

113TH CONGRESS
2D SESSION

S. 2691

To encourage and support partnerships between the public and private sectors to improve our nation’s social programs, and for other purposes.

IN THE SENATE OF THE UNITED STATES

JULY 30, 2014

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

A BILL

To encourage and support partnerships between the public and private sectors to improve our nation’s social programs, 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 “Pay for Performance
5 Act”.

6 **SEC. 2. SOCIAL IMPACT PAY FOR PERFORMANCE CON-**
7 **TRACTS.**

8 Title XX of the Social Security Act (42 U.S.C. 1397)
9 is amended—

1 (1) in the title heading, by striking “**TO**
2 **STATES**” and inserting “**AND PROJECTS**”;
3 and

4 (2) by adding at the end the following:

5 **“Subtitle C—Social Impact Pay for**
6 **Performance Contracts**

7 **“SEC. 2051. PURPOSES.**

8 “The purposes of this subtitle are the following:

9 “(1) To improve the lives of families and indi-
10 viduals in need in the United States by funding so-
11 cial programs that achieve real results.

12 “(2) To redirect funds away from programs
13 that, based on objective data, are ineffective, and
14 into programs that achieve demonstrable, measur-
15 able results.

16 “(3) To ensure Federal funds are used effec-
17 tively on social services to produce positive outcomes
18 for both service recipients and taxpayers.

19 “(4) To establish the use of social impact pay
20 for performance contracts to address some of our
21 Nation’s most pressing problems.

22 “(5) To facilitate the creation of public-private
23 partnerships that bundle philanthropic and other
24 private resources with existing public spending to
25 scale up effective social interventions already being

1 implemented by private organizations, non-profits,
2 charitable organizations, and local governments
3 across the country.

4 “(6) To bring pay-for-performance to the social
5 services sector, allowing the United States to im-
6 prove the impact and effectiveness of vital social
7 services programs while redirecting inefficient or du-
8 plicative spending.

9 **“SEC. 2052. SOCIAL IMPACT PAY FOR PERFORMANCE CON-**
10 **TRACT APPLICATION.**

11 “(a) NOTICE.—Not later than 1 year after the date
12 of the enactment of this subtitle, the Secretary of the
13 Treasury (referred to in this subtitle as the ‘Secretary’),
14 in consultation with the Federal Interagency Council on
15 Social Impact Pay for Performance Contracts (established
16 by section 2056), shall publish in the Federal Register a
17 request for proposals from States or local governments for
18 social impact pay for performance contract projects in ac-
19 cordance with this section.

20 “(b) REQUIRED OUTCOMES FOR SOCIAL IMPACT PAY
21 FOR PERFORMANCE CONTRACT PROJECT.—To qualify as
22 a social impact pay for performance contract project under
23 this subtitle, a project must produce a measurable, clearly
24 defined outcome that results in social benefit and Federal
25 savings through any of the following:

1 “(1) Increasing work and earnings by individ-
2 uals who have been unemployed in the United States
3 for more than 6 consecutive months.

4 “(2) Increasing employment and earnings of in-
5 dividuals age 16 to 24.

6 “(3) Increasing employment among individuals
7 receiving Federal disability benefits.

8 “(4) Reducing the dependence of low-income
9 families on Federal means-tested benefits.

10 “(5) Improving rates of high school graduation.

11 “(6) Reducing teen and unplanned pregnancies.

12 “(7) Improving birth outcomes among low-in-
13 come families and individuals.

14 “(8) Reducing rates of asthma, diabetes, or
15 other preventable diseases among low-income fami-
16 lies and individuals.

17 “(9) Increasing the proportion of children living
18 in 2-parent families.

19 “(10) Reducing incidences of child abuse and
20 neglect.

21 “(11) Reducing the number of youth in foster
22 care who are emancipated from care by increasing
23 adoptions, permanent guardianship arrangements,
24 reunification, or placement with a fit and willing rel-
25 ative for children and youth in foster care.

1 “(12) Reducing the number of children and
2 youth in foster care residing in group homes, child
3 care institutions, agency-operated foster homes, or
4 other non-family foster homes, unless it is deter-
5 mined that it is in the interest of the child’s long-
6 term health, safety, or psychological well-being to
7 not be placed in a family foster home.

8 “(13) Reducing recidivism among individuals
9 released from prison.

10 “(14) Other measurable outcomes defined by
11 the State or local government that result in positive
12 social outcomes and Federal savings.

13 “(c) FEASIBILITY STUDY REQUIRED.—The notice
14 described in subsection (a) shall require a State or local
15 government to submit a feasibility study for the social im-
16 pact pay for performance contract project that contains
17 the following information:

18 “(1) The outcome goals of the project.

19 “(2) A description of each intervention in the
20 project and anticipated outcome of such interven-
21 tion.

22 “(3) Rigorous evidence demonstrating that the
23 intervention can be expected to produce the desired
24 outcomes.

