

116TH CONGRESS
1ST SESSION

S. 1059

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

APRIL 8, 2019

Mr. YOUNG (for himself, Mr. BENNET, and Mr. SCOTT of South Carolina) introduced the following bill; which was read twice and referred to the Committee on Health, Education, Labor, and Pensions

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) FIRST GENERATION COLLEGE STUDENT.—

19 The term ‘first generation college student’ means—

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

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

1 “(3) HIGH-NEED STUDENT.—The term ‘high-
2 need student’—

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

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

13 “(4) INTERMEDIARY ORGANIZATION.—The term
14 ‘intermediary organization’ means an entity—

15 “(A) with strong skills and a track record
16 of success in—

17 “(i) identifying effective interventions
18 to address State, regional, or local prob-
19 lems;

20 “(ii) managing high-quality subgrant
21 processes; and

22 “(iii) providing technical assistance
23 and support to subgrantees to ensure qual-
24 ity and improve outcomes; and

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

6 “(c) PROGRAM AUTHORIZED.—

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

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

22 “(A) early-phase grants to fund the devel-
23 opment, implementation, and feasibility testing
24 of a practice, program, or intervention that
25 prior research suggests has promise, for the

1 purpose of determining whether the practice,
2 program, or innovation can successfully im-
3 prove, for high-need students—

4 “(i) access to, retention in, and com-
5 pletion of a postsecondary program of
6 study; or

7 “(ii) career success;

8 “(B) mid-phase grants to fund implemen-
9 tation and a rigorous evaluation of a practice,
10 program, or intervention that has been success-
11 fully implemented under an early phase grant
12 described in subparagraph (A) or another effort
13 meeting similar criteria, for the purpose of
14 measuring (using existing administrative data
15 where possible) the impact and cost-effective-
16 ness of the practice, program, or intervention;
17 or

18 “(C) expansion grants to fund implementa-
19 tion and a rigorous replication evaluation of a
20 practice, program, or intervention that has been
21 found to produce sizable, important impacts
22 under a mid-phase grant described in subpara-
23 graph (B) or another effort meeting similar cri-
24 teria, for the purposes of—

1 “(i) determining whether such impacts
2 can be successfully reproduced and sus-
3 tained over time; and

4 “(ii) identifying the conditions in
5 which the practice, program, or initiative is
6 most effective.

7 “(d) APPLICATION.—

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

13 “(2) CONTENTS.—An application submitted
14 under paragraph (1) shall include—

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

18 “(B) a description of the outcome meas-
19 ures, including explicit outcome measures for
20 high-need students, that the eligible entity will
21 use, in addition to the outcome measures de-
22 scribed in subsection (f)(2)(A), to evaluate the
23 success of the grant.

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

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

6 “(2) serve a high proportion of students from
 7 one or more school districts with a school district lo-
 8 cale code of 31, 32, 33, 41, 42, or 43, as determined
 9 by the Secretary using the school district locale
 10 codes in effect on December 1, 2019.

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

14 “(1) the effectiveness of the practice, program,
 15 or intervention carried out under such grant;

16 “(2) the outcomes achieved by such grant,
 17 which shall include—

18 “(A) the numbers and percentages, in the
 19 aggregate and disaggregated by each subgroup
 20 of students (as defined in section 1111(c)(2) of
 21 the Elementary and Secondary Education Act
 22 of 1965 (20 U.S.C. 6311(c)(2))), of—

23 “(i) students supported by the grant
 24 entering, persisting, and completing post-
 25 secondary education;

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

3 “(iii) such students enrolling and
4 completing such remedial coursework; and

5 “(iv) such students enrolling in and
6 completing such remedial coursework and
7 successfully completing first-year credit-
8 bearing coursework within 16 months of
9 enrollment in an institution of higher edu-
10 cation; and

11 “(B) the recipient’s performance on any
12 other outcome measures described in the appli-
13 cation in accordance with subsection (d)(2)(B);
14 and

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

16 “(g) REPORTS.—

17 “(1) IN GENERAL.—Not later than 2 years
18 after the date of enactment of the Fund for Innova-
19 tion and Success in Higher Education Act, and
20 every 2 years thereafter, the Secretary shall prepare
21 and submit to the authorizing committees a report
22 on the grants carried out under this section.

23 “(2) CONTENTS.—Each report issued under
24 this subsection shall—

25 “(A) include—

1 “(i) information from the outcomes
2 reported in the evaluations submitted
3 under subsection (f) for the reporting pe-
4 riod about the success of the grants sup-
5 ported under this section; and

6 “(ii) the number of high-need stu-
7 dents served through the grants under this
8 section during the reporting period;

9 “(B) disaggregate all data on student out-
10 comes related to the grants by, at a minimum,
11 race and income, and, to the extent practicable,
12 any other relevant student characteristic, as de-
13 termined by the Secretary; and

14 “(C) consider—

15 “(i) how the tiered-evidence grant
16 structure described in subsection (c)(2) can
17 be applied to other grant programs author-
18 ized under this Act, in order to strengthen
19 those programs; and

20 “(ii) how the evidence generated by
21 the projects, programs, and interventions
22 supported by grants under this section can
23 inform how to carry out other grants au-
24 thorized under this Act.

1 “(3) PUBLIC AVAILABILITY.—The Secretary
2 shall make each report issued under this subsection
3 available to the public through the website of the
4 Department.”.

5 **SEC. 3. OPEN EDUCATIONAL RESOURCES.**

6 Section 741(a) of the Higher Education Act of 1965
7 (20 U.S.C. 1138(a)) is amended—

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

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

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

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

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

22 Part B of title I of the Higher Education Act of 1965
23 (20 U.S.C. 1011 et seq.) is amended by adding at the end
24 the following:

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

2 “(a) DEFINITIONS.—In this section:

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

5 “(A) a private entity (which may include a
6 private nonprofit entity); and

7 “(B) an institution of higher education, a
8 Federal, State, or local public entity, or a Trib-
9 al entity.

