

118TH CONGRESS
2D SESSION

S. _____

To amend the Higher Education Act of 1965 to support innovative, evidence-based approaches that improve the effectiveness and efficiency of postsecondary education for all students, to allow pay for success initiatives, to provide additional evaluation authority, and for other purposes.

IN THE SENATE OF THE UNITED STATES

Mr. YOUNG (for himself and Mr. BENNET) introduced the following bill; which was read twice and referred to the Committee on _____

A BILL

To amend the Higher Education Act of 1965 to support innovative, evidence-based approaches that improve the effectiveness and efficiency of postsecondary education for all students, to allow pay for success initiatives, to provide additional evaluation authority, 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 “Fund for Innovation
5 and Success in Higher Education Act” or the “FINISH
6 Act”.

1 **SEC. 2. INNOVATION GRANTS.**

2 Part B of title VII of the Higher Education Act of
3 1965 (20 U.S.C. 1138 et seq.) is amended—

4 (1) by redesignating section 745 as section 746;

5 and

6 (2) by inserting after section 744 the following:

7 **“SEC. 745. INNOVATION GRANTS.**

8 “(a) PURPOSES.—The purposes of this section are
9 to—

10 “(1) increase access to, retention in, and com-
11 pletion of postsecondary education opportunities for
12 high-need students;

13 “(2) identify and support the most effective
14 interventions to increase postsecondary degree at-
15 tainment and career success of high-need students;
16 and

17 “(3) improve the efficiency of postsecondary
18 education, including by reducing the percentage of
19 students enrolling in postsecondary remediation and
20 increasing the effectiveness of postsecondary remedi-
21 ation.

22 “(b) DEFINITIONS.—In this section:

23 “(1) ELIGIBLE ENTITY.—The term ‘eligible en-
24 tity’ means any of the following:

25 “(A) A State educational agency.

1 “(B) A public or private nonprofit institu-
2 tion of higher education.

3 “(C) The Bureau of Indian Education.

4 “(D) A consortium of any of the entities
5 described in subparagraphs (A) through (C).

6 “(E) A partnership between a State edu-
7 cational agency or public or private nonprofit
8 institution of higher education and one or more
9 of the following:

10 “(i) A nonprofit organization.

11 “(ii) An intermediary organization.

12 “(iii) A business.

13 “(iv) A sponsor of a program receiv-
14 ing assistance under the National and
15 Community Service Act of 1990 (42
16 U.S.C. 12501 et seq.).

17 “(v) A local educational agency.

18 “(2) EVIDENCE-BASED.—The term ‘evidence-
19 based’ has the meaning given the term in section
20 8101(21)(A) of the Elementary and Secondary Edu-
21 cation Act of 1965 (20 U.S.C. 7801(21)(A)).

22 “(3) FIRST GENERATION COLLEGE STUDENT.—
23 The term ‘first generation college student’ means—

24 “(A) an individual both of whose parents
25 did not complete a baccalaureate degree; or

1 “(B) in the case of any individual who reg-
2 ularly resided with and received support from
3 only one parent, an individual whose only such
4 parent did not complete a baccalaureate degree.

5 “(4) HIGH-NEED STUDENT.—The term ‘high-
6 need student’—

7 “(A) means a postsecondary student who
8 is at risk of educational failure or otherwise in
9 need of special assistance and support; and

10 “(B) may include an adult learner, work-
11 ing student, part-time student, student from a
12 low-income background, student of color,
13 former foster youth, first generation college stu-
14 dent, student with a disability, student who is
15 deaf or blind or visually impaired, or student
16 who is an English learner.

17 “(5) INTERMEDIARY ORGANIZATION.—The term
18 ‘intermediary organization’ means an entity—

19 “(A) with strong skills and a track record
20 of success in—

21 “(i) identifying effective interventions
22 to address State, regional, or local prob-
23 lems;

24 “(ii) managing high-quality subgrant
25 processes; and

1 “(iii) providing technical assistance
2 and support to subgrantees to ensure qual-
3 ity and improve outcomes; and

4 “(B) that utilizes an evidence-based deci-
5 sion-making strategy when selecting high-per-
6 forming entities, on a competitive basis, to re-
7 ceive subgrants in order to validate and grow
8 effective interventions.

