The Student Aid and Fiscal Responsibility Act of 2009

David P. Smole, Coordinator
Specialist in Education Policy

Shannon M. Mahan
Specialist in Education Policy

Gail McCallion
Specialist in Social Policy

Rebecca R. Skinner
Specialist in Education Policy

David H. Bradley
Analyst in Labor Economics

Cassandria Dortch
Analyst in Education Policy

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Summary

The House and the Senate approved H.Rept. 111-89, the conference report to accompany S.Con.Res. 13, the Concurrent Resolution on the Budget for Fiscal Year 2010, on April 29, 2009. The FY2010 budget resolution includes reconciliation instructions directing the Senate Committee on Health, Education, Labor, and Pensions (HELP) and the House Committee on Education and Labor to report changes in laws within their jurisdictions to reduce the deficit by $1 billion for the period of fiscal year (FY) 2009 through FY2014. The reconciliation instructions for the House specifically direct the Committee on Education and Labor to report a bill that invests in education while reducing the deficit by $1 billion over the FY2009-FY2014 period.

On July 21, 2009, the House Committee on Education and Labor marked up H.R. 3221, the Student Aid and Fiscal Responsibility Act of 2009 (H.Rept. 111-232). On September 17, 2009, the House voted 253 to 171 to pass H.R. 3221.

H.R. 3221 would terminate authority under the Higher Education Act (HEA) of 1965, as amended, to make loans under the Federal Family Education Loan (FFEL) program after June 2010. The Congressional Budget Office (CBO) estimates that this would reduce mandatory or direct spending by $41.8 billion over the FY2009-FY2014 period, and by $86.8 billion over the FY2009-FY2019 period. These savings would be large enough to achieve the $1 billion reduction in spending specified in S.Con.Res. 13, while offsetting increases in mandatory spending that would result from the expansion of several existing HEA programs, and the establishment and funding of several proposed new programs.

Overall, CBO estimates that H.R. 3221 (as reported in H.Rept. 111-232) would reduce mandatory spending by $13.3 billion over the FY2009-FY2014 period, and by $7.8 billion over the FY2009-FY2019 period. CBO also estimates that enactment of the proposals made in H.R. 3221, if fully funded, would increase discretionary spending by $3.6 billion over the FY2009-FY2014 period, and by $13.5 billion over the FY2009-FY2019 period.

In addition to terminating the authority to make loans under the FFEL program, H.R. 3221 would fund expansions of several existing HEA programs and benefits, including the Federal Pell Grant program, the William D. Ford Federal Direct Loan (DL) program, programs serving Historically Black Colleges and Universities (HBCUs) and other Minority-Serving Institutions, and the College Access Challenge Grant program, and would alter procedures for determining the eligibility of students for need-based federal student aid. H.R. 3221 also would establish several new programs under the HEA, including a new Federal Direct Perkins Loan offered through the DL program to replace the current Federal Perkins Loan program, and a College Access and Completion Innovation Fund.

Several major non-HEA programs would also be established and funded by H.R. 3221. These include a series of Modernization, Renovation, and Repair grant programs for school facilities, an Early Learning Challenge Fund to support early childhood education, and an American Graduation Initiative to support community colleges.

This report reviews and briefly describes the proposals contained in H.R. 3221 to amend programs authorized under HEA and to establish and fund additional new education programs. It will be updated as warranted to track legislative developments.

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Introduction

The House and the Senate approved H.Rept. 111-89, the conference report to accompany S.Con.Res. 13, the Concurrent Resolution on the Budget for Fiscal Year 2010, on April 29, 2009. The FY2010 budget resolution includes reconciliation instructions directing the Senate HELP Committee and the House Education and Labor Committee to report changes in laws within their jurisdictions to reduce the deficit by $1 billion for the period of FY2009 through FY2014. The instructions for the House specifically direct the Education and Labor Committee to report a bill that invests in education while reducing the deficit by $1 billion over the FY2009-FY2014 period.

On July 21, 2009, the House Education and Labor Committee marked up H.R. 3221, the Student Aid and Fiscal Responsibility Act of 2009; and on July 27, 2009, the committee reported H.Rept. 111-232 to accompany H.R. 3221. On September 17, 2009, the House passed H.R. 3221 by a vote of 253 to 171.

H.R. 3221 would amend the HEA by making changes to existing programs and by establishing several new programs and benefits. It would also establish several new non-HEA programs. Major proposals made in H.R. 3221 include the following.

- The authority to make loans under the FFEL program would be terminated after June 2010. CBO estimates that this would reduce mandatory spending by $41.8 billion over the FY2009-FY2014 period, and by $86.8 billion over the FY2009-FY2019 period.[1] These savings would be large enough to achieve the spending reductions specified in S.Con.Res. 13 and to offset increases in mandatory spending that would result from other proposals in H.R. 3221 (described below).
- Beginning July 1, 2010, all student loans made under Title IV of the HEA would be made under the William D. Ford Federal Direct (DL) program. Contracts for the servicing of DL program loans would be awarded competitively, except in states served by not-for-profit servicers where contracts would be awarded to not-for-profit servicers that meet federal standards and agree to service loans at rates determined by the Secretary to be commercially reasonable.
- Beginning July 1, 2010, a new Federal Direct Perkins Loan would be offered under the DL program; and authority to make new loans under the current Federal Perkins Loan program would end. Loan authority totaling $6 billion would be annually allocated among institutions of higher education (IHEs) eligible to participate in the DL program.
- Beginning in FY2010, indefinite mandatory appropriations would be provided for the Federal Pell Grant program. Mandatory appropriations would supplement annual discretionary appropriations and would provide an increase above the annual appropriated Pell Grant maximum award. Beginning with award year (AY) 2011-2012,[2] annual increases to the Pell Grant award amount would be

[1] U.S. Congressional Budget Office, Cost Estimate, H.R. 3221, Student Aid and Fiscal Responsibility Act of 2009, as ordered reported by the House Committee on Education and Labor on July 21, 2009, July 24, 2009, at http://www.cbo.gov/ftpdocs/104xx/doc10479/hr3221.pdf. CBO has not prepared a cost estimate on H.R. 3221 as passed by the House. All CBO cost estimates cited in this report refer to H.R. 3221 as reported by the House Committee on Education and Labor.

[2] Each Pell Grant award year begins on July 1 and ends the last day of the following June. For example, AY2011-2012 (continued...)

indexed to the percent change in the Consumer Price Index for All Urban Consumers (CPI-U), plus one percentage point.

- Effective for AY2011-2012, the HEA, Title IV federal student aid need analysis methodology would be simplified and requirements for aid applicants to report certain asset-related financial information on the Free Application for Federal Student Aid (FAFSA) would be eliminated.
- Mandatory funding for HEA programs serving Historically Black Colleges and Universities (HBCUs) and other Minority-Serving Institutions would be provided for FY2010 through FY2019.
- Mandatory funding would be provided for programs in a new HEA College Access and Completion Innovation Fund (CACIF). CACIF programs would include the College Access Challenge Grant program, the State Innovation Completion Grants program, and the Innovation in College Access and Completion National Activities program.
- Mandatory funding would be provided to establish and fund three Modernization, Renovation, and Repair grant programs for school facilities. These would include a program for the modernization, renovation, and repair of elementary and secondary school facilities; a program of supplemental grants for Louisiana, Mississippi, and Alabama; and a program for community college modernization and construction.
- Mandatory funding would be provided to establish and fund an Early Learning Challenge Fund under which competitive grants would be awarded to states for the purpose of improving standards and the quality of state early childhood education programs.
- Mandatory funding would be provided to establish and fund the American Graduation Initiative grant program for the purpose of reforming community colleges, and to improve education and training for workforce development.
- The "Defund ACORN Act" would prohibit organizations that have run afoul of certain federal or state campaign finance, election, or voter registration laws from being awarded federal grants or contracts and from receiving federal funds.

CBO estimates the termination of FFEL program lending would reduce mandatory spending by $41.8 billion over the FY2009-FY2014 period, and by $86.8 billion over the FY2009-FY2019 period. These savings would be large enough to achieve the $1 billion reduction in spending specified in S.Con.Res. 13, and to offset increases in mandatory spending that would result from the other new or expanded education programs and benefits proposed under H.R. 3221.

Overall, CBO estimates that H.R. 3221, as reported in H.Rept. 111-232, would reduce mandatory spending by $13.3 billion over the FY2009-FY2014 period, and by $7.8 billion over the FY2009-FY2019 period. CBO also estimates that enactment of the proposals reported in H.R. 3221, if fully funded, would increase discretionary spending by $3.6 billion over the FY2009-FY2014 period, and by $13.5 billion over the FY2009-FY2019 period. Most of these discretionary costs

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(...continued)

begins on July 1, 2011, and ends June 30, 2012.

would be for the administrative costs of increased DL program lending and for growth in the discretionary costs of Pell Grant awards that would increase due to changes in need analysis procedures and eligibility criteria.

Table 1 shows amounts of mandatory funding that would be authorized and provided for programs that would be amended or newly authorized under H.R. 3221, as passed by the House.

