

111TH CONGRESS  
1ST SESSION

# S. 618

To improve the calculation of, the reporting of, and the accountability for,  
secondary school graduation rates.

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IN THE SENATE OF THE UNITED STATES

MARCH 17, 2009

Mr. HARKIN introduced the following bill; which was read twice and referred  
to the Committee on Health, Education, Labor, and Pensions

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## A BILL

To improve the calculation of, the reporting of, and the  
accountability for, secondary school graduation rates.

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 “Every Student Counts  
5       Act”.

6       **SEC. 2. FINDINGS.**

7       Congress makes the following findings:

8               (1) To retain the competitive edge of the  
9       United States in the world economy, it is essential  
10      that America’s youth be prepared for the jobs of

1       today and for the jobs of the future. Such jobs in-  
2       creasingly require a postsecondary education, and al-  
3       most 90 percent of the fastest growing and best pay-  
4       ing jobs require some postsecondary education ac-  
5       cording to a 2008 Department of Labor report.

6           (2) Individuals without a secondary school di-  
7       ploma experience higher rates of unemployment, in-  
8       carceration, living in poverty, and receiving public  
9       assistance than individuals with at least a secondary  
10      school diploma.

11          (3) According to the 2009 Center for Public  
12      Education report “Better late than never? Exam-  
13      ining late high school graduates”, on-time gradua-  
14      tion with a regular secondary school diploma leads  
15      to the best outcomes for students, and students who  
16      graduate late with a regular secondary school di-  
17      ploma are more likely to earn an associate’s or a  
18      bachelor’s degree, to be employed full-time, and to  
19      obtain a job with retirement benefits and health in-  
20      surance than either secondary school dropouts or  
21      GED recipients.

22          (4) About 1,230,000 secondary school students,  
23      which is approximately one-third of all secondary  
24      school students, fail to graduate with their peers  
25      every year. According to the Department of Edu-

1 cation, the United States secondary school gradua-  
2 tion rate is the lowest the rate has been since 2002.

3 (5) The graduation rates for historically dis-  
4 advantaged minority groups are far lower than that  
5 of their White peers. Little more than half of all Af-  
6 rican-American and Hispanic students will finish  
7 secondary school on time with a regular secondary  
8 school diploma compared to over three-quarters of  
9 White students.

10 (6) Nearly 2,000 secondary schools (about 10  
11 percent of all secondary schools in the United  
12 States) produce about half of the Nation's secondary  
13 school dropouts. In these schools, the number of sen-  
14 iors is routinely 60 percent or less than the number  
15 of freshmen 3 years earlier. While almost half of the  
16 Nation's African-American students and nearly 40  
17 percent of Latino students attend these dropout fac-  
18 tories, only 11 percent of White students do.

19 (7) The graduation rate calculations used by  
20 most States for reporting and accountability are in-  
21 consistent and misleading. Not only does this ob-  
22 scure the graduation rate crisis, particularly for poor  
23 and minority students, but it also makes it impos-  
24 sible to compare graduation rates across schools,  
25 school districts, and States.

1           (8) The average gap between State-reported  
2           and independently reported graduation rates is ap-  
3           proximately 12 percent.

4           (9) In 2005, all 50 of the Nation's Governors  
5           signed the National Governors Association's Gradua-  
6           tion Rate Compact, pledging to use a common, accu-  
7           rate graduation rate.

8           (10) In 2008, the Secretary of Education re-  
9           leased final regulations that also require States to  
10          report a common graduation rate calculation. How-  
11          ever, since the Department of Education did not  
12          specify in the regulations what graduation rate goals  
13          and growth targets are appropriate and how States  
14          should include 4-year rates and extended year rates  
15          in calculating adequate yearly progress, it is nec-  
16          essary to clarify these goals, targets and rates in  
17          order to create a meaningful Federal accountability  
18          system for secondary schools.

