

112TH CONGRESS
1ST SESSION

S. 767

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

IN THE SENATE OF THE UNITED STATES

APRIL 7 (legislative day, APRIL 5), 2011

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

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) In order for the United States to retain a
9 competitive edge in the world economy, it is essential
10 that youth in the United States be prepared for the

1 jobs of today and for the jobs of the future. Such
2 jobs increasingly require postsecondary education,
3 and according to a 2008 Department of Labor re-
4 port, almost 90 percent of the fastest growing and
5 best paying jobs require some postsecondary edu-
6 cation.

7 (2) Individuals without a regular secondary
8 school diploma experience higher rates of unemploy-
9 ment, incarceration, poverty, and receipt of public
10 assistance than individuals with a regular secondary
11 school diploma.

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

24 (4) About 1,300,000 secondary school students,
25 which is approximately $\frac{1}{3}$ of all secondary school

1 students in the United States, fail to graduate with
2 their peers every year. According to the Department
3 of Education, the United States secondary school
4 graduation rate is only 75 percent.

5 (5) The graduation rates for historically dis-
6 advantaged minority groups are far lower than that
7 of their White peers. Little more than half of all Af-
8 rican-American and Hispanic students finish sec-
9 ondary school on time with a regular secondary
10 school diploma, while more than $\frac{3}{4}$ of White stu-
11 dents finish secondary school on time with a regular
12 secondary school diploma.

13 (6) Nearly 2,000 secondary schools (about 12
14 percent of all secondary schools in the United
15 States) produce about half of the Nation's secondary
16 school dropouts. In these schools, the number of sen-
17 iors is routinely 60 percent or less than the number
18 of freshmen 3 years earlier. While 34 percent of the
19 Nation's African-American students and nearly 28
20 percent of Latino students attend these "dropout
21 factories", only 16 percent of White students do.

22 (7) The average gap between State-reported
23 graduation rates and independently reported gradua-
24 tion rates is approximately 11 percent.

1 (8) In 2005, all 50 of the Nation’s Governors
2 signed the National Governors Association’s Gradua-
3 tion Rate Compact, pledging to use a common, accu-
4 rate graduation rate.

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

16 (10) State-set targets to make adequate yearly
17 progress under the Secretary of Education’s 2008
18 regulations are numerous in type and varied in ag-
19 gressiveness. Twenty-eight States have set a gradua-
20 tion rate goal of less than 90 percent. At least 8
21 States have set status targets that do not take into
22 consideration progress toward the State-set goal.
23 Furthermore, only 2 of the 9 States that include ex-
24 tended year rates in measures of adequate yearly

1 progress do so in a way that places a priority on
2 graduating students within 4 years.

3 (11) The most accurate graduation rate calcula-
4 tions rely on high-quality longitudinal data systems
5 that track individual student data from the time a
6 student enters kindergarten through the time such
7 student finishes 12th grade. Forty-eight States plan
8 to have data systems that will provide secondary
9 school data that will allow such States to use the
10 graduation rate formula specified in the Department
11 of Education’s 2008 final regulations not later than
12 the 2011–2012 school year.

13 (12) An accountability system with meaningful
14 graduation rate goals—

15 (A) holds schools, school districts, and
16 States responsible for both student achievement
17 and outcomes; and

18 (B) ensures that low-performing students
19 are not unnecessarily held back or encouraged
20 to leave school without a diploma.

21 (13) Prior to the 2008 regulations, the amend-
22 ments to the Elementary and Secondary Education
23 Act of 1965 (20 U.S.C. 6301 et seq.) made by the
24 No Child Left Behind Act of 2001 (Public Law
25 107–110) did not require consistent calculations,

1 meaningful goals, or disaggregation of graduation
2 rates. Without clear guidance from the Department
3 of Education, most secondary schools can continue
4 to make adequate yearly progress by making as little
5 as 0.1 percent improvement or less in secondary
6 school graduation rates each year and can do so
7 with a consistent, or even growing, secondary school
8 graduation gap among subgroups of students.