Table 1. Mandatory Funding Authorized and Provided for Programs That Would be Amended or Established Under H.R. 3221: FY2010-FY2019

(in millions of dollars)

Program name	Authorization	FY2010	FY2011	FY2012	FY2013	FY2014	FY2015	FY2016	FY2017	FY2018	FY2019
HEA Programs[a]											
Federal Pell Grant Program[b]	HEA, § 401	such sums	such sums	such sums	such sums	such sums	such sums	such sums	such sums	such sums	such sums
DL Program Technical Assistance	HEA, § 458(a)	50	—[c]	—[c]	—[c]	—[c]	—	—	—	—	—
Federal Direct Perkins Loans	HEA, § 462A(b)[d]	6,000	6,000	6,000	6,000	6,000	6,000	6,000	6,000	6,000	6,000
Investment in HBCUs and MSIs	HEA, § 371(b)	255	255	255	255	255	255	255	255	255	255
College Access and Completion Innovation Fund[e]	HEA, § 780(a)	600	600	600	600	600	—	—	—	—	—
Investment in Cooperative Education	H.R. 3221, § 104[f]	10	—	—	—	—	—	—	—	—	—
New non-HEA programs											
Grants for Modernization, Renovation, or Repair of Public School Facilities	H.R. 3221, Title III-A-1, § 345(a)	2,020	2,020	—	—	—	—	—	—	—	—
Supplemental Grants for Louisiana, Mississippi, and Alabama	H.R. 3221, Title III-A-2, § 345(b)	30	30	—	—	—	—	—	—	—	—

Program name	Authorization	FY2010	FY2011	FY2012	FY2013	FY2014	FY2015	FY2016	FY2017	FY2018	FY2019
Federal Assistance for Community College Modernization and Construction	H.R. 3221, Title III-B, § 351(i)	2,500	—	—	—	—	—	—	—	—	—
Early Learning Challenge Fund	H.R. 3221, Title IV, § 409	1,000	1,000	1,000	1,000	1,000	1,000	1,000	1,000	—	—
American Graduation Initiative	H.R. 3221, Title V, § 501(a)	730	730	730	730	680	680	680	680	680	680

Source: H.R. 3221; CRS analysis.

Note: "such sums" means such sums as may be necessary.

a. H.R. 3221 would terminate the authority to make new loans under the FFEL program after June 2010 and require all new federal student loans to be made under the DL program beginning July 1, 2010. Mandatory funding at the amount of such sums as may be necessary is currently provided for both programs and would remain authorized under H.R. 3221. However, under the FFEL program, funds would only be available for loans first disbursed on or before June 30, 2010.

b. Discretionary funding is also authorized for the Federal Pell Grant program under HEA, § 401(a) through FY2017, at the amount of such sums as may be necessary, and would remain authorized under H.R. 3221.

c. Discretionary funding in the amount of such sums as may be necessary is authorized to be appropriated for FY2011-FY2014.

d. Loan authority to make Federal Direct Perkins Loans as part of the DL program would be made available on an award year basis, beginning with AY2010-2011. Up to $6 billion in loan authority would be made available each year.

e. Mandatory funding provided for the College Access and Completion Innovation Fund would be available for the following programs: College Access Challenge Grant program, State Innovation Completion Grants, Innovation in College Access and Completion National Activities, and Evaluation Activities.

f. The Cooperative Education program is authorized under HEA, Title VIII-N. Discretionary funding is authorized to be appropriated for the program under HEA, § 835 through FY2014. H.R. 3221 would provide mandatory funding for the program for FY2010.

The remainder of this report provides brief descriptions of the programs that would be amended or established under H.R. 3221. It begins with a review of changes that would be made to programs authorized under the HEA. This is followed by a review of new non-HEA programs that would be established and funded under H.R. 3221. This report will be updated as warranted to track legislative developments.

Amendments to the Higher Education Act

Federal Pell Grant Program

The Federal Pell Grant program, authorized by Title IV, Part A, Subpart 1 of the HEA, is the largest source of federal grant aid to low-income students for postsecondary education and is the foundation for all federal student aid awarded to undergraduate students. The Federal Pell Grant program is estimated to provide approximately $25 billion in aid to over seven million students for AY2009-2010.[3]

Pell Grants are need-based aid and eligibility is limited to undergraduate students. There is no absolute income threshold that determines who is eligible and who is ineligible for Pell Grants, although Pell Grant recipients primarily have low incomes. For the most recent award year for which complete data are available (AY2007-2008), 83% of Pell Grant recipients considered to be dependent upon their parents for financial support had total parental income below $40,000. Of Pell Grant recipients considered to be independent of their parents, 84% had total income below $30,000.[4]

The Federal Pell Grant program is currently funded with both discretionary and mandatory appropriations, although the program is primarily funded with annual discretionary appropriations. The maximum appropriated Pell Grant award amount is specified in annual appropriations measures. For AY2009-2010, the maximum appropriated Pell Grant award amount is $4,860. For AY2008-2009 through AY2012-2013, an automatic additional increase to the appropriated Pell Grant award amount is provided through mandatory appropriations.[5] For AY2009-2010, the mandatory add-on is $490. In order to receive the additional mandatory increase, students must qualify for the minimum appropriated Pell Grant award, which, as defined for eligibility purposes, is 5% of the annual appropriated maximum Pell Grant award.[6] For AY2009-2010, the total maximum Pell Grant award amount is $5,350 and the effective minimum award for a full-time student is $976.

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[3] U.S. Department of Education, *Fiscal Year 2010 Budget Summary*, p.57.

[4] Percentages calculated from U.S. Department of Education, *End of Year Report: 2007-2008 Title IV/Federal Pell Grant Program*, Table 11.

[5] The College Cost Reduction and Access Act of 2007 (CCRAA; P.L. 110-84), The American Recovery and Reinvestment Act of 2009 (ARRA; P.L. 111-5), and most recently, the 2009 technical corrections to the HEA (P.L. 111-39), amended the HEA to provide mandatory funding for the Pell Grant program. The CCRAA provided annual mandatory appropriations in each year from FY2008 to FY2017, whereas the ARRA provided additional mandatory appropriations for FY2009 and FY2010. The recent 2009 technical corrections to the HEA provided additional mandatory appropriations for FY2013 and FY2014.

[6] A so-called "bump" award allows for an additional 5% increase of the appropriated maximum award for those students who qualify at the 5% minimum level. When the $490 mandatory additional amount is factored in, the effective minimum award for a full-time student in AY2009-2010 is $976, or ($243 +$243 +$490).

Proposed Amendments to the Federal Pell Grant Program

H.R. 3221 includes provisions that would change the method by which future additional mandatory Pell Grant award amounts are determined and increases direct spending by providing permanent mandatory budget authority, while continuing to preserve a larger role for annual discretionary appropriations in determining the base maximum Pell Grant award to which additional mandatory amounts are added each year. The CBO baseline for mandatory spending as it relates to the Pell Grant program includes approximately $30.3 billion in mandatory budget authority[7] from FY2010 to FY2017, as provided in the CCRAA and ARRA, and an additional $9.8 billion in FY2018 and FY2019.[8] According to the CBO, the provisions included in H.R. 3221 that would affect the future determination of additional mandatory Pell Grant award amounts are estimated to increase direct spending by $38.7 billion from FY2010 to FY2019.[9]

Provisions in H.R. 3221 that would affect the future funding and determination of additional mandatory Pell Grant awards include the following.

Mandatory Funding for Pell Grants

H.R. 3221 would provide indefinite mandatory appropriations for the Pell Grant program beginning in FY2010. The Federal Pell Grant program would remain authorized through FY2017 under HEA, section 401(a)(1). Mandatory budget authority amounts currently specified for FY2010 through FY2017 would be eliminated.

Beginning in FY2010, these permanent mandatory appropriations would supplement annual discretionary appropriations and would provide an additional amount to the annual appropriated Pell Grant maximum award each year beginning in AY2010-2011.[10] Each fiscal year's mandatory appropriations level would be determined based on the total obligations required to provide the additional Pell Grant amount to all eligible students and will be available for use through the end of September of each succeeding year. For AY2010-2011, the additional mandatory amount would remain $690.

Mandatory Pell Grant Award Amount Formula

Beginning in AY2011-2012, and for all subsequent years, a new statutorily defined formula would be established for the purposes of determining the additional mandatory Pell Grant award amount, as described below.

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[7] Budget authority is defined as authority provided by law to incur financial obligations that will result in immediate or future outlays of federal government funds.

[8] The CBO, in consultation with and at the direction of the budget committees, extended the baseline mandatory budget authority for the Pell Grant Program in FY2018 and FY2019 by $4.9 billion in each year.

[9] Information on cost estimates for H.R. 3221 is based upon information provided in U.S. Congressional Budget Office, Cost Estimate, H.R. 3221, Student Aid and Fiscal Responsibility Act of 2009, as ordered reported by the House Committee on Education and Labor on July 21, 2009, July 24, 2009, at http://www.cbo.gov/ftpdocs/104xx/doc10479/hr3221.pdf.

[10] Each Pell Grant award year begins on July 1 and ends the last day of the following June. For example, AY2011-2012 begins on July 1, 2011, and ends June 30, 2012.

- For AY2011-2012 only, the formula would arrive at the additional mandatory Pell Grant award amount according to the four following steps: (1) determine the greater value between the AY2010-2011 total maximum award (i.e., the FY2010 discretionary maximum award amount, plus $690) and $5,550; (2) adjust the greater value by the percentage change in the Consumer Price Index for All Urban Consumers (CPI-U) as measured from December 2009 to December 2010, plus one additional percentage point; (3) subtract from this amount the greater of the previous year's discretionary appropriated maximum award amount, or $4,860; and (4) round the resulting amount to the nearest $5 increment.
- For AY2012-2013 and all subsequent award years, a new statutorily defined formula would be established for determining the additional mandatory Pell Grant award amount. The additional mandatory Pell Grant award amount would be determined according to the following three steps: (1) adjust the previous year's total maximum award (i.e., the discretionary maximum award amount, plus the mandatory additional amount) by the percentage change in the CPI-U as measured from the most recently completed calendar year before the start of the award year, plus one additional percentage point; (2) subtract from this amount the greater of the previous year's discretionary appropriated maximum award amount, or $4,860; and (3) round the resulting amount to the nearest $5 increment. Since the additional Pell Grant award amounts will be determined in the future primarily by two factors that are not known at the present time—the annual discretionary appropriated maximum award amount and the annual percentage change in the CPI-U—future total maximum award levels are not available at this time.
- For AY2012-2013 and all subsequent award years, a new rule would be established specifying that the additional mandatory Pell Grant award amount cannot be less than the mandatory award amount for the prior award year.

