

**AMENDMENT TO THE AMENDMENT IN THE
NATURE OF A SUBSTITUTE TO H.R. 2669
OFFERED BY MR. PETRI OF WISCONSIN**

Insert at the appropriate place the following new section:

1 **SEC. ____ . MARKET-BASED DETERMINATION OF LENDER**
2 **RETURNS.**

3 (a) **JOINT PLANNING STUDY TO SELECT AUCTION**
4 **MECHANISMS FOR TESTING.—**

5 (1) **PLANNING STUDY.**—The Secretaries of
6 Education and Treasury jointly shall conduct a plan-
7 ning study, in consultation with the Office of Man-
8 agement and Budget, the Congressional Budget Of-
9 fice, the General Accounting Office, and other indi-
10 viduals and entities the Secretaries determines ap-
11 propriate, to—

12 (A) examine the matters described in para-
13 graph (2) in order to determine which market-
14 based mechanisms for determining lender re-
15 turns on loans made, insured, or guaranteed
16 under part B of title IV of the Higher Edu-
17 cation Act of 1965 (20 U.S.C. 1071 et seq.)

1 shall be tested under the pilot programs de-
2 scribed in subsection (c); and

3 (B) determine what related administrative
4 and other changes will be required in order to
5 ensure that high-quality services are provided
6 under a successful implementation of market-
7 based determinations of lender returns for all
8 loans made, insured, or guaranteed under such
9 part.

10 (2) MATTERS EXAMINED.—The planning study
11 under this subsection shall examine—

12 (A) whether it is most appropriate to auc-
13 tion existing loans under part B of title IV, to
14 auction the rights to originate loans under such
15 part, or whether the sale of securities backed by
16 federally owned student loan assets originated
17 by banks acting as agents of the Federal Gov-
18 ernment would provide the most efficient mar-
19 ket-based alternative;

20 (B) matters related to efficient financial
21 organization of any auctions or sales, including
22 how loans and origination rights are bundled,
23 the capital structure of any securitization plan,
24 and issues related to servicing; and

1 (C) how to ensure that statutory, regu-
2 latory, and administrative requirements do not
3 impede separate management and ownership of
4 loans or assets backed by loans under part B
5 of title IV.

6 (3) MECHANISMS.—In determining which mar-
7 ket-based mechanisms are the most promising mod-
8 els to test the pilot programs under subsection (b),
9 the planning study shall take into account whether
10 a particular market-based mechanism will—

11 (A) ensure loan availability under part B
12 of title IV to all eligible students at all partici-
13 pating institutions;

14 (B) minimize administrative complexity for
15 borrowers, institutions, lenders, and the Federal
16 Government; and

17 (C) reduce Federal costs if used on a pro-
18 gram-wide basis.

19 (4) REPORT.—A report on the results of the
20 planning study, together with a plan for implementa-
21 tion of one or more pilot programs using promising
22 market-based approaches for determining lender re-
23 turns, shall be transmitted to Congress not later
24 than 6 months following the date of enactment of
25 this Act.

1 (b) PILOT PROGRAMS TO BE TESTED.—

2 (1) AUTHORIZATION.—

3 (A) IN GENERAL.—Notwithstanding any
4 other provision of law, after the report de-
5 scribed in subsection (a)(4) is transmitted to
6 Congress, the Secretary of Education shall, in
7 consultation with the Secretary of the Treasury,
8 begin preparations necessary to carry out pilot
9 programs meeting the requirements of this sub-
10 section in accordance with the implementation
11 plan included in the report.

12 (B) IMPLEMENTATION DATE.—The Sec-
13 retary of Education shall commence implemen-
14 tation of the pilot programs under this sub-
15 section not earlier than July 1, 2008.

16 (C) DURATION AND LOAN VOLUME.—The
17 pilot programs under this subsection shall be
18 not more than two academic years in duration,
19 and the Secretary of Education may use the
20 pilot programs to determining the lender re-
21 turns for not more than—

22 (i) 10 percent of the annual loan vol-
23 ume under this part B of title IV during
24 the first year of the pilot programs under
25 this subsection; and

1 (ii) 20 percent of the annual loan vol-
2 ume under this part B of title IV during
3 the second year of the pilot programs
4 under this subsection.

5 (2) VOLUNTARY PARTICIPATION.—

6 (A) Participation in any auction-based
7 pilot program under this subsection shall be vol-
8 untary for eligible institutions and eligible lend-
9 ers participating under part B of title IV prior
10 to July 1, 2006;

11 (B) All savings to the United States Treas-
12 ury generated by such auctions shall be distrib-
13 uted to institutions participating under this sec-
14 tion on a basis proportionate to loan volume
15 under such part for supplemental, need-based
16 financial aid, except that an institution that is
17 operating as an eligible lender under section
18 435(d)(2) shall not be eligible for any such dis-
19 tribution.

20 (3) INDEPENDENT EVALUATION.—The Govern-
21 ment Accountability Office shall conduct an inde-
22 pendent evaluation of the pilot programs, which eval-
23 uation shall be completed, and the results of such
24 submitted to the Secretary of Education, the Sec-
25 retary of the Treasury, and Congress, not later than

1 120 days after the termination of the pilot programs
2 under this subsection.

3 (c) PROGRAM-WIDE IMPLEMENTATION.—Notwith-
4 standing any other provision of part B of title IV, for the
5 first academic year beginning not less than 120 days after
6 the independent evaluation described in subsection (b)(4)
7 has been transmitted to Congress, and succeeding aca-
8 demic years, the Secretary of Education is authorized to
9 implement for all loans made under such part (other than
10 loans made under the William D. Ford Direct Loan Pro-
11 gram), a program-wide, market-based system to determine
12 returns to all lenders as the Secretary of Education deter-
13 mines appropriate, provided that—

14 (1) the Secretary of Education , in consultation
15 with the Secretary of the Treasury, has certified
16 that the auction-based system that the Secretary of
17 Education intends to implement on a program-wide
18 basis would—

19 (A) ensure loan availability under such
20 part to all eligible students at all participating
21 institutions;

22 (B) minimize administrative complexity for
23 borrowers, institutions, lenders, and the Federal
24 Government, including the enhancement of the

1 modernization of the student financial aid sys-
2 tem; and

3 (C) reduce Federal costs when used on a
4 program-wide basis; and

5 (2) the Secretary of Education has notified
6 Congress of the Secretary's intent to implement a
7 program-wide auction based system, and provided a
8 description of the structure of the auction-based sys-
9 tem, at least 120 days before implementing such a
10 system.

11 (d) CONSULTATION.—

12 (1) IN GENERAL.—As part of the planning
13 study, pilot programs, and program-wide implemen-
14 tation phases described in this section, the Secretary
15 of Education shall consult with representatives of in-
16 vestment banks, ratings agencies, lenders, institu-
17 tions of higher education and students, as well as in-
18 dividuals or other entities with pertinent technical
19 expertise. The Secretary of Education shall engage
20 in such consultations using such methods as, and to
21 the extent that, the Secretary determines appro-
22 priate to the time constraints associated with the
23 study and programs.

24 (2) SERVICES OF OTHER FEDERAL AGEN-
25 CIES.—In carrying out the planning study and pilot

1 programs described in this section, the Secretary of
2 Education may use, on a reimbursable basis, the
3 services (including procurement authorities and serv-
4 ices), equipment, personnel, and facilities of other
5 agencies and instrumentalities of the Federal Gov-
6 ernment.