

115TH CONGRESS
2D SESSION

H. R. 1635

IN THE SENATE OF THE UNITED STATES

SEPTEMBER 6, 2018

Received; read twice and referred to the Committee on Health, Education,
Labor, and Pensions

AN ACT

To amend the loan counseling requirements under the Higher
Education Act of 1965, 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,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Empowering Students
3 Through Enhanced Financial Counseling Act”.

4 **SEC. 2. ANNUAL COUNSELING.**

5 Section 485(l) of the Higher Education Act of 1965
6 (20 U.S.C. 1092(l)) is amended to read as follows:

7 “(l) ANNUAL FINANCIAL AID COUNSELING.—

8 “(1) ANNUAL DISCLOSURE REQUIRED.—

9 “(A) IN GENERAL.—Each eligible institu-
10 tion shall ensure that each individual who re-
11 ceives a Federal Pell Grant or a loan made
12 under part D (other than a Federal Direct Con-
13 solidation Loan) receives comprehensive infor-
14 mation on the terms and conditions of such
15 Federal Pell Grant or loan and the responsibil-
16 ities the individual has with respect to such
17 Federal Pell Grant or loan. Such information
18 shall be provided, for each award year for which
19 the individual receives such Federal Pell Grant
20 or loan, in a simple and understandable man-
21 ner—

22 “(i) during a counseling session con-
23 ducted in person;

24 “(ii) online, with the individual ac-
25 knowledging receipt of the information; or

1 “(iii) through the use of the online
2 counseling tool described in subsection
3 (n)(1)(B).

4 “(B) USE OF INTERACTIVE PROGRAMS.—
5 In the case of institutions not using the online
6 counseling tool described in subsection
7 (n)(1)(B), the Secretary shall require such in-
8 stitutions to carry out the requirements of sub-
9 paragraph (A) through the use of interactive
10 programs, during an annual counseling session
11 that is in-person or online, that test the individ-
12 ual’s understanding of the terms and conditions
13 of the Federal Pell Grant or loan awarded to
14 the individual, using simple and understandable
15 language and clear formatting.

16 “(2) ALL INDIVIDUALS.—The information to be
17 provided under paragraph (1)(A) to each individual
18 receiving counseling under this subsection shall in-
19 clude the following:

20 “(A) An explanation of how the individual
21 may budget for typical educational expenses
22 and a sample budget based on the cost of at-
23 tendance for the institution.

24 “(B) An explanation that an individual has
25 a right to annually request a disclosure of infor-

1 mation collected by a consumer reporting agen-
2 cy pursuant to section 612(a) of the Fair Credit
3 Reporting Act (15 U.S.C. 1681j(a)).

4 “(C) Based on the most recent data avail-
5 able from the American Community Survey
6 available from the Department of Commerce,
7 the estimated average income and percentage of
8 employment in the State of domicile of the indi-
9 vidual for individuals with—

10 “(i) a high school diploma or equiva-
11 lent;

12 “(ii) some post-secondary education
13 without completion of a degree or certifi-
14 cate; and

15 “(iii) a bachelor’s degree.

16 “(D) An introduction to the financial man-
17 agement resources provided by the Financial
18 Literacy and Education Commission.

19 “(E) An explanation of how the student
20 may seek additional financial assistance from
21 the institution’s financial aid office due to a
22 change in the student’s financial circumstances,
23 and the contact information for such office.

24 “(3) STUDENTS RECEIVING FEDERAL PELL
25 GRANTS.—The information to be provided under

1 paragraph (1)(A) to each student receiving a Fed-
2 eral Pell Grant shall include the following:

3 “(A) An explanation of the terms and con-
4 ditions of the Federal Pell Grant.

5 “(B) An explanation of approved edu-
6 cational expenses for which the student may use
7 the Federal Pell Grant.

8 “(C) An explanation of why the student
9 may have to repay the Federal Pell Grant.