Pell Grant Eligibility Rules

H.R. 3221 also includes provisions that would change or clarify the award rules for determining eligibility for a Pell Grant award. These provisions include the following.

- Authorized maximum Pell Grant award amounts specified for AY2009-2010 through AY2014-2015 would be eliminated, as would the additional mandatory Pell Grant award amounts of $690 in AY2011-2012 and $1,090 in AY2012-2013. Beginning in AY2010-2011, total maximum Pell Grant award amounts would be determined according to the revised formula described above.
- Beginning in AY2010-2011, qualification for Pell Grant awards would be based on the total maximum Pell Grant award amount. Under current law, through AY2012-2013, in order to receive the additional mandatory increase students must qualify for the minimum appropriated Pell Grant award, which, as defined for eligibility purposes, is 5% of the annual appropriated maximum Pell Grant award. This rule would be eliminated under H.R. 3221 and the new minimum Pell Grant award would be based on 5% of the total maximum Pell Grant award. This new rule would lower the effective minimum award for all students, but expand the qualification parameters of the program, allowing more students to receive the new minimum Pell Grant award.

- The requirement for the Secretary of Education (the Secretary) to reduce or increase the additional mandatory Pell Grant amount in each award year if the budget authority provided for each year is insufficient or exceeds the amount necessary to fully fund the prescribed additional mandatory amount in each year would be eliminated. The elimination of this requirement would affect only AY2009-2010, since H.R. 3221 authorizes permanent indefinite mandatory appropriations beginning in FY2010.
- The eligibility requirements for awarding two Pell Grant awards in one award year—so-called "Year-round Pell Grants"—would be clarified.[11] H.R. 3221 would provide that any Pell Grant recipient who is making satisfactory academic progress toward the acceleration of completing a degree or certificate program, whether on a full- or part-time basis and according to the standards set by the institution, is eligible for not more than two Pell Grants in a single award year.

Federal Student Loan Reform

The Department of Education currently administers three major federal student loan programs that are authorized under Title IV of the HEA: the Federal Family Education Loan (FFEL) program, the William D. Ford Federal Direct Loan (DL) program, [12] and the Federal Perkins Loan program.[13] These programs are briefly described below. This is followed by descriptions of changes that would be made to the federal student loan programs under H.R. 3221.

Federal Family Education Loan (FFEL) Program

Under the FFEL program, the capital for making loans is provided by private lenders, and the federal government guarantees lenders against losses due to borrower default. The federal government also provides private lenders a variety of subsidies designed to ensure that private capital will consistently be available to make FFEL program student loans.[14] FFEL program loans are originated, held, and serviced by private lenders; and state and nonprofit guaranty agencies receive federal funds to administer the federal loan guarantee. Costs of the FFEL program are mostly mandatory.

Approximately 4,500 IHEs currently participate in the FFEL program. ED estimates that 14.2 million new FFEL program loans (not including Consolidation Loans), averaging $4,510 and totaling $64 billion, will be made in FY2009. By the end of FY2009, ED estimates that there will be $471 billion in outstanding FFEL program loans.

[11] During the negotiated rule-making process, a consensus could not be reached between ED and negotiators on acceleration standards. As of the date of this report, ED had not issued final regulations related to this section in the HEA.

[12] For additional information on the FFEL and DL programs, see CRS Report R40122, *Federal Student Loans Made Under the Federal Family Education Loan Program and the William D. Ford Federal Direct Loan Program: Terms and Conditions for Borrowers*, by David P. Smole.

[13] For additional information on the Federal Perkins Loan program, see CRS Report RL31618, *Campus-Based Student Financial Aid Programs Under the Higher Education Act*, by David P. Smole.

[14] One such incentive is the special allowance payment (SAP), a market-indexed loan subsidy payment that is made by the government and is designed to compensate lenders for the difference between the statutorily set interest rate charged to borrowers and a different statutorily set lender interest rate.

William D. Ford Federal Direct Loan (DL) Program

Under the DL program, the federal government essentially serves as the banker and makes loans to students and their families using federal capital (i.e., funds from the U.S. Treasury), and owns the loans. Schools may serve as direct loan originators or the loans may be originated by a Department of Education contractor. Loan servicing and collections are also performed by contractors. DL program subsidy costs are mostly mandatory, and administrative costs are mostly discretionary.

Approximately 1,500 IHEs currently participate in the DL program. ED estimates that 4.5 million new DL program loans (not including Consolidation Loans), averaging $4,813 and totaling $21.8 billion, will be made in FY2009. By the end of FY2009, ED estimates that there will be $146 billion in outstanding DL program loans.

While the FFEL and DL programs rely on different sources of capital and different administrative structures, they make available essentially the same set of loans: Subsidized Stafford Loans and Unsubsidized Stafford Loans for undergraduate and graduate students; PLUS Loans for graduate students and the parents of dependent undergraduate students; and Consolidation Loans through which borrowers may combine their loans into a single loan.

Federal Perkins Loan Program

The Federal Perkins Loan program is one of three campus-based student financial aid programs under which funds are awarded to IHEs for purposes of providing federal student aid to students who attend participating institutions. Under the Perkins Loan program, federal capital contributions are authorized to be awarded to IHEs to assist them in capitalizing revolving loan funds from which 5% interest rate loans may be made to students with exceptional financial need. Institutions capitalize their revolving loan funds with a combination of federal and institutional capital contributions. After making loans, institutions recapitalize their loan funds by depositing the principal and interest repaid by students who borrowed under the program, as well as any other charges or earnings associated with the operation of the program.

More than 1,600 IHEs currently participate in the Federal Perkins Loan program. ED estimates that these institutions will make 495,000 new Perkins Loans, averaging $2,231 and totaling $1.1 billion, in FY2009.

Amendments to the FFEL Program

H.R. 3221 would make the following amendments to the FFEL program.

Termination of Lending Under the FFEL Program

H.R. 3221 would terminate the authority for new loans to be made or insured under the FFEL program after June 30, 2010. Beginning with AY2010-2011, all new Subsidized and Unsubsidized Stafford Loans, PLUS Loans, and Consolidation Loans would be made under the DL program. Holders of existing FFEL program loans would continue to be responsible for servicing the loans, and guaranty agencies would continue to administer the federal loan insurance.

CBO projects that the termination of lending under the FFEL program and the shift to all federal student loans being made under the DL program would result in a reduction of $40.7 billion in mandatory spending over the period from FY2009 through FY2014, and $74.8 billion in mandatory spending over the period from FY2009 through FY2019. These savings in mandatory spending result in part due to the shifting of approximately $7.2 billion in administrative costs from mandatory spending under the FFEL program to discretionary spending under the DL program over the period from FY2009 through FY2019.[15]

Change SAP Index to 1-Month LIBOR Rate

H.R. 3221 would also change the index used in determining the SAP paid quarterly to lenders under the FFEL program from the bond equivalent rate of the 3-month commercial paper (CP) (financial) rate, to the bond equivalent rate of the 1-month London Inter Bank Offered Rate (LIBOR) for United States dollars in effect for the applicable quarters. This change would more closely align the index used in determining the subsidy rates for holders of FFEL program loans with the indices on which their short-term borrowing costs are often based. CBO projects a negligible impact on spending as a result of this change.

The 1-month LIBOR-based SAP rate would apply to new loans made between the date of enactment and the termination of FFEL lending; and would apply, if a lender waives all rights to receive special allowance payments based on the 3-month CP rate, to all loans disbursed between January 1, 2000, and the date of enactment that are held or subsequently acquired by the holder.

The 1-month LIBOR-based SAP rate would also apply as the substitute rate for the 3-month CP rate in the calculation of the participant yield paid to the Secretary on all FFEL program loans in which the Secretary has purchased a participation interest according to programs enacted under the Ensuring Continued Access to Student Loans Act (ECASLA).[16]

Amendments to the Direct Loan Program

H.R. 3221 would amend the HEA to provide that, effective July 1, 2010, all new Subsidized and Unsubsidized Stafford Loans, Federal Direct Perkins Loans (described below), PLUS Loans,[17] and Consolidation Loans would be made under the DL program. In addition, H.R. 3221 would make the following changes to the DL program.

Variable Interest Rates on Subsidized Stafford Loans to Undergraduate Students

Under current law, Subsidized Stafford Loans to undergraduate borrowers have fixed interest rates, and the applicable fixed interest rate depends on the year in which the loan is first disbursed. Interest rates on Subsidized Stafford Loans were most recently amended under the

[15] U.S. Congressional Budget Office, Cost Estimate, H.R. 3221, Student Aid and Fiscal Responsibility Act of 2009, as ordered reported by the House Committee on Education and Labor on July 21, 2009, July 24, 2009, at http://www.cbo.gov/ftpdocs/104xx/doc10479/hr3221.pdf.

[16] For additional information on ECASLA, see CRS Report RL34452, *The Ensuring Continued Access to Student Loans Act of 2008*, by David P. Smole.

[17] An important distinction between the FFEL and DL programs with respect to PLUS Loans is that the interest rate on FFEL program PLUS Loans is 8.5%, whereas the interest rate on DL program PLUS Loans is 7.9%.

