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2D SESSION

H. R. 4885

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

IN THE HOUSE OF REPRESENTATIVES

JUNE 18, 2014

Mr. YOUNG of Indiana (for himself, Mr. DELANEY, Mr. GRIFFIN of Arkansas, Mr. LARSON of Connecticut, Mr. REED, Mr. POLIS, Mr. ROSS, Mr. KENNEDY, and Mr. SCHOCK) introduced the following bill; which was referred to the Committee on Ways and Means, and in addition to the Committee on Financial Services, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

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A BILL

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

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Social Impact Bond Act".

SEC. 2. SOCIAL IMPACT BONDS.

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

(1) in the heading, by striking ''to States'' and inserting ''and Programs for''; and

(2) by adding at the end the following:

"Subtitle C—Social Impact Bonds

"SEC. 2051. PURPOSES.

''The purposes of this subtitle are the following:

''(1) To improve the lives of families and individuals in need in the United States by funding social programs that achieve real results.

''(2) To ensure Federal funds are used effectively on social services to produce positive outcomes for both service recipients and taxpayers.

''(3) To establish the use of social impact bonds to address some of our nation's most pressing problems.

''(4) To facilitate the creation of public-private partnerships that bundle philanthropic and other private resources with existing public spending to scale up effective social interventions already being implemented by private organizations, non-profits, charitable organizations, and local governments across the country.

"(5) To bring pay-for-performance to the social sector, allowing the United States to improve the impact and effectiveness of vital social programs.

"SEC. 2052. SOCIAL IMPACT BOND APPLICATION.

"(a) NOTICE.—Not later than 1 year after the date of the enactment of this Act, the Secretary of the Treasury, in consultation with the Federal Interagency Council on Social Impact Bonds, shall publish in the Federal Register a notice that the Department is seeking proposals from States or local government for social impact bond projects in accordance with this section.

"(b) REQUIRED OUTCOMES FOR SOCIAL IMPACT BOND PROJECT.—To qualify as a social impact bond project under this subtitle, a project must produce a measurable, clearly defined outcome that results in social benefit and Federal savings through any of the following:

"(1) Increasing work and earnings by individuals who have been unemployed in the United States for more than six consecutive months.

"(2) Increasing employment and earnings of individuals age 16 to 24.

"(3) Increasing employment among individuals receiving Federal disability benefits.

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

"(5) Improving rates of high school graduation.

"(6) Reducing teen and unplanned pregnancies.

"(7) Improving birth outcomes among low-income families and individuals.

"(8) Reducing rates of asthma, diabetes, or other preventable diseases among low-income families and individuals.

"(9) Increasing the proportion of children living in two-parent families.

"(10) Reducing incidences of child abuse and neglect.

"(11) Increasing adoptions of children from foster care.

"(12) Reducing recidivism among individuals released from prison.

"(13) Other measurable outcomes defined by the State or local government that result in positive social outcomes and Federal savings.

"(c) FEASIBILITY STUDY REQUIRED.—The notice described in subsection (a) shall require a State or local government to submit a feasibility study for the social impact bond project that contains the following information:

"(1) The outcome goals of the project.

"(2) A description of each intervention in the project and anticipated outcome of such intervention.

"(3) Rigorous evidence demonstrating that the intervention can be expected to produce the desired outcomes.

"(4) The target population that will be served by the project.

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

"(6) Projected Federal, State, and local government costs and other costs to conduct the project.

"(7) Projected Federal, State, and local government savings and other savings, including an estimate prepared by the State or local government of the savings to the Federal, State, and local government, on a program-by-program basis and in the aggregate, if the project is implemented and the outcomes are achieved.

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

"(9) A plan for delivering the intervention through a social impact bond model.

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

"(11) An explanation of the experience of the State or local government, the intermediary, or the service provider in raising private and philanthropic capital to fund social service investments.

"(12) The detailed roles and responsibilities of each entity involved in the project, including any State or local government entity, intermediary, service provider, independent evaluator, investor, or other stakeholder.

