

111TH CONGRESS  
1ST SESSION

# S. 804

To amend subpart 2 of part A of title I of the Elementary and Secondary Education Act of 1965 to establish incentives for States to extend the minimum length of the school year to 200 full days by 2014, and for other purposes.

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## IN THE SENATE OF THE UNITED STATES

APRIL 2, 2009

Mr. BINGAMAN 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 amend subpart 2 of part A of title I of the Elementary and Secondary Education Act of 1965 to establish incentives for States to extend the minimum length of the school year to 200 full days by 2014, and for other purposes.

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 “School Day Factor  
5 Act of 2009”.

6       **SEC. 2. FINDINGS.**

7       Congress makes the following findings:

1           (1) According to the National Center for Edu-  
2           cation Statistics the length of the average school  
3           year steadily increased from 144 to 178 days be-  
4           tween 1869 and 1949. In 2008, the average number  
5           of school days per year remains at 178.5.

6           (2) In 1983, a recommendation in the Nation  
7           at Risk report was to increase students' instruc-  
8           tional time by lengthening the school day or the  
9           school year, as a means to strengthen our Nation's  
10          grip on global competitiveness. Since then, no sys-  
11          tematic school day or school year increase has oc-  
12          curred.

13          (3) In 2008, 42 States mandate a school year  
14          of 180 or fewer days per year, or the equivalent  
15          thereof. Across States, the number of school days  
16          per year ranges from 173 to 182.

17          (4) Researchers have demonstrated that—

18                 (A) when class material is covered in a  
19                 streamlined, shortened unit, students' concep-  
20                 tual mastery of the content suffers; and

21                 (B) significant learning requires invest-  
22                 ment of time.

23          (5) Research has demonstrated that all stu-  
24          dents are at risk for losing educational gains during  
25          extended summer breaks in the typical school cal-

1       endar, particularly children from low income house-  
2       holds. The continued lack of out-of-school learning  
3       opportunities contributes to a growing achievement  
4       gap. Even more so than achievement gaps present at  
5       kindergarten, differences in out-of-school learning  
6       opportunities experienced by economically advan-  
7       taged versus disadvantaged youth contribute to the  
8       cumulative achievement difference registered by 9th  
9       grade, which affects high school placements, high  
10      school exit, and postsecondary school attendance.

11           (6) Since 1991, over 300 expanded learning ini-  
12      tiatives have occurred, across 30 States, aimed pri-  
13      marily at schools with high-poverty and high-minor-  
14      ity student populations. Outcomes of these initiatives  
15      include enhanced student achievement, lower student  
16      and teacher absenteeism, and satisfaction of parents,  
17      teachers, and students.

18           (7) Research demonstrates that the increased  
19      school time is beneficial not only for students, but  
20      also for teachers. Teachers gain planning time, more  
21      opportunities for cooperative planning, professional  
22      development opportunities, and additional time to in-  
23      dividualize instruction. Teacher employment in-  
24      creases from part-year to up to full year, depending  
25      on the calendar conversion adopted.

1           (8) Regarding the costs of expanded learning  
2           initiatives, the cost per hour of instruction decreases  
3           with the addition of more learning time.

4 **SEC. 3. PURPOSES.**

5           The purposes of this Act are to ensure that all chil-  
6           dren have sufficient time to achieve in school, that all chil-  
7           dren have access to a high quality and well-rounded edu-  
8           cation, and that teachers have sufficient time to deliver  
9           quality instruction. Such purposes can be achieved by—

10           (1) encouraging States to expand the minimum  
11           number of days in their school year, to 200 full  
12           days, by 2014, without reducing the length of the  
13           school day;

14           (2) modifying the allocations under subpart 2 of  
15           part A of title I of the Elementary and Secondary  
16           Education Act of 1965 (20 U.S.C. 6331 et seq.) re-  
17           garding basic, concentration, targeted, and education  
18           finance incentive grants, so that each of the for-  
19           mulas used to determine allocations includes a factor  
20           that reflects all of the following:

21                   (A) the minimum number of school days in  
22                   the State-mandated school year length;

23                   (B) the most recent increase in the number  
24                   of school days in the State-mandated academic  
25                   year; and

1           (C) whether the number of school days in  
 2           an academic year meets, exceeds, or falls short  
 3           of the base level school year length described in  
 4           the amendment made by this Act; and

5           (3) encouraging States to increase the length of  
 6           the school day.

7 **SEC. 4. SCHOOL DAY FACTOR.**

8           (a) AMENDMENT.—Subpart 2 of part A of title I of  
 9           the Elementary and Secondary Education Act of 1965 (20  
 10          U.S.C. 6331 et seq.) is amended by adding at the end  
 11          the following:

12 **“SEC. 1128. SCHOOL DAY FACTOR.**

13          “(a) DEFINITIONS.—In this section:

14               “(1) ACADEMIC YEAR.—The term ‘academic  
 15               year’ means the period of time beginning with the  
 16               first day of a school year and ending on the last day  
 17               of a school year, which typically begins in the late  
 18               summer and ends in the early summer.

19               “(2) BASE LEVEL SCHOOL YEAR LENGTH.—  
 20               The term ‘base level school year length’ means—

21                       “(A) 180 school days for the 2009–2010  
 22                       academic year;

23                       “(B) 185 school days for the 2010–2011  
 24                       academic year;

1           “(C) 190 school days for the 2011–2012  
2 academic year;

3           “(D) 195 school days for the 2012–2013  
4 academic year; and

5           “(E) 200 school days for the 2013–2014  
6 academic year and for each succeeding aca-  
7 demic year.