CCRAA. Interest rates were reduced from 6.8% to 6.0% for loans made for AY2008-2009, and to 5.6% for loans made for AY2009-2010. Interest rates are scheduled to be reduced further to 4.5% for loans made for AY2010-2011, and to 3.4% for loans made for AY2011-2012. Interest rates on Subsidized Stafford Loans to undergraduate students are scheduled to revert back to 6.8% for loans made for AY2012-2013 and later years.[18]

H.R. 3221 would make Subsidized Stafford Loans to undergraduate students made for AY2012-2013 and later years (i.e., loans first disbursed on or after July 1, 2012) variable rate loans. The interest rate on these loans would adjust annually each July 1; and the interest rate for the next year would be equal to the bond equivalent rate of 91-day Treasury bills auctioned at the final auction prior to June 1, plus 2.5 percentage points, but not to exceed 6.8%.

Direct Loan Program Contracts

Under current law, origination, servicing, and collections on DL program loans are contracted out by ED according to procedures designed to ensure that these services are performed by qualified entities at competitive prices. ED recently awarded performance-based contracts to four entities to service loans in its portfolio of more than $550 billion in federal student loans, including those made under the Direct Loan program.[19] H.R. 3221 would amend the procedures to be used by the Secretary in awarding contracts to entities to service loans made under the DL program.

Set-asides for not-for-profit servicers

The proposed new contracting requirements would specify that in states in which at least one not-for-profit servicer has its primary place of business, the Secretary would be required to contract with that not-for-profit servicer (or servicers) to service the loans of students who borrow to attend IHEs located in those states. Each not-for-profit servicer awarded a servicing contract would be required to meet the Secretary's standards for servicing student loans and would be compensated at a rate determined by the Secretary to be commercially reasonable for that particular not-for-profit servicer to both service loans and provide additional services, such as default aversion services. In states with only one eligible not-for-profit servicer, that servicer would be entitled, on an annual basis, to the servicing rights of the lesser of (1) the loans of 100,000 borrowers, or (2) the loans of all borrowers attending IHEs in the state. In states with more than one eligible not-for-profit servicer, those servicers would be entitled, on an annual basis, to the servicing rights of the lesser of (1) the loans of 100,000 borrowers, or (2) an equal share of the loans of all borrowers attending IHEs in the state.

Servicing in general; and job retention incentive payment

For purposes of servicing loans made to borrowers attending IHEs in other states and foreign IHEs, the Secretary would be required to award multiple contracts through a competitive bidding process to eligible servicers, including not-for-profit servicers and their subsidiaries. The

[18] Historical data on borrower interest rates on FFEL and DL program loans are presented in Table B-4 and Table B-5 in CRS Report R40122, *Federal Student Loans Made Under the Federal Family Education Loan Program and the William D. Ford Federal Direct Loan Program: Terms and Conditions for Borrowers*, by David P. Smole.

[19] For additional information on these serving contracts, see U.S. Department of Education, "Announcement of Title IV Student Loan Management/Servicing Contract," Jun. 17, 2009, at http://www.ifap.ed.gov/eannouncements/061709TitleIVStudentLoanMgmt.html.

competitive bidding process would be required to take into account price, servicing capacity, and capability; and would be permitted to take into account the ability to provide default aversion activities, and outreach service programs that encourage college completion, the minimization of borrowing, and the delivery of financial literacy and counseling tools.

H.R. 3221 would also require the Secretary to provide a job retention incentive payment to servicers that agree to give priority in hiring for positions created as a result of the award of a Direct Loan servicing contract to geographical locations in the United States at which the entity performed FFEL program loan origination or servicing activities prior to the date of enactment. The Secretary would also be required to consider the retention of highly qualified employees by the servicer in determining the allocation of the number of loans to be serviced.

Additional Direct Loan program contracts

H.R. 3221 would authorize the Secretary to enter into contracts for certain services under the DL program with entities, such as guaranty agencies, that at the time of enactment had provided such service under the FFEL program. These services include delinquency prevention and default aversion services; default collection services; financial aid, financial literacy, career, and education counseling; training for guidance counselors and financial aid officers; and other outreach services.

Extension of DL Program to Foreign IHEs

Currently, the only form of federal student aid available under HEA, Title IV to eligible students enrolled in foreign schools is loans made under the FFEL program. Effective July 1, 2010, and concurrent with the termination of lending under the FFEL program, H.R. 3221 would extend the availability of DL program loans to eligible students enrolled in foreign schools.

Technical Assistance and Outreach

H.R. 3221 amends the HEA to require the Secretary to provide technical assistance to IHEs that currently participate in or seek to participate in the Direct Loan program. This must include assistance in transitioning to and administering the DL program. H.R. 3221 would provide $50 million in mandatory funding for technical assistance for FY2010, and would authorize the appropriation of discretionary funding for FY2011 through FY2014. H.R. 3221 would also require the Secretary to conduct outreach activities to inform and educate students and their families about the transition to the Direct Loan program.

Federal Direct Perkins Loans

H.R. 3221 would terminate the authority to make new Perkins Loans under Part E of the HEA effective June 30, 2010, and would establish Federal Direct Perkins Loans as a new type of need-based federal student loan to be made available to borrowers under the Direct Loan program.

Loan Terms and Conditions

Interest rates and loan limits on new Federal Direct Perkins Loans would remain the same as for loans currently made under the Federal Perkins Loan program. All other terms and conditions for new Federal Direct Perkins Loan would be the same as for Unsubsidized Stafford Loans made

under the DL program. Selected terms and conditions of current Perkins Loans and proposed Federal Direct Perkins Loans are presented in **Table 2**, below.[20]

Table 2. Comparison of Selected Terms and Conditions of Current Perkins Loans and Proposed Federal Direct Perkins Loans

Loan terms and conditions	Perkins Loans (current law)	Federal Direct Perkins Loans (H.R. 3221)
Interest rate	5% fixed rate	5% fixed rate
Accrual of interest during in-school, grace, and deferment periods	No	Yes
Loan origination fee	None	1% of loan amount[a]
Annual loan limits:		
Undergraduate students	$5,500	$5,500
Graduate and professional students	$8,000	$8,000
Aggregate loan limits:		
Undergraduate: 1st or 2nd year	$11,000	$11,000[b]
Undergraduate: 3rd year or above	$27,500	$27,500[b]
Graduate and professional students	$60,000	$60,000[b]
Available to students enrolled less than half-time	Yes	No
Grace period	9 months	6 months
Loan cancellation, loan forgiveness, and loan repayment benefits	Yes; up to 100% of Perkins Loan balance may be cancelled after five years of service in specified public service occupations.[c]	Yes; to the extent available under applicable loan forgiveness and loan repayment programs for DL program Unsubsidized Stafford Loans.[d]

Source: CRS analysis.

a. ED currently offers an up-front interest rebate on DL program loans. For DL program loans disbursed on or after July 1, 2009, and before July 1, 2010, the loan origination fee is 1.5% and the up-front interest rebate is 1.0%. For DL program loans disbursed on or after July 1, 2010, the loan origination fee will be 1%. The amount of any up-front interest rebate that would be offered on DL program loans disbursed on or after July 1, 2010, has not yet been determined by ED.

b. Aggregate loan limits on loans made under the Federal Direct Perkins Loan program would include loans previously made under the current Federal Perkins Loan program.

c. Current loan cancellation benefits for Perkins Loans are presented in Table 2 of CRS Report RL31618, *Campus-Based Student Financial Aid Programs Under the Higher Education Act*, by David P. Smole.

d. Loan forgiveness and loan repayment benefits for DL program loans are described in CRS Report R40122, *Federal Student Loans Made Under the Federal Family Education Loan Program and the William D. Ford Federal Direct Loan Program: Terms and Conditions for Borrowers*, by David P. Smole, pp. 35-38.

[20] The terms and conditions currently available on Unsubsidized Stafford Loans are discussed in CRS Report R40122, *Federal Student Loans Made Under the Federal Family Education Loan Program and the William D. Ford Federal Direct Loan Program: Terms and Conditions for Borrowers*, by David P. Smole.

Allocation of Federal Direct Perkins Loan Authority to IHEs

Beginning with AY2010-2011, the authority to make $6 billion in Federal Direct Perkins Loan aid would be allocated annually among IHEs that participate in the Direct Loan program and that enter into participation agreements with the Secretary to make Federal Direct Perkins Loans. Participation agreements would contain a requirement that IHEs pay matching funds on a quarterly basis, in an amount agreed to by the institution and the Secretary, to an escrow account for purposes of providing loan benefits to borrowers.

Loan authority to make Federal Direct Perkins Loans would be allocated to IHEs according to a three-part formula. First, one half of loan authority would be allocated to IHEs according to the adjusted self-help need of all IHEs that participate in the DL program. Self-help need would be determined for each IHE based on the difference between the costs of attendance (COA) and the expected family contributions (EFC) of its students. Second, one quarter of loan authority would be allocated according to a low-tuition incentive amount, based on the relationship between the IHE's tuition and fees relative to the average tuition and fees for its sector. Third, one-quarter of loan authority would be allocated based on the number of degree recipients at the IHE who ever received a Pell Grant relative to the number of degree recipients at all participating IHEs who ever received a Pell Grant. However, notwithstanding these three criteria, each IHE that previously participated in the Federal Perkins Loan program would receive a minimum amount of Federal Direct Perkins Loan authority equal to the average amount of Perkins Loans it awarded to students for AY2003-2004 through AY2007-2008.