19          (11) The most accurate graduation rate calcula-  
20          tions are reliant on high-quality longitudinal data  
21          systems that track individual student data from the  
22          time a student enters the kindergarten through  
23          grade 12 educational system until the student leaves  
24          the kindergarten through grade 12 educational sys-  
25          tem. In 2008, 42 States had the 4 elements of a

1 statewide longitudinal data system that are nec-  
 2 essary to calculate the National Governor’s Associa-  
 3 tion Compact rate at the school level.

4 (12) Forty-nine States should have secondary  
 5 school data that will allow the States to use the Na-  
 6 tional Governor’s Association Compact rate formula  
 7 not later than school year 2011–2012.

8 (13) An accountability system with meaningful  
 9 graduation rate goals—

10 (A) holds schools, school districts, and  
 11 States responsible for both student achievement  
 12 and outcomes; and

13 (B) ensures that low-performing students  
 14 are not unnecessarily held back or pushed out  
 15 (encouraged to leave school without a diploma).

16 (14) Prior to the 2008 regulations, the amend-  
 17 ments to the Elementary and Secondary Education  
 18 Act of 1965 (20 U.S.C. 6301 et seq.) made by the  
 19 No Child Left Behind Act of 2001 (Public Law  
 20 107–110) did not require consistent calculations,  
 21 meaningful goals, or disaggregation of graduation  
 22 rates. Without clear guidance from the Department  
 23 of Education, most secondary schools can continue  
 24 to make adequate yearly progress by making as little  
 25 as 0.1 percent improvement or less in secondary

1 school graduation rates each year and can do so  
 2 with a consistent, or even growing, secondary school  
 3 graduation gap.

4 **SEC. 3. PURPOSES.**

5 The purposes of this Act are—

6 (1) to require consistent calculations and re-  
 7 porting of secondary school graduation rates across  
 8 schools, school districts, and States;

9 (2) to provide educators with critical informa-  
 10 tion about students' progress toward secondary  
 11 school graduation; and

12 (3) to ensure meaningful accountability for the  
 13 improvement of secondary school graduation rates  
 14 for all students, particularly those rates for poor and  
 15 minority students.

16 **SEC. 4. SECONDARY SCHOOL GRADUATION RATES.**

17 Subpart 1 of part A of title I of the Elementary and  
 18 Secondary Education Act of 1965 (20 U.S.C. 6311 et  
 19 seq.) is amended by inserting after section 1111 (20  
 20 U.S.C. 6311) the following:

21 **“SEC. 1111A. SECONDARY SCHOOL GRADUATION RATES.**

22 **“(a) DEFINITIONS.—**In this section:

23 **“(1) ADJUSTED COHORT; TRANSFERRED IN;**  
 24 **TRANSFERRED OUT.—**

“(A) IN GENERAL.—Subject to subparagraphs (C)(ii) through (F), the term ‘adjusted cohort’ means the difference of—

“(i) the sum of—

“(I) the number of first-time ninth graders; plus

“(II) any students that transferred in to the cohort in any of grades 9 through 12; minus

“(ii) any students removed from the cohort.

“(B) TRANSFERRED IN.—The term ‘transferred in’ when used with respect to a secondary school student, means a student who enrolls after the beginning of the entering cohort’s first year in secondary school, up to and including enrolling in grade 12.

“(C) TRANSFERRED OUT.—

“(i) IN GENERAL.—The term ‘transferred out’ when used with respect to a secondary school student, means a student who the secondary school or local educational agency confirms has transferred to another school or another educational pro-

gram for which the student is expected to receive a regular secondary school diploma.

“(ii) CONFIRMATION REQUIREMENTS.—

“(I) DOCUMENTATION REQUIRED.—The confirmation of a student’s transfer to another school or educational program described in clause (i) requires documentation from the receiving school or program that the student enrolled in the receiving school or program.

“(II) LACK OF CONFIRMATION.—A student who was enrolled, but for whom there is no confirmation of transfer or completion, shall not be considered a transfer or an error, but shall remain in the cohort as a non-graduate for reporting and accountability purposes under this section.

“(iii) PROGRAMS NOT PROVIDING CREDIT.—A student enrolled in a GED or other alternative educational program that does not issue or provide credit toward the issuance of a regular secondary school di-

1           ploma shall not be considered transferred  
2           out.

