

113TH CONGRESS
2D SESSION

S. 2993

To amend the Higher Education Act of 1965 to improve the determination of cohort default rates and provide for enhanced civil penalties, and to authorize the establishment of an institutional risk-sharing commission.

IN THE SENATE OF THE UNITED STATES

DECEMBER 10, 2014

Mr. MURPHY (for himself and Mr. HARKIN) introduced the following bill; which was read twice and referred to the Committee on Health, Education, Labor, and Pensions

A BILL

To amend the Higher Education Act of 1965 to improve the determination of cohort default rates and provide for enhanced civil penalties, and to authorize the establishment of an institutional risk-sharing commission.

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 “Students Before Prof-
5 its Act”.

1 **SEC. 2. IMPROVED DETERMINATION OF COHORT DEFAULT**
2 **RATES.**

3 Section 435 (20 U.S.C. 1085) is amended—

4 (1) in subsection (a)(2), by adding at the end
5 the following:

6 “(E)(i) In any case where the Secretary has de-
7 termined that the institution has engaged in default
8 manipulation, the Secretary—

9 “(I) shall recalculate the cohort default
10 rate for the institution under this section using
11 corrected data and information, for all fiscal
12 years for which the default manipulation has
13 occurred; and

14 “(II) using the recalculated cohort default
15 rate, shall redetermine whether the institution
16 is ineligible to participate in a program under
17 this title.

18 “(ii) In this section, the term ‘default manipu-
19 lation’ means engaging in a device or practice, such
20 as branching, consolidation of campuses, consolida-
21 tion or manipulation of the identification codes used
22 by the Office of Postsecondary Education to des-
23 ignate campuses and institutions, change of owner-
24 ship or control, serial forbearance, or any similar de-
25 vice or practice (as determined by the Secretary)
26 when, but for the device or practice, one or more

1 campuses of an institution of higher education would
2 be at risk of cohort default rate sanctions under this
3 section or student default risk sanctions under sec-
4 tion 489A.”; and

5 (2) in subsection (m)(3), by striking “through
6 the use of” and all that follows through the period
7 at the end and inserting “through default manipula-
8 tion.”.

9 **SEC. 3. INSTITUTIONAL RISK-SHARING COMMISSION.**

10 (a) ESTABLISHMENT OF COMMISSION.—

11 (1) IN GENERAL.—The Secretary of Education
12 shall establish an Institutional Risk-Sharing Com-
13 mission (referred to in this section as the “Commis-
14 sion”) whose members shall be selected by the Sec-
15 retary and comprised of the following relevant stake-
16 holders:

17 (A) 2 representatives of national or re-
18 gional student advocacy organizations with a
19 track record of engagement and expertise on
20 issues related to college costs, consumer protec-
21 tion, and institutional accountability and an al-
22 ternate member.

23 (B) 1 student representative who is attend-
24 ing an institution of higher education on the
25 date of the selection and an alternate member.

1 (C) 1 member of the Bureau of Consumer
2 Financial Protection with demonstrated knowl-
3 edge of student loan borrowing and an alternate
4 member.

5 (D) 2 administrative officers from different
6 types of institutions of higher education and an
7 alternate member.

8 (E) 1 higher education researcher and an
9 alternate member.

10 (F) 1 State postsecondary education data
11 system director and an alternate member.

12 (G) 1 representative from the National
13 Center for Education Statistics and an alter-
14 nate member.

15 (H) 1 representative from the Government
16 Accountability Office and an alternate member.

17 (I) 1 representative from the Department
18 of the Treasury and an alternate member.

19 (2) FUNCTIONS.—Each member selected under
20 paragraph (1) shall participate for the purpose of
21 determining agreement by majority vote on the Com-
22 mission on the report and its contents described in
23 subsection (b)(4). Each alternate member shall par-
24 ticipate for the purpose of determining the majority
25 vote in the absence of the member. Either the mem-

1 ber or an alternate member may speak during the
2 negotiations. In the event that the Commission is
3 unable to form agreement on the contents of the re-
4 port by majority vote, the contents of the report
5 shall be determined by a plurality vote.

