

113TH CONGRESS  
1ST SESSION

# S. 546

To amend entrance counseling and exit counseling for borrowers under the Higher Education Act of 1965, and for other purposes.

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## IN THE SENATE OF THE UNITED STATES

MARCH 13, 2013

Mr. HARKIN (for himself, Ms. MIKULSKI, Mrs. MURRAY, Mr. FRANKEN, Ms. WARREN, Mr. BLUMENTHAL, Mr. SANDERS, Mr. ROCKEFELLER, Mr. DURBIN, Mr. LAUTENBERG, and Mr. MURPHY) 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 entrance counseling and exit counseling for borrowers 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 “Smarter Borrowing  
5 Act”.

1 **SEC. 2. AMENDMENTS TO THE HIGHER EDUCATION ACT OF**  
 2 **1965.**

3 (a) NOTIFICATION OF PELL GRANT ELIGIBILITY.—  
 4 Section 401 of the Higher Education Act of 1965 (20  
 5 U.S.C. 1070a) is amended by adding at the end the fol-  
 6 lowing:

7 “(k) NOTIFICATION OF PELL GRANT ELIGIBILITY.—

8 “(1) IN GENERAL.—Each eligible institution  
 9 shall, not less than once every 2 years while a stu-  
 10 dent is enrolled in the institution, notify each stu-  
 11 dent enrolled in the institution who is receiving a  
 12 Federal Pell Grant of the period of time that the  
 13 student has remaining before the student will not be  
 14 eligible for a Federal Pell Grant in accordance with  
 15 subsection (c)(5) because the period of time for  
 16 which the student has received a Federal Pell Grant,  
 17 in the aggregate, exceeds the period of enrollment  
 18 described in subsection (c)(5).

19 “(2) PELL GRANT RECIPIENTS WHO ARE BOR-  
 20 ROWERS.—In the case of a student who is receiving  
 21 a Federal Pell Grant who is also a borrower of a  
 22 loan made, insured, or guaranteed under part B  
 23 (other than a loan made pursuant to section 428C  
 24 or a loan made on behalf of a student pursuant to  
 25 section 428B) or made under part D (other than a  
 26 Federal Direct Consolidation Loan or a Federal Di-

1 rect PLUS loan made on behalf of a student), the  
2 requirement described in paragraph (1) shall be car-  
3 ried out in accordance with the notification and  
4 counseling requirements described in section  
5 485(o).”.

6 (b) INSTITUTION ELIGIBILITY.—Section 435 of the  
7 Higher Education Act of 1965 (20 U.S.C. 1085) is  
8 amended—

9 (1) in subsection (a)(7)—

10 (A) in subparagraph (A), by adding at the  
11 end the following:

12 “(iii) SUMMARY OF DEFAULT PRE-  
13 VENTION PLAN.—Each institution subject  
14 to this subparagraph shall prepare a sum-  
15 mary of the plan described under clause (i)  
16 that is directed to a student audience, and  
17 shall make the summary available to stu-  
18 dents at the institution.”; and

19 (B) by inserting after subparagraph (B)  
20 the following:

21 “(C) ADDITIONAL NOTIFICATION AND  
22 LOAN COUNSELING REQUIREMENTS.—An insti-  
23 tution whose cohort default rate is equal to or  
24 greater than the threshold percentage specified  
25 in paragraph (2)(B)(iv) in any fiscal year shall,

1 in order to retain or regain, as the case may be,  
2 status as an eligible institution, carry out the  
3 additional notification and loan counseling re-  
4 quirements described under section 485(o)(3).”.

5 (c) STUDENT LOAN COUNSELING.—Section 485 of  
6 the Higher Education Act of 1965 (20 U.S.C. 1092) is  
7 amended—

8 (1) in subsection (b)—

9 (A) in paragraph (1)(A)—

10 (i) by striking clause (i) and inserting  
11 the following:

12 “(i) personalized information that reflects the  
13 borrower’s actual borrowing circumstances, which  
14 shall include—

15 “(I) the repayment plans available, includ-  
16 ing income-based and pay-as-you-earn repay-  
17 ment options;

18 “(II) a description of the different features  
19 of each plan; and

20 “(III) personalized information showing es-  
21 timates of the borrower’s anticipated monthly  
22 payments and the difference in total interest  
23 paid and total payments under each plan;”;

24 (ii) by redesignating clauses (viii) and  
25 (ix) as clauses (ix) and (x), respectively;

1 (iii) by inserting after clause (vii) the  
2 following:

3 “(viii) a statement that student loans must be  
4 repaid even if the student is dissatisfied with the  
5 quality of education that the student receives;”;

