

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.

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## 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

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## 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.”.

○