6 (b) STUDY.—

7 (1) IN GENERAL.—Not later than 270 days
8 after the date that all members of the Commission
9 have been selected under subsection (a), the Com-
10 mission shall complete a study and develop rec-
11 ommendations for implementation of a new risk-
12 sharing system for institutions of higher education
13 that participate in the Federal Direct Loan Program
14 under part D of title IV of the Higher Education
15 Act of 1965 (20 U.S.C. 1087a et seq.) through
16 which institutions would be held financially account-
17 able for poor student outcomes.

18 (2) CONTENT OF STUDY.—In conducting the
19 study required under paragraph (1), the Commission
20 shall, at a minimum, consider the following issues:

21 (A) Identifying an annual measure or set
22 of measures for the risk-sharing system that
23 would provide the most accurate assessment of
24 an institution's level of success or failure at
25 providing their students with basic educational

1 outcomes, such as degree completion, ability to
2 repay loans made, insured, or guaranteed under
3 title IV of the Higher Education Act of 1965
4 (20 U.S.C. 1070 et seq.), post-graduation em-
5 ployment, and post-graduation earnings. Such
6 possible measures may include cohort default
7 rates, loan repayment rates, graduation rates,
8 graduate earnings, and other measure that the
9 Commission considers an accurate reflection of
10 student outcomes, regardless of the feasibility
11 of access to the data required to implement col-
12 lection of such measures.

13 (B) What specific metrics would require
14 the lowest performing institutions to make an-
15 nual payments into the risk-sharing system,
16 and what metrics would exempt institutions
17 from making an annual risk-sharing payment
18 based on performance measures that exceeded a
19 minimum level (which level would be identified
20 by the Commission).

21 (C) How the payments for each institution
22 should be calculated, including whether the use
23 of a percentage of Federal Direct Loans dis-
24 bursed the year prior to identification, the per-

1 centage of loans in default, or any other cal-
2 culation should be used.

3 (D) Whether a sliding scale of payments
4 should be required of institutions based on their
5 performance on the identified measures.

6 (E) Any legislative safeguards or mecha-
7 nisms to ensure that an institution required to
8 participate in the risk-sharing system would not
9 pass any prospective costs directly or indirectly
10 onto students, or limit access to low-income stu-
11 dents.

12 (F) How an institution's level of access to
13 low-income students (such as measured by the
14 percentage of students enrolled at the institu-
15 tion who receive Federal Pell Grants under sub-
16 part 1 of part A of title IV of the Higher Edu-
17 cation Act of 1965 (20 U.S.C. 1070a et seq.))
18 and affordability (as measured by average net
19 price) should be considered in the risk-sharing
20 system.

21 (G) Specifying a means for the risk-shar-
22 ing system payments to go primarily towards
23 students in default, additional aid to low-income
24 students, or any other form of aid to student

1 borrowers most in need, including after degree
2 completion.

3 (H) Whether any extraordinary consider-
4 ation exists that warrants allowing a waiver
5 process through which a very limited number of
6 institutions would be eligible to apply for a
7 waiver from a risk-sharing payment on a yearly
8 basis, and under what conditions.

9 (3) OUTSIDE RECOMMENDATIONS.—As part of
10 the study required under paragraph (1), the Com-
11 mission shall develop a public process for soliciting
12 recommendations for the risk-sharing system and
13 shall consider these recommendations as part of the
14 study. The Commission shall factor in any financial
15 or other interests of any submitting party in weigh-
16 ing and considering such recommendations.

17 (4) REPORT.—

18 (A) CONTENT.—Not later than 90 days
19 after completing the study required under para-
20 graph (1), the Commission shall issue, by ma-
21 jority vote, or if unable to achieve a majority
22 vote, then a plurality vote, a report regarding
23 its recommendations for a risk-sharing system.
24 The report shall include the following:

1 (i) A description of the Commission's
2 findings as to the issues described in para-
3 graph (2).