"(13) A summary of the experience of the service provider delivering the proposed intervention, a similar intervention, or a summary demonstrating the service provider has the expertise necessary to deliver the intervention.

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

"(15) The payment terms, the methodology used to calculate outcome payments, the payment schedule, and performance thresholds.

"(16) The project budget.

"(17) The project timeline.

"(18) The criteria used to determine the eligibility of an individual for the project, including how selected populations will be identified, how they will be referred to the project, and how they will be enrolled in the project.

"(19) The evaluation design.

"(20) The metrics that will be used to determine whether the outcomes have been achieved and how such metrics will be measured.

"(21) A summary explaining the independence of the evaluator from the other entities involved in the project and the evaluator's experience in conducting rigorous evaluations of program effectiveness including, where available, well-implemented randomized controlled trials on the intervention or similar interventions.

"(22) The capacity of the service provider to deliver the intervention to the number of participants the State or local government proposes to serve in the project.

"(d) PROJECT INTERMEDIARY INFORMATION REQUIRED.—The feasibility study described in subsection (c) shall also contain the following information about the

intermediary for the social impact bond project (whether the intermediary is the service provider or other entity):

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

"(2) The mission and goals.

"(3) Information on whether the intermediary is already working with service providers that provide this intervention or an explanation of the capacity of the intermediary to begin working with service providers to provide the intervention.

"(4) Experience working in a collaborative environment across government and nongovernmental entities.

"(5) Previous experience collaborating with public or private entities to implement evidence-based programs.

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

"(7) Capacity and infrastructure to track outcomes and measure results, including—

"(A) capacity to track and analyze program performance; and

"(B) experience with performance-based contracting and achieving project milestones and targets.

"(8) Role in delivering the intervention.

"(9) How the intermediary would monitor program success, including a description of the interim benchmarks and outcome measures.

"SEC. 2053. AWARDING SOCIAL IMPACT BOND CONTRACTS.

"(a) TIMELINE IN AWARDING CONTRACT.—Not later than six months after receiving an application in accordance with section 2052, the Secretary shall determine whether to enter into a contract for a social impact bond project with a State or local government.

"(b) CONSIDERATIONS IN AWARDING CONTRACT.—In determining whether to enter into a contract for a social impact bond project (the application for which was submitted under section 2052) the Secretary, in consultation with the Federal Interagency Council on Social Impact Bonds (established by section 2056) and the head of any Federal agency administering a similar intervention or serving a population similar to that served by the project, shall consider each of the following:

"(1) The value to the Federal Government of the outcome expected to be achieved if the outcomes specified in the contract are met.

"(2) The ability of the State or local government in collaboration with the intermediary and the service providers to achieve the outcomes.

"(3) The savings to the Federal Government if the outcomes specified in contract are met.

"(4) The savings to the State and local governments if the outcomes specific in the contract are met.

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

"(c) CONTRACT AUTHORITY.—

"(1) CONTRACT REQUIREMENTS.—In accordance with this section, the Secretary, in consultation with the Federal Interagency Council on Social Impact Bonds and the head of any Federal agency administering a similar intervention or serving a population similar to that served by the project, may enter into a contract for a social impact bond project with a State or local government if the Secretary determines that each of the following requirements are met:

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

"(B) The Federal payment to the State or local government for each outcome specified is less than or equal to the value of the outcome to the Federal Government over a period not to exceed 10 years, as determined by the Secretary, in consultation with the State or local government.

"(C) The duration of the project does not exceed 10 years.

"(D) The State or local government has demonstrated, through the application submitted under section 2052, that, based on prior rigorous experimental evaluations or rigorous quasi-experimental studies, the intervention can be expected to achieve each outcome specified in the contract.

"(E) The State, local government, intermediary, or service provider has experience raising private or philanthropic capital to fund social service investments (if applicable to the project).

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

tion, or has otherwise demonstrated the expertise necessary to deliver the intervention.

"(2) PAYMENT.—The Secretary shall pay the State or local government only if the independent evaluator described in section 2055 determines that the social impact bond project has met the requirements specified in the contract and achieved an outcome specified in the contract.