6 (iv) by adding at the end the fol-  
7 lowing:

8 “(C) The counseling described in subparagraph (A)—

9 “(i) shall be provided in a simple and under-  
10 standable manner that includes mechanisms to check  
11 for comprehension; and

12 “(ii) shall be provided—

13 “(I) during an exit counseling session con-  
14 ducted in person; or

15 “(II) online.”; and

16 (B) in paragraph (2)(A)(iv), by striking “,  
17 address, social security number, references, and  
18 driver’s license number” and inserting “, postal  
19 address, social security number, references,  
20 driver’s license number, phone number, and  
21 personal electronic mailing address”;

22 (2) in subsection (l)—

23 (A) by striking paragraph (1) and insert-  
24 ing the following:

1           “(1) DISCLOSURE REQUIRED PRIOR TO SIGNING  
2           MASTER PROMISSORY NOTE.—Each eligible institu-  
3           tion shall, prior to the signing of the master promis-  
4           sory note to a first-time borrower at such institution  
5           of a loan made under part D (other than a Federal  
6           Direct Consolidation Loan or a Federal Direct  
7           PLUS loan made on behalf of a student), ensure  
8           that the borrower receives comprehensive informa-  
9           tion on the terms and conditions of the loan and of  
10          the responsibilities the borrower has with respect to  
11          such loan in accordance with paragraph (2). Such  
12          information—

13                 “(A) shall be provided through the use of  
14                 interactive programs that test the borrower’s  
15                 understanding of the terms and conditions of  
16                 the borrower’s loans under part D, using simple  
17                 and understandable language and clear for-  
18                 matting; and

19                 “(B) shall be provided—

20                         “(i) during an entrance counseling  
21                         session conducted in person; or

22                         “(ii) online.”;

23                 (B) in paragraph (2), by adding at the end  
24                 the following:

1           “(L)(i) A disclosure that Federal student  
2           loans offer generally more favorable terms and  
3           beneficial repayment options than private edu-  
4           cation loans, an explanation of the difference  
5           and relevance between student loans with a  
6           fixed interest rate as compared to student loans  
7           with a variable interest rate, and a rec-  
8           ommendation that students examine available  
9           Federal student loan options before applying for  
10          private education loans.

11          “(ii) An explanation written by the Sec-  
12          retary, in consultation with the heads of rel-  
13          evant Federal agencies, including the Director  
14          of the Consumer Financial Protection Bureau  
15          and the Commissioner of the Internal Revenue  
16          Service, of—

17                 “(I) the benefits unique to student  
18                 loans made under part D, including repay-  
19                 ment plans, loan forgiveness, and loan  
20                 deferment; and

21                 “(II) the loan terms that borrowers  
22                 should examine carefully if considering a  
23                 private education loan.

24          “(M) An explanation, if applicable, that a  
25          student may refuse all or part of a student loan

1 made under part D that is made to the student,  
2 which could help minimize the student's debt  
3 obligations.

4 “(N) Information relating to the institu-  
5 tion's cohort default rate, including—

6 “(i) the cohort default rate, as de-  
7 scribed in section 435(m), of the institu-  
8 tion and an easy to understand description  
9 of what a cohort default rate is;

10 “(ii) the percentage of students at the  
11 institution of higher education who borrow  
12 Federal student loans under this title;

13 “(iii) the national average cohort de-  
14 fault rate (as determined by the Secretary  
15 in accordance with section 435(m)); and

16 “(iv) if the cohort default rate for the  
17 institution (as described in clause (i)) is  
18 greater than the national average cohort  
19 default rate (as described in clause (iii)),  
20 then the institution shall provide—

21 “(I) the loan repayment rate at  
22 the institution, as calculated by the  
23 Secretary in accordance with sub-  
24 section (n), and, if applicable, the loan  
25 repayment rate of each program at



1 the institution that is subject to gain-  
2 ful employment regulations under sec-  
3 tion 668.7 of title 34, Code of Federal  
4 Regulations;

5 “(II) an easy to understand de-  
6 scription of what a loan repayment  
7 rate is; and

8 “(III) a disclosure to the student  
9 that the institution’s cohort default  
10 rate is above the national average.

11 “(O) A statement that student loans must  
12 be repaid even if the student is dissatisfied with  
13 the quality of education that the student re-  
14 ceives.