10 “(D) An explanation of the maximum
11 number of semesters or equivalent for which the
12 student may be eligible to receive a Federal Pell
13 Grant, and a statement of the amount of time
14 remaining for which the student may be eligible
15 to receive a Federal Pell Grant.

16 “(E) An explanation that, in the case of a
17 student who transfers to another institution,
18 the amount of time remaining for which a stu-
19 dent may be eligible to receive a Federal Pell
20 Grant, as provided under subparagraph (D),
21 will not change, regardless of whether all of the
22 courses completed by such student are accepted
23 for purposes of meeting specific degree or pro-
24 gram requirements by the institution to which
25 such student transfer.

1 “(4) BORROWERS RECEIVING LOANS MADE
2 UNDER PART D (OTHER THAN PARENT PLUS
3 LOANS).—The information to be provided under
4 paragraph (1)(A) to a borrower of a loan made
5 under part D (other than a Federal Direct PLUS
6 Loan made on behalf of a dependent student) shall
7 include the following:

8 “(A) To the extent practicable, the effect
9 of accepting the loan to be disbursed on the eli-
10 gibility of the borrower for other forms of stu-
11 dent financial assistance.

12 “(B) An explanation of the use of the mas-
13 ter promissory note.

14 “(C) An explanation that the borrower is
15 not required to accept the full amount of the
16 loan offered to the borrower.

17 “(D) An explanation that the borrower
18 should consider accepting any grant, scholar-
19 ship, or State or Federal work-study jobs for
20 which the borrower is eligible prior to accepting
21 Federal student loans.

22 “(E) A recommendation to the borrower to
23 exhaust the borrower’s Federal student loan op-
24 tions prior to taking out private education
25 loans, an explanation that Federal student

1 loans typically offer better terms and conditions
2 than private education loans, an explanation of
3 treatment of loans made under part D and pri-
4 vate education loans in bankruptcy, and an ex-
5 planation that if a borrower decides to take out
6 a private education loan—

7 “(i) the borrower has the ability to se-
8 lect a private educational lender of the bor-
9 rower’s choice;

10 “(ii) the proposed private education
11 loan may impact the borrower’s potential
12 eligibility for other financial assistance, in-
13 cluding Federal financial assistance under
14 this title; and

15 “(iii) the borrower has a right—

16 “(I) to accept the terms of the
17 private education loan within 30 cal-
18 endar days following the date on
19 which the application for such loan is
20 approved and the borrower receives
21 the required disclosure documents,
22 pursuant to section 128(e) of the
23 Truth in Lending Act (15 U.S.C.
24 1638(e)); and

1 “(II) to cancel such loan within 3
2 business days of the date on which the
3 loan is consummated, pursuant to sec-
4 tion 128(e)(7) of such Act (15 U.S.C.
5 1638(e)(7)).

6 “(F) An explanation of the approved edu-
7 cational expenses for which the borrower may
8 use a loan made under part D.

9 “(G) Information on the annual and aggre-
10 gate loan limits for Federal Direct Stafford
11 Loans and Federal Direct Unsubsidized Staf-
12 ford Loans.

13 “(H) An explanation that, in the case of a
14 student who transfers to another institution,
15 the loan amounts such student received before
16 such transfer shall be used in determining the
17 aggregate loan amount of the student, regard-
18 less of whether all of the courses completed by
19 such student are accepted for purposes of meet-
20 ing specific degree or program requirements by
21 the institution to which such student transfers.

22 “(I) Information on how interest accrues
23 and is capitalized during periods when the in-
24 terest is not paid by either the borrower or the
25 Secretary.

1 “(J) In the case of a Federal Direct PLUS
2 Loan or a Federal Direct Unsubsidized Staf-
3 ford Loan, the option of the borrower to pay
4 the interest while the borrower is in school.

5 “(K) The definition of half-time enrollment
6 at the institution, during regular terms and
7 summer school, if applicable, and the con-
8 sequences of not maintaining at least half-time
9 enrollment.