"(3) LIMITATION.—The Secretary may not enter into a contract for a social impact bond project under paragraph (1) after the date that is 10 years after the date of the enactment of the Social Impact Bond Act.

"(d) NOTICE OF CONTRACT AWARD.—Not later than 30 days after entering into a contract under this section, the Secretary shall publish a notice in the Federal Register that includes, with regard to such contract, the following:

"(1) The outcome goals of the social impact bond project.

"(2) A description of each intervention in the project.

"(3) The target population that will be served by the project.

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

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

"(6) The payment terms, the methodology used to calculate outcome payments, the payment schedule, and performance thresholds.

"(7) The project budget.

"(8) The project timeline.

"(9) The project eligibility criteria.

"(10) The evaluation design.

"(11) The metrics that will be used to determine whether the outcomes have been achieved and how these metrics will be measured.

"(12) The estimate prepared by the State or local government of the savings to the Federal, State, and local government, on a program-by-program basis and in the aggregate, if the contract is entered into and implemented and the outcomes are achieved.

"SEC. 2054. FEASIBILITY STUDY FUNDING.

"(a) REQUESTS FOR FUNDING FOR FEASIBILITY STUDIES.—The Secretary shall reserve a portion of the funding provided in section 2057 to assist States or local governments in developing feasibility studies required by section 2052. To be eligible to receive funding to assist with completing a feasibility study, a State or local government shall submit an application for feasibility study funding containing the following information:

"(1) A description of the outcome goals of the social impact bond project.

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

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

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

"(5) Estimated costs to conduct the project.

"(6) Estimates of Federal, State, and local government savings and other savings if the project is implemented and the outcomes are achieved.

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

"(8) With respect to a project for which the State or local government selects an intermediary to operate the project, any partnerships needed to successfully execute the project and the ability of the intermediary to foster such partnerships.

"(9) The expected resources needed to complete the feasibility study for the State or local government to apply for social impact bond funding under section 2052.

"(b) FEDERAL SELECTION OF APPLICATIONS FOR FEASIBILITY STUDY.—Not later than 6 months after receiving an application for feasibility study funding under subsection (a), the Secretary, in consultation with the Federal Interagency Council on Social Impact Bonds and the head of any Federal agency administering a similar intervention or serving a population similar to that served by the project, shall select State or local government feasibility study proposals for funding based on the following:

"(1) The likelihood that the proposal will achieve the desired outcome.

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

"(3) The potential savings to the Federal Government if the social impact bond project is successful.

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

"(c) PUBLIC DISCLOSURE.—Not later than 30 days after selecting a State or local government for feasibility study funding under this section, the Secretary shall cause to be published on the website of the Federal Interagency Council on Social Impact Bonds information explaining why a State or local government was granted feasibility study funding.

"(d) FUNDING RESTRICTION.—

"(1) FEASIBILITY STUDY RESTRICTION.—The Secretary may not provide feasibility study funding under this section for more than 50 percent of the estimated total cost of the feasibility study reported in the State or local government application submitted under subsection (a).

"(2) AGGREGATE RESTRICTION.—Of the total amount appropriated under section 2057, the Secretary may not use more than $10,000,000 to provide feasibility study funding to States or local governments under this section.

"(e) SUBMISSION OF FEASIBILITY STUDY REQUIRED.—Not later than six months after the receipt of feasibility study funding under this section, a State or local government receiving such funding shall complete the feasibility study and submit the study to the Federal Interagency Council on Social Impact Bonds.

"SEC. 2055. EVALUATIONS.

"(a) CONTRACT AUTHORITY.—For each State or local government awarded a social impact bond project approved by the Secretary under this Act, the head of the relevant agency, as determined by the Federal Interagency Council on Social Impact Bonds, shall enter into a contract with such State or local government to pay for the independent evaluation to determine whether the State or local government project has met an outcome specified in the contract in order for the State or local government to receive outcome payments under this subtitle.