4 (ii) A data analysis using the Com-
5 mission's recommended metrics that dem-
6 onstrates how each institution of higher
7 education that participates in the Federal
8 Direct Loan Program under part D of title
9 IV of the Higher Education Act of 1965
10 (20 U.S.C. 1087a et seq.) as of the period
11 of the Commission's study would fare
12 under the proposed risk-sharing system,
13 including projections for the amounts of
14 payments the lowest performing institu-
15 tions would have to pay.

16 (iii) An evaluation of the feasibility
17 and unintended consequences of imple-
18 menting the recommended risk-sharing
19 system, including any legislative or regu-
20 latory action needed to implement such a
21 system.

22 (B) AVAILABILITY.—The report described
23 in subparagraph (A) shall be—

24 (i) provided to the Secretary of Edu-
25 cation, the Committee on Health, Edu-

1 cation, Labor, and Pensions of the Senate,
2 and the Committee on Education and the
3 Workforce of the House of Representa-
4 tives; and

5 (ii) made publicly available.

6 (c) SECURING INFORMATION AND PRIVACY.—

7 (1) IN GENERAL.—Subject to paragraph (2),
8 the Commission may secure directly from any Fed-
9 eral department or agency such information as the
10 Commission considers necessary to carry out its du-
11 ties under this section. The Commission may request
12 the head of any State or local department or agency
13 to furnish such information to the Commission.

14 (2) PRIVACY.—Any Federal department or
15 agency, State or local department or agency, or in-
16 stitution of higher education in providing informa-
17 tion to the Commission under this section shall not
18 share any personally identifiable information and
19 shall act in accordance with section 444 of the Gen-
20 eral Education Provisions Act (20 U.S.C. 1232g,
21 commonly known as the “Family Educational Rights
22 and Privacy Act of 1974”).

1 **SEC. 4. CIVIL PENALTIES.**

2 Part G of title IV of the Higher Education Act of
3 1965 (20 U.S.C. 1088 et seq.) is amended by inserting
4 after section 489 the following:

5 **“SEC. 489A. CIVIL PENALTIES AND OTHER REMEDIES.**

6 “(a) DEFINITIONS.—In this section:

7 “(1) SUBSTANTIAL MISREPRESENTATION OR
8 OTHER SERIOUS VIOLATION.—The term ‘substantial
9 misrepresentation or other serious violation’ means
10 any of the following:

11 “(A) A substantial misrepresentation re-
12 garding—

13 “(i) the nature of the educational pro-
14 gram of an institution of higher education;

15 “(ii) the financial charges of the insti-
16 tution;

17 “(iii) the space availability in a pro-
18 gram of the institution for which a student
19 is considering enrollment;

20 “(iv) the admission requirements of
21 the institution;

22 “(v) the transferability of credits from
23 the institution;

24 “(vi) whether a program of the insti-
25 tution meets the necessary standards to
26 qualify students to sit for licensing exami-

1 nations, or obtain certification required as
2 a precondition for employment, in the
3 State in which the students reside;

4 “(vii) the passage rates of students at
5 the institution in obtaining certification re-
6 quirements;

7 “(viii) the passage rates of students
8 who sit for licensing examinations; or

9 “(ix) the employability of the grad-
10 uates of the institution.

11 “(B) A knowing and willful misuse of Fed-
12 eral student aid from any source.

13 “(C) A violation of section 487(a)(20).

14 “(D) A violation of the default manipula-
15 tion regulations promulgated by the Secretary
16 under section 435(m)(3).

17 “(E) Failure to comply with the program
18 review process described in section 498A, in-
19 cluding any disclosure requirement described in
20 paragraph (2) or (5) of section 498A(b).

21 “(F) A violation of the program integrity
22 regulations promulgated by the Secretary under
23 this Act.

1 “(G) A violation of this Act that the Sec-
 2 retary has determined, by regulation, to be a
 3 serious violation for purposes of this section.

