

115<sup>TH</sup> CONGRESS  
2<sup>D</sup> SESSION

# H. R. 1635

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## 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 redesi-  
16 gnated, 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—

1           “(A) use each online counseling tool de-  
2           scribed in paragraph (1) to keep a record of  
3           which individuals have received counseling using  
4           the tool, and notify the applicable institutions  
5           of the individual’s completion of such coun-  
6           seling;

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

14          “(C) in the case of a borrower described in  
15          subsection (b)(1)(B) at an institution that uses  
16          the online counseling tool described in para-  
17          graph (1)(A) of this subsection, the Secretary  
18          shall attempt to provide the information de-  
19          scribed in subsection (b)(1)(A) to the borrower  
20          through such tool.”.

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

23          (a) IN GENERAL.—Not later than 1 year after the  
24          date of enactment of this Act, the Secretary of Education,  
25          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:

*Clerk.*





115<sup>TH</sup> CONGRESS  
2<sup>D</sup> SESSION

**H. R. 1635**

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**AN ACT**

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