

110TH CONGRESS
2D SESSION

S. 3627

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

IN THE SENATE OF THE UNITED STATES

SEPTEMBER 26 (legislative day, SEPTEMBER 17), 2008

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) 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) Approximately one-third of all secondary
12 school students in the United States fail to graduate
13 with their peers, which is about 1,230,000 secondary
14 school students every year. According to the Depart-
15 ment of Education, the United States secondary
16 school graduation rate is the lowest the rate has
17 been since 2002.

18 (4) The graduation rates for historically dis-
19 advantaged minority groups are far lower than that
20 of their white peers. Little more than half of all Af-
21 rican-American and Hispanic students will finish
22 secondary school on time with a regular secondary
23 school diploma compared to over three-quarters of
24 white students.

1 (5) Nearly 2,000 secondary schools (about 12
2 percent of all secondary schools in the United
3 States) produce about half of the Nation's secondary
4 school dropouts. In these schools, the number of sen-
5 iors is routinely 60 percent or less than the number
6 of freshmen 3 years earlier. While almost half of the
7 Nation's African-American students and nearly 40
8 percent of Latino students attend these dropout fac-
9 tories, only 11 percent of white students do.

10 (6) The graduation rate calculations used by
11 most States for reporting and accountability are in-
12 consistent and misleading. Not only does this ob-
13 scure the graduation rate crisis, particularly for poor
14 and minority students, but it also makes it impos-
15 sible to compare graduation rates across schools,
16 school districts, and States.

17 (7) The average gap between State-reported
18 and independently reported graduation rates is ap-
19 proximately 12 percent.

20 (8) In 2005, all 50 of the Nation's Governors
21 signed the National Governors Association's Gradua-
22 tion Rate Compact, pledging to use a common, accu-
23 rate graduation rate. However, since only a few
24 States use the Compact rate for Federal account-
25 ability purposes in 2008, it is necessary to

1 operationalize common calculations and account-
2 ability for secondary school graduation rates.

3 (9) In 2008, the Secretary of Education re-
4 leased proposed regulations that also require States
5 to report a unified graduation rate calculation. That
6 both States and the Federal Government have taken
7 action on this issue shows that there is a growing
8 consensus that a common graduation rate calcula-
9 tion is necessary as part of a meaningful Federal ac-
10 countability system.

11 (10) The most accurate graduation rate calcula-
12 tions are reliant on high-quality longitudinal data
13 systems that track individual student data from the
14 time a student enters the kindergarten through
15 grade 12 educational system until the student leaves
16 the kindergarten through grade 12 educational sys-
17 tem. In 2008, 36 States have the 4 elements of a
18 statewide longitudinal data system that are nec-
19 essary to calculate the National Governor's Associa-
20 tion Compact rate at the school level.

21 (11) Forty-nine States should have secondary
22 school data that will allow the States to use the Na-
23 tional Governor's Association Compact rate formula
24 not later than school year 2011–2012.

1 (12) An accountability system with meaningful
2 graduation rate goals—

3 (A) holds schools, school districts, and
4 States responsible for both student achievement
5 and outcomes; and

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

9 (13) As implemented, the amendments to the
10 Elementary and Secondary Education Act of 1965
11 (20 U.S.C. 6301 et seq.) made by the No Child Left
12 Behind Act of 2001 (Public Law 107–110) do not
13 require consistent calculations, meaningful goals, or
14 disaggregation of graduation rates. This means that
15 most secondary schools can make adequate yearly
16 progress despite a consistent, or even a growing,
17 graduation gap or by making as little as 0.1 percent
18 improvement or less in graduation rates each year.

19 **SEC. 3. PURPOSES.**

20 The purposes of this Act are—

21 (1) to require consistent calculations and re-
22 porting of secondary school graduation rates across
23 schools, school districts, and States;

1 (2) to provide educators with critical informa-
 2 tion about students’ progress toward secondary
 3 school graduation; and

4 (3) to ensure meaningful accountability for the
 5 improvement of secondary school graduation rates
 6 for all students, particularly those rates for poor and
 7 minority students.

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

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

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

14 “(a) DEFINITIONS.—In this section:

15 “(1) ADJUSTED COHORT; TRANSFERRED IN;
 16 TRANSFERRED OUT.—

17 “(A) IN GENERAL.—Subject to subpara-
 18 graphs (C)(ii) through (F), the term ‘adjusted
 19 cohort’ means the difference of—

20 “(i) the sum of—

21 “(I) students who enter grade 9
 22 together; plus

23 “(II) any students that trans-
 24 ferred in to the cohort in any of
 25 grades 9 through 12; minus

1 “(ii) any students removed from the
2 cohort.