9 “(c) PROGRAM AUTHORIZED.—

10 “(1) IN GENERAL.—From amounts made avail-
11 able to carry out this section, the Secretary shall
12 award grants, on a competitive basis, to eligible enti-
13 ties to enable the eligible entities to create, develop,
14 implement, replicate, or scale evidence-based and
15 field-initiated innovations, including through pay for
16 success initiatives (as defined in section 124(a)), in
17 order to improve postsecondary access and comple-
18 tion or career success for high-need students.

19 “(2) GRANTS.—The grants awarded under this
20 section shall implement and evaluate programs,
21 interventions, and strategies that address the pur-
22 poses described under subsection (a) and, to the ex-
23 tent practicable based on the strength of the applica-
24 tions, include—

1 “(A) early-phase grants to fund the devel-
2 opment, implementation, rigorous evaluation,
3 and feasibility testing of a program, interven-
4 tion, or strategy supported by any level of evi-
5 dence described in paragraph (1), (2), or (3) of
6 subsection (h), for the purpose of determining
7 whether the program, intervention, or strategy
8 can successfully improve, for high-need stu-
9 dents—

10 “(i) access to, retention in, and com-
11 pletion of a postsecondary program of
12 study; or

13 “(ii) career success, as demonstrated
14 by earnings and employment outcomes;

15 “(B) mid-phase grants to fund the oper-
16 ation, implementation, and rigorous evaluation
17 of a program, intervention, or strategy sup-
18 ported by a level of moderate evidence or high
19 evidence (as described in paragraph (2) or (3)
20 of subsection (h), respectively) that has been
21 successfully implemented under an early-phase
22 grant described in subparagraph (A) or another
23 effort meeting similar criteria, for the purpose
24 of measuring (using existing administrative
25 data where possible) the impact and cost-effec-

1 tiveness of the program, intervention, or strat-
2 egy; or

3 “(C) expansion grants to fund the imple-
4 mentation and rigorous replication evaluation of
5 a program, intervention, or strategy supported
6 by a level of high evidence, as described in sub-
7 section (h)(3), that has been found to produce
8 sizable, important impacts under a mid-phase
9 grant described in subparagraph (B) or another
10 effort meeting similar criteria, for the purposes
11 of—

12 “(i) implementing a multi-site evalua-
13 tion of such program, intervention, or
14 strategy;

15 “(ii) determining whether such im-
16 pacts can be successfully reproduced and
17 sustained over time;

18 “(iii) determining whether such im-
19 pacts can cause improvements on an im-
20 portant outcome in similar contexts and
21 for similar populations; and

22 “(iv) identifying the conditions in
23 which the program, intervention, or strat-
24 egy is most effective.

25 “(d) APPLICATION.—

1 “(1) IN GENERAL.—An eligible entity desiring a
2 grant under this section shall submit to the Sec-
3 retary an application at such time, in such manner,
4 and containing such information as the Secretary
5 may require.

6 “(2) CONTENTS.—An application submitted
7 under paragraph (1) shall include—

8 “(A) a description of the high-need stu-
9 dents that the eligible entity is proposing to
10 serve through the grant; and

11 “(B) a description of the outcome meas-
12 ures, including explicit outcome measures for
13 high-need students, that the eligible entity will
14 use, in addition to the outcome measures de-
15 scribed in subparagraphs (A) and (B) of sub-
16 section (f)(2), to evaluate the success of the
17 grant.

18 “(e) PRIORITY.—In awarding grants under this sec-
19 tion, the Secretary shall give priority to eligible entities
20 that—

21 “(1) propose to serve the largest number of
22 high-need students; or

23 “(2) serve a high proportion of students from
24 one or more school districts with a school district lo-
25 cale code of 31, 32, 33, 41, 42, or 43, as determined

1 by the Secretary using the school district locale
2 codes in effect on December 1, 2019.