9 **SEC. 3. PURPOSES.**

10 The purposes of this Act are—

11 (1) to require consistent calculations and re-
12 porting of secondary school graduation rates across
13 schools, school districts, and States;

14 (2) to provide educators with critical informa-
15 tion about student progress toward secondary school
16 graduation; and

17 (3) to ensure meaningful accountability for the
18 improvement of secondary school graduation rates
19 for all students, particularly for poor and minority
20 students.

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

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

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

2 “(a) DEFINITIONS.—In this section:

3 “(1) ADJUSTED COHORT; ENTERING COHORT;
4 TRANSFERRED INTO; TRANSFERRED OUT.—

5 “(A) ADJUSTED COHORT.—Subject to sub-
6 paragraphs (D)(ii) through (G), the term ‘ad-
7 justed cohort’ means the difference of—

8 “(i) the sum of—

9 “(I) the entering cohort; plus

10 “(II) any students that trans-
11 ferred into the cohort in any of grades
12 9 through 12; minus

13 “(ii) any students that are removed
14 from the cohort as described in subpara-
15 graph (E).

16 “(B) ENTERING COHORT.—The term ‘en-
17 tering cohort’ means the number of first-time
18 9th graders enrolled in the secondary school 1
19 month after the start of the secondary school’s
20 academic year.

21 “(C) TRANSFERRED INTO.—The term
22 ‘transferred into’ when used with respect to a
23 secondary school student, means a student
24 who—

1 “(i) was a first-time 9th grader dur-
2 ing the same school year as the entering
3 cohort; and

4 “(ii) enrolls after the entering cohort
5 is calculated as described in subparagraph
6 (B).

7 “(D) TRANSFERRED OUT.—

8 “(i) IN GENERAL.—The term ‘trans-
9 ferred out’ when used with respect to a
10 secondary school student, means a student
11 who the secondary school or local edu-
12 cational agency has confirmed has trans-
13 ferred—

14 “(I) to another school from which
15 the student is expected to receive a
16 regular secondary school diploma; or

17 “(II) to another educational pro-
18 gram from which the student is ex-
19 pected to receive a regular secondary
20 school diploma.

21 “(ii) CONFIRMATION REQUIRE-
22 MENTS.—

23 “(I) DOCUMENTATION RE-
24 QUIRED.—The confirmation of a stu-
25 dent’s transfer to another school or

1 educational program described in
2 clause (i) requires documentation
3 from the receiving school or program
4 that the student enrolled in the receiv-
5 ing school or program.

6 “(II) LACK OF CONFIRMATION.—
7 A student who was enrolled, but for
8 whom there is no confirmation of the
9 student having transferred out, shall
10 remain in the cohort as a nongraduate
11 for reporting and accountability pur-
12 poses under this section.

13 “(iii) PROGRAMS NOT PROVIDING
14 CREDIT.—A student enrolled in a GED or
15 other alternative educational program that
16 does not issue or provide credit toward the
17 issuance of a regular secondary school di-
18 ploma shall not be considered transferred
19 out.

20 “(E) COHORT REMOVAL.—To remove a
21 student from a cohort, a school or local edu-
22 cational agency shall require documentation to
23 confirm that the student has transferred out,
24 emigrated to another country, or is deceased.

1 “(F) TREATMENT OF OTHER LEAVERS
2 AND WITHDRAWALS.—A student who was re-
3 tained in a grade, enrolled in a GED program,
4 aged-out of a secondary school or secondary
5 school program, or left secondary school for any
6 other reason, including expulsion, shall not be
7 considered transferred out, and shall remain in
8 the adjusted cohort.

9 “(G) SPECIAL RULE.—For those secondary
10 schools that start after grade 9, the entering
11 cohort shall be calculated 1 month after the
12 start of the secondary school’s academic year in
13 the earliest secondary school grade at the sec-
14 ondary school.

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

17 “(A) a secondary school or secondary
18 school educational program that—

19 “(i) is designed for students who are
20 under-credited or have dropped out of sec-
21 ondary school; and

22 “(ii) awards a regular secondary
23 school diploma; or

24 “(B) a secondary school or secondary
25 school educational program designed to issue a

1 regular secondary school diploma concurrently
2 with a postsecondary degree or not more than
3 2 years of postsecondary education credit.