For the past several years, no new federal capital contributions have been made to institutions under the Federal Perkins Loan program. However, in years when federal capital contributions were provided, as required under the current statutory allocation formula, most funds were allocated to IHEs on the basis of amounts received in prior years for "base guarantees," as opposed to being allocated according to "fair share" procedures based on aggregate student financial need.[21] In allocating the loan authority to make new Federal Direct Perkins Loans, the procedures proposed in H.R. 3221 would place greater emphasis on the financial need of an institution's students, the institution's efforts at keeping tuition low or at providing need-based grant aid, and its success at graduating Pell Grant recipients, than the current procedures for allocating federal capital contributions, which largely rely on base guarantees. Nonetheless, IHEs that previously participated in the Federal Perkins Loan program would be entitled to new loan authority at least equal to the average annual amount of Perkins Loans they made over the most recent five years.

Distribution of Assets from Perkins Loan Funds

Upon ceasing to participate in the Perkins Loan program or when authorization of the program expires, institutions are required to begin a distribution of assets from their revolving loan funds (i.e., institutions must repay the Secretary a portion of the balance of their loan funds proportional to the amount constituted by federal capital contributions). H.R. 3221 would amend the current Perkins Loan program to require a capital distribution of the balance of each participating institution's Perkins Loan fund beginning July 1, 2010.

[21] For additional information on the current procedures used to allocate funds to IHEs under the Federal Perkins Loan program, see CRS Report RL32775, *The Campus-Based Financial Aid Programs: A Review and Analysis of the Allocation of Funds to Institutions and the Distribution of Aid to Students*, by David P. Smole.

H.R. 3221 would also authorize institutions, beginning July 1, 2010, to assign all the loans they made under the Federal Perkins Loan program to the Secretary. Upon assignment, the Secretary would assume responsibility for servicing and collecting these Perkins Loans, and would refund to institutions an amount equal to the proportion of the loan amount that was made from institutional capital contributions to the revolving loan fund.

Relief for Students Called to Military Service

H.R. 3221 would amend provisions in HEA, § 484B relating to the return of Title IV funds for students who withdraw from a postsecondary program and who are receiving Title IV federal student aid when their withdrawal is necessitated by service in the uniformed services. In such instances, the Secretary would be required to waive the amounts of federal student aid such students otherwise must return. The Secretary would also be required to cancel or assume the obligation to repay the outstanding balance and accrued interest on federal student loan amounts made under the FFEL, DL, and Federal Perkins Loan programs that were used to finance periods of enrollment for which the student did not receive academic credit as a result of withdrawing to serve in the uniformed services. This provision would be applicable for periods of service beginning after the date of enactment.

Student Financial Aid Form Simplification

A federal "need analysis" system underlies the annual allocation of billions of dollars in student financial aid supported by Title IV of the HEA. Annually, this system involves millions of current and potential students who apply for federal aid by providing detailed financial and other information on the Free Application for Federal Student Aid (FAFSA). FAFSA data are used in statutorily defined formulas to determine the amount of financial resources students and their families are expected to direct toward postsecondary education expenses—the expected family contribution. Financial need for need-based federal student aid programs is determined by the EFC and its relationship to students' cost of attendance. Relying on the calculation of need, financial aid administrators (FAAs) in postsecondary institutions package federal, state, and institutional aid for aid applicants.

For many years, the Congress, policymakers, and student aid advocates have expressed interest in simplifying the process by which students apply for federal student aid. Such interest centers primarily on the belief that the complexity of the process poses a barrier to college access, particularly for low-income students. Most recently, the Higher Education and Opportunity Act (HEOA, P.L. 110-315) amended the HEA to authorize the EZ-FAFSA for students qualifying under either Simplified Needs Test or Automatic Zero EFC provisions, effectively reducing the number of questions on the FAFSA for these applicants. The HEOA also requires the Secretary to pursue a process of streamlining the FAFSA for reapplications and to ultimately reduce the number of data elements required from all applicants by a goal amount of 50%. Under the HEOA amendments, the Secretary is tasked with determining how Internal Revenue Service (IRS) data may be used to pre-populate the FAFSA in order to reduce income and asset questions on the form and is also given authority to obtain such data from the IRS.

H.R. 3221 includes provisions that would simplify the need analysis methodology and remove the requirement for students to provide certain information on the FAFSA. These provisions would increase both direct spending for loan and grant aid and discretionary spending for grant aid by a

combined estimated total of $7.1 billion from FY2011 to FY2019.[22] Provisions that would result in new or enhanced grant aid or adjustments to need analysis calculations include the following.

Asset Cap for Recipients of Need-Based Federal Student Aid

H.R. 3221 would amend HEA need analysis provisions to limit eligibility for most need-based federal student aid programs to students and families who meet a statutorily defined level of net assets. This provision would, effective July 1, 2011, limit eligibility for Pell Grants and Subsidized Stafford Loan assistance under Title IV to students and families with a combined total of net assets[23] valued at $150,000 or less. For dependent students, the combined total would include the assets of both the parents and the student. For independent students, the combined total would include the assets of both the student and, if married, the student's spouse. For each subsequent year after AY2011-2012, the Secretary would be required to publish a revised net asset cap level, indexed to the change in the Consumer Price Index (CPI), and rounded to the nearest $5 increment, in the *Federal Register* before each award year.

It's important to note that, in conjunction with establishing an asset cap for federal student aid programs, H.R. 3221 would also eliminate the requirement for students to report asset-related information by excluding the consideration of assets in the federal need analysis calculation (as discussed below). It is unclear at this time how asset-related information will be verified to determine eligibility for need-based federal student aid programs.

Exclusion of Assets in Determining Eligibility for Federal Student Aid

Effective July 1, 2011, the consideration of assets would be eliminated for all students in the federal need analysis calculation when determining eligibility for the Federal Pell Grant Program or Federal Direct Stafford Loan Program. Students and parents would no longer be required to report asset-related financial information on the FAFSA when applying for aid. The removal of assets in the need analysis calculation could eliminate up to six questions from the current FAFSA[24] and corresponding sections of lengthy instructions aimed at assisting applicants with generating asset-related entries.

Changes to Definitions of Untaxed Income and Assets

Effective July 1, 2011, the definition of untaxed income and benefits used in determining the EFC for need analysis would be revised. The definition of untaxed income would be reduced to three elements: (1) interest on tax-free bonds, (2) untaxed portions of pensions, and (3) payments or contributions to individual retirement accounts and Keogh accounts that are excluded from income for federal income tax purposes. The following elements would be eliminated from the

[22] Please see U.S. Congressional Budget Office, Cost Estimate, H.R. 3221, Student Aid and Fiscal Responsibility Act of 2009, as ordered reported by the House Committee on Education and Labor on July 21, 2009, July 24, 2009, at http://www.cbo.gov/ftpdocs/104xx/doc10479/hr3221.pdf.

[23] The terms "assets" and "net assets" are defined in sections 480(f) and 480(g) of the HEA, respectively. The value of one's principle residence and the value of most family-owned small businesses and family farms is excluded from consideration as assets.

[24] As of July 1, 2009, the most recent FAFSA available to students for submission is for AY2009-2010, available at http://www.ifap.ed.gov/eannouncements/attachments/121608FOTWKShtsEnglish.pdf.

definition of untaxed income and benefits, and students and parents would no longer be required to report this financial information on the FAFSA: (1) child support received; (2) workman's compensation; (3) veteran's benefits[25] such as death pension, dependency, and indemnity compensation; (4) housing, food, and other allowances for military, clergy, and others;[26] (5) cash support or any money paid on the student's behalf;[27] and (6) any other untaxed income and benefits.[28] The new definition would eliminate up to nine questions from the current FAFSA. In addition, the new definition of untaxed income and benefits would result in a lower EFC for many applicants, and consequently, lead to additional federal student aid.[29]

H.R. 3221 also includes a provision that clarifies current regulatory interpretation of the need analysis calculation. This provision, effective July 1, 2011, would clarify in need analysis that the definition of assets does not include an employee pension benefit plan as defined in section 3(2) of the Employee Retirement Income Security Act of 1974 (ERISA; 29 U.S.C. § 1002(2)).

Changes to Suspension of Eligibility for Drug-Related Offenses

Effective July 1, 2011, periods of ineligibility for federal student aid for students convicted of a drug-related offense involving the possession of a controlled substance while enrolled in college and receiving federal student aid would be eliminated. Periods of ineligibility and terms for regaining eligibility would remain for students convicted of selling controlled substances under federal and state laws while receiving federal student aid. Revising this question on the FAFSA to address only those students who have been convicted of selling a controlled substance while receiving student aid would reduce the additional follow-up correspondence required by the federal government and aid applicants necessary for determining eligibility for some students.[30]

Creation of Officer Daniel Faulkner Children of Fallen Heroes Scholarship

Effective AY2010-2011, individuals who were under 24 years of age, or were enrolled at an IHE, at the time their parent or guardian died in the line of duty while actively serving as a public safety officer[31] would be assigned an automatic $0 expected family contribution (auto-zero EFC) for the entirety of the period they are eligible for a Pell Grant. FAAs would be allowed to adjust the EFC to zero for a qualifying student, although the Secretary would be given authority to

[25] Veteran's education benefits are already excluded.

[26] Effective July 1, 2010, the value of on-base military housing or the value of basic allowance for housing for military members is excluded from the definition of untaxed income and benefits.

[27] For dependent students, funds provided by the student's parents are not reported as untaxed income and benefits.

[28] This broad category of untaxed income includes, but is not limited to, Black Lung Benefits, Refugee Assistance, railroad retirement benefits, or benefits received through participation in employment and training activities under title I of the Workforce Investment Act of 1998.

[29] Applicants who already qualify for an Automatic Zero EFC, or have a calculated EFC value of zero, or would not report data that pertain to the proposed deleted elements of untaxed income and benefits would not see a reduction in their EFC as a result of the new definition of untaxed income and benefits.

