To establish a postsecondary student data system.

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IN THE SENATE OF THE UNITED STATES

MAY 15, 2017

Mr. HATCH (for himself, Ms. WARREN, Mr. CASSIDY, and Mr. WHITEHOUSE) 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 establish a postsecondary student data system.

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 “College Transparency
5 Act”.

6 SEC. 2. POSTSECONDARY STUDENT DATA SYSTEM.

7 (a) IN GENERAL.—Section 132 of the Higher Edu-
8 cation Act of 1965 (20 U.S.C. 1015a) is amended—
9 (1) by redesignating subsection (l) as subsection
10 (m); and
(2) by inserting after subsection (k) the following:

“(l) Postsecondary Student Data System.—

“(1) In general.—

“(A) Establishment of system.—The Commissioner for Education Statistics (referred to in this subsection as the ‘Commissioner’) shall develop and maintain a secure, privacy-protected postsecondary student data system in order to—

“(i) accurately evaluate student enrollment patterns, progression, completion, and postcollegiate outcomes, and higher education costs and financial aid at the student level;

“(ii) assist with transparency, institutional improvement, and analysis of Federal aid programs;

“(iii) provide more accurate, complete, and customizable information for students and families making decisions about postsecondary education; and

“(iv) reduce the reporting burden on institutions of higher education postsec-
secondary institutions, in accordance with section 5(b) of the College Transparency Act.

“(B) AVOIDING DUPLICATED REPORTING.—Notwithstanding any other provision of this section, to the extent that another provision of this section requires the same reporting or collection of data that is required under this subsection, a postsecondary institution, or the Secretary or Commissioner, may use the reporting or data required for the postsecondary student data system under this subsection to satisfy both requirements.

“(C) DEVELOPMENT PROCESS.—In developing the postsecondary student data system described in this subsection, the Commissioner shall—

“(i) focus on the needs of—

“(I) users of the data system;

and

“(II) entities, including postsecondary institutions, reporting to the data system;

“(ii) take into consideration, to the extent practicable—
“(I) the guidelines outlined in the U.S. Web Design Standards maintained by the General Services Administration and the Digital Services Playbook and TechFAR Handbook for Procuring Digital Services Using Agile Processes of the U.S. Digital Service; and

“(II) the relevant successor documents or recommendations of such guidelines;

“(iii) use modern, relevant technology and enhance and update the data system as necessary to carry out the purpose of this subsection; and

“(iv) ensure data privacy and security in accordance with the most recent Federal standards developed by the National Institute of Standards and Technology.

“(2) DATA ELEMENTS.—

“(A) IN GENERAL.—The Commissioner, after consultation with postsecondary institutions (including institutions of higher education) and other stakeholders (including individuals with expertise in data privacy and secu-
rity, and in consumer protection), shall deter-
mine—

“(i) the data elements to be included
in the postsecondary student data system,
in accordance with subparagraphs (B) and
(C); and

“(ii) how to include the data elements
required under subparagraph (B), and any
additional data elements selected under
subparagraph (C), in the postsecondary
student data system.

“(B) REQUIRED DATA ELEMENTS.—Such
data elements shall include, at a minimum, the
following:

“(i) Student-level data elements nec-
essary to calculate the information within
the student-related surveys in the Inte-
grated Postsecondary Education Data Sys-
tem (IPEDS), as such surveys are in effect
on the day before the date of enactment of
the College Transparency Act.

“(ii) Student-level data elements nec-
essary to allow for reporting student en-
rrollment, persistence, retention, transfer,
and completion measures for all credential
levels (including certificate and associate, baccalaureate, and advanced degree levels), within and across postsecondary institutions (including across all categories of institution level and control). The data elements shall allow for reporting about all such data disaggregated by the following categories:

“(I) Enrollment status as a first-time student.

“(II) Attendance intensity, whether full-time or part-time.

“(III) Credential-seeking status, by credential level.

“(IV) Race or ethnicity.

“(V) Age intervals.

“(VI) Gender.

“(VII) Program of study (as applicable).

“(VIII) Military or veteran status (as determined based on receipt of veteran’s education benefits, as defined in section 480(c)).

“(IX) Status as a postsecondary athlete.
“(X) Federal Pell Grant recipient status.

“(C) OTHER DATA ELEMENTS.—The Commissioner may, after consultation with postsecondary institutions (including institutions of higher education) and other stakeholders (including individuals with expertise in data privacy and security, and in consumer protection), make a determination to promulgate regulations to include additional data elements in the postsecondary student data system, which may include first generation status, economic status, remedial coursework, or gateway course completion.

