

REV #25

**AMENDMENT TO H.R. 3221, AS REPORTED  
OFFERED BY MR. KLINE OF MINNESOTA AND 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.—

9 “(1) IN GENERAL.—Subject to paragraph (2),  
10 in carrying out the program under this section, the  
11 Secretary shall continue, until June 30, 2014, to  
12 carry out the 3 programs described in the Federal  
13 Register notices published pursuant to subsection  
14 (a)(2) of this section, as such programs were in ef-  
15 fect on the day before the date of enactment of the  
16 Ensuring Student Choice and Competition Act of  
17 2009.

18 “(2) LOAN PARTICIPATION PURCHASE PRO-  
19 GRAM.—Notwithstanding any provision of law to the  
20 contrary or the terms and conditions of the pro-  
21 grams described in the Federal Register notices pub-  
22 lished pursuant to subsection (a)(2), an eligible lend-  
23 er participating in the loan participation purchase  
24 program shall not, prior to July 1, 2014, be required  
25 to—

1           “(A) make a redemption payment with re-  
2           spect to each eligible loan purchased by the  
3           Secretary; or

4           “(B) exercise the put option with respect  
5           to each such loan.

6           “(3) DEFINITIONS.—The terms ‘redemption  
7           payment’ and ‘put option’ refer to the redemption  
8           payment and put option described in the summary  
9           of the terms and conditions of the loan participation  
10          purchase program (73 Federal Register 127, July 1,  
11          2008).”

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

13       (a) STUDY REQUIRED.—

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

23           (2) STUDY GROUP.—The Comptroller General  
24           of the United States, the Secretary of Education,

1 and the Secretary of the Treasury shall convene a  
2 study group which shall include—

3 (A) the Director of the Office of Manage-  
4 ment and Budget;

5 (B) the Director of the Congressional  
6 Budget Office;

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

11 (D) representatives of other entities in the  
12 financial services community;

13 (E) representatives of other participants in  
14 the student loan programs; and

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

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

24 (1) Use private capital in loan origination.

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

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

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

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

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

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

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

23           (5) The use of market mechanisms in deter-  
24 mining lender return on student loans, while con-  
25 tinuing to meet the other objectives of the programs

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

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

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

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

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

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

2 (a) **REVISED CALCULATION RULE.**—Section  
3 438(b)(2)(I) of the Higher Education Act of 1965 (20  
4 U.S.C. 1087–1(b)(2)(I)) is amended by adding at the end  
5 the following new clause:

6 “(vii) **REVISED CALCULATION RULE**  
7 **TO REFLECT FINANCIAL MARKET CONDI-**  
8 **TIONS.**—

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

1 in Publication H-15 (or its successor)  
2 for such 3-month period’.

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

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

18 “(bb) on or after January 1,  
19 2000, and before the date of en-  
20 actment of the Student Aid and  
21 Fiscal Responsibility Act of  
22 2009, if, not later than the last  
23 day of the second full fiscal quar-  
24 ter after the date of enactment of  
25 such Act, the holder of the loan

1 affirmatively and permanently  
2 waives all contractual, statutory  
3 or other legal rights to a special  
4 allowance paid pursuant to this  
5 subsection that is calculated  
6 using the formula in effect at the  
7 time the loans were first dis-  
8 bursed.

9 “(III) TERMS OF WAIVER.—A  
10 waiver pursuant to subclause (II)(bb)  
11 shall—

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

18 “(bb) apply with respect to  
19 all future calculations of the spe-  
20 cial allowance on loans described  
21 in such subclause that are held  
22 on the date of such waiver or  
23 that are acquired by the holder  
24 after such date.

## 1                   “(IV) PARTICIPANT’S YIELD.—

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

18           (b)       CONFORMING        AMENDMENT.—Section  
19           438(b)(2)(I) of the Higher Education Act of 1965 (20  
20           U.S.C. 1087–1(b)(2)(I)) is further amended—

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

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

1 **SEC. 5. AUTHORIZATION AND APPROPRIATION OF FUNDS.**

2 Section 401A(e)(1)(E) of the Higher Education Act  
3 of 1965 (U.S.C. 1070a-1(e)(1)(E)) is amended by striking  
4 “\$1,010,000,000” and inserting “\$250,000,000”.

