

108TH CONGRESS
1ST SESSION

H. R. 3049

To amend part A of title I of the Elementary and Secondary Education Act of 1965 regarding adequate yearly progress and assessments.

IN THE HOUSE OF REPRESENTATIVES

SEPTEMBER 9, 2003

Mr. STRICKLAND (for himself, Mr. ALLEN, Mr. ROSS, and Mrs. JONES of Ohio) introduced the following bill; which was referred to the Committee on Education and the Workforce

A BILL

To amend part A of title I of the Elementary and Secondary Education Act of 1965 regarding adequate yearly progress and assessments.

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 “Student Testing Fair-
5 ness Act of 2003”.

6 **SEC. 2. AMENDMENTS REGARDING ADEQUATE YEARLY**
7 **PROGRESS AND ASSESSMENTS.**

8 (a) CONTINUOUS GROWTH MODELS.—Clause (iii) of
9 section 1111(b)(2)(C) of the Elementary and Secondary

1 Education Act of 1965 (20 U.S.C. 6311(b)(2)(C)) is
2 amended by striking “for all students” and inserting “for
3 all students, as demonstrated by measures of students’
4 progress toward proficiency, including longitudinal
5 growth”.

6 (b) AVERAGING PROCEDURE.—Subparagraph (J) of
7 section 1111(b)(2) of the Elementary and Secondary Edu-
8 cation Act of 1965 (20 U.S.C. 6311(b)(2)) is amended
9 by adding at the end the following:

10 “(iv) The State may average data by
11 other means that are designed to increase
12 the stability of school-building results from
13 year to year.”.

14 (c) ADEQUATE YEARLY PROGRESS BY GROUP AND
15 SUBJECT.—Section 1116(b) of the Elementary and Sec-
16 ondary Education Act of 1965 (20 U.S.C. 6316(b)) is
17 amended—

18 (1) in subparagraph (A) of paragraph (1), by
19 inserting “with respect to the performance of a par-
20 ticular group of students described in section
21 1111(b)(2)(C)(v) in the same academic subject,”
22 after “that fails, for 2 consecutive years,”;

23 (2) in paragraph (5), by inserting “with respect
24 to the performance of a particular group of students
25 described in section 1111(b)(2)(C)(v) in the same

1 academic subject,” after “that fails to make ade-
2 quate yearly progress,”;

3 (3) in subparagraph (C) of paragraph (7), by
4 inserting “with respect to the performance of a par-
5 ticular group of students described in section
6 1111(b)(2)(C)(v) in the same academic subject,”
7 after “that fails to make adequate yearly progress,”;
8 and

9 (4) in subparagraph (A) of paragraph (8), by
10 inserting “with respect to the performance of a par-
11 ticular group of students described in section
12 1111(b)(2)(C)(v) in the same academic subject,”
13 after “continues to fail to make adequate yearly
14 progress,”.

15 (d) MULTIPLE MEASURES.—Subparagraph (A) of
16 section 1111(b)(2) of the Elementary and Secondary Edu-
17 cation Act of 1965 (20 U.S.C. 6311(b)(2)) is amended—

18 (1) at the end of clause (ii), by striking “and”;

19 (2) at the end of clause (iii), by striking the pe-
20 riod and inserting “; and”; and

21 (3) at the end, by adding the following:

22 “(iv) include multiple measures of stu-
23 dent academic achievement, such as the
24 proportion of State report card indicators
25 met, a performance index score, student

1 drop-out rate, and a measure based on in-
2 dividual student achievement gains over
3 time, disaggregated by each of the groups
4 of students described in subparagraph
5 (C)(v).”.

6 (e) CUT SCORES.—Clause (ii) of section
7 1111(b)(1)(D) of the Elementary and Secondary Edu-
8 cation Act of 1965 (20 U.S.C. 6311(b)(1)(D)) is amend-
9 ed—

10 (1) in subclause (II), by striking “and” at the
11 end;

12 (2) in subclause (III), by striking the period at
13 the end and inserting “; and”; and

14 (3) by adding at the end the following:

15 “(IV) take into consideration the
16 continuum of achievement by children
17 within the advanced, proficient, and
18 basic levels of achievement described
19 in subclauses (II) and (III) and the
20 yearly progress by children within
21 such continuum.”.

22 (f) NO FIRST SCORE REQUIREMENT.—Clause (iv) of
23 section 1111(b)(2)(C) of the Elementary and Secondary
24 Education Act of 1965 (20 U.S.C. 6311(b)(2)(C)) is
25 amended—

1 (1) by striking “(iv) measures” and inserting
2 “(iv)(I) measures”;

3 (2) by inserting “and” after “in paragraph
4 (3);” and

5 (3) by adding at the end the following:

6 “(II) if a student takes an assessment
7 described in paragraph (3) for a particular
8 subject or grade level more than once, may
9 use, at the State’s discretion, the student’s
10 results from subsequent administrations of
11 the assessment;”.

