

111TH CONGRESS  
1ST SESSION

# S. 1351

To allow a State to combine certain funds and enter into a performance agreement with the Secretary of Education to improve the academic achievement of students.

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## IN THE SENATE OF THE UNITED STATES

JUNE 25, 2009

Mr. DEMINT (for himself, Mr. BROWNBACK, Mr. BUNNING, Mr. COBURN, Mr. CORNYN, Mr. GRASSLEY, Mr. INHOFE, and Mr. VITTER) 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 allow a State to combine certain funds and enter into a performance agreement with the Secretary of Education to improve the academic achievement of students.

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; TABLE OF CONTENTS; PUR-**  
4       **POSES; DEFINITIONS.**

5       (a) SHORT TITLE.—This Act may be cited as the  
6       “Academic Partnerships Lead Us to Success Act” or the  
7       “A PLUS Act”.

1 (b) TABLE OF CONTENTS.—The table of contents for  
 2 this Act is as follows:

- Sec. 1. Short title; table of contents; purposes; definitions.
- Sec. 2. Performance agreements.
- Sec. 3. Programs eligible for consolidation and permissible use of funds.
- Sec. 4. Maintenance of academic performance standards; accountability system.
- Sec. 5. Maintenance of funding levels spent by States on education.
- Sec. 6. Administrative expenses.
- Sec. 7. Equitable participation of private schools.
- Sec. 8. Annual reports.
- Sec. 9. Performance review and early termination.

3 (c) PURPOSES.—The purposes of this Act are as fol-  
 4 lows:

5 (1) To give States and local communities max-  
 6 imum flexibility to determine how to boost academic  
 7 achievement and implement education reforms.

8 (2) To reduce the administrative costs and com-  
 9 pliance burden of Federal education programs in  
 10 order to focus Federal resources on improving aca-  
 11 demic achievement.

12 (3) To ensure that States and communities are  
 13 accountable to the public for advancing the academic  
 14 achievement of all students, especially disadvantaged  
 15 children.

16 (d) DEFINITIONS.—In this Act:

17 (1) IN GENERAL.—Except as otherwise pro-  
 18 vided, the terms used in this Act have the meanings  
 19 given the terms in section 9101 of the Elementary  
 20 and Secondary Education Act of 1965 (20 U.S.C.  
 21 7801 et seq.).

1           (2) STATE.—The term “State” has the mean-  
2           ing given the term in section 1122(e) of the Elemen-  
3           tary and Secondary Education Act of 1965 (20  
4           U.S.C. 6332(e)).

5 **SEC. 2. PERFORMANCE AGREEMENTS.**

6           (a) AUTHORITY.—In accordance with this Act, the  
7           Secretary shall enter into performance agreements with  
8           States under which, except as otherwise provided in this  
9           Act, States may consolidate and use funds pursuant to  
10          section 3.

11          (b) REQUIRED TERMS OF PERFORMANCE AGREE-  
12          MENT.—Each performance agreement entered into by the  
13          Secretary under this Act shall include the following:

14               (1) DURATION.—The performance agreement  
15               shall be for a period of 5 years. Such 5-year period  
16               shall be determined by the State.

17               (2) APPLICATION OF PROGRAM REQUIRE-  
18               MENTS.—The performance agreement shall provide  
19               that no requirements of any program described in  
20               section 3 and included by the State within the scope  
21               of the performance agreement shall apply to the  
22               State, except as otherwise provided in this Act.

23               (3) LIST OF PROGRAMS.—The performance  
24               agreement shall list which of the programs described

1 in section 3 are included within the scope of the per-  
2 formance agreement.

3 (4) USE OF FUNDS TO IMPROVE STUDENT  
4 ACHIEVEMENT.—The performance agreement shall  
5 contain a 5-year plan describing how the State in-  
6 tends to combine and use the funds from programs  
7 included within the scope of the performance agree-  
8 ment to advance the education priorities of the  
9 State, improve student academic achievement, and  
10 narrow achievement gaps.

11 (5) ACCOUNTABILITY SYSTEM.—The perform-  
12 ance agreement shall describe an accountability sys-  
13 tem that meets the requirements of section 4.

14 (6) ACHIEVEMENT GOALS.—

15 (A) STUDENT ACADEMIC ACHIEVEMENT.—  
16 The performance agreement shall require the  
17 State to demonstrate the State's academic  
18 achievement goals and measures to be achieved  
19 over the duration of the performance agree-  
20 ment.

21 (B) CONSISTENCY OF ACHIEVEMENT  
22 MEASURES.—The performance agreement shall  
23 require that the State maintain, at a minimum,  
24 the same level of challenging State student aca-  
25 demic achievement standards and academic as-

1            assessments throughout the duration of the per-  
2            formance agreement.

3            (C) REPORTING OF DISAGGREGATED  
4            DATA.—The performance agreement shall re-  
5            quire the State to report, in the annual report  
6            under section 8, data disaggregated in the same  
7            manner as data are disaggregated under section  
8            1111(b)(3)(C)(xiii) of the Elementary and Sec-  
9            ondary Education Act of 1965 (20 U.S.C.  
10            6311(b)(3)(C)(xiii)).