15 “(P) The percent of students at the insti-  
16 tution who obtain a degree or certificate within  
17 150 percent of the normal time for completion  
18 of, or graduation from, the student’s pro-  
19 gram.”; and

20 (C) by adding at the end the following:

21 “(3) BORROWER CONTACT INFORMATION.—  
22 Each eligible institution shall require that a bor-  
23 rower who receives entrance counseling under this  
24 subsection on or after the date of enactment of the  
25 Smarter Borrowing Act submit to the institution,

1 during the entrance counseling required by this sub-  
2 section, the borrower's contact information at the  
3 time of the entrance counseling, including the bor-  
4 rower's—

5 “(A) phone number;

6 “(B) postal address; and

7 “(C) personal electronic mailing address.”;

8 and

9 (3) by adding at the end the following:

10 “(n) LOAN REPAYMENT RATE.—

11 “(1) IN GENERAL.—Not less than once every  
12 fiscal year, the Secretary shall calculate the loan re-  
13 payment rate for each institution of higher education  
14 that is participating in a program under this title or  
15 seeking to regain eligibility to participate in a pro-  
16 gram under this title. The Secretary shall make the  
17 loan repayment rate for each such institution pub-  
18 licly available on the ‘College Navigator’ website of  
19 the National Center for Education Statistics.

20 “(2) METHOD OF CALCULATION.—

21 “(A) IN GENERAL.—For purposes of this  
22 subsection, the loan repayment rate for an in-  
23 stitution shall be equal to the proportion that—

24 “(i) the sum of the total original out-  
25 standing principal balance of all loans paid

1 in full of the institution plus the total  
2 original outstanding principal balance of  
3 all payments-made loans of the institution;  
4 bears to

5 “(ii) the original outstanding principal  
6 balance of all loans described in subpara-  
7 graph (B) of the institution.

8 “(B) ORIGINAL OUTSTANDING PRINCIPAL  
9 BALANCE.—

10 “(i) IN GENERAL.—For purposes of  
11 subparagraph (A), the original outstanding  
12 principal balance is the total amount of the  
13 outstanding balance, including capitalized  
14 interest, on loans under part B and part D  
15 owed by students for attendance at the in-  
16 stitution on the date those loans first en-  
17 tered repayment, subject to clauses (ii) and  
18 (iii).

19 “(ii) EXCLUSION.—The original out-  
20 standing principal balance does not include  
21 loans made to parent borrowers under sec-  
22 tion 428B or the Federal Direct PLUS  
23 Loan Program.

24 “(iii) CONSOLIDATION LOANS.—For  
25 loans made under section 428C or Federal

1 Direct Consolidation Loans, the original  
2 outstanding principal balance is the origi-  
3 nal outstanding principal balance of the  
4 loans under part B and part D attrib-  
5 utable to a borrower’s attendance at the  
6 institution.

7 “(C) LOANS PAID IN FULL.—

8 “(i) IN GENERAL.—For purposes of  
9 subparagraph (A)(i), a loan paid in full is  
10 a loan described in subparagraph (B)  
11 that—

12 “(I)(aa) has never been in de-  
13 fault; or

14 “(bb) in the case of a loan made  
15 under section 428C or a Federal Di-  
16 rect Consolidation Loan, neither the  
17 consolidation loan nor the underlying  
18 loan or loans has ever been in default;  
19 and

20 “(II) has been paid in full by a  
21 borrower.

22 “(ii) CONSOLIDATION LOANS AND RE-  
23 FINANCING.—A loan that is paid through a  
24 loan made under section 428C, a Federal  
25 Direct Consolidation Loan, or under an-

1 other refinancing process provided for  
2 under this Act, is not counted as a loan  
3 paid in full for purposes of this subpara-  
4 graph until the consolidation loan or other  
5 financial instrument is paid in full by the  
6 borrower.

7 “(D) PAYMENTS-MADE LOANS.—

8 “(i) IN GENERAL.—In this paragraph,  
9 the term payments-made loan is a loan de-  
10 scribed in subparagraph (B) that has never  
11 been in default or, in the case of a loan  
12 made under section 428C or a Federal Di-  
13 rect Consolidation Loan, neither the con-  
14 solidation loan nor the underlying loan or  
15 loans have ever been in default, where—

16 “(I) for all undergraduate pro-  
17 grams, payments made by a borrower  
18 during the most recently completed  
19 fiscal year reduce the outstanding bal-  
20 ance of a loan, including the out-  
21 standing balance of a loan made  
22 under section 428C or a Federal Di-  
23 rect Consolidation Loan, to an  
24 amount that is less than the out-

1 standing balance of the loan at the be-  
2 ginning of that fiscal year;