3 “(B) TRANSFERRED IN.—The term ‘trans-
4 ferred in’ when used with respect to a sec-
5 ondary school student, means a student who en-
6 rolls after the beginning of the entering cohort’s
7 first year in secondary school, up to and includ-
8 ing enrolling in grade 12.

9 “(C) TRANSFERRED OUT.—

10 “(i) IN GENERAL.—The term ‘trans-
11 ferred out’ when used with respect to a
12 secondary school student, means a student
13 who the secondary school or local edu-
14 cational agency confirms has transferred to
15 another school or another educational pro-
16 gram for which the student is expected to
17 receive a regular secondary school diploma.

18 “(ii) CONFIRMATION REQUIRE-
19 MENTS.—

20 “(I) DOCUMENTATION RE-
21 QUIRED.—The confirmation of a stu-
22 dent’s transfer to another school or
23 educational program described in
24 clause (i) requires documentation
25 from the receiving school or program

1 that the student enrolled in the receiv-
 2 ing school or program.

3 “(II) LACK OF CONFIRMATION.—

4 A student who was enrolled, but for
 5 whom there is no confirmation of
 6 transfer or completion, shall not be
 7 considered a transfer or an error, but
 8 shall remain in the cohort as a non-
 9 graduate for reporting and account-
 10 ability purposes under this section.

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

18 “(D) COHORT REMOVAL.—To remove a
 19 student from a cohort, a school or local edu-
 20 cational agency shall confirm that the student
 21 has transferred out or is deceased.

22 “(E) TREATMENT OF OTHER LEAVERS
 23 AND WITHDRAWALS.—A student who was re-
 24 tained in a grade, enrolled in a GED program,
 25 aged-out of a secondary school or secondary

1 school program, or left secondary school for any
 2 other reason, shall not be considered trans-
 3 ferred out, and shall remain in the adjusted co-
 4 hort.

5 “(F) SPECIAL RULE.—For those secondary
 6 schools that start after grade 9, the cohort shall
 7 be calculated based on the earliest secondary
 8 school grade at the secondary school.

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

11 “(A) a secondary school or secondary
 12 school educational program that—

13 “(i) is designed for students who are
 14 under-credited students or have dropped
 15 out of secondary school; and

16 “(ii) awards a regular secondary
 17 school diploma; or

18 “(B) a secondary school or secondary
 19 school educational program designed to issue a
 20 regular secondary school diploma concurrently
 21 with a postsecondary degree or not more than
 22 2 years of college credit.

23 “(3) CUMULATIVE GRADUATION RATE.—The
 24 term ‘cumulative graduation rate’ means, for each

1 school year, the percent obtained by calculating the
2 product of—

3 “(A) the result of—

4 “(i) the sum of—

5 “(I) the number of secondary
6 school students who graduate with a
7 regular secondary school diploma in 4
8 years or less; plus

9 “(II) the number of additional
10 secondary school students who grad-
11 uate with a regular secondary school
12 diploma in more than 4 years with a
13 regular secondary school diploma
14 (which shall not include a GED or
15 other certificate of completion or al-
16 ternative to a diploma except as pro-
17 vided in paragraph (6)(B)); divided by
18 “(ii) the sum of—

19 “(I) the number of secondary
20 school students who formed the ad-
21 justed cohort for that graduating class
22 4 years earlier; plus

23 “(II) the number of additional
24 graduates; multiplied by

25 “(B) 100.

1 “(4) 4-YEAR ADJUSTED COHORT GRADUATION
2 RATE.—The term ‘4-year adjusted cohort graduation
3 rate’ means the percent obtained by calculating the
4 product of—

5 “(A) the result of—

6 “(i) the number of secondary school
7 students who graduate in 4 years or less
8 with a regular secondary school diploma
9 (which shall not include a GED or other
10 certificate of completion or alternative to a
11 diploma except as provided in paragraph
12 (6)(B)); divided by

13 “(ii) the number of secondary school
14 students who formed the adjusted cohort
15 for that graduating class; multiplied by

16 “(B) 100.

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

19 “(A) has accumulated the number of cred-
20 its necessary to promote to the next grade, in
21 accordance with State and local educational
22 agency policies; and

23 “(B) has failed not more than 1 semester
24 in English or language arts, mathematics,
25 science, or social studies.

1 “(6) REGULAR SECONDARY SCHOOL DI-
2 PLOMA.—

3 “(A) IN GENERAL.—The term ‘regular sec-
4 ondary school diploma’ means the standard sec-
5 ondary school diploma awarded to the prepon-
6 derance of students in the State that is fully
7 aligned with State standards, or a higher di-
8 ploma. Such term shall not include GEDs, cer-
9 tificates of attendance, or any lesser diploma
10 award.