1 “(4) The target population that will be served
2 by the project.

3 “(5) The expected social benefits to participants
4 who receive the intervention and others who may be
5 impacted.

6 “(6) Projected Federal, State, and local govern-
7 ment costs and other costs to conduct the project.

8 “(7) Projected Federal, State, and local govern-
9 ment savings and other savings, including an esti-
10 mate prepared by the State or local government of
11 the savings to the Federal, State, and local govern-
12 ment, on a program-by-program basis and in the ag-
13 gregate, if the project is implemented and the out-
14 comes are achieved.

15 “(8) If savings resulting from the successful
16 completion of the project are estimated to accrue to
17 the State or local government, the likelihood of the
18 State or local government to realize those savings.

19 “(9) A plan for delivering the intervention
20 through a social impact pay for performance con-
21 tract model.

22 “(10) A description of the expertise of each
23 service provider that will administer the intervention.

24 “(11) An explanation of the experience of the
25 State or local government, the intermediary, or the

1 service provider in raising private and philanthropic
2 capital to fund social service investments.

3 “(12) The detailed roles and responsibilities of
4 each entity involved in the project, including any
5 State or local government entity, intermediary, serv-
6 ice provider, independent evaluator, investor, or
7 other stakeholder.

8 “(13) A summary of the experience of the serv-
9 ice provider delivering the proposed intervention or
10 a similar intervention, or a summary demonstrating
11 that the service provider has the expertise necessary
12 to deliver the proposed intervention.

13 “(14) A summary of the unmet need in the
14 area where the intervention will be delivered or
15 among the target population who will receive the
16 intervention.

17 “(15) The payment terms, the methodology
18 used to calculate outcome payments, the payment
19 schedule, and performance thresholds.

20 “(16) The project budget.

21 “(17) The project timeline.

22 “(18) The criteria used to determine the eligi-
23 bility of an individual for the project, including how
24 selected populations will be identified, how they will

1 be referred to the project, and how they will be en-
2 rolled in the project.

3 “(19) The evaluation design.

4 “(20) The metrics that will be used to deter-
5 mine whether the outcomes have been achieved and
6 how such metrics will be measured.

7 “(21) A summary explaining the independence
8 of the evaluator from the other entities involved in
9 the project and the evaluator’s experience in con-
10 ducting rigorous evaluations of program effective-
11 ness including, where available, well-implemented
12 randomized controlled trials on the intervention or
13 similar interventions.

14 “(22) The capacity of the service provider to
15 deliver the intervention to the number of partici-
16 pants the State or local government proposes to
17 serve in the project.

18 “(d) PROJECT INTERMEDIARY INFORMATION RE-
19 QUIRED.—The feasibility study described in subsection (c)
20 shall also contain the following information about the
21 intermediary for the social impact pay for performance
22 contract project (whether the intermediary is the service
23 provider or other entity):

1 “(1) Experience and capacity for providing or
2 facilitating the provision of the type of intervention
3 proposed.

4 “(2) The mission and goals.

5 “(3) Information on whether the intermediary
6 is already working with service providers that pro-
7 vide this intervention or an explanation of the capac-
8 ity of the intermediary to begin working with service
9 providers to provide the intervention.

10 “(4) Experience working in a collaborative envi-
11 ronment across government and nongovernmental
12 entities.

13 “(5) Previous experience collaborating with
14 public or private entities to implement evidence-
15 based programs.

16 “(6) Ability to raise or provide funding to cover
17 operating costs (if applicable to the project).

18 “(7) Capacity and infrastructure to track out-
19 comes and measure results, including—

20 “(A) capacity to track and analyze pro-
21 gram performance; and

22 “(B) experience with performance-based
23 contracting and achieving project milestones
24 and targets.

25 “(8) Role in delivering the intervention.

1 “(9) How the intermediary would monitor pro-
2 gram success, including a description of the interim
3 benchmarks and outcome measures.

4 **“SEC. 2053. AWARDING CONTRACTS FOR SOCIAL IMPACT**
5 **PAY FOR PERFORMANCE CONTRACT**
6 **PROJECTS.**

7 “(a) **TIMELINE IN AWARDING CONTRACT.**—Not later
8 than 6 months after receiving an application in accordance
9 with section 2052, the Secretary shall determine whether
10 to enter into a contract for a social impact pay for per-
11 formance contract project with the State or local govern-
12 ment that submitted such application.

13 “(b) **CONSIDERATIONS IN AWARDING CONTRACT.**—
14 In determining whether to enter into a contract for a so-
15 cial impact pay for performance contract project with a
16 State or local government, the Secretary, in consultation
17 with the Federal Interagency Council on Social Impact
18 Pay for Performance Contracts and the head of any Fed-
19 eral agency administering a similar intervention or serving
20 a population similar to that served by the project, shall
21 consider each of the following:

22 “(1) The value to the Federal Government of
23 the outcome expected to be achieved if the outcomes
24 specified in the contract are achieved.