4 “(2) OFFICER OF AN INSTITUTION OF HIGHER
 5 EDUCATION.—The term ‘officer of an institution of
 6 higher education’ includes the president, chief execu-
 7 tive officer, and chief financial officer of an institu-
 8 tion of higher education or their equivalents.

9 “(b) SANCTIONS FOR SUBSTANTIAL MISREPRESENTEN-
 10 TATIONS OR SERIOUS VIOLATIONS.—

11 “(1) CIVIL PENALTIES.—

12 “(A) IN GENERAL.—The Secretary may
 13 impose a civil penalty upon an eligible institu-
 14 tion upon making a determination, after reason-
 15 able notice and opportunity for a hearing, that
 16 an eligible institution has engaged in a substan-
 17 tial misrepresentation or other serious violation.

18 “(B) AMOUNT OF CIVIL PENALTIES.—A
 19 civil penalty imposed for a violation under sub-
 20 paragraph (A) shall be not less than \$100,000
 21 or—

22 “(i) in the case of a first violation, an
 23 amount equal to the product of \$1,000,000
 24 multiplied by the institution’s student de-
 25 fault risk, whichever is larger;

1 “(ii) in the case of a second violation,
2 an amount equal to the product of
3 \$2,000,000 multiplied by the institution’s
4 student default risk, whichever is larger;
5 and

6 “(iii) in the case of a third or subse-
7 quent violation, an amount equal to the
8 product of \$3,000,000 multiplied by the in-
9 stitution’s student default risk, whichever
10 is larger.

11 “(C) TREATMENT OF MULTIPLE INSTITU-
12 TIONS.—For the purpose of determining the
13 number of violations under subparagraph (B),
14 any violation by a particular institution will ac-
15 cruce against all identification codes used by the
16 Office of Postsecondary Education to designate
17 campuses and institutions affiliated with the in-
18 stitution, and within the period of participation
19 for the institution, as defined in section
20 668.13(b) of title 34, Code of Federal Regula-
21 tions, or any successor regulation.

22 “(c) SANCTIONS FOR OTHER VIOLATIONS OF THIS
23 TITLE.—Upon determination, after reasonable notice and
24 opportunity for a hearing, that an eligible institution has
25 engaged in a violation of any other provision of this title,

1 including the failure to carry out any provision of this
2 title, that is not a significant misrepresentation or other
3 serious violation, the Secretary may impose a civil penalty
4 upon such institution of not more than \$100,000 (subject
5 to such adjustments for inflation as may be prescribed in
6 regulation) for each such violation.

7 “(d) CIVIL PENALTIES AND SANCTIONS FOR OFFI-
8 CERS OF INSTITUTIONS.—Upon determination, after rea-
9 sonable notice and an opportunity for a hearing on the
10 record, that an officer of an institution of higher education
11 that participates in a program under this title has know-
12 ingly and willfully, or with gross negligence, violated a pro-
13 vision of this title, the Secretary may sanction the officer.
14 Such sanctions may include the following:

15 “(1) Prohibiting the institution of higher edu-
16 cation that has employed the officer of an institution
17 of higher education and that participates in a pro-
18 gram under this title, or any other institution of
19 higher education that participates in a program
20 under this title, from employing the officer, except
21 that any such prohibition under this subsection shall
22 not be for a period of more than 5 years from the
23 date of the determination of the violation.

24 “(2) Assessing a civil penalty against an officer
25 of an institution of higher education who has know-

1 ingly and willfully, or with gross negligence, violated
2 a provision of this title, except that any such civil
3 penalty under this subsection shall not be greater
4 than the amount of the officer's compensation for
5 each year for which the violations are determined to
6 have occurred. For purposes of this paragraph, an
7 officer's compensation shall include proceeds of any
8 sales of stock and any incentive-based compensation
9 (including stock options awarded as compensation)
10 based on information required to be reported to the
11 Secretary or any other Federal agency during the
12 period in which the violations are determined to have
13 occurred.