3 “(II) for post-baccalaureate cer-  
4 tificate, master’s degree, doctoral de-  
5 gree, or first-professional degree pro-  
6 grams, the total outstanding balance  
7 of a loan made under section 428C or  
8 a Federal Direct Consolidation Loan  
9 at the end of the most recently com-  
10 pleted fiscal year is less than the total  
11 outstanding balance of the consolida-  
12 tion loan at the beginning of the fiscal  
13 year; or

14 “(III) a borrower is in the proc-  
15 ess of qualifying for public service  
16 loan forgiveness under section 455(m)  
17 and submits an employment certifi-  
18 cation to the Secretary that dem-  
19 onstrates the borrower is engaged in  
20 qualifying employment and the bor-  
21 rower made qualifying payments on  
22 the loan during the most recently  
23 completed fiscal year.

24 “(ii) OUTSTANDING BALANCE OF A  
25 LOAN.—

1                   “(I) IN GENERAL.—The out-  
2                   standing balance of a loan includes  
3                   any unpaid accrued interest that has  
4                   not been capitalized.

5                   “(II) CONSOLIDATION LOAN.—  
6                   The outstanding balance of a loan  
7                   made under section 428C or a Fed-  
8                   eral Direct Consolidation Loan in-  
9                   cludes any unpaid accrued interest  
10                  that has not been capitalized.

11                  “(E) EXCLUSIONS.—For the most recently  
12                  completed fiscal year, the original outstanding  
13                  principal balance of the following loans is ex-  
14                  cluded from both the numerator and the de-  
15                  nominator of the ratio:

16                  “(i) Loans that were in an in-school  
17                  deferment status under section  
18                  428(b)(1)(M)(i) or 455(f)(2)(A) during  
19                  any part of the fiscal year.

20                  “(ii) Loans that were in a military-re-  
21                  lated deferment status under section  
22                  428(b)(1)(M)(ii) or 455(f)(2)(C) during  
23                  any part of the fiscal year.

1           “(iii) Loans that were discharged as a  
2           result of the death of the borrower under  
3           subsection (a)(1) or (d) of section 437.

4           “(iv) Loans that were assigned or  
5           transferred to the Secretary and that are  
6           being considered for discharge as a result  
7           of the total and permanent disability of the  
8           borrower, or were discharged by the Sec-  
9           retary on that basis under section 437(a).

10       “(o) ADDITIONAL NOTIFICATIONS AND COUNSELING  
11 FOR BORROWERS.—

12           “(1) ANNUAL NOTIFICATIONS.—Subject to sub-  
13           paragraph (E), each eligible institution shall, not  
14           less than once every year while a student is enrolled  
15           in the institution, carry out the notification require-  
16           ments described in subparagraphs (A), (B), (C), and  
17           (D) with respect to a borrower of a loan made, in-  
18           sured, or guaranteed under part B (other than a  
19           loan made pursuant to section 428C or a loan made  
20           on behalf of a student pursuant to section 428B) or  
21           made under part D (other than a Federal Direct  
22           Consolidation Loan or a Federal Direct PLUS loan  
23           made on behalf of a student). Such notification re-  
24           quirements may be fulfilled by notifications provided



1 through existing methods of communication, such as  
2 the annual financial aid award letter.

3 “(A) STUDENT LOAN BALANCE; LOAN  
4 TERMS.—The eligible institution shall provide  
5 the borrower with a written notification of—

6 “(i) the borrower’s outstanding bal-  
7 ance of principal and interest owing on any  
8 loan made, insured, or guaranteed under  
9 this title;

10 “(ii) the borrower’s repayment op-  
11 tions; and

12 “(iii) a disclosure that Federal stu-  
13 dent loans offer generally more favorable  
14 terms and beneficial repayment options  
15 than private education loans, an expla-  
16 nation of the difference and relevance be-  
17 tween student loans with a fixed interest  
18 rate as compared to student loans with a  
19 variable interest rate, and a recommenda-  
20 tion that students examine available Fed-  
21 eral student loan options before applying  
22 for private education loans.