4 “(3) CUMULATIVE GRADUATION RATE.—The
5 term ‘cumulative graduation rate’ means, for each
6 school year, the percent obtained by calculating the
7 product of—

8 “(A) the result of—

9 “(i) the sum of—

10 “(I) the number of students
11 who—

12 “(aa) form the adjusted co-
13 hort; and

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

21 “(II) the number of additional
22 students from previous cohorts who
23 graduate in more than 4 years with a
24 regular secondary school diploma
25 (which shall not include a GED or

1 other certificate of completion or al-
 2 ternative to a diploma except as pro-
 3 vided in paragraph (6)(B)); divided by
 4 “(ii) the sum of—
 5 “(I) the number of students who
 6 form the adjusted cohort for that
 7 year’s graduating class; plus
 8 “(II) the number of additional
 9 student graduates described in clause
 10 (i)(II); multiplied by
 11 “(B) 100.

12 “(4) 4-YEAR ADJUSTED COHORT GRADUATION
 13 RATE.—The term ‘4-year adjusted cohort graduation
 14 rate’ means the percent obtained by calculating the
 15 product of—

16 “(A) the result of—
 17 “(i) the number of students who—
 18 “(I) formed the adjusted cohort 4
 19 years earlier; and
 20 “(II) graduate in 4 years or less
 21 with a regular secondary school di-
 22 ploma (which shall not include a GED
 23 or other certificate of completion or
 24 alternative to a diploma except as pro-
 25 vided in paragraph (6)(B)); divided by

1 “(ii) the number of students who
2 formed the adjusted cohort for that year’s
3 graduating class 4 years earlier; multiplied
4 by
5 “(B) 100.

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

8 “(A) has accumulated the number of cred-
9 its necessary to be promoted to the next grade,
10 in accordance with State and local educational
11 agency policies;

12 “(B) has a 90 percent or higher school at-
13 tendance rate;

14 “(C) has failed not more than 1 semester
15 in English or language arts, mathematics,
16 science, or social studies; and

17 “(D) has failed not more than any 2 cred-
18 it-bearing courses.

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

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

1 ploma. Such term shall not include GEDs, cer-
2 tificates of attendance, or any lesser diploma
3 award.

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

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

1 agency's secondary school graduation requirements
2 for an on-time graduation.

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

5 “(1) CALCULATING GRADUATION RATES.—Not
6 later than school year 2011–2012, and every school
7 year thereafter, each State educational agency and
8 local educational agency that is assisted under this
9 part shall calculate, using a statewide longitudinal
10 data system with individual student identifiers for
11 each school served by the State or local educational
12 agency, as the case may be—

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

15 “(B) the cumulative graduation rate.

16 “(2) CALCULATION AT SCHOOL, LEA, AND
17 STATE LEVELS; DISAGGREGATION AND CROSS TAB-
18 ULATION.—The 4-year adjusted cohort graduation
19 rate and the cumulative graduation rate shall be cal-
20 culated at the school, local educational agency, and
21 State levels in the aggregate and disaggregated and
22 cross tabulated by race, ethnicity, gender, disability
23 status, migrant status, English proficiency, and sta-
24 tus as economically disadvantaged, and made public,
25 except that such disaggregation or cross tabulation

1 shall not be required in a case in which the number
2 of students in a subgroup is insufficient to yield sta-
3 tistically reliable information or the results would re-
4 veal personally identifiable information about an in-
5 dividual student.

6 “(3) STATEWIDE EXIT CODES.—Not later than
7 1 year after the enactment of the Every Student
8 Counts Act, each State that receives funds under
9 this subpart shall—

10 “(A) design a statewide exit code system,
11 in consultation with local educational agencies;

12 “(B) require all local educational agencies
13 to use the statewide exit code system; and

14 “(C) provide technical assistance and sup-
15 port to local educational agencies to assist such
16 agencies with the implementation of the state-
17 wide exit code system.

