

**AMENDMENT TO THE AMENDMENT IN THE
NATURE OF A SUBSTITUTE TO H.R. 3221
OFFERED BY MR. GUTHRIE OF KENTUCKY**

Strike all after the enacting clause and insert the following:

1 SEC. 1. SHORT TITLE.

2 This Act may be cited as the “Ensuring Student
3 Choice and Competition Act of 2009”.

**4 SEC. 2. EXTENSION OF ENSURING CONTINUED ACCESS AND
5 STUDENT LOANS ACT.**

6 Section 459A of the Higher Education Act of 1965
7 (20 U.S.C. 1087i-1) is amended—

8 (1) in subsection (a)(1), by striking “July 1,
9 2010” and inserting “July 1, 2014”;

10 (2) in subsection (e)—

11 (A) in paragraph (1)(A), by striking “Sep-
12 tember 30, 2010” and inserting “September 30,
13 2014”;

14 (B) in paragraph (2)—

15 (i) by striking “February 15, 2011”
16 and inserting “February 15, 2015”; and

17 (ii) by striking “September 30, 2010”
18 and inserting “September 30, 2014”; and

1 (C) in paragraph (3), by striking “2010,
2 and 2011” and inserting “2010, 2011, 2012,
3 2013, 2014, and 2015”;

4 (3) in subsection (f), by striking “July 1, 2010”
5 and inserting “July 1, 2014”; and

6 (4) by adding at the end the following new sub-
7 section:

8 “(g) SPECIAL RULE.—In carrying out the program
9 under this section, the Secretary shall continue, until June
10 30, 2014, to carry out the 3 programs described in the
11 Federal Register notices published pursuant to subsection
12 (a)(2) of this section, as such programs were in effect on
13 the day before the date of enactment of the Ensuring Stu-
14 dent Choice and Competition Act of 2009.”.

15 **SEC. 3. STUDY OF FFEL PROGRAM ALTERNATIVES.**

16 (a) STUDY REQUIRED.—

17 (1) IN GENERAL.—The Comptroller General of
18 the United States, the Secretary of Education, and
19 the Secretary of the Treasury, in consultation with
20 the study group described in paragraph (2), shall
21 conduct a study to identify and make recommenda-
22 tions for the development of a Federal student loan
23 program that incorporates a strong public-private
24 partnership between the Federal Government and
25 the private sector.

1 (2) STUDY GROUP.—The Comptroller General
2 of the United States, the Secretary of Education,
3 and the Secretary of the Treasury shall convene a
4 study group which shall include—

5 (A) the Director of the Office of Manage-
6 ment and Budget;

7 (B) the Director of the Congressional
8 Budget Office;

9 (C) representatives of entities making
10 loans under part B of title IV of the Higher
11 Education Act of 1965 (20 U.S.C. 1071 et
12 seq.);

13 (D) representatives of other entities in the
14 financial services community;

15 (E) representatives of other participants in
16 the student loan programs; and

17 (F) such other individuals as the Comp-
18 troller General of the United States, the Sec-
19 retary of Education, and the Secretary of the
20 Treasury may designate.

21 (b) DESIGN OF THE STUDY.—The study conducted
22 under this section shall identify recommendations for a
23 new model for maintaining a strong public-private part-
24 nership for student lending. Such model shall be designed
25 to achieve the following objectives:

1 (1) Use private capital in loan origination.

2 (2) Produce sufficient market competition
3 among loan providers to ensure that students and
4 families have choices in Federal student loans.

5 (3) Avoid waste, fraud, and abuse.

6 (c) FACTORS.—The study group shall consider the
7 following factors in developing recommendations for a
8 model that meets the objectives described in subsection
9 (b):

10 (1) The ability of lenders, guaranty agencies,
11 and loan servicers to provide top-quality customer
12 service, default aversion activities, and financial lit-
13 eracy activities.

14 (2) The use of in-school subsidies or flexible re-
15 payment options to ensure that borrowers are able
16 to successfully repay their loans.

17 (3) The ability of the program to be stream-
18 lined for ease of administration and understanding
19 by institutions of higher education, students, and
20 families.

21 (4) The stability of the program during times
22 of economic disruption by uncontrollable market
23 forces.

24 (5) The use of market mechanisms in deter-
25 mining lender return on student loans, while con-

1 tinuing to meet the other objectives of the programs
2 under parts B and D of title IV of the Higher Edu-
3 cation Act of 1965 (20 U.S.C. 1071 et seq; 1087a
4 et seq.), including the provision of loans to all eligi-
5 ble students.

6 (6) The feasibility of requiring borrowers to
7 repay loans through income tax withholding.

8 (d) PRELIMINARY REPORT AND PUBLICATION OF
9 STUDY.—

10 (1) PRELIMINARY REPORT.—Not later than
11 July 1, 2012, the study group shall prepare a pre-
12 liminary report on the recommendations of the study
13 conducted under this section, including any addi-
14 tional or dissenting views with respect to the find-
15 ings, available to the public with a 60-day request
16 for public comment. The study group shall review
17 the public comments.

