

117TH CONGRESS
1ST SESSION

S. 518

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

MARCH 2 (legislative day, MARCH 1), 2021

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) address the adverse impacts on postsec-
14 ondary educational access and attainment for high-
15 need students brought about as a result of the
16 COVID–19 pandemic;

17 “(3) identify and support the most effective
18 interventions to increase postsecondary degree at-
19 tainment and career success of high-need students,
20 particularly such students who are adversely im-
21 pacted by the COVID–19 health pandemic; and

22 “(4) improve the efficiency of postsecondary
23 education, including by reducing the percentage of
24 students enrolling in postsecondary remediation and
25 increasing the effectiveness of postsecondary remedi-
26 ation.

1 “(b) DEFINITIONS.—In this section:

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

4 “(A) A State educational agency.

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

7 “(C) The Bureau of Indian Education.

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

10 “(E) A partnership between a State edu-
11 cational agency or public or private nonprofit
12 institution of higher education and one or more
13 of the following:

14 “(i) A nonprofit organization.

15 “(ii) An intermediary organization.

16 “(iii) A business.

17 “(iv) A sponsor of a program receiv-
18 ing assistance under the National and
19 Community Service Act of 1990 (42
20 U.S.C. 12501 et seq.).

21 “(v) A local educational agency.

22 “(2) 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 “(3) 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 “(4) 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 sionmaking 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—

“(A) early-phase grants to fund the development, implementation, and feasibility testing of a practice, program, or intervention that prior research suggests has promise, for the purpose of determining whether the practice, program, or innovation can successfully improve, for high-need students—

“(i) access to, retention in, and completion of a postsecondary program of study; or

“(ii) career success;

“(B) mid-phase grants to fund implementation and a rigorous evaluation of a practice, program, or intervention that has been successfully implemented under an early-phase grant described in subparagraph (A) or another effort meeting similar criteria, for the purpose of measuring (using existing administrative data where possible) the impact and cost-effectiveness of the practice, program, or intervention; or

“(C) expansion grants to fund implementation and a rigorous replication evaluation of a practice, program, or intervention that has been found to produce sizable, important impacts

under a mid-phase grant described in subparagraph (B) or another effort meeting similar criteria, for the purposes of—

“(i) determining whether such impacts can be successfully reproduced and sustained over time; and

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

“(d) APPLICATION.—

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

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

“(A) a description of the high-need students that the eligible entity is proposing to serve through the grant; and

“(B) a description of the outcome measures, including explicit outcome measures for high-need students, that the eligible entity will use, in addition to the outcome measures de-

1 scribed in subsection (f)(2)(A), to evaluate the
2 success of the grant.

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

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

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

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

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

18 “(2) the outcomes achieved by such grant,
19 which shall include—

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

1 “(i) students supported by the grant
 2 entering, persisting in, and completing
 3 postsecondary education;

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

6 “(iii) such students enrolling in and
 7 completing such remedial coursework; and

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

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

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

19 “(g) REPORTS.—

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

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

3 “(A) include—

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

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

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

17 “(C) consider—

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

23 “(ii) how the evidence generated by
24 the projects, programs, and interventions
25 supported by grants under this section can

1 inform how to carry out other grants au-
 2 thorized under this Act.

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

7 **SEC. 3. OPEN EDUCATIONAL RESOURCES.**

8 Section 741(a) of the Higher Education Act of 1965
 9 (20 U.S.C. 1138(a)) is amended—

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

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

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

15 “(14) making all forms of postsecondary in-
 16 structional content widely available, which may in-
 17 clude the use of open educational resources (defined,
 18 for purpose of this paragraph, as teaching, learning,
 19 or research resources that reside in the public do-
 20 main or have been released under a copyright license
 21 that permits their free use, reuse, modification, and
 22 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 study describing how the
 15 proposed 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 eval-
 21 uation that uses experimental or
 22 quasi-experimental design or other re-
 23 search methodologies that allow for
 24 the strongest possible causal infer-

1 ences to determine whether the initia-
2 tive has met its proposed outcomes;

3 “(III) an annual, publicly avail-
4 able report on the progress of the ini-
5 tiative; and

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

12 “(B) EXCLUSION.—The term ‘pay for suc-
13 cess initiative’ does not include any initiative
14 that—

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

23 “(ii) reduces services that an indi-
24 vidual is entitled to receive under Federal,
25 State, or local law.

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

2 “(1) IN GENERAL.—Notwithstanding any other
3 provision of this Act and except as provided under
4 subsection (c)—

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

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

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

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

“(B) to provide funds to the entity carrying out the pay for success initiative for the costs of the initial costs associated with starting the initiative.

“(3) USE OF REMAINING FUNDS.—Notwithstanding any other provision of law, if the Secretary or a grant recipient is carrying out a pay for success initiative under paragraph (1) and the pay for success initiative has met or exceeded its proposed outcomes, the Secretary or grant recipient may use any funds remaining at the conclusion of the pay for success initiative to enter into an additional agreement, through a competitive process, with an eligible entity to expand capacity under the pay for success initiative or to carry out additional pilot demonstrations of pay for success initiatives.

“(c) STUDENT PROTECTIONS.—

“(1) NO NEGATIVE IMPACT ON STUDENT AID.—
A pay for success initiative shall not be supported with funds under this Act if the pay for success initiative would adversely affect the funding of, or stu-

1 dent access to, individual student aid awards made
 2 under section 401 or any other program supported
 3 under this Act.

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

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

20 **SEC. 5. EVALUATION.**

21 Part B of title I of the Higher Education Act of 1965
 22 (20 U.S.C. 1011 et seq.), as amended by section 4, is fur-
 23 ther amended by adding at the end the following:

24 **“SEC. 125. EVALUATION AUTHORITY.**

25 “(a) EVALUATION RESERVATION.—

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

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

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

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

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

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

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

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

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

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

○