14 “(e) LIMITATION, SUSPENSION, OR TERMINATION OF
15 ELIGIBILITY STATUS.—

16 “(1) IN GENERAL.—Upon determination, after
17 reasonable notice and opportunity for a hearing, that
18 an eligible institution has engaged in a violation of
19 any provision of this title (including the failure to
20 carry out any provision of this title or any regulation
21 prescribed under such provision) or a violation of
22 any applicable special arrangement, agreement, or
23 limitation, the Secretary may limit, suspend, or ter-
24minate the participation in any program under this

1 title of an eligible institution, subject to the require-
2 ments of paragraph (2).

3 “(2) SUSPENSION PROCEDURES.—No period of
4 suspension under this section shall exceed 60 days
5 unless the institution and the Secretary agree to an
6 extension or unless limitation or termination pro-
7 ceedings are initiated by the Secretary within that
8 period of time.

9 “(f) EMERGENCY ACTION.—

10 “(1) IN GENERAL.—The Secretary may take an
11 emergency action against an institution, under which
12 the Secretary shall, effective on the date on which a
13 notice and statement of the basis of the action is
14 mailed to the institution (by registered mail, return
15 receipt requested), withhold funds from the institu-
16 tion or its students and withdraw the institution’s
17 authority to obligate funds under any program
18 under this title, if the Secretary—

19 “(A) receives information, determined by
20 the Secretary to be reliable, that the institution
21 is violating any provision of this title, any regu-
22 lation prescribed under this title, or any appli-
23 cable special arrangement, agreement, or limita-
24 tion;

1 “(B) determines that immediate action is
2 necessary to prevent misuse of Federal funds;
3 and

4 “(C) determines that the likelihood of loss
5 outweighs the importance of the procedures pre-
6 scribed in subsection (e) for limitation, suspen-
7 sion, or termination.

8 “(2) TIME LIMITATION.—An emergency action
9 described in paragraph (1) shall not exceed 30 days
10 unless limitation, suspension, or termination pro-
11 ceedings are initiated by the Secretary against the
12 institution within that period of time.

13 “(3) OPPORTUNITY TO SHOW CAUSE.—The Sec-
14 retary shall provide an institution that is the subject
15 of an emergency action under this subsection an op-
16 portunity to show cause, if the institution so re-
17 quests, that the emergency action is unwarranted
18 and should be lifted.

19 “(g) LIFTING OF SANCTIONS.—Notwithstanding any
20 other provision of this title, an institution of higher edu-
21 cation that has been sanctioned by the Secretary under
22 this section or any other provision of this title may not
23 have such sanctions lifted until the Secretary has con-
24 ducted a subsequent program review under section 498A

1 and has found the institution to be in compliance with this
2 title.

3 “(h) SINGLE COURSE OF CONDUCT; COMPROMISE
4 AUTHORITY.—

5 “(1) SAME COURSE OF CONDUCT.—For pur-
6 poses of this section, acts and omissions relating to
7 a single course of conduct shall be treated as a sin-
8 gle violation.

9 “(2) COMPROMISE AUTHORITY.—Any civil pen-
10 alty under this section may be compromised by the
11 Secretary. In determining the amount of such pen-
12 alty, or the amount agreed upon in compromise, the
13 Secretary shall consider—

14 “(A) the appropriateness of the penalty to
15 the size of the institution of higher education
16 subject to the determination; and

17 “(B) the gravity of the violation, failure, or
18 misrepresentation.

19 “(i) COLLECTION OF PENALTY.—The amount of any
20 penalty under this section may be deducted from any sums
21 owing by the United States to the institution charged.

22 “(j) DISPOSITION OF AMOUNTS RECOVERED.—

23 “(1) IN GENERAL.—Amounts collected under
24 this section shall be transferred to the Secretary,

1 who shall determine the distribution of collected
2 amounts, in accordance with paragraphs (2) and (3).