[30] Currently, if a FAFSA applicant answers "yes" to confirm any drug-related conviction while receiving federal student aid, the application is accepted by the U.S. Department of Education, but a worksheet is then sent in the mail to further determine if the conviction affects the applicant's eligibility for aid.

[31] A public safety officer includes both volunteer and non-volunteer individuals serving a public agency as a law enforcement officer, firefighter, or member of a rescue squad or ambulance crew. H.R. 3221 also defines "public safety officer," "public agency," "law enforcement officer," "firefighter," and "member of a rescue squad or ambulance crew."

establish an alternate method for determining eligibility. In addition, any educational assistance benefits received under the Public Safety Officer's Benefits Program[32] would not be affected by any amount of Pell Grant aid received under this provision. The assignment of an auto-zero EFC for qualifying students could also increase their eligibility for other forms of federal student aid, as well as institutional and state student aid.

Changes to the 90/10 Rule for Institutional Eligibility

H.R. 3221 would make changes to institutional eligibility requirements for IHEs to participate in Title IV programs. Several temporary changes relating to compliance with the 90/10 rule[33] would become effective on the date of enactment, and would expire July 1, 2012. Proposed changes include the following.

- The period during which proprietary institutions may count toward the 10% requirement the proceeds of Unsubsidized Stafford Loans in excess of the loan limits that existed the day before the enactment of the ECASLA would be extended. The HEOA provided for a period from July 1, 2009, to July 1, 2011; whereas, H.R. 3221 would extend the period by one year to July 1, 2012.
- Funds received through the proposed new Federal Direct Perkins Loan program would be allowed to be counted toward the 10% requirement of non-Title IV funds for compliance with the 90/10 rule from July 1, 2010, to July 1, 2012.
- Proprietary institutions would be provided an additional year to comply with the requirements of the 90/10 rule before being placed on a provisional status for two years. Currently, proprietary institutions that violate the 90/10 rule in a given year are placed on provisional eligibility status. H.R. 3221 would allow proprietary institutions two consecutive years of noncompliance before being placed on provisional eligibility status.
- Proprietary institutions would be provided an additional year to comply with the requirements of the 90/10 rule—increasing from two consecutive years to three consecutive years—before losing Title IV eligibility for at least two years, dependent upon further requirements to regain eligibility.

Teacher Excellence

H.R. 3221 would establish a program, funded through discretionary appropriations, to award competitive grants to local educational agencies for the purpose of improving teacher excellence in public elementary and secondary schools. Funds provided through these grants would be used for the establishment, expansion, or improvement of professional development activities, mentoring and induction programs, or career ladders that allow teachers to take on new professional roles, such as career teachers, mentor teachers, and master teachers.

[32] The Public Safety Officer's Benefits Program is part of the Omnibus Crime Control and Safe Streets Act of 1968.

[33] The "90/10 Rule" requires for-profit IHEs to derive at least 10% of their revenues from non-Title IV sources. For additional information, see CRS Report RL32182, *Institutional Eligibility and the Higher Education Act: Legislative History of the 90/10 Rule and Its Current Status*, by Rebecca R. Skinner.

HBCUs and Other Minority-Serving Institutions

H.R. 3221 would amend HEA, Title III, Part F to annually provide $255 million in mandatory funding for Historically Black Colleges and Universities (HBCUs) and other minority-serving institutions (MSIs) for FY2010 through FY2019. The authority to award grants under Part F would expire at the end of FY2019. Mandatory funding of $255 million for each of FY2008 and FY2009 was first provided for HBCUs and MSIs under the CCRAA in 2008. Allocation procedures and program requirements would remain the same except as described below.

Hispanic Serving Institutions and the Yes Partnership Grants Program

H.R. 3221 would annually provide $100 million in mandatory funding for Hispanic-Serving Institutions (HSIs) and the Yes Partnership Grants Program for FY2010 through FY2019.[34] (In each of FY2008 and FY2009, HSIs were appropriated $100 million in mandatory funding under HEA, Title III-F.) Ninety percent of the funds would be allocated to HSIs, and 10% would be allocated to the Yes Partnership Grants Program. The list of authorized activities for HSIs would be expanded to include those listed under the Promoting Postbaccalaureate Opportunities for Hispanic Americans program, authorized under HEA, Title V-B. HSI applicants that proposed to increase science, technology, engineering, and mathematics (STEM) degree completion and develop two- to four-year articulation agreements would still be given priority in the selection process.

The Yes Partnership Grants Program was enacted under the HEOA to encourage elementary and secondary minority and low-income students to pursue careers in STEM fields. The program provides matching, competitive grants to partnerships of at least one HSI or eligible IHE, at least one high-need LEA, and at least two other organizations. Funds have not yet been appropriated for the Yes Partnership Grants Program.

Predominately Black Institutions, Asian American and Native American Pacific Islander-Serving Institutions, and Native American-Serving Nontribal Institutions

ED would be instructed to add the mandatory allocation for predominantly Black institutions (PBIs), Asian American and Native American Pacific Islander-serving institutions (AANAPIs), and Native American-serving Nontribal institutions (NASNTIs) under HEA, Title III-F to any discretionary appropriation for each of the programs under HEA, Title III-A so as to administer for each type of MSI a single grant program. The PBI program supports the expansion of educational opportunity by providing matching formula grants to IHEs that meet the eligibility requirements, which include enrollment of at least 40% Black American students. The AANAPI and NASNTI programs support institutional capacity building by providing competitive grants to IHEs that meet the basic eligibility criteria under HEA, Title III, § 312(b). In addition to the basic eligibility requirement, AANAPI program recipients must serve an enrollment of at least 10%

[34] The remaining $155 million of the $255 million mandatory appropriation for HBCUs and other MSIs is allocated as currently authorized in HEA, Title III, Part F: $85 million HBCUs, $15 million to Predominately Black Institutions, $30 million to Tribal Colleges or Universities, $15 million to Alaska Native- or Native Hawaiian-serving institutions, $5 million to Asian American and Native American Pacific Islander-serving institutions, and $5 million to Native American-serving nontribal institutions.

Asian Americans and Native American Pacific Islanders, while NASNTI program recipients must serve an enrollment of at least 10% Native American students and must not be Tribal Colleges or Universities (as defined in HEA, § 316).

College Access and Completion Innovation Fund

H.R. 3221 would amend Part E of Title VII of the HEA to establish the College Access and Completion Innovation Fund (CACIF).The fund would include the College Access Challenge Grant Program (CACG) that was enacted under the CCRAA in 2008, two other programs, and an evaluation. The purpose of the CACIF would be to promote success in postsecondary education, improve employment outcomes for individuals after the completion of a postsecondary program, and to assist states in developing longitudinal data systems, common metrics, and reporting systems for postsecondary education and associated post-completion employment outcomes. Private, nonprofit institutions of higher education could voluntarily participate in the programs. Their participation would not authorize state control over curriculum, program of instruction, administration, governance, personnel, articulation, the awarding of credit, graduation or degree requirements, or admissions; would not require participation in a longitudinal data system; and would not limit the application of the General Education Provisions Act (GEPA; Title 20, U.S.C., Chapter 31).

For each of FY2010 through FY2014, $600 million in mandatory funding would be authorized and appropriated for the CACIF. The authority to award grants under Part F would expire at the end of FY2014. Of the funds made available each year, 25% would be provided for the CACG program, 50% would be provided for the State Innovation Completion Grant program, 23% would be provided for the Innovation in College Access and Completion National Activities program, and 2% would be provided for evaluation activities. The programs that would be authorized under the CACIF are briefly described below.

College Access Challenge Grant Program

The CACG program fosters partnerships between federal, state, and local governments and philanthropic organizations through matching formula grants that are intended to increase the number of low-income students who are prepared to enter and succeed in postsecondary education. H.R. 3221 would make no changes to the CACG program except to increase its funding above the FY2009 mandatory appropriation of $66 million, to $150 million for each of the fiscal years 2010 through 2014.

State Innovation Completion Grants

H.R. 3221 would create a new program entitled *State Innovation Completion Grants*, which would provide matching competitive grants to states to increase postsecondary persistence and completion rates and to develop statewide, publicly available longitudinal data systems of postsecondary educational information and employment outcomes. The program would emphasize the provision of financial aid to students by giving priority to states that partner with nonprofit philanthropic organizations that provide financial aid and support services to students from underrepresented populations, student loan guaranty agencies, or subsidiaries of guaranty agencies. States would be required to provide matching funds equal to at least one-half of the federal funds received. At least one-third of the federal and matching funds would have to be expended on students enrolled in pre-baccalaureate programs of postsecondary education. States

would also be required to submit an Access and Completion Plan stating their annual and long-term goals for increasing postsecondary persistence and completion rates, disaggregated by income, race, ethnicity, gender, disability, and age of students; goals for addressing labor market needs; and goals for improving coordination between public two- and four-year institutions.

Innovation in College Access and Completion National Activities

H.R. 3221 would create a new Innovation in College Access and Completion National Activities program, which would provide competitive grants to states, IHEs, TRIO grantees,[35] student loan guaranty agencies, nonprofit subsidiaries of student loan guaranty agencies, nonprofit servicers, and consortia of the preceding entities. Grantees would be able to conduct programs that advance knowledge about, and the adoption of, policies and practices that increase the number of individuals with postsecondary degrees or certificates. Grantees would also be able to provide supplemental grant or loan aid to students. Priority would be given to applicants that serve students from groups underrepresented in postsecondary education, that are public IHEs which predominantly provide pre-baccalaureate degrees and certificates, that promote STEM degree or certificate completion, that promote postsecondary completion by veterans or dislocated workers, that promote financial literacy, that are philanthropic organizations that primarily provide financial aid and support services to students from underrepresented populations, or that are entities that encourage partnerships between IHEs with high degree-completion rates and those with low degree-completion rates. The minimum grant award would be $1 million.