10 “(2) PAY FOR SUCCESS INITIATIVE.—

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

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

17 “(ii) in which—

18 “(I) a commitment is made to
19 pay the eligible entity for improved
20 outcomes, including meaningful out-
21 put measures strongly correlated to
22 outcomes, that result in increased
23 public value or social benefit to stu-
24 dents and the public sector, such as
25 increased effectiveness in improving
26 outcomes, direct cost savings or cost

1 avoidance, or increased public rev-
2 enue; and

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

9 “(iii) that requires—

10 “(I) a study describing how the
11 proposed intervention is based on evi-
12 dence of effectiveness, which may be a
13 study not exclusively developed for the
14 specific grant, contract, or other
15 agreement;

16 “(II) a rigorous, third-party eval-
17 uation that uses experimental or
18 quasi-experimental design or other re-
19 search methodologies that allow for
20 the strongest possible causal infer-
21 ences to determine whether the initia-
22 tive has met its proposed outcomes;

23 “(III) an annual, publicly avail-
24 able report on the progress of the ini-
25 tiative; and

1 “(IV) that payments be made to
2 the recipient of the grant, contract, or
3 agreement only when agreed-upon
4 outcomes are achieved, except as pro-
5 vided under paragraph (2) or (3) of
6 subsection (b).

7 “(B) EXCLUSION.—The term ‘pay for suc-
8 cess initiative’ does not include any initiative
9 that—

10 “(i) reduces the benefits to a student
11 or the obligations of an entity under this
12 Act, the Rehabilitation Act of 1973 (29
13 U.S.C. 701 et seq.), the Americans with
14 Disabilities Act of 1990 (42 U.S.C. 12101
15 et seq.), the Individuals with Disabilities
16 Education Act (20 U.S.C. 1400 et seq.), or
17 any other law; or

18 “(ii) reduces services that an indi-
19 vidual is entitled to receive under Federal,
20 State, or local law.

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

22 “(1) IN GENERAL.—Notwithstanding any other
23 provision of this Act and except as provided under
24 subsection (c)—

1 “(A) any recipient of a grant under this
2 Act may request to use grant funds to carry out
3 a pay for success initiative that accomplishes
4 the objectives of the grant and meets all re-
5 quirements of the grant (except to the extent a
6 requirement is specifically modified by the pay
7 for success initiative), if such use is proposed in
8 the application or plan submitted for such
9 grant; and

10 “(B) the Secretary may approve not more
11 than 5 pilot demonstrations each fiscal year
12 from the grant applications or plans that con-
13 tain a request to carry out a pay for success
14 initiative.

15 “(2) USE OF FUNDS FOR FEASIBILITY STUDIES
16 AND RIGOROUS THIRD-PARTY EVALUATION.—If the
17 Secretary, or a grant recipient, is authorized to
18 carry out a pay for success initiative under para-
19 graph (1), the Secretary or grant recipient may use
20 funds available for the pay for success initiative—

21 “(A) to conduct the feasibility study re-
22 quired under subsection (a)(2)(A)(iii)(I) or the
23 rigorous third-party evaluation required under
24 subsection (a)(2)(A)(iii)(II); or

1 “(B) to provide funds to the entity car-
2 rying out the pay for success initiative for the
3 costs of the initial costs associated with starting
4 the initiative.

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

17 “(c) STUDENT PROTECTIONS.—

18 “(1) NO NEGATIVE IMPACT ON STUDENT AID.—
19 A pay for success initiative shall not be supported
20 with funds under this Act if the pay for success ini-
21 tiative would adversely affect the funding of, or stu-
22 dent access to, individual student aid awards made
23 under section 401 or any other program supported
24 under this Act.

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

12 “(d) AVAILABILITY OF FUNDS.—Notwithstanding
 13 any other provision of this Act, any funds made available
 14 for a fiscal year to an entity for a pay for success initiative
 15 authorized under this section shall remain available until
 16 expended.”.

17 **SEC. 5. EVALUATION.**

18 Part B of title I of the Higher Education Act of 1965
 19 (20 U.S.C. 1011 et seq.), as amended by section 4, is fur-
 20 ther amended by adding at the end the following:

21 **“SEC. 125. EVALUATION AUTHORITY.**

22 “(a) EVALUATION RESERVATION.—

23 “(1) IN GENERAL.—Notwithstanding any other
 24 provision of this Act, the Secretary, in consultation
 25 with the Director of the Institute of Education

1 Sciences, may, for each fiscal year, reserve not more
2 than 1 percent of the amount appropriated for each
3 discretionary grant program authorized under this
4 Act (except for the Federal Pell Grant program
5 under section 401) in order to rigorously and inde-
6 pendently evaluate the effectiveness and efficiency of
7 the outcomes of all programs authorized under this
8 Act.

9 “(2) EFFECT ON OTHER REQUIREMENTS.—The
10 amount reserved under paragraph (1) shall be in ad-
11 dition to any other amounts reserved for evaluation
12 under this Act.

13 “(b) EVALUATION PLAN.—On a biennial basis, the
14 Director of the Institute of Education Sciences shall de-
15 velop, submit to the authorizing committees, and make
16 publicly available on the website of the Department, an
17 evaluation plan for the next 2 fiscal years that—

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

22 “(2) contains the results of the activities car-
23 ried out under subsection (a) for the most recent 2-
24 year period; and

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

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

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

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

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

○