3           “(D) COHORT REMOVAL.—To remove a  
4           student from a cohort, a school or local edu-  
5           cational agency shall confirm that the student  
6           has transferred out, emigrated, or is deceased.

7           “(E) TREATMENT OF OTHER LEAVERS  
8           AND WITHDRAWALS.—A student who was re-  
9           tained in a grade, enrolled in a GED program,  
10          aged-out of a secondary school or secondary  
11          school program, or left secondary school for any  
12          other reason, including expulsion, shall not be  
13          considered transferred out, and shall remain in  
14          the adjusted cohort.

15          “(F) SPECIAL RULE.—For those secondary  
16          schools that start after grade 9, the cohort shall  
17          be calculated based on the earliest secondary  
18          school grade at the secondary school.

19          “(2) ALTERNATIVE EDUCATIONAL SETTING.—  
20          The term ‘alternative educational setting’ means—

21               “(A) a secondary school or secondary  
22               school educational program that—

23                       “(i) is designed for students who are  
24                       under-credited or have dropped out of sec-  
25                       ondary school; and

1                   “(ii) awards a regular secondary  
2                   school diploma; or

3                   “(B) a secondary school or secondary  
4                   school educational program designed to issue a  
5                   regular secondary school diploma concurrently  
6                   with a postsecondary degree or not more than  
7                   2 years of college credit.

8                   “(3) CUMULATIVE GRADUATION RATE.—The  
9                   term ‘cumulative graduation rate’ means, for each  
10                  school year, the percent obtained by calculating the  
11                  product of—

12                  “(A) the result of—

13                  “(i) the sum of—

14                  “(I) the number of students  
15                  who—

16                  “(aa) formed the adjusted  
17                  cohort 4 years earlier; and

18                  “(bb) graduate in 4 years or  
19                  less with a regular secondary  
20                  school diploma (which shall not  
21                  include a GED or other certifi-  
22                  cate of completion or alternative  
23                  to a diploma except as provided  
24                  in paragraph (6)(B)); plus

1 “(II) the number of additional  
 2 students from previous cohorts who  
 3 graduate in more than 4 years with a  
 4 regular secondary school diploma  
 5 (which shall not include a GED or  
 6 other certificate of completion or al-  
 7 ternative to a diploma except as pro-  
 8 vided in paragraph (6)(B)); divided by  
 9 “(ii) the sum of—

10 “(I) the number of students who  
 11 formed the adjusted cohort for that  
 12 graduating class 4 years earlier; plus

13 “(II) the number of additional  
 14 student graduates described in clause  
 15 (i)(II); multiplied by

16 “(B) 100.

17 “(4) 4-YEAR ADJUSTED COHORT GRADUATION  
 18 RATE.—The term ‘4-year adjusted cohort graduation  
 19 rate’ means the percent obtained by calculating the  
 20 product of—

21 “(A) the result of—

22 “(i) the number of students who—

23 “(I) formed the adjusted cohort 4  
 24 years earlier; and

1 “(II) graduate in 4 years or less  
 2 with a regular secondary school di-  
 3 ploma (which shall not include a GED  
 4 or other certificate of completion or  
 5 alternative to a diploma except as pro-  
 6 vided in paragraph (6)(B)); divided by  
 7 “(ii) the number of students who  
 8 formed the adjusted cohort for that grad-  
 9 uating class 4 years earlier; multiplied by  
 10 “(B) 100.

11 “(5) ON-TRACK STUDENT.—The term ‘on-track  
 12 student’ means a student who—

13 “(A) has accumulated the number of cred-  
 14 its necessary to promote to the next grade, in  
 15 accordance with State and local educational  
 16 agency policies; and

17 “(B) has failed not more than 1 semester  
 18 in English or language arts, mathematics,  
 19 science, or social studies.

20 “(6) REGULAR SECONDARY SCHOOL DI-  
 21 PLOMA.—

22 “(A) IN GENERAL.—The term ‘regular sec-  
 23 ondary school diploma’ means the standard sec-  
 24 ondary school diploma awarded to the prepon-  
 25 derance of students in the State that is fully

1 aligned with State standards, or a higher di-  
2 ploma. Such term shall not include GEDs, cer-  
3 tificates of attendance, or any lesser diploma  
4 award.

