi), to inform and improve in-
15 structional practice and student supports;

16 “(H) be able to identify which students are
17 not making progress toward the State’s aca-
18 demic achievement standards so that educators
19 can provide instructional support and targeted
20 intervention to all students to ensure every stu-
21 dent is making progress;

22 “(I) measure the annual progress of not
23 less than 95 percent of all students and stu-
24 dents in each of the categories of students, as
25 defined in section 1111(b)(3)(A), who are en-

1 rolled in each school that is participating in the
2 innovative assessment system and are required
3 to take assessments;

4 “(J) generate an annual, summative
5 achievement determination based on annual
6 data for each individual student based on the
7 challenging State academic standards under
8 section 1111(b)(1) and be able to validly and
9 reliably aggregate data from the innovative as-
10 sessment system for purposes of accountability,
11 consistent with the requirements of section
12 1111(b)(3), and reporting, consistent with the
13 requirements of section 1111(d); and

14 “(K) continue use of the high-quality
15 statewide academic assessments required under
16 section 1111(b)(2) if such assessments will be
17 used for accountability purposes for the dura-
18 tion of the demonstration.

19 “(2) A description of how the State educational
20 agency will—

21 “(A) identify the distinct purposes for each
22 assessment that is part of the innovative assess-
23 ment system;

24 “(B) provide support and training to local
25 educational agency and school staff to imple-

1 ment the innovative assessment system de-
2 scribed in this subsection;

3 “(C) inform parents of students in partici-
4 pating local educational agencies about the in-
5 novative assessment system at the beginning of
6 each school year during which the innovative
7 assessment system will be implemented;

8 “(D) engage and support teachers in devel-
9 oping and scoring assessments that are part of
10 the innovative assessment system, including
11 through the use of high-quality professional de-
12 velopment, standardized and calibrated scoring
13 rubrics, and other strategies, consistent with
14 relevant nationally recognized professional and
15 technical standards, to ensure inter-rater reli-
16 ability and comparability;

17 “(E) acclimate students to the innovative
18 assessment system;

19 “(F) ensure that students with the most
20 significant cognitive disabilities may be assessed
21 with alternate assessments consistent with sec-
22 tion 1111(b)(2)(D);

23 “(G) if the State is proposing to admin-
24 ister the innovative assessment system initially
25 in a subset of local educational agencies, scale

1 up the innovative assessment system to admin-
2 ister such system statewide or with additional
3 local educational agencies in the State’s pro-
4 posed period of demonstration authority and 2-
5 year extension period, if applicable, including
6 the timeline that explains the process for scal-
7 ing to statewide implementation by either the
8 end of the State’s proposed period of dem-
9 onstration authority or the 2-year extension pe-
10 riod;

11 “(H) gather data, solicit regular feedback
12 from educators and parents, and assess the re-
13 sults of each year of the program of demonstra-
14 tion authority under this section, and respond
15 by making needed changes to the innovative as-
16 sessment system; and

17 “(I) report data from the innovative as-
18 sessment system annually to the Secretary, in-
19 cluding—

20 “(i) demographics of participating
21 local educational agencies, if such system
22 is not statewide, and additional local edu-
23 cational agencies if added to the system
24 during the course of the State’s dem-

1 onstration or 2-year extension period, in-
2 cluding a description of how—

3 “(I) the inclusion of additional
4 local educational agencies contributes
5 to progress toward achieving high
6 quality and consistent implementation
7 across demographically diverse local
8 educational agencies throughout the
9 demonstration period; and

10 “(II) by the end of the dem-
11 onstration authority, the participating
12 local educational agencies, as a group,
13 will be demographically similar to the
14 State as a whole;

15 “(ii) performance of all participating
16 students and for each category of students,
17 as defined in section 1111(b)(3)(A), on the
18 innovative assessment, consistent with the
19 requirements in section 1111(d);