18 “(4) REPORTING GRADUATION RATES.—Subject
19 to paragraph (5), not later than school year 2011–
20 2012, and every school year thereafter, each State
21 that is assisted under this part shall ensure that the
22 State, all local educational agencies in the State, and
23 all secondary schools in the State report annually, as
24 part of the State and local educational agency report

1 cards required under section 1111(h), each of the
2 following:

3 “(A) 4-YEAR ADJUSTED COHORT GRADUA-
4 TION RATE.—The 4-year adjusted cohort grad-
5 uation rate, in the aggregate and disaggregated
6 by each of the subgroups described in para-
7 graph (2).

8 “(B) 4-YEAR ADJUSTED COHORT SIZE AND
9 4-YEAR GRADUATES.—The final number of stu-
10 dents in the 4-year adjusted cohort and the
11 total number of 4-year graduates in the aggre-
12 gate and disaggregated by each of the sub-
13 groups described in paragraph (2).

14 “(C) CUMULATIVE GRADUATION RATE.—
15 The cumulative graduation rate, in the aggre-
16 gate and disaggregated by each of the sub-
17 groups described in paragraph (2).

18 “(D) NUMBER AND PERCENTAGE OF STU-
19 DENTS GRADUATING IN MORE THAN 4 YEARS.—
20 The number and percentage of secondary school
21 students graduating in more than 4 years with
22 a regular secondary school diploma as described
23 in subsection (a)(3)(A)(i)(II), disaggregated by
24 the number of years it took the students to

1 graduate and by each of the subgroups de-
2 scribed in paragraph (2).

3 “(E) NUMBER AND PERCENTAGE OF STU-
4 DENTS REMOVED FROM COHORT.—The number
5 and percentage of secondary school students
6 who have been removed from the 4-year ad-
7 justed cohort by exit code (as described in sub-
8 section (b)(3)), in the aggregate and
9 disaggregated by each of the subgroups de-
10 scribed in paragraph (2).

11 “(F) NUMBER AND PERCENTAGE OF CON-
12 TINUING STUDENTS.—The number and percent-
13 age of students from each previous adjusted co-
14 hort that began 4 years or more earlier who
15 have not graduated from and are still enrolled
16 in secondary school.

17 “(5) USE OF INTERIM GRADUATION RATE.—In
18 the case of a State that does not have an individual
19 student identifier longitudinal data system, with re-
20 spect to each graduation rate calculation or report-
21 ing requirement under this section, the State and
22 local educational agencies and secondary schools in
23 the State shall temporarily carry out this section by
24 using an interim graduation rate calculation that
25 meets the following conditions:

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

7 “(B) DROPOUT DATA.—The calculation
8 shall not use dropout data.

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

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

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

20 “(F) TIMEFRAME LIMITATION.—The in-
21 terim graduation rate calculation may only be
22 used through the end of school year 2012–
23 2013.

24 “(G) REPORTING USE OF INTERIM GRAD-
25 UATION RATE.—Each State that receives assist-

1 ance under this part and does not have an indi-
2 vidual student identifier longitudinal data sys-
3 tem shall describe in the State’s plan submitted
4 under section 1111 the interim graduation rate
5 used in accordance with this paragraph.

6 “(6) REPORTING ON ALTERNATIVE SET-
7 TINGS.—Not later than school year 2011–2012, and
8 every school year thereafter, each State educational
9 agency and local educational agency that receives as-
10 sistance under this part and contains an alternative
11 education setting that establishes an alternative 4-
12 year completion requirement as described in sub-
13 section (c)(4)(C)(iii), shall report annually as part of
14 the State and local educational agency report cards
15 required under section 1111(h), the following:

16 “(A) The name of each alternative edu-
17 cation setting that establishes an alternative 4-
18 year completion requirement as described in
19 subsection (c)(4)(C)(iii).

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)(4)(C)(iii).

6 “(7) REPORTING PERCENT OF ON-TRACK STU-
7 DENTS.—Not later than school year 2011–2012, and
8 every school year thereafter, each 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 “(8) 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;

4 “(v) average attendance rates in the
5 aggregate and disaggregated by each of the
6 subgroups described in paragraph (2); and

7 “(vi) in the case of a State with exit
8 examinations, students who have completed
9 course requirements but failed a State ex-
10 amination required for secondary school
11 graduation.

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

22 “(C) PROHIBITION.—For purposes of re-
23 porting or accountability under this section, the
24 additional indicators shall not replace the 4-

1 year adjusted cohort graduation rate or the cu-
2 mulative graduation rate.