23 “(B) FEDERAL DIRECT STAFFORD LOAN  
24 ELIGIBILITY.—In addition to the notifications  
25 under subparagraph (A) and under subpara-

1 graph (C), if applicable, in the case of a bor-  
2 rower described in paragraph (1) who qualifies  
3 for a Federal Direct Stafford Loan and who  
4 was a new borrower on or after July 1, 2013,  
5 the institution shall provide—

6 “(i) a written notification of the pe-  
7 riod of time that the borrower has remain-  
8 ing before the borrower will not be eligible  
9 for a Federal Direct Stafford Loan in ac-  
10 cordance with section 455(q) because the  
11 period of time for which the borrower has  
12 received Federal Direct Stafford Loans, in  
13 the aggregate, exceeds the period of enroll-  
14 ment described in section 455(q)(3); and

15 “(ii) a written notification to such  
16 student when the period of time for which  
17 the borrower has received Federal Direct  
18 Stafford Loans, in the aggregate,  
19 reaches—

20 “(I) except as provided in sub-  
21 clause (II) or (III), a period equal to  
22 100 percent of the published length of  
23 the educational program in which the  
24 student is enrolled;

1           “(II) in the case of a borrower  
2           who was previously enrolled in 1 or  
3           more other educational programs that  
4           began on or after July 1, 2013, a pe-  
5           riod equivalent to  $\frac{2}{3}$  of the maximum  
6           period of time that the borrower is eli-  
7           gible to receive a Federal Direct Staf-  
8           ford Loan, as calculated in accordance  
9           with section 455(q)(3)(A)(ii); or

10           “(III) in the case of a borrower  
11           who was or is enrolled on less than a  
12           full-time basis or in the case of a bor-  
13           rower whose course of study or pro-  
14           gram is described in paragraph (3)(B)  
15           or (4)(B) of section 484(b), a period  
16           equivalent to  $\frac{2}{3}$  of the maximum pe-  
17           riod of time that the borrower is eligi-  
18           ble to receive a Federal Direct Staf-  
19           ford Loan, as calculated in accordance  
20           with section 455(q)(3)(B).

21           “(C) PELL GRANT ELIGIBILITY.—In addi-  
22           tion to the notifications under subparagraph  
23           (A) and under subparagraph (B), if applicable,  
24           in the case of a borrower described in para-  
25           graph (1) who is receiving a Federal Pell

1 Grant, the institution shall provide a written  
2 notification to such borrower of the period of  
3 time that the borrower has remaining before  
4 the borrower will not be eligible for a Federal  
5 Pell Grant in accordance with section 401(c)(5)  
6 because the period of time for which the bor-  
7 rower has received a Federal Pell Grant, in the  
8 aggregate, exceeds the period of enrollment de-  
9 scribed in section 401(c)(5).

10 “(D) CONFIRMATION OF RECEIPT OF NO-  
11 TIFICATION.—Each eligible institution shall re-  
12 quire the borrower, for each applicable notifica-  
13 tion described in this paragraph, to provide  
14 written confirmation (including through elec-  
15 tronic means) that the borrower has received  
16 the notification and understands the informa-  
17 tion contained in that notification.

18 “(E) NOTIFICATIONS BY CERTAIN INSTI-  
19 TUTIONS.—In the case of an institution de-  
20 scribed in paragraph (2)(A), the notification re-  
21 quirements under this paragraph (including the  
22 confirmation of notification described in sub-  
23 paragraph (D)) shall be carried out annually  
24 during the interim in-school counseling de-  
25 scribed in paragraph (2)(B).

1           “(2) ADDITIONAL COUNSELING REQUIREMENTS  
2           FOR INSTITUTIONS WITH GREATER THAN AVERAGE  
3           COHORT DEFAULT RATES.—

4           “(A) APPLICABILITY.—In addition to the  
5           counseling required under subsections (b) and  
6           (l), and any other requirements under this sub-  
7           section, each eligible institution that has a co-  
8           hort default rate that is greater than the na-  
9           tional average cohort default rate (as deter-  
10          mined by the Secretary in accordance with sec-  
11          tion 435(m)) shall carry out the additional loan  
12          counseling described in subparagraphs (B), (C),  
13          and (D). Such counseling shall be provided in  
14          a simple and understandable manner that in-  
15          cludes mechanisms to check for comprehension.

16          “(B) INTERIM IN-SCHOOL COUNSELING.—  
17          Each eligible institution described in subpara-  
18          graph (A) shall require each borrower of a loan  
19          made, insured, or guaranteed under part B  
20          (other than a loan made pursuant to section  
21          428C or a loan made on behalf of a student  
22          pursuant to section 428B) or made under part  
23          D (other than a Federal Direct Consolidation  
24          Loan or a Federal Direct PLUS loan made on  
25          behalf of a student), to undertake not less than

1 online, or in-person, counseling session at the  
2 beginning of each academic year that the bor-  
3 rower is enrolled at such institution, which shall  
4 include—

5 “(i) the applicable notification re-  
6 quirements described in paragraph (1);  
7 and

8 “(ii) a statement that student loans  
9 must be repaid even if the borrower is dis-  
10 satisfied with the quality of education that  
11 the borrower receives.

