

115TH CONGRESS  
2D SESSION

# S. 3390

To establish an Education Recoupment Trust Fund to recover misused elementary and secondary education funds for the benefit of the affected students.

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## IN THE SENATE OF THE UNITED STATES

AUGUST 27, 2018

Mr. BROWN 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 establish an Education Recoupment Trust Fund to recover misused elementary and secondary education funds for the benefit of the affected students.

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 “Putting Students First  
5 Act”.

6 **SEC. 2. EDUCATION RECOUPMENT TRUST FUND.**

7 (a) DEFINITIONS.—In this section:

8 (1) ELIGIBLE CASE.—The term “eligible case”  
9 means any administrative, criminal, or civil case—

1 (A) in which the United States is a named  
2 party; and

3 (B) related to the misuse of any qualifying  
4 money.

5 (2) LOCAL EDUCATIONAL AGENCY.—The term  
6 “local educational agency” has the meaning given  
7 that term in section 8101 of the Elementary and  
8 Secondary Education Act of 1965 (20 U.S.C. 7801).

9 (3) MISUSE.—The term “misuse”, when used  
10 with respect to qualifying money, means—

11 (A) fraud, theft, or otherwise illegal or pro-  
12 hibited use of qualifying money; or

13 (B) statements or actions used to fraudu-  
14 lently or otherwise illegally obtain qualifying  
15 money.

16 (4) QUALIFYING MONEY.—The term “qualifying  
17 money” means money distributed by the Department  
18 of Education for the purpose of elementary or sec-  
19 ondary education, including such money distrib-  
20 uted—

21 (A) directly to any individual or entity; or

22 (B) to a State educational agency, local  
23 educational agency, school, charter school net-  
24 work or system, charter school, charter or edu-  
25 cation management organization, or any other

1 institution, office, department, or entity, which  
2 then distributed the money to another indi-  
3 vidual or entity.

4 (5) RESPONSIBLE PARTY.—The term “respon-  
5 sible party” means any individual, institution, gov-  
6 ernment body, official, or other entity that is a  
7 named party to an eligible case that—

8 (A) is ordered by a court or administrative  
9 agency to pay a fine, fee, penalty, or judgment  
10 to the United States Government due to misuse  
11 of qualifying money; or

12 (B) enters into a settlement agreement  
13 with the United States Government related to  
14 the misuse of qualifying money.

15 (6) STATE EDUCATIONAL AGENCY.—The term  
16 “State educational agency” has the meaning given  
17 that term in section 8101 of the Elementary and  
18 Secondary Education Act of 1965 (20 U.S.C. 7801).

19 (7) TRUST FUND.—The term “Trust Fund”  
20 means the Education Recoupment Trust Fund es-  
21 tablished under subsection (b).

22 (b) IN GENERAL.—There is established in the Treas-  
23 ury of the United States a trust fund, to be known as  
24 the “Education Recoupment Trust Fund”, consisting of

1 such amounts as are deposited in the Trust Fund under  
2 subsection (c) or any other provision of law.

3 (c) DEPOSITS.—

4 (1) IN GENERAL.—Notwithstanding any other  
5 provision of law, the Secretary of the Treasury shall  
6 deposit in the Trust Fund an amount equal to 100  
7 percent of funds collected by the United States Gov-  
8 ernment from any responsible party pursuant to any  
9 judgment or award in or settlement of any litigation,  
10 or fine or penalty imposed pursuant to any adminis-  
11 trative action, relating to an eligible case, including  
12 money realized from the liquidation of any asset  
13 awarded to the United States Government in rela-  
14 tion to an eligible case or settlement of litigation re-  
15 lating to an eligible case.

16 (2) MULTIPLE COUNTS OR CLAIMS.—If an eligi-  
17 ble case involves multiple counts or claims, the Sec-  
18 retary of the Treasury shall deposit only the col-  
19 lected funds related to the counts or claims involving  
20 the misuse of qualifying money.