20 “(iii) performance of all participating
21 students in relation to at least one other
22 valid and reliable indicator of quality, suc-
23 cess, or student supports, such as those re-
24 ported annually by the State in accordance
25 with section 1111(b)(3)(B)(ii)(IV);

1 “(iv) feedback from teachers, prin-
2 cipals, other school leaders, and parents
3 about their satisfaction with the innovative
4 assessment system; and

5 “(v) if such system is not statewide, a
6 description of the State’s progress in scal-
7 ing up the innovative assessment system to
8 additional local educational agencies during
9 the State’s period of demonstration author-
10 ity, as described in subparagraph (G).

11 “(3) A description of the State educational
12 agency’s plan to—

13 “(A) ensure that all students and each of
14 the categories of students, as defined in section
15 1111(b)(3)(A)—

16 “(i) are held to the same high stand-
17 ard as other students in the State; and

18 “(ii) receive the instructional support
19 needed to meet challenging State academic
20 standards;

21 “(B) ensure that each local educational
22 agency has the technological infrastructure to
23 implement the innovative assessment system;
24 and

1 “(C) hold all participating schools in the
2 local educational agencies participating in the
3 program of demonstration authority account-
4 able for meeting the State’s expectations for
5 student achievement.

6 “(4) If the innovative assessment system will
7 initially be administered in a subset of local edu-
8 cational agencies—

9 “(A) a description of the local educational
10 agencies within the State educational agency
11 that will participate, including what criteria the
12 State has for approving any additional local
13 educational agencies to participate during the
14 demonstration period;

15 “(B) assurances from such local edu-
16 cational agencies that such agencies will comply
17 with the requirements of this subsection; and

18 “(C) a description of how the State will—

19 “(i) ensure that the inclusion of addi-
20 tional local educational agencies contrib-
21 utes to progress toward achieving high
22 quality and consistent implementation
23 across demographically diverse local edu-
24 cational agencies throughout the dem-
25 onstration authority; and

1 “(ii) ensure that the participating
2 local educational agencies, as a group, will
3 be demographically similar to the State as
4 a whole by the end of the State’s period of
5 demonstration authority.

6 “(d) PEER REVIEW.—The Secretary shall—

7 “(1) implement a peer review process to in-
8 form—

9 “(A) the awarding of the demonstration
10 authority under this section and the approval to
11 operate the system for the purposes of para-
12 graphs (2) and (3) of section 1111(b), as de-
13 scribed in subsection (h) of this section; and

14 “(B) determinations about whether the in-
15 novative assessment system—

16 “(i) is comparable, valid, reliable, of
17 high technical quality, and consistent with
18 relevant, nationally recognized professional
19 and technical standards; and

20 “(ii) provides an unbiased, rational,
21 and consistent determination of progress
22 toward annual goals for all students and
23 schools;

24 “(2) ensure that the peer review team is com-
25 prised of practitioners and experts who are knowl-

1 edgeable about the innovative assessment being pro-
2 posed for all students, including—

3 “(A) individuals with past experience de-
4 veloping systems of assessment innovation that
5 support all students, including English learners,
6 children with disabilities, and disadvantaged
7 students; and

8 “(B) individuals with experience imple-
9 menting innovative State assessment and ac-
10 countability systems;

11 “(3) make publicly available the applications
12 submitted under subsection (c) and the peer review
13 comments and recommendations regarding such ap-
14 plications;

15 “(4) make a determination and inform the
16 State regarding approval or disapproval of the appli-
17 cation not later than 90 days after receipt of the
18 complete application;

19 “(5) offer a State the opportunity to revise and
20 resubmit its application within 60 days of a dis-
21 approval determination under paragraph (4) to allow
22 the State to submit additional evidence that the
23 State’s application meets the requirements of subjec-
24 tion (c); and

1 “(6) make a determination regarding applica-
2 tion approval or disapproval of a resubmitted appli-
3 cation under paragraph (5) not later than 45 days
4 after receipt of the resubmitted application.