3 “(f) EVALUATIONS.—Each recipient of a grant under
4 this section shall conduct, and submit to the Secretary,
5 a rigorous, independent evaluation of—

6 “(1) the effectiveness of the program, interven-
7 tion, or strategy carried out under such grant;

8 “(2) the outcomes achieved by such grant,
9 which shall include—

10 “(A) the numbers and percentages, in the
11 aggregate and disaggregated by each subgroup
12 of students (as defined in section 1111(c)(2) of
13 the Elementary and Secondary Education Act
14 of 1965 (20 U.S.C. 6311(c)(2))), of—

15 “(i) students supported by the grant
16 entering, persisting in, and completing
17 postsecondary education;

18 “(ii) such students enrolling in reme-
19 dial coursework at the institution;

20 “(iii) such students enrolling in and
21 completing such remedial coursework; and

22 “(iv) such students enrolling in and
23 completing such remedial coursework and
24 successfully completing first-year credit-
25 bearing coursework within 16 months of

1 enrollment in an institution of higher edu-
2 cation;

3 “(B) with respect to students supported by
4 the program who graduate postsecondary edu-
5 cation, in the aggregate and disaggregated by
6 each subgroup of students (as defined in section
7 1111(c)(2) of the Elementary and Secondary
8 Education Act of 1965 (20 U.S.C.
9 6311(c)(2)))—

10 “(i) the employment outcomes for the
11 students after graduation, including aver-
12 age earnings after graduation; and

13 “(ii) the average amount of student
14 debt burden for the students; and

15 “(C) the recipient’s performance on any
16 other outcome measures described in the appli-
17 cation in accordance with subsection (d)(2)(B);
18 and

19 “(3) the activities carried out under such grant.

20 “(g) REPORTS.—

21 “(1) IN GENERAL.—Not later than 2 years
22 after the date of enactment of the Fund for Innova-
23 tion and Success in Higher Education Act, and
24 every 2 years thereafter, the Secretary shall prepare

1 and submit to the authorizing committees a report
2 on the grants carried out under this section.

3 “(2) CONTENTS.—Each report issued under
4 this subsection shall—

5 “(A) include—

6 “(i) information from all outcomes re-
7 ported in the evaluations submitted under
8 subsection (f) for the reporting period eval-
9 uating the success of the grants supported
10 under this section; and

11 “(ii) the number of high-need stu-
12 dents served through the grants under this
13 section during the reporting period;

14 “(B) disaggregate all data on student out-
15 comes related to the grants by, at a minimum,
16 race and income, and, to the extent practicable,
17 any other relevant student characteristic, as de-
18 termined by the Secretary; and

19 “(C) consider—

20 “(i) how the tiered-evidence grant
21 structure described in subsection (c)(2) can
22 be applied to other grant programs author-
23 ized under this Act, in order to strengthen
24 those programs; and

1 “(ii) how the evidence generated by
2 the programs, interventions, or strategies
3 supported by grants under this section can
4 inform how to carry out other grants au-
5 thorized under this Act.

6 “(3) PUBLIC AVAILABILITY.—The Secretary
7 shall make each report issued under this subsection
8 available to the public through the website of the
9 Department.

10 “(h) LEVEL OF EVIDENCE STANDARDS.—The levels
11 of evidence described in this subsection are the following:

12 “(1) PROMISING EVIDENCE.—A program, inter-
13 vention, or strategy is supported by a promising
14 level of evidence if such program, innovation, or
15 strategy demonstrates a statistically significant ef-
16 fect on improving student outcomes or other relevant
17 outcomes based on one or more well-designed and
18 well-implemented correlational studies (with statis-
19 tical controls for selection bias).

20 “(2) MODERATE EVIDENCE.—A program, inter-
21 vention, or strategy is supported by a moderate level
22 of evidence if such program, intervention, or strat-
23 egy demonstrates a statistically significant effect on
24 improving student outcomes or other relevant out-

1 comes based on one or more well-designed and well-
2 implemented quasi-experimental studies.

3 “(3) HIGH EVIDENCE.—A program, interven-
4 tion, or strategy is supported by a high level of evi-
5 dence if such program, intervention, or strategy
6 demonstrates a statistically significant effect on im-
7 proving student outcomes or other relevant outcomes
8 based on one or more well-designed and well-imple-
9 mented randomized control experimental studies.”.

10 **SEC. 3. OPEN EDUCATIONAL RESOURCES.**

11 Section 741(a) of the Higher Education Act of 1965
12 (20 U.S.C. 1138(a)) is amended—

13 (1) in paragraph (12), by striking “and” after
14 the semicolon;

15 (2) in paragraph (13), by striking the period
16 and inserting “; and”; and

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

18 “(14) making all forms of postsecondary in-
19 structional content widely available, which may in-
20 clude the use of open educational resources (defined,
21 for purpose of this paragraph, as teaching, learning,
22 or research resources that reside in the public do-
23 main or have been released under a copyright license
24 that permits their free use, reuse, modification, and
25 sharing with others).”.