12 “(C) ADDITIONAL LOAN COUNSELING RE-  
13 QUIREMENTS FOR CERTAIN STUDENT BOR-  
14 ROWERS.—

15 “(i) IN GENERAL.—Each eligible insti-  
16 tution described in subparagraph (A) shall  
17 require each borrower described in clause  
18 (ii) to participate in an additional loan  
19 counseling session, which shall—

20 “(I) be coordinated jointly by the  
21 student’s academic advisor and the fi-  
22 nancial aid office;

23 “(II) include disclosure of the es-  
24 timated additional cost of attendance  
25 that the borrower may incur by failing

1 to progress through the borrower's  
2 educational program at a pace that  
3 meets the requirements for satisfac-  
4 tory progress, as described in section  
5 484(c); and

6 “(III) in the case of a borrower  
7 described in clause (ii)(II)(bb), include  
8 the development of an institutionally  
9 approved academic plan designed to  
10 ensure that the borrower will complete  
11 the borrower's educational program  
12 within a reasonable timeframe.

13 “(ii) BORROWERS IN NEED OF ADDI-  
14 TIONAL LOAN COUNSELING.—A borrower  
15 shall be subject to the requirements de-  
16 scribed in clause (i) if—

17 “(I) the borrower has a loan  
18 made, insured, or guaranteed under  
19 part B (other than a loan made pur-  
20 suant to section 428C or a loan made  
21 on behalf of a student pursuant to  
22 section 428B) or made under part D  
23 (other than a Federal Direct Consoli-  
24 dation Loan or a Federal Direct

1 PLUS loan made on behalf of a stu-  
2 dent); and

3 “(II)(aa) the borrower has trans-  
4 ferred to the institution from another  
5 institution of higher education; or

6 “(bb) the borrower meets certain  
7 criteria that the institution has deter-  
8 mined may place a borrower at great-  
9 er risk of defaulting on student loans,  
10 such as switching majors or declaring  
11 a major late, withdrawing prematurely  
12 from an educational program, or  
13 being in danger of failing to meet  
14 standards of academic progress.

15 “(D) COUNSELING FOR PARENT PLUS  
16 BORROWERS.—

17 “(i) IN GENERAL.—Each eligible insti-  
18 tution described in subparagraph (A) shall,  
19 prior to disbursement of a Federal Direct  
20 PLUS loan made on behalf of a student in  
21 an amount that is greater than \$10,000  
22 (either in a single award year or in the ag-  
23 gregate), ensure that the borrower receives  
24 comprehensive information on the terms  
25 and conditions of the loan and of the re-



1                   sponsibilities the borrower has with respect  
2                   to such loan. Such information—

3                   “(I) shall be provided through  
4                   the use of interactive programs that  
5                   test the borrower’s understanding of  
6                   the terms and conditions of the bor-  
7                   rower’s loan, using simple and under-  
8                   standable language and clear for-  
9                   matting; and

10                  “(II) shall be provided—

11                   “(aa) during a counseling  
12                   session conducted in person; or

13                   “(bb) online.

14                  “(ii) INFORMATION TO BE PRO-  
15                  VIDED.—The information to be provided to  
16                  the borrower under clause (i) shall include  
17                  the following:

18                   “(I) Information on how interest  
19                   accrues and is capitalized during peri-  
20                   ods when the interest is not paid by  
21                   the borrower.

22                   “(II) An explanation of when  
23                   loan repayment begins and what op-  
24                   tions are available for a borrower who  
25                   may need a deferment.

1                   “(III) The repayment plans that  
2                   are available to the borrower, includ-  
3                   ing personalized information show-  
4                   ing—

5                   “(aa) estimates of the bor-  
6                   rower’s anticipated monthly pay-  
7                   ments under each repayment  
8                   plan that is available; and

9                   “(bb) the difference in inter-  
10                  est paid and total payments  
11                  under each repayment plan.

12                  “(IV) The obligation of the bor-  
13                  rower to repay the full amount of the  
14                  loan, regardless of whether the stu-  
15                  dent on whose behalf the loan was  
16                  made completes or does not complete  
17                  the program in which the student is  
18                  enrolled within the regular time for  
19                  program completion.

20                  “(V) The obligation of the bor-  
21                  rower to repay the full amount of the  
22                  loan even if the student on whose be-  
23                  half the loan was made is dissatisfied  
24                  with the quality of education that the  
25                  student receives.

1                   “(VI) The likely consequences of  
2                   default on the loan, including adverse  
3                   credit reports, delinquent debt collec-  
4                   tion procedures under Federal law,  
5                   and litigation.

