

115TH CONGRESS  
1ST SESSION

# S. 2081

To amend the loan counseling requirements under the Higher Education Act of 1965, and for other purposes.

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IN THE SENATE OF THE UNITED STATES

NOVEMBER 6, 2017

Mr. WARNER (for himself, Mr. HELLER, Mr. KAINE, and Mr. GARDNER) 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 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,*

3 **SECTION 1. SHORT TITLE.**

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

6 **SEC. 2. ANNUAL COUNSELING.**

7 Section 485(l) of the Higher Education Act of 1965  
8 (20 U.S.C. 1092(l)) is amended to read as follows:

9 “(1) ANNUAL FINANCIAL AID COUNSELING.—

10 “(1) ANNUAL DISCLOSURE REQUIRED.—

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

14                 “(i) during a counseling session con-  
15                 ducted in person;

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

18                 “(iii) through the use of the online  
19                 counseling tool described in subsection  
20                 (n)(1)(B).

21           “(B) USE OF INTERACTIVE PROGRAMS.—

22           In the case of institutions not using the online  
23           counseling tool described in subsection  
24           (n)(1)(B), the Secretary shall require such in-  
25           stitutions to carry out the requirements of sub-

1 paragraph (A) through the use of interactive  
2 programs, during an annual counseling session  
3 that is in-person or online, that test the individ-  
4 ual’s understanding of the terms and conditions  
5 of the Federal Pell Grant or loan awarded to  
6 the individual, using simple and understandable  
7 language and clear formatting.

8 “(2) ALL INDIVIDUALS.—The information to be  
9 provided under paragraph (1)(A) to each individual  
10 receiving counseling under this subsection shall in-  
11 clude the following:

12 “(A) An explanation of how the individual  
13 may budget for typical educational expenses  
14 and a sample budget based on the cost of at-  
15 tendance for the institution.

16 “(B) An explanation that an individual has  
17 a right to annually request a disclosure of infor-  
18 mation collected by a consumer reporting agen-  
19 cy pursuant to section 612(a) of the Fair Credit  
20 Reporting Act (15 U.S.C. 1681j(a)).

21 “(C) Based on the most recent data avail-  
22 able from the American Community Survey  
23 available from the Department of Commerce,  
24 the estimated average income and percentage of

1 employment in the State of domicile of the indi-  
2 vidual for persons with—

3 “(i) a high school diploma or equiva-  
4 lent;

5 “(ii) some postsecondary education  
6 without completion of a degree or certifi-  
7 cate; and

8 “(iii) a bachelor’s degree.

9 “(D) An introduction to the financial man-  
10 agement resources provided by the Financial  
11 Literacy and Education Commission.

12 “(3) STUDENTS RECEIVING FEDERAL PELL  
13 GRANTS.—The information to be provided under  
14 paragraph (1)(A) to each student receiving a Fed-  
15 eral Pell Grant may include the following:

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

18 “(B) An explanation of approved edu-  
19 cational expenses for which the student may use  
20 the Federal Pell Grant.

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

23 “(D) An explanation of the maximum  
24 number of semesters or equivalent for which the  
25 student may be eligible to receive a Federal Pell

1 Grant, and a statement of the amount of time  
2 remaining for which the student may be eligible  
3 to receive a Federal Pell Grant.

4 “(E) An explanation that if the student  
5 transfers to another institution not all of the  
6 student’s courses may be acceptable in transfer  
7 toward meeting specific degree or program re-  
8 quirements at such institution, but the amount  
9 of time remaining for which a student may be  
10 eligible to receive a Federal Pell Grant, as pro-  
11 vided under subparagraph (D), will not change.

12 “(F) An explanation of how the student  
13 may seek additional financial assistance from  
14 the institution’s financial aid office due to a  
15 change in the student’s financial circumstances,  
16 and the contact information for such office.

17 “(4) BORROWERS RECEIVING LOANS MADE  
18 UNDER PART D (OTHER THAN PARENT PLUS  
19 LOANS).—The information to be provided under  
20 paragraph (1)(A) to a borrower of a loan made  
21 under part D (other than a Federal Direct PLUS  
22 Loan made on behalf of a dependent student) shall  
23 include the following:

24 “(A) To the extent practicable, the effect  
25 of accepting the loan to be disbursed on the eli-

1           gibility of the borrower for other forms of stu-  
2           dent financial assistance.

3           “(B) An explanation of the use of the mas-  
4           ter promissory note.

5           “(C) An explanation that the borrower is  
6           not required to accept the full amount of the  
7           loan offered to the borrower.

8           “(D) An explanation that the borrower  
9           should consider accepting any grant, scholar-  
10          ship, or State or Federal work-study jobs for  
11          which the borrower is eligible prior to accepting  
12          Federal student loans.

