

117TH CONGRESS  
1ST SESSION

# S. 211

To prohibit the Secretary of Education from providing Federal elementary and secondary education funds for fiscal year 2021 or COVID–19 relief funds to an elementary school or secondary school that does not offer in-person instruction.

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## IN THE SENATE OF THE UNITED STATES

FEBRUARY 3, 2021

Mr. RUBIO (for himself, Mr. SCOTT of Florida, Ms. ERNST, Mr. CRAMER, Mr. HAGERTY, Mrs. BLACKBURN, Mr. DAINES, and Mr. TILLIS) 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 prohibit the Secretary of Education from providing Federal elementary and secondary education funds for fiscal year 2021 or COVID–19 relief funds to an elementary school or secondary school that does not offer in-person instruction.

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 “Put Students First  
5 Act of 2021”.

1 **SEC. 2. PROHIBITION OF FEDERAL EDUCATION FUNDS FOR**  
2 **K-12 SCHOOLS THAT DO NOT REOPEN.**

3 (a) IN GENERAL.—Notwithstanding any other provi-  
4 sion of law, beginning on the date of enactment of this  
5 Act, the Secretary of Education may not provide any Fed-  
6 eral funds appropriated for fiscal year 2021 under the Ele-  
7 mentary and Secondary Education Act of 1965 (20 U.S.C.  
8 6301 et seq.) or appropriated for COVID–19 relief, to an  
9 elementary school or secondary school that does not offer  
10 in-person instruction (either on a full-time basis or a hy-  
11 brid basis with home learning) for all students enrolled  
12 in the school by not later than April 30, 2021.

13 (b) FORFEIT AND RETURN OF FUNDS.—

14 (1) IN GENERAL.—An elementary school or sec-  
15 ondary school that receives Federal funds appro-  
16 priated for fiscal year 2021 under the Elementary  
17 and Secondary Education Act of 1965 (20 U.S.C.  
18 6301 et seq.) or appropriated for COVID–19 relief  
19 on or after the date of enactment of this Act that  
20 does not offer in-person instruction (either on a full-  
21 time basis or a hybrid basis with home learning) for  
22 all students enrolled in the school by not later than  
23 April 30, 2021, shall forfeit any Federal funds ap-  
24 propriated for fiscal year 2021 that have not been  
25 distributed and return any funds appropriated for

1 COVID–19 relief on or after the date of enactment  
2 of this Act to the Secretary of Education.

3 (2) USE OF FORFEITED AND RETURNED  
4 FUNDS.—

5 (A) IN GENERAL.—The Secretary of Edu-  
6 cation shall use funds forfeited or returned  
7 under paragraph (1) to provide States, in which  
8 schools described in paragraph (1) operate, the  
9 option to receive funds to provide a school  
10 choice option for students enrolled in schools  
11 that do not offer in-person instruction. To be  
12 eligible to receive such funds, a State shall sub-  
13 mit to the Secretary of Education, by not later  
14 than May 15, 2021, an implementation plan to  
15 provide school choice options for students who  
16 are enrolled in schools that do not offer in-per-  
17 son instruction (either on a full-time basis or a  
18 hybrid basis with home learning) for all stu-  
19 dents enrolled in the schools.

20 (B) GRANTS TO STATES WITH HIGHEST  
21 PERCENTAGE OF SCHOOLS OFFERING IN-PER-  
22 SON INSTRUCTION.—If a State described in  
23 subparagraph (A) does not submit an imple-  
24 mentation plan to the Secretary of Education  
25 by not later than May 15, 2021, as described

1 in subparagraph (A), the funds available to  
2 such State shall be provided as grants to States  
3 with the highest percentage of local educational  
4 agencies in the State serving schools that offer  
5 in-person instruction (either on a full-time basis  
6 or a hybrid basis with home learning).

7 (c) **FEDERALLY FUNDED SCHOOL LUNCH PRO-**  
8 **GRAM.**—Nothing in this Act shall alter or preclude any  
9 eligibility, funding, or requirements under the school lunch  
10 program established under the Richard B. Russell Na-  
11 tional School Lunch Act (42 U.S.C. 1751 et seq.).

12 (d) **DEFINITIONS.**—In this Act, the terms “elemen-  
13 tary school”, “local educational agency”, and “secondary  
14 school” have the meanings given the terms in section 8101  
15 of the Elementary and Secondary Education Act of 1965  
16 (20 U.S.C. 7801).

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