3 “(D) RULE OF CONSTRUCTION.—Nothing
4 in this Act shall be construed to prohibit a
5 State from reporting indicators of secondary
6 school completion that are not described in sub-
7 paragraph (A).

8 “(9) DATA ANOMALIES.—

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

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

1 “(i) only once for purposes of report-
2 ing and accountability under this section;
3 and

4 “(ii) as part of the student’s original
5 adjusted cohort.

6 “(10) MONITORING OF DATA COLLECTION.—

7 Each State that receives assistance under this part
8 shall conduct regular audits of the data collection,
9 use of exit codes (as described in subsection (b)(3)),
10 reporting, and calculations that are carried out by
11 local educational agencies in the State. The Sec-
12 retary shall assist States in their efforts to develop
13 and retain the capacity for collection, analysis, and
14 public reporting of 4-year adjusted cohort gradua-
15 tion rate and cumulative graduation rate data.

16 “(c) SCHOOL, LOCAL EDUCATIONAL AGENCY, AND
17 STATE ACCOUNTABILITY.—

18 “(1) GRADUATION RATE GOAL.—Each State
19 that receives assistance under this part shall—

20 “(A) seek to have all students graduate
21 from secondary school prepared for success in
22 college and career; and

23 “(B) meet the graduation rate goal as de-
24 scribed in this subsection.

1 “(2) GRADUATION RATE CALCULATION.—Each
2 State that receives assistance under this part shall
3 use aggregate and disaggregated 4-year adjusted co-
4 hort graduation rates or cumulative graduation rates
5 as the additional indicator described in section
6 1111(b)(2)(C)(vi) for the purposes of determining
7 each secondary school’s and local educational agen-
8 cy’s adequate yearly progress.

9 “(3) MEETING GRADUATION RATE GOAL.—In
10 order to meet the graduation rate goal, a State, local
11 educational agency, or school shall demonstrate that
12 it has a 4-year adjusted cohort graduation rate or a
13 cumulative graduation rate above 90 percent in the
14 aggregate and for all subgroups described in sub-
15 section (b)(2).

16 “(4) ANNUAL MEASURABLE OBJECTIVES.—The
17 Secretary shall require a State, local educational
18 agency, or school that receives assistance under this
19 part and that has not met the graduation rate goal
20 in the aggregate or for any subgroup described in
21 subsection (b)(2) to increase the 4-year adjusted co-
22 hort graduation rate or the cumulative graduation
23 rate, in the aggregate or for such subgroup, respec-
24 tively, in order to make adequate yearly progress
25 under section 1111(b)(2), as follows:

1 “(A) BASELINE FOR 4-YEAR ADJUSTED CO-
2 HORT AND CUMULATIVE GRADUATION RATES.—

3 “(i) IN GENERAL.—Subject to sub-
4 paragraph (B), the 4-year adjusted cohort
5 graduation rate calculated and reported in
6 accordance with this section for the first
7 school year that begins after the date of
8 enactment of the Every Student Counts
9 Act shall serve as the baseline 4-year ad-
10 justed cohort graduation rate and the cu-
11 mulative graduation rate calculated and re-
12 ported in accordance with this section for
13 such first school year shall serve as the
14 baseline cumulative graduation rate.

15 “(ii) ANNUAL GROWTH.—Each school
16 year after the baseline year described in
17 clause (i), 4-year adjusted cohort gradua-
18 tion rates and cumulative graduation rates
19 calculated at the school, local educational
20 agency, and State levels in the aggregate
21 and disaggregated by each subgroup de-
22 scribed in subsection (b)(2) shall be evalu-
23 ated for annual growth in accordance with
24 subparagraph (C).

1 “(B) BASELINE ADJUSTMENT.—In the
2 case of a State that uses an interim graduation
3 rate, after the State has implemented an indi-
4 vidual student identifier longitudinal data sys-
5 tem and can calculate the 4-year adjusted co-
6 hort graduation rate and the cumulative grad-
7 uation rate, but not later than the 2013–2014
8 school year, the State shall use the cumulative
9 graduation rate as the baseline graduation rate
10 for reporting and accountability under this sec-
11 tion.