8           “(3) INSTRUCTIONAL HOURS.—The term ‘in-  
9 structional hours’ means the number of hours within  
10 the school day that are directly devoted to student  
11 learning in core academic subjects.

12           “(4) SCHOOL DAY.—

13           “(A) IN GENERAL.—The term ‘school day’  
14 means a day for which attendance is mandatory  
15 for all students attending an elementary school  
16 or secondary school in a State, and in which a  
17 minimum of 5½ instructional hours are deliv-  
18 ered to students.

19           “(B) PARTIAL DAYS.—Two days for which  
20 attendance is mandatory for all students at-  
21 tending an elementary school or secondary  
22 school in a State and in which less than 5½ in-  
23 structional hours per day are delivered to stu-  
24 dents may be deemed to be 1 school day for  
25 purposes of this section, if the total instruc-

1            tional time for the 2 partial days meets or ex-  
 2            ceeds 5½ instructional hours.

3            “(5)     STATE-MANDATED     SCHOOL     YEAR  
 4     LENGTH.—

5            “(A) IN GENERAL.—Except as provided in  
 6            subparagraphs (B) and (C), the term ‘State-  
 7            mandated school year length’ means the min-  
 8            imum number of school days an elementary  
 9            school or secondary school student is required  
 10          by the State to attend school in an academic  
 11          year. In calculating the State-mandated school  
 12          year length, days that the State permits to be  
 13          waived due to teacher professional development,  
 14          weather, or other reasons shall not be counted.

15          “(B) STATES THAT MANDATE MINIMUM  
 16          NUMBER OF INSTRUCTIONAL HOURS.—In the  
 17          case of a State that does not mandate a min-  
 18          imum number of school days for an academic  
 19          year and does mandate a minimum number of  
 20          instructional hours per academic year, the  
 21          State-mandated school year length for such  
 22          State shall be the quotient of—

23                  “(i) the minimum number of man-  
 24                  dated instructional hours per academic  
 25                  year, excluding hours that may be waived

1 due to teacher professional development,  
2 weather, or other reasons; divided by

3 “(ii) the greater of—

4 “(I) the average number of in-  
5 structional hours per school day in the  
6 State’s public elementary schools and  
7 secondary schools; or

8 “(II) 6½ hours.

9 “(C) STATES THAT DO NOT MANDATE MIN-  
10 IMUM NUMBER OF DAYS OR HOURS.—In the  
11 case of a State that does not mandate a min-  
12 imum number of school days or a minimum  
13 number of instructional hours per academic  
14 year, the State-mandated school year length for  
15 such State shall be the average number of  
16 school days that elementary school or secondary  
17 school students in the State attended school  
18 during—

19 “(i) the preceding school year; or

20 “(ii) in the case where the preceding  
21 school year was significantly shorter due to  
22 a natural disaster during such school year,  
23 the school year that is preceding the pre-  
24 ceding school year.

25 “(b) SCHOOL DAY FACTOR.—

1 “(1) ADJUSTMENTS AUTHORIZED.—

2 “(A) IN GENERAL.—Notwithstanding any  
3 other provision of this part, the amount of a  
4 grant that a State or local educational agency  
5 is eligible to receive under section 1124(a),  
6 1124A(a), 1125(b), or 1125A(b) shall be ad-  
7 justed by multiplying such amount by the  
8 school day factor described in paragraph (2)  
9 that is applicable to such State or local edu-  
10 cational agency, respectively, for such academic  
11 year.

12 “(B) TIMING OF ADJUSTMENT.—The Sec-  
13 retary shall make the adjustment described in  
14 subparagraph (A) to the amount of a grant  
15 that a State or local educational agency is eligi-  
16 ble to receive under section 1124, 1124A, 1125,  
17 or 1125A before applying any hold-harmless re-  
18 quirement, minimum grant amount require-  
19 ment, or ratable reduction requirement under  
20 this part.

21 “(2) SCHOOL DAY FACTOR.—

22 “(A) IN GENERAL.—The school day factor  
23 referred to in paragraph (1) that is applicable  
24 to each State and local educational agency in

1 the State for an academic year is a percentage  
2 calculated as the sum of the following:

3 “(i)  $\frac{2}{3}$  of such percentage shall be  
4 equal to—

5 “(I) the result of—

6 “(aa) the State-mandated  
7 school year length for the aca-  
8 demic year preceding the aca-  
9 demic year for which the calcula-  
10 tion is made; divided by

11 “(bb) the base level school  
12 year length for the academic year  
13 preceding the academic year for  
14 which the calculation is made;  
15 multiplied by

16 “(II) 100.

17 “(ii)  $\frac{1}{3}$  of such percentage shall be  
18 equal to—

19 “(I) the result of—

20 “(aa) the State mandated  
21 minimum instructional hours per  
22 school day for the academic year  
23 preceding the academic year for  
24 which the calculation is made; di-  
25 vided by

1 “(bb) 5.5; multiplied by  
2 “(II) 100.

3 “(B) SPECIAL CALCULATION RULE.—In  
4 making the calculation described in subpara-  
5 graph (A) for a State, the value of subpara-  
6 graph (A)(ii) shall be zero if the State man-  
7 dated minimum instructional hours per school  
8 day for the academic year preceding the aca-  
9 demic year for which the calculation is made is  
10 less than the number of such State mandated  
11 minimum instructional hours for the academic  
12 year that precedes by two years the academic  
13 year for which the calculation is made.”.

14 (b) TABLE OF CONTENTS.—The table of contents in  
15 section 2 of the Elementary and Secondary Education Act  
16 of 1965 is amended by inserting after the item relating  
17 to section 1127 the following:

“Sec. 1128. School day factor.”.

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