1 “(2) The ability of the State or local govern-
2 ment, in collaboration with the intermediary and the
3 service providers, to achieve the outcomes.

4 “(3) The savings to the Federal Government if
5 the outcomes specified in contract are achieved.

6 “(4) The savings to the State and local govern-
7 ments if the outcomes specific in the contract are
8 achieved.

9 “(5) The expected quality of the evaluation that
10 would be conducted with respect to the contract.

11 “(c) CONTRACT AUTHORITY.—

12 “(1) CONTRACT REQUIREMENTS.—In accord-
13 ance with this section, the Secretary, in consultation
14 with the Federal Interagency Council on Social Im-
15 pact Pay for Performance Contracts and the head of
16 any Federal agency administering a similar interven-
17 tion or serving a population similar to that served by
18 the project, may enter into a contract for a social
19 impact pay for performance contract project with a
20 State or local government if the Secretary deter-
21 mines that each of the following requirements are
22 met:

23 “(A) The State or local government agrees
24 to achieve an outcome specified in the contract
25 in order to receive payment.

1 “(B) The Federal payment to the State or
2 local government for each outcome specified
3 does not exceed the monetary value of the out-
4 come to the Federal Government over a period
5 not to exceed 10 years, as determined by the
6 Secretary, in consultation with the State or
7 local government.

8 “(C) The duration of the project does not
9 exceed 10 years.

10 “(D) The State or local government has
11 demonstrated, through the application sub-
12 mitted under section 2052, that, based on prior
13 rigorous experimental evaluations or rigorous
14 quasi-experimental studies, the intervention can
15 be expected to achieve each outcome specified in
16 the contract.

17 “(E) The State, local government, inter-
18 mediary, or service provider has experience rais-
19 ing private or philanthropic capital to fund so-
20 cial service investments (if applicable to the
21 project).

22 “(F) The State or local government has
23 shown that each service provider has experience
24 delivering the intervention, a similar interven-

1 tion, or has otherwise demonstrated the exper-
2 tise necessary to deliver the intervention.

3 “(2) PAYMENT.—The Secretary shall pay the
4 State or local government only if the independent
5 evaluator described in section 2055 determines that
6 the social impact pay for performance contract
7 project has met the requirements specified in the
8 contract and achieved an outcome specified in the
9 contract.

10 “(3) LIMITATION.—The Secretary shall not
11 enter into a contract for a social impact pay for per-
12 formance contract project under paragraph (1) after
13 the date that is 10 years after the date of the enact-
14 ment of this subtitle and shall not obligate any
15 funds made available under section 2057(a) after
16 such date.

17 “(d) NOTICE OF CONTRACT AWARD.—Not later than
18 30 days after entering into a contract under this section,
19 the Secretary shall publish a notice in the Federal Reg-
20 ister that includes, with regard to such contract, the fol-
21 lowing:

22 “(1) The outcome goals of the social impact pay
23 for performance contract project.

24 “(2) A description of each intervention in the
25 project.

1 “(3) The target population that will be served
2 by the project.

3 “(4) The expected social benefits to participants
4 who receive the intervention and others who may be
5 impacted.

6 “(5) The detailed roles, responsibilities, and
7 purposes of each Federal, State, or local government
8 entity, intermediary, service provider, independent
9 evaluator, investor, or other stakeholder.

10 “(6) The payment terms, the methodology used
11 to calculate outcome payments, the payment sched-
12 ule, and performance thresholds.

13 “(7) The project budget.

14 “(8) The project timeline.

15 “(9) The project eligibility criteria.

16 “(10) The evaluation design.

17 “(11) The metrics that will be used to deter-
18 mine whether the outcomes have been achieved and
19 how these metrics will be measured.

20 “(12) The estimate prepared by the State or
21 local government of the savings to the Federal,
22 State, and local government, on a program-by-pro-
23 gram basis and in the aggregate, if the contract is
24 entered into and implemented and the outcomes are
25 achieved.

1 **“SEC. 2054. FEASIBILITY STUDY FUNDING.**

2 “(a) REQUESTS FOR FUNDING FOR FEASIBILITY
3 STUDIES.—The Secretary shall reserve a portion of the
4 funding provided in section 2057 to assist States or local
5 governments in developing feasibility studies required by
6 section 2052. To be eligible to receive funding to assist
7 with completing a feasibility study, a State or local govern-
8 ment shall submit an application for feasibility study fund-
9 ing containing the following information:

10 “(1) A description of the outcome goals of the
11 social impact pay for performance contract project.

12 “(2) A description of the intervention, including
13 anticipated program design, target population, an
14 estimate regarding the number of individuals to be
15 served, and setting for the intervention.