“(D) REEVALUATION.—Not less than once every 5 years after the implementation of the postsecondary student data system described in this subsection, the Commissioner, in consultation with postsecondary institutions (including institutions of higher education), and other stakeholders, shall review the data elements included in the postsecondary student data system and may revise the determination of data elements to be included in such system.
“(E) PROHIBITIONS.—The Commissioner shall not include health data, student discipline records or data, elementary and secondary education data, exact address, citizenship or national origin status, course grades, individual postsecondary entrance examination results, political affiliation, or religion in the postsecondary student data system under this subsection.

“(3) LINKING WITH OTHER FEDERAL DATA SYSTEMS.—

“(A) IN GENERAL.—The Commissioner shall coordinate, and enter into sharing agreements, with other Federal agencies to create secure linkages with relevant Federal data systems, including data systems of the Office of Federal Student Aid, the Department of the Treasury, the Department of Defense, the Department of Veterans Affairs, the Social Security Administration, and the Bureau of the Census.

“(B) CATEGORIES OF DATA.—The Commissioner shall, at a minimum, seek to ensure that the secure data system linkages described in subparagraph (A) permit consistent report-
ing of the following categories of data for all students, including students receiving Federal grants and loans and students receiving veteran’s education benefits, as defined in section 480(c).

“(i) Enrollment, retention, transfer, and completion outcomes for all students.

“(ii) Financial indicators for students receiving Federal grants and loans, including grant and loan aid by source, cumulative student debt, loan repayment status, and repayment plan.

“(iii) Post-collegiate outcomes for all students, including earnings, employment, and further education, by program of study and credential level and as measured—

“(I) immediately after leaving postsecondary education; and

“(II) at later time intervals appropriate to the credential sought and earned.

“(C) Data linkage streamlining and confidentiality.—
“(i) STREAMLINING.—In creating the secure data system linkages described in this paragraph, the Commissioner shall—

“(I) ensure that the linkages are not always connected, but occur at appropriate intervals, as determined by the Commissioner; and

“(II) seek to—

“(aa) streamline the data collection and reporting requirements for postsecondary institutions;

“(bb) minimize duplicate reporting across or within Federal agencies or departments, including reporting requirements applicable to postsecondary institutions under the Workforce Innovation and Opportunity Act (29 U.S.C. 3101 et seq.);

“(cc) protect student privacy; and

“(dd) streamline the application process for student loan benefit programs available to bor-
rowers based on data available from different Federal data systems.

“(ii) REVIEW.—Not less often than once every 5 years after the establishment of the postsecondary student data system under this subsection, the Commissioner shall review methods for streamlining data collection from postsecondary institutions and minimizing duplicative reporting within the Department of Education and across Federal agencies that provide data for the postsecondary student data system.

“(iii) CONFIDENTIALITY.—The Commissioner shall ensure that any linking or sharing of data through data system linkages established in accordance with this paragraph—

“(I) complies with the security and privacy protections described in this subsection and other Federal data protection protocols;

“(II) follows industry best practices commensurate with the sensi-
tivity of specific data elements or metrics; and

“(III) does not result in the cre-
ation of a single Federal database at
the Department of Education that
maintains the information reported
across other Federal agencies.

“(4) PUBLICLY AVAILABLE INFORMATION.—

“(A) IN GENERAL.—The Commissioner
shall make the summary aggregate information
described in subparagraph (C), at a minimum,
publicly available through a user-friendly con-
sumer information website that—

“(i) provides appropriate mechanisms
for users to customize and filter informa-
tion by institutional and student character-
istics;

“(ii) allows users to build summary
aggregate reports of information, subject
to subparagraph (B); and

“(iii) uses appropriate statistical dis-
closure limitation techniques necessary to
ensure that the data released to the public
cannot be used to identify specific individ-
uals.
“(B) NO PERSONALLY IDENTIFIABLE INFORMATION AVAILABLE.—The summary aggregate information described in this paragraph shall not include personally identifiable information.

“(C) INFORMATION AVAILABLE.—The summary aggregate information described in this paragraph shall, at a minimum, include each of the following for each postsecondary institution:

“(i) Measures of student access, including—

“(I) admissions selectivity and yield; and

“(II) enrollment, disaggregated by each category described in paragraph (2)(B)(ii), Federal grant recipient status, and Federal loan recipient status.