10 “(L) An explanation of the importance of
11 contacting the appropriate offices at the institu-
12 tion of higher education if the borrower with-
13 draws prior to completing the borrower’s pro-
14 gram of study so that the institution can pro-
15 vide exit counseling, including information re-
16 garding the borrower’s repayment options and
17 loan consolidation.

18 “(M) For a first-time borrower—

19 “(i) a statement of the anticipated
20 balance on the loan for which the borrower
21 is receiving counseling under this sub-
22 section;

23 “(ii) based on such anticipated bal-
24 ance, the anticipated monthly payment
25 amount under, at minimum—

1 “(I) the standard repayment
2 plan; and

3 “(II) the income-driven repay-
4 ment plans the borrower is eligible
5 for, as determined using regionally
6 available data from the Bureau of
7 Labor Statistics of the average start-
8 ing salary for the occupation in which
9 the borrower has an interest in or in-
10 tends to be employed; and

11 “(iii) an estimate of the projected
12 monthly payment amount under each re-
13 payment plan described in clause (ii),
14 based on the average cumulative indebted-
15 ness at graduation for borrowers of loans
16 made under part D who are in the same
17 program of study as the borrower.

18 “(N) For a borrower with an outstanding
19 balance of principal or interest due on a loan
20 made under this title—

21 “(i) a current statement of the
22 amount of such outstanding balance and
23 interest accrued;

24 “(ii) based on such outstanding bal-
25 ance, the anticipated monthly payment

1 amount under, at minimum, the standard
2 repayment plan and, using regionally avail-
3 able data from the Bureau of Labor Sta-
4 tistics of the average starting salary for
5 the occupation the borrower intends to be
6 employed, the income-driven repayment
7 plans the borrower is eligible for; and

8 “(iii) an estimate of the projected
9 monthly payment amount under each re-
10 payment plan described in clause (ii),
11 based on—

12 “(I) the outstanding balance de-
13 scribed in clause (i);

14 “(II) the anticipated outstanding
15 balance on the loan for which the stu-
16 dent is receiving counseling under this
17 subsection; and

18 “(III) a projection for any other
19 loans made under part D that the
20 borrower is reasonably expected to ac-
21 cept during the borrower’s program of
22 study based on at least the expected
23 increase in the cost of attendance of
24 such program.

1 “(O) The obligation of the borrower to
2 repay the full amount of the loan, regardless of
3 whether the borrower completes or does not
4 complete the program in which the borrower is
5 enrolled within the regular time for program
6 completion.

7 “(P) The likely consequences of default on
8 the loan, including adverse credit reports, delin-
9 quent debt collection procedures under Federal
10 law, and litigation, and a notice of the institu-
11 tion’s most recent cohort default rate (defined
12 in section 435(m)), an explanation of the cohort
13 default rate, the most recent national average
14 cohort default rate, and the most recent na-
15 tional average cohort default rate for the cat-
16 egory of institution described in section
17 435(m)(4) to which the institution belongs.

18 “(Q) Information on the National Student
19 Loan Data System and how the borrower can
20 access the borrower’s records.

21 “(R) The contact information for the insti-
22 tution’s financial aid office or other appropriate
23 office at the institution the borrower may con-
24 tact if the borrower has any questions about the

1 borrower’s rights and responsibilities or the
2 terms and conditions of the loan.

3 “(5) BORROWERS RECEIVING PARENT PLUS
4 LOANS FOR DEPENDENT STUDENTS.—The informa-
5 tion to be provided under paragraph (1)(A) to a bor-
6 rower of a Federal Direct PLUS Loan made on be-
7 half of a dependent student shall include the fol-
8 lowing:

9 “(A) The information described in sub-
10 paragraphs (A) through (C) and (O) through
11 (R) of paragraph (4).