18 (2) FINAL REPORT.—Not later than January 1,
19 2013, the Comptroller General of the United States,
20 the Secretary of Education, and Secretary of the
21 Treasury shall submit a final report on the rec-
22 ommendations of the study, including any additional
23 or dissenting views, to the Committee on Education
24 and Labor of the House of Representatives and the

1 Committee on Health, Education, Labor, and Pen-
2 sions of the Senate.

3 **SEC. 4. REVISED SPECIAL ALLOWANCE CALCULATION.**

4 (a) REVISED CALCULATION RULE.—Section
5 438(b)(2)(I) of the Higher Education Act of 1965 (20
6 U.S.C. 1087–1(b)(2)(I)) is amended by adding at the end
7 the following new clause:

8 “(vii) REVISED CALCULATION RULE
9 TO REFLECT FINANCIAL MARKET CONDI-
10 TIONS.—

11 “(I) CALCULATION BASED ON
12 LIBOR.—For the calendar quarter be-
13 ginning on October 1, 2009, and each
14 subsequent calendar quarter, in com-
15 puting the special allowance paid pur-
16 suant to this subsection with respect
17 to loans described in subclause (II),
18 clause (i)(I) of this subparagraph
19 shall be applied by substituting ‘of the
20 1-month London Inter Bank Offered
21 Rate (LIBOR) for United States dol-
22 lars in effect for each of the days in
23 such quarter as compiled and released
24 by the British Bankers Association’
25 for ‘of the quotes of the 3-month com-

1 mercant paper (financial) rates in ef-
2 fect for each of the days in such quar-
3 ter as reported by the Federal Reserve
4 in Publication H-15 (or its successor)
5 for such 3-month period’.

6 “(II) LOANS ELIGIBLE FOR
7 LIBOR-BASED CALCULATION.—The
8 special allowance paid pursuant to
9 this subsection shall be calculated as
10 described in subclause (I) with respect
11 to special allowance payments for the
12 3-month period ending December 31,
13 2009, and each succeeding 3-month
14 period, on loans for which the first
15 disbursement is made—

16 “(aa) on or after the date of
17 enactment of the Student Aid
18 and Fiscal Responsibility Act of
19 2009, and before July 1, 2010;
20 and

21 “(bb) on or after January 1,
22 2000, and before the date of en-
23 actment of the Student Aid and
24 Fiscal Responsibility Act of
25 2009, if, not later than the last

1 day of the second full fiscal quar-
2 ter after the date of enactment of
3 such Act, the holder of the loan
4 affirmatively and permanently
5 waives all contractual, statutory
6 or other legal rights to a special
7 allowance paid pursuant to this
8 subsection that is calculated
9 using the formula in effect at the
10 time the loans were first dis-
11 bursed.

12 “(III) TERMS OF WAIVER.—A
13 waiver pursuant to subclause (II)(bb)
14 shall—

15 “(aa) be applicable to all
16 loans described in such subclause
17 that are held under any lender
18 identification number associated
19 with the holder (pursuant to sec-
20 tion 487B); and

21 “(bb) apply with respect to
22 all future calculations of the spe-
23 cial allowance on loans described
24 in such subclause that are held
25 on the date of such waiver or

1 that are acquired by the holder
2 after such date.

3 “(IV) PARTICIPANT’S YIELD.—

4 For the calendar quarter beginning on
5 October 1, 2009, and each subsequent
6 calendar quarter, the Secretary’s par-
7 ticipant yield in any loan for which
8 the first disbursement is made on or
9 after January 1, 2000, and before Oc-
10 tober 1, 2009, and that is held by a
11 lender that has sold any participation
12 interest in such loan to the Secretary
13 shall be determined by using the
14 LIBOR-based rate described in sub-
15 clause (I) as the substitute rate (for
16 the commercial paper rate) referred to
17 in the participation agreement be-
18 tween the Secretary and such lend-
19 er.”;

20 (b) CONFORMING AMENDMENT.—Section
21 438(b)(2)(I) (20 U.S.C. 1087–1(b)(2)(I)) is further
22 amended—

23 (1) in clause (i)(II), by striking “such average
24 bond equivalent rate” and inserting “the rate deter-
25 mined under subclause (I)”; and

1 (2) in clause (v)(III) by striking “(iv), and (vi)”
2 and inserting “(iv), (vi), and (vii)”.

3 **SEC. 5. PELL GRANTS.**

4 Section 401(b)(8) of the Higher Education Act of
5 1965 (20 U.S.C. 1070a(b)(8)) is amended—

6 (1) in subparagraph (A)—

7 (A) in clause (iv), by striking
8 “\$3,090,000,000” and inserting
9 “\$5,119,163,663”;

10 (B) in clause (v), by striking
11 “\$5,050,000,000” and inserting
12 “\$7,532,929,032”; and

13 (C) in clause (vi), by striking
14 “\$105,000,000” and inserting
15 “\$7,605,338,237”; and

16 (2) in subparagraph (B)—

17 (A) in clause (ii)—

18 (i) by striking “each of the”; and

19 (ii) by striking “and 2011–2012; and”
20 and inserting a semicolon;

21 (B) by redesignating clause (iii) as clause
22 (iv);

23 (C) by inserting after clause (ii) the fol-
24 lowing:

1 “(iii) \$865 for award year 2011–
2 2012;”;

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

5 (i) by striking “\$1,090” and inserting
6 “\$1,265”; and

7 (ii) by striking the period and insert-
8 ing “; and”; and

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

10 “(v) \$1,265 for award year 2013–
11 2014.”.