“(ii) Measures of student progression, including retention rates and persistence rates, disaggregated by each category described in paragraph (2)(B)(ii), Federal grant recipient status, and Federal loan recipient status.
“(iii) Measures of student completion, including—

“(I) transfer rates and completion rates, disaggregated by each category described in paragraph (2)(B)(ii), Federal grant recipient status, and Federal loan recipient status; and

“(II) number of completions, disaggregated by each category described in paragraph (2)(B)(ii), Federal grant recipient status, and Federal loan recipient status.

“(iv) Measures of student costs, including—

“(I) tuition, required fees, total cost of attendance, and net price after total grant aid, disaggregated by in-State tuition or in-district tuition status (if applicable), program of study (if applicable), and credential level; and

“(II) typical grant amounts and loan amounts received by students reported separately from Federal, State,
local, and institutional sources, and cumulative debt, disaggregated by each category described in paragraph (2)(B)(ii) and completion status.

“(v) Measures of post-collegiate student outcomes, including employment rates, median earnings, loan repayment and default rates, and further education rates. These measures shall—

“(I) be disaggregated by each category described in paragraph (2)(B)(ii) and completion status; and

“(II) be measured immediately after leaving postsecondary education and at time intervals appropriate to the credential sought or earned.

“(D) DEVELOPMENT CRITERIA.—In developing the method and format of making the information described in this paragraph publicly available, the Commissioner shall—

“(i) focus on the need of the users of the information, which are students, potential students, researchers, and other consumers of education data;
“(ii) take into consideration, to the extent practicable, the guidelines described in paragraph (1)(C)(ii)(I), and relevant successor documents or recommendations of such guidelines;

“(iii) use modern, relevant technology and enhance and update the postsecondary student data system with information, as necessary to carry out the purpose of this paragraph; and

“(iv) ensure data privacy and security for the information in accordance with the most recent Federal standards developed by the National Institute of Standards and Technology.

“(5) PERMISSIBLE DISCLOSURES OF DATA.—

“(A) NONPUBLICLY AVAILABLE DATA.—

“(i) IN GENERAL.—The Commissioner shall develop and implement a secure process for making student-level, non-personally identifiable information from the post-secondary student data system available for research and evaluation purposes approved by the Commissioner in a manner compatible with practices for disclosing
survey data as in effect on the day before
the date of enactment of the College
Transparency Act.

“(ii) Availability for Institutional Improvement and Program Evaluation.—The Commissioner shall
create a process through which any post-
secondary institution, or postsecondary
education system, that fully participates in
the postsecondary student data system de-
scribed in this subsection may request and
receive from the Commissioner non-person-
ally identifiable information, and aggregate
summary data, related to students who
have attended the institution or system, as
applicable, for the purposes of institutional
improvement and program evaluation.

“(iii) Providing Data to Institutions.—The Commissioner shall provide,
at least annually, each postsecondary insti-
tution that fully participates in the post-
secondary student data system under this
subsection with a set of program-level,
non-personally identifiable information
from the postsecondary student data system for students currently or formerly associated with the institution that includes aggregated information from other Federal data sources included in the system.

“(iv) PROVIDING DATA TO STATES.—The Commissioner shall create a process through which States may request and receive institution-level aggregate data outcomes for postsecondary institutions located in the State.

“(v) REGULATIONS.—The Commissioner shall promulgate regulations to ensure fair, secure, and equitable access to such data.

“(B) DISCLOSURE LIMITATIONS.—In carrying out the public reporting and disclosure requirements of this Act, the Commissioner shall use appropriate statistical disclosure limitation techniques necessary to ensure that the data released to the public cannot include personally identifiable information or be used to identify specific individuals.

“(C) SALE OF DATA PROHIBITED.—Data collected under this subsection, including the
public use data set and data comprising the
summary aggregate information available under
paragraph (4), shall not be sold to any third
party by the Commissioner, any postsecondary
institution, or any other entity.

“(D) LIMITATION ON USE BY OTHER FED-
ERAL AGENCIES.—The Commissioner shall not
allow any other Federal agency to use data col-
lected under this subsection for any purpose ex-
cept as explicitly authorized by this Act.

“(E) LAW ENFORCEMENT.—Personally
identifiable information collected under this
subsection shall not be used for any law en-
forcement activity or any other activity that
would result in adverse action against any stu-
dent, including debt collection activity or en-
forcement of the immigration laws.

“(F) LIMITATION OF USE FOR FEDERAL
RANKINGS OR SUMMATIVE RATING SYSTEM.—
The comprehensive data collection and analysis
necessary for the postsecondary student data
system under this subsection shall not be used
by the Secretary or any Federal entity to estab-
lish any Federal ranking system of postsec-
ondary institutions or a system that results in
a summative Federal rating of postsecondary institutions.