11            (c) APPLICATION.—

12            (1) IN GENERAL.—Each State desiring to enter  
13            into a performance agreement with the Secretary  
14            under this Act shall submit an application to the  
15            Secretary at such time, and accompanied by such in-  
16            formation, as the Secretary may require.

17            (2) CONTENTS.—Each such application shall  
18            contain—

19            (A) a proposed performance agreement;

20            (B) a description of the State's account-  
21            ability system for the proposed performance  
22            agreement as described in section 4;

23            (C) an assurance that the State will use  
24            fiscal control and fund accounting procedures;

1 (D) an assurance that the State will con-  
 2 tinue to pursue the goal of improving edu-  
 3 cational opportunities for the disadvantaged;  
 4 and

5 (E) an assurance that not less than 2 of  
 6 the following approved the proposed perform-  
 7 ance agreement:

8 (i) The Governor of the State.

9 (ii) The State legislature.

10 (iii) The State educational agency.

11 (d) APPROVAL OF PERFORMANCE AGREEMENT.—

12 (1) IN GENERAL.—Not later than 60 days after  
 13 the receipt of a proposed performance agreement  
 14 submitted by a State, the Secretary shall approve  
 15 the performance agreement or provide the State with  
 16 a written determination that the performance agree-  
 17 ment fails to satisfy a requirement of this Act.

18 (2) TREATMENT AS APPROVED.—Each perform-  
 19 ance agreement for which the Secretary fails to take  
 20 the action required in paragraph (1) in the time pe-  
 21 riod described in such paragraph shall be considered  
 22 to be approved.

23 (3) REQUIREMENT TO EXECUTE APPROVED  
 24 AGREEMENTS.—In accordance with this Act, the

1 Secretary shall enter into each performance agree-  
2 ment approved under this subsection.

3 (4) DISAPPROVAL OF PERFORMANCE AGREE-  
4 MENT.—If the State’s performance agreement is dis-  
5 approved, then the State shall have 30 days to re-  
6 submit a revised performance agreement. The Sec-  
7 retary shall approve the revised performance agree-  
8 ment within 30 days of receipt of the revised per-  
9 formance agreement or provide the State with a  
10 written determination that the revised performance  
11 agreement fails to satisfy a requirement of this Act.

12 (e) CIVIL RIGHTS.—The Secretary may not enter  
13 into a performance agreement with a State under this sec-  
14 tion unless the performance agreement contains an assur-  
15 ance that the State will meet the requirements of applica-  
16 ble Federal civil rights laws in carrying out the perform-  
17 ance agreement and in consolidating and using the funds  
18 under the performance agreement.

19 (f) AMENDMENT TO PERFORMANCE AGREEMENT.—

20 (1) IN GENERAL.—In each of the following cir-  
21 cumstances, the Secretary, subject to approval under  
22 paragraph (2), shall agree to amend a performance  
23 agreement entered into with a State under this Act:

24 (A) REDUCTION IN SCOPE OF PERFORM-  
25 ANCE AGREEMENT.—A State seeks to amend

1 the performance agreement to remove from the  
2 scope of the performance agreement any pro-  
3 gram described in section 3.

4 (B) EXPANSION OF SCOPE OF PERFORM-  
5 ANCE AGREEMENT.—A State seeks to amend  
6 the performance agreement to include within  
7 the scope of the performance agreement any ad-  
8 ditional program described in section 3 or any  
9 additional measure of accountability for which  
10 the State will be held accountable.

11 (2) APPROVAL OF AMENDMENT.—

12 (A) IN GENERAL.—Not later than 60 days  
13 after the receipt of a proposed performance  
14 agreement amendment submitted by a State,  
15 the Secretary shall approve the amendment or  
16 provide the State with a written determination  
17 that the amendment fails to satisfy a require-  
18 ment of this Act.

19 (B) TREATMENT AS APPROVED.—Each  
20 amendment for which the Secretary fails to  
21 take the action required in subparagraph (A) in  
22 the time period described in such subparagraph  
23 shall be considered to be approved.

24 (3) TREATMENT OF PROGRAM FUNDS WITH-  
25 DRAWN FROM AGREEMENT.—Beginning on the effec-



1       tive date of an amendment executed under para-  
2       graph (1)(A), each program requirement of each  
3       program removed from the scope of a performance  
4       agreement shall apply to the State's use of funds  
5       made available under the program.

6       **SEC. 3. PROGRAMS ELIGIBLE FOR CONSOLIDATION AND**  
7                                   **PERMISSIBLE USE OF FUNDS.**

8       (a) SCOPE.—A State may choose to include within  
9       the scope of its performance agreement any program for  
10      which Congress makes funds available to the State if the  
11      program is for a purpose described in section 1001 of the  
12      Elementary and Secondary Education Act of 1965 (20  
13      U.S.C. 6301).