16 “(3) Evidence to support the likelihood that
17 such intervention will produce the desired outcome.

18 “(4) The expected social benefits to participants
19 who receive the intervention and others who may be
20 impacted.

21 “(5) Estimated costs to conduct the project.

22 “(6) Estimates of Federal, State, and local gov-
23 ernment savings and other savings if the project is
24 implemented and the outcomes are achieved.

1 “(7) An estimated timeline for implementation
2 and completion of the project, which shall not exceed
3 10 years.

4 “(8) With respect to a project for which the
5 State or local government selects an intermediary to
6 operate the project, any partnerships needed to suc-
7 cessfully execute the project and the ability of the
8 intermediary to foster such partnerships.

9 “(9) The expected resources needed to complete
10 the feasibility study for the State or local govern-
11 ment to apply for social impact pay for performance
12 contract funding under section 2052.

13 “(b) FEDERAL SELECTION OF APPLICATIONS FOR
14 FEASIBILITY STUDY.—Not later than 6 months after re-
15 ceiving an application for feasibility study funding under
16 subsection (a), the Secretary, in consultation with the
17 Federal Interagency Council on Social Impact Pay for
18 Performance Contracts and the head of any Federal agen-
19 cy administering a similar intervention or serving a popu-
20 lation similar to that served by the project, shall select
21 State or local government feasibility study proposals for
22 funding based on the following:

23 “(1) The likelihood that the proposal will
24 achieve the desired outcome.

1 “(2) The value of the outcome expected to be
2 achieved.

3 “(3) The potential savings to the Federal Gov-
4 ernment if the social impact pay for performance
5 contract project is successful.

6 “(4) The potential savings to the State and
7 local governments if the project is successful.

8 “(c) PUBLIC DISCLOSURE.—Not later than 30 days
9 after selecting a State or local government for feasibility
10 study funding under this section, the Secretary shall pub-
11 lish on the website of the Federal Interagency Council on
12 Social Impact Pay for Performance Contracts information
13 explaining why the State or local government was granted
14 feasibility study funding.

15 “(d) FUNDING RESTRICTIONS; NO GUARANTEE OF
16 FUNDING.—

17 “(1) FEASIBILITY STUDY RESTRICTION.—The
18 Secretary shall not provide feasibility study funding
19 under this section for more than 50 percent of the
20 estimated total cost of the feasibility study reported
21 in the State or local government application sub-
22 mitted under subsection (a).

23 “(2) AGGREGATE RESTRICTION.—Of the total
24 amount appropriated under section 2057, the Sec-
25 retary shall not use more than \$10,000,000 to pro-

1 vide feasibility study funding to States or local gov-
2 ernments under this section.

3 “(3) NO GUARANTEE OF FUNDING.—The Sec-
4 retary shall have the option to award no funding
5 under this section.

6 “(e) SUBMISSION OF FEASIBILITY STUDY RE-
7 QUIRED.—Not later than 6 months after the receipt of
8 feasibility study funding under this section, a State or
9 local government receiving such funding shall complete the
10 feasibility study and submit the study to the Federal
11 Interagency Council on Social Impact Pay for Perform-
12 ance Contracts.

13 **“SEC. 2055. EVALUATIONS.**

14 “(a) CONTRACT AUTHORITY.—For each State or
15 local government awarded a social impact pay for perform-
16 ance contract project approved by the Secretary under this
17 subtitle, the head of the relevant agency, as determined
18 by the Federal Interagency Council on Social Impact Pay
19 for Performance Contracts, shall enter into a contract
20 with such State or local government to pay for the inde-
21 pendent evaluation required under section 2053(a)(2) to
22 determine whether the State or local government project
23 has met an outcome specified in the contract in order for
24 the State or local government to receive outcome payments
25 under this subtitle.

1 “(b) EVALUATOR QUALIFICATIONS.—The head of the
2 relevant agency may not enter into a contract with a State
3 or local government under subsection (a) unless the head
4 determines that the evaluator is independent of the other
5 parties to the contract and has demonstrated substantial
6 experience in conducting rigorous evaluations of program
7 effectiveness including, where available and appropriate,
8 well-implemented randomized controlled trials on the
9 intervention or similar interventions.

10 “(c) METHODOLOGIES TO BE USED.—

11 “(1) IN GENERAL.—Subject to paragraph (2),
12 the evaluation used to determine whether a State or
13 local government will receive outcome payments
14 under this subtitle shall, to the extent practicable,
15 use methodologies based on experimental designs
16 using random assignment, or, when random assign-
17 ment is not feasible or appropriate, other reliable,
18 evidence-based research methodologies, as certified
19 by the Federal Interagency Council on Social Impact
20 Pay for Performance Contracts, that allow for the
21 strongest possible direct, causal inferences.

