

116TH CONGRESS
1ST SESSION

H. R. 2129

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

IN THE HOUSE OF REPRESENTATIVES

APRIL 8, 2019

Mr. GUTHRIE (for himself and Ms. BONAMICI) introduced the following bill; which was referred to the Committee on Education and Labor

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 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 individuals with—

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

5 “(ii) some post-secondary 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 “(E) 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 “(3) STUDENTS RECEIVING FEDERAL PELL
18 GRANTS.—The information to be provided under
19 paragraph (1)(A) to each student receiving a Fed-
20 eral Pell Grant shall include the following:

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

23 “(B) An explanation of approved edu-
24 cational expenses for which the student may use
25 the Federal Pell Grant.

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

3 “(D) An explanation of the maximum
4 number of semesters or equivalent for which the
5 student may be eligible to receive a Federal Pell
6 Grant, and a statement of the amount of time
7 remaining for which the student may be eligible
8 to receive a Federal Pell Grant.

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

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

1 “(A) To the extent practicable, the effect
2 of accepting the loan to be disbursed on the eli-
3 gibility of the borrower for other forms of stu-
4 dent financial assistance.

5 “(B) An explanation of the use of the mas-
6 ter promissory note.

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

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

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

1 “(i) the borrower has the ability to se-
2 lect a private educational lender of the bor-
3 rower’s choice;

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

9 “(iii) the borrower has a right—

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

19 “(II) to cancel such loan within 3
20 business days of the date on which the
21 loan is consummated, pursuant to sec-
22 tion 128(e)(7) of such Act (15 U.S.C.
23 1638(e)(7)).

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

4 “(G) Information on the annual and aggre-
5 gate loan limits for Federal Direct Stafford
6 Loans and Federal Direct Unsubsidized Staf-
7 ford Loans.

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

17 “(I) Information on how interest accrues
18 and is capitalized during periods when the in-
19 terest is not paid by either the borrower or the
20 Secretary.

21 “(J) In the case of a Federal Direct PLUS
22 Loan or a Federal Direct Unsubsidized Staf-
23 ford Loan, the option of the borrower to pay
24 the interest while the borrower is in school.

1 “(K) The definition of half-time enrollment
2 at the institution, during regular terms and
3 summer school, if applicable, and the con-
4 sequences of not maintaining at least half-time
5 enrollment.

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

14 “(M) For a first-time borrower—

15 “(i) a statement of the anticipated
16 balance on the loan for which the borrower
17 is receiving counseling under this sub-
18 section;

19 “(ii) based on such anticipated bal-
20 ance, the anticipated monthly payment
21 amount under, at minimum—

22 “(I) the standard repayment
23 plan; and

24 “(II) the income-driven repay-
25 ment plans the borrower is eligible

1 for, as determined using regionally
2 available data from the Bureau of
3 Labor Statistics of the average start-
4 ing salary for the occupation in which
5 the borrower has an interest in or in-
6 tends to be employed; and

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

14 “(N) For a borrower with an outstanding
15 balance of principal or interest due on a loan
16 made under this title—

17 “(i) a current statement of the
18 amount of such outstanding balance and
19 interest accrued;

20 “(ii) based on such outstanding bal-
21 ance, the anticipated monthly payment
22 amount under, at minimum, the standard
23 repayment plan and, using regionally avail-
24 able data from the Bureau of Labor Sta-
25 tistics of the average starting salary for

1 the occupation the borrower intends to be
2 employed, the income-driven repayment
3 plans the borrower is eligible for; and

4 “(iii) an estimate of the projected
5 monthly payment amount under each re-
6 payment plan described in clause (ii),
7 based on—

8 “(I) the outstanding balance de-
9 scribed in clause (i);

10 “(II) the anticipated outstanding
11 balance on the loan for which the stu-
12 dent is receiving counseling under this
13 subsection; and

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

21 “(O) The obligation of the borrower to
22 repay the full amount of the loan, regardless of
23 whether the borrower completes or does not
24 complete the program in which the borrower is

1 enrolled within the regular time for program
2 completion.

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

14 “(Q) Information on the National Student
15 Loan Data System and how the borrower can
16 access the borrower’s records.

17 “(R) The contact information for the insti-
18 tution’s financial aid office or other appropriate
19 office at the institution the borrower may con-
20 tact if the borrower has any questions about the
21 borrower’s rights and responsibilities or the
22 terms and conditions of the loan.

