

117TH CONGRESS  
1ST 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, Mr. BENNET, and Mr. SCOTT of South Carolina) 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) 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—

1           “(A) early-phase grants to fund the devel-  
2           opment, implementation, and feasibility testing  
3           of a practice, program, or intervention that  
4           prior research suggests has promise, for the  
5           purpose of determining whether the practice,  
6           program, or innovation can successfully im-  
7           prove, for high-need students—

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

11                   “(ii) career success;

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

22           “(C) expansion grants to fund implementa-  
23           tion and a rigorous replication evaluation of a  
24           practice, program, or intervention that has been  
25           found to produce sizable, important impacts

1 under a mid-phase grant described in subpara-  
2 graph (B) or another effort meeting similar cri-  
3 teria, for the purposes of—

4 “(i) determining whether such impacts  
5 can be successfully reproduced and sus-  
6 tained over time; and

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

10 “(d) APPLICATION.—

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

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

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

21 “(B) a description of the outcome meas-  
22 ures, including explicit outcome measures for  
23 high-need students, that the eligible entity will  
24 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—

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

5           “(B) to provide funds to the entity car-  
6           rying out the pay for success initiative for the  
7           costs of the initial costs associated with starting  
8           the initiative.

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

21          “(c) STUDENT PROTECTIONS.—

22                 “(1) NO NEGATIVE IMPACT ON STUDENT AID.—  
23          A pay for success initiative shall not be supported  
24          with funds under this Act if the pay for success ini-  
25          tiative 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.”.