22 “(2) LIMITATION.—In determining whether an
23 outcome has been achieved, the evaluation method-
24 ology selected under paragraph (1) shall not con-
25 sider indirect potential savings to the Federal Gov-

1 ernment that may be realized from increased in-
2 come, employment, output, or other economic meas-
3 ures derived from multiplier effects external to the
4 outcome metrics upon which contract payments are
5 based.

6 “(3) APPLICATION OF EXECUTIVE ORDER
7 13563.—Executive Order 13563 (76 Fed. Reg. 3,821;
8 relating to regulatory review) shall not apply to the
9 development and selection of methodologies under
10 this subsection.

11 “(d) PROGRESS REPORT.—

12 “(1) SUBMISSION OF REPORT.—The inde-
13 pendent evaluator shall—

14 “(A) not later than 2 years after a project
15 has been approved by the Secretary and bian-
16 nually thereafter until the project is concluded,
17 submit to the head of the relevant agency and
18 the Federal Interagency Council on Social Im-
19 pact Pay for Performance Contracts a written
20 report summarizing the progress that has been
21 made in achieving each outcome specified in the
22 contract; and

23 “(B) at the scheduled time of the first out-
24 come payment and at the time of each subse-
25 quent payment, submit to the head of the rel-

1 evant agency and the Federal Interagency
2 Council on Social Impact Pay for Performance
3 Contracts a written report that includes the re-
4 sults of the evaluation conducted to determine
5 whether an outcome payment should be made
6 along with information on the unique factors
7 that contributed to achieving or failing to
8 achieve the outcome, the challenges faced in at-
9 tempting to achieve the outcome, and informa-
10 tion on the improved future delivery of this or
11 similar interventions.

12 “(2) SUBMISSION TO CONGRESS.—Not later
13 than 30 days after receipt of the written report pur-
14 suant to paragraph (1)(B), the Federal Interagency
15 Council on Social Impact Pay for Performance Con-
16 tracts shall submit such report to each committee of
17 jurisdiction in the House of Representatives and the
18 Senate.

19 “(e) FINAL REPORT.—

20 “(1) SUBMISSION OF REPORT.—Within 6
21 months after the social impact pay for performance
22 contract project is completed, the independent eval-
23 uator shall—

24 “(A) evaluate the effects of the activities
25 undertaken pursuant to the contract with re-

1 gard to each outcome specified in the contract;
2 and

3 “(B) submit to the head of the relevant
4 agency and the Federal Interagency Council on
5 Social Impact Pay for Performance Contracts a
6 written report that includes the results of the
7 evaluation and the conclusion of the evaluator
8 as to whether the State or local government has
9 fulfilled each obligation of the contract, along
10 with information on the unique factors that
11 contributed to the success or failure of the
12 project, the challenges faced in attempting to
13 achieve the outcome, and information on the
14 improved future delivery of this or similar inter-
15 ventions.

16 “(2) SUBMISSION TO CONGRESS.—Not later
17 than 30 days after receipt of the written report pur-
18 suant to paragraph (1)(B), the Federal Interagency
19 Council on Social Impact Pay for Performance Con-
20 tracts shall submit such report to each committee of
21 jurisdiction in the House of Representatives and the
22 Senate.

23 “(f) LIMITATION ON COST OF EVALUATIONS.—Of
24 the amount made available for social impact pay for per-
25 formance contract projects in section 2057, the Secretary

1 may not obligate more than 15 percent of such amount
2 to evaluate the implementation and outcomes of such
3 projects.

4 **“SEC. 2056. FEDERAL INTERAGENCY COUNCIL ON SOCIAL**
5 **IMPACT PAY FOR PERFORMANCE CON-**
6 **TRACTS.**

7 “(a) ESTABLISHMENT; DUTIES.—There is estab-
8 lished the Federal Interagency Council on Social Impact
9 Pay for Performance Contracts (in this section, referred
10 to as the ‘Council’). The duties of the Council shall be
11 to—

12 “(1) coordinate the efforts of social impact pay
13 for performance contract projects funded by this
14 subtitle;

15 “(2) advise and assist the Secretary in the de-
16 velopment and implementation of such projects;

17 “(3) advise the Secretary on specific pro-
18 grammatic and policy matter related to such
19 projects;

20 “(4) provide subject-matter expertise to the
21 Secretary with regard to such projects;

22 “(5) ensure that each State or local government
23 that has entered into a contract with the Secretary
24 for a social impact pay for performance contract
25 project under this subtitle and each evaluator se-

1 lected by the head of the relevant agency under sec-
2 tion 2055 has access to Federal administrative data
3 to assist the State or local government and the eval-
4 uator in evaluating the performance and outcomes of
5 the project;

6 “(6) provide guidance to the executive branch
7 on the future of social impact pay for performance
8 contract projects in the United States;