5 “(B) SPECIAL RULE.—For a student who  
6 has a significant cognitive disability and is as-  
7 sessed using an alternate assessment aligned to  
8 an alternate achievement standard, receipt of a  
9 regular secondary school diploma or a State-de-  
10 fined alternate diploma aligned with completion  
11 of the student’s right to a free and appropriate  
12 public education under the Individuals with  
13 Disabilities Education Act (20 U.S.C. 1400 et  
14 seq.) shall be counted as graduating with a reg-  
15 ular secondary school diploma for the purposes  
16 of this section, except that not more than 1 per-  
17 cent of students served by the State or local  
18 educational agency, as appropriate, shall be  
19 counted as graduates with a regular secondary  
20 school diploma under this subparagraph.

21 “(7) UNDER-CREDITED STUDENT.—The term  
22 ‘under-credited student’ means a secondary school  
23 student who is a year or more behind in the ex-  
24 pected accumulation of credits or courses toward an  
25 on-time graduation as determined by the relevant

1 local educational agency's and State educational  
 2 agency's secondary school graduation requirements  
 3 for an on-time graduation.

4 “(b) CALCULATING AND REPORTING ACCURATE  
 5 GRADUATION RATES.—

6 “(1) CALCULATING GRADUATION RATES.—Not  
 7 later than school year 2010–2011, and every school  
 8 year thereafter, each State educational agency and  
 9 local educational agency that is assisted under this  
 10 part shall calculate, using a statewide longitudinal  
 11 data system with individual student identifiers for  
 12 each school served by the State or local educational  
 13 agency, as the case may be—

14 “(A) the 4-year adjusted cohort graduation  
 15 rate; and

16 “(B) the cumulative graduation rate.

17 “(2) CALCULATION AT SCHOOL, LEA, AND  
 18 STATE LEVELS; DISAGGREGATION.—The 4-year ad-  
 19 justed cohort graduation rate and the cumulative  
 20 graduation rate shall be calculated at the school,  
 21 local educational agency, and State levels in the ag-  
 22 gregate and disaggregated by race, ethnicity, gender,  
 23 disability status, migrant status, English proficiency,  
 24 and status as economically disadvantaged, except  
 25 that such disaggregation shall not be required in a

1 case in which the number of students in a subgroup  
 2 is insufficient to yield statistically reliable informa-  
 3 tion or the results would reveal personally identifi-  
 4 able information about an individual student.

5 “(3) REPORTING GRADUATION RATES.—Subject  
 6 to paragraph (4), not later than school year 2010–  
 7 2011, and every school year thereafter, each State  
 8 educational agency, local educational agency and  
 9 school that is assisted under this part shall report  
 10 annually, as part of the State and local educational  
 11 agency report cards required under section 1111(h),  
 12 each of the following:

13 “(A) 4-YEAR ADJUSTED COHORT GRADUA-  
 14 TION RATE.—The 4-year adjusted cohort grad-  
 15 uation rate, in the aggregate and disaggregated  
 16 by each of the subgroups described in para-  
 17 graph (2).

18 “(B) CUMULATIVE GRADUATION RATE.—  
 19 The cumulative graduation rate, in the aggre-  
 20 gate and disaggregated by each of the sub-  
 21 groups described in paragraph (2).

22 “(C) NUMBER AND PERCENTAGE OF STU-  
 23 DENTS GRADUATING IN MORE THAN 4 YEARS.—  
 24 The number and percentage of secondary school  
 25 students graduating in more than 4 years with

a regular secondary school diploma as described in subsection (a)(3)(A)(i)(II), disaggregated by the number of years accounted for in the cumulative graduation rate and by each of the subgroups described in paragraph (2).

“(D) NUMBER AND PERCENTAGE OF STUDENTS REMOVED FROM COHORT.—The number and percentage of secondary school students who have been removed from the adjusted cohort, in the aggregate and disaggregated by each of the subgroups described in paragraph (2).