1 **SEC. 4. PAY FOR SUCCESS INITIATIVES.**

2 Part B of title I of the Higher Education Act of 1965
3 (20 U.S.C. 1011 et seq.) is amended by adding at the end
4 the following:

5 **“SEC. 124. PAY FOR SUCCESS INITIATIVES.**

6 “(a) DEFINITIONS.—In this section:

7 “(1) ELIGIBLE ENTITY.—The term ‘eligible en-
8 tity’ means a partnership between—

9 “(A) a private entity (which may include a
10 private nonprofit entity); and

11 “(B) an institution of higher education, a
12 Federal, State, or local public entity, or a Trib-
13 al entity.

14 “(2) PAY FOR SUCCESS INITIATIVE.—

15 “(A) IN GENERAL.—The term ‘pay for
16 success initiative’ means a performance-based
17 grant, contract, or other agreement—

18 “(i) between an eligible entity and the
19 Secretary or a grant recipient, as author-
20 ized under subsection (b)(1);

21 “(ii) in which—

22 “(I) a commitment is made to
23 pay the eligible entity for improved
24 outcomes, including meaningful out-
25 put measures strongly correlated to
26 outcomes, that result in increased

1 public value or social benefit to stu-
2 dents and the public sector, such as
3 increased effectiveness in improving
4 outcomes, direct cost savings or cost
5 avoidance, or increased public rev-
6 enue; and

7 “(II) the entity providing the
8 funds under the grant, contract, or
9 agreement imposes minimal adminis-
10 trative requirements to allow for max-
11 imum flexibility to achieve increased
12 public value and social benefit; and

13 “(iii) that requires—

14 “(I) a description of how the pro-
15 posed intervention is based on evi-
16 dence of effectiveness, which may be a
17 study not exclusively developed for the
18 specific grant, contract, or other
19 agreement;

20 “(II) a rigorous, third-party—

21 “(aa) validation of outcomes
22 achieved using administrative
23 data; or

24 “(bb) evaluation that uses
25 experimental or quasi-experi-

1 mental design or other research
2 methodologies that allow for the
3 strongest possible causal infer-
4 ences to determine whether the
5 initiative has met its proposed
6 outcomes;

7 “(III) an annual, publicly avail-
8 able report on the progress of the ini-
9 tiative; and

10 “(IV) that payments be made to
11 the recipient of the grant, contract, or
12 agreement only when agreed-upon
13 outcomes are achieved, except as pro-
14 vided under paragraph (2) or (3) of
15 subsection (b).

16 “(B) EXCLUSION.—The term ‘pay for suc-
17 cess initiative’ does not include any initiative
18 that—

19 “(i) reduces the benefits to a student
20 or the obligations of an entity under this
21 Act, the Rehabilitation Act of 1973 (29
22 U.S.C. 701 et seq.), the Americans with
23 Disabilities Act of 1990 (42 U.S.C. 12101
24 et seq.), the Individuals with Disabilities

1 Education Act (20 U.S.C. 1400 et seq.), or
2 any other law; or

3 “(ii) reduces services that an indi-
4 vidual is entitled to receive under Federal,
5 State, or local law.

6 “(b) PAY FOR SUCCESS INITIATIVE AUTHORITY.—

7 “(1) IN GENERAL.—Notwithstanding any other
8 provision of this Act and except as provided under
9 subsection (c)—

10 “(A) any recipient of a grant under this
11 Act may request to use grant funds to carry out
12 a pay for success initiative that accomplishes
13 the objectives of the grant and meets all re-
14 quirements of the grant (except to the extent a
15 requirement is specifically modified by the pay
16 for success initiative), if such use is proposed in
17 the application or plan submitted for such
18 grant; and

19 “(B) the Secretary may approve not more
20 than 5 pilot demonstrations each fiscal year
21 from the grant applications or plans that con-
22 tain a request to carry out a pay for success
23 initiative.

24 “(2) USE OF FUNDS FOR STUDIES AND RIG-
25 OROUS THIRD-PARTY EVALUATION.—If the Sec-

1 retary, or a grant recipient, is authorized to carry
2 out a pay for success initiative under paragraph (1),
3 the Secretary or grant recipient may use funds avail-
4 able for the pay for success initiative—

5 “(A) to develop the description or conduct
6 the study required under subsection
7 (a)(2)(A)(iii)(I) or the validation of outcomes or
8 evaluation required under subsection
9 (a)(2)(A)(iii)(II); or

10 “(B) to provide funds to the entity car-
11 rying out the pay for success initiative for the
12 costs of the initial costs associated with starting
13 the initiative.