9 “(7) review State and local government applica-
10 tions for social impact pay for performance contract
11 projects to ensure that contracts will only be award-
12 ed under this subtitle when rigorous, independent
13 data and reliable, evidence-based research meth-
14 odologies support the conclusion that a contract will
15 yield savings to the Federal Government that are
16 equal to or greater than the size of the outlay
17 through the contract before such applications are
18 approved by the Secretary;

19 “(8) certify, in the case of each approved social
20 impact pay for performance contract project, that
21 the project will yield a projected savings to the Fed-
22 eral Government, and coordinate with the relevant
23 Federal agency to produce an after-action account-
24 ing once the project is complete to determine the ac-
25 tual Federal savings realized, and the extent to

1 which actual savings aligned with projected savings;
2 and

3 “(9) provide oversight of the actions of the Sec-
4 retary and other Federal officials under this subtitle,
5 and report periodically to Congress and the public
6 on the implementation of this subtitle.

7 “(b) COMPOSITION OF COUNCIL.—

8 “(1) PRESIDENTIAL APPOINTEES.—The Presi-
9 dent of the United States shall select 3 members of
10 the Council, at least 1 of whom shall be an official
11 of the Department of the Treasury and at least 1 of
12 whom shall not be an employee of the Federal Gov-
13 ernment. The President shall designate 1 of these 3
14 members as the Chair of the Council. The Chair
15 shall serve for a term of 7 years, and the other
16 members selected by the President shall serve terms
17 of 4 and 6 years. The President shall determine
18 which member serves 4 years and which serves 6
19 years.

20 “(2) ADDITIONAL APPOINTEES.—In addition to
21 the 3 members appointed under paragraph (1), the
22 Council shall be further composed of the following 8
23 members:

1 “(A) 1 member selected by the President
2 of the United States from a list of candidates
3 provided by the Majority Leader of the Senate;

4 “(B) 1 member selected by the President
5 from a list of candidates provided by the Minor-
6 ity Leader of the Senate;

7 “(C) 1 member selected by the President
8 from a list of candidates provided by the Speak-
9 er of the House of Representatives;

10 “(D) 1 member selected by the President
11 from a list of candidates provided by the Minor-
12 ity Leader of the House of Representatives;

13 “(E) 1 member selected by the President
14 from a list of candidates provided by the Chair-
15 man of the Committee on Finance of the Sen-
16 ate;

17 “(F) 1 member selected by the President
18 from a list of candidates provided by the Rank-
19 ing Member of the Committee on Finance of
20 the Senate;

21 “(G) 1 member selected by the President
22 from a list of candidates provided by the Chair-
23 man of the Committee on Ways and Means of
24 the House of Representatives; and

1 “(H) 1 member selected by the President
2 from a list of candidates provided by the Rank-
3 ing Member of the Committee on Ways and
4 Means of the House of Representatives.

5 “(3) QUALIFICATIONS.—The membership of the
6 Council shall consist of individuals who—

7 “(A) are experienced in finance, economics,
8 pay for performance finance or statistics;

9 “(B) have relevant professional or personal
10 experience in a field related to 1 or more of the
11 outcomes listed in section 2052(b); and

12 “(C) are qualified to review applications
13 for social impact pay for performance contract
14 projects to determine whether the proposed
15 metrics and evaluation methodologies are ap-
16 propriately rigorous and reliant upon inde-
17 pendent data and evidence-based research.

18 “(4) TIMING OF APPOINTMENTS.—

19 “(A) CANDIDATE LISTS.—With respect to
20 the candidate lists described in paragraph (2),
21 the designated member of Congress shall pro-
22 vide a list of candidates to the President not
23 later than 90 days after the date of the enact-
24 ment of this subtitle, or, in the event of a va-
25 cancy, not later than 90 days after the date

1 upon which the vacancy arises. If a member of
2 Congress fails to provide a list of candidates to
3 the President by such date, the President may
4 select a member of the President's choice on be-
5 half of such member of Congress.

6 “(B) APPOINTMENT DATE.—All appoint-
7 ments of the members of the Council shall be
8 made not later than 120 days after the date of
9 the enactment of this subtitle. Notwithstanding
10 the preceding sentence, if not all appointments
11 have been made to the Council as of such date,
12 the Council may operate with fewer than all 11
13 members until all appointments have been
14 made.

15 “(5) TERM OF APPOINTMENTS.—

16 “(A) IN GENERAL.—The members ap-
17 pointed under paragraph (2) shall serve as fol-
18 lows:

19 “(i) 2 members shall serve for 3
20 years.

21 “(ii) 2 members shall serve for 4
22 years.

23 “(iii) 2 members shall serve for 5
24 years.

1 “(iv) 2 members shall serve for 6
2 years.

3 “(B) ASSIGNMENT OF TERMS.—The Coun-
4 cil shall designate the term length that each
5 member appointed under paragraph (2) shall
6 serve by unanimous agreement. In the event
7 that unanimous agreement cannot be reached,
8 term lengths shall be assigned to such members
9 by a random process.