“(E) NUMBER AND PERCENTAGE OF CONTINUING STUDENTS.—The number and percentage of students from each previous adjusted cohort that began 4 years or more earlier who have not graduated from and are still enrolled in secondary school.

“(4) USE OF INTERIM GRADUATION RATE.—In the case of a State that does not have an individual student identifier longitudinal data system, with respect to each graduation rate calculation or reporting requirement under this section, the State and local educational agencies and secondary schools in the State shall temporarily carry out this section by

1 using an interim graduation rate calculation that  
2 meets the following conditions:

3 “(A) NUMBER OF GRADUATES COMPARED  
4 TO NUMBER OF STUDENTS.—The calculation  
5 shall measure or estimate the number of sec-  
6 ondary school graduates compared to the num-  
7 ber of students in the secondary school’s enter-  
8 ing grade.

9 “(B) DROPOUT DATA.—The calculation  
10 shall not use dropout data.

11 “(C) REGULAR SECONDARY SCHOOL DI-  
12 PLOMA.—The calculation shall count as grad-  
13 uates only those students who receive a regular  
14 secondary school diploma.

15 “(D) DISAGGREGATION.—The calculation  
16 shall be disaggregated by each of the subgroups  
17 described in paragraph (2).

18 “(E) ANNUAL BASIS AND RATE OF  
19 GROWTH.—The calculation shall be used on an  
20 annual basis to determine a rate of growth, as  
21 described in subsection (c).

22 “(F) TIMEFRAME LIMITATION.—The in-  
23 terim graduation rate calculation may only be  
24 used through the end of school year 2010–  
25 2011.

1           “(G) REPORTING USE OF INTERIM GRAD-  
 2           UATION RATE.—Each State that receives assist-  
 3           ance under this part shall describe in the  
 4           State’s plan submitted under section 1111 the  
 5           interim graduation rate used in accordance with  
 6           this paragraph.

7           “(5) REPORTING ON ALTERNATIVE SET-  
 8           TINGS.—Not later than school year 2010–2011, and  
 9           every school year thereafter, each State educational  
 10          agency and local educational agency that receives as-  
 11          sistance under this part and contains an alternative  
 12          education setting which establishes an alternative 4-  
 13          year completion requirement as described in sub-  
 14          section (c)(3)(C)(iii), shall report annually as part of  
 15          the State and local educational agency report cards  
 16          required under section 1111(h), the following:

17               “(A) The name of each alternative edu-  
 18               cation setting that establishes an alternative 4-  
 19               year completion requirement.

20               “(B) A description of the program pro-  
 21               vided at each setting and the population served.

22               “(C) The enrollment of such settings in  
 23               the aggregate and disaggregated by each of the  
 24               subgroups described in paragraph (2), including  
 25               as a percent of overall enrollment.

1           “(D) Whether the setting is a new school  
2           or setting.

3           “(E) The alternative 4-year completion re-  
4           quirement as described in subsection  
5           (c)(3)(C)(iii).

6           “(6) REPORTING PERCENT OF ON-TRACK STU-  
7           DENTS.—Not later than school year 2010–2011, and  
8           every school year thereafter, every State educational  
9           agency, local educational agency, and school that re-  
10          ceives assistance under this part shall report annu-  
11          ally, as part of the State and local educational agen-  
12          cy report cards required under section 1111(h), the  
13          percent of on-track students for each secondary  
14          school grade served by the State educational agency,  
15          local educational agency, and school, respectively,  
16          other than the graduating grade for the secondary  
17          school, in the aggregate and disaggregated by each  
18          of the subgroups described in paragraph (2).

19          “(7) REPORTING ADDITIONAL INDICATORS.—

20                 “(A) IN GENERAL.—A State may report  
21                 additional complementary indicators of sec-  
22                 ondary school completion, such as—

23                         “(i) a college-ready graduation rate;

24                         “(ii) a dropout rate;

25                         “(iii) in-grade retention rates;

1 “(iv) percentages of students receiving  
2 GEDs, certificates of completion, or alter-  
3 natives to a diploma; and

4 “(v) in the case of a State with exit  
5 examinations, students who have completed  
6 course requirements but failed a State  
7 exam required for secondary school grad-  
8 uation.

