

114TH CONGRESS
2D SESSION

S. 3116

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

IN THE SENATE OF THE UNITED STATES

JUNE 29, 2016

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

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 “(l) 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 student, 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 student
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 bor-
2 rower 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 education
16 loans, an explanation that Federal student
17 loans typically offer better terms and conditions
18 than private education loans, an explanation of
19 treatment of loans made under part D and pri-
20 vate education loans in bankruptcy, and an ex-
21 planation that if a borrower decides to take out
22 a private education 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) of the
14 Truth in Lending Act (15 U.S.C.
15 1638(e)); 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 (15 U.S.C.
20 1638(e)(7)).

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

24 “(G) Information on the annual and aggre-
25 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)”; and
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 subsection (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.

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