10 “(6) VACANCIES.—

11 “(A) IN GENERAL.—Subject to subpara-
12 graph (B), in the event of a vacancy in the
13 Council, whether due to the resignation of a
14 member, the expiration of a member’s term, or
15 any other reason, such vacancy shall be filled in
16 the manner in which the original appointment
17 was made and shall not affect the powers of the
18 Council.

19 “(B) POLITICAL PARTY BALANCE RULE.—
20 If the member of Congress required to provide
21 a list of candidates under paragraph (2) to fill
22 a vacancy in a position in accordance with this
23 paragraph is not of the same political party as
24 the member of Congress providing the list of
25 candidates for the original appointment to such

1 position, the list of candidates to fill such va-
2 cancy shall be provided instead by the member
3 of the other political party occupying the cor-
4 responding position in the House of Congress
5 or congressional committee concerned.

6 “(7) APPOINTMENT POWER.—Members of the
7 Council appointed under this section shall not be
8 subject to confirmation by the Senate.

9 “(c) RULES OF THE COUNCIL.—

10 “(1) CHARTER.—The Council shall file a char-
11 ter that meets the requirements of section 9(c) of
12 the Federal Advisory Committee Act (5 U.S.C.
13 App.) with the Secretary. Such charter shall be pub-
14 lished on the website the Council is required to es-
15 tablish under section 2058.

16 “(2) COUNCIL PROCEDURES.—Section 10 of the
17 Federal Advisory Committee Act (5 U.S.C. App.),
18 other than subsections (e) and (f), shall apply to the
19 Council.

20 “(3) TRANSCRIPTS.—Section 11 of the Federal
21 Advisory Committee Act (5 U.S.C. App.) shall apply
22 to the Council.

23 “(4) COMPENSATION.—Members of the Coun-
24 cil—

1 “(A) shall not receive compensation for
2 service on the Council; and

3 “(B) shall be allowed travel expenses, in-
4 cluding per diem in lieu of subsistence, at rates
5 authorized for employees of agencies under sub-
6 chapter I of chapter 57 of title 5, United States
7 Code, while away from their homes or regular
8 places of business in the performance of service
9 for the Council.

10 “(d) AGENCY LIAISONS.—The Council shall liaise, as
11 needed, with officers or employees of each Federal agency
12 that becomes involved with the social impact pay for per-
13 formance contract selection and obligation process who are
14 designated by the head of the agency to serve as liaison
15 to the Council.

16 “(e) RULE OF CONSTRUCTION.—Nothing in this sec-
17 tion shall give the Council the authority to abrogate a con-
18 tract entered into by the Secretary under section 2053,
19 or any payment associated with such contract that is pay-
20 able under such section.

21 **“SEC. 2057. FUNDING.**

22 “(a) IN GENERAL.—Out of any money in the Treas-
23 ury not otherwise appropriated, there is hereby appro-
24 priated \$300,000,000 to remain available until 10 years
25 after the date specified in section 2053(c)(3) to carry out

1 the activities authorized under this subtitle. Amounts ap-
2 propriated under this subsection that are unobligated as
3 of such date shall be rescinded on such date, except that
4 the Secretary may retain an amount not to exceed
5 \$6,000,000 for an additional 3 years for purposes of car-
6 rying out functions necessary to administer contracts that
7 were awarded under this subtitle prior to such date.

8 “(b) LIMITATION.—Of the amounts made available
9 under subsection (a), the Secretary may not use more than
10 \$3,000,000 in any fiscal year to support the review, ap-
11 proval, and oversight of social impact pay for performance
12 contract projects, including activities conducted by—

13 “(1) the Federal Interagency Council on Social
14 Impact Pay for Performance Contracts; and

15 “(2) any other agency consulted by the Sec-
16 retary before approving a social impact pay for per-
17 formance contract project or a feasibility study
18 under section 2054.

19 **“SEC. 2058. WEBSITE.**

20 “The Federal Interagency Council on Social Impact
21 Pay for Performance Contracts shall establish and main-
22 tain a public website that shall display the following:

23 “(1) A copy of, or method of accessing, each
24 notice published regarding a social impact pay for

1 performance contract project pursuant to this sub-
2 title.

3 “(2) For each State or local government that
4 has entered into a contract with the Secretary for a
5 social impact pay for performance contract project,
6 the website shall contain the following information:

7 “(A) The outcome goals of the project.

8 “(B) A description of each intervention in
9 the project.

10 “(C) The target population that will be
11 served by the project.

12 “(D) The expected social benefits to par-
13 ticipants who receive the intervention and oth-
14 ers who may be impacted.

15 “(E) The detailed roles, responsibilities,
16 and purposes of each Federal, State, or local
17 government entity, intermediary, service pro-
18 vider, independent evaluator, investor, or other
19 stakeholder.