5 “(e) EXTENSION.—The Secretary may extend an au-
6 thorization of demonstration authority under this sub-
7 section for an additional 2 years if the State educational
8 agency demonstrates with evidence that the State edu-
9 cational agency’s innovative assessment system is con-
10 tinuing to meet the requirements of subsection (c), includ-
11 ing—

12 “(1) demonstrating capacity to transition to
13 statewide use by the end of a 2-year extension pe-
14 riod; and

15 “(2) demonstrating that the participating local
16 educational agencies, as a group, will be demo-
17 graphically similar to the State as a whole by the
18 end of a 2-year extension period.

19 “(f) USE OF INNOVATIVE ASSESSMENT SYSTEM.—A
20 State may, during its approved demonstration period or
21 2-year extension period, include results from the innova-
22 tive assessment systems developed under this authority in
23 accountability determinations for each student in the par-
24 ticipating local educational agencies instead of, or in addi-
25 tion to, those from the assessment system under section

1 1111(b)(2), provided the State demonstrates that the
2 State has met the requirements in subsection (c). The
3 State shall continue to meet all other requirements of sec-
4 tion 1111(b)(3).

5 “(g) AUTHORITY WITHDRAWN.—The Secretary shall
6 withdraw the authorization for demonstration authority
7 provided to a State educational agency under this section
8 and any participating local educational agency or the
9 State as a whole shall return to the statewide assessment
10 system under section 1111(b)(2) if, at any point during
11 a State’s approved period of demonstration or 2-year ex-
12 tension period, the State educational agency cannot
13 present to the Secretary a body of substantial evidence
14 that the innovative assessment system developed under
15 this section—

16 “(1) meets requirements of subsection (c);

17 “(2) includes all students attending schools par-
18 ticipating in the demonstration authority, including
19 each of the categories of students, as defined in sec-
20 tion 1111(b)(3)(A), in the innovative assessment
21 system demonstration;

22 “(3) provides an unbiased, rational, and con-
23 sistent determination of progress toward annual
24 goals for schools, which are comparable to deter-
25 minations under section 1111(b)(3)(B)(iii) across

1 the State in which the local educational agencies are
2 located;

3 “(4) presents a high-quality plan to transition
4 to full statewide use of the innovative assessment
5 system by the end of the State’s approved dem-
6 onstration period and 2-year extension, if the inno-
7 vative assessment system will initially be adminis-
8 tered in a subset of local educational agencies; and

9 “(5) is comparable to the statewide assessments
10 under section 1111(b)(2) in content coverage, dif-
11 ficulty, and quality.

12 “(h) TRANSITION.—

13 “(1) IN GENERAL.—If, after a State’s approved
14 demonstration and extension period, the State edu-
15 cational agency has met all the requirements of this
16 section, including having scaled the system up to
17 statewide use, and demonstrated that such system is
18 of high quality, the State shall be permitted to oper-
19 ate the innovative assessment system approved
20 under the program of demonstration authority under
21 this section for the purposes of paragraphs (2) and
22 (3) of section 1111(b). Such system shall be deemed
23 of high quality if the Secretary, through the peer re-
24 view process described in subsection (d), determines
25 that the system has—

1 “(A) met all of the requirements of this
2 section;

3 “(B) demonstrated progress for all stu-
4 dents, including each of the categories of stu-
5 dents defined in section 1111(b)(3)(A), in rela-
6 tion to such measures as—

7 “(i) increasing student achievement
8 and academic outcomes;

9 “(ii) increasing the 4-year adjusted
10 cohort graduation rate or the extended-
11 year adjusted cohort graduation rate for
12 high schools;

13 “(iii) increasing retention rates of stu-
14 dents in school; and

15 “(iv) decreasing rates of remediation
16 at institutions of higher education for par-
17 ticipating students;

