

110TH CONGRESS  
1ST SESSION

# H. R. 4100

To amend the Elementary and Secondary Education Act of 1965 to establish an instructional level assessment pilot program.

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## IN THE HOUSE OF REPRESENTATIVES

NOVEMBER 6, 2007

Ms. WOOLSEY (for herself, Mr. HARE, Mr. GORDON of Tennessee, Mr. PAYNE, Mr. THOMPSON of Mississippi, Ms. LINDA T. SÁNCHEZ of California, Mr. YARMUTH, Mr. HONDA, Mr. LOEBSACK, and Mr. COHEN) introduced the following bill; which was referred to the Committee on Education and Labor

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## A BILL

To amend the Elementary and Secondary Education Act of 1965 to establish an instructional level assessment pilot program.

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. INSTRUCTIONAL LEVEL ASSESSMENT PILOT**  
4 **PROGRAM.**

5 Part A of title VI of the Elementary and Secondary  
6 Education Act of 1965 (20 U.S.C. 7301 et seq.) is amend-  
7 ed by adding at the end the following:

1 “SUBPART 5—INSTRUCTIONAL LEVEL ASSESSMENT  
2 **“SEC. 6171. INSTRUCTIONAL-LEVEL ASSESSMENT PILOT**  
3 **PROGRAM.**

4 “(a) GRANT AUTHORITY.—

5 “(1) IN GENERAL.—The Secretary shall award  
6 grants on a competitive basis to no more than ten  
7 State educational agencies to conduct pilot programs  
8 to determine the effectiveness of assessing students  
9 with disabilities who are achieving significantly  
10 below grade-level proficiency at their instructional  
11 level, and to facilitate quality instruction for such  
12 students.

13 “(2) GRANT PERIOD.—Grants described under  
14 paragraph (1) shall be made for a 3 year period.

15 “(b) APPLICATION.—A State that desires the grant  
16 described under paragraph (1) shall submit an application  
17 for such grant, at such time, in such manner and in such  
18 format as the Secretary may prescribe. In order to be eligi-  
19 ble to receive a grant under this section, an State shall—

20 “(1) be determined by the Secretary to not be  
21 in need of intervention or substantial intervention in  
22 implementing the requirements as described in part  
23 B, section 616(d)(2) (20 U.S.C. 1416) of the Indi-  
24 viduals with Disabilities Education Act;

1           “(2) have developed and implemented alternate  
2 assessments to modified academic achievement  
3 standards;

4           “(3) as part of such application, provide assur-  
5 ances such agency has identified a minimum of 5  
6 local education agencies, considering geographic di-  
7 versity, the mix of rural and urban districts, and the  
8 mix of small and large districts, to participate in the  
9 pilot;

10          “(4) demonstrate such agency will provide guid-  
11 ance to the participating local education agencies  
12 on—

13                 “(A) how to appropriately select students  
14 for the pilot;

15                 “(B) scientifically valid assessment & eval-  
16 uation tools to be utilized; and

17                 “(C) data collection and reporting;

18          “(5) as part of such application, provide an as-  
19 surance that participating local education agencies  
20 have implemented a response to intervention ap-  
21 proach as defined in section 9101 that ensures that  
22 all students have received data driven, quality in-  
23 struction in the grade-level content; and

24          “(6) ensure monitoring and oversight of the  
25 participating local education agencies, including es-

1       tablishment of a process to review documentation  
2       provided by the individualized education program  
3       team (or ‘IEP Team’) (as defined in section  
4       614(d)(1)(B) of the Individuals with Disabilities  
5       Education Act (20 U.S.C. 1414(d)(1)(B))), for each  
6       student recommended for participation in the pilot  
7       to ensure that students are appropriately identified  
8       for participation.

9       “(c) PROGRAM ELEMENTS.—In implementing the  
10      pilot, a State educational agency and the participating  
11      local educational agencies shall—

12             “(1) limit participation of students in the pilot  
13             program to .5 percent of the total population of stu-  
14             dents assessed in each participating local educational  
15             agency;

16             “(2) ensure that the participating student’s  
17             IEP Team has determined that the alternate assess-  
18             ment to modified achievement standards is the ap-  
19             propriate annual assessment for the student and se-  
20             cured the written consent of the parents of such stu-  
21             dent prior to such students being assessed under the  
22             pilot program;

23             “(3) ensure that all students participating in  
24             the pilot program are receiving data driven, quality

1 instruction in the grade level content in the subject  
2 areas to be assessed;

3 “(4) ensure the IEP Team shall—

4 “(A) examine the student’s testing data,  
5 formative assessments, student work, IEP  
6 progress notes, data from the response to inter-  
7 vention approaches, teacher recommendations  
8 and other data that indicates a student’s in-  
9 structional level;

10 “(B) determine whether the student is per-  
11 forming three or more grade levels below their  
12 current grade level in either reading or math,  
13 as measured by scientifically-valid and reliable  
14 instruments, and the measures described in  
15 subparagraph (A); and

16 “(C) administer scientifically-valid and re-  
17 liable assessments based on the student’s in-  
18 structional level in reading and/or math; and

19 “(5) based on the student’s instructional level  
20 assessment, ensure the IEP Team will develop, and  
21 the local education agency will implement, a series  
22 of targeted interventions that directly address and  
23 are designed to remediate identified gaps in the stu-  
24 dent’s instructional and grade-level content knowl-  
25 edge.

1 “(d) ACCOUNTABILITY.—

2 “(1) The data from instructional level assess-  
3 ments shall not be used for purpose of determining  
4 whether a student meets or exceeds a proficient level  
5 of achievement as described under section 1111(b).

6 “(2) The results of any such instructional level  
7 assessments administered under this Act shall not be  
8 used to determine whether a school, local edu-  
9 cational agency, or State educational agency has  
10 made adequate yearly progress, as described under  
11 section 1111(b).

12 “(e) REPORTS.—

13 “(1) Each local education agency participating  
14 in the pilot will compile a report documenting  
15 progress on each student’s instructional level pro-  
16 ficiency and progress made toward reaching grade  
17 level proficiency based on either an alternate assess-  
18 ment based on modified academic achievement  
19 standards or regular academic achievement stand-  
20 ards and a scientifically valid and reliable instruc-  
21 tional level assessment.

22 “(2) Each State education agency participating  
23 in the pilot shall submit an annual report to the Sec-  
24 retary, describing how many students participated in  
25 the pilot, and the progress made towards closing the

1 gap between their current grade level proficiency and  
2 instructional level proficiency.

3 “(3) Data collected shall be used by the Sec-  
4 retary to inform the report in section 1111(b)(2)(S).

5 “(4) The Secretary shall issue a report to Con-  
6 gress indicating how many students participated in  
7 the pilot and changes in the gap between their in-  
8 structional and grade level proficiency before partici-  
9 pation in the pilot and after their participation.

10 “(f) AUTHORIZATION OF FUNDS.—There are author-  
11 ized to be appropriated \$5,000,000 to make grants under  
12 this section for fiscal year 2008.”.

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