14 “(3) USE OF REMAINING FUNDS.—Notwith-
15 standing any other provision of law, if the Secretary
16 or a grant recipient is carrying out a pay for success
17 initiative under paragraph (1) and the pay for suc-
18 cess initiative has met or exceeded its proposed out-
19 comes, the Secretary or grant recipient may use any
20 funds remaining at the conclusion of the pay for
21 success initiative to enter into an additional agree-
22 ment, through a competitive process, with an eligible
23 entity to expand capacity under the pay for success
24 initiative or to carry out additional pilot demonstra-
25 tions of pay for success initiatives.

1 “(c) STUDENT PROTECTIONS.—

2 “(1) NO NEGATIVE IMPACT ON STUDENT AID.—

3 A pay for success initiative shall not be supported
4 with funds under this Act if the pay for success ini-
5 tiative would adversely affect the funding of, or stu-
6 dent access to, individual student aid awards made
7 under section 401 or any other program supported
8 under this Act.

9 “(2) NONINCLUSION IN DETERMINATION OF
10 NEED.—A grant or aid provided directly to a stu-
11 dent under a pay for success initiative supported
12 with funds under this Act shall not be considered in
13 determining that student’s need for grant, loan, or
14 work assistance under title IV of this Act, except
15 that in no case shall the total amount of student fi-
16 nancial assistance awarded to a student through a
17 pay for success initiative and under title IV exceed
18 that student’s cost of attendance, as defined in sec-
19 tion 472.

20 “(d) AVAILABILITY OF FUNDS.—Notwithstanding
21 any other provision of this Act, any funds made available
22 for a fiscal year to an entity for a pay for success initiative
23 authorized under this section shall remain available until
24 expended.”.

1 **SEC. 5. EVALUATION.**

2 Part B of title I of the Higher Education Act of 1965
3 (20 U.S.C. 1011 et seq.), as amended by section 4, is fur-
4 ther amended by adding at the end the following:

5 **“SEC. 125. EVALUATION AUTHORITY.**

6 “(a) **EVALUATION RESERVATION.**—

7 “(1) **IN GENERAL.**—Notwithstanding any other
8 provision of this Act, the Secretary, in consultation
9 with the Director of the Institute of Education
10 Sciences, may, for each fiscal year, reserve not more
11 than 1 percent of the amount appropriated for each
12 discretionary grant program authorized under this
13 Act (except for the Federal Pell Grant program
14 under section 401) in order to rigorously and inde-
15 pendently evaluate the effectiveness and efficiency of
16 the outcomes of all programs authorized under this
17 Act.

18 “(2) **EFFECT ON OTHER REQUIREMENTS.**—The
19 amount reserved under paragraph (1) shall be in ad-
20 dition to any other amounts reserved for evaluation
21 under this Act.

22 “(b) **EVALUATION PLAN.**—On a biennial basis, the
23 Director of the Institute of Education Sciences shall de-
24 velop, submit to the authorizing committees, and make
25 publicly available on the website of the Department, an
26 evaluation plan for the next 2 fiscal years that—

1 “(1) describes the specific activities that will be
2 carried out under subsection (a) for the 2-year pe-
3 riod applicable to the plan, and the timelines of such
4 activities;

5 “(2) contains the results of the activities car-
6 ried out under subsection (a) for the most recent 2-
7 year period; and

8 “(3) describes how programs authorized under
9 this Act will be regularly evaluated, including the
10 outcome measures to be used to evaluate each pro-
11 gram.

12 “(c) POOLING AUTHORITY.—Notwithstanding any
13 other provision of this Act, the Secretary, in consultation
14 with the Director of the Institute of Education Sciences—

15 “(1) may consolidate the funds reserved under
16 subsection (a) for purposes of carrying out the ac-
17 tivities described in subsection (b); and

18 “(2) shall not be required to evaluate each pro-
19 gram authorized under this Act each year.

20 “(d) RULE OF CONSTRUCTION.—Nothing in this sec-
21 tion shall be construed to conflict with or supercede any
22 other evaluation requirement for a specific program or ac-
23 tivity authorized under this Act.”.