Evaluation

The Department of Education, Institute for Education Sciences (IES) would be required to complete an evaluation of the three aforementioned CACIF programs by January 30, 2016.

Veterans' Resource Officer Grants

H.R. 3221 would amend the Model Programs for Centers of Excellence for Veteran Student Success program authorized under the HEA, Title VIII, Part T, as added by the HEOA. The revised program would award three-year grants to IHEs to either develop model programs to support veteran student success in postsecondary education or to hire a Veterans' Resource Officer to increase the college completion rates for veteran students. The list of activities required of grantees who choose to develop model programs would not change. These activities include the establishment of a single point of contact for coordinating support services to veterans, the establishment of a veteran student support team, the designation of a coordinator for the model program, the monitoring of academic success rates of veterans, and the development of a plan to sustain the model program. The required activities of a Veterans' Resource Officer would include serving as a liaison between veteran students and staff and the U.S. Department of Veterans Affairs (VA), organizing activities and organizations for veterans, distributing information to veterans, and assisting in the training of VA certifying officials. No funds have been appropriated for the Model Programs for Centers of Excellence for Veteran Student Success program since its

[35] TRIO grantees are recipients of grants under Chapter 1 of Subpart 2 of Part A of HEA, Title IV. The TRIO programs support academic achievement of predominantly low-income and first-generation students through the education pipeline—secondary school, undergraduate, and graduate school preparation. For more information, see CRS Report RL31622, *Trio and GEAR UP Programs: Status and Issues*, by Jeffrey J. Kuenzi.

authorization as an HEA program. The program is authorized at such sums as may be necessary for FY2009 and each of the five succeeding fiscal years.

Investment in Cooperative Education

H.R. 3221 would appropriate $10 million for FY2010 for the Cooperative Education Program authorized under the HEA, Title VIII, Part N, as added by the HEOA. The authority to award grants under Part N would expire at the end of FY2010. The program awards matching, competitive grants to IHEs or consortia of IHEs to develop work experiences integrated with the academic program. It also supports cooperative education demonstration projects, training centers, and research. No funds have been provided for the Cooperative Education program since its authorization as an HEA program.

Additional Programs

In addition to making changes to the Higher Education Act, H.R. 3221 would authorize and appropriate funding for three categories of programs. Title III of the SAFRA would establish and fund Modernization, Renovation, and Repair programs for elementary and secondary education, and higher education facilities. Title IV of the SAFRA would establish and provide funding for the Early Learning Challenge Fund, focusing on early childhood education. Title V of the SAFRA would establish and provide funding for the American Graduation Initiative, which would focus on improving community colleges.

School Facilities: Modernization, Renovation, and Repair

H.R. 3221 would authorize three new grant programs for the modernization, renovation, and repair of education facilities. Title III, Subtitle A of the bill would authorize two new elementary and secondary education school facilities grant programs: Grants for Modernization, Renovation, or Repair of School Facilities; and Supplemental Grants for Louisiana, Mississippi, and Alabama. The authority to award grants under this subtitle would expire at the end of FY2011. Title III, Subtitle B of the bill would authorize a new grant program of federal assistance for community college modernization and construction.

Grants for Modernization, Renovation, or Repair of School Facilities

H.R. 3221 would annually provide $2.020 billion for FY2010 and FY2011 for the Grants for Modernization, Renovation, or Repair program. The majority of funds would be distributed through formula grants to states made in proportion to the amount received by all local educational agencies (LEAs) in the state in the previous fiscal year under the Elementary and Secondary Education Act (ESEA), Title I-A Grants to LEAs program, relative to the total amount received by all LEAs in all states under the Title I-A program. After reserving up to 1% of their grants for administration, states, in turn, would award subgrants to LEAs in proportion to the amount received by each LEA in the previous fiscal year under the Title I-A program relative to the amount received by all LEAs in the state.

Supplemental Grants for Louisiana, Mississippi, and Alabama

H.R. 3221 would annually provide $30 million for FY2010 and FY2011 for Supplemental Grants for Louisiana, Mississippi, and Alabama. Supplemental Grants would be provided to LEAs in proportion to the amount of infrastructure damage inflicted upon LEA public school facilities by Hurricanes Katrina or Rita, relative to the overall damage done to public school facilities in all relevant LEAs combined. Supplemental Grant funds could be used for new construction as well as for modernization, renovation, or repair.

General Provisions for Elementary and Secondary Education Programs

A series of general provisions would apply to both elementary and secondary education grant programs. Examples of key provisions are included below.

- All iron, steel, and manufactured goods used by the LEAs under these grant programs must be manufactured in the United States.[36]
- LEAs must adhere to the wage rates in the Davis-Bacon Act, as amended.[37]
- LEAs must use, at a minimum, a specified percentage of funds for projects that meet specific green building/energy rating standards (50% for FY2010 and 75% for FY2011).
- The Secretaries of Education and the Secretary of Labor are required to collaborate to provide opportunities for participants of the Youth Build and Job Corps programs and community college students in green building/energy rating certificate/degree programs to work on projects funded under these two programs.

Federal Assistance for Community College Modernization and Construction

H.R. 3221 would also establish a new higher education Federal Assistance for Community College Modernization and Construction program. This program would be a new formula grant program to states[38] for the purpose of constructing, modernizing, renovating, and repairing (1) facilities at public or private, nonprofit two-year colleges and (2) facilities used by students seeking pre-baccalaureate degrees or certificates at public four-year IHEs that award a significant number of pre-baccalaureate degrees and certificates.

For FY2010, $2.5 billion would be appropriated and would remain available until expended. The authority to award grants under this program would expire at the end of FY2010. The funds could

[36] This requirement could be waived if it was found to be inconsistent with public interest, insufficient quantity or quality of materials was available, or the use of goods produced in the U.S. would increase the overall cost of a project by more than 25%.

[37] The Davis-Bacon Act, as amended, requires that workers employed on public buildings and public works of the federal government and of the District of Columbia must be paid at least the locally prevailing wage as determined by the Secretary of Labor. See CRS Report RL34526, *The Davis-Bacon Act: Issues and Legislation During the 110th Congress*, by William G. Whittaker.

[38] The states are defined in HEA, Section 103 as the 50 states, the Commonwealth of Puerto Rico, the District of Columbia, Guam, American Samoa, the U. S. Virgin Islands, the Commonwealth of the Northern Mariana Islands, the Republic of the Marshall Islands, the Federated States of Micronesia, and the Republic of Palau.

be used to (1) reduce the financing costs of loans for construction, modernization, renovation, and repair; (2) provide matching funds for capital campaigns for construction, modernization, renovation, and repair; or (3) capitalize a revolving loan fund to finance construction, modernization, renovation, and repair of facilities at eligible institutions. Funds could only be used for facilities primarily used for instruction, student housing, or research, and 50% of the funds would have to meet specific green building/energy rating standards. Projects would be required to adhere to the wage rates in the Davis-Bacon Act, as amended. Institutions would be prohibited from concurrently receive funding for construction, modernization, renovation, or repair through this program and any other program funded under the Student Aid and Fiscal Responsibility Act of 2009.

Funds would be allocated to states in proportion to the number of students in eligible institutions seeking a pre-baccalaureate degree or certificate in each state, relative to the number of students in eligible institutions seeking pre-baccalaureate degrees or certificates in all states. The following grant amount restrictions apply: a grant could not exceed 25% of the principal on loans whose financing costs would be reduced by the grant, nor could it exceed 25% of the private donations raised in a capital campaign for which grant funds would constitute matching funds.

Early Learning Challenge Fund

H.R. 3221 would authorize a new Early Learning Challenge Fund to be jointly administered by the Secretary of Education and the Secretary of Health and Human Services. This program would provide competitive grants to states to improve the standards and quality of state early learning programs serving children from birth to age five. One billion dollars in mandatory funding would be appropriated annually for this program for FY2010-FY2017. Grants would be distributed as Quality Pathways Grants and as Development Grants. Quality Pathway Grants would be provided to states that have demonstrated significant progress in early childhood education. These grants would be for up to five years and would be renewable. Development Grants would be for states not currently able to meet the criteria for Quality Pathway Grants. Grants would be for up to three-years and would be nonrenewable. States receiving grants would be required to submit an annual report to the Secretary, and would be required to meet maintenance of effort and matching requirements. The Secretary would be required to submit an annual report to the House Committee on Education and Labor, and the Senate Committee on Health, Education, Labor, and Pensions. From the total appropriated for this program, up to 2% would be reserved for program administration, and up to 3% for research and evaluation. From amounts remaining after these reservations, 0.25% would be reserved for competitive grants to Indian tribes. All remaining funds would be allocated as competitive grants to states as Quality Pathways Grants and Development Grants.

Quality Pathway Grants

For FY2010 through FY2012, no more than 65% of funds remaining after reservations could be used for Quality Pathways Grants. Beginning with FY2013, the percentage for Quality Pathways Grants would increase to no more than 85%. States would be required to prioritize the use of Quality Pathways Grants for improving the quality of early learning programs serving low-income children. Beginning with the second fiscal year of a Quality Pathways Grant, a state making sufficient progress (as determined by the Secretary) would be permitted to reserve up to 25% of their grant to expand access for low-income children to the highest quality early learning programs that offer full-day services.