6                   “(VII) The name of and contact  
7                   information for the individual the bor-  
8                   rower may contact if the borrower has  
9                   any questions about the borrower’s  
10                  rights and responsibilities or the  
11                  terms and conditions of the loan.

12                  “(3) ADDITIONAL COUNSELING REQUIREMENTS  
13                  FOR CERTAIN INSTITUTIONS.—

14                  “(A) APPLICABLE INSTITUTIONS.—

15                  “(i) INSTITUTIONS THAT MAY LOSE  
16                  ELIGIBILITY.—The Secretary shall require  
17                  that an institution that has a cohort de-  
18                  fault rate that is equal to or greater than  
19                  the threshold percentage specified in sec-  
20                  tion 435(a)(2)(B) for the most recent fis-  
21                  cal year for which data is available (except  
22                  in the case of an institution that meets the  
23                  criteria for a participation rate index ap-  
24                  peal, as described in section 435(a)(8))  
25                  shall certify that the institution has met

1 the counseling requirements under sub-  
2 sections (b) and (l) and under this sub-  
3 section, including the requirements de-  
4 scribed in subparagraph (B). The coun-  
5 seling shall be provided in a simple and  
6 understandable manner that includes  
7 mechanisms to check for comprehension.

8 “(ii) INSTITUTIONS THAT WISH TO  
9 REGAIN ELIGIBILITY.—The Secretary shall  
10 require that an institution that loses eligi-  
11 bility under part B or part D of this title,  
12 or under any other program described in  
13 this Act, in accordance with section  
14 435(a)(2)(B) or section 668.206a of title  
15 34, Code of Federal Regulations (as in ef-  
16 fect on the day before the date of enact-  
17 ment of the Smarter Borrowing Act), shall  
18 certify that the institution has met the  
19 counseling requirements described in sub-  
20 paragraph (B) as a condition of regaining  
21 such eligibility. The counseling shall be  
22 provided in a simple and understandable  
23 manner that includes mechanisms to check  
24 for comprehension.

1           “(B) NOTIFICATION AND COUNSELING RE-  
2           QUIREMENTS.—In addition to the counseling  
3           required under subsections (b) and (l), and any  
4           other requirements under this subsection, an in-  
5           stitution described in subparagraph (A) shall,  
6           for each fiscal year that the institution has a  
7           cohort default rate that is equal to or greater  
8           than the threshold percentage specified in sec-  
9           tion 435(a)(2)(B), include in the institution’s  
10          default prevention plan described under section  
11          668.217 of title 34, Code of Federal Regula-  
12          tions (as in effect on the day before the date of  
13          enactment of the Smarter Borrowing Act) a  
14          specification that the institution will—

15               “(i) provide each student at the insti-  
16               tution with a notification that the institu-  
17               tion is an at-risk institution that is subject  
18               to losing eligibility (or has lost eligibility,  
19               as the case may be) for certain Federal  
20               student aid programs due to the institu-  
21               tion’s cohort default rate; and

22               “(ii) provide each student at the insti-  
23               tution who is receiving funds under this  
24               title with a counseling session, either in  
25               person or over the telephone, for the pur-

1                   pose of helping the student to develop a  
2                   budget.”.

3           (d) PROGRAM PARTICIPATION AGREEMENTS.—Sec-  
4 tion 487(a) is amended by adding at the end the following:

5                   “(30) The institution will provide the Secretary  
6                   with any information that the Secretary requests in  
7                   order to meet the requirements of section 435(n).”.

8           (e) REQUIRED DATA.—Any data that an institution  
9 of higher education does not have access to and that is  
10 required for compliance with this section shall be provided  
11 or made available by the Department of Education, or  
12 other Federal agencies, as appropriate.

13 **SEC. 3. EXPLANATION OF THE BENEFITS OF FEDERAL**  
14 **LOANS.**

15           The Secretary of Education, in consultation with the  
16 heads of relevant Federal agencies, shall prepare and  
17 make available to eligible institutions, as described under  
18 section 485(l)(2)(L)(ii) of the Higher Education Act of  
19 1965 (20 U.S.C. 1092(l)(2)(L)(ii)), a written explanation  
20 of the benefits that are unique to Federal student loans  
21 (including repayment plans, loan forgiveness, and loan  
22 deferment) and a description of the loan terms that bor-  
23 rowers should examine carefully if considering a private  
24 education loan.