12 “(B) A notification that some students
13 may qualify for other financial aid and an ex-
14 planation that the student for whom the bor-
15 rower is taking out the loan should consider ac-
16 cepting any grant, scholarship, or State or Fed-
17 eral work-study jobs for which such student is
18 eligible prior to borrowing Parent PLUS Loans.

19 “(C) For a first-time borrower of such
20 loan—

21 “(i) a statement of the anticipated
22 balance on the loan for which the borrower
23 is receiving counseling under this sub-
24 section;

1 “(ii) based on such anticipated bal-
2 ance, the anticipated monthly payment
3 amount under the standard repayment
4 plan; and

5 “(iii) an estimate of the projected
6 monthly payment amount under the stand-
7 ard repayment plan, based on the average
8 cumulative indebtedness of other borrowers
9 of Federal Direct PLUS Loans made on
10 behalf of dependent students who are in
11 the same program of study as the student
12 on whose behalf the borrower borrowed the
13 loan.

14 “(D) For a borrower with an outstanding
15 balance of principal or interest due on such
16 loan—

17 “(i) a statement of the amount of
18 such outstanding balance;

19 “(ii) based on such outstanding bal-
20 ance, the anticipated monthly payment
21 amount under the standard repayment
22 plan; and

23 “(iii) an estimate of the projected
24 monthly payment amount under the stand-
25 ard repayment plan, based on—

1 “(I) the outstanding balance de-
2 scribed in clause (i);

3 “(II) the anticipated outstanding
4 balance on the loan for which the bor-
5 rower is receiving counseling under
6 this subsection; and

7 “(III) a projection for any other
8 Federal Direct PLUS Loan made on
9 behalf of the dependent student that
10 the borrower is reasonably expected to
11 accept during the program of study of
12 such student based on at least the ex-
13 pected increase in the cost of attend-
14 ance of such program.

15 “(E) Debt management strategies that are
16 designed to facilitate the repayment of such in-
17 debtedness.

18 “(F) An explanation that the borrower has
19 the options to prepay each loan, pay each loan
20 on a shorter schedule, pay each loan while the
21 dependent child is still in school, pay the inter-
22 est on the loan while the loan is in deferment,
23 and change repayment plans.

24 “(G) For each Federal Direct PLUS Loan
25 made on behalf of a dependent student for

1 which the borrower is receiving counseling
2 under this subsection, the contact information
3 for the loan servicer of the loan and a link to
4 such servicer’s Website.

5 “(6) ANNUAL LOAN ACCEPTANCE.—Prior to
6 making the first disbursement of a loan made under
7 part D (other than a Federal Direct Consolidation
8 Loan) to a borrower for an award year, an eligible
9 institution, shall, as part of carrying out the coun-
10 seling requirements of this subsection for the loan,
11 ensure that after receiving the applicable counseling
12 under paragraphs (2), (4), and (5) for the loan the
13 borrower accepts the loan for such award year and
14 for such amount as is specified by the borrower by—

15 “(A) signing the master promissory note
16 for the loan;

17 “(B) signing and returning to the institu-
18 tion a separate written statement that affirma-
19 tively states that the borrower accepts the loan;
20 or

21 “(C) electronically signing an electronic
22 version of the statement described in subpara-
23 graph (B).

24 “(7) CONSTRUCTION.—Nothing in this section
25 shall be construed to prohibit an eligible institution

1 from providing additional information and coun-
2 seling services to recipients of Federal student aid
3 under this title, provided that any additional infor-
4 mation and counseling services for recipients of Fed-
5 eral student aid shall not preclude or be considered
6 a condition for disbursement of such aid.

7 “(8) COUNSELING SESSIONS CONDUCTED IN
8 PERSON.—Institutions of higher education may en-
9 courage individuals to attend in-person loan coun-
10 seling sessions under paragraph (1)(A).”.

