114TH CONGRESS
1ST SESSION

S. _____

To amend the Elementary and Secondary Education Act of 1965 to permit alternate standards and assessments for students with the most significant cognitive disabilities.

IN THE SENATE OF THE UNITED STATES

Mr. MURPHY (for himself and Mrs. MURRAY) introduced the following bill; which was read twice and referred to the Committee on _____

A BILL

To amend the Elementary and Secondary Education Act of 1965 to permit alternate standards and assessments for students with the most significant cognitive disabilities.

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 ''Every Child Counts Act''.

SEC. 2. ALTERNATE STANDARDS AND ASSESSMENTS FOR STUDENTS WITH THE MOST SIGNIFICANT COGNITIVE DISABILITIES.

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

(1) in subsection (b)—

(A) in paragraph (1)—

(i) in subparagraph (B), by striking ''The'' and inserting ''Except as provided in subparagraph (G), the''; and

(ii) by adding at the end the following:

''(G) ALTERNATE ACADEMIC ACHIEVEMENT STANDARDS FOR STUDENTS WITH THE MOST SIGNIFICANT COGNITIVE DISABILITIES.—

''(i) IN GENERAL.—The State may, through a documented and validated standards-setting process, adopt alternate academic achievement standards in any subject included in the State's accountability system under paragraph (2) for students with the most significant cognitive disabilities, if such alternate academic achievement standards—

''(I) are aligned with the State challenging academic content stand-

ards and challenging student academic achievement standards;

''(II) provide access to the general curriculum for the grade in which the student is enrolled;

''(III) are vertically aligned to ensure that a student who achieves at the on-target or advanced level under subclause (VI) signifies that the student is on track to access a postsecondary education or achieve competitive integrated employment, as defined under section 3 of the Workforce Innovation and Opportunity Act (Public Law 113–128; 128 Stat. 1425);

''(IV) are supported by evidence-based learning progressions to age and grade-level performance;

''(V) are designated in the individualized education program developed under section 614(d)(3) of the Individuals with Disabilities Education Act for each such student as the academic achievement standard that will be used for the student; and

"(VI) establish, at a minimum—

"(aa) 2 levels of high achievement (on-target and advanced) that indicate that a student with the most significant cognitive disabilities meets or exceeds the State's proficient level of academic achievement under paragraph (2)(L) as measured by performance on alternate assessments under paragraph (3)(E); and

"(bb) a third level of achievement (catch-up) that provides information about the progress of a student with the most significant cognitive disabilities toward meeting the State's proficient level of academic achievement under paragraph (2)(L) as measured by performance on alternate assessments under paragraph (3)(E).

"(ii) PROHIBITION ON ANY OTHER ALTERNATE OR MODIFIED STANDARDS.—A

State shall not develop, or implement for use, under this part any alternate or modified academic achievement standards for students who are children with disabilities that are not alternate academic achievement standards that meet the requirements of clause (i).'';

(B) in paragraph (2), by adding at the end the following:

''(L) STUDENTS WITH THE MOST SIGNIFICANT COGNITIVE DISABILITIES.—In determining the percentage of students meeting or exceeding the State's proficient level of academic achievement on the State assessments, a State educational agency may include, for all schools in the State, the performance of the State's students with the most significant cognitive disabilities on alternate assessments as described in paragraph (3)(E) in the subjects included in the State's accountability system, consistent with the 1 percent limitation of paragraph (3)(E)(i).'';

(C) in paragraph (3), by adding at the end the following:

"(E) ALTERNATE ASSESSMENTS FOR STUDENTS WITH THE MOST SIGNIFICANT COGNITIVE DISABILITIES.—A State may provide alternate assessments that are aligned with alternate academic achievement standards described in paragraph (1)(G) for students with the most significant cognitive disabilities, if the State—

"(i) ensures that for each subject, the total number of students in each grade level assessed in such subject using the alternate assessments does not exceed 1 percent of the total number of all students in such grade level in the State who are assessed in such subject;

"(ii) certifies, consistent with section 612(a)(16)(A) of the Individuals with Disabilities Education Act, that the State's regular academic assessments are universally designed to be accessible to students, including students with sensory, physical, and intellectual disabilities, through the provision of accommodations that produce valid results; and

"(iii) ensures that such alternate assessments are peer reviewed and based on the best available evidence."; and

(2) in subsection (h)(1)(C)—

(A) in clause (vii), by striking "and" after the semicolon;

(B) in clause (viii), by striking the period at the end and inserting "; and"; and

(C) by adding at the end the following:

"(ix) the number and percentage of students with disabilities who take an alternate assessment under subsection (b)(3)(E), by grade, subject, and type of disability, as outlined in section 602(3) of the Individuals with Disabilities Education Act.".