“(G) Rule of construction.—Nothing in this paragraph shall be construed to prevent the use of individual categories of aggregate information to be used for accountability purposes, such as for the calculation of the cohort default rate under section 435(m).

“(6) Submission of data.—

“(A) Required submission.—Each institution of higher education participating in a program under title IV, or the assigned agent of such institution, shall, in accordance with section 487(a)(17), collect, and submit to the Commissioner, the data requested by the Commissioner to carry out this subsection.

“(B) Voluntary submission.—Any postsecondary institution not participating in a program under title IV may voluntarily participate in the postsecondary student data system under this subsection by collecting and submitting data to the Commissioner, as the Commissioner may request to carry out this subsection.

“(7) Unlawful willful disclosure.—
“(A) IN GENERAL.—It shall be unlawful for any person who obtains or has access to personally identifiable information in connection with the postsecondary student data system described in this subsection to willfully disclose to any person (except as authorized in this Act or any Federal law) such personally identifiable information.

“(B) PENALTY.—Any person who violates subparagraph (A) shall be fined not more than $5,000, imprisoned not more than 5 years, or both, together with the costs of prosecution.

“(C) EMPLOYEE OF OFFICER OF THE UNITED STATES.—If a violation of subparagraph (A) is committed by any officer or employee of the United States, the officer or employee shall be dismissed from office or discharged from employment upon conviction for the violation.

“(D) DATA SECURITY.—The Commissioner shall produce and update as needed guidance and regulations relating to privacy, security, and access which shall govern the use and disclosure of data collected in connection with the activities authorized in this subsection. The guidance and regulations developed
and reviewed shall protect data from unauthorized access, use, and disclosure, and shall include—

“(A) an audit capability;

“(B) access controls;

“(C) requirements to ensure sufficient data security, quality, validity, and reliability; and

“(D) other protection in accordance with the most recent Federal standards developed by the National Institute of Standards and Technology.

“(9) DATA COLLECTION.—The Commissioner shall ensure that data collection under this subsection complies with section 552a of title 5, United States Code.

“(10) DEFINITIONS.—In this subsection:

“(A) INSTITUTION OF HIGHER EDUCATION.—The term ‘institution of higher education’ has the meaning given the term in section 102.

“(B) PERSONALLY IDENTIFIABLE INFORMATION.—The term ‘personally identifiable information’ has the meaning given the term in section 444 of the General Education Provisions Act (20 U.S.C. 1232g).
“(C) POSTSECONDARY INSTITUTION.—The term ‘postsecondary institution’ includes an institution of higher education.”.

(b) CONFORMING AMENDMENTS.—Section 487(d) is amended—

(1) by striking paragraph (3); and

(2) by redesignating paragraph (4) as paragraph (3).

SEC. 3. REPEAL OF PROHIBITION ON STUDENT DATA SYSTEM.

Section 134 of the Higher Education Act of 1965 (20 U.S.C. 1015c) is repealed.

SEC. 4. INSTITUTIONAL REQUIREMENTS.

Paragraph (17) of section 487(a) of the Higher Education Act of 1965 (20 U.S.C. 1094(a)) is amended to read as follows:

“(17) The institution or the assigned agent of the institution will collect and submit data to the Commissioner for Education Statistics in accordance with section 132(l), the nonstudent related surveys within the Integrated Postsecondary Education Data System (IPEDS), or any other Federal postsecondary institution data collection effort (as designated by the Secretary), in a timely manner and to the satisfaction of the Secretary.”.
SEC. 5. EFFECTIVE DATE; TRANSITION PROVISIONS.

(a) EFFECTIVE DATE.—Sections 1, 2, and 4 of this Act, and the amendments made by such sections, shall take effect on the date that is 2 years after the date of enactment of this Act.

(b) IN GENERAL.—The Secretary of Education and the Commissioner for Education Statistics shall take such steps as are necessary to ensure that the transition to, and implementation of, the postsecondary student data system required under section 132(l) of the Higher Education Act of 1965, as added by section 2 of this Act, happens in a manner that initially reduces the reporting burden for postsecondary institutions that reported into the Integrated Postsecondary Education Data System (IPEDS) on the day before enactment of this Act. Such steps may include testing early versions of the postsecondary student data system or early versions of the data collection or aggregate information summary features of the system with a targeted group of users.