20 “(F) The payment terms, methodology
21 used to calculate outcome payments, the pay-
22 ment schedule, and performance thresholds.

23 “(G) The project budget.

24 “(H) The project timeline.

25 “(I) The project eligibility criteria.

1 “(J) The evaluation design.

2 “(K) The metrics used to determine wheth-
3 er the proposed outcomes have been achieved
4 and how these metrics are measured.

5 “(3) A copy of the progress reports and the
6 final reports relating to each social impact pay for
7 performance contract project.

8 “(4) An estimate of the savings to the Federal,
9 State, and local government, on a program-by-pro-
10 gram basis and in the aggregate, resulting from the
11 successful completion of the social impact pay for
12 performance contract project.

13 “(5) A copy of the Council’s charter.

14 **“SEC. 2059. REGULATIONS.**

15 “The Secretary, in consultation with the Federal
16 Interagency Council on Social Impact Pay for Perform-
17 ance Contracts, may issue regulations as necessary to
18 carry out this subtitle.

19 **“SEC. 2060. GAO AUDITS.**

20 “(a) **AUTHORITY TO AUDIT.**—The Comptroller Gen-
21 eral of the United States may audit the activities of any
22 State, local government, or nongovernmental entity that
23 receives funds under this subtitle.

24 “(b) **ACCESS TO INFORMATION.**—

1 “(1) IN GENERAL.—Notwithstanding any other
2 provision of law, the Comptroller General shall, upon
3 request and at such reasonable time and in such rea-
4 sonable form as the Comptroller General may re-
5 quest, have access to—

6 “(A) any records or other information
7 under the control of or used by any State, local
8 government, or nongovernmental entity that re-
9 ceives funds under this subtitle;

10 “(B) any records or other information
11 under the control of a person or entity acting
12 on behalf of or under the authority of a State,
13 local government, or nongovernmental entity
14 that receives funds under this subtitle, to the
15 extent that such records or other information is
16 relevant to an audit under subsection (a); and

17 “(C) the officers, directors, employees, fi-
18 nancial advisors, staff, working groups, and
19 agents and representatives of any State, local
20 government, or nongovernmental entity that re-
21 ceives funds under this subtitle (as related to
22 the activities on behalf of such State, local gov-
23 ernment, or nongovernmental entity of such
24 agent or representative), at such reasonable
25 times as the Comptroller General may request.

1 “(2) COPIES.—The Comptroller General may
2 make and retain copies of such books, accounts, and
3 other records, access to which is granted under this
4 section, as the Comptroller General considers appro-
5 priate.

6 **“SEC. 2061. DEFINITIONS.**

7 “In this subtitle:

8 “(1) AGENCY.—The term ‘agency’ has the
9 meaning given that term in section 551 of title 5,
10 United States Code.

11 “(2) INTERVENTION.—The term ‘intervention’
12 means a specific service delivered to achieve an im-
13 pact through a social impact pay for performance
14 contract project.

15 “(3) SECRETARY.—The term ‘Secretary’ means
16 the Secretary of the Treasury.

17 “(4) SOCIAL IMPACT PAY FOR PERFORMANCE
18 CONTRACT PROJECT.—The term ‘social impact pay
19 for performance contract project’ means a project
20 that finances social services using a social impact
21 pay for performance contract model.

22 “(5) SOCIAL IMPACT PAY FOR PERFORMANCE
23 CONTRACT MODEL.—The term ‘social impact pay for
24 performance contract model’ means a method of fi-
25 nancing social services in which—

1 “(A) Federal funds are awarded to a State
2 or local government only if a State or local gov-
3 ernment achieves certain outcomes agreed upon
4 by the State or local government and the Sec-
5 retary; and

6 “(B) the State or local government coordi-
7 nates with service providers, investors (if appli-
8 cable to the project), and (if necessary) an
9 intermediary to identify—

10 “(i) an intervention expected to
11 produce the outcome;

12 “(ii) a service provider to deliver the
13 intervention to the target population; and

14 “(iii) investors to fund the delivery of
15 the intervention.

16 “(6) STATE.—The term ‘State’ means each
17 State of the United States, the District of Columbia,
18 each commonwealth, territory or possession of the
19 United States, and each federally recognized Indian
20 tribe.”.

21 **SEC. 3. COMMUNITY REINVESTMENT ACT.**

22 Section 804 of the Community Reinvestment Act of
23 1977 (12 U.S.C. 2903) is amended by adding at the end
24 the following:

1 “(e) SOCIAL IMPACT PAY FOR PERFORMANCE CON-
2 TRACT PROJECTS.—In assessing and taking into account,
3 under subsection (a), the record of a financial institution,
4 the appropriate Federal financial supervisory agency shall
5 consider, as a factor, investments made by the financial
6 institution in social impact pay for performance contract
7 projects under subtitle C of title XX of the Social Security
8 Act.”.

○