"(b) EVALUATOR QUALIFICATIONS.—The head of the relevant agency may not enter into a contract with a State or local government unless the head determines that the evaluator is independent of the other parties to the contract and has demonstrated substantial experience in conducting rigorous evaluations of program effectiveness including, where available, well-implemented randomized

1 controlled trials on the intervention or similar interven-
2 tions.

3 "(c) METHODOLOGIES TO BE USED.—The evalua-
4 tion used to determine whether a State or local govern-
5 ment will receive outcome payments under this subtitle
6 shall use experimental designs using random assignment
7 or other research methodologies that allow for the strong-
8 est possible causal inferences when random assignment is
9 not feasible.

10 "(d) PROGRESS REPORT.—

11 "(1) SUBMISSION OF REPORT.—The inde-
12 pendent evaluator shall—

13 "(A) not later than two years after a
14 project has been approved by the Secretary and
15 biannually thereafter until the project is con-
16 cluded, submit to the head of the relevant agen-
17 cy and the Federal Interagency Council on So-
18 cial Impact Bonds a written report summa-
19 rizing the progress that has been made in
20 achieving each outcome specified in the con-
21 tract; and

22 "(B) at the scheduled time of the first out-
23 come payment and at the time of each subse-
24 quent payment, submit to the head of the rel-
25 evant agency and the Federal Interagency

Council on Social Impact Bonds a written report that includes the results of the evaluation conducted to determine whether an outcome payment should be made along with information on the unique factors that contributed to achieving or failing to achieve the outcome, the challenges faced in attempting to achieve the outcome, and information on the improved future delivery of this or similar interventions.

"(2) SUBMISSION TO CONGRESS.—Not later than 30 days after receipt of the written report pursuant to paragraph (1)(B), the Federal Interagency Council on Social Impact Bonds shall submit such report to each committee of jurisdiction in the House of Representatives and the Senate.

"(e) FINAL REPORT.—

"(1) SUBMISSION OF REPORT.—Within six months after the social impact bond project is completed, the independent evaluator shall—

"(A) evaluate the effects of the activities undertaken pursuant to the contract with regard to each outcome specified in the contract; and

"(B) submit to the head of the relevant agency and the Federal Interagency Council on

Social Impact Bonds a written report that includes the results of the evaluation and the conclusion of the evaluator as to whether the State or local government has fulfilled each obligation of the contract, along with information on the unique factors that contributed to the success or failure of the project, the challenges faced in attempting to achieve the outcome, and information on the improved future delivery of this or similar interventions.

"(2) SUBMISSION TO CONGRESS.—Not later than 30 days after receipt of the written report pursuant to paragraph (1)(B), the Federal Interagency Council on Social Impact Bonds shall submit such report to each committee of jurisdiction in the House of Representatives and the Senate.

"(f) LIMITATION ON COST OF EVALUATIONS.—Of the amount made available for social impact bond projects in section 2057, the Secretary may not obligate more than 15 percent to evaluate the implementation and outcomes of such projects.

"SEC. 2056. FEDERAL INTERAGENCY COUNCIL ON SOCIAL IMPACT BONDS.

"(a) ESTABLISHMENT.—There is established the Federal Interagency Council on Social Impact Bonds (in this section, referred to as the 'Council') to—

"(1) coordinate the efforts of social impact bond projects funded by this subtitle;

"(2) advise and assist the Secretary in the development and implementation of such projects;

"(3) advise the Secretary on specific programmatic and policy matter related to such projects;

"(4) provide subject-matter expertise to the Department of the Treasury with regard to such projects;

"(5) ensure that each State or local government that has entered into a contract with the Secretary for a social impact bond project under this subtitle and each evaluator selected by the head of the relevant agency under section 2055 has access to Federal administrative data to assist the State or local government and the evaluator in evaluating the performance and outcomes of the project; and

"(6) address issues that will influence the future of social impact bond projects in the United States.

"(b) COMPOSITION OF COUNCIL.—The Chair of the council shall be a member of the National Economic Council or the Domestic Policy Council. The Council shall be composed of one designee, designated by the head of the relevant agency, from each of the following:

"(1) Office of Management and Budget.