13          “(E) A recommendation to the borrower to  
14          exhaust the borrower’s Federal student loan op-  
15          tions prior to taking out private loans, an expla-  
16          nation that Federal student loans typically offer  
17          better terms and conditions than private loans,  
18          an explanation of treatment of loans made  
19          under part D and private education loans in  
20          bankruptcy, and an explanation that if a bor-  
21          rower decides to take out a private education  
22          loan—

23                   “(i) the borrower has the ability to se-  
24                   lect a private educational lender of the bor-  
25                   rower’s choice;

1           “(ii) the proposed private education  
2           loan may impact the borrower’s potential  
3           eligibility for other financial assistance, in-  
4           cluding Federal financial assistance under  
5           this title; and

6           “(iii) the borrower has a right—

7                   “(I) to accept the terms of the  
8                   private education loan within 30 cal-  
9                   endar days following the date on  
10                  which the application for such loan is  
11                  approved and the borrower receives  
12                  the required disclosure documents,  
13                  pursuant to section 128(e)(6) of the  
14                  Truth in Lending Act (15 U.S.C.  
15                  1638(e)(6)); and

16                   “(II) to cancel such loan within 3  
17                   business days of the date on which the  
18                   loan is consummated, pursuant to sec-  
19                   tion 128(e)(7) of such Act.

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

23           “(G) Information on the annual and aggre-  
24           gate loan limits for Federal Direct Stafford

1           Loans and Federal Direct Unsubsidized Staf-  
2           ford Loans.

3           “(H) Information on how interest accrues  
4           and is capitalized during periods when the in-  
5           terest is not paid by either the borrower or the  
6           Secretary.

7           “(I) In the case of a Federal Direct PLUS  
8           Loan or a Federal Direct Unsubsidized Staf-  
9           ford Loan, the option of the borrower to pay  
10          the interest while the borrower is in school.

11          “(J) The definition of half-time enrollment  
12          at the institution, during regular terms and  
13          summer school, if applicable, and the con-  
14          sequences of not maintaining at least half-time  
15          enrollment.

16          “(K) An explanation of the importance of  
17          contacting the appropriate offices at the institu-  
18          tion of higher education if the borrower with-  
19          draws prior to completing the borrower’s pro-  
20          gram of study so that the institution can pro-  
21          vide exit counseling, including information re-  
22          garding the borrower’s repayment options and  
23          loan consolidation.

24          “(L) For a first-time borrower—



1           “(i) a statement of the anticipated  
2 balance on the loan for which the borrower  
3 is receiving counseling under this sub-  
4 section;

5           “(ii) based on such anticipated bal-  
6 ance, the anticipated monthly payment  
7 amount under, at minimum—

8                 “(I) the standard repayment  
9 plan; and

10                “(II) an income-based repayment  
11 plan under section 493C, as deter-  
12 mined using regionally available data  
13 from the Bureau of Labor Statistics  
14 of the average starting salary for the  
15 occupation in which the borrower has  
16 an interest in or intends to be em-  
17 ployed; and

18                “(iii) an estimate of the projected  
19 monthly payment amount under each re-  
20 payment plan described in clause (ii),  
21 based on the average cumulative indebted-  
22 ness at graduation for borrowers of loans  
23 made under part D who are in the same  
24 program of study as the borrower.

1           “(M) For a borrower with an outstanding  
2 balance of principal or interest due on a loan  
3 made under this title—

4                   “(i) a current statement of the  
5 amount of such outstanding balance and  
6 interest accrued;

7                   “(ii) based on such outstanding bal-  
8 ance, the anticipated monthly payment  
9 amount under, at minimum, the standard  
10 repayment plan and, using regionally avail-  
11 able data from the Bureau of Labor Sta-  
12 tistics of the average starting salary for  
13 the occupation the borrower intends to be  
14 employed, an income-based repayment plan  
15 under section 493C; and

16                   “(iii) an estimate of the projected  
17 monthly payment amount under each re-  
18 payment plan described in clause (ii),  
19 based on—

20                           “(I) the outstanding balance de-  
21 scribed in clause (i);

22                           “(II) the anticipated outstanding  
23 balance on the loan for which the stu-  
24 dent is receiving counseling under this  
25 subsection; and

1                   “(III) a projection for any other  
2                   loans made under part D that the  
3                   borrower is reasonably expected to ac-  
4                   cept during the borrower’s program of  
5                   study based on at least the expected  
6                   increase in the cost of attendance of  
7                   such program.

8                   “(N) The obligation of the borrower to  
9                   repay the full amount of the loan, regardless of  
10                  whether the borrower completes or does not  
11                  complete the program in which the borrower is  
12                  enrolled within the regular time for program  
13                  completion.