9 “(B) DEFINITIONS FOR INDICATORS.—The  
10 Secretary shall promulgate and publish in the  
11 Federal Register regulations containing defini-  
12 tions for the indicators described in clauses (i),  
13 (ii), and (iii) of subparagraph (A) that are con-  
14 sistent with the definitions used by the National  
15 Center for Educational Statistics, in order to  
16 ensure that the indicators are comparable  
17 across schools and school districts within a  
18 State.

19 “(C) PROHIBITION.—For purposes of re-  
20 porting or accountability under this section, the  
21 additional indicators shall not replace the 4-  
22 year adjusted cohort graduation rate or the cu-  
23 mulative graduation rate.

24 “(D) RULE OF CONSTRUCTION.—Nothing  
25 in this Act shall be construed to prohibit a

1 State from reporting indicators of secondary  
2 school completion that are not described in sub-  
3 paragraph (A).

4 “(8) DATA ANOMALIES.—

5 “(A) IN GENERAL.—When an individual  
6 student record indicates a student was enrolled  
7 in more than 1 secondary school or a student  
8 record shows enrollment in a secondary school  
9 but no subsequent information, such student  
10 record shall be assigned to 1 adjusted cohort  
11 for the purposes of calculating and reporting  
12 school, local educational agency, and State 4-  
13 year adjusted cohort graduation rates and cu-  
14 mulative graduation rates under this sub-  
15 section.

16 “(B) SPECIAL RULE.—A student who re-  
17 turns to secondary school after dropping out of  
18 secondary school, or receives a diploma from  
19 more than 1 school or educational program  
20 served by any 1 local educational agency, shall  
21 be counted—

22 “(i) only once for purposes of report-  
23 ing and accountability under this section;  
24 and

1 “(ii) as part of the student’s original  
2 adjusted cohort.

3 “(9) MONITORING OF DATA COLLECTION.—

4 Each State that receives assistance under this part  
5 shall conduct regular audits of data collection, re-  
6 porting, and calculations by local educational agen-  
7 cies in the State. The Secretary shall assist States  
8 in their efforts to develop and retain the capacity for  
9 collection, analysis, and public reporting of 4-year  
10 adjusted cohort graduation rate and cumulative  
11 graduation rate data.

12 “(c) SCHOOL, LOCAL EDUCATIONAL AGENCY, AND  
13 STATE ACCOUNTABILITY.—

14 “(1) GRADUATION RATE GOAL.—Each State  
15 that receives assistance under this part shall seek to  
16 have all students graduate from secondary school  
17 prepared for success in college and work.

18 “(2) GRADUATION RATE CALCULATION.—Each  
19 State that receives assistance under this part shall  
20 use aggregate and disaggregated cumulative gradua-  
21 tion rates as the additional indicator described in  
22 section 1111(b)(2)(C)(vi) for the purposes of deter-  
23 mining each secondary school’s and local educational  
24 agency’s adequate yearly progress.

1           “(3) ANNUAL MEASURABLE OBJECTIVES.—The  
 2           Secretary shall require a State, local educational  
 3           agency, or school that receives assistance under this  
 4           part and has a cumulative graduation rate below 90  
 5           percent in the aggregate or for any subgroup de-  
 6           scribed in subsection (b)(2), to increase the cumu-  
 7           lative graduation rate, in the aggregate or for such  
 8           subgroup, respectively, in order to make adequate  
 9           yearly progress under section 1111(b)(2), as follows:

10                 “(A) BASELINE FOR CUMULATIVE GRAD-  
 11                 UATION RATES.—Subject to subparagraph (B),  
 12                 the cumulative graduation rate calculated and  
 13                 reported in accordance with this section for the  
 14                 first school year that begins after the date of  
 15                 enactment of Every Student Counts Act shall  
 16                 serve as the baseline graduation rate. Each  
 17                 school year thereafter, cumulative graduation  
 18                 rates calculated at the school, local educational  
 19                 agency, and State levels in the aggregate and  
 20                 disaggregated by each subgroup described in  
 21                 subsection (b)(2) shall be evaluated for annual  
 22                 growth in accordance with subparagraph (C).