"(2) Department of Labor.

"(3) Department of Health and Human Services.

"(4) Social Security Administration.

"(5) Department of Agriculture.

"(6) Department of Justice.

"(7) Department of Housing and Urban Development.

"(8) Department of Education.

"(9) Department of Veterans Affairs.

"(10) Department of the Treasury.

"SEC. 2057. FUNDING.

"(a) IN GENERAL.—Out of any money in the Treasury not otherwise appropriated, there is hereby appropriated $300,000,000, to remain available until 10 years after the date specified in section 2053(c)(3), to carry out the activities authorized under this subtitle.

"(b) LIMITATION.—Of the amounts made available under subsection (a), the Secretary may not use more than

$1,000,000 in any fiscal year to support the review, approval, and oversight of social impact bond projects, including activities conducted by—

"(1) the Federal Interagency Council on Social Impact Bonds; and

"(2) any other agency consulted by the Secretary before approving a social impact bond project or a feasibility study under section 2054.

"SEC. 2058. WEBSITE.

"The Federal Interagency Council on Social Impact Bonds shall establish and maintain a public website that shall display the following:

"(1) A copy of, or method of accessing, each notice published regarding a social impact bond project pursuant to this subtitle.

"(2) For each State or local government that has entered into a contract with the Secretary for a social impact bond project, the website shall contain the following information:

"(A) The outcome goals of the project.

"(B) A description of each intervention in the project.

"(C) The target population that will be served by the project.

"(D) The expected social benefits to participants who receive the intervention and others who may be impacted.

"(E) The detailed roles, responsibilities, and purposes of each Federal, State, or local government entity, intermediary, service provider, independent evaluator, investor, or other stakeholder.

"(F) The payment terms, methodology used to calculate outcome payments, the payment schedule, and performance thresholds.

"(G) The project budget.

"(H) The project timeline.

"(I) The project eligibility criteria.

"(J) The evaluation design.

"(K) The metrics used to determine whether the proposed outcomes have been achieved and how these metrics are measured.

"(3) A copy of the progress reports and the final reports relating to each social impact bond project.

"(4) An estimate of the savings to the Federal, State, and local government, on a program-by-program basis and in the aggregate, resulting from the

successful completion of the social impact bond project.

"SEC. 2059. COMMUNITY REINVESTMENT ACT.

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

"'(e) SOCIAL IMPACT BOND PROJECTS.—In assessing and taking into account, under subsection (a), the record of a financial institution, the appropriate Federal financial supervisory agency shall consider, as a factor, investments made by the financial institution in social impact bond projects under subtitle C of title XX of the Social Security Act.'.

"SEC. 2060. REGULATIONS.

"The Secretary, in consultation with the Federal Interagency Council on Social Impact Bonds, may issue regulations as necessary to carry out this subtitle.

"SEC. 2061. DEFINITIONS.

"In this subtitle:

"(1) AGENCY.—The term 'agency' has the meaning given that term in section 551 of title 5, United States Code.

"(2) INTERVENTION.—The term 'intervention' means a specific service delivered to achieve an impact through a social impact bond project.

"(3) SECRETARY.—The term 'Secretary' means the Secretary of the Treasury.

"(4) SOCIAL IMPACT BOND PROJECT.—The term 'social impact bond project' means a project that finances social services using a social impact bond model.

"(5) SOCIAL IMPACT BOND MODEL.—The term 'social impact bond model' means a method of financing social services in which—

"(A) Federal funds are awarded to a State or local government only if a State or local government achieves certain outcomes agreed upon by the State or local government and the Secretary; and

"(B) the State or local government coordinates with service providers, investors (if applicable to the project), and (if necessary) an intermediary to identify—

"(i) an intervention expected to produce the outcome;

"(ii) a service provider to deliver the intervention to the target population; and

"(iii) investors to fund the delivery of the intervention.

1 "(6) STATE.—The term 'State' means each
2 State of the United States, the District of Columbia,
3 each commonwealth, territory or possession of the
4 United States, and each federally recognized Indian
5 tribe.".

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