14                  “(O) The likely consequences of default on  
15                  the loan, including adverse credit reports, delin-  
16                  quent debt collection procedures under Federal  
17                  law, and litigation, and a notice of the institu-  
18                  tion’s most recent cohort default rate (defined  
19                  in section 435(m)), an explanation of the cohort  
20                  default rate, the most recent national average  
21                  cohort default rate, and the most recent na-  
22                  tional average cohort default rate for the cat-  
23                  egory of institution described in section  
24                  435(m)(4) to which the institution belongs.

1           “(P) Information on the National Student  
2           Loan Data System and how the borrower can  
3           access the borrower’s records.

4           “(Q) The contact information for the insti-  
5           tution’s financial aid office or other appropriate  
6           office at the institution the borrower may con-  
7           tact if the borrower has any questions about the  
8           borrower’s rights and responsibilities or the  
9           terms and conditions of the loan.

10          “(5) BORROWERS RECEIVING PARENT PLUS  
11          LOANS FOR DEPENDENT STUDENTS.—The informa-  
12          tion to be provided under paragraph (1)(A) to a bor-  
13          rower of a Federal Direct PLUS Loan made on be-  
14          half of a dependent student shall include the fol-  
15          lowing:

16                 “(A) The information described in sub-  
17                 paragraphs (A) through (C) and (N) through  
18                 (Q) of paragraph (4).

19                 “(B) The option of the borrower to pay the  
20                 interest on the loan while the loan is in  
21                 deferment.

22                 “(C) For a first-time borrower of such  
23                 loan—

24                         “(i) a statement of the anticipated  
25                         balance on the loan for which the borrower

1 is receiving counseling under this sub-  
2 section;

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

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

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

19 “(i) a statement of the amount of  
20 such outstanding balance;

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

1           “(iii) an estimate of the projected  
2           monthly payment amount under the stand-  
3           ard repayment plan, based on—

4                   “(I) the outstanding balance de-  
5                   scribed in clause (i);

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

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

18                   “(E) Debt management strategies that are  
19                   designed to facilitate the repayment of such in-  
20                   debtedness.

21                   “(F) An explanation that the borrower has  
22                   the options to prepay each loan, pay each loan  
23                   on a shorter schedule, and change repayment  
24                   plans.

1           “(G) For each Federal Direct PLUS Loan  
2           made on behalf of a dependent student for  
3           which the borrower is receiving counseling  
4           under this subsection, the contact information  
5           for the loan servicer of the loan and a link to  
6           such servicer’s Website.

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

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

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

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

1 **SEC. 3. EXIT COUNSELING.**

2 Section 485(b) of the Higher Education Act of 1965  
3 (20 U.S.C. 1092(b)) is amended—

4 (1) in paragraph (1)(A)—

5 (A) in the matter preceding clause (i), by  
6 striking “through financial aid offices or other-  
7 wise” and inserting “through the use of an  
8 interactive program, during an exit counseling  
9 session that is in-person or online, or through  
10 the use of the online counseling tool described  
11 in subsection (n)(1)(A)”;

12 (B) by redesignating clauses (i) through  
13 (ix) as clauses (iv) through (xii), respectively;

14 (C) by inserting before clause (iv), as re-  
15 designated by subparagraph (B), the following:

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

19 “(ii) an explanation of the grace period pre-  
20 ceding repayment and the expected date that the  
21 borrower will enter repayment;

22 “(iii) an explanation that the borrower has the  
23 option to pay any interest that has accrued while the  
24 borrower was in school or that may accrue during  
25 the grace period preceding repayment or during an



1 authorized period of deferment or forbearance, prior  
2 to the capitalization of the interest;”;

3 (D) in clause (iv), as redesignated by sub-  
4 paragraph (B)—

5 (i) by striking “sample information  
6 showing the average” and inserting “infor-  
7 mation, based on the borrower’s out-  
8 standing balance described in clause (i),  
9 showing the borrower’s”; and

10 (ii) by striking “of each plan” and in-  
11 sserting “of at least the standard repay-  
12 ment plan and the income-based repay-  
13 ment plan under section 493C”;

14 (E) in clause (ix), as redesignated by sub-  
15 paragraph (B)—

16 (i) by inserting “decreased credit  
17 score,” after “credit reports,”; and

18 (ii) by inserting “reduced ability to  
19 rent or purchase a home or car, potential  
20 difficulty in securing employment,” after  
21 “Federal law,”;

22 (F) in clause (x), as redesignated by sub-  
23 paragraph (B), by striking “consolidation loan  
24 under section 428C or a”;

1 (G) in clauses (xi) and (xii), as redesignated by subparagraph (B), by striking “and”  
2 after the semicolon; and  
3

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

5 “(xiii) for each of the borrower’s loans made  
6 under part B, D, or E for which the borrower is receiving counseling under this subsection, the contact  
7 information for the loan servicer of the loan and a  
8 link to such servicer’s Website; and  
9

10 “(xiv) an explanation that an individual has a  
11 right to annually request a disclosure of information  
12 collected by a consumer reporting agency pursuant  
13 to section 612(a) of the Fair Credit Reporting Act  
14 (15 U.S.C. 1681j(a)).”;

15 (2) in paragraph (1)(B)—

16 (A) by inserting “online or” before “in  
17 writing”; and

18 (B) by adding before the period at the end  
19 the following: “, except that in the case of an  
20 institution using the online counseling tool described in subsection (n)(1)(A), the Secretary  
21 shall attempt to provide such information to the  
22 student in the manner described in subsection  
23 (n)(3)(C)”;

24

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

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

5           Section 485 of the Higher Education Act of 1965 (20  
6 U.S.C. 1092) is amended by adding at the end the fol-  
7           lowing:

8           “(n) ONLINE COUNSELING TOOLS.—

9           “(1) IN GENERAL.—Beginning not later than 1  
10           year after the date of enactment of the Empowering  
11           Students Through Enhanced Financial Counseling  
12           Act, the Secretary shall maintain—

13                   “(A) an online counseling tool that pro-  
14                   vides the exit counseling required under sub-  
15                   section (b) and meets the applicable require-  
16                   ments of this subsection; and

17                   “(B) an online counseling tool that pro-  
18                   vides the annual counseling required under sub-  
19                   section (l) and meets the applicable require-  
20                   ments of this subsection.

21           “(2) REQUIREMENTS OF TOOLS.—In maintain-  
22           ing the online counseling tools described in para-  
23           graph (1), the Secretary shall ensure that each such  
24           tool is—

1           “(A) consumer tested, in consultation with  
2           other relevant Federal agencies, to ensure that  
3           the tool is effective in helping individuals under-  
4           stand their rights and obligations with respect  
5           to borrowing a loan made under part D or re-  
6           ceiving a Federal Pell Grant;

7           “(B) understandable to students receiving  
8           Federal Pell Grants and borrowers of loans  
9           made under part D; and

10           “(C) freely available to all eligible institu-  
11           tions.

12           “(3) RECORD OF COUNSELING COMPLETION.—

13           The Secretary shall—

14           “(A) use each online counseling tool de-  
15           scribed in paragraph (1) to keep a record of  
16           which individuals have received counseling using  
17           the tool, and notify the applicable institutions  
18           of the individual’s completion of such coun-  
19           seling;

20           “(B) in the case of a borrower who re-  
21           ceives annual counseling for a loan made under  
22           part D using the tool described in paragraph  
23           (1)(B), notify the borrower by when the bor-  
24           rower should accept, in a manner described in

1 section 485(l)(6), the loan for which the bor-  
2 rower has received such counseling; and

3 “(C) in the case of a borrower described in  
4 subsection (b)(1)(B) at an institution that uses  
5 the online counseling tool described in para-  
6 graph (1)(A) of this subsection, the Secretary  
7 shall attempt to provide the information de-  
8 scribed in subsection (b)(1)(A) to the borrower  
9 through such tool.”.

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

12 (a) IN GENERAL.—Not later than 1 year after the  
13 date of enactment of this Act, the Secretary of Education,  
14 acting through the Director of the Institute of Education  
15 Sciences, shall begin conducting a rigorous, longitudinal  
16 study of the impact and effectiveness of the student loan  
17 counseling—

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

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

23 (b) CONTENTS.—

24 (1) BORROWER INFORMATION.—The longitu-  
25 dinal study carried out under subsection (a) shall in-

1 include borrower information, in the aggregate and  
2 disaggregated by race, ethnicity, gender, income, and  
3 status as an individual with a disability, on—

4 (A) student persistence;

5 (B) degree attainment;

6 (C) program completion;

7 (D) successful entry into student loan re-  
8 payment;

9 (E) cumulative borrowing levels; and

10 (F) such other factors as the Secretary of  
11 Education may determine.

12 (2) EXCEPTION.—The disaggregation under  
13 paragraph (1) shall not be required in a case in  
14 which the number of borrowers in a category is in-  
15 sufficient to yield statistically reliable information or  
16 the results would reveal personally identifiable infor-  
17 mation about an individual borrower.

18 (c) INTERIM REPORTS.—Not later than 18 months  
19 after the commencement of the study under subsection  
20 (a), and annually thereafter, the Secretary of Education  
21 shall evaluate the progress of the study and report any  
22 short-term findings to the appropriate committees of Con-  
23 gress.

1 **SEC. 6. AVAILABILITY OF FUNDS.**

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

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

○