Required Uses of Quality Pathways Grants

Not less than 65% of the grant would be used to implement at least two initiatives intended to improve the quality of early learning programs serving disadvantaged children. These initiatives may focus on improving the credentials of early learning providers tied to increased compensation; improving early learning program quality; providing financial incentives to undertake and sustain quality improvements; implementing classroom observation assessments and data driven decisions to improve instructional practice, or classroom environment, and promote school readiness; providing high-quality, comprehensive classroom-focused professional development, including professional development related to meeting the needs of diverse populations; integrating state early learning and development standards into instructional and programmatic practices in early learning programs; encouraging family involvement and enhancing parent knowledge of state early learning programs and ratings; building the capacity of early learning programs to facilitate screening, referral, and provision of comprehensive services; developmental delay, disability, and family support; and implementing other innovative programs approved in advance by the Secretary.

Permissible Uses of Quality Pathways Grants

The remainder of a state's grant could be used for one or more of the following activities: implementing or enhancing the state's data system, including interoperability across agencies serving children, including unique child and program identifiers; implementing or enhancing the state's oversight system, including implementation of a program rating system; and developing and implementing measures of school readiness of children.

Development Grants

Development Grants would be awarded competitively to states that demonstrate a commitment to a system of early learning, but are not eligible, or are not awarded, a Quality Pathways Grant. States would use these grants to develop the components of an early learning system that would allow the state to become eligible for Quality Pathways Grants. Priority would be given to improving the quality of early learning programs serving low-income children.

Research and Evaluation

The Secretary of Education and the Secretary of Health and Human Services would jointly carry out the following activities: establishing a national commission to review and recommend benchmarks to improve state and federal early learning program quality; conducting a national evaluation of funded grants; supporting a research collaborative made up of appropriate federal agencies and other federal entities to support in-depth research into early learning that will facilitate improvements in early learning standards and licensing requirements; and disseminating relevant research, and information on best practices. Not later than 18 months after passage of this act the national commission shall evaluate barriers to increasing access to high quality early learning programs for low-income children. The national commission is to issue a report and disseminate its findings from the evaluation.

American Graduation Initiative

H.R. 3221 would establish two major grant programs to provide funding for community colleges, states, and related consortia to reform the community college system to improve education and training for workforce development. The first program, Grants to Eligible Entities for Community College Reform, would annually provide $630 million in competitive grants for FY2010 through FY2013 to fund community college programs that improve completion rates and train workers for skilled occupations. The second program, Grants to Eligible States for Community College Programs, would annually provide $630 million in competitive grants for FY2014 through FY2019 to states to implement the reforms with demonstrated effectiveness from the first program of grants. In addition to the two major grant programs, $50 million would be provided annually for FY2010 through FY2019 to fund online education programs (Open Online Education); and $50 million would be provided annually for FY2010 through FY2013 to fund research, evaluation, and data system programs (Learning and Earning Research Center; and State Systems).

The Secretary of Education would have responsibility for obligating and disbursing the funds for these grant programs but would be required to jointly administer these funds with the Secretary of Labor, based on an interagency agreement.

Grants to Eligible Entities for Community College Reform

H.R. 3221 would annually provide $630 million in mandatory funds for FY2010-FY2013 to fund Grants to Eligible Entities for Community College Reform. Under the program, grants would be awarded competitively, each at a minimum of $750,000 total and for a four-year period, to eligible entities to carry out "innovative programs" or programs with "demonstrated effectiveness" that lead to the completion of a postsecondary degree, certificate, or industry-recognized credential leading to a "skilled occupation" in a "high-demand industry."[39] Entities eligible to receive grant funding would include community colleges or districts, area career and technical education schools, public four-year institutions offering two-year degrees, Tribal colleges and universities, public four-year institutions in partnership with any of the aforementioned entities, a state in partnership with any of the aforementioned entities, or a consortium of at least two of these entities.[40] In addition, the Secretary of Education would have the discretion to allow as eligible entities private nonprofit two-year institutions of higher education in Puerto Rico, the District of Columbia, and the outlying areas.[41]

[39] The non-Federal share of program costs must be at least 50% of total costs of implementing programs carried out under the grant. This requirement would not apply to Tribal colleges and universities. The terms "skilled occupation" and "high-demand industry" are not defined in the legislation.

[40] To be eligible, community colleges, area career and technical schools, and states must have articulation agreements outlining the transition between and among non-four-year institutions and four-year institutions. The amount of funding awarded to a state or a consortia including a state would be limited to a maximum of 50% of the $630 million appropriated each fiscal year and would prohibit the Secretary of Education from awarding funds to an eligible entity for the same activities that are supported by other Federal grant funds.

[41] The outlying areas specified in H.R. 3221 are Guam, U.S. Virgin Islands, American Samoa, the Commonwealth of Northern Mariana Islands, the Republic of the Marshall Islands, the Federated States of Micronesia, and the Republic of Palau.

Grantees would be required to carry out at least two of the following 10 activities:

- implement programs to increase the attainment of bachelor's degrees by facilitating the transfer of academic credits between institutions of higher education;
- create programs with sector partnerships or employers to provide training for skilled occupations in high-demand industries;
- provide support services to students;
- enact programs to provide a sequence of training courses leading to attainment of industry-recognized credentials;
- strengthen linkages between secondary education and community colleges;
- implement policies to increase degree and certificate completion rates, particularly for groups underrepresented in higher education, veterans, or members of the National Guard or Reserves;
- improve the timeliness of the process to create degree and credential programs that are responsive to local, regional, and state workforce needs;
- provide information technology training for students and the public through expanded access to community college facilities;
- create or enhance programs that prepare students for skilled occupations in energy-related fields; and
- create or enhance programs that prepare students for occupations critical to serving veterans.

The legislation would instruct the Secretary to give priority to applications from eligible entities that focus on collaboration with business or labor organizations; that serve low-income, nontraditional students, dislocated workers, or veterans or other low-income, nontraditional students who do not have a bachelor's degree;[42] that are eligible for assistance under Title III or Title V of the HEA (i.e., HBCUs and other minority serving institutions); or that are community colleges located in areas with high unemployment rates.

Grantees would be required to develop quantifiable benchmarks to measure progress on program effectiveness. In addition, community colleges receiving grants would be required, to the extent possible, to provide students with information on the transferability of credits from courses at the community college to four-year institutions in that grantee's state. Finally, the Secretary would be directed to allocate a maximum of 2% of the funds in this section to the Institute of Education Sciences (IES) to conduct program evaluations.

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[42] The term "nontraditional" is defined by reference to Section 803(j) of the Higher Education Act of 1965 and includes students with one or more of the following characteristics: are independent; have delayed enrollment in postsecondary education for three or more years since high school; attend post-secondary institution on less than a full-time basis, via compressed courses, or via distance education methods; or work full-time.

Grants to Eligible States for Community College Programs

H.R. 3221 would annually provide $630 million in mandatory funds for FY2014-FY2019 to fund Grants to Eligible States for Community College Programs. These grants would be awarded competitively, each for a six-year period, to eligible states to implement the "systematic reform" of community colleges by carrying out programs and policies that were shown to be effective in the evaluation of programs implemented under the Grants for Community College Reform (see previous section). Priority for grants under this section would be for states focusing on serving low-income, nontraditional students, dislocated workers, or students who are veterans and do not have a bachelor's degree. States receiving a grant under this section of H.R. 3221 would be required to allocate not less than 90% of the grant funding to community colleges within that state. Grantees would be required to develop quantifiable benchmarks to measure progress on program effectiveness.

National Activities

H.R. 3221 would annually provide $50 million in mandatory funds for FY2010-FY2019 for the Grants for the Open Online Education program. The Secretary of Education would be authorized to award competitive grants to or enter into contracts with institutions of higher education, philanthropic organizations, or other entities to develop, disseminate, and evaluate "freely-available high-quality" online education and training courses.[43]

H.R. 3221 also would annually provide $50 million in mandatory funds for FY2010-FY2013 for the Grants for the Learning and Earning Research Center and the State Systems programs. These grants would be awarded for two purposes. First, the IES Director would award a grant, for a maximum of four years, to an organization to evaluate the effectiveness of community colleges, to measure outcomes of community college students, and to assist states in sharing information and best practices. Second, grants under the State Systems section would be awarded to states or consortia of states to establish cooperative agreements with other states to develop and expand interoperable statewide longitudinal data systems, which would include building data systems and tracking outcome data from community colleges over time. In addition to the development of the longitudinal data systems, the State Systems grant would support a $1 million contract with the National Research Council for an evaluation and the development of a model that enables students to determine the transferability of credits between institutions of higher education.

Defund ACORN Act

Title VI of H.R. 3221 would establish a series of prohibitions with regard to the awarding of federal grants, contracts, cooperative agreements, or any other form of federal funding to certain organizations if they have been indicted for a violation of federal or state campaign finance, election, or voter registration law; have had their charter terminated for failure to comply with federal or state lobbying disclosure requirements; or employ any individual who has been indicted for violation of certain federal or state election laws. Title V would apply these provisions specifically to the Association of Community Organizations for Reform Now (ACORN) and any ACORN-related affiliate.[44]

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[43] The term "high-quality" is not defined in the legislation.

[44] For additional information on the proposed Defund ACORN Act and associated issues, see CRS Report R40826, *The* (continued...)

Author Contact Information

David P. Smole, Coordinator
Specialist in Education Policy
dsmole@crs.loc.gov, 7-0624

Shannon M. Mahan
Specialist in Education Policy
smahan@crs.loc.gov, 7-7759

Gail McCallion
Specialist in Social Policy
gmccallion@crs.loc.gov, 7-7758

Rebecca R. Skinner
Specialist in Education Policy
rskinner@crs.loc.gov, 7-6600

David H. Bradley
Analyst in Labor Economics
dbradley@crs.loc.gov, 7-7352

Cassandria Dortch
Analyst in Education Policy
cdortch@crs.loc.gov, 7-0376

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Proposed "Defund ACORN Act": Is It a "Bill of Attainder"?, by Kenneth R. Thomas.