12 “(C) ANNUAL GROWTH.—

13 “(i) IN GENERAL.—In order for a
14 State, local educational agency, or school
15 to make adequate yearly progress under
16 section 1111(b)(2), the State, local edu-
17 cational agency, or school, respectively,
18 shall demonstrate increases in the 4-year
19 adjusted cohort graduation rate from the
20 baseline 4 year adjusted cohort graduation
21 rate or increases in the cumulative gradua-
22 tion rate from the baseline cumulative
23 graduation rate, in the aggregate and for
24 each subgroup described in subsection
25 (b)(2), by an average of 3 percentage

1 points per school year, until the 4-year ad-
2 justed cohort graduation rate or the cumu-
3 lative graduation rate, in the aggregate
4 and for each such subgroup, equals or ex-
5 ceeds 90 percent.

6 “(ii) AYP NOT MADE.—A secondary
7 school shall not be considered to have
8 made adequate yearly progress under sec-
9 tion 1111(b)(2) if—

10 “(I) the school’s 4-year adjusted
11 cohort graduation rate, in the aggre-
12 gate or for any subgroup described in
13 subsection (b)(2), falls below the ini-
14 tial baseline 4-year adjusted cohort
15 over a 4-year period; or

16 “(II) fewer than 90 percent of
17 the students included in the cumu-
18 lative graduation rate, in the aggre-
19 gate or for any subgroup described in
20 subsection (b)(2), are students who
21 graduate from secondary school in 4
22 years.

23 “(iii) ALTERNATIVE 4-YEAR COMPLE-
24 TION REQUIREMENT.—Notwithstanding
25 clause (ii), a secondary school or secondary

1 school educational program that is an al-
2 ternative education setting may apply to
3 the State for a waiver of the requirement
4 in clause (ii) that at least 90 percent of the
5 students included in the cumulative grad-
6 uation rate, in the aggregate or for any
7 subgroup described in subsection (b)(2),
8 are students who graduate from secondary
9 school in 4 years if—

10 “(I) the secondary school or edu-
11 cational program submits to the
12 State—

13 “(aa) a description of the
14 secondary school or educational
15 program; and

16 “(bb) an alternative 4-year
17 completion requirement; and

18 “(II) the State approves the use
19 of the alternative 4-year completion
20 requirement for such purposes.

21 “(5) DELAYED APPLICABILITY TO SCHOOLS.—
22 Paragraphs (2), (3), and (4)(C) shall not apply to
23 a secondary school until the beginning of school year
24 2012–2013 or, in the case of a State using an in-
25 terim rate, shall not apply to a secondary school

1 until the first school year after such State adjusts
2 its baseline graduation rate as described in para-
3 graph (4)(B).

4 “(d) REPORTING REQUIREMENT.—Not later than 90
5 days after the date of enactment of the Every Student
6 Counts Act, and annually thereafter, each State edu-
7 cational agency that receives assistance under this part
8 shall submit to the Secretary, and make publicly available,
9 a report on the implementation of this section. Such report
10 shall include—

11 “(1) a description of each category, code, exit
12 code, and the corresponding definition that the State
13 has authorized for identifying, tracking, calculating,
14 and publicly reporting student status;

15 “(2) if using an interim graduation rate pursu-
16 ant to subsection (b)(5), a description of the efforts
17 of the State to implement the 4-year adjusted cohort
18 graduation rate and the cumulative graduation rate
19 and the expected date of implementation, which date
20 shall be not later than the school year 2013–2014;
21 and

22 “(3) a description of waivers granted in the
23 State under subsection (c)(4)(C)(iii), which shall in-
24 clude—

1 “(A) the total number of waivers granted
2 in the State under subsection (e)(4)(C)(iii);

3 “(B) a description of each waiver granted;

4 “(C) the number of students who are en-
5 rolled in secondary schools or secondary school
6 education programs receiving such waivers; and

7 “(D) the cumulative graduation rates of
8 the secondary schools or secondary school edu-
9 cation programs receiving such waivers.”

10 **SEC. 5. AYP CONFORMING AMENDMENTS.**

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

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

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

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

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

○