18 “(C) demonstrated progress in relation to
19 at least one other valid and reliable indicator of
20 quality, success, or student supports, such as
21 those reported annually by the State in accord-
22 ance with section 1111(b)(3)(B)(ii)(IV);

23 “(D) provided coherent and timely infor-
24 mation about student attainment of the State’s
25 challenging academic standards, including ob-

1 jective measurement of academic achievement,
2 knowledge, and skills that are valid, reliable,
3 and consistent with relevant, nationally-recog-
4 nized professional and technical standards;

5 “(E) solicited feedback from teachers,
6 principals, other school leaders, and parents
7 about their satisfaction with the innovative as-
8 sessment system; and

9 “(F) demonstrated that the same system
10 of assessments was used to measure the
11 achievement of all students, and at least 95
12 percent of such students overall and in each of
13 the categories of students, as defined in section
14 1111(b)(3)(A), were assessed under the innova-
15 tive assessment system.

16 “(2) BASELINE.—For the purposes of the eval-
17 uation described in paragraph (1), the baseline year
18 shall be considered the first year of implementation
19 of the innovative assessment system for each local
20 educational agency.

21 “(3) WAIVER AUTHORITY.—If, at the conclu-
22 sion of the State’s approved demonstration and ex-
23 tension period, the State has met all of the require-
24 ments of this section, except transition to full state-
25 wide use for States that will initially administer an

1 innovative assessment system in a subset of local
2 educational agencies, and continues to comply with
3 the other requirements of this section, and dem-
4 onstrates a high-quality plan for transition to state-
5 wide use in a reasonable period of time, the State
6 may request, and the Secretary shall review such re-
7 quest, a delay of the withdrawal of authority under
8 subsection (g) for the purpose of providing the State
9 time necessary to implement the innovative assess-
10 ment system statewide.

11 “(i) AVAILABLE FUNDS.—A State may use funds
12 available under section 1201 to carry out this section.

13 “(j) RULE OF CONSTRUCTION.—A consortium of
14 States may apply to participate in the program of dem-
15 onstration authority under this section and the Secretary
16 may provide each State member of such consortium with
17 such authority if each such State member meets all of the
18 requirements of this section. Such consortia shall be sub-
19 ject to the limitation described in subsection (b)(3)(B)
20 during the initial 3 years of the demonstration authority.

21 “(k) DISSEMINATION OF BEST PRACTICES.—

22 “(1) IN GENERAL.—Following the publication
23 of the progress report described in subsection
24 (b)(3)(B), the Director of the Institute of Education
25 Sciences, in consultation with the Secretary, shall

1 collect and disseminate the best practices on the de-
2 velopment and implementation of innovative assess-
3 ment systems that meet the requirements of this
4 section, including—

5 “(A) the development of summative assess-
6 ments that meet the requirements of section
7 1111(b)(2)(B), are comparable with statewide
8 assessments, and include assessment tasks that
9 determine proficiency or mastery of State-ap-
10 proved competencies aligned to challenging aca-
11 demic standards;

12 “(B) the development of effective supports
13 for local educational agencies and school staff
14 to implement innovative assessment systems;

15 “(C) the development of effective engage-
16 ment and support of teachers in developing and
17 scoring assessments and the use of high-quality
18 professional development;

19 “(D) the development of effective supports
20 for all students, particularly each of the cat-
21 egories of students, as defined in section
22 1111(b)(3)(A), participating in the innovative
23 assessment systems; and

24 “(E) the development of standardized and
25 calibrated scoring rubrics, and other strategies,

1 to ensure inter-rater reliability and com-
2 parability of determinations of mastery or pro-
3 ficiency across local educational agencies and
4 the State.

5 “(2) PUBLICATION.—The Secretary shall make
6 the information described in paragraph (1) available
7 to the public on the website of the Department and
8 shall publish an update to the information not less
9 often than once every 3 years.”.