1 **SEC. 4. LONGITUDINAL STUDY OF THE EFFECTIVENESS OF**  
2 **STUDENT LOAN COUNSELING.**

3 (a) IN GENERAL.—Not later than 1 year after the  
4 date of enactment of the Smarter Borrowing Act, the Sec-  
5 retary of Education, acting through the Director of the  
6 Institute of Education Sciences, shall begin conducting a  
7 rigorous longitudinal study of the impact and effectiveness  
8 of student loan counseling, as provided in accordance with  
9 subsections (b), (l), and (o) of section 485 of the Higher  
10 Education Act of 1965 (20 U.S.C. 1092) and through  
11 such other means of providing student loan counseling  
12 services as the Secretary may determine. The longitudinal  
13 study shall include information about student persistence,  
14 degree attainment, program completion, successful entry  
15 into student loan repayment, cumulative borrowing levels,  
16 and such other factors as the Secretary may determine.

17 (b) INTERIM REPORTS.—Not later than 18 months  
18 after the commencement of the study described under this  
19 section, and annually thereafter, the Secretary shall evalu-  
20 ate the progress of the study and report any short-term  
21 findings to the appropriate committees of Congress.

22 (c) AUTHORIZATION OF APPROPRIATIONS.—There  
23 are authorized to be appropriated to carry out this section  
24 such sums as may be necessary for fiscal year 2013 and  
25 each of the 5 succeeding fiscal years.

1 **SEC. 5. RECOMMENDATIONS.**

2 (a) NATIONAL STUDENT LOAN DATA SYSTEM.—Not  
3 later than 160 days after the date of enactment of this  
4 Act, the Secretary of Education and the Director of the  
5 Consumer Financial Protection Bureau shall prepare and  
6 submit to Congress a report containing joint recommenda-  
7 tions relating to the inclusion of private student loans into  
8 the National Student Loan Data System established under  
9 section 485B of the Higher Education Act of 1965 (20  
10 U.S.C. 1092b).

11 (b) RECOMMENDATIONS FOR STUDENT LOAN COUN-  
12 SELING.—The Secretary of the Treasury, acting through  
13 the President’s Advisory Council on Financial Capability  
14 and the Financial Literacy and Education Commission  
15 (FLEC), shall prepare and submit to Congress a report  
16 containing recommendations about information that  
17 should be included in financial literacy counseling for first-  
18 time student loan borrowers.

19 **SEC. 6. CONSUMER TESTING OF LOAN COUNSELING AND**  
20 **MASTER PROMISSORY NOTE.**

21 (a) ESTABLISHMENT OF CONSUMER TESTING PROC-  
22 ESS.—Not later than 3 months after the date of enact-  
23 ment of the Smarter Borrowing Act, the Secretary of Edu-  
24 cation shall establish a process for consumer testing the  
25 master promissory note and online entrance, exit, and in-  
26 terim loan counseling tools, including online tools that



1 may be used during the counseling that is required under  
2 subsections (b), (l), and (o) of section 485 of the Higher  
3 Education Act of 1965 (20 U.S.C. 1092).

4 (b) PARTICIPANTS IN CONSUMER TESTING.—The  
5 consumer testing process described in subsection (a) shall  
6 include—

7 (1) representatives of students (including low-  
8 income students, first generation college students,  
9 adult students, and prospective students);

10 (2) students' families (including low-income  
11 families, families with first generation college stu-  
12 dents, and families with prospective students);

13 (3) institutions of higher education;

14 (4) postsecondary financial aid officers; and

15 (5) nonprofit consumer groups.

16 (c) DURATION.—The Secretary of Education shall  
17 ensure that the consumer testing described in this section  
18 lasts not longer than 6 months after the process for con-  
19 sumer testing has been established under subsection (a).

20 (d) USE OF CONSUMER TESTING RESULTS.—The  
21 Secretary of Education shall use the results of the con-  
22 sumer testing in the final development of online entrance,  
23 exit, and interim loan counseling tools, including online  
24 tools that may be used during the counseling that is re-  
25 quired under subsections (b), (l), and (o) of section 485

1 of the Higher Education Act of 1965 (20 U.S.C. 1092),  
2 and the final development of a revised master promissory  
3 note.

4 (e) REPORT TO CONGRESS.—Not later than 3  
5 months after the date the consumer testing concludes, the  
6 Secretary of Education shall submit to Congress a report  
7 that contains—

8 (1) the final online entrance, exit, and interim  
9 loan counseling tools that the Department of Edu-  
10 cation plans to implement, as described under sub-  
11 section (d), and a revised master promissory note;  
12 and

13 (2) the results of the consumer testing con-  
14 ducted under this section.

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