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

1 counted as graduates with a regular secondary
2 school diploma under this subparagraph.

3 “(7) UNDER-CREDITED STUDENT.—The term
4 ‘under-credited student’ means a secondary school
5 student who is a year or more behind in the ex-
6 pected accumulation of credits or courses toward an
7 on-time graduation as determined by the relevant
8 local educational agency’s and State educational
9 agency’s secondary school graduation requirements
10 for an on-time graduation.

11 “(b) CALCULATING AND REPORTING ACCURATE
12 GRADUATION RATES.—

13 “(1) CALCULATING GRADUATION RATES.—Not
14 later than school year 2011–2012, and every school
15 year thereafter, each State educational agency and
16 local educational agency that is assisted under this
17 part and uses a statewide longitudinal data system
18 with individual student identifiers, shall calculate for
19 each school served by the State or local educational
20 agency, as the case may be—

21 “(A) the 4-year adjusted cohort graduation
22 rate; and

23 “(B) the cumulative graduation rate.

24 “(2) CALCULATION AT SCHOOL, LEA, AND
25 STATE LEVELS; DISAGGREGATION.—The 4-year ad-

1 justed cohort graduation rate and the cumulative
2 graduation rate shall be calculated at the school,
3 local educational agency, and State levels in the ag-
4 gregate and disaggregated by race, ethnicity, gender,
5 disability status, migrant status, English proficiency,
6 and status as economically disadvantaged, except
7 that such disaggregation shall not be required in a
8 case in which the number of students in a subgroup
9 is insufficient to yield statistically reliable informa-
10 tion or the results would reveal personally identifi-
11 able information about an individual student.

12 “(3) REPORTING GRADUATION RATES.—Subject
13 to paragraph (4), not later than school year 2011–
14 2012, and every school year thereafter, each State
15 educational agency, local educational agency and
16 school that is assisted under this part shall report
17 annually, as part of the State and local educational
18 agency report cards required under section 1111(h),
19 each of the following:

20 “(A) 4-YEAR ADJUSTED COHORT GRADUA-
21 TION RATE.—The 4-year adjusted cohort grad-
22 uation rate, in the aggregate and disaggregated
23 by each of the subgroups described in para-
24 graph (2).

1 “(B) CUMULATIVE GRADUATION RATE.—

2 The cumulative graduation rate, in the aggre-
3 gate and disaggregated by each of the sub-
4 groups described in paragraph (2).

5 “(C) NUMBER OF STUDENTS GRADUATING

6 IN MORE THAN 4 YEARS.—The number of sec-
7 ondary school students graduating in more than
8 4 years with a regular secondary school di-
9 ploma, disaggregated by the number of years
10 accounted for in the cumulative graduation rate
11 and by each of the subgroups described in para-
12 graph (2).

13 “(D) NUMBER OF STUDENTS REMOVED

14 FROM COHORT.—The number of secondary
15 school students who have been removed from
16 the adjusted cohort, in the aggregate and
17 disaggregated by each of the subgroups de-
18 scribed in paragraph (2).

19 “(E) PERCENTAGE OF CONTINUING STU-

20 DENTS.—The percentage of students from an
21 adjusted cohort that began 4 years or more ear-
22 lier who have not graduated from and are still
23 in secondary school.

24 “(4) USE OF INTERIM GRADUATION RATE.—In

25 the case of a State that does not have an individual

1 student identifier longitudinal data system, with re-
2 spect to each graduation rate calculation or report-
3 ing requirement under this section, the State and
4 local educational agencies and secondary schools in
5 the State shall temporarily carry out this section by
6 using an interim graduation rate calculation that
7 meets the following conditions:

8 “(A) NUMBER OF GRADUATES COMPARED
9 TO NUMBER OF STUDENTS.—The calculation
10 shall measure or estimate the number of sec-
11 ondary school graduates compared to the num-
12 ber of students in the secondary school’s enter-
13 ing grade.

14 “(B) DROPOUT DATA.—The calculation
15 shall not use dropout data.

16 “(C) REGULAR SECONDARY SCHOOL DI-
17 PLOMA.—The calculation shall count as grad-
18 uates only those students who receive a regular
19 secondary school diploma.

20 “(D) DISAGGREGATION.—The calculation
21 shall be disaggregated by the subgroups de-
22 scribed in paragraph (2).

23 “(E) ANNUAL BASIS AND RATE OF
24 GROWTH.—The calculation shall be used on an

1 annual basis to determine a rate of growth, as
2 described in subsection (c).

3 “(F) TIMEFRAME LIMITATION.—The in-
4 terim graduation rate calculation may only be
5 used through the end of school year 2010–
6 2011.