23                 “(B) BASELINE ADJUSTMENT.—In the  
 24                 case of a State that uses an interim graduation  
 25                 rate, after the State has implemented an indi-

vidual student identifier longitudinal data system and can calculate the 4-year adjusted cohort graduation rate and the cumulative graduation rate, but not later than the 2010–2011 school year, the State shall use the cumulative graduation rate as the baseline graduation rate for reporting and accountability under this section.

“(C) ANNUAL GROWTH.—

“(i) IN GENERAL.—In order for a State, local educational agency, or school to make adequate yearly progress under section 1111(b)(2), the State, local educational agency, or school, respectively, shall demonstrate increases in the cumulative graduation rate from the baseline graduation rate, in the aggregate and for each subgroup described in subsection (b)(2), by an average of 3 percent per school year, until the cumulative graduation rate, in the aggregate and for each such subgroup, equals or exceeds 90 percent.

“(ii) AYP NOT MADE.—A secondary school shall not be considered to have

1 made adequate yearly progress under sec-  
2 tion 1111(b)(2) if—

3 “(I) the school’s 4-year adjusted  
4 cohort graduation rate, in the aggre-  
5 gate or for any subgroup described in  
6 subsection (b)(2), falls below the co-  
7 hort’s initial baseline graduation rate  
8 or shows no improvement over a 4-  
9 year period; or

10 “(II) fewer than 90 percent of  
11 the students included in the cumu-  
12 lative graduation rate, in the aggre-  
13 gate or for any subgroup described in  
14 subsection (b)(2), are students who  
15 graduate from secondary school in 4  
16 years.

17 “(iii) SPECIAL RULE.—A secondary  
18 school or secondary school educational pro-  
19 gram that is an alternative education set-  
20 ting may apply to the State to establish an  
21 alternative 4-year completion requirement  
22 for purposes of determinations under  
23 clause (ii)(II) if—

1 “(I) the secondary school or edu-  
 2 cational program submits to the  
 3 State—

4 “(aa) a description of the  
 5 secondary school or educational  
 6 program; and

7 “(bb) an alternative 4-year  
 8 completion requirement; and

9 “(II) the State approves the use  
 10 of the alternative 4-year completion  
 11 requirement for such purposes.

12 “(4) DELAYED APPLICABILITY TO SCHOOLS.—  
 13 Paragraphs (2) and (3)(C) shall not apply to a sec-  
 14 ondary school until the beginning of school year  
 15 2011–2012.

16 “(d) REPORTING REQUIREMENT.—Not later than 90  
 17 days after the date of the enactment of the Every Student  
 18 Counts Act, and annually thereafter, each State edu-  
 19 cational agency that receives assistance under this part  
 20 shall submit to the Secretary, and make publicly available,  
 21 a report on the implementation of this section. Such report  
 22 shall include—

23 “(1) a description of each category, code, and  
 24 the corresponding definition that the State has au-

1       thorized for identifying, tracking, calculating, and  
 2       publicly reporting student status; and

3               “(2) if using an interim graduation rate pursu-  
 4       ant to subsection (b)(4), a description of the efforts  
 5       of the State to implement the cumulative graduation  
 6       rate and the expected date of implementation, which  
 7       date shall not be later than the beginning of school  
 8       year 2011–2012.”.

9   **SEC. 5. AYP CONFORMING AMENDMENTS.**

10       Section 1111(b)(2)(C) of the Elementary and Sec-  
 11       ondary Education Act of 1965 (20 U.S.C. 6311(b)(2)(C))  
 12       is amended—

13               (1) in clause (vi), by striking “and” after the  
 14       semicolon;

15               (2) in clause (vii), by striking the period and in-  
 16       serting “; and”; and

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

18                       “(viii) complies with the requirements  
 19                       of section 1111A.”.

○