

110TH CONGRESS  
1ST SESSION

# S. 893

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

MARCH 15, 2007

Mr. DEMINT (for himself, Mr. CORNYN, Mr. KYL, Mr. MARTINEZ, and Mr. BROWNBACK) 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; PURPOSE;**

4 **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”.

8 (b) **TABLE OF CONTENTS.**—The table of contents for  
9 this Act is as follows:

- Sec. 1. Short title; table of contents; purpose; 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.

1           (c) PURPOSE.—The purpose of this Act is as follows:

2                   (1) To give States and local communities maximum flexibility to determine how to boost academic achievement and implement education reforms.

3                   (2) To reduce the administrative costs and compliance burden of Federal education programs in order to focus Federal resources on improving academic achievement.

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

5           (d) DEFINITIONS.—In this Act:

6                   (1) IN GENERAL.—Except as otherwise provided, the terms used in this Act have the meanings given the terms in section 9101 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7801 et seq.).

7                   (2) STATE.—The term “State” has the meaning given the term in section 1122(e) of the Elemen-

1 tary and Secondary Education Act of 1965 (20  
2 U.S.C. 6332(e)).

3 **SEC. 2. PERFORMANCE AGREEMENTS.**

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

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

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

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

21 (3) **LIST OF PROGRAMS.**—The performance  
22 agreement shall list which of the programs described  
23 in section 3 are included within the scope of the per-  
24 formance agreement.

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

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

12           (6) ACHIEVEMENT GOALS.—

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

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

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

9 (c) APPLICATION.—

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

15 (2) CONTENTS.—Each such application shall  
16 contain—

17 (A) a proposed performance agreement;

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

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

23 (D) an assurance that the State will con-  
24 tinue to pursue the goal of improving edu-

1           cational opportunities for the disadvantaged;  
2           and

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

6                   (i) The Governor of the State.

7                   (ii) The State legislature.

8                   (iii) The State educational agency.

9           (d) APPROVAL OF PERFORMANCE AGREEMENT.—

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

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

21           (3) REQUIREMENT TO EXECUTE APPROVED  
22           AGREEMENTS.—In accordance with this Act, the  
23           Secretary shall enter into each performance agree-  
24           ment approved under this subsection.

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

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

17          (f) AMENDMENT TO PERFORMANCE AGREEMENT.—

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

22                        (A) REDUCTION IN SCOPE OF PERFORM-  
23                        ANCE AGREEMENT.—A State seeks to amend  
24                        the performance agreement to remove from the

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

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

10 (2) APPROVAL OF AMENDMENT.—

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

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

23 (3) TREATMENT OF PROGRAM FUNDS WITH-  
24 DRAWN FROM AGREEMENT.—Beginning on the effec-  
25 tive date of an amendment executed under para-



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

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

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

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

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

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

24 (1) utilize the State's adequate yearly progress  
25 determination under section 1111(b) of the Elemen-

1 tary and Secondary Education Act of 1965 (20  
2 U.S.C. 6311(b)); or

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

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

8 (B) provides student achievement data—

9 (i) in terms of individual student  
10 progress over time; or

11 (ii) in a comparison assessment.

12 **SEC. 5. MAINTENANCE OF FUNDING LEVELS SPENT BY**  
13 **STATES ON EDUCATION.**

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

1 ceding sentence, the Secretary shall waive the applicability  
 2 of the preceding sentence to the State.

3 **SEC. 6. ADMINISTRATIVE EXPENSES.**

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

12 (b) STATES NOT CONSOLIDATING FUNDS UNDER  
 13 PART A OF TITLE I.—Each State that does not include  
 14 part A of title I of the Elementary and Secondary Edu-  
 15 cation Act of 1965 within the scope of a performance  
 16 agreement under this Act may use, for administrative ex-  
 17 penses, not more than 3 percent of the total amount of  
 18 funds made available to the State under the programs in-  
 19 cluded within the scope of the performance agreement.

20 **SEC. 7. PARTICIPATION BY PRIVATE SCHOOL CHILDREN**  
 21 **AND TEACHERS.**

22 Each State consolidating and using funds pursuant  
 23 to a performance agreement under this Act shall provide  
 24 for the participation of private school children and teach-  
 25 ers in the activities assisted under the performance agree-

1 ment in the same manner as participation is provided to  
2 private school children and teachers under section 9501  
3 of the Elementary and Secondary Education Act of 1965  
4 (20 U.S.C. 7881).

5 **SEC. 8. ANNUAL REPORTS.**

6 (a) IN GENERAL.—Not later than 1 year after the  
7 execution of the performance agreement, and annually  
8 thereafter, each State shall disseminate widely to the par-  
9 ents, the general public, and the Secretary, a report that  
10 includes—

11 (1) student performance data disaggregated in  
12 the same manner as data are disaggregated under  
13 section 1111(b)(3)(C)(xiii) of the Elementary and  
14 Secondary Education Act of 1965 (20 U.S.C.  
15 6311(b)(3)(C)(xiii)); and

16 (2) a description of how the State has used  
17 Federal funds to improve academic achievement,  
18 narrow the achievement gap, and improve edu-  
19 cational opportunities for the disadvantaged.

20 (b) SUBMISSION TO CONGRESS.—Not later than 60  
21 days after the Secretary receives a report under subsection  
22 (a), the Secretary shall submit that report to Congress,  
23 together with any other information the Secretary con-  
24 siders appropriate.

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

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

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

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