11 **SEC. 3. EXIT COUNSELING.**

12 Section 485(b) of the Higher Education Act of 1965
13 (20 U.S.C. 1092(b)) is amended—

14 (1) in paragraph (1)(A)—

15 (A) in the matter preceding clause (i), by
16 striking “through financial aid offices or other-
17 wise” and inserting “through the use of an
18 interactive program, during an exit counseling
19 session that is in-person or online, or through
20 the use of the online counseling tool described
21 in subsection (n)(1)(A)”;

22 (B) by redesignating clauses (i) through
23 (ix) as clauses (v) through (xiii), respectively;

24 (C) by inserting before clause (v), as so re-
25 designated, the following:

1 “(i) a summary of the outstanding balance of
2 principal and interest due on the loans made to the
3 borrower under part B, D, or E;

4 “(ii) an explanation of the grace period pre-
5 ceding repayment and the expected date that the
6 borrower will enter repayment;

7 “(iii) an explanation that the borrower has the
8 option to pay any interest that has accrued while the
9 borrower was in school or that may accrue during
10 the grace period preceding repayment or during an
11 authorized period of deferment or forbearance, prior
12 to the capitalization of the interest;

13 “(iv) an explanation that the borrower may be
14 approached during the repayment process by third-
15 party student debt relief companies, that they should
16 use caution in any such dealings, and that the typ-
17 ical services provided by these companies are already
18 offered to borrowers free of charge through
19 servicers;”;

20 (D) in clause (v), as so redesignated—

21 (i) by striking “sample information
22 showing the average” and inserting “infor-
23 mation, based on the borrower’s out-
24 standing balance described in clause (i),
25 showing the borrower’s”; and

1 (ii) by striking “of each plan” and in-
2 serting “of at least the standard repay-
3 ment plan and the income-driven repay-
4 ment plans the borrower is eligible for”;
5 (E) in clause (x), as so redesignated—

6 (i) by inserting “decreased credit
7 score,” after “credit reports,”; and

8 (ii) by inserting “reduced ability to
9 rent or purchase a home or car, potential
10 difficulty in securing employment,” after
11 “Federal law,”;

12 (F) in clause (xi), as so redesignated, by
13 striking “consolidation loan under section 428C
14 or a”;

15 (G) in clauses (xii) and (xiii), as so redes-
16 ignated, by striking “and” at the end; and

17 (H) by adding at the end the following:

18 “(xiv) for each of the borrower’s loans made
19 under part B, D, or E for which the borrower is re-
20 ceiving counseling under this subsection, the contact
21 information for the loan servicer of the loan and a
22 link to such servicer’s Website; and

23 “(xv) an explanation that an individual has a
24 right to annually request a disclosure of information
25 collected by a consumer reporting agency pursuant

1 to section 612(a) of the Fair Credit Reporting Act
 2 (15 U.S.C. 1681j(a)).”;

3 (2) in paragraph (1)(B)—

4 (A) by inserting “online or” before “in
 5 writing”; and

6 (B) by adding before the period at the end
 7 the following: “, except that in the case of an
 8 institution using the online counseling tool de-
 9 scribed in subsection (n)(1)(A), the Secretary
 10 shall attempt to provide such information to the
 11 student in the manner described in subsection
 12 (n)(3)(C)”;

13 (3) in paragraph (2)(C), by inserting “, such as
 14 the online counseling tool described in subsection
 15 (n)(1)(A),” after “electronic means”.

16 **SEC. 4. ONLINE COUNSELING TOOLS.**

17 Section 485 of the Higher Education Act of 1965 (20
 18 U.S.C. 1092) is further amended by adding at the end
 19 the following:

20 “(n) ONLINE COUNSELING TOOLS.—

21 “(1) IN GENERAL.—Beginning not later than 1
 22 year after the date of enactment of the Empowering
 23 Students Through Enhanced Financial Counseling
 24 Act, the Secretary shall maintain—

1 “(A) an online counseling tool that pro-
2 vides the exit counseling required under sub-
3 section (b) and meets the applicable require-
4 ments of this subsection; and

5 “(B) an online counseling tool that pro-
6 vides the annual counseling required under sub-
7 section (1) and meets the applicable require-
8 ments of this subsection.