14      (b) USES OF FUNDS.—Funds made available to a  
15      State pursuant to a performance agreement under this Act  
16      shall be used for any educational purpose permitted by  
17      State law of the State participating in the performance  
18      agreement.

19      **SEC. 4. MAINTENANCE OF ACADEMIC PERFORMANCE**  
20                                   **STANDARDS; ACCOUNTABILITY SYSTEM.**

21      Each State consolidating and using funds under this  
22      Act shall demonstrate an accountability system for the  
23      State's performance agreement. The accountability system  
24      shall—

1           (1) utilize the State’s adequate yearly progress  
2           determination under section 1111(b) of the Elemen-  
3           tary and Secondary Education Act of 1965 (20  
4           U.S.C. 6311(b)); or

5           (2) utilize another measure of annual student  
6           progress relative to the State’s determination of stu-  
7           dent proficiency, if such measure—

8                   (A) is used for the entire 5-year duration  
9                   of the performance agreement; and

10                   (B) provides student achievement data—

11                           (i) in terms of individual student  
12                           progress over time; or

13                           (ii) in a comparison assessment.

14 **SEC. 5. MAINTENANCE OF FUNDING LEVELS SPENT BY**  
15 **STATES ON EDUCATION.**

16           For each State consolidating and using funds pursu-  
17           ant to a performance agreement under this Act, for each  
18           school year of the performance agreement, the aggregate  
19           amount of funds spent by the State on elementary and  
20           secondary education shall be not less than 90 percent of  
21           the aggregate amount of funds spent by the State on ele-  
22           mentary and secondary education for the school year that  
23           coincides with the date of enactment of this Act. If a State  
24           demonstrates that exceptional or uncontrollable cir-  
25           cumstances, such as a natural disaster or a precipitous

1 and unforeseen decline in the financial resources of the  
2 State, prevent the State from complying with the pre-  
3 ceding sentence, the Secretary shall waive the applicability  
4 of the preceding sentence to the State.

5 **SEC. 6. ADMINISTRATIVE EXPENSES.**

6 (a) STATES CONSOLIDATING FUNDS UNDER PART A  
7 OF TITLE I.—Each State that includes part A of title I  
8 of the Elementary and Secondary Education Act of 1965  
9 (20 U.S.C. 6311 et seq.) within the scope of a perform-  
10 ance agreement under this Act may use, for administrative  
11 expenses, not more than 1 percent of the total amount  
12 of funds made available to the State under the programs  
13 included within the scope of the performance agreement.

14 (b) STATES NOT CONSOLIDATING FUNDS UNDER  
15 PART A OF TITLE I.—Each State that does not include  
16 part A of title I of the Elementary and Secondary Edu-  
17 cation Act of 1965 (20 U.S.C. 6311 et seq.) within the  
18 scope of a performance agreement under this Act may use,  
19 for administrative expenses, not more than 3 percent of  
20 the total amount of funds made available to the State  
21 under the programs included within the scope of the per-  
22 formance agreement.

1 **SEC. 7. PARTICIPATION BY PRIVATE SCHOOL CHILDREN**  
2 **AND TEACHERS.**

3 Each State consolidating and using funds pursuant  
4 to a performance agreement under this Act shall provide  
5 for the participation of private school children and teach-  
6 ers in the activities assisted under the performance agree-  
7 ment in the same manner as participation is provided to  
8 private school children and teachers under section 9501  
9 of the Elementary and Secondary Education Act of 1965  
10 (20 U.S.C. 7881).

11 **SEC. 8. ANNUAL REPORTS.**

12 (a) IN GENERAL.—Not later than 1 year after the  
13 execution of the performance agreement, and annually  
14 thereafter, each State shall disseminate widely to the par-  
15 ents, the general public, and the Secretary, a report that  
16 includes—

17 (1) student performance data disaggregated in  
18 the same manner as data are disaggregated under  
19 section 1111(b)(3)(C)(xiii) of the Elementary and  
20 Secondary Education Act of 1965 (20 U.S.C.  
21 6311(b)(3)(C)(xiii)); and

22 (2) a description of how the State has used  
23 Federal funds to improve academic achievement,  
24 narrow the achievement gap, and improve edu-  
25 cational opportunities for the disadvantaged.

1           (b) SUBMISSION TO CONGRESS.—Not later than 60  
2 days after the Secretary receives a report under subsection  
3 (a), the Secretary shall submit such report to Congress,  
4 together with any other information the Secretary con-  
5 siderers appropriate.

6 **SEC. 9. PERFORMANCE REVIEW AND EARLY TERMINATION.**

7           (a) REVIEW.—For each State having in effect a per-  
8 formance agreement under this Act, the Secretary shall  
9 carry out a review of the performance agreement, at the  
10 midpoint of the duration of the performance agreement,  
11 in order to determine whether the State has met the terms  
12 of the performance agreement described in section 2.

13           (b) EARLY TERMINATION.—The Secretary may ter-  
14 minate a performance agreement, before the duration of  
15 that performance agreement expires, if the State does not,  
16 for 3 consecutive school years, meet the terms of the per-  
17 formance agreement described in section 2.

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