21 (d) DISTRIBUTION OF TRUST FUND.—The Secretary  
22 of the Treasury shall distribute any deposits made to the  
23 Trust Fund as follows:

24 (1) In the case of funds deposited under sub-  
25 section (c) related to the misuse of qualifying money

1 by a responsible party that is a local educational  
2 agency, a school, a charter school network or system,  
3 a charter school, a charter or education management  
4 organization, or an official or employee of any such  
5 agency, school, system, or organization the funds  
6 shall be distributed from the Trust Fund to the  
7 State educational agency in the State in which the  
8 intended student beneficiaries of the qualifying  
9 money are located.

10 (2) In the case of funds deposited under sub-  
11 section (c) related to the misuse of qualifying money  
12 by a responsible party that is a State educational  
13 agency or an official or employee of a State edu-  
14 cational agency, the funds shall be distributed from  
15 the Trust Fund to the Secretary of Education.

16 (3) In any case not described in paragraph (1)  
17 or (2), the funds deposited under subsection (c) re-  
18 lated to the misuse of qualifying money shall be dis-  
19 tributed from the Trust Fund to the Secretary of  
20 Education.

21 (e) ALLOCATION OF FUNDS FROM THE TRUST  
22 FUND.—

23 (1) STATE EDUCATIONAL AGENCIES.—

24 (A) IN GENERAL.—Subject to subpara-  
25 graph (B), a State educational agency that re-

1 ceives funds in accordance with subsection  
2 (d)(1) shall allocate such funds to each local  
3 educational agency in the State in an amount  
4 that bears the same relationship to the total  
5 funds described in subsection (d)(1) for that  
6 State as the amount of funds under part A of  
7 title I of the Elementary and Secondary Edu-  
8 cation Act of 1965 (20 U.S.C. 6311 et seq.)  
9 that the local educational agency received for  
10 the most recent fiscal year for which data are  
11 available bears to the total amount of funds  
12 under that part for all local educational agen-  
13 cies in that State for that year.

14 (B) DIRECT GRANTS TO SCHOOLS.—Not-  
15 withstanding subparagraph (A), in the case of  
16 a local educational agency that continues to em-  
17 ploy, or otherwise affiliate with, an individual  
18 who is a responsible party who has misused  
19 qualifying money, a State educational agency  
20 may—

21 (i) directly distribute such funds to  
22 schools served by that local educational  
23 agency in an amount that bears the same  
24 relationship to the total funds that would  
25 be directed to that local educational agency

1 under subparagraph (A) as the amount of  
2 funds under part A of title I of the Ele-  
3 mentary and Secondary Education Act of  
4 1965 (20 U.S.C. 6311 et seq.) that the  
5 school received for the most recent fiscal  
6 year for which data are available bears to  
7 the total amount of funds under that part  
8 for all schools served by that local edu-  
9 cational agency for that year; or

10 (ii) attach reasonable conditions to  
11 prevent the misuse of qualifying money.

12 (2) SECRETARY OF EDUCATION.—

13 (A) IN GENERAL.—The Secretary of Edu-  
14 cation shall allocate funds described in para-  
15 graphs (2) and (3) of subsection (d) directly to  
16 each local educational agency in the State in  
17 which the intended student beneficiaries of the  
18 qualifying money were located.

19 (B) AMOUNT OF ALLOCATIONS.—The Sec-  
20 retary of Education shall allocate funds de-  
21 scribed in paragraphs (2) and (3) of subsection  
22 (d) to each local educational agency in the  
23 State in an amount that bears the same rela-  
24 tionship to the total funds described in para-  
25 graphs (2) and (3) of subsection (d) for that

1 State as the amount of funds under part A of  
2 title I of the Elementary and Secondary Edu-  
3 cation Act of 1965 (20 U.S.C. 6311 et seq.)  
4 that the local educational agency received for  
5 the most recent fiscal year for which data are  
6 available to the Secretary of Education bears to  
7 the total amount of funds under that part for  
8 all local educational agencies in that State for  
9 that year.

10 (f) USE OF FUNDS.—Any funds allocated to a local  
11 educational agency under this section shall be distributed  
12 to schools and otherwise used in a manner consistent with  
13 part A of title I of the Elementary and Secondary Edu-  
14 cation Act of 1965 (20 U.S.C. 6311 et seq.). Any school  
15 receiving funds under this section shall use such funds in  
16 a manner consistent with such part.

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