9 “(2) REQUIREMENTS OF TOOLS.—In maintain-
10 ing the online counseling tools described in para-
11 graph (1), the Secretary shall ensure that each such
12 tool is—

13 “(A) consumer tested, in consultation with
14 other relevant Federal agencies, to ensure that
15 the tool is effective in helping individuals under-
16 stand their rights and obligations with respect
17 to borrowing a loan made under part D or re-
18 ceiving a Federal Pell Grant;

19 “(B) understandable to students receiving
20 Federal Pell Grants and borrowers of loans
21 made under part D; and

22 “(C) freely available to all eligible institu-
23 tions.

24 “(3) RECORD OF COUNSELING COMPLETION.—
25 The Secretary shall—

“(A) use each online counseling tool described in paragraph (1) to keep a record of which individuals have received counseling using the tool, and notify the applicable institutions of the individual’s completion of such counseling;

“(B) in the case of a borrower who receives annual counseling for a loan made under part D using the tool described in paragraph (1)(B), notify the borrower by when the borrower should accept, in a manner described in subsection (l)(6), the loan for which the borrower has received such counseling; and

“(C) in the case of a borrower described in subsection (b)(1)(B) at an institution that uses the online counseling tool described in paragraph (1)(A) of this subsection, the Secretary shall attempt to provide the information described in subsection (b)(1)(A) to the borrower through such tool.”.

**SEC. 5. LONGITUDINAL STUDY ON THE EFFECTIVENESS OF
STUDENT LOAN COUNSELING.**

(a) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the Secretary of Education, acting through the Director of the Institute of Education

1 Sciences, shall begin conducting a rigorous, longitudinal
2 study of the impact and effectiveness of the student loan
3 counseling—

4 (1) provided under subsections (b), (l), and (n)
5 of section 485 of the Higher Education Act of 1965
6 (20 U.S.C. 1092), as amended by this Act; and

7 (2) provided through such other means as the
8 Secretary of Education may determine.

9 (b) CONTENTS.—

10 (1) BORROWER INFORMATION.—The longitu-
11 dinal study carried out under subsection (a) shall in-
12 clude borrower information, in the aggregate and
13 disaggregated by race, ethnicity, gender, income, and
14 status as an individual with a disability, on—

15 (A) student persistence;

16 (B) degree attainment;

17 (C) program completion;

18 (D) successful entry into student loan re-
19 payment;

20 (E) cumulative borrowing levels; and

21 (F) such other factors as the Secretary of
22 Education may determine.

23 (2) EXCEPTION.—The disaggregation under
24 paragraph (1) shall not be required in a case in
25 which the number of borrowers in a category is in-

1 sufficient to yield statistically reliable information or
2 the results would reveal personally identifiable infor-
3 mation about an individual borrower.

4 (c) INTERIM REPORTS.—Not later than 18 months
5 after the commencement of the study under subsection
6 (a), and annually thereafter, the Secretary of Education
7 shall evaluate the progress of the study and report any
8 short-term findings to the appropriate committees of Con-
9 gress.

10 **SEC. 6. AVAILABILITY OF FUNDS.**

11 (a) USE OF EXISTING FUNDS.—Of the amount au-
12 thorized to be appropriated for maintaining the Depart-
13 ment of Education’s Financial Awareness Counseling
14 Tool, \$2,000,000 shall be available to carry out this Act
15 and the amendments made by this Act.

16 (b) NO ADDITIONAL FUNDS AUTHORIZED.—No
17 funds are authorized to be appropriated by this Act to
18 carry out this Act or the amendments made by this Act.

Passed the House of Representatives September 5,
2018.

Attest:

KAREN L. HAAS,

Clerk.