7 “(G) REPORTING USE OF INTERIM GRAD-
8 UATION RATE.—Each State that receives assist-
9 ance under this part shall describe the interim
10 graduation rate used in accordance with this
11 paragraph in the State’s plan submitted under
12 section 1111.

13 “(5) REPORTING PERCENT OF ON-TRACK STU-
14 DENTS.—Not later than school year 2011–2012, and
15 every school year thereafter, every State educational
16 agency, local educational agency, and school that re-
17 ceives assistance under this part shall report annu-
18 ally, as part of the State and local educational agen-
19 cy report cards required under section 1111(h), the
20 percent of on-track students for each secondary
21 school grade served by the State educational agency,
22 local educational agency, and school, respectively,
23 other than the graduating grade for the secondary
24 school, in the aggregate and disaggregated by each
25 of the subgroups described in paragraph (2).

1 “(6) REPORTING ADDITIONAL INDICATORS.—

2 “(A) IN GENERAL.—A State may report
3 additional complementary indicators of sec-
4 ondary school completion, such as—

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

6 “(ii) a dropout rate;

7 “(iii) in-grade retention rates;

8 “(iv) percentages of students receiving
9 GEDs, certificates of completion, or alter-
10 natives to a diploma; and

11 “(v) in the case of a State with exit
12 examinations, students who have completed
13 course requirements but failed a State
14 exam required for secondary school grad-
15 uation.

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

1 “(C) PROHIBITION.—For purposes of re-
2 porting or accountability under this section, the
3 additional indicators shall not replace the 4-
4 year adjusted cohort graduation rate or the cu-
5 mulative graduation rate.

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

11 “(7) DATA ANOMALIES.—

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

23 “(B) SPECIAL RULE.—A student who re-
24 turns to secondary school after dropping out of
25 secondary school, or receives a diploma from

1 more than 1 school or educational program
 2 served by any 1 local educational agency, shall
 3 be counted—

4 “(i) only once for purposes of report-
 5 ing and accountability under this section;
 6 and

7 “(ii) as part of the student’s original
 8 adjusted cohort.

9 “(8) MONITORING OF DATA COLLECTION.—

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

18 “(c) SCHOOL, LOCAL EDUCATIONAL AGENCY, AND
 19 STATE ACCOUNTABILITY.—

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

24 “(2) GRADUATION RATE CALCULATION.—Each
 25 State that receives assistance under this part shall

1 use aggregate and disaggregated cumulative gradua-
2 tion rates as the additional indicator described in
3 section 1111(b)(2)(C)(vi) for the purposes of deter-
4 mining each secondary school's and local educational
5 agency's adequate yearly progress.

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

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

subsection (b)(2) shall be evaluated for annual growth in accordance with subparagraph (C).

“(B) BASELINE ADJUSTMENT.—In the case of a State that uses an interim graduation rate, after the State has implemented an individual 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 2011–2012 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 gradua-

tion 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 made adequate yearly progress under section 1111(b)(2) if—

“(I) the school’s 4-year adjusted cohort graduation rate, in the aggregate or for any subgroup described in subsection (b)(2), falls below the cohort’s initial baseline graduation rate or shows no improvement over a 4-year period, except as provided in clause (iii); or

“(II) fewer than 90 percent of the students included in the cumulative graduation rate, in the aggregate or for any subgroup described in subsection (b)(2), are students who graduate from secondary school in 4 years.

“(iii) SPECIAL RULE.—A secondary school or secondary school educational program that is an alternative education set-

ting may apply to the State to use an alternatively calculated 4-year adjusted cohort graduation rate for purposes of determinations under clause (ii)(I) if—

“(I) the secondary school or educational program submits to the State—

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

“(bb) a proposed alternatively calculated 4-year adjusted cohort graduation rate; and

“(II) the State approves the use of the alternatively calculated 4-year adjusted cohort graduation rate for such purposes.

“(4) DELAYED APPLICABILITY TO SCHOOLS.—

Paragraphs (2) and (3)(C) shall not apply to a secondary school until the beginning of school year 2011–2012.

“(d) REPORTING REQUIREMENT.—Not later than 90 days after the date of the enactment of the Every Student Counts Act, and annually thereafter, each State edu-

1 cational agency that receives assistance under this part
 2 shall submit to the Secretary, and make publicly available,
 3 a report on the implementation of this section. Such report
 4 shall include—

5 “(1) a description of each category, code, and
 6 the corresponding definition that the State has au-
 7 thorized for identifying, tracking, calculating, and
 8 publicly reporting student status; and

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

15 **SEC. 5. AYP CONFORMING AMENDMENTS.**

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

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

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

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

- 1 “(viii) complies with the requirements
- 2 of section 1111A.”.