12 (g) LIMITING TRANSFER OPTIONS AND SUPPLE-
13 MENTAL SERVICES TO STUDENTS FROM FAILING
14 GROUPS.—Section 1116 of the Elementary and Secondary
15 Education Act of 1965 (20 U.S.C. 6316) is amended—

16 (1) in paragraphs (1)(E)(i), (5)(A), (7)(C)(i),
17 and (8)(A)(i) of subsection (b), by striking the term
18 “all students enrolled in the school” each place such
19 term appears and inserting “all students enrolled in
20 the school, who are members of a group described in
21 section 1111(b)(2)(C)(v) that fails to make adequate
22 yearly progress as defined in the State’s plan under
23 section 1111(b)(2);”;

24 (2) in clause (vii) of subsection (c)(10)(C), by
25 inserting “, who are members of a group described

1 in section 1111(b)(2)(C)(v) that fails to make ade-
2 quate yearly progress as defined in the State’s plan
3 under section 1111(b)(2),” after “Authorizing stu-
4 dents”; and

5 (3) in subparagraph (A) of subsection (e)(12),
6 by inserting “, who is a member of a group de-
7 scribed in section 1111(b)(2)(C)(v) that fails to
8 make adequate yearly progress as defined in the
9 State’s plan under section 1111(b)(2)” after “under
10 section 1113(c)(1)”.

11 (h) ASSESSMENTS.—Clause (ii) of section
12 1111(b)(3)(C) of the Elementary and Secondary Edu-
13 cation Act of 1965 (20 U.S.C. 6311(b)(3)(C)) is amended
14 to read as follows:

15 “(ii) be aligned with the State’s chal-
16 lenging academic content and student aca-
17 demic achievement standards, be aligned
18 with curriculum and instruction to ade-
19 quately assess the effect of curriculum and
20 instruction on each such challenging aca-
21 demic content standard, include individual
22 test items (based on technical criteria) that
23 enable students to achieve the items if the
24 students received appropriate instruction,
25 and provide coherent information about

1 student attainment of the State’s chal-
2 lenging academic content and student aca-
3 demic achievement standards;”.

4 (i) ASSESSING STUDENTS WITH DISABILITIES.—
5 Clause (ix) of section 1111(b)(3)(C) of the Elementary
6 and Secondary Education Act of 1965 (20 U.S.C.
7 6311(b)(3)(C)) is amended—

8 (1) in subclause (II), by striking “and” at the
9 end;

10 (2) in subclause (III), by inserting “and” at the
11 end; and

12 (3) by adding at the end the following:

13 “(IV) at the discretion of the
14 State, the assessment of students with
15 disabilities (as defined in section
16 602(3) of the Individuals with Dis-
17 abilities Education Act) whose in-
18 structional level in the core academic
19 subjects is below the grade level in
20 which the student is enrolled, by using
21 the State assessment determined by
22 the student’s individualized education
23 program team (as described in section
24 614(d)(1)(B) of the Individuals with
25 Disabilities Education Act) to most

1 closely correspond to the student’s in-
2 structional level;”.

3 (j) STUDENTS WITH LIMITED ENGLISH PRO-
4 FICIENCY.—Paragraph (2) of section 1111(b) of the Ele-
5 mentary and Secondary Education Act of 1965 (20 U.S.C.
6 6311(b)) is amended by adding at the end the following:

7 “(L) STUDENTS WITH LIMITED ENGLISH
8 PROFICIENCY.—Notwithstanding subparagraph
9 (C)(v), a State may define adequate yearly
10 progress under subparagraph (C) in a manner
11 that measures the progress of students with
12 limited English proficiency—

13 “(i) by continuing to include in a
14 group of students described in subpara-
15 graph (C)(v) students who attain pro-
16 ficiency in English; and

17 “(ii) by excluding the performance of
18 students with limited English proficiency
19 who have resided in the United States for
20 less than 3 years, so as to avoid any dis-
21 tortion in measurement resulting from the
22 new arrivals of such students. ”.

23 (k) SEPARATE STARTING POINTS.—Subparagraph
24 (E) of section 1111(b)(2) (20 U.S.C. 6311(b)(2)) is
25 amended by striking “, using data for the 2001–2002

1 school year,” and inserting “, for each group of students
2 described in subparagraph (C)(v),”.

3 (I) MINIMUM NUMBER OF STUDENTS WITH DISABIL-
4 ITIES FOR STATISTICALLY RELIABLE INFORMATION.—
5 The matter following subclause (II) in section
6 1111(b)(2)(C)(v) is amended by inserting “, and a State
7 may determine that such number for a group of students
8 with disabilities is greater than for other groups of stu-
9 dents described in this clause” after “information about
10 any individual student”.

○