3 “(2) USE FOR PROGRAM INTEGRITY EFFORTS
4 AND PROGRAM REVIEWS.—

5 “(A) IN GENERAL.—For each fiscal year,
6 an amount equal to not more than 50 percent
7 of the amounts recovered or collected under this
8 section—

9 “(i) shall be available to the Secretary
10 to carry out program reviews under section
11 498A and other efforts by the Secretary
12 related to program integrity under part H;
13 and

14 “(ii) may be credited, if applicable, for
15 that purpose by the Secretary to any ap-
16 propriations and funds that are available
17 to the Secretary for obligation at the time
18 of collection.

19 “(B) SUPPLEMENT NOT SUPPLANT.—
20 Amounts made available under subparagraph
21 (A) shall be used to supplement and not sup-
22 plant any other amounts available to the Sec-
23 retary for the purpose described in such sub-
24 paragraph.

1 “(C) AVAILABILITY FOR FUNDS.—Any
2 amounts collected under this section that are
3 made available under subparagraph (A) shall
4 remain available until expended.

5 “(3) USE FOR STUDENT RELIEF FUND.—For
6 each fiscal year, an amount equal to not less than
7 50 percent of the amounts recovered or collected
8 under this section shall be deposited into the Stu-
9 dent Relief Fund established under subsection (k).

10 “(4) REPORT.—The Secretary shall regularly
11 publish, on the website of the Department, a de-
12 tailed description that includes—

13 “(A) the amount of funds that were dis-
14 tributed for the purposes described in para-
15 graph (2) and the amount used for the Student
16 Relief Fund under paragraph (3); and

17 “(B) how funds were distributed among
18 the purposes described in paragraph (2)(A)(i).

19 “(k) STUDENT RELIEF FUND.—

20 “(1) ESTABLISHMENT.—The Secretary shall es-
21 tablish a Student Relief Fund (referred to in this
22 subsection as the ‘Fund’) that shall be used, subject
23 to the availability of funds, to provide financial relief
24 to any student enrolled in an institution of higher
25 education that—

1 “(A) has failed to comply with an eligi-
2 bility requirement under section 101 or 102 or
3 an obligation incurred under the terms of the
4 program participation agreement under section
5 487; or

6 “(B) has been sanctioned under subsection
7 (b) or (c).

8 “(2) DETERMINATION OF RELIEF.—The Sec-
9 retary, in consultation with Director of the Bureau
10 of Consumer Financial Protection—

11 “(A) shall determine the manner of relief
12 to be provided under paragraph (1), which may
13 include tuition reimbursement or full or partial
14 loan forgiveness; and

15 “(B) may issue regulations regarding how
16 the amounts in the Fund will be distributed
17 among students eligible for the funds.

18 “(3) TREATMENT AND AVAILABILITY OF
19 FUNDS.—

20 “(A) FUNDS THAT ARE NOT GOVERNMENT
21 FUNDS.—Funds obtained by or transferred to
22 the Fund shall not be construed to be Govern-
23 ment funds or appropriated monies.

24 “(B) AMOUNTS NOT SUBJECT TO APPOR-
25 TIONMENT.—Notwithstanding any other provi-

1 sion of law, amounts in the Fund shall not be
2 subject to apportionment for purposes of chap-
3 ter 15 of title 31, United States Code, or under
4 any other authority.

5 “(C) NO FISCAL YEAR LIMITATION.—Sums
6 deposited in the Fund shall remain in the Fund
7 and be available for expenditure under this sub-
8 section without fiscal year limitation.

9 “(4) INVESTMENTS.—

10 “(A) AMOUNTS IN FUND MAY BE IN-
11 VESTED.—The Secretary of Education may re-
12 quest the Secretary of the Treasury to invest
13 the portion of the Fund that is not, in the dis-
14 cretion of the Secretary of Education, required
15 to meet the current needs of the Fund.

16 “(B) ELIGIBLE INVESTMENTS.—Invest-
17 ments shall be made by the Secretary of the
18 Treasury in obligations of the United States or
19 obligations that are guaranteed as to principal
20 and interest by the United States, with matu-
21 rities suitable to the needs of the Fund as de-
22 termined by the Secretary on the record.

23 “(C) INTEREST AND PROCEEDS CRED-
24 ITED.—The interest on, and the proceeds from

1 the sale or redemption of, any obligations held
2 in the Fund shall be credited to the Fund.

3 “(5) REGULATIONS.—The Secretary shall pre-
4 scribe regulations to implement the requirements of
5 this section within 1 year after the date of enact-
6 ment of the Students Before Profits Act.

7 “(6) AUTHORIZATION OF APPROPRIATIONS.—In
8 addition to funds derived from financial penalties as-
9 sessed pursuant to subsection (j), there are author-
10 ized to be appropriated such sums as may be nec-
11 essary to carry out this subsection for fiscal year
12 2015 and each of the 5 succeeding fiscal years.

13 “(l) STATE ENFORCEMENT.—

14 “(1) IN GENERAL.—Any violation of subsection
15 (b), including the regulations promulgated under
16 such subsection, shall be a cause of action enforce-
17 able by the State, through the attorney general (or
18 the equivalent thereof) of the State, in any district
19 court of the United States in that State or in a
20 State court that is located in that State and that
21 has jurisdiction over the defendant. The State may
22 seek any relief provided under paragraph (4)(B) for
23 such violation, or any remedies otherwise provided
24 under law.

25 “(2) NOTICE REQUIRED.—

1 “(A) IN GENERAL.—Before initiating any
2 action in a court or other administrative or reg-
3 ulatory proceeding against any institution of
4 higher education as authorized by paragraph
5 (1) to enforce any provision of this subsection,
6 including any regulation promulgated by the
7 Secretary under this subsection, a State attor-
8 ney general shall timely provide a copy of the
9 complete complaint to be filed and written no-
10 tice describing such action or proceeding to the
11 Secretary, except as provided in subparagraph
12 (B).

13 “(B) EMERGENCY ACTION.—If prior notice
14 is not practicable, the State attorney general
15 shall provide a copy of the complete complaint
16 and the notice to the Secretary immediately
17 upon instituting the action or proceeding.

18 “(C) CONTENTS OF NOTICE.—The notifi-
19 cation required under this paragraph shall, at a
20 minimum, describe—

21 “(i) the identity of the parties;

22 “(ii) the alleged facts underlying the
23 proceeding; and

24 “(iii) whether there may be a need to
25 coordinate the prosecution of the pro-

1 ceeding so as not to interfere with any ac-
 2 tion, including any rulemaking, undertaken
 3 by the Secretary or another Federal agen-
 4 cy.

5 “(3) REGULATIONS.—The Secretary shall pre-
 6 scribe regulations to implement the requirements of
 7 this subsection and periodically provide guidance in
 8 order to further coordinate actions with the State at-
 9 torneys general.

10 “(4) PRESERVATION OF STATE AUTHORITY.—

11 “(A) STATE CLAIMS.—Nothing in this sub-
 12 section shall be construed as altering, limiting,
 13 or affecting the authority of a State attorney
 14 general or any other regulatory or enforcement
 15 agency or authority to bring an action or other
 16 regulatory proceeding arising solely under the
 17 law in effect in that State.

18 “(B) RELIEF.—

19 “(i) IN GENERAL.—Relief under this
 20 subsection may include, without limita-
 21 tion—

22 “(I) rescission or reformation of
 23 contracts;

24 “(II) refund of moneys or return
 25 of real property;

1 “(III) restitution;

2 “(IV) disgorgement or compensa-
3 tion for unjust enrichment;

4 “(V) payment of damages or
5 other monetary relief pursuant to the
6 requirements of paragraph (2);

7 “(VI) public notification regard-
8 ing the violation, including the costs
9 of notification; and

10 “(VII) limits on the activities or
11 functions of the person.

12 “(ii) EXCLUSION.—Relief under this
13 subsection shall not include the ability to
14 suspend or terminate the eligibility status
15 of an institution of higher education for
16 programs under this title.”.

○