23 “(5) BORROWERS RECEIVING PARENT PLUS
24 LOANS FOR DEPENDENT STUDENTS.—The informa-
25 tion to be provided under paragraph (1)(A) to a bor-

1 rower of a Federal Direct PLUS Loan made on be-
2 half of a dependent student shall include the fol-
3 lowing:

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

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

14 “(C) For a first-time borrower of such
15 loan—

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

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

24 “(iii) an estimate of the projected
25 monthly payment amount under the stand-

1 ard repayment plan, based on the average
2 cumulative indebtedness of other borrowers
3 of Federal Direct PLUS Loans made on
4 behalf of dependent students who are in
5 the same program of study as the student
6 on whose behalf the borrower borrowed the
7 loan.

8 “(D) For a borrower with an outstanding
9 balance of principal or interest due on such
10 loan—

11 “(i) a statement of the amount of
12 such outstanding balance;

13 “(ii) based on such outstanding bal-
14 ance, the anticipated monthly payment
15 amount under the standard repayment
16 plan; and

17 “(iii) an estimate of the projected
18 monthly payment amount under the stand-
19 ard repayment plan, 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 bor-
24 rower is receiving counseling under
25 this subsection; and

1 “(III) a projection for any other
2 Federal Direct PLUS Loan made on
3 behalf of the dependent student that
4 the borrower is reasonably expected to
5 accept during the program of study of
6 such student based on at least the ex-
7 pected increase in the cost of attend-
8 ance of such program.

9 “(E) Debt management strategies that are
10 designed to facilitate the repayment of such in-
11 debtedness.

12 “(F) An explanation that the borrower has
13 the options to prepay each loan, pay each loan
14 on a shorter schedule, pay each loan while the
15 dependent child is still in school, pay the inter-
16 est on the loan while the loan is in deferment,
17 and change repayment plans.

18 “(G) For each Federal Direct PLUS Loan
19 made on behalf of a dependent student for
20 which the borrower is receiving counseling
21 under this subsection, the contact information
22 for the loan servicer of the loan and a link to
23 such servicer’s Website.

24 “(6) ANNUAL LOAN ACCEPTANCE.—Prior to
25 making the first disbursement of a loan made under

1 part D (other than a Federal Direct Consolidation
2 Loan) to a borrower for an award year, an eligible
3 institution, shall, as part of carrying out the coun-
4 seling requirements of this subsection for the loan,
5 ensure that after receiving the applicable counseling
6 under paragraphs (2), (4), and (5) for the loan the
7 borrower accepts the loan for such award year and
8 for such amount as is specified by the borrower by—

9 “(A) signing the master promissory note
10 for the loan;

11 “(B) signing and returning to the institu-
12 tion a separate written statement that affirma-
13 tively states that the borrower accepts the loan;
14 or

15 “(C) electronically signing an electronic
16 version of the statement described in subpara-
17 graph (B).

18 “(7) CONSTRUCTION.—Nothing in this section
19 shall be construed to prohibit an eligible institution
20 from providing additional information and coun-
21 seling services to recipients of Federal student aid
22 under this title, provided that any additional infor-
23 mation and counseling services for recipients of Fed-
24 eral student aid shall not preclude or be considered
25 a condition for disbursement of such aid.

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

5 **SEC. 3. EXIT COUNSELING.**

6 Section 485(b) of the Higher Education Act of 1965
7 (20 U.S.C. 1092(b)) is amended—

8 (1) in paragraph (1)(A)—

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

16 (B) by redesignating clauses (i) through
17 (ix) as clauses (v) through (xiii), respectively;

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

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

23 “(ii) an explanation of the grace period pre-
24 ceding repayment and the expected date that the
25 borrower will enter repayment;

1 “(iii) an explanation that the borrower has the
2 option to pay any interest that has accrued while the
3 borrower was in school or that may acerue during
4 the grace period preceding repayment or during an
5 authorized period of deferment or forbearance, prior
6 to the capitalization of the interest; and

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

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

15 (i) by striking “sample information
16 showing the average” and inserting “infor-
17 mation, based on the borrower’s out-
18 standing balance described in clause (i),
19 showing the borrower’s”; and

20 (ii) by striking “of each plan” and in-
21 serting “of at least the standard repay-
22 ment plan and the income-driven repay-
23 ment plans the borrower is eligible for”;

24 (E) in clause (x), as so redesignated—

1 (i) by inserting “decreased credit
2 score,” after “credit reports,”; and

3 (ii) by inserting “reduced ability to
4 rent or purchase a home or car, potential
5 difficulty in securing employment,” after
6 “Federal law,”;

7 (F) in clause (xi), as so redesignated, by
8 striking “consolidation loan under section 428C
9 or a”;

10 (G) in clauses (xii) and (xiii), as so redesi-
11 gnated, by striking “and” at the end; and

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

13 “(xiv) for each of the borrower’s loans made
14 under part B, D, or E for which the borrower is re-
15 ceiving counseling under this subsection, the contact
16 information for the loan servicer of the loan and a
17 link to such servicer’s Website; and

18 “(xv) an explanation that an individual has a
19 right to annually request a disclosure of information
20 collected by a consumer reporting agency pursuant
21 to section 612(a) of the Fair Credit Reporting Act
22 (15 U.S.C. 1681j(a)).”;

23 (2) in paragraph (1)(B)—

24 (A) by inserting “online or” before “in
25 writing”; and

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

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

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

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

15 “(n) ONLINE COUNSELING TOOLS.—

16 “(1) IN GENERAL.—Beginning not later than 1
17 year after the date of enactment of the Empowering
18 Students Through Enhanced Financial Counseling
19 Act, the Secretary shall maintain—

20 “(A) an online counseling tool that pro-
21 vides the exit counseling required under sub-
22 section (b) and meets the applicable require-
23 ments of this subsection; and

24 “(B) an online counseling tool that pro-
25 vides the annual counseling required under sub-

1 section (1) and meets the applicable require-
2 ments of this subsection.

3 “(2) REQUIREMENTS OF TOOLS.—In maintain-
4 ing the online counseling tools described in para-
5 graph (1), the Secretary shall ensure that each such
6 tool is—

7 “(A) consumer tested, in consultation with
8 other relevant Federal agencies, to ensure that
9 the tool is effective in helping individuals under-
10 stand their rights and obligations with respect
11 to borrowing a loan made under part D or re-
12 ceiving a Federal Pell Grant;

13 “(B) understandable to students receiving
14 Federal Pell Grants and borrowers of loans
15 made under part D; and

16 “(C) freely available to all eligible institu-
17 tions.

18 “(3) RECORD OF COUNSELING COMPLETION.—
19 The Secretary shall—

20 “(A) use each online counseling tool de-
21 scribed in paragraph (1) to keep a record of
22 which individuals have received counseling using
23 the tool, and notify the applicable institutions
24 of the individual’s completion of such coun-
25 seling;

1 “(B) in the case of a borrower who re-
2 ceives annual counseling for a loan made under
3 part D using the tool described in paragraph
4 (1)(B), notify the borrower by when the bor-
5 rower should accept, in a manner described in
6 subsection (l)(6), the loan for which the bor-
7 rower has received such counseling; and

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

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

17 (a) **IN GENERAL.**—Not later than 1 year after the
18 date of enactment of this Act, the Secretary of Education,
19 acting through the Director of the Institute of Education
20 Sciences, shall begin conducting a rigorous, longitudinal
21 study of the impact and effectiveness of the student loan
22 counseling—

23 (1) provided under subsections (b), (l), and (n)
24 of section 485 of the Higher Education Act of 1965
25 (20 U.S.C. 1092), as amended by this Act; and

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

3 (b) CONTENTS.—

4 (1) BORROWER INFORMATION.—The longitu-
5 dinal study carried out under subsection (a) shall in-
6 clude borrower information, in the aggregate and
7 disaggregated by race, ethnicity, gender, income, and
8 status as an individual with a disability, on—

9 (A) student persistence;

10 (B) degree attainment;

11 (C) program completion;

12 (D) successful entry into student loan re-
13 payment;

14 (E) cumulative borrowing levels; and

15 (F) such other factors as the Secretary of
16 Education may determine.

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

23 (c) INTERIM REPORTS.—Not later than 18 months
24 after the commencement of the study under subsection
25 (a), and annually thereafter, the Secretary of Education

1 shall evaluate the progress of the study and report any
2 short-term findings to the appropriate committees of Con-
3 gress.

4 **SEC. 6